ANNEXATION NO. 2011-___
FRIANT RANCH ADDITION TO
FRESNO COUNTY WATERWORKS DISTRICT NO. 18
SPHERE OF INFLUENCE

IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA

BEING PORTIONS OF SECTIONS 7, 8, 17, & 18,
TOWNSHIP 11 SOUTH, RANGE 21 EAST,
MOUNT DIABLO BASE & MERIDIAN

PORTIONS OF APNS:

300-021-51 300-021-53 300-040-02s 300-040-23 300-040-24
300-050-01 300-160-08 300-160-47T 300-160-52s 300-190-02
300-200-05 300-200-06 300-200-19

REVISED: JUNE 9, 2011

LEGEND

- EXISTING WATERWORKS DISTRICT NO. 18 BOUNDARY
- PROPOSED WATERWORKS DISTRICT NO. 18 BOUNDARY
- EXISTING PROPERTY LINES
- SECTION LINES – NOT DIVISION LINES
- 18 SECTION NUMBER (TYPICAL)

N

SCALE: 1" = 600'

0 300' 600' 1200'

EXISTING WWD NO. 18 DISTRICT BOUNDARY

WEST LINE OF SECTION 8 T. 11 S., R. 21 E., M.D.B.&M.

N 00°59'24" E 26.85'

NORTH LINE OF THE SOUTH 1/2 OF GOV'T LOT 18 IN SECTION 7 T. 11 S., R. 21 E., M.D.B.&M.

NORTH LINE OF GOV'T LOT 13 IN SECTION 8 T. 11 S., R. 21 E., M.D.B.&M.

EXISTING WWD NO. 18 DISTRICT BOUNDARY

DETAIL A
SCALE: 1" = 30'

EXISTING WWD NO. 18 DISTRICT BOUNDARY

CENTERLINE OF MONO ST. (ABANDONED)

W 1/4 CORNER OF SECTION 8 T. 11 S., R. 21 E., M.D.B.&M.

TOWN OF FRIANT

TO MILLERTON LAKE FRIANT ROAD

GRANITE ST.

ROOT ST.

PARKER ST.

WALLACE AVE. (ABANDONED) MOSTOLLER AVE.

SEE DETAIL A

NOT INCLUDED

EXISTING WWD NO. 18 DISTRICT BOUNDARY

BUGG ST.

N 1/4 CORNER OF SECTION 18 T. 11 S., R. 21 E., M.D.B.&M.

POINT OF BEGINNING
SW CORNER OF SECTION 8 T. 11 S., R. 21 E., M.D.B.&M.

AREA TO BE ADDED TO WWD NO. 18 SPHERE OF INFLUENCE
519.70 ACRES

EXISTING WWD NO. 18 DISTRICT BOUNDARY

S 01°25'44" W 1340.47'

N 88°30'33" W 754.10'

NE CORNER OF SECTION 17 T. 11 S., R. 21 E., M.D.B.&M.

N 1/4 CORNER OF SECTION 17 T. 11 S., R. 21 E., M.D.B.&M.

PROPOSED WWD NO. 18 DISTRICT BOUNDARY

FRIANT – KERN CANAL

E 1/4 CORNER OF SECTION 17 T. 11 S., R. 21 E., M.D.B.&M.

C 1/4 CORNER OF SECTION 17 T. 11 S., R. 21 E., M.D.B.&M.

W 1/4 CORNER OF SECTION 17 T. 11 S., R. 21 E., M.D.B.&M.

SEE DETAIL B

SE CORNER OF SECTION 17 T. 11 S., R. 21 E., M.D.B.&M.

SW CORNER OF SECTION 17 T. 11 S., R. 21 E., M.D.B.&M.

S 1/4 CORNER OF SECTION 18 T. 11 S., R. 21 E., M.D.B.&M.

S 1/4 CORNER OF SECTION 17 T. 11 S., R. 21 E., M.D.B.&M.

N 00°53'38" E 925.10'

N 88°34'54" W 553.00'

W 1/4 CORNER OF SECTION 18 T. 11 S., R. 21 E., M.D.B.&M.

FRIANT ROAD

C 1/4 CORNER OF SECTION 18 T. 11 S., R. 21 E., M.D.B.&M.

EAST LINE OF PARCEL MAP NO. 6646

TO FRESNO

SW CORNER OF SECTION 18 T. 11 S., R. 21 E., M.D.B.&M.

COURSES		
NUMBER	BEARING	LENGTH
1	N. 00°59'24" E.	903.81'
2	N. 18°15'54" E.	441.39'
3	N. 01°19'37" E.	304.00'
4	N. 88°38'25" W.	430.00'
5	N. 89°41'08" W.	70.00'
6	N. 00°27'22" E.	10.17'
7	N. 89°55'31" E.	58.86'
8	N. 00°59'24" E.	1502.82'
9	S. 87°35'25" E.	178.46'
10	N. 18°08'00" E.	686.59'
11	N. 17°28'44" E.	1428.28'
12	S. 18°37'53" E.	1890.36'
13	N. 63°36'34" W.	217.71'
14	S. 28°05'26" E.	813.90'
15	S. 09°37'25" W.	1309.93'
16	S. 09°37'43" E.	1187.73'
17	S. 23°23'02" E.	478.41'
18	S. 06°37'04" E.	747.61'
19	S. 21°41'10" E.	1477.00'
20	S. 81°49'37" E.	1162.00'
21	N. 00°53'38" E.	13.07'
22	S. 89°06'22" E.	760.46'
23	N. 63°36'34" W.	217.71'
24	S. 00°53'38" W.	553.00'
25	N. 88°34'54" W.	1343.80'
26	S. 89°25'18" E.	1855.06'
27	N. 00°28'18" W.	1320.00'
28	N. 07°42'48" W.	1320.00'
29	N. 89°41'08" W.	1320.00'
30	N. 00°27'22" E.	1320.00'
31	N. 89°41'08" W.	1320.00'
32	N. 36°01'45" E.	384.69'
33	Δ=1°40'00", R=15,979.30'	273.50'
34	N. 34°21'45" E.	1477.00'
35	S. 63°39'45" W.	5.00'
36	N. 63°39'45" W.	50.00'
37	S. 88°28'48" W.	70.00'

COURSES		
NUMBER	BEARING	LENGTH
38	S. 39°00'03" W.	217.50'
39	S. 48°44'43" W.	220.00'
40	S. 89°44'30" W.	180.00'
41	N. 75°10'05" W.	347.00'
42	N. 26°32'56" W.	615.00'
43	N. 24°18'55" W.	166.00'
44	N. 27°28'39" E.	98.50'
45	N. 39°34'55" E.	227.00'
46	N. 50°22'49" E.	90.00'
47	N. 36°10'03" W.	235.00'
48	S. 84°58'20" W.	180.00'
49	N. 59°25'36" W.	445.00'
50	N. 45°39'28" W.	265.00'
51	N. 15°18'54" W.	138.00'
52	N. 42°53'35" W.	187.00'
53	N. 00°38'24" W.	733.00'
54	N. 11°31'10" W.	1477.00'
55	N. 14°46'50" W.	308.00'
56	N. 45°47'00" W.	518.00'
57	S. 88°56'24" W.	516.00'
58	N. 09°34'42" W.	195.00'
59	N. 00°53'38" E.	1338.84'
60	S. 79°46'32" W.	336.00'
61	N. 21°39'01" W.	325.00'
62	N. 00°53'38" E.	115.00'
63	S. 38°50'15" W.	45.35'
64	S. 89°06'22" E.	98.65'
65	S. 15°27'48" W.	150.00'
66	S. 10°12'47" W.	308.00'
67	S. 00°53'38" W.	1338.84'
68	S. 20°51'00" W.	255.00'
69	S. 13°41'22" W.	240.00'
70	S. 08°03'38" W.	1477.00'
71	N. 89°11'18" W.	64.00'
72	N. 24°43'58" E.	163.00'
73	N. 89°31'22" W.	194.00'
74	N. 13°26'43" W.	540.00'
75	N. 24°11'30" W.	1477.00'
76	N. 54°30'46" W.	630.00'
77	N. 36°54'03" W.	1108.00'
78	N. 31°47'24" W.	1108.00'
79	N. 54°57'08" W.	127.00'
80	N. 36°54'03" W.	1477.00'
81	N. 36°54'03" W.	148.00'
82	S. 89°06'22" E.	83.00'
83	S. 36°54'03" E.	1477.00'
84	S. 53°56'02" E.	180.00'
85	S. 36°54'03" E.	1108.00'
86	S. 14°57'19" E.	640.00'
87	S. 00°53'38" E.	1108.00'
88	S. 89°06'22" E.	1322.80'
89	N. 00°53'38" E.	1108.00'
90	N. 28°58'01" W.	198.00'
91	S. 66°51'47" W.	117.00'
92	S. 23°08'13" W.	1477.00'
93	S. 00°28'18" W.	150.00'
94	S. 89°31'42" E.	142.00'
95	S. 00°28'18" W.	1320.00'
96	S. 00°28'18" W.	196.00'
97	S. 89°31'42" E.	188.00'
98	S. 00°28'18" W.	1320.00'
99	S. 89°06'22" E.	145.10'
100	S. 00°28'18" W.	1320.00'
101	S. 89°31'42" E.	180.00'
102	S. 00°28'18" W.	1320.00'
103	S. 49°01'43" W.	254.00'
104	S. 31°37'26" W.	1477.00'
105	S. 31°37'26" W.	360.00'
106	S. 00°59'24" E.	528.00'
107	N. 89°53'43" E.	852.00'
108	N. 89°53'43" E.	852.00'
109	N. 00°02'34" E.	1144.66'
110	N. 73°01'08" E.	292.00'
111	N. 89°53'43" E.	1321.00'
112	Δ=1°40'00", R=15,979.30'	273.50'
113	N. 48°16'48" E.	277.88'
114	Δ=2°47'00", R=3,432.70'	163.41'
115	N. 84°43'12" E.	218.50'
116	Δ=3°57'18", R=1,432.70'	296.17'
117	N. 80°45'54" E.	1328.84'
118	N. 89°53'43" E.	1321.00'
119	N. 89°53'43" E.	1338.52'

RADIAL BEARING	
NUMBER	BEARING
R1	S. 32°51'17" W.
R2	S. 30°47'13" E.
R3	S. 30°47'13" E.
R4	S. 32°45'15" W.

DETAIL B
SCALE: 1" = 30'

WEST LINE OF THE EAST 1/2 OF THE SE 1/4 OF SECTION 17 T. 11 S., R. 21 E., M.D.B.&M.

FRIANT – KERN CANAL

N 00°53'38" E 925.10'

MILLERTON LAKE

PROJECT SITE

HIGHWAY 145

MILLERTON ROAD

AVENUE 13

ROAD 426

ROAD 427

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COPY

Irrigation and Other
Contract No. I75r-2771D

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES AND LOWER TULE RIVER IRRIGATION DISTRICT PROVIDING FOR PROJECT WATER SERVICE FROM FRIANT DIVISION AND FOR FACILITIES REPAYMENT

Table of Contents

Article No.	Title	Page No.
	Preamble	1
	Explanatory Recitals	2
1	Definitions	6
2	Effective Date Of Contract	13
3	Water To Be Made Available And Delivered To The Contractor	15
4	Time For Delivery Of Water	22
5	Point Of Diversion And Responsibility For Distribution Of Water	25
6	Measurement Of Water Within The Service Area	27
7	Rates, Method Of Payment For Water, And Accelerated Repayment Of Facilities	29
8	Non-Interest Bearing Operation And Maintenance Deficits	40
9	Recovered Water Account	40
10	Sales, Transfers, And Exchanges Of Water	41
11	Application Of Payments And Adjustments	44
12	Temporary Reductions—Return Flows	45
13	Constraints On The Availability Of Water	47
14	Unavoidable Groundwater Percolation	49
15	Acreage Limitation	50
16	Compliance With Federal Reclamation Laws	51
17	Protection Of Water And Air Quality	51
18	Water Acquired By The Contractor Other Than From The United States	52
19	Opinions And Determinations	55
20	Coordination And Cooperation	56
21	Charges For Delinquent Payments	57
22	Equal Employment Opportunity	58
23	General Obligation—Benefits Conditioned Upon Payment	59
24	Compliance With Civil Rights Laws And Regulations	60

25 Privacy Act Compliance 60
26 Contractor To Pay Certain Miscellaneous Costs 61
27 Water Conservation 61
28 Existing Or Acquired Water Or Water Rights 63
29 Operation And Maintenance By Operating Non-Federal Entity 63
30 Contingent On Appropriation Or Allotment Of Funds 65
31 Books, Records, And Reports 65
32 Assignment Limited—Successors And Assigns Obligated 66
33 Severability 66
34 Resolution Of Disputes 67
35 Officials Not To Benefit 68
36 Changes In Contractor's Service Area 68
37 Federal Laws 69
38 Emergency Reserve Fund 69
39 Medium For Transmitting Payment 69
40 Notices 70
41 Confirmation Of Contract 70
42 Contract Drafting Considerations 70
Signature Page 71

Exhibit A Contractor's Map or Description of Service Area
Exhibit B Rates and Charges
Exhibit C-1 Repayment Schedule – Lump Sum Option
Exhibit C-2 Repayment Schedule – Installment Option
Exhibit D Computation of the Friant Surcharge
Exhibit E Restated Contract

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES
AND
LOWER TULE RIVER IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM FRIANT DIVISION AND
FACILITIES REPAYMENT

THIS CONTRACT, made this 17th day of November, 2010, is entered into pursuant to the Act of June 17, 1902, (32 Stat. 388), and acts amendatory or supplementary thereto, including but not limited to: the Act of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat. 3050), as amended, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), and Title X, Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349), also referred to as the San Joaquin River Restoration Settlement Act hereinafter referred to as SJRRSA, all collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to as the United States and LOWER TULE RIVER IRRIGATION DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to the laws thereof, with its principal place of business in California;

WITNESSETH, That

EXPLANATORY RECITALS

[1st] WHEREAS, the United States has constructed and is operating the Central Valley Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant Division Facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

[3rd] WHEREAS, the United States and the Contractor entered into Contract Number I75r-2771, as amended, which established terms for the delivery to the Contractor of Project Water from the Friant Division from May 5, 1951 through February 28, 1991; and

[4th] WHEREAS, the Contractor and the United States have entered into a renewal contract and, pursuant to subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into an interim renewal contract(s), identified as Contract Number (s) I75r-2771R and I75r-2771-IR1, which provided for the continued water service to Contractor from March 1, 1991 through February 28, 2001, and subsequently entered into a long-term renewal contract identified as Contract Number I75r-2771-LTR1, which provided for

continued water service to Contractor through February 28, 2026, which was amended January 18, 2007, and is herein referred to as the "Existing Contract"; and

[5th] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the United States has acquired water rights and other rights to the flows of the San Joaquin River, including without limitation the permits issued as the result of Decision 935 by the California State Water Resource Control Board and the contracts described in subdivision (n) of Article 3 of this Contract, pursuant to which the Contracting Officer develops, diverts, stores and delivers Project Water stored or flowing through Millerton Lake in accordance with State and Federal law for the benefit of Project Contractors in the Friant Division and for other specified Project purposes; and

[6th] WHEREAS, the water supplied to the Contractor pursuant to this Contract is Project Water developed through the exercise of the rights described in the fifth (5th) Explanatory Recital of this Contract; and

[7th] WHEREAS, as a result of litigation entitled "Natural Resources Defense Council, et al. v Kirk Rogers, et al." No. CIV-S-88-1658LLK/GGH, certain contractors from the Friant Division entered into a Stipulation of Settlement dated September 13, 2006, (the "Settlement"), which settlement prescribes a Restoration Goal and a Water Management Goal and which Settlement was subsequently confirmed and implemented through the SJRRSA; and

[8th] WHEREAS, the SJRRSA authorizes and directs the Secretary to convert the Existing Contract to a repayment contract under subsection (d) of Section 9 of the Act of August 4, 1939, no later than December 31, 2010, and further directs that such contract shall require the

accelerated repayment of the Contractor's allocated share of construction costs, either as a lump sum payment by January 31, 2011 or in annual installments by January 31, 2014, which funds will in turn be made available for implementation of the Settlement and SJRRSA, and which costs otherwise would have been payable through annual water rates, with full repayment by 2030; and

[9th] WHEREAS, such repayment of costs will assist the United States with implementation of actions required under the Settlement and the SJRRSA and provide the Contractor the benefits provided in Section 10010 of the SJRRSA; and

[10th] WHEREAS, subsection (4) of Section 1 of the Act of July 2, 1956 (1956 Act) directs the Secretary to provide that the other party to any contract entered into pursuant to subsection (d) of Section 9 of the Act of August 4, 1939 (repayment contract) or pursuant to subsection (e) of Section 9 of the Act of August 4, 1939 (water service contract) shall "have the first right (to which the rights of the holders of any other type of irrigation water contract shall be subordinate) to a stated share or quantity of the project's available water supply for beneficial use on the irrigable lands within the boundaries of, or owned by, the party and a permanent right to such share or quantity upon completion of payment of the amount assigned for ultimate return" by the contractor subject to fulfillment of all obligations under the contract; and

[11th] WHEREAS, among other things, this Contract includes provisions granting the Contractor the permanent right described in the tenth (10th) Explanatory Recital; and

[12th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting Officer that the Contractor has utilized the Project Water supplies available to it for

reasonable and beneficial use and/or has demonstrated projected future demand for water use such that the Contractor has the capability and expects to utilize fully for reasonable and beneficial use the quantity of Project Water to be made available to it pursuant to this Contract; and

[13th] WHEREAS, water obtained from the Central Valley Project has been relied upon by urban and agricultural areas within California for more than fifty (50) years and is considered by the Contractor as an essential portion of its water supply; and

[14th] WHEREAS, the economies of regions within the Central Valley Project, including the Contractor's, depend upon the continued availability of water, including water service from the Central Valley Project; and

[15th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships to pursue measures to improve water supply, water quality, and reliability of the Project for all Project purposes; and

[16th] WHEREAS, the mutual goals of the United States and the Contractor include: to provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of the Central Valley Project as required by law; to guard reasonably against Project Water shortages; to achieve a reasonable balance among competing demands for use of Project Water; and to comply with all applicable environmental statutes, all consistent with the legal obligations of the United States relative to the Central Valley Project; and

[17th] WHEREAS, any time during the Year the Contracting Officer determines that a need exists to evacuate water from Millerton Lake in order to prevent or minimize spill or to

meet flood control criteria (currently referred to as "uncontrolled season"), taking into consideration, among other things, anticipated upstream reservoir operations and the most probable forecast of snowmelt and runoff projections for the upper San Joaquin River, Friant Division Project Contractors utilize a portion of their undependable Class 2 Water in their service areas to, among other things, assist in the management and alleviation of groundwater overdraft in the Friant Division service area, provide opportunities for restoration of the San Joaquin River below Friant Dam, minimize flooding along the San Joaquin River, encourage optimal water management, and maximize the reasonable and beneficial use of the water; and

[18th] WHEREAS, the parties desire and intend that this Contract not provide a disincentive to the Friant Division Project Contractors continuing to carry out the beneficial activities set out in the Explanatory Recital immediately above; and

[19th] WHEREAS, the United States has determined that the Contractor has fulfilled all of its obligations under the Existing Contract.

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

DEFINITIONS

1. When used herein, unless otherwise distinctly expressed or manifestly incompatible with the intent of the parties as expressed in this Contract, the term:

(a) "Additional Capital Obligation" shall mean any additional construction costs or other capitalized costs incurred after the effective date of this Contract or not reflected in the Existing Capital Obligation as provided in Section 10010(a)(3)(B) of the SJRRSA and any

amounts payable by Contractor as determined through the final adjustment described and required by Section 10010(b) of the SJRRSA;

(b) "Calendar Year" shall mean the period January 1 through December 31, both dates inclusive;

(c) "Charges" shall mean the payments required by Federal Reclamation law in addition to the Rates and Tiered Pricing Components specified in this Contract as determined annually by the Contracting Officer pursuant to this Contract and consistent with the SJRRSA;

(d) "Class 1 Water" shall mean that supply of water stored in or flowing through Millerton Lake which, subject to the contingencies hereinafter described in Articles 3, 12, and 13 of this Contract, will be available for delivery from Millerton Lake and the Friant-Kern and Madera Canals as a dependable water supply during each Year;

(e) "Class 2 Water" shall mean that supply of water which can be made available subject to the contingencies hereinafter described in Articles 3, 12, and 13 of this Contract for delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to the supply of Class 1 Water. Because of its uncertainty as to availability and time of occurrence, such water will be undependable in character and will be furnished only if, as, and when it can be made available as determined by the Contracting Officer;

(f) "Condition of Shortage" shall mean a condition respecting the Project during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract Total;

(g) "Contracting Officer" shall mean the Secretary of the Interior's duly authorized representative acting pursuant to this Contract or applicable Federal Reclamation law or regulation;

(h) "Contract Total" shall mean the maximum amount of Class 1 Water plus the maximum amount of Class 2 Water specified in subdivision (a) of Article 3 of this Contract and is the stated share or quantity of the Project's available water supply to which the Contractor will have a permanent right in accordance with the 1956 Act and the terms of this Contract, upon the Contractor's complete payment of the Repayment Obligation, notwithstanding any Additional Capital Obligation that may later be established, which right shall not be disturbed so long as the Contractor fulfills all of its obligations under this Contract;

(i) "Contractor's Service Area" shall mean the area to which the Contractor is permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto, which may be modified from time to time in accordance with Article 36 of this Contract without amendment of this Contract;

(j) "CVPIA" shall mean the Central Valley Project Improvement Act, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

(k) "Eligible Lands" shall mean all lands to which Irrigation Water may be delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

(l) "Excess Lands" shall mean all lands in excess of the limitations contained in Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal Reclamation law;

(m) "Existing Capital Obligation" shall mean the remaining amount of construction costs of the Contractor identified in the Central Valley Project Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively, dated January 25, 2007, as adjusted to reflect payments not reflected in such schedule, pursuant to Section 10010(a)(3)(A) of the SJRRSA. The Contracting Officer has computed the Existing Capital Obligation in a manner consistent with the SJRRSA and such amount is set forth in Exhibits "C-1" and "C-2", incorporated herein by reference;

(n) "Financing Costs", for purposes of computing the reduction of certain charges as specified in subdivision (c) of Article 7 of this Contract, shall mean the difference between the net present value of the Existing Capital Obligation discounted using the full Treasury rate and the Existing Capital Obligation discounted using one-half the Treasury rate, as set forth in Section 10010(d)(3) of the SJRRA;

(o) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3) or 202(3) of the RRA, whichever is applicable;

(p) "Ineligible Lands" shall mean all lands to which Irrigation Water may not be delivered in accordance with Section 204 of the RRA;

(q) "Irrigation Full Cost Water Rate" shall have the same meaning as "full cost" as that term is used in Paragraph (3) of Section 202 of the RRA;

(r) "Irrigation Water" shall mean water made available from the Project that is used primarily in the production of agricultural crops or livestock, including domestic use incidental thereto, and watering of livestock. Irrigation water shall not include water used for the purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment or water delivered to landholdings operated in units of less than five (5) acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of the water delivered to any such landholding is a use described in this subdivision of this Article of this Contract;

(s) "Landholder" shall mean a party that directly or indirectly owns or leases nonexempt land, as provided in 43 CFR 426.2;

(t) "Long Term Historic Average" shall mean the average of the final forecast of Water Made Available to the Contractor pursuant to this Contract and the contracts referenced in the third (3rd) and fourth (4th) Explanatory Recitals of this Contract;

(u) Omitted;

(v) "Municipal &Industrial (M&I) Full Cost Water Rate" shall mean the annual rate, which, as determined by the Contracting Officer, shall amortize the expenditures for construction allocable to Project M&I facilities in service, including, O&M deficits funded, less payments, over such periods as may be required under Federal Reclamation law with interest accruing from the dates such costs were first incurred plus the applicable rate for the O&M of such Project facilities. Interest rates used in the calculation of the M&I Full Cost Rate shall comply with the Interest Rate methodology contained in Section 202(3) (B) and (C) of the RRA;

(w) "Operation and Maintenance" or "O&M" shall mean normal and reasonable care, control, operation, repair, replacement (other than Capital replacement), and maintenance of Project facilities;

(x) "Operating Non-Federal Entity" shall mean the Friant Water Authority, or its successor, a Non-Federal entity, which has the obligation to operate and maintain all or a portion of the Friant Division Facilities pursuant to an agreement with the United States and which may have funding obligations with respect thereto;

(y) "Other Water" shall mean water from the Project other than Irrigation Water as described in subdivision (r) of this Article of this Contract, which is used for a purpose that is considered to be an irrigation use pursuant to State law such as the watering of landscaping or pasture for animals (e.g., horse) which are kept for the personal enjoyment. For purposes of this Contract, Other Water shall be paid for at Rates and Charges identical to those established for M&I water pursuant to the then-existing M&I Ratesetting Policy;

(z) "Project" shall mean the Central Valley Project owned by the United States and managed by the Department of the Interior, Bureau of Reclamation;

(aa) "Project Contractors" shall mean all parties who have a long-term water service contract or repayment contract for Project Water from the Project with the United States pursuant to Federal Reclamation law;

(bb) "Project Water" shall mean all water that is developed, diverted, stored, or delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance with the terms and conditions of water rights acquired pursuant to California law;

(cc) "Rates" shall mean the payments for O&M costs as determined annually by the Contracting Officer in accordance with the then-existing applicable water ratesetting policies for the Project, as described in subdivision (a) of Article 7 of this Contract and illustrated in Exhibit "B", attached hereto;

(dd) "Recovered Water Account" shall mean the program, as defined in the Settlement, to make water available to all of the Friant Division Project Contractors who provide water to meet interim flows or restoration flows for the purpose of reducing or avoiding the impact of the interim flows and restoration flows on such contractors;

(ee) "Repayment Obligation", as provided in subdivision (a)(2)(A) of Article 7 of this Contract, shall be the Existing Capital Obligation, as defined herein, discounted by one-half of the Treasury rate and computed consistent with the provisions of Section 10010(a)(3)(A) of the SJRRSA to be paid as either a lump sum payment by January 31, 2011 or in approximately equal annual installments by January 31, 2014;

(ff) "Secretary" shall mean the Secretary of the Interior, a duly appointed successor, or an authorized representative acting pursuant to any authority of the Secretary and through any agency of the Department of the Interior;

(gg) "Settlement" shall mean the Stipulation of Settlement dated September 13, 2006, the Order Approving Stipulation of Settlement, and the Judgment and further orders issued by the Court pursuant to the terms and conditions of the Settlement in Natural Resources Defense Council, et al. v. Rodgers, et al., No. CIV-S-88-1658 LLJ/GGH;

(hh) "Tiered Pricing Component" shall be the incremental amount to be paid for each acre-foot of Water Delivered as described in subdivision (l)(1) of Article 7 of this Contract;

(ii) "Water Delivered" or "Delivered Water" shall mean Project Water diverted for use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

(jj) "Water Made Available" shall mean the estimated amount of Project Water that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;

(kk) "Water Management Goal" shall mean the goal of the Settlement to reduce or avoid adverse water supply impacts to all the Friant Division Project Contractors that may result from the interim flows and restoration flows provided for in the Settlement;

(ll) "Water Scheduled" shall mean Project Water made available to the Contractor for which times and quantities for delivery have been established by the Contractor and Contracting Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

(mm) "Year" shall mean the period from and including March 1 of each Calendar Year through the last day of February of the following Calendar Year.

EFFECTIVE DATE OF CONTRACT

2. (a) This Contract shall become effective on the date first hereinabove written and shall continue so long as the Contractor is making the annual payments required herein and paying any other amounts owing under this Contract and applicable law, unless it is terminated

by the Contracting Officer by reason of a material uncured breach by the Contractor; Provided, That the Contracting Officer shall not seek to terminate this Contract by reason of an asserted material uncured breach by the Contractor unless it has first provided at least sixty (60) days written notice of the asserted breach to the Contractor and the Contractor has failed to cure such breach (or to diligently commence curative actions satisfactory to the Contracting Officer for a breach that cannot be fully cured within sixty (60) days) within the sixty (60)-day notice period; Provided further, That this Contract may be terminated at any time by mutual consent of the parties hereto.

(b) Upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, the Tiered Pricing Component as that term is utilized in this Contract, the acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law, and subdivisions (k), (l), (o) through (q), (s), and (v) of Article 1, subdivisions (a)(2)(A), (l)(1), (l)(2), and (l)(3) of Article 7, Article 14, subdivision (a) of Article 18, and Article 25, all of this Contract, shall no longer be applicable to the Contractor. Upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, the terms of this Contract shall be as provided in the restated contract attached hereto as Exhibit "E", which has been prepared solely as a matter of administrative convenience. Exhibit "E" makes no substantive revisions other than those required by this subdivision of this Article of this Contract. Accordingly, upon complete payment of the Repayment Obligation by the

Contractor, and notwithstanding any Additional Capital Obligation that may later be established, the parties shall refer to Exhibit "E" as their entire agreement under this Contract.

(c) This Contract supersedes in its entirety and is intended to replace in full the Existing Contract; Provided, That if this Contract is terminated or determined to be invalid or unenforceable for any reason other than a material uncured breach of this Contract by the Contractor, the Existing Contract shall not be superseded and shall be in full force and effect.

WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

3. (a) During each Year, consistent with all applicable State water rights, permits, and licenses, Federal law, the Settlement including the SJRRSA, and subject to the provisions set forth in Articles 12 and 13 of this Contract, the Contracting Officer shall make available for delivery to the Contractor from the Project 61,200 acre-feet of Class 1 Water and 238,000 acre-feet of Class 2 Water for irrigation purposes. The quantity of Water Delivered to the Contractor in accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this Contract.

(b) Upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, the Contractor shall have a permanent right to the Contract Total in accordance with the 1956 Act and the terms of this Contract. This right shall not be disturbed so long as the Contractor fulfills all of its obligations hereunder. The quantity of water made available for delivery in any given Year shall remain subject to the terms and conditions of subdivision (a) of this Article of this Contract.

(c) The Contractor shall utilize the Project Water in accordance with all applicable legal requirements.

(d) The Contractor shall make reasonable and beneficial use of all Project Water or other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater banking programs, surface water storage programs, and other similar programs utilizing Project Water or other water furnished pursuant to this Contract conducted within the Contractor's Service Area which are consistent with applicable State law and result in use consistent with applicable Federal Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are) described in the Contractor's Water Conservation Plan submitted pursuant to Article 27 of this Contract; Provided further, That such Water Conservation Plan demonstrates sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average, the quantity of Delivered Water is demonstrated to be reasonable for such uses and in compliance with Federal Reclamation law. Groundwater recharge programs, groundwater banking programs, surface water storage programs, and other similar programs utilizing Project Water or other water furnished pursuant to this Contract conducted outside the Contractor's Service Area may be permitted upon written approval of the Contracting Officer, which approval will be based upon environmental documentation, Project Water rights, and Project operational concerns. The Contracting Officer will address such concerns in regulations, policies, or guidelines.

(e) The Contractor, through this Contract, shall comply with requirements applicable to the Contractor in biological opinion(s) prepared as a result of the consultation

regarding the execution of the Existing Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, as well as the requirements of any other biological opinions applicable to Project Water delivery under this Contract, that are within the Contractor's legal authority to implement. The Contractor shall comply with the limitations or requirements imposed by environmental documentation applicable to the Contractor and within its legal authority to implement regarding specific activities. Nothing herein shall be construed to prevent the Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with respect to any biological opinion or other environmental documentation referred to in this Article of this Contract.

(f) Subject to subdivisions (l) and (n) of this Article of this Contract, following the declaration of Water Made Available under Article 4 of this Contract, the Contracting Officer will make a determination whether Project Water, or other water available to the Project, can be made available to the Contractor in addition to the Contract Total in this Article of this Contract during the Year without adversely impacting the Project or other Project Contractors and consistent with the Secretary's legal obligations. At the request of the Contractor, the Contracting Officer will consult with the Contractor prior to making such a determination. Subject to subdivisions (l) and (n) of this Article of this Contract, if the Contracting Officer determines that Project Water, or other water available to the Project, can be made available to the Contractor, the Contracting Officer will announce the availability of such water and shall so notify the Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable of taking such water to

determine the most equitable and efficient allocation of such water. If the Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make such water available to the Contractor in accordance with applicable statutes, regulations, guidelines, and policies.

(g) The Contractor may request permission to reschedule for use during the subsequent Year some or all of the Water Made Available to the Contractor during the current Year referred to as "carryover." The Contractor may request permission to use during the current Year a quantity of Project Water which may be made available by the United States to the Contractor during the subsequent Year referred to as "pre-use." The Contracting Officer's written approval may permit such uses in accordance with applicable statutes, regulations, guidelines, and policies.

(h) The Contractor's right pursuant to Federal Reclamation law and applicable State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract. Nothing in the preceding sentence shall affect the Contracting Officer's ability to impose shortages under Article 12 or subdivision (b) of Article 13 of this Contract.

(i) Project Water furnished to the Contractor pursuant to this Contract may be delivered for purposes other than those described in subdivisions (r) and (y) of Article 1 of this Contract upon written approval by the Contracting Officer in accordance with the terms and conditions of such approval.

(j) The Contracting Officer shall make reasonable efforts to protect the water rights and other rights described in the fifth (5th) Explanatory Recital of this Contract and to provide the water available under this Contract. The Contracting Officer shall not object to participation by the Contractor, in the capacity and to the extent permitted by law, in administrative proceedings related to the water rights and other rights described in the fifth (5th) Explanatory Recital of this Contract; Provided however, That the Contracting Officer retains the right to object to the substance of the Contractor's position in such a proceeding. Provided further, that in such proceedings the Contracting Officer shall recognize the Contractor has a legal right under the terms of this Contract to use Project Water.

(k) Project Water furnished to the Contractor during any month designated in a schedule or revised schedule submitted by the Contractor and approved by the Contracting Officer shall be deemed to have been accepted by the Contractor as Class 1 Water to the extent that Class 1 Water is called for in such schedule for such month and shall be deemed to have been accepted as Class 2 Water to the extent Class 2 Water is called for in such schedule for such month. If in any month the Contractor diverts a quantity of water in addition to the total amount of Class 1 Water and Class 2 Water set forth in the Contractor's approved schedule or revised schedule for such month, such additional diversions shall be charged first against the Contractor's remaining Class 2 Water supply available in the current Year. To the extent the Contractor's remaining Class 2 Water supply available in the current Year is not sufficient to account for such additional diversions, such additional diversions shall be charged against the Contractor's remaining Class 1 Water supply available in the current Year. To the extent the

Contractor's remaining Class 1 Water and Class 2 Water supplies available in the current Year are not sufficient to account for such additional diversions, such additional diversions shall be charged first against the Contractor's available Class 2 Water supply and then against the Contractor's available Class 1 Water supply, both for the following Year. Payment for all additional diversions of water shall be made in accordance with Article 7 of this Contract.

(l) If the Contracting Officer determines there is a Project Water supply available at Friant Dam as the result of an unusually large water supply not otherwise storable for Project purposes or infrequent and otherwise unmanaged flood flows of short duration, such water will be made available to the Contractor and others under Section 215 of the Act of October 12, 1982, pursuant to the priorities specified below if the Contractor enters into a temporary contract with the United States not to exceed one (1) year for the delivery of such water or as otherwise provided for in Federal Reclamation law and associated regulations. Such water may be identified by the Contractor either (i) as additional water to supplement the supply of Class 1 Water and/or Class 2 Water made available to it pursuant to this Contract or, (ii) upon written notification to the Contracting Officer, as water to be credited against the Contractor's Class 2 Water supply available pursuant to this Contract. The Contracting Officer shall make water determined to be available pursuant to this subsection according to the following priorities: first, to contractors for Class 1 Water and/or Class 2 Water within the Friant Division; second, to contractors in the Cross Valley Division of the Project. The Contracting Officer will consider requests from other parties for Section 215 Water for use within the area identified as the Friant

Division service area in the environmental assessment developed in connection with the execution of the Existing Contract.

(m) Nothing in this Contract, nor any action or inaction of the Contractor or Contracting Officer in connection with the implementation of this Contract, is intended to override, modify, supersede or otherwise interfere with any term or condition of the water rights and other rights referred in the fifth (5th) Explanatory Recital of this Contract.

(n) The rights of the Contractor under this Contract are subject to the terms of the contract for exchange waters, dated July 27, 1939, between the United States and the San Joaquin and Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred to as the Exchange Contractors), Contract No. 11r-1144, as amended. The United States agrees that it will not deliver to the Exchange Contractors thereunder waters of the San Joaquin River unless and until required by the terms of said contract, and the United States further agrees that it will not voluntarily and knowingly determine itself unable to deliver to the Exchange Contractors entitled thereto from water that is available or that may become available to it from the Sacramento River and its tributaries or the Sacramento-San Joaquin Delta those quantities required to satisfy the obligations of the United States under said Exchange Contract and under Schedule 2 of the Contract for Purchase of Miller and Lux Water Rights (Contract 11r-1145, dated July 27, 1939).

(o) Pursuant to and consistent with section 10004 of SJRRSA and Paragraph 16 of the Settlement, the Contracting Officer is required to develop and implement a plan for recirculation, recapture, reuse, exchange or transfer of water released for restoration flows or

interim flows, as those terms are defined in the Settlement, to reduce or avoid impacts to water deliveries caused by said restoration flows or interim flows and water developed through such activities may be made available (i) to the Contractor without the need of an additional contract, and/or (ii) to others on behalf of the Contractor under terms mutually acceptable to the Contractor and the Contracting Officer that are consistent with the Water Management Goal.

TIME FOR DELIVERY OF WATER

4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall announce the Contracting Officer's initial declaration of the Water Made Available. The declaration will be updated monthly and more frequently if necessary, based on then-current operational and hydrologic conditions and a new declaration with changes, if any, to the Water Made Available will be made. The Contracting Officer shall provide forecasts of Project operations and the basis of the estimate, with relevant supporting information, upon the written request of the Contractor. Concurrently with the declaration of the Water Made Available, the Contracting Officer shall provide the Contractor with the updated Long Term Historic Average. The declaration of Project operations will be expressed in terms of both Water Made Available and the Long Term Historic Average.

(b) On or before each March 1 and at such other times as necessary, the Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting Officer, showing the monthly quantities of Project Water to be delivered by the United States to the Contractor pursuant to this Contract for the Year commencing on such

March 1. The Contracting Officer shall use all reasonable means to deliver Project Water according to the approved schedule for the Year commencing on such March 1.

(c) The Contractor shall not schedule Project Water in excess of the quantity of Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's Service Area, or to sell, transfer or exchange pursuant to Article 10 of this Contract or bank pursuant to subdivision (d) of Article 3 of this Contract during any Year.

(d) Subject to the conditions set forth in subdivision (a) of Article 3 of this Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable time prior to the date(s) on which the requested change(s) is/are to be implemented; Provided, That the total amount of water requested in that schedule or revision does not exceed the quantities announced by the Contracting Officer pursuant to the provisions of subdivision (a) of Article 3 of this Contract, and the Contracting Officer determines that there will be sufficient capacity available in the appropriate Friant Division Facilities to deliver the water in accordance with that schedule; Provided further, That the Contractor shall not schedule the delivery of any water during any period as to which the Contractor is notified by the Contracting Officer or Operating Non-Federal Entity that Project facilities required to make deliveries to the Contractor will not be in operation because of scheduled O&M.

(e) The Contractor may, during the period from and including November 1 of each Year through and including the last day of February of that Year, request delivery of any

amount of the Class 1 Water estimated by the Contracting Officer to be made available to it during the following Year. The Contractor may, during the period from and including January 1 of each Year (or such earlier date as may be determined by the Contracting Officer) through and including the last day of February of that Year, request delivery of any amount of Class 2 Water estimated by the Contracting Officer to be made available to it during the following Year. Such water shall hereinafter be referred to as pre-use water. Such request must be submitted in writing by the Contractor for a specified quantity of pre-use and shall be subject to the approval of the Contracting Officer. Payment for pre-use water so requested shall be at the appropriate Rate(s) for the following Year in accordance with Article 7 of this Contract and shall be made in advance of delivery of any pre-use water. The Contracting Officer shall deliver such pre-use water in accordance with a schedule or any revision thereof submitted by the Contractor and approved by the Contracting Officer, to the extent such water is available and to the extent such deliveries will not interfere with the delivery of Project Water entitlements to other Friant Division contractors or the physical maintenance of the Project facilities. The quantities of pre-use Water Delivered pursuant to this subdivision shall be deducted from the quantities of water that the Contracting Officer would otherwise be obligated to make available to the Contractor during the following Year; Provided, That the quantity of pre-use water to be deducted from the quantities of either Class 1 Water or Class 2 Water to be made available to the Contractor in the following Year shall be specified by the Contractor at the time the pre-use water is requested or as revised in its first schedule for the following Year submitted in

accordance with subdivision (b) of this Article of this Contract, based on the availability of the following Year water supplies as determined by the Contracting Officer.

POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this Contract shall be delivered to the Contractor at a point or points of delivery either on Project facilities or another location or locations mutually agreed to in writing by the Contracting Officer and the Contractor.

(b) The Contracting Officer, the Operating Non-Federal Entity, or other appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of water in the Friant-Kern Canal to deliver Project Water to the Contractor at specific turnouts established pursuant to subdivision (a) of this Article of this Contract.

(c) The Contractor shall not deliver Project Water to land outside the Contractor's Service Area unless approved in advance by the Contracting Officer. Until complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, the Contractor shall deliver Project Water in accordance with applicable acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law and any applicable land classification provisions of the associated regulations.

(d) All Water Delivered to the Contractor pursuant to this Contract shall be measured and recorded with equipment furnished, installed, operated, and maintained by the United States, the Operating Non-Federal Entity or other appropriate entity as designated by the

Contracting Officer (hereafter "other appropriate entity") at the point or points of delivery established pursuant to subdivision (a) of this Article of this Contract. Upon the request of either party to this Contract, the Contracting Officer shall investigate, or cause to be investigated by the responsible Operating Non-Federal Entity, the accuracy of such measurements and shall take any necessary steps to adjust any errors appearing therein. For any period of time when accurate measurements have not been made, the Contracting Officer shall consult with the Contractor and the responsible Operating Non-Federal Entity prior to making a final determination of the quantity delivered for that period of time.

(e) Neither the Contracting Officer nor any Operating Non-Federal Entity shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified in subdivision (a) of this Article of this Contract. The Contractor shall indemnify the United States, its officers, employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such Project Water beyond such delivery points, except for any damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity, with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity; (iii) negligence of the Contracting Officer or any of

its officers, employees, agents, or assigns including any responsible Operating Non-Federal Entity; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated by the United States or responsible Operating Non-Federal Entity; Provided, That the Contractor is not the Operating Non-Federal Entity that owned or operated the malfunctioning facility(ies) from which the damage claim arose.

MEASUREMENT OF WATER WITHIN THE SERVICE AREA

6. (a) The Contractor has established a measurement program satisfactory to the Contracting Officer; all surface water delivered for irrigation purposes within the Contractor's Service Area is measured at each agricultural turnout; and Other Water delivered by the Contractor is measured at each service connection. The water measuring devices or water measuring methods of comparable effectiveness must be acceptable to the Contracting Officer. The Contractor shall be responsible for installing, operating, and maintaining and repairing all such measuring devices and implementing all such water measuring methods at no cost to the United States. The Contractor shall use the information obtained from such water measuring devices or water measuring methods to ensure its proper management of the water and to bill water users for water delivered by the Contractor. Nothing herein contained, however, shall preclude the Contractor from establishing and collecting any charges, assessments, or other revenues authorized by California law.

(b) To the extent the information has not otherwise been provided, upon execution of this Contract, the Contractor shall provide to the Contracting Officer a written report describing the measurement devices or water measuring methods being used or to be used

to implement subdivision (a) of this Article of this Contract and identifying the agricultural turnouts and the Other Water service connections or alternative measurement programs approved by the Contracting Officer, at which such measurement devices or water measuring methods are being used, and, if applicable, identifying the locations at which such devices and/or methods are not yet being used including a time schedule for implementation at such locations. The Contracting Officer shall advise the Contractor in writing within sixty (60) days as to the adequacy of, and necessary modifications, if any, of the measuring devices or water measuring methods identified in the Contractor's report and if the Contracting Officer does not respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the Contractor that the measuring devices or methods are inadequate, the parties shall within sixty (60) days following the Contracting Officer's response, negotiate in good faith the earliest practicable date by which the Contractor shall modify said measuring devices and/or measuring methods as required by the Contracting Officer to ensure compliance with subdivision (a) of this Article of this Contract.

(c) All new surface water delivery systems installed within the Contractor's Service Area after the effective date of this Contract shall also comply with the measurement provisions described in subdivision (a) of this Article of this Contract.

(d) The Contractor shall inform the Contracting Officer and the State of California in writing by April 30 of each Year of the monthly volume of surface water delivered within the Contractor's Service Area during the previous Year.

(e) The Contractor shall inform the Contracting Officer and the Operating Non-Federal Entity on or before the twentieth (20th) calendar day of each month of the quantity of Irrigation and Other Water taken during the preceding month.

RATES, METHOD OF PAYMENT FOR WATER, AND ACCELERATED REPAYMENT OF FACILITIES

7. (a) The Contractor's cost obligations for all Delivered Water shall be determined in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's then-existing ratesetting policy for M&I Water, consistent with the SJRRSA, and such ratesetting policies shall be amended, modified, or superseded only through a public notice and comment procedure; (ii) applicable Federal Reclamation law and associated rules and regulations, or policies; and (iii) other applicable provisions of this Contract.

(1) The Contractor shall pay the United States as provided for in this Article of this Contract for the Delivered Water at Rates and Charges determined in accordance with policies for Irrigation Water and M&I Water. The Contractor's Rates shall be established to recover its estimated reimbursable costs included in the O&M component of the Rate and amounts established to recover other charges and deficits, other than the construction costs. The Rates for O&M costs and Charges shall be adjusted, as appropriate, in accordance with the provisions of the SJRRSA.

(2) In accordance with the SJRRSA, the Contractor's allocable share of Project construction costs will be repaid pursuant to the provisions of this Contract.

(A) The amount due and payable to the United States, pursuant to the SJRRSA, shall be the Repayment Obligation. The Repayment Obligation has been

computed by the Contracting Officer in a manner consistent with the SJRRSA and is set forth, both as a lump sum payment and as four (4) approximately equal annual installments, which amounts together with the manner in which such amounts were calculated are set forth in Exhibits "C-1" and "C-2". The Repayment Obligation is due in lump sum by January 31, 2011 or in approximate equal annual installments no later than January 31, 2014, as provided by the SJRRSA. The Contractor must provide appropriate notice to the Contracting Officer in writing not later than thirty (30) days prior to January 31, 2011 if electing to repay the amount due using the lump sum alternative. If such notice is not provided by such date, the Contractor shall be deemed to have elected the installment payment alternative, in which case, the first such payment shall be made no later than May 1, 2011, the second payment shall be made no later than the first anniversary of the first payment date, the third payment shall be made no later than the second anniversary of the first payment date, and the final payment shall be made no later than January 31, 2014. If the installment payment option is elected by the Contractor, the Contractor may pre-pay the remaining portion of the Repayment Obligation by giving the Contracting Officer sixty (60) days written notice, in which case, the Contracting Officer shall re-compute the remaining amount due to reflect the pre-payment using the same methodology as was used to compute the initial annual installment payment amount, which is illustrated in Exhibit "C-2". Notwithstanding any Additional Capital Obligation that may later be established, receipt of the Contractor's payment of the Repayment Obligation by the United States shall fully and permanently satisfy the Existing Capital Obligation.

(B) Project construction costs or other capitalized costs attributable to capital additions to the Project incurred after the effective date of this Contract or that are not reflected in the schedules referenced in Exhibits "C-1" and "C-2" and properly assignable to the Contractor, shall be repaid as prescribed by the SJRRSA without interest except as required by law. Consistent with Federal Reclamation law, interest shall continue to accrue on the M&I portion of unpaid Project construction costs or other capitalized cost assigned to the Contractor until such costs are paid. Increases or decreases in Project construction costs or other capitalized costs assigned to the Contractor caused solely by annual adjustment of Project construction costs or other capitalized costs assigned to each Central Valley Project contractor by the Secretary shall not be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B), but will be considered under subdivision (b) of this Article. A separate repayment agreement shall be established by the Contractor and the Contracting Officer to accomplish repayment of all additional Project construction costs or other capitalized costs assigned to the Contractor within the timeframe prescribed by the SJRRSA subject to the following:

(1) If the collective annual Project construction costs or other capitalized costs that are incurred after the effective date of this Contract and properly assignable to the contractors are less than $5,000,000, then the portion of such costs properly assignable to the Contractor shall be repaid in not more than five (5) years after notification of the allocation. This amount is the result of a collective annual allocation of Project construction

costs to the contractors exercising contract conversions; Provided, That the reference to the amount of $5,000,000 shall not be a precedent in any other context.

(2) If the collective annual Project construction costs or other capitalized costs that are incurred after the effective date of this Contract and properly assignable to the contractors are $5,000,000 or greater, then the portion of such costs properly assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law. This amount is the result of a collective annual allocation of Project construction costs to the contractors exercising contract conversions; Provided, That the reference to the amount of $5,000,000 shall not be a precedent in any other context.

(b) Consistent with Section 10010(b) of the SJRRSA, following a final cost allocation by the Secretary upon completion of the construction of the Central Valley Project, the amounts paid by the Contractor shall be subject to adjustment to reflect the effect of any reallocation of Project construction costs or other capitalized costs assigned to the Contractor that may have occurred between the determination of Contractor's Existing Capital Obligation and the final cost allocation. In the event that the final cost allocation, as determined by the Secretary, indicates that the costs properly assignable to the Contractor, as determined by the Contracting Officer, are greater than the Existing Capital Obligation and other amounts of Project construction costs or other capitalized costs paid by the Contractor, then the Contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be no less than one (1) year and no more than ten (10) years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the

parties. In the event that the final cost allocation, as determined by the Secretary, indicates that the costs properly assignable to the Contractor, as determined by the Contracting Officer, are less than the Existing Capital Obligation and other amounts of Project construction costs or other capitalized costs paid by the Contractor, then the Contracting Officer shall credit such overpayment as an offset against any outstanding or future obligation of the Contractor, consistent with the SJRRSA. This Contract shall be implemented in a manner consistent with Section 10010(f) of the SJRRSA.

(c) Prior to July 1 of each Calendar Year, the Contracting Officer shall provide the Contractor an estimate of the Charges for Project Water that will be applied to the period October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and the basis for such estimate. The Contractor shall be allowed not less than two (2) months to review and comment on such estimates. On or before September 15 of each Calendar Year, the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during the period October 1 of the current Calendar Year, through September 30 of the following Calendar Year, and such notification shall revise Exhibit "B". Charges shall be subject to reduction consistent with the SJRRSA based upon the average annual delivery amount agreed to by the Contracting Officer and the Contractor.

(1) Upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, for the years 2020 through 2039 inclusive, Charges shall reflect the reduction on a per acre-foot basis consistent with Section 10010(d)(1) of the SJRRSA. Exhibit "D" sets forth the reduction in

Charges to offset the Financing Costs as prescribed in Section 10010(d)(1) of the SJRRSA; Provided, That if the Secretary determines such Charges are otherwise needed, an equivalent reduction will be made to O&M costs consistent with such provisions of the SJRRSA. Consistent with Section 10010(d)(1) of the SJRRSA and as shown in Exhibit "D", the Friant Surcharge reduction has been calculated based upon the anticipated average annual water deliveries, for the purpose of this reduction only, mutually agreed upon by the Secretary and the Contractor for the period from January 1, 2020 through December 31, 2039. The Friant Surcharge reduction shall remain fixed and shall only be applied to Water Delivered pursuant to this Contract to which the Friant Surcharge applies (including but not limited to water transferred, banked, or exchanged), commencing on January 1, 2020 until such volume of Water Delivered equals 1,706,800 acre-feet or December 31, 2039, whichever occurs first.

(2) Further, to fully offset the Financing Costs, Contractor shall be entitled to a reduction in other outstanding or future obligations of the Contractor in accordance with Section 10010(d)(2) of the SJRRSA. The amount of such further reduction in outstanding or future obligations of the Contractor after October 1, 2019 has been computed by the Contracting Officer, and as computed, such amount is set forth in Exhibit "D".

(d) Prior to October 1 of each Calendar Year, the Contracting Officer shall make available to the Contractor an estimate of the Rates and Tiered Pricing Component for Project Water for the following Year and the computations and cost allocations upon which those Rates are based. The Contractor shall be allowed not less than two (2) months to review and comment on such computations and cost allocations. By December 31 of each Calendar Year,

the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing Component to be in effect for the upcoming Year, and such notification shall revise Exhibit "B". The O&M component of the Rate may be reduced as provided in the SJRRSA.

(e) At the time the Contractor submits the initial schedule for the delivery of Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor shall make an advance payment to the United States equal to the total amount payable pursuant to the applicable Rate(s) set under subdivision (a) of this Article of this Contract, for the Project Water scheduled to be delivered pursuant to this Contract during the first two (2) calendar months of the Year. Before the end of the first month and before the end of each calendar month thereafter, the Contractor shall make an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article of this Contract, for the Water Scheduled to be delivered pursuant to this Contract during the second month immediately following. Adjustments between advance payments for Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of the following month; Provided, That any revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this Contract during any month shall be accompanied with appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered to the Contractor in advance of such payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no additional Project Water shall be delivered to the Contractor unless and until an advance payment at the Rates then in effect for such

additional Project Water is made. Final adjustment between the advance payments for the Water Scheduled and payments for the quantities of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no later than April 30th of the following Year, or sixty (60) days after the delivery of Project Water carried over under subdivision (g) of Article 3 of this Contract if such water is not delivered by the last day of February.

(f) The Contractor shall also make a payment in addition to the Rate(s) in subdivision (e) of this Article of this Contract to the United States for Water Delivered, at the Charges and the appropriate Tiered Pricing Component then in effect, before the end of the month following the month of delivery; Provided, That the Contractor may be granted an exception from the Tiered Pricing Component pursuant to subdivision (l)(2) of this Article of this Contract. The payments shall be consistent with the quantities of Irrigation Water and Other Water Delivered as shown in the water delivery report for the subject month prepared by the Contracting Officer. Such water delivery report shall be the basis for payment of Charges and Tiered Pricing Components by the Contractor, and shall be provided to the Contractor by the Contracting Officer (as applicable) within five (5) days after the end of the month of delivery. The water delivery report shall be deemed a bill basis for payment of Charges and the applicable Tiered Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the adjustment of payments due to the United States for Charges for the next month. Any amount to be paid for past due payment of Charges shall be computed pursuant to Article 21 of this Contract.

(g) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies; Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall be no more than the otherwise applicable Rate for Irrigation Water or Other Water under subdivision (a) of this Article of this Contract.

(h) Payments to be made by the Contractor to the United States under this Contract may be paid from any revenues available to the Contractor.

(i) All revenues received by the United States from the Contractor relating to the delivery of Project Water or the delivery of non-project water through Project facilities shall be allocated and applied in accordance with Federal Reclamation law and the associated rules or regulations, the then-existing Project Ratesetting policies for M&I Water or Irrigation Water, and consistent with the SJRRSA.

(j) The Contracting Officer shall keep its accounts, pertaining to the administration of the financial terms and conditions of its long-term contracts, in accordance with applicable Federal standards so as to reflect the application of Project costs and revenues. The Contracting Officer shall, each Year upon request of the Contractor, provide to the Contractor a detailed accounting of all Project and Contractor expense allocations, the disposition of all Project and Contractor revenues, and a summary of all water delivery information. The Contracting Officer and the Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes relating to accountings, reports, or information.

(k) The parties acknowledge and agree that the efficient administration of this Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms, policies, and procedures used for establishing Rates, Charges, Tiered Pricing Components, and/or for making and allocating payments, other than those set forth in this Article of this Contract, may be in the mutual best interest of the parties, it is expressly agreed that the parties may enter into agreements to modify the mechanisms, policies, and procedures for any of those purposes while this Contract is in effect without amending this Contract.

(l) (1) Beginning at such time as the total of the deliveries of Class 1 Water and Class 2 Water in a Year exceed eighty (80) percent of the Contract Total, then before the end of the month following the month of delivery the Contractor shall make an additional payment to the United States equal to the applicable Tiered Pricing Component. The Tiered Pricing Component for the total of the deliveries of Class 1 Water and Class 2 Water in excess of eighty (80) percent of the Contract Total, but less than or equal to ninety (90) percent of the Contract Total, shall equal the one-half of the difference between the Rate established under subdivision (a) of this Article of this Contract and the Irrigation Full Cost Water Rate, or M&I Full Cost Water Rate, whichever is applicable. The Tiered Pricing Component for the total of the deliveries of Class 1 Water and Class 2 Water which exceeds ninety (90) percent of the Contract Total shall equal the difference between (i) the Rate established under subdivision (a) of this Article of this Contract and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable.

(2) Subject to the Contracting Officer's written approval, the Contractor may request and receive an exemption from such Tiered Pricing Components for Project Water Delivered to produce a crop which the Contracting Officer determines will provide significant and quantifiable habitat values for waterfowl in fields where the water is used and the crops are produced; Provided, That the exemption from the Tiered Pricing Components for Irrigation Water shall apply only if such habitat values can be assured consistent with the purposes of CVPIA through binding agreements executed with or approved by the Contracting Officer prior to use of such water.

(3) For purposes of determining the applicability of the Tiered Pricing Components pursuant to this Article of this Contract, Water Delivered shall include Project Water that the Contractor transfers to others but shall not include Project Water transferred and delivered to the Contractor.

(m) Rates under the respective ratesetting policies will be established to recover only reimbursable O&M (including any deficits) costs of the Project, as those terms are used in the then-existing Project ratesetting policies, and consistent with the SJRRSA, and interest, where appropriate, except in instances where a minimum Rate is applicable in accordance with the relevant Project ratesetting policy. Changes of significance in practices which implement the Contracting Officer's ratesetting policies will not be implemented until the Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and impact of the proposed change.

(n) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted upward or downward to reflect the changed costs of delivery (if any) incurred by the Contracting Officer in the delivery of the transferred Project Water to the transferee's point of delivery in accordance with the then-existing Central Valley Project Ratesetting Policy.

NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

8. The Contractor and the Contracting Officer concur that, as of the effective date of this Contract, the Contractor has no non-interest bearing operation and maintenance deficits and therefore shall have no further liability.

RECOVERED WATER ACCOUNT

9. (a) Notwithstanding any other provisions of this Contract, water delivered to the Contractor under its Recovered Water Account as provided at Paragraph 16(b) of the Settlement and affirmed by Section 10004(a)(5) of the SJRRSA shall be at the total cost of $10.00 per acre foot. Recovered Water Account water provided to the Contractor shall be administered at a priority for delivery lower than Class 2 Water and higher than Section 215 Water.

(b) The manner in which the Recovered Water Account will be administered will be developed in accordance with subdivision (k) of Article 7 of this Contract, the SJRRSA, and Paragraph 16 of the Settlement.

SALES, TRANSFERS, AND EXCHANGES OF WATER

10. (a) The right to receive Project Water provided for in this Contract may be sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of California if such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this Contract may take place without the prior written approval of the Contracting Officer, except as provided for in subdivisions (b) and (c) of this Article of this Contract. No such Project Water sales, transfers, or exchanges shall be approved, where approval is required, absent compliance with appropriate environmental documentation including but not limited to the National Environmental Policy Act and the Endangered Species Act. Such environmental documentation must include, as appropriate, an analysis of groundwater impacts and economic and social effects, including environmental justice, of the proposed Project Water sales, transfers and exchanges on both the transferor/exchanger and transferee/exchange recipient.

(b) In order to facilitate efficient water management by means of Project Water sales, transfers, or exchanges of the type historically carried out among Project Contractors located within the same geographical area and to allow the Contractor to participate in an accelerated water transfer program, the Contracting Officer has prepared, as appropriate, necessary environmental documentation including, but not limited to, the National Environmental Policy Act and the Endangered Species Act analyzing annual Project Water sales, transfers, or exchanges among Contractors within the same geographical area and the

Contracting Officer has determined that such Project Water sales, transfers, and exchanges comply with applicable law.

(c) Project Water sales, transfers, and exchanges analyzed in the environmental documentation referenced in subdivision (b) of this Article of this Contract, shall be conducted with advance notice to the Contracting Officer and the Contracting Officer's written acknowledgement of the transaction, but shall not require prior written approval by the Contracting Officer.

(d) For Project Water sales, transfers, or exchanges to qualify under subdivision (b) of this Article of this Contract such Project Water sale, transfer, or exchange must: (i) be for irrigation purposes for lands irrigated within the previous three (3) years, for M&I use, groundwater recharge, groundwater banking, similar groundwater activities, surface water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to established cropland, wildlife refuges, groundwater basins or municipal and industrial use; (ii) occur within a single Year; (iii) occur between a willing seller and a willing buyer or willing exchangers; (iv) convey water through existing facilities with no new construction or modifications to facilities and be between existing Project Contractors and/or the Contractor and the United States, Department of the Interior; and (v) comply with all applicable Federal, State, and local or tribal laws and requirements imposed for protection of the environment and Indian Trust Assets, as defined under Federal law.

(e) The environmental documentation and the Contracting Officer's compliance determination for transactions described in subdivision (b) of this Article of this

Contract shall be reviewed every five (5) years and updated, as necessary, prior to the expiration of the then-existing five (5) year period. All subsequent environmental documentation shall include an alternative to evaluate not less than the quantity of Project Water historically sold, transferred, or exchanged within the same geographical area.

(f) Consistent with Section 10010(e)(l) of the SJRRSA, any agreement providing for sale, transfer, or exchange of Project Water that is not used for interim flows or restoration flows pursuant to Paragraphs 13 and 15 of the Settlement, shall be deemed to satisfy the requirements of CVPIA section 3405(a)(1)(A) and (I); Provided, That such sales, transfers, or exchanges comply with sub-division (f)(1) and (f)(2) below.

(1) Project Water sales, transfers, and exchanges conducted under the provisions of subdivision (f) of this Article of this Contract shall not require the Contracting Officer's concurrence as to compliance with CVPIA 3405(a)(1)(A) and (I); Provided, That the Contractor shall, for Project Water sales, transfers, or exchanges, with a term greater than one (1) year, provide ninety (90) days written advance notification to the Contracting Officer and similarly thirty (30) days written advance notification of any Project Water sale, transfer, or exchange with a term of less than one (1) year. The Contracting Officer shall promptly make such notice publicly available.

(2) The Contractor's thirty (30) days or ninety (90) days advance written notification pursuant to subdivision (f)(1) of this Article of this Contract shall explain how the proposed Project Water sales, transfers, or exchanges are intended to reduce, avoid, or mitigate impacts to Project Water deliveries caused by interim or restoration flows or is

otherwise intended to facilitate the Water Management Goal as described in the SJRRSA. The Contracting Officer shall promptly make such notice publicly available.

(3) In addition, the Contracting Officer shall, at least annually, make available publicly a compilation of the number of Project Water sales, transfers, and exchange agreements implemented in accordance with sub-divisions (f)(1) and (f)(2) of this Article of this Contract.

(4) Project Water sold, transferred, or exchanged under an agreement that meets the terms of subdivisions (f)(1) and (f)(2) of this Article of this Contract shall not be counted as a replacement or an offset for purposes of determining reductions to Project Water deliveries to any Friant Division Project Contractor except as provided in Paragraph 16(b) of the Settlement.

(g) Upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, in the case of a sale or transfer of Irrigation Water to another contractor which is otherwise subject to the acreage limitations, reporting, and Full Cost pricing provisions of the RRA, such sold or transferred Irrigation Water shall not be subject to such RRA provisions, however, in the case of a sale or transfer of Irrigation Water to the Contractor from another contractor which is subject to RRA provisions, such RRA provisions shall apply to delivery of such water.

APPLICATION OF PAYMENTS AND ADJUSTMENTS

11. (a) The amount of any overpayment by the Contractor of the Contractor's O&M, Capital, and deficit (if any) obligations for the Year shall be applied first to any current

liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of more than One Thousand Dollars ($1,000) shall be refunded at the Contractor's request. In lieu of a refund, any amount of such overpayment, at the option of the Contractor, may be credited against amounts to become due to the United States by the Contractor. With respect to overpayment, such refund or adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have the right to the use of any of the Project Water supply provided for herein. All credits and refunds of overpayments shall be made within thirty (30) days of the Contracting Officer obtaining direction as to how to credit or refund such overpayment in response to the notice to the Contractor that it has finalized the accounts for the Year in which the overpayment was made.

(b) All advances for miscellaneous costs incurred for work requested by the Contractor pursuant to Article 26 of this Contract shall be adjusted to reflect the actual costs when the work has been completed. If the advances exceed the actual costs incurred, the difference will be refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be billed for the additional costs pursuant to Article 26 of this Contract.

TEMPORARY REDUCTIONS—RETURN FLOWS

12. (a) The Contracting Officer shall make all reasonable efforts to optimize delivery of the Contract Total subject to: (i) the authorized purposes and priorities of the Project; (ii) the requirements of Federal law and the Settlement; and (iii) the obligations of the United

States under existing contracts, or renewals thereof, providing for water deliveries from the Project.

(b) The Contracting Officer or Operating Non-Federal Entity may temporarily discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far as feasible the Contracting Officer or Operating Non-Federal Entity will give the Contractor due notice in advance of such temporary discontinuance or reduction, except in case of emergency, in which case no notice need be given; Provided, That the United States shall use its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of service after such reduction or discontinuance, and if requested by the Contractor, the United States will, if possible, deliver the quantity of Project Water which would have been delivered hereunder in the absence of such discontinuance or reduction.

(c) The United States reserves the right to all seepage and return flow water derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the Contractor's Service Area; Provided, That this shall not be construed as claiming for the United States any right as seepage or return flow to water being used pursuant to this Contract for surface irrigation or underground storage either being put to reasonable and beneficial use pursuant to this Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or under the Contractor. For purposes of this subdivision,

groundwater recharge, groundwater banking and all similar groundwater activities will be deemed to be underground storage.

CONSTRAINTS ON THE AVAILABILITY OF WATER

13. (a) In its operation of the Project, the Contracting Officer will use all reasonable means to guard against a Condition of Shortage in the quantity of water to be made available to the Contractor pursuant to this Contract. In the event the Contracting Officer determines that a Condition of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination as soon as practicable.

(b) If there is a Condition of Shortage because of errors in physical operations of the Project, drought, other physical causes beyond the control of the Contracting Officer or actions taken by the Contracting Officer to meet legal obligations, including but not limited to obligations pursuant to the Settlement then, except as provided in subdivision (a) of Article 19 of this Contract, no liability shall accrue against the United States or any of its officers, agents, or employees for any damage, direct or indirect, arising therefrom.

(c) The United States shall not execute contracts which together with this Contract, shall in the aggregate provide for furnishing Class 1 Water in excess of 800,000 acre-feet per Year or Class 2 Water in excess of 1,401,475 acre-feet per Year; Provided, That, subject to subdivision (l) of Article 3 of this Contract, the limitation placed on Class 2 Water contracts shall not prohibit the United States from entering into temporary contracts of one year or less in duration for delivery of Project Water to other entities if such water is not necessary to meet the schedules as may be submitted by all Friant Division Project Contractors entitled to

receive Class 1 Water and/or Class 2 Water under their contracts. Nothing in this subdivision shall limit the Contracting Officer's ability to take actions that result in the availability of new water supplies to be used for Project purposes and allocating such new supplies; Provided, That the Contracting Officer shall not take such actions until after consultation with the Friant Division Project Contractors.

(d) The Contracting Officer shall not deliver any Class 2 Water pursuant to this or any other contract heretofore or hereafter entered into any Year unless and until the Contracting Officer determines that the cumulative total quantity of Class 1 Water specified in subdivision (c) of this Article of this Contract will be available for delivery in said Year. If the Contracting Officer determines there is or will be a shortage in any Year in the quantity of Class 1 Water available for delivery, the Contracting Officer shall apportion the available Class 1 Water among all Contractors entitled to receive such water that will be made available at Friant Dam in accordance with the following:

(1) A determination shall be made of the total quantity of Class 1 Water at Friant Dam which is available for meeting Class 1 Water contractual commitments, the amount so determined being herein referred to as the available supply.

(2) The total available Class 1 supply shall be divided by the Class 1 Water contractual commitments, the quotient thus obtained being herein referred to as the Class 1 apportionment coefficient.

(3) The total quantity of Class 1 Water under Article 3 of this Contract shall be multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of

Class 1 Water required to be delivered by the Contracting Officer to the Contractor for the respective Year, but in no event shall such amount exceed the total quantity of Class 1 Water specified in subdivision (a) of Article 3 of this Contract.

(e) If the Contracting Officer determines there is less than the quantity of Class 2 Water which the Contractor otherwise would be entitled to receive pursuant to Article 3 of this Contract, the quantity of Class 2 Water which shall be furnished to the Contractor by the Contracting Officer will be determined in the manner set forth in paragraphs (1), (2), and (3), of subdivision (d) of this Article of this Contract substituting the term "Class 2" for the term "Class 1."

(f) In the event that in any Year there is made available to the Contractor, by reason of any shortage or apportionment as provided in subdivisions (a), (d), or (e) of this Article of this Contract, or any discontinuance or reduction of service as set forth in subdivision (b) of Article 12 of this Contract, less than the quantity of water which the Contractor otherwise would be entitled to receive hereunder, there shall be made an adjustment on account of the amounts already paid to the Contracting Officer by the Contractor for Class 1 Water and Class 2 Water for said Year in accordance with Article 11 of this Contract.

UNAVOIDABLE GROUNDWATER PERCOLATION

14. To the extent applicable, the Contractor shall not be deemed to have delivered Irrigation Water to Excess Lands and Ineligible Lands within the meaning of this Contract if such lands are irrigated with groundwater that reaches the underground strata as an unavoidable result of the delivery of Irrigation Water by the Contractor to Eligible Lands.

ACREAGE LIMITATION

15. (a) Notwithstanding the application of the acreage limitation provisions to activities referred to in subdivision (b) of this Article, subdivision (a) of Article 16, and Article 18 of this Contract, upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, the provisions of section 213(a) and (b) of the RRA shall apply to lands in the Contractor's Service Area, with the effect that acreage limitations, reporting, and Full Cost pricing provisions of the RRA shall no longer apply to lands in the Contractor's Service Area with respect to Water Delivered pursuant to this Contract. Upon receiving the complete payment of the Repayment Obligation from the Contractor, Reclamation will conduct a final water district review for the purpose of determining compliance with the acreage limitations, reporting, and Full Cost pricing provisions of the RRA from the date of the last water district review until the date when payment to Reclamation of the Repayment Obligation is completed.

(b) Project Water to which the Contractor is entitled through a separate contract, other than this Contract, that is subject to Federal Reclamation law, may be delivered to lands within the Contractor's Service Area. Upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, Project Water Delivered under this Contract may be mixed with Project Water Delivered pursuant to a contract with the United States, other than this Contract, to which acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law apply without causing the application of the acreage limitations, reporting, and the Full Cost pricing

provisions of Federal Reclamation law to the Water Delivered pursuant to this Contract; Provided, The terms and conditions in such other contract shall continue to apply, and if such terms and conditions so require, the lands to receive Project Water under such other contract shall be properly designated by the Contractor and such Project Water is to be delivered in accordance with the RRA including any applicable acreage limitations, reporting, and Full Cost pricing provisions.

COMPLIANCE WITH FEDERAL RECLAMATION LAWS

16. (a) The parties agree that the delivery of irrigation water or use of Federal facilities pursuant to this Contract is subject to Federal Reclamation law, including but not limited to the Reclamation Reform Act of 1982 (43 U.S.C. 390 aa *et seq.*), as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

(b) The terms of this Contract are subject to the Settlement and the SJRRSA. Nothing in this Contract shall be interpreted to limit or interfere with the full implementation of the Settlement and the SJRRSA.

PROTECTION OF WATER AND AIR QUALITY

17. (a) Project facilities used to make available and deliver water to the Contractor shall be operated and maintained in the most practical manner to maintain the quality of the water at the highest level possible as determined by the Contracting Officer: *Provided, That* the United States does not warrant the quality of the water delivered to the Contractor and is under no obligation to furnish or construct water treatment facilities to maintain or improve the quality of water delivered to the Contractor.

(b) The Contractor shall comply with all applicable water and air pollution laws and regulations of the United States and the State of California; and shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of water by the Contractor; and shall be responsible for compliance with all Federal, State, and local water quality standards applicable to surface and subsurface drainage and/or discharges generated through the use of Federal or Contractor facilities or project water provided by the Contractor within the Contractor's Project Water Service Area.

(c) This article shall not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

WATER ACQUIRED BY THE CONTRACTOR OTHER THAN FROM THE UNITED STATES

18. (a) Until complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, water or water rights now owned or hereafter acquired by the Contractor other than from the United States and Irrigation Water furnished pursuant to the terms of this Contract may be simultaneously transported through the same distribution facilities of the Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water and non-project water were constructed without funds made available pursuant to Federal Reclamation law, the acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established through the certification requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR Part 426); and (iii) the water requirements of Eligible Lands within the Contractor's Service Area can be established and the quantity of Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such Eligible Lands. The Contractor and the Contracting Officer concur that the Contractor's distribution system was constructed without funds made available pursuant to Federal Reclamation law. The use of this distribution system is not subject to the provisions of this subdivision of this Article.

(b) Upon complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, water or water rights now owned or hereafter acquired by the Contractor other than from the United States pursuant to this Contract and Irrigation Water furnished pursuant to the terms of this Contract may be simultaneously transported through the same distribution facilities of the Contractor without the payment of fees to the United States and without application of Federal Reclamation law to Water Delivered pursuant to this Contract or to lands which receive Water Delivered to Contractor pursuant to this Contract.

(c) Water or water rights now owned or hereafter acquired by the Contractor, other than from the United States or adverse to the Project or its contractors (i.e., non-project water), may be stored, conveyed and/or diverted through Project facilities, other than Friant Division Facilities, subject to the completion of appropriate environmental documentation, with the approval of the Contracting Officer and the execution of any contract determined by the Contracting Officer to be necessary, consistent with the following provisions:

(1) The Contractor may introduce non-project water into Project facilities and deliver said water to lands within the Contractor's Service Area, including Ineligible Lands, subject to payment to the United States and/or to any applicable Operating Non-Federal Entity of an appropriate rate as determined by the Contracting Officer. In addition, if electrical power is required to pump non-project, water the Contractor shall be responsible for obtaining the necessary power and paying the necessary charges therefor.

(2) Delivery of such non-project water in and through Project facilities shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to other Project Contractors; (iii) interfere with the delivery of contractual water entitlements to any other Project Contractors; (iv) interfere with the physical maintenance of the Project facilities; or (v) result in the United States incurring any liability or unreimbursed costs or expenses thereby.

(3) Neither the United States nor the Operating Non-Federal Entity shall be responsible for control, care or distribution of the non-project water before it is introduced into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and their respective officers, agents, and employees, from any claim for damage to persons or property, direct or indirect, resulting from Contractor's diversion or extraction of non-project water from any source.

(4) Diversion of such non-project water into Project facilities shall be consistent with all applicable laws, and if involving groundwater, consistent with any groundwater management plan for the area from which it was extracted.

(5) After Project purposes are met, as determined by the Contracting Officer, the United States and the Contractor shall share priority to utilize the remaining capacity of the facilities declared to be available by the Contracting Officer for conveyance and

transportation of non-project water prior to any such remaining capacity being made available to non-project contractors.

(d) Non-project water may be stored, conveyed and/or diverted through Friant Division Facilities, subject to the prior completion of appropriate environmental documentation and approval of the Contracting Officer without execution of a separate contract, consistent with subdivisions (c)(1) through (c)(5) of this Article and any other condition determined to be appropriate by the Contracting Officer.

OPINIONS AND DETERMINATIONS

19. (a) Where the terms of this Contract provide for actions to be based upon the opinion or determination of either party to this Contract, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each opinion or determination by either party shall be provided in a timely manner. Nothing in this Article of this Contract is intended to or shall affect or alter the standard of judicial review applicable under Federal law to any opinion or determination implementing a specific provision of Federal law embodied in statute or regulation.

(b) The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with the provisions of this Contract, the laws of the United States and the State of California, and the rules and regulations promulgated

by the Secretary. Such determinations shall be made in consultation with the Contractor to the extent reasonably practicable.

COORDINATION AND COOPERATION

20. (a) In order to further their mutual goals and objectives, the Contracting Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and with other affected Project Contractors, in order to improve the operation and management of the Project. The communication, coordination, and cooperation regarding operations and management shall include, but not limited to, any action which will or may materially affect the quantity or quality of Project Water supply, the allocation of Project Water supply, and Project financial matters including, but not limited to, budget issues. The communication, coordination, and cooperation provided for hereunder shall extend to all provisions of this Contract. Each party shall retain exclusive decision making authority for all actions, opinions, and determinations to be made by the respective party.

(b) It is the intent of the Secretary to improve water supply reliability. To carry out this intent:

(1) The Contracting Officer will, at the request of the Contractor, assist in the development of integrated resource management plans for the Contractor. Further, the Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to improve water supply, water quality, and reliability.

(2) The Secretary will, as appropriate, pursue program and project implementation and authorization in coordination with Project Contractors to improve the water supply, water quality, and reliability of the Project for all Project purposes.

(3) The Secretary will coordinate with Project Contractors and the State of California to seek improved water resource management.

(4) The Secretary will coordinate actions of agencies within the Department of the Interior that may impact the availability of water for Project purposes.

(5) The Contracting Officer shall periodically, but not less than annually, hold division level meetings to discuss Project operations, division level water management activities, and other issues as appropriate.

(c) Without limiting the contractual obligations of the Contracting Officer hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting Officer's ability to communicate, coordinate, and cooperate with the Contractor or other interested stakeholders or to make decisions in a timely fashion as needed to protect health, safety, physical integrity of structures or facilities, or the Contracting Officer's ability to comply with applicable laws.

CHARGES FOR DELINQUENT PAYMENTS

21. (a) The Contractor shall be subject to interest, administrative and penalty charges on delinquent installments or payments. When a payment is not received by the due date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six (6) percent per year for each day the payment is delinquent beyond the due

date. Further, the Contractor shall pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest charge rate shall be the greater of the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate of one-half of one (0.5) percent per month prescribed by Section 6 of the Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received shall be applied, first to the penalty, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

EQUAL EMPLOYMENT OPPORTUNITY

22. During the performance of this Contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, disability, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, disability, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders; this contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT

23. (a) The obligation of the Contractor to pay the United States as provided in this Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation may be distributed among the Contractor's water users and notwithstanding the default of individual water users in their obligations to the Contractor.

(b) The payment of charges becoming due hereunder is a condition precedent to receiving benefits under this Contract. The United States shall not make water available to the Contractor through Project facilities during any period in which the Contractor may be in arrears in the advance payment of water rates due the United States. The Contractor shall not furnish water made available pursuant to this Contract for lands or parties which are in arrears in the advance payment of water rates levied or established by the Contractor.

(c) With respect to subdivision (b) of this Article of this Contract, the Contractor shall have no obligation to require advance payment for water rates which it levies.

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

24. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as well as with their respective implementing regulations and guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

(b) These statutes require that no person in the United States shall, on the grounds of race, color, national origin, handicap, or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation. By executing this Contract, the Contractor agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.

(c) The Contractor makes this agreement in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Contractor recognizes and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this Article, and that the United States reserves the right to seek judicial enforcement thereof.

PRIVACY ACT COMPLIANCE

25. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a) (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et seq.) in maintaining Landholder acreage certification and reporting records, required to be submitted to the Contractor for compliance with Sections 206 and 228 of the Reclamation Reform Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.18.

(b) With respect to the application and administration of the criminal penalty provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees responsible for maintaining the certification and reporting records referenced in (a) above are considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

(c) The Contracting Officer or a designated representative shall provide the Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation—Interior, Reclamation-31) which govern the maintenance, safeguarding, and disclosure of information contained in the Landholder's certification and reporting records.

(d) The Contracting Officer shall designate a full-time employee of the Bureau of Reclamation to be the System Manager who shall be responsible for making decisions on denials pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor is authorized to grant requests by individuals for access to their own records.

(e) The Contractor shall forward promptly to the System Manager each proposed denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System Manager with information and records necessary to prepare an appropriate response to the requester. These requirements do not apply to individuals seeking access to their own certification and reporting forms filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the Privacy Act as a basis for the request.

CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

26. In addition to all other payments to be made by the Contractor pursuant to this Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill and detailed statement submitted by the Contracting Officer to the Contractor for such specific items of direct cost incurred by the United States for work requested by the Contractor associated with this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and procedures. All such amounts referred to in this Article of this Contract shall not exceed the amount agreed to in writing in advance by the Contractor. This Article of this Contract shall not apply to costs for routine contract administration.

WATER CONSERVATION

27. (a) Prior to the delivery of water provided from or conveyed through Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor

shall be implementing an effective water conservation and efficiency program based on the Contractor's water conservation plan that has been determined by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water conservation plans established under Federal law. The water conservation and efficiency program shall contain definite water conservation objectives, appropriate economically feasible water conservation measures, and time schedules for meeting those objectives. Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's continued implementation of such water conservation program. In the event the Contractor's water conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of this Article of this Contract have not yet been determined by the Contracting Officer to meet such criteria, due to circumstances which the Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently works with the Contracting Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor immediately begins implementing its water conservation and efficiency program in accordance with the time schedules therein.

(b) Omitted.

(c) The Contractor shall submit to the Contracting Officer a report on the status of its implementation of the water conservation plan on the reporting dates specified in the then-existing conservation and efficiency criteria established under Federal law.

(d) At five (5) -year intervals, the Contractor shall revise its water conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating

water conservation plans established under Federal law and submit such revised water management plan to the Contracting Officer for review and evaluation. The Contracting Officer will then determine if the water conservation plan meets Reclamation's then-existing conservation and efficiency criteria for evaluating water conservation plans established under Federal law.

(e) If the Contractor is engaged in direct groundwater recharge, such activity shall be described in the Contractor's water conservation plan.

EXISTING OR ACQUIRED WATER OR WATER RIGHTS

28. Except as specifically provided in Article 18 of this Contract, the provisions of this Contract shall not be applicable to or affect non-project water or water rights now owned or hereafter acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such water shall not be considered Project Water under this Contract. In addition, this Contract shall not be construed as limiting or curtailing any rights which the Contractor or any water user within the Contractor's Service Area acquires or has available under any other contract pursuant to Federal Reclamation law.

OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

29. (a) The O&M of a portion of the Project facilities which serve the Contractor, and responsibility for funding a portion of the costs of such O&M, have been transferred to the Operating Non-Federal Entity by separate agreement between the United States and the Operating Non-Federal Entity. That separate agreement shall not interfere with or affect the rights or obligations of the Contractor or the United States hereunder.

(b) The Contracting Officer has previously notified the Contractor in writing that the O&M of a portion of the Project facilities which serve the Contractor has been transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer under the terms and conditions of the separate agreement between the United States and the Operating Non-Federal Entity described in subdivision (a) of this Article of this Contract, all rates, charges or assessments of any kind, including any assessment for reserve funds, which the Operating Non-Federal Entity or such successor determines, sets or establishes for (i) the O&M of the portion of the Project facilities operated and maintained by the Operating Non-Federal Entity or such successor, or (ii) the Friant Division's share of the operation, maintenance and replacement costs for physical works and appurtenances associated with the Tracy Pumping Plant, the Delta-Mendota Canal, the O'Neill Pumping/Generating Plant, the federal share of the O'Neill Forebay, the Mendota Pool, and the federal share of San Luis Unit joint use conveyance and conveyance pumping facilities. Such direct payments to the Operating Non-Federal Entity or such successor shall not relieve the Contractor of its obligation to pay directly to the United States the Contractor's share of the Project Rates, Charges, and Tiered Pricing Components except to the extent the Operating Non-Federal Entity collects payments on behalf of the United States in accordance with the separate agreement identified in subdivision (a) of this Article of this Contract.

(c) For so long as the O&M of any portion of the Project facilities serving the Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the

Contracting Officer shall adjust those components of the Rates for Water Delivered under this Contract representing the cost associated with the activity being performed by the Operating Non-Federal Entity or its successor.

(d) In the event the O&M of the Project facilities operated and maintained by the Operating Non-Federal Entity is re-assumed by the United States during the term of this Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the Contractor for Project Water under this Contract representing the O&M costs of the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the absence of written notification from the Contracting Officer to the contrary, pay the Rates, Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the United States in compliance with Article 7 of this Contract.

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

30. The expenditure or advance of any money or the performance of any obligation of the United States under this Contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations under this Contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

BOOKS, RECORDS, AND REPORTS

31. (a) The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Contract, including: the Contractor's financial transactions, water supply data, and Project land and right-of-way agreements; the water users' land-use (crop census), land ownership, land-leasing and water use data; and other matters that the Contracting Officer may require. Reports thereon shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this

Contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this Contract.

(b) Notwithstanding the provisions of subdivision (a) of this Article of this Contract, no books, records, or other information shall be requested from the Contractor by the Contracting Officer unless such books, records, or information are reasonably related to the administration or performance of this Contract. Any such request shall allow the Contractor a reasonable period of time within which to provide the requested books, records, or information.

(c) At such time as the Contractor provides information to the Contracting Officer pursuant to subdivision (a) of this Article of this Contract, a copy of such information shall be provided to the Operating Non-Federal Entity.

ASSIGNMENT LIMITED—SUCCESSORS AND ASSIGNS OBLIGATED

32. (a) The provisions of this Contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest therein shall be valid until approved in writing by the Contracting Officer.

(b) The assignment of any right or interest in this Contract by either party shall not interfere with the rights or obligations of the other party to this Contract absent the written concurrence of said other party.

(c) The Contracting Officer shall not unreasonably condition or withhold approval of any proposed assignment.

SEVERABILITY

33. In the event that a person or entity who is neither (i) a party to a Project contract, nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor

(iii) an association or other form of organization whose primary function is to represent parties to Project contracts, brings an action in a court of competent jurisdiction challenging the legality or enforceability of a provision included in this Contract and said person, entity, association, or organization obtains a final court decision holding that such provision is legally invalid or unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final court decision identify by mutual agreement the provisions in this Contract which must be revised and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time periods specified above may be extended by mutual agreement of the parties. Pending the completion of the actions designated above, to the extent it can do so without violating any applicable provisions of law, the United States shall continue to make the quantities of Project Water specified in this Contract available to the Contractor pursuant to the provisions of this Contract which were not found to be legally invalid or unenforceable in the final court decision.

RESOLUTION OF DISPUTES

34. Should any dispute arise concerning any provisions of this Contract, or the parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring any matter to Department of Justice, the party shall provide to the other party thirty (30) days written notice of the intent to take such action; Provided, That such notice shall not be required where a delay in commencing an action would prejudice the interests of the party

that intends to file suit. During the thirty (30) day notice period, the Contractor and the Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to waive or abridge any right or remedy that the Contractor or the United States may have.

OFFICIALS NOT TO BENEFIT

35. No Member of or Delegate to Congress, Resident Commissioner, or official of the Contractor shall benefit from this Contract other than as a water user or landowner in the same manner as other water users or landowners.

CHANGES IN CONTRACTOR'S SERVICE AREA

36. (a) While this Contract is in effect, no change may be made in the Contractor's Service Area or boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise, except upon the Contracting Officer's written consent.

(b) Within thirty (30) days of receipt of a request for such a change, the Contracting Officer will notify the Contractor of any additional information required by the Contracting Officer for processing said request, and both parties will meet to establish a mutually agreeable schedule for timely completion of the process. Such process will analyze whether the proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply with the National Environmental Policy Act and the Endangered Species Act. The Contractor will be responsible for all costs

incurred by the Contracting Officer in this process, and such costs will be paid in accordance with Article 26 of this Contract.

FEDERAL LAWS

37. By entering into this Contract, the Contractor does not waive its rights to contest the validity or application in connection with the performance of the terms and conditions of this Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the terms and conditions of this Contract unless and until relief from application of such Federal law or regulation to the implementing provision of the Contract is granted by a court of competent jurisdiction.

EMERGENCY RESERVE FUND

38. The Contractor and Contracting Officer acknowledge that the requirements to establish and maintain a minimum reserve fund account to finance extraordinary O&M costs of Friant Division Facilities is and will continue to be administered under Contract No. 8-07-20-X0356 titled Agreement To Transfer The Operation, Maintenance And Replacement And Certain Financial And Administrative Activities Related To The Friant-Kern Canal And Associated Works, dated March 1, 1998 as amended, supplemented, assigned, or renewed.

MEDIUM FOR TRANSMITTING PAYMENT

39. (a) All payments from the Contractor to the United States under this contract shall be by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States.

(b) Upon execution of the contract, the Contractor shall furnish the Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose

for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the Contractor's relationship with the United States.

NOTICES

40. Any notice, demand, or request authorized or required by this Contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno, California 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors of Lower Tule River Irrigation District, 357 East Olive Avenue, Tipton, California 93272. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article of this Contract for other notices.

CONFIRMATION OF CONTRACT

41. The Contractor, after the execution of this Contract, shall promptly provide to the Contracting Officer a decree of a court of competent jurisdiction of the State of California, confirming the execution of this Contract. The Contractor shall furnish the United States a certified copy of the final decree, the validation proceedings, and all pertinent supporting records of the court approving and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

CONTRACT DRAFTING CONSIDERATIONS

42. Articles 1 through 15, subdivision (c) of Article 16, Articles 18 through 20, subdivision (c) of Article 23, Articles 26 through 29, subdivisions (b) and (c) of Article 31, subdivisions (b) and (c) of Article 32, Articles 33 through 34, subdivision (b) of Article 36, and Articles 37 through 38 of this Contract have been drafted, negotiated, and reviewed by the parties hereto, each of whom is sophisticated in the matters to which this Contract pertains, and no one party shall be considered to have drafted the stated Articles.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written.

APPROVED AS TO LEGAL FORM AND SUFFICIENCY
OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR

THE UNITED STATES OF AMERICA

By: _____
Regional Director, Mid-Pacific Region
Bureau of Reclamation

ACTING FOR

LOWER TULE RIVER IRRIGATION DISTRICT

By: _____
President, Board of Directors

Attest:

By: _____
Secretary

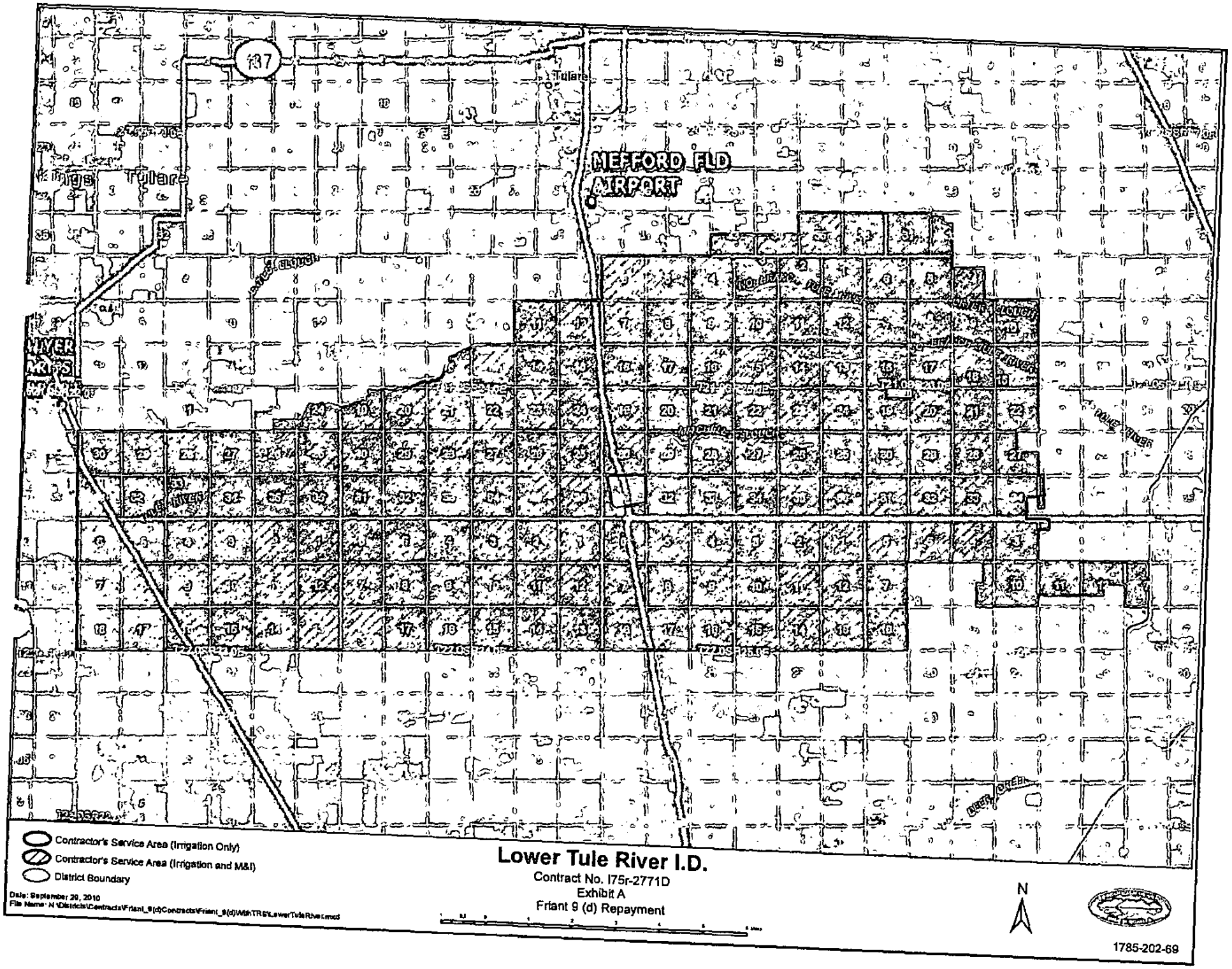

137
Tulare
NEFFORD FLD
AIRPORT
Tulare
Contractor's Service Area (Irrigation Only)
Contractor's Service Area (Irrigation and M&I)
District Boundary
Date: September 20, 2010
File Name: N:\Districts\Contracts\Friant_9(d)Contracts\Friant_9(d)WithTRS\LowerTuleRiver.mxd
Lower Tule River I.D.
Contract No. I75r-2771D
Exhibit A
Friant 9 (d) Repayment
N
1785-202-69

EXHIBIT B

Rates and Charges

This is a placeholder page. The Rates and Charges will be transmitted to the Contractor at a later date.

Exhibit C-1
Repayment Obligation - Lump Sum Option

Friant Contractor: Lower Tule River ID
San Joaquin River Restoration Act

Existing Capital Obligation (Article 1(m))		$ 24,066,555.14
Irrigation portion of Existing Capital Obligation		$ 24,066,555.14
20yr CMT as of :	10/01/10	3.400%
Discount Rate (1/2 20yr CMT)		1.700%
Discounted Irrigation Capital		$ 20,257,865.05
Non-Discounted M&I Portion of Existing Capital Obligation		$

Repayment Obligation - Lump Sum Option (per Article 7(a)(2)(A) $ 20,257,865.05

Year	Irrigation Portion of Allocated Capital Cost: Beginning Balance	Straight Line Repayment
2011	$ 24,066,555	$ 1,203,328
2012	$ 22,863,227	$ 1,203,328
2013	$ 21,659,900	$ 1,203,328
2014	$ 20,456,572	$ 1,203,328
2015	$ 19,253,244	$ 1,203,328
2016	$ 18,049,916	$ 1,203,328
2017	$ 16,846,589	$ 1,203,328
2018	$ 15,643,261	$ 1,203,328
2019	$ 14,439,933	$ 1,203,328
2020	$ 13,236,605	$ 1,203,328
2021	$ 12,033,278	$ 1,203,328
2022	$ 10,829,950	$ 1,203,328
2023	$ 9,626,622	$ 1,203,328
2024	$ 8,423,294	$ 1,203,328
2025	$ 7,219,967	$ 1,203,328
2026	$ 6,016,639	$ 1,203,328
2027	$ 4,813,311	$ 1,203,328
2028	$ 3,609,983	$ 1,203,328
2029	$ 2,406,656	$ 1,203,328
2030	$ 1,203,328	$ 1,203,328
		$ 24,066,555

Exhibit C-2
Repayment Obligation - Installment Payment Option

Friant Contractor: Lower-Tule River ID

Existing Capital Obligation (Article 1(m))	$ 24,066,555.14
Irrigation Portion of Existing Capital Obligation	$ 24,066,555.14
20yr CMT - 10/1/2010	3.400%
Discount Rate (1/2 20yr CMT)	1.700%
Non-Discounted M&I Existing Capital Obligation	$ -

Installment Schedule

	Payment Due Date	Irrigation Portion of Repayment Obligation	Non-discounted M&I Portion of Existing Capital Obligation	Repayment Obligation
1st Installment	5/1/2011	$ 5,188,890.04	$ -	$ 5,188,890.04
2nd Installment	5/1/2012	$ 5,188,106.16	$ -	$ 5,188,106.16
3rd Installment	5/1/2013	$ 5,193,433.41	$ -	$ 5,193,433.41
4th Installment	1/31/2014	$ 5,202,908.66	$ -	$ 5,202,908.66
Total Repayment Obligation - Installment Option (per Article 7(a)(2)(A):		$ 20,773,338.27	$ -	$ 20,773,338.27

	Irrigation Portion of Allocated Capital Cost		Discounted Capital Amount			
Year	Beginning Balance	Straight Line Repayment	$5,188,890.04	$5,188,106.16	$5,193,433.41	$5,202,908.66
2011	$ 24,066,555	$ 1,203,328	$ 1,203,328			
2012	$ 22,863,227	$ 1,203,328	$ 252,699	$ 950,629		
2013	$ 21,659,900	$ 1,203,328	$ 252,699	$ 280,977	$ 669,652	
2014	$ 20,456,572	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2015	$ 19,253,244	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2016	$ 18,049,916	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2017	$ 16,846,589	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2018	$ 15,643,261	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2019	$ 14,439,933	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2020	$ 13,236,605	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2021	$ 12,033,278	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2022	$ 10,829,950	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2023	$ 9,626,622	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2024	$ 8,423,294	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2025	$ 7,219,967	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2026	$ 6,016,639	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2027	$ 4,813,311	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2028	$ 3,609,983	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2029	$ 2,406,656	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
2030	$ 1,203,328	$ 1,203,328	$ 252,699	$ 280,977	$ 314,670	$ 354,982
		$ 24,066,555	$ 6,004,606	$ 6,008,215	$ 6,019,045	$ 6,034,689

Exhibit D

Friant Surcharge Reduction Calculation

Friant Contractor:
San Joaquin River Restoration Act

Lower-Tule River ID

Average Annual Delivery - Forecasted for 2020-2039*	85,340
Total Projected deliveries (over 20 yr period)** Article 7(c)	1,706,800
20 yr CMT as of 10/1/2010	3.400%
1/2 20 yr CMT as of 10/1/2010	1.700%
Irrigation Portion of Existing Capital Obligation	$24,066,555
NPV at Half CMT (Repayment Obligation)	$20,257,865
NPV at Full CMT	$17,257,967
Financing Cost Offset: * (Article 7(c)(1))	$2,999,899
NPV of FS Reduction	$2,717,658
Difference between Financing Cost Offset and NPV of FS Reduction	$282,241
2020 Other Obligation Credit (FV of difference) (Art. 7(c)(2))**	$381,333

	Irrigation portion of Allocated Capital Cost		CVPIA Friant Surcharges	Reduction in Friant Surcharge			
Year	Beginning Balance	Straight Line Repayment	Surcharge per Acre-Foot Before Reduction	Friant Surcharge Reduction per Article 7(c)(1)	Friant Surcharge due per A/F after Reduction	Projected Total Annual Credit	2020 Other Obligation Credit Calculation (Art. 7(c)(2))
2011	$ 24,066,555	$ 1,203,328	$7.00		$7.00	0	$ 282,240.99
2012	$ 22,863,227	$ 1,203,328	$7.00		$7.00	0	$ 291,837.19
2013	$ 21,659,900	$ 1,203,328	$7.00		$7.00	0	$ 301,759.65
2014	$ 20,456,572	$ 1,203,328	$7.00		$7.00	0	$ 312,019.48
2015	$ 19,253,244	$ 1,203,328	$7.00		$7.00	0	$ 322,628.14
2016	$ 18,049,916	$ 1,203,328	$7.00		$7.00	0	$ 333,597.50
2017	$ 16,846,589	$ 1,203,328	$7.00		$7.00	0	$ 344,939.82
2018	$ 15,643,261	$ 1,203,328	$7.00		$7.00	0	$ 356,667.77
2019	$ 14,439,933	$ 1,203,328	$7.00		$7.00	0	$ 368,794.47
2020	$ 13,236,605	$ 1,203,328	$7.00	($3.00)	$ 4.00	($256,020)	$ 381,333.49
2021	$ 12,033,278	$ 1,203,328	$7.00	($3.00)	$ 4.00	(256,020)	
2022	$ 10,829,950	$ 1,203,328	$7.00	($3.00)	$ 4.00	(256,020)	
2023	$ 9,626,622	$ 1,203,328	$7.00	($3.00)	$ 4.00	(256,020)	
2024	$ 8,423,294	$ 1,203,328	$7.00	($3.00)	$ 4.00	(256,020)	
2025	$ 7,219,967	$ 1,203,328	$7.00	($3.00)	$ 4.00	(256,020)	
2026	$ 6,016,639	$ 1,203,328	$7.00	($3.00)	$ 4.00	(256,020)	
2027	$ 4,813,311	$ 1,203,328	$7.00	($3.00)	$ 4.00	(256,020)	
2028	$ 3,609,983	$ 1,203,328	$7.00	($3.00)	$ 4.00	(256,020)	
2029	$ 2,406,656	$ 1,203,328	$7.00	($3.00)	$ 4.00	(256,020)	
2030	$ 1,203,328	$ 1,203,328	$7.00	($3.00)	$ 4.00	(256,020)	
2031			$7.00	($3.00)	$ 4.00	(256,020)	
2032			$7.00	($3.00)	$ 4.00	(256,020)	
2033			$7.00	($3.00)	$ 4.00	(256,020)	
2034			$7.00	($3.00)	$ 4.00	(256,020)	
2035			$7.00	($3.00)	$ 4.00	(256,020)	
2036			$7.00	($3.00)	$ 4.00	(256,020)	
2037			$7.00	($3.00)	$ 4.00	(256,020)	
2038			$7.00	($3.00)	$ 4.00	(256,020)	
2039			$7.00	($3.00)	$ 4.00	(256,020)	
		$ 24,066,555				($5,120,400)	

Exhibit D
Friant Surcharge Reduction Calculation

Footnotes

* Average annual delivery forcast indicated above is a mutually agreed upon estimate of deliveries during the period 2020-2039 for purposes of calculating the Friant Surcharge reduction and related credits only.

** This figure represents the total cumulative deliveries the reduced surchage is applicable to, but not beyond 2039. If cummulative actual deliveries exceed this amount prior to 2039, the full Friant Surcharge is applicable to deliveries in excess of this amount.

*** The difference represents the amount of financing costs that are not offset through the reduced Friant Surcharge computed on this schedule. Pursuant to Section 7(c)(2), this amount shall offset the Contractor's other outstanding or future obligations. After 2020, the contractors other obligations shall be reduced in the following order to fully offset this amount: 1) Payments or prepayments due for O&M expenses and, to the extent applicable, 2) Additional Capital Obligation.

@ Amount of reduction in Friant Surcharge is computed using FPV of Financing Costs adjusted to Yr 2020. Annual Friant Surcharge reduction to fully offset Financing costs is comuted and presented on per a/f basis. Friant surchage may be reduced up to $3 per a/f.

Friant Surcharge (FS) Reduction Calculations		
FV of Total Financing Cost for Offset	$	4,190,945
Annual Credit Target	$	(282,609)
FS Reduction w/o limit	$	(3.31)
FS Reduction limit	$	(3.00)

EXHIBIT E

Restated Contract[1]

Irrigation and Other
Contract No. I75r-2771D

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES
AND
LOWER TULE RIVER IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE FROM
FRIANT DIVISION AND
FOR FACILITIES REPAYMENT

Table of Contents

Article No.	Title	Page No.
	Preamble	1
	Explanatory Recitals	2
1	Definitions	6
2	Effective Date Of Contract	13
3	Water To Be Made Available And Delivered To The Contractor	14
4	Time For Delivery Of Water	21
5	Point Of Diversion And Responsibility For Distribution Of Water	23
6	Measurement Of Water Within The Service Area	25
7	Rates, Method Of Payment For Water, And Accelerated Repayment Of Facilities	27
8	Non-Interest Bearing Operation And Maintenance Deficits	36
9	Recovered Water Account	36
10	Sales, Transfers, And Exchanges Of Water	37
11	Application Of Payments And Adjustments	40
12	Temporary Reductions—Return Flows	41
13	Constraints On The Availability Of Water	43
14	Unavoidable Groundwater Percolation	45
15	Acreage Limitation	45
16	Compliance With Federal Reclamation Laws	47
17	Protection Of Water And Air Quality	47

[1] Pursuant to subdivision (b) of Article 2 of the Contract to which this exhibit is attached, this Exhibit "E" makes no substantive revisions to the Contract to which it is attached and is prepared solely as a matter of administrative convenience. In this Exhibit "E", references to "Contract" or "this Contract" refers to this Restated Contract.

18 Water Acquired By The Contractor Other Than From The United States 47
19 Opinions And Determinations 50
20 Coordination And Cooperation 50
21 Charges For Delinquent Payments 52
22 Equal Employment Opportunity 53
23 General Obligation—Benefits Conditioned Upon Payment 54
24 Compliance With Civil Rights Laws And Regulations 54
25 Privacy Act Compliance 55
26 Contractor To Pay Certain Miscellaneous Costs 55
27 Water Conservation 55
28 Existing Or Acquired Water Or Water Rights 57
29 Operation And Maintenance By Operating Non-Federal Entity 57
30 Contingent On Appropriation Or Allotment Of Funds 59
31 Books, Records, And Reports 59
32 Assignment Limited—Successors And Assigns Obligated 60
33 Severability 60
34 Resolution Of Disputes 61
35 Officials Not To Benefit 62
36 Changes In Contractor's Service Area 62
37 Federal Laws 63
38 Emergency Reserve Fund 63
39 Medium For Transmitting Payment 63
40 Notices 64
41 Confirmation Of Contract 64
42 Contract Drafting Considerations 64

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES
AND
LOWER TULE RIVER IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM FRIANT DIVISION AND
FACILITIES REPAYMENT

THIS CONTRACT, made this 17th day of November, 2010, is entered into pursuant to the Act of June 17, 1902, (32 Stat. 388), and acts amendatory or supplementary thereto, including but not limited to: the Act of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat. 3050), as amended, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), and Title X, Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349), also referred to as the San Joaquin River Restoration Settlement Act hereinafter referred to as SJRRSA, all collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to as the United States and LOWER TULE RIVER IRRIGATION DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to the laws thereof, with its principal place of business in California;

WITNESSETH, That

EXPLANATORY RECITALS

[1st] WHEREAS, the United States has constructed and is operating the Central Valley Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant Division Facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

[3rd] WHEREAS, the United States and the Contractor entered into Contract Number I75r-2771, as amended, which established terms for the delivery to the Contractor of Project Water from the Friant Division from May 5, 1951 through February 28, 1991; and

[4th] WHEREAS, the Contractor and the United States have entered into a renewal contract and, pursuant to subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into an interim renewal contract(s), identified as Contract Number (s) I75r-2771R and I75r-2771-IR1, which provided for the continued water service to Contractor from March 1, 1991 through February 28, 2001, and subsequently entered into a long-term renewal contract identified as Contract Number I75r-2771-LTR1, which provided for

continued water service to Contractor through February 28, 2026, which was amended January 18, 2007, and is herein referred to as the "Existing Contract"; and

[5th] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the United States has acquired water rights and other rights to the flows of the San Joaquin River, including without limitation the permits issued as the result of Decision 935 by the California State Water Resource Control Board and the contracts described in subdivision (n) of Article 3 of this Contract, pursuant to which the Contracting Officer develops, diverts, stores and delivers Project Water stored or flowing through Millerton Lake in accordance with State and Federal law for the benefit of Project Contractors in the Friant Division and for other specified Project purposes; and

[6th] WHEREAS, the water supplied to the Contractor pursuant to this Contract is Project Water developed through the exercise of the rights described in the fifth (5th) Explanatory Recital of this Contract; and

[7th] WHEREAS, as a result of litigation entitled "Natural Resources Defense Council, et al. v Kirk Rogers, et al." No. CIV-S-88-1658LLK/GGH, certain contractors from the Friant Division entered into a Stipulation of Settlement dated September 13, 2006, (the "Settlement"), which settlement prescribes a Restoration Goal and a Water Management Goal and which Settlement was subsequently confirmed and implemented through the SJRRSA; and

[8th] WHEREAS, the SJRRSA authorizes and directs the Secretary to convert the Existing Contract to a repayment contract under subsection (d) of Section 9 of the Act of August 4, 1939, no later than December 31, 2010, and further directs that such contract shall require the

accelerated repayment of the Contractor's allocated share of construction costs, either as a lump sum payment by January 31, 2011 or in annual installments by January 31, 2014, which funds will in turn be made available for implementation of the Settlement and SJRRSA, and which costs otherwise would have been payable through annual water rates, with full repayment by 2030; and

[9th] WHEREAS, such repayment of costs will assist the United States with implementation of actions required under the Settlement and the SJRRSA and provide the Contractor the benefits provided in Section 10010 of the SJRRSA; and

[10th] WHEREAS, subsection (4) of Section 1 of the Act of July 2, 1956 (1956 Act) directs the Secretary to provide that the other party to any contract entered into pursuant to subsection (d) of Section 9 of the Act of August 4, 1939 (repayment contract) or pursuant to subsection (e) of Section 9 of the Act of August 4, 1939 (water service contract) shall "have the first right (to which the rights of the holders of any other type of irrigation water contract shall be subordinate) to a stated share or quantity of the project's available water supply for beneficial use on the irrigable lands within the boundaries of, or owned by, the party and a permanent right to such share or quantity upon completion of payment of the amount assigned for ultimate return" by the contractor subject to fulfillment of all obligations under the contract; and

[11th] WHEREAS, among other things, this Contract includes provisions granting the Contractor the permanent right described in the tenth (10th) Explanatory Recital; and

[12th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting Officer that the Contractor has utilized the Project Water supplies available to it for

reasonable and beneficial use and/or has demonstrated projected future demand for water use such that the Contractor has the capability and expects to utilize fully for reasonable and beneficial use the quantity of Project Water to be made available to it pursuant to this Contract; and

[13th] WHEREAS, water obtained from the Central Valley Project has been relied upon by urban and agricultural areas within California for more than fifty (50) years and is considered by the Contractor as an essential portion of its water supply; and

[14th] WHEREAS, the economies of regions within the Central Valley Project, including the Contractor's, depend upon the continued availability of water, including water service from the Central Valley Project; and

[15th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships to pursue measures to improve water supply, water quality, and reliability of the Project for all Project purposes; and

[16th] WHEREAS, the mutual goals of the United States and the Contractor include: to provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of the Central Valley Project as required by law; to guard reasonably against Project Water shortages; to achieve a reasonable balance among competing demands for use of Project Water; and to comply with all applicable environmental statutes, all consistent with the legal obligations of the United States relative to the Central Valley Project; and

[17th] WHEREAS, any time during the Year the Contracting Officer determines that a need exists to evacuate water from Millerton Lake in order to prevent or minimize spill or to

meet flood control criteria (currently referred to as "uncontrolled season"), taking into consideration, among other things, anticipated upstream reservoir operations and the most probable forecast of snowmelt and runoff projections for the upper San Joaquin River, Friant Division Project Contractors utilize a portion of their undependable Class 2 Water in their service areas to, among other things, assist in the management and alleviation of groundwater overdraft in the Friant Division service area, provide opportunities for restoration of the San Joaquin River below Friant Dam, minimize flooding along the San Joaquin River, encourage optimal water management, and maximize the reasonable and beneficial use of the water; and

[18th] WHEREAS, the parties desire and intend that this Contract not provide a disincentive to the Friant Division Project Contractors continuing to carry out the beneficial activities set out in the Explanatory Recital immediately above; and

[19th] WHEREAS, the United States has determined that the Contractor has fulfilled all of its obligations under the Existing Contract.

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is hereby mutually agreed by the parties hereto as follows:

DEFINITIONS

1. When used herein, unless otherwise distinctly expressed or manifestly incompatible with the intent of the parties as expressed in this Contract, the term:

(a) "Additional Capital Obligation" shall mean any additional construction costs or other capitalized costs incurred after the effective date of this Contract or not reflected in the Existing Capital Obligation as provided in Section 10010(a)(3)(B) of the SJRRSA and any

amounts payable by Contractor as determined through the final adjustment described and required by Section 10010(b) of the SJRRSA;

(b) "Calendar Year" shall mean the period January 1 through December 31, both dates inclusive;

(c) "Charges" shall mean the payments required by Federal Reclamation law in addition to the Rates specified in this Contract as determined annually by the Contracting Officer pursuant to this Contract and consistent with the SJRRSA;

(d) "Class 1 Water" shall mean that supply of water stored in or flowing through Millerton Lake which, subject to the contingencies hereinafter described in Articles 3, 12, and 13 of this Contract, will be available for delivery from Millerton Lake and the Friant-Kern and Madera Canals as a dependable water supply during each Year;

(e) "Class 2 Water" shall mean that supply of water which can be made available subject to the contingencies hereinafter described in Articles 3, 12, and 13 of this Contract for delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to the supply of Class 1 Water. Because of its uncertainty as to availability and time of occurrence, such water will be undependable in character and will be furnished only if, as, and when it can be made available as determined by the Contracting Officer;

(f) "Condition of Shortage" shall mean a condition respecting the Project during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract Total;

(g) "Contracting Officer" shall mean the Secretary of the Interior's duly authorized representative acting pursuant to this Contract or applicable Federal Reclamation law or regulation;

(h) "Contract Total" shall mean the maximum amount of Class 1 Water plus the maximum amount of Class 2 Water specified in subdivision (a) of Article 3 of this Contract and is the stated share or quantity of the Project's available water supply to which the Contractor has a permanent right in accordance with the 1956 Act and the terms of this Contract, due to the Contractor's complete payment of the Repayment Obligation, notwithstanding any Additional Capital Obligation that may later be established, which right shall not be disturbed so long as the Contractor fulfills all of its obligations under this Contract;

(i) "Contractor's Service Area" shall mean the area to which the Contractor is permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto, which may be modified from time to time in accordance with Article 36 of this Contract without amendment of this Contract;

(j) "CVPIA" shall mean the Central Valley Project Improvement Act, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

(k) Omitted;

(l) Omitted;

(m) "Existing Capital Obligation" shall mean the remaining amount of construction costs of the Contractor identified in the Central Valley Project Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively, dated January 25, 2007, as

adjusted to reflect payments not reflected in such schedule, pursuant to Section 10010(a)(3)(A) of the SJRRSA. The Contracting Officer has computed the Existing Capital Obligation in a manner consistent with the SJRRSA and such amount is set forth in Exhibits "C-1" and "C-2", incorporated herein by reference;

(n) "Financing Costs", for purposes of computing the reduction of certain charges as specified in subdivision (c) of Article 7 of this Contract, shall mean the difference between the net present value of the Existing Capital Obligation discounted using the full Treasury rate and the Existing Capital Obligation discounted using one-half the Treasury rate, as set forth in Section 10010(d)(3) of the SJRRA;

(o) Omitted;

(p) Omitted;

(q) Omitted;

(r) "Irrigation Water" shall mean water made available from the Project that is used primarily in the production of agricultural crops or livestock, including domestic use incidental thereto, and watering of livestock. Irrigation water shall not include water used for the purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment or water delivered to landholdings operated in units of less than five (5) acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of the water delivered to any such landholding is a use described in this subdivision of this Article of this Contract;

(s) Omitted;

(t) "Long Term Historic Average" shall mean the average of the final forecast of Water Made Available to the Contractor pursuant to this Contract and the contracts referenced in the third (3rd) and fourth (4th) Explanatory Recitals of this Contract;

(u) Omitted;

(v) Omitted;

(w) "Operation and Maintenance" or "O&M" shall mean normal and reasonable care, control, operation, repair, replacement (other than Capital replacement), and maintenance of Project facilities;

(x) "Operating Non-Federal Entity" shall mean the Friant Water Authority, or its successor, a Non-Federal entity, which has the obligation to operate and maintain all or a portion of the Friant Division Facilities pursuant to an agreement with the United States and which may have funding obligations with respect thereto;

(y) "Other Water" shall mean water from the Project other than Irrigation Water as described in subdivision (r) of this Article of this Contract, which is used for a purpose that is considered to be an irrigation use pursuant to State law such as the watering of landscaping or pasture for animals (e.g., horse) which are kept for the personal enjoyment. For purposes of this Contract, Other Water shall be paid for at Rates and Charges identical to those established for municipal and industrial water pursuant to the then-existing Municipal and Industrial Ratesetting Policy;

(z) "Project" shall mean the Central Valley Project owned by the United States and managed by the Department of the Interior, Bureau of Reclamation;

(aa) "Project Contractors" shall mean all parties who have a long-term water service contract or repayment contract for Project Water from the Project with the United States pursuant to Federal Reclamation law;

(bb) "Project Water" shall mean all water that is developed, diverted, stored, or delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance with the terms and conditions of water rights acquired pursuant to California law;

(cc) "Rates" shall mean the payments for O&M costs as determined annually by the Contracting Officer in accordance with the then-existing applicable water ratesetting policies for the Project, as described in subdivision (a) of Article 7 of this Contract and illustrated in Exhibit "B", attached hereto;

(dd) "Recovered Water Account" shall mean the program, as defined in the Settlement, to make water available to all of the Friant Division Project Contractors who provide water to meet interim flows or restoration flows for the purpose of reducing or avoiding the impact of the interim flows and restoration flows on such contractors;

(ee) "Repayment Obligation", as provided in subdivision (a)(2)(A) of Article 7 of this Contract, shall be the Existing Capital Obligation, as defined herein, discounted by one-half of the Treasury rate and computed consistent with the provisions of Section 10010(a)(3)(A) of the SJRRSA to be paid as either a lump sum payment by January 31, 2011 or in approximately equal annual installments by January 31, 2014;

(ff) "Secretary" shall mean the Secretary of the Interior, a duly appointed successor, or an authorized representative acting pursuant to any authority of the Secretary and through any agency of the Department of the Interior;

(gg) "Settlement" shall mean the Stipulation of Settlement dated September 13, 2006, the Order Approving Stipulation of Settlement, and the Judgment and further orders issued by the Court pursuant to the terms and conditions of the Settlement in Natural Resources Defense Council, et al. v. Rodgers, et al., No. CIV-S-88-1658 LLJ/GGH;

(hh) Omitted;

(ii) "Water Delivered" or "Delivered Water" shall mean Project Water diverted for use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

(jj) "Water Made Available" shall mean the estimated amount of Project Water that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;

(kk) "Water Management Goal" shall mean the goal of the Settlement to reduce or avoid adverse water supply impacts to all the Friant Division Project Contractors that may result from the interim flows and restoration flows provided for in the Settlement;

(ll) "Water Scheduled" shall mean Project Water made available to the Contractor for which times and quantities for delivery have been established by the Contractor and Contracting Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

(mm) "Year" shall mean the period from and including March 1 of each Calendar Year through the last day of February of the following Calendar Year.

EFFECTIVE DATE OF CONTRACT

2. (a) This Contract shall become effective on the date first hereinabove written and shall continue so long as the Contractor is making the annual payments required herein and paying any other amounts owing under this Contract and applicable law, unless it is terminated by the Contracting Officer by reason of a material uncured breach by the Contractor; Provided, That the Contracting Officer shall not seek to terminate this Contract by reason of an asserted material uncured breach by the Contractor unless it has first provided at least sixty (60) days written notice of the asserted breach to the Contractor and the Contractor has failed to cure such breach (or to diligently commence curative actions satisfactory to the Contracting Officer for a breach that cannot be fully cured within sixty (60) days) within the sixty (60)-day notice period; Provided further, That this Contract may be terminated at any time by mutual consent of the parties hereto.

(b) The Contractor has paid the Repayment Obligation, and notwithstanding any Additional Capital Obligation that may later be established, the tiered pricing component and the acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law, shall no longer be applicable to the Contractor.

(c) This Contract supersedes in its entirety and is intended to replace in full the Existing Contract; Provided, That if this Contract is terminated or determined to be invalid or

unenforceable for any reason other than a material uncured breach of this Contract by the Contractor, the Existing Contract shall not be superseded and shall be in full force and effect.

WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

3. (a) During each Year, consistent with all applicable State water rights, permits, and licenses, Federal law, the Settlement including the SJRRSA, and subject to the provisions set forth in Articles 12 and 13 of this Contract, the Contracting Officer shall make available for delivery to the Contractor from the Project 61,200 acre-feet of Class 1 Water and 238,000 acre-feet of Class 2 Water for irrigation purposes. The quantity of Water Delivered to the Contractor in accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this Contract.

(b) The Contractor has paid the Repayment Obligation, and notwithstanding any Additional Capital Obligation that may later be established, the Contractor has a permanent right to the Contract Total in accordance with the 1956 Act and the terms of this Contract. This right shall not be disturbed so long as the Contractor fulfills all of its obligations hereunder. The quantity of water made available for delivery in any given Year shall remain subject to the terms and conditions of subdivision (a) of this Article of this Contract.

(c) The Contractor shall utilize the Project Water in accordance with all applicable legal requirements.

(d) The Contractor shall make reasonable and beneficial use of all Project Water or other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater banking programs, surface water storage programs, and other similar programs

utilizing Project Water or other water furnished pursuant to this Contract conducted within the Contractor's Service Area which are consistent with applicable State law and result in use consistent with applicable Federal Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are) described in the Contractor's Water Conservation Plan submitted pursuant to Article 27 of this Contract; Provided further, That such Water Conservation Plan demonstrates sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average, the quantity of Delivered Water is demonstrated to be reasonable for such uses and in compliance with Federal Reclamation law. Groundwater recharge programs, groundwater banking programs, surface water storage programs, and other similar programs utilizing Project Water or other water furnished pursuant to this Contract conducted outside the Contractor's Service Area may be permitted upon written approval of the Contracting Officer, which approval will be based upon environmental documentation, Project Water rights, and Project operational concerns. The Contracting Officer will address such concerns in regulations, policies, or guidelines.

(e) The Contractor, through this Contract, shall comply with requirements applicable to the Contractor in biological opinion(s) prepared as a result of the consultation regarding the execution of the Existing Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, as well as the requirements of any other biological opinions applicable to Project Water delivery under this Contract, that are within the Contractor's legal authority to implement. The Contractor shall comply with the limitations or requirements imposed by environmental documentation applicable to the Contractor and within

its legal authority to implement regarding specific activities. Nothing herein shall be construed to prevent the Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with respect to any biological opinion or other environmental documentation referred to in this Article of this Contract.

(f) Subject to subdivisions (l) and (n) of this Article of this Contract, following the declaration of Water Made Available under Article 4 of this Contract, the Contracting Officer will make a determination whether Project Water, or other water available to the Project, can be made available to the Contractor in addition to the Contract Total in this Article of this Contract during the Year without adversely impacting the Project or other Project Contractors and consistent with the Secretary's legal obligations. At the request of the Contractor, the Contracting Officer will consult with the Contractor prior to making such a determination. Subject to subdivisions (l) and (n) of this Article of this Contract, if the Contracting Officer determines that Project Water, or other water available to the Project, can be made available to the Contractor, the Contracting Officer will announce the availability of such water and shall so notify the Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable of taking such water to determine the most equitable and efficient allocation of such water. If the Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make such water available to the Contractor in accordance with applicable statutes, regulations, guidelines, and policies.

(g) The Contractor may request permission to reschedule for use during the subsequent Year some or all of the Water Made Available to the Contractor during the current Year referred to as "carryover." The Contractor may request permission to use during the current Year a quantity of Project Water which may be made available by the United States to the Contractor during the subsequent Year referred to as "pre-use." The Contracting Officer's written approval may permit such uses in accordance with applicable statutes, regulations, guidelines, and policies.

(h) The Contractor's right pursuant to Federal Reclamation law and applicable State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract. Nothing in the preceding sentence shall affect the Contracting Officer's ability to impose shortages under Article 12 or subdivision (b) of Article 13 of this Contract.

(i) Project Water furnished to the Contractor pursuant to this Contract may be delivered for purposes other than those described in subdivisions (r) and (y) of Article 1 of this Contract upon written approval by the Contracting Officer in accordance with the terms and conditions of such approval.

(j) The Contracting Officer shall make reasonable efforts to protect the water rights and other rights described in the fifth (5th) Explanatory Recital of this Contract and to provide the water available under this Contract. The Contracting Officer shall not object to participation by the Contractor, in the capacity and to the extent permitted by law, in administrative proceedings related to the water rights and other rights described in the fifth (5th)

Explanatory Recital of this Contract; Provided however, That the Contracting Officer retains the right to object to the substance of the Contractor's position in such a proceeding. Provided further, that in such proceedings the Contracting Officer shall recognize the Contractor has a legal right under the terms of this Contract to use Project Water.

(k) Project Water furnished to the Contractor during any month designated in a schedule or revised schedule submitted by the Contractor and approved by the Contracting Officer shall be deemed to have been accepted by the Contractor as Class 1 Water to the extent that Class 1 Water is called for in such schedule for such month and shall be deemed to have been accepted as Class 2 Water to the extent Class 2 Water is called for in such schedule for such month. If in any month the Contractor diverts a quantity of water in addition to the total amount of Class 1 Water and Class 2 Water set forth in the Contractor's approved schedule or revised schedule for such month, such additional diversions shall be charged first against the Contractor's remaining Class 2 Water supply available in the current Year. To the extent the Contractor's remaining Class 2 Water supply available in the current Year is not sufficient to account for such additional diversions, such additional diversions shall be charged against the Contractor's remaining Class 1 Water supply available in the current Year. To the extent the Contractor's remaining Class 1 Water and Class 2 Water supplies available in the current Year are not sufficient to account for such additional diversions, such additional diversions shall be charged first against the Contractor's available Class 2 Water supply and then against the Contractor's available Class 1 Water supply, both for the following Year. Payment for all additional diversions of water shall be made in accordance with Article 7 of this Contract.

(l) If the Contracting Officer determines there is a Project Water supply available at Friant Dam as the result of an unusually large water supply not otherwise storable for Project purposes or infrequent and otherwise unmanaged flood flows of short duration, such water will be made available to the Contractor and others under Section 215 of the Act of October 12, 1982, pursuant to the priorities specified below if the Contractor enters into a temporary contract with the United States not to exceed one (1) year for the delivery of such water or as otherwise provided for in Federal Reclamation law and associated regulations. Such water may be identified by the Contractor either (i) as additional water to supplement the supply of Class 1 Water and/or Class 2 Water made available to it pursuant to this Contract or, (ii) upon written notification to the Contracting Officer, as water to be credited against the Contractor's Class 2 Water supply available pursuant to this Contract. The Contracting Officer shall make water determined to be available pursuant to this subsection according to the following priorities: first, to contractors for Class 1 Water and/or Class 2 Water within the Friant Division; second, to contractors in the Cross Valley Division of the Project. The Contracting Officer will consider requests from other parties for Section 215 Water for use within the area identified as the Friant Division service area in the environmental assessment developed in connection with the execution of the Existing Contract.

(m) Nothing in this Contract, nor any action or inaction of the Contractor or Contracting Officer in connection with the implementation of this Contract, is intended to override, modify, supersede or otherwise interfere with any term or condition of the water rights and other rights referred in the fifth (5th) Explanatory Recital of this Contract.

(n) The rights of the Contractor under this Contract are subject to the terms of the contract for exchange waters, dated July 27, 1939, between the United States and the San Joaquin and Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred to as the Exchange Contractors), Contract No. I1r-1144, as amended. The United States agrees that it will not deliver to the Exchange Contractors thereunder waters of the San Joaquin River unless and until required by the terms of said contract, and the United States further agrees that it will not voluntarily and knowingly determine itself unable to deliver to the Exchange Contractors entitled thereto from water that is available or that may become available to it from the Sacramento River and its tributaries or the Sacramento-San Joaquin Delta those quantities required to satisfy the obligations of the United States under said Exchange Contract and under Schedule 2 of the Contract for Purchase of Miller and Lux Water Rights (Contract I1r-1145, dated July 27, 1939).

(o) Pursuant to and consistent with section 10004 of SJRRSA and Paragraph 16 of the Settlement, the Contracting Officer is required to develop and implement a plan for recirculation, recapture, reuse, exchange or transfer of water released for restoration flows or interim flows, as those terms are defined in the Settlement, to reduce or avoid impacts to water deliveries caused by said restoration flows or interim flows and water developed through such activities may be made available (i) to the Contractor without the need of an additional contract, and/or (ii) to others on behalf of the Contractor under terms mutually acceptable to the Contractor and the Contracting Officer that are consistent with the Water Management Goal.

TIME FOR DELIVERY OF WATER

4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall announce the Contracting Officer's initial declaration of the Water Made Available. The declaration will be updated monthly and more frequently if necessary, based on then-current operational and hydrologic conditions and a new declaration with changes, if any, to the Water Made Available will be made. The Contracting Officer shall provide forecasts of Project operations and the basis of the estimate, with relevant supporting information, upon the written request of the Contractor. Concurrently with the declaration of the Water Made Available, the Contracting Officer shall provide the Contractor with the updated Long Term Historic Average. The declaration of Project operations will be expressed in terms of both Water Made Available and the Long Term Historic Average.

(b) On or before each March 1 and at such other times as necessary, the Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting Officer, showing the monthly quantities of Project Water to be delivered by the United States to the Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting Officer shall use all reasonable means to deliver Project Water according to the approved schedule for the Year commencing on such March 1.

(c) The Contractor shall not schedule Project Water in excess of the quantity of Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's Service Area, or to sell, transfer or exchange pursuant to Article 10 of this Contract or bank pursuant to subdivision (d) of Article 3 of this Contract during any Year.

(d) Subject to the conditions set forth in subdivision (a) of Article 3 of this Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable time prior to the date(s) on which the requested change(s) is/are to be implemented; Provided, That the total amount of water requested in that schedule or revision does not exceed the quantities announced by the Contracting Officer pursuant to the provisions of subdivision (a) of Article 3 of this Contract, and the Contracting Officer determines that there will be sufficient capacity available in the appropriate Friant Division Facilities to deliver the water in accordance with that schedule; Provided further, That the Contractor shall not schedule the delivery of any water during any period as to which the Contractor is notified by the Contracting Officer or Operating Non-Federal Entity that Project facilities required to make deliveries to the Contractor will not be in operation because of scheduled O&M.

(e) The Contractor may, during the period from and including November 1 of each Year through and including the last day of February of that Year, request delivery of any amount of the Class 1 Water estimated by the Contracting Officer to be made available to it during the following Year. The Contractor may, during the period from and including January 1 of each Year (or such earlier date as may be determined by the Contracting Officer) through and including the last day of February of that Year, request delivery of any amount of Class 2 Water estimated by the Contracting Officer to be made available to it during the following Year. Such water shall hereinafter be referred to as pre-use water. Such request must be submitted in writing

by the Contractor for a specified quantity of pre-use and shall be subject to the approval of the Contracting Officer. Payment for pre-use water so requested shall be at the appropriate Rate(s) for the following Year in accordance with Article 7 of this Contract and shall be made in advance of delivery of any pre-use water. The Contracting Officer shall deliver such pre-use water in accordance with a schedule or any revision thereof submitted by the Contractor and approved by the Contracting Officer, to the extent such water is available and to the extent such deliveries will not interfere with the delivery of Project Water entitlements to other Friant Division contractors or the physical maintenance of the Project facilities. The quantities of pre-use Water Delivered pursuant to this subdivision shall be deducted from the quantities of water that the Contracting Officer would otherwise be obligated to make available to the Contractor during the following Year; Provided, That the quantity of pre-use water to be deducted from the quantities of either Class 1 Water or Class 2 Water to be made available to the Contractor in the following Year shall be specified by the Contractor at the time the pre-use water is requested or as revised in its first schedule for the following Year submitted in accordance with subdivision (b) of this Article of this Contract, based on the availability of the following Year water supplies as determined by the Contracting Officer.

POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this Contract shall be delivered to the Contractor at a point or points of delivery either on Project facilities or another location or locations mutually agreed to in writing by the Contracting Officer and the Contractor.

(b) The Contracting Officer, the Operating Non-Federal Entity, or other appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of water in the Friant-Kern Canal to deliver Project Water to the Contractor at specific turnouts established pursuant to subdivision (a) of this Article of this Contract.

(c) The Contractor shall not deliver Project Water to land outside the Contractor's Service Area unless approved in advance by the Contracting Officer. The Contractor shall deliver Project Water in accordance with applicable Federal Reclamation law.

(d) All Water Delivered to the Contractor pursuant to this Contract shall be measured and recorded with equipment furnished, installed, operated, and maintained by the United States, the Operating Non-Federal Entity or other appropriate entity as designated by the Contracting Officer (hereafter "other appropriate entity") at the point or points of delivery established pursuant to subdivision (a) of this Article of this Contract. Upon the request of either party to this Contract, the Contracting Officer shall investigate, or cause to be investigated by the responsible Operating Non-Federal Entity, the accuracy of such measurements and shall take any necessary steps to adjust any errors appearing therein. For any period of time when accurate measurements have not been made, the Contracting Officer shall consult with the Contractor and the responsible Operating Non-Federal Entity prior to making a final determination of the quantity delivered for that period of time.

(e) Neither the Contracting Officer nor any Operating Non-Federal Entity shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified

in subdivision (a) of this Article of this Contract. The Contractor shall indemnify the United States, its officers, employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury, or death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of such Project Water beyond such delivery points, except for any damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity, with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity; (iii) negligence of the Contracting Officer or any of its officers, employees, agents, or assigns including any responsible Operating Non-Federal Entity; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated by the United States or responsible Operating Non-Federal Entity; Provided, That the Contractor is not the Operating Non-Federal Entity that owned or operated the malfunctioning facility(ies) from which the damage claim arose.

MEASUREMENT OF WATER WITHIN THE SERVICE AREA

6. (a) The Contractor has established a measurement program satisfactory to the Contracting Officer; all surface water delivered for irrigation purposes within the Contractor's Service Area is measured at each agricultural turnout; and Other Water delivered by the Contractor is measured at each service connection. The water measuring devices or water measuring methods of comparable effectiveness must be acceptable to the Contracting Officer.

The Contractor shall be responsible for installing, operating, and maintaining and repairing all such measuring devices and implementing all such water measuring methods at no cost to the United States. The Contractor shall use the information obtained from such water measuring devices or water measuring methods to ensure its proper management of the water and to bill water users for water delivered by the Contractor. Nothing herein contained, however, shall preclude the Contractor from establishing and collecting any charges, assessments, or other revenues authorized by California law.

(b) To the extent the information has not otherwise been provided, upon execution of this Contract, the Contractor shall provide to the Contracting Officer a written report describing the measurement devices or water measuring methods being used or to be used to implement subdivision (a) of this Article of this Contract and identifying the agricultural turnouts and Other Water service connections or alternative measurement programs approved by the Contracting Officer, at which such measurement devices or water measuring methods are being used, and, if applicable, identifying the locations at which such devices and/or methods are not yet being used including a time schedule for implementation at such locations. The Contracting Officer shall advise the Contractor in writing within sixty (60) days as to the adequacy of, and necessary modifications, if any, of the measuring devices or water measuring methods identified in the Contractor's report and if the Contracting Officer does not respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the Contractor that the measuring devices or methods are inadequate, the parties shall within sixty (60) days following the Contracting Officer's response, negotiate in good faith the earliest practicable date

by which the Contractor shall modify said measuring devices and/or measuring methods as required by the Contracting Officer to ensure compliance with subdivision (a) of this Article of this Contract.

(c) All new surface water delivery systems installed within the Contractor's Service Area after the effective date of this Contract shall also comply with the measurement provisions described in subdivision (a) of this Article of this Contract.

(d) The Contractor shall inform the Contracting Officer and the State of California in writing by April 30 of each Year of the monthly volume of surface water delivered within the Contractor's Service Area during the previous Year.

(e) The Contractor shall inform the Contracting Officer and the Operating Non-Federal Entity on or before the twentieth (20th) calendar day of each month of the quantity of Irrigation and Other Water taken during the preceding month.

RATES, METHOD OF PAYMENT FOR WATER, AND ACCELERATED REPAYMENT OF FACILITIES

7. (a) The Contractor's cost obligations for all Delivered Water shall be determined in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's then-existing ratesetting policy for municipal and industrial water, consistent with the SJRRSA, and such ratesetting policies shall be amended, modified, or superseded only through a public notice and comment procedure; (ii) applicable Federal Reclamation law and associated rules and regulations, or policies; and (iii) other applicable provisions of this Contract.

(1) The Contractor shall pay the United States as provided for in this Article of this Contract for the Delivered Water at Rates and Charges determined in accordance with policies for Irrigation Water and municipal and industrial water. The Contractor's Rates shall be established to recover its estimated reimbursable costs included in the O&M component of the Rate and amounts established to recover other charges and deficits, other than the construction costs. The Rates for O&M costs and Charges shall be adjusted, as appropriate, in accordance with the provisions of the SJRRSA.

(2) Omitted.

(A) Omitted.

(B) Project construction costs or other capitalized costs attributable to capital additions to the Project incurred after the effective date of this Contract or that are not reflected in the schedules referenced in Exhibits "C-1" and "C-2" and properly assignable to the Contractor, shall be repaid as prescribed by the SJRRSA without interest except as required by law. Consistent with Federal Reclamation law, interest shall continue to accrue on the municipal and industrial portion of unpaid Project construction costs or other capitalized cost assigned to the Contractor until such costs are paid. Increases or decreases in Project construction costs or other capitalized costs assigned to the Contractor caused solely by annual adjustment of Project construction costs or other capitalized costs assigned to each Central Valley Project contractor by the Secretary shall not be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B), but will be considered under subdivision (b) of this Article. A separate repayment agreement shall be established by the Contractor and the

Contracting Officer to accomplish repayment of all additional Project construction costs or other capitalized costs assigned to the Contractor within the timeframe prescribed by the SJRRSA subject to the following:

(1) If the collective annual Project construction costs or other capitalized costs that are incurred after the effective date of this Contract and properly assignable to the contractors are less than $5,000,000, then the portion of such costs properly assignable to the Contractor shall be repaid in not more than five (5) years after notification of the allocation. This amount is the result of a collective annual allocation of Project construction costs to the contractors exercising contract conversions; Provided, That the reference to the amount of $5,000,000 shall not be a precedent in any other context.

(2) If the collective annual Project construction costs or other capitalized costs that are incurred after the effective date of this Contract and properly assignable to the contractors are $5,000,000 or greater, then the portion of such costs properly assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law. This amount is the result of a collective annual allocation of Project construction costs to the contractors exercising contract conversions; Provided, That the reference to the amount of $5,000,000 shall not be a precedent in any other context.

(b) Consistent with Section 10010(b) of the SJRRSA, following a final cost allocation by the Secretary upon completion of the construction of the Central Valley Project, the amounts paid by the Contractor shall be subject to adjustment to reflect the effect of any reallocation of Project construction costs or other capitalized costs assigned to the Contractor

that may have occurred between the determination of Contractor's Existing Capital Obligation and the final cost allocation. In the event that the final cost allocation, as determined by the Secretary, indicates that the costs properly assignable to the Contractor, as determined by the Contracting Officer, are greater than the Existing Capital Obligation and other amounts of Project construction costs or other capitalized costs paid by the Contractor, then the Contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be no less than one (1) year and no more than ten (10) years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the parties. In the event that the final cost allocation, as determined by the Secretary, indicates that the costs properly assignable to the Contractor, as determined by the Contracting Officer, are less than the Existing Capital Obligation and other amounts of Project construction costs or other capitalized costs paid by the Contractor, then the Contracting Officer shall credit such overpayment as an offset against any outstanding or future obligation of the Contractor, consistent with the SJRRSA. This Contract shall be implemented in a manner consistent with Section 10010(f) of the SJRRSA.

(c) Prior to July 1 of each Calendar Year, the Contracting Officer shall provide the Contractor an estimate of the Charges for Project Water that will be applied to the period October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and the basis for such estimate. The Contractor shall be allowed not less than two (2) months to review and comment on such estimates. On or before September 15 of each Calendar Year, the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect

during the period October 1 of the current Calendar Year, through September 30 of the following Calendar Year, and such notification shall revise Exhibit "B". Charges shall be subject to reduction consistent with the SJRRSA based upon the average annual delivery amount agreed to by the Contracting Officer and the Contractor.

(1) For the years 2020 through 2039 inclusive, Charges shall reflect the reduction on a per acre-foot basis consistent with Section 10010(d)(1) of the SJRRSA. Exhibit "D" sets forth the reduction in Charges to offset the Financing Costs as prescribed in Section 10010(d)(1) of the SJRRSA; Provided, That if the Secretary determines such Charges are otherwise needed, an equivalent reduction will be made to O&M costs consistent with such provisions of the SJRRSA. Consistent with Section 10010(d)(1) of the SJRRSA and as shown in Exhibit "D", the Friant Surcharge reduction has been calculated based upon the anticipated average annual water deliveries, for the purpose of this reduction only, mutually agreed upon by the Secretary and the Contractor for the period from January 1, 2020 through December 31, 2039. The Friant Surcharge reduction shall remain fixed and shall only be applied to Water Delivered pursuant to this Contract to which the Friant Surcharge applies (including but not limited to water transferred, banked, or exchanged), commencing on January 1, 2020 until such volume of Water Delivered equals 1,706,800 acre-feet or December 31, 2039, whichever occurs first.

(2) Further, to fully offset the Financing Costs, Contractor shall be entitled to a reduction in other outstanding or future obligations of the Contractor in accordance with Section 10010(d)(2) of the SJRRSA. The amount of such further reduction in outstanding

or future obligations of the Contractor after October 1, 2019 has been computed by the Contracting Officer, and as computed, such amount is set forth in Exhibit "D".

(d) Prior to October 1 of each Calendar Year, the Contracting Officer shall make available to the Contractor an estimate of the Rates for Project Water for the following Year and the computations and cost allocations upon which those Rates are based. The Contractor shall be allowed not less than two (2) months to review and comment on such computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer shall provide the Contractor with the final Rates to be in effect for the upcoming Year, and such notification shall revise Exhibit "B". The O&M component of the Rate may be reduced as provided in the SJRRSA.

(e) At the time the Contractor submits the initial schedule for the delivery of Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor shall make an advance payment to the United States equal to the total amount payable pursuant to the applicable Rate(s) set under subdivision (a) of this Article of this Contract, for the Project Water scheduled to be delivered pursuant to this Contract during the first two (2) calendar months of the Year. Before the end of the first month and before the end of each calendar month thereafter, the Contractor shall make an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article of this Contract, for the Water Scheduled to be delivered pursuant to this Contract during the second month immediately following. Adjustments between advance payments for Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of the following month; Provided, That any

revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this Contract during any month shall be accompanied with appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered to the Contractor in advance of such payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no additional Project Water shall be delivered to the Contractor unless and until an advance payment at the Rates then in effect for such additional Project Water is made. Final adjustment between the advance payments for the Water Scheduled and payments for the quantities of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no later than April 30th of the following Year, or sixty (60) days after the delivery of Project Water carried over under subdivision (g) of Article 3 of this Contract if such water is not delivered by the last day of February.

(f) The Contractor shall also make a payment in addition to the Rate(s) in subdivision (e) of this Article of this Contract to the United States for Water Delivered, at the Charges then in effect, before the end of the month following the month of delivery. The payments shall be consistent with the quantities of Irrigation Water and Other Water Delivered as shown in the water delivery report for the subject month prepared by the Contracting Officer. Such water delivery report shall be the basis for payment of Charges by the Contractor, and shall be provided to the Contractor by the Contracting Officer (as applicable) within five (5) days after the end of the month of delivery. The water delivery report shall be deemed a bill basis for payment of Charges for Water Delivered. Adjustment for overpayment or underpayment of

Charges shall be made through the adjustment of payments due to the United States for Charges for the next month. Any amount to be paid for past due payment of Charges shall be computed pursuant to Article 21 of this Contract.

(g) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies; Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall be no more than the otherwise applicable Rate for Irrigation Water or Other Water under subdivision (a) of this Article of this Contract.

(h) Payments to be made by the Contractor to the United States under this Contract may be paid from any revenues available to the Contractor.

(i) All revenues received by the United States from the Contractor relating to the delivery of Project Water or the delivery of non-project water through Project facilities shall be allocated and applied in accordance with Federal Reclamation law and the associated rules or regulations, the then-existing Project Ratesetting policies for municipal and industrial water or Irrigation Water, and consistent with the SJRRSA.

(j) The Contracting Officer shall keep its accounts, pertaining to the administration of the financial terms and conditions of its long-term contracts, in accordance with applicable Federal standards so as to reflect the application of Project costs and revenues. The Contracting Officer shall, each Year upon request of the Contractor, provide to the Contractor a detailed accounting of all Project and Contractor expense allocations, the

disposition of all Project and Contractor revenues, and a summary of all water delivery information. The Contracting Officer and the Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes relating to accountings, reports, or information.

(k) The parties acknowledge and agree that the efficient administration of this Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms, policies, and procedures used for establishing Rates, Charges, and/or for making and allocating payments, other than those set forth in this Article of this Contract, may be in the mutual best interest of the parties, it is expressly agreed that the parties may enter into agreements to modify the mechanisms, policies, and procedures for any of those purposes while this Contract is in effect without amending this Contract.

(l) (1) Omitted.

(2) Omitted.

(3) Omitted.

(m) Rates under the respective ratesetting policies will be established to recover only reimbursable O&M (including any deficits) costs of the Project, as those terms are used in the then-existing Project ratesetting policies, and consistent with the SJRRSA, and interest, where appropriate, except in instances where a minimum Rate is applicable in accordance with the relevant Project ratesetting policy. Changes of significance in practices which implement the Contracting Officer's ratesetting policies will not be implemented until the Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and impact of the proposed change.

(n) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted upward or downward to reflect the changed costs of delivery (if any) incurred by the Contracting Officer in the delivery of the transferred Project Water to the transferee's point of delivery in accordance with the then-existing Central Valley Project Ratesetting Policy.

NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

8. The Contractor and the Contracting Officer concur that, as of the effective date of this Contract, the Contractor has no non-interest bearing operation and maintenance deficits and therefore shall have no further liability.

RECOVERED WATER ACCOUNT

9. (a) Notwithstanding any other provisions of this Contract, water delivered to the Contractor under its Recovered Water Account as provided at Paragraph 16(b) of the Settlement and affirmed by Section 10004(a)(5) of the SJRRSA shall be at the total cost of $10.00 per acre foot. Recovered Water Account water provided to the Contractor shall be administered at a priority for delivery lower than Class 2 Water and higher than Section 215 Water.

(b) The manner in which the Recovered Water Account will be administered will be developed in accordance with subdivision (k) of Article 7 of this Contract, the SJRRSA, and Paragraph 16 of the Settlement.

SALES, TRANSFERS, AND EXCHANGES OF WATER

10. (a) The right to receive Project Water provided for in this Contract may be sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of California if such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this Contract may take place without the prior written approval of the Contracting Officer, except as provided for in subdivisions (b) and (c) of this Article of this Contract. No such Project Water sales, transfers, or exchanges shall be approved, where approval is required, absent compliance with appropriate environmental documentation including but not limited to the National Environmental Policy Act and the Endangered Species Act. Such environmental documentation must include, as appropriate, an analysis of groundwater impacts and economic and social effects, including environmental justice, of the proposed Project Water sales, transfers and exchanges on both the transferor/exchanger and transferee/exchange recipient.

(b) In order to facilitate efficient water management by means of Project Water sales, transfers, or exchanges of the type historically carried out among Project Contractors located within the same geographical area and to allow the Contractor to participate in an accelerated water transfer program, the Contracting Officer has prepared, as appropriate, necessary environmental documentation including, but not limited to, the National Environmental Policy Act and the Endangered Species Act analyzing annual Project Water sales, transfers, or exchanges among Contractors within the same geographical area and the

Contracting Officer has determined that such Project Water sales, transfers, and exchanges comply with applicable law.

(c) Project Water sales, transfers, and exchanges analyzed in the environmental documentation referenced in subdivision (b) of this Article of this Contract, shall be conducted with advance notice to the Contracting Officer and the Contracting Officer's written acknowledgement of the transaction, but shall not require prior written approval by the Contracting Officer.

(d) For Project Water sales, transfers, or exchanges to qualify under subdivision (b) of this Article of this Contract such Project Water sale, transfer, or exchange must: (i) be for irrigation purposes for lands irrigated within the previous three (3) years, for municipal and industrial use, groundwater recharge, groundwater banking, similar groundwater activities, surface water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to established cropland, wildlife refuges, groundwater basins or municipal and industrial use; (ii) occur within a single Year; (iii) occur between a willing seller and a willing buyer or willing exchangers; (iv) convey water through existing facilities with no new construction or modifications to facilities and be between existing Project Contractors and/or the Contractor and the United States, Department of the Interior; and (v) comply with all applicable Federal, State, and local or tribal laws and requirements imposed for protection of the environment and Indian Trust Assets, as defined under Federal law.

(e) The environmental documentation and the Contracting Officer's compliance determination for transactions described in subdivision (b) of this Article of this

Contract shall be reviewed every five (5) years and updated, as necessary, prior to the expiration of the then-existing five (5) year period. All subsequent environmental documentation shall include an alternative to evaluate not less than the quantity of Project Water historically sold, transferred, or exchanged within the same geographical area.

(f) Consistent with Section 10010(e)(l) of the SJRRSA, any agreement providing for sale, transfer, or exchange of Project Water that is not used for interim flows or restoration flows pursuant to Paragraphs 13 and 15 of the Settlement, shall be deemed to satisfy the requirements of CVPIA section 3405(a)(1)(A) and (l); Provided, That such sales, transfers, or exchanges comply with sub-division (f)(1) and (f)(2) below.

(1) Project Water sales, transfers, and exchanges conducted under the provisions of subdivision (f) of this Article of this Contract shall not require the Contracting Officer's concurrence as to compliance with CVPIA 3405(a)(1)(A) and (l); Provided, That the Contractor shall, for Project Water sales, transfers, or exchanges, with a term greater than one (1) year, provide ninety (90) days written advance notification to the Contracting Officer and similarly thirty (30) days written advance notification of any Project Water sale, transfer, or exchange with a term of less than one (1) year. The Contracting Officer shall promptly make such notice publicly available.

(2) The Contractor's thirty (30) days or ninety (90) days advance written notification pursuant to subdivision (f)(1) of this Article of this Contract shall explain how the proposed Project Water sales, transfers, or exchanges are intended to reduce, avoid, or mitigate impacts to Project Water deliveries caused by interim or restoration flows or is

otherwise intended to facilitate the Water Management Goal as described in the SJRRSA. The Contracting Officer shall promptly make such notice publicly available.

(3) In addition, the Contracting Officer shall, at least annually, make available publicly a compilation of the number of Project Water sales, transfers, and exchange agreements implemented in accordance with sub-divisions (f)(1) and (f)(2) of this Article of this Contract.

(4) Project Water sold, transferred, or exchanged under an agreement that meets the terms of subdivisions (f)(1) and (f)(2) of this Article of this Contract shall not be counted as a replacement or an offset for purposes of determining reductions to Project Water deliveries to any Friant Division Project Contractor except as provided in Paragraph 16(b) of the Settlement.

(g) Notwithstanding any Additional Capital Obligation that may later be established, in the case of a sale or transfer of Irrigation Water to another contractor which is otherwise subject to the acreage limitations, reporting, and Full Cost pricing provisions of the Reclamation Reform Act of 1982, as amended, hereinafter referred to as the RRA, such sold or transferred Irrigation Water shall not be subject to such RRA provisions, however, in the case of a sale or transfer of Irrigation Water to the Contractor from another contractor which is subject to RRA provisions, such RRA provisions shall apply to delivery of such water.

APPLICATION OF PAYMENTS AND ADJUSTMENTS

11. (a) The amount of any overpayment by the Contractor of the Contractor's O&M, Capital, and deficit (if any) obligations for the Year shall be applied first to any current

liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of more than One Thousand Dollars ($1,000) shall be refunded at the Contractor's request. In lieu of a refund, any amount of such overpayment, at the option of the Contractor, may be credited against amounts to become due to the United States by the Contractor. With respect to overpayment, such refund or adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have the right to the use of any of the Project Water supply provided for herein. All credits and refunds of overpayments shall be made within thirty (30) days of the Contracting Officer obtaining direction as to how to credit or refund such overpayment in response to the notice to the Contractor that it has finalized the accounts for the Year in which the overpayment was made.

(b) All advances for miscellaneous costs incurred for work requested by the Contractor pursuant to Article 26 of this Contract shall be adjusted to reflect the actual costs when the work has been completed. If the advances exceed the actual costs incurred, the difference will be refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be billed for the additional costs pursuant to Article 26 of this Contract.

TEMPORARY REDUCTIONS—RETURN FLOWS

12. (a) The Contracting Officer shall make all reasonable efforts to optimize delivery of the Contract Total subject to: (i) the authorized purposes and priorities of the Project; (ii) the requirements of Federal law and the Settlement; and (iii) the obligations of the United

States under existing contracts, or renewals thereof, providing for water deliveries from the Project.

(b) The Contracting Officer or Operating Non-Federal Entity may temporarily discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far as feasible the Contracting Officer or Operating Non-Federal Entity will give the Contractor due notice in advance of such temporary discontinuance or reduction, except in case of emergency, in which case no notice need be given; Provided, That the United States shall use its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of service after such reduction or discontinuance, and if requested by the Contractor, the United States will, if possible, deliver the quantity of Project Water which would have been delivered hereunder in the absence of such discontinuance or reduction.

(c) The United States reserves the right to all seepage and return flow water derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the Contractor's Service Area; Provided, That this shall not be construed as claiming for the United States any right as seepage or return flow to water being used pursuant to this Contract for surface irrigation or underground storage either being put to reasonable and beneficial use pursuant to this Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or under the Contractor. For purposes of this subdivision,

groundwater recharge, groundwater banking and all similar groundwater activities will be deemed to be underground storage.

CONSTRAINTS ON THE AVAILABILITY OF WATER

13. (a) In its operation of the Project, the Contracting Officer will use all reasonable means to guard against a Condition of Shortage in the quantity of water to be made available to the Contractor pursuant to this Contract. In the event the Contracting Officer determines that a Condition of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination as soon as practicable.

(b) If there is a Condition of Shortage because of errors in physical operations of the Project, drought, other physical causes beyond the control of the Contracting Officer or actions taken by the Contracting Officer to meet legal obligations, including but not limited to obligations pursuant to the Settlement then, except as provided in subdivision (a) of Article 19 of this Contract, no liability shall accrue against the United States or any of its officers, agents, or employees for any damage, direct or indirect, arising therefrom.

(c) The United States shall not execute contracts which together with this Contract, shall in the aggregate provide for furnishing Class 1 Water in excess of 800,000 acre-feet per Year or Class 2 Water in excess of 1,401,475 acre-feet per Year; Provided, That, subject to subdivision (l) of Article 3 of this Contract, the limitation placed on Class 2 Water contracts shall not prohibit the United States from entering into temporary contracts of one year or less in duration for delivery of Project Water to other entities if such water is not necessary to meet the schedules as may be submitted by all Friant Division Project Contractors entitled to

receive Class 1 Water and/or Class 2 Water under their contracts. Nothing in this subdivision shall limit the Contracting Officer's ability to take actions that result in the availability of new water supplies to be used for Project purposes and allocating such new supplies; Provided, That the Contracting Officer shall not take such actions until after consultation with the Friant Division Project Contractors.

(d) The Contracting Officer shall not deliver any Class 2 Water pursuant to this or any other contract heretofore or hereafter entered into any Year unless and until the Contracting Officer determines that the cumulative total quantity of Class 1 Water specified in subdivision (c) of this Article of this Contract will be available for delivery in said Year. If the Contracting Officer determines there is or will be a shortage in any Year in the quantity of Class 1 Water available for delivery, the Contracting Officer shall apportion the available Class 1 Water among all Contractors entitled to receive such water that will be made available at Friant Dam in accordance with the following:

(1) A determination shall be made of the total quantity of Class 1 Water at Friant Dam which is available for meeting Class 1 Water contractual commitments, the amount so determined being herein referred to as the available supply.

(2) The total available Class 1 supply shall be divided by the Class 1 Water contractual commitments, the quotient thus obtained being herein referred to as the Class 1 apportionment coefficient.

(3) The total quantity of Class 1 Water under Article 3 of this Contract shall be multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of

Class 1 Water required to be delivered by the Contracting Officer to the Contractor for the respective Year, but in no event shall such amount exceed the total quantity of Class 1 Water specified in subdivision (a) of Article 3 of this Contract.

(e) If the Contracting Officer determines there is less than the quantity of Class 2 Water which the Contractor otherwise would be entitled to receive pursuant to Article 3 of this Contract, the quantity of Class 2 Water which shall be furnished to the Contractor by the Contracting Officer will be determined in the manner set forth in paragraphs (1), (2), and (3), of subdivision (d) of this Article of this Contract substituting the term "Class 2" for the term "Class 1."

(f) In the event that in any Year there is made available to the Contractor, by reason of any shortage or apportionment as provided in subdivisions (a), (d), or (e) of this Article of this Contract, or any discontinuance or reduction of service as set forth in subdivision (b) of Article 12 of this Contract, less than the quantity of water which the Contractor otherwise would be entitled to receive hereunder, there shall be made an adjustment on account of the amounts already paid to the Contracting Officer by the Contractor for Class 1 Water and Class 2 Water for said Year in accordance with Article 11 of this Contract.

UNAVOIDABLE GROUNDWATER PERCOLATION

14. Omitted.

ACREAGE LIMITATION

15. (a) The Contractor has paid the Repayment Obligation, and notwithstanding any Additional Capital Obligation that may later be established, the provisions of section 213(a)

and (b) of the RRA shall apply to lands in the Contractor's Service Area, with the effect that acreage limitations, reporting, and Full Cost pricing provisions of the RRA shall no longer apply to lands in the Contractor's Service Area with respect to Water Delivered pursuant to this Contract. Reclamation will conduct a final water district review for the purpose of determining compliance with the acreage limitations, reporting, and Full Cost pricing provisions of the RRA from the date of the last water district review until the date when payment to Reclamation of the Repayment Obligation was completed.

(b) Project Water to which the Contractor is entitled through a separate contract, other than this Contract, that is subject to Federal Reclamation law, may be delivered to lands within the Contractor's Service Area. Notwithstanding any Additional Capital Obligation that may later be established, Project Water Delivered under this Contract may be mixed with Project Water Delivered pursuant to a contract with the United States, other than this Contract, to which acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law apply without causing the application of the acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law to the Water Delivered pursuant to this Contract; Provided, The terms and conditions in such other contract shall continue to apply, and if such terms and conditions so require, the lands to receive Project Water under such other contract shall be properly designated by the Contractor and such Project Water is to be delivered in accordance with the RRA including any applicable acreage limitations, reporting, and Full Cost pricing provisions.

COMPLIANCE WITH FEDERAL RECLAMATION LAWS

16. (a) The parties agree that the delivery of water or the use of Federal facilities pursuant to this Contract is subject to Federal Reclamation law, as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

(b) The terms of this Contract are subject to the Settlement and the SJRRSA. Nothing in this Contract shall be interpreted to limit or interfere with the full implementation of the Settlement and the SJRRSA.

PROTECTION OF WATER AND AIR QUALITY

17. (a) Project facilities used to make available and deliver water to the Contractor shall be operated and maintained in the most practical manner to maintain the quality of the water at the highest level possible as determined by the Contracting Officer: *Provided, That* the United States does not warrant the quality of the water delivered to the Contractor and is under no obligation to furnish or construct water treatment facilities to maintain or improve the quality of water delivered to the Contractor.

(b) The Contractor shall comply with all applicable water and air pollution laws and regulations of the United States and the State of California; and shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of water by the Contractor; and shall be responsible for compliance with all Federal, State, and local water quality standards applicable to surface and subsurface drainage and/or discharges generated through the use of Federal or Contractor facilities or project water provided by the Contractor within the Contractor's Project Water Service Area.

(c) This article shall not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

WATER ACQUIRED BY THE CONTRACTOR OTHER THAN FROM THE UNITED STATES

18. (a) Omitted.

(b) Notwithstanding any Additional Capital Obligation that may later be established, water or water rights now owned or hereafter acquired by the Contractor other than

from the United States pursuant to this Contract and Irrigation Water furnished pursuant to the terms of this Contract may be simultaneously transported through the same distribution facilities of the Contractor without the payment of fees to the United States and without application of Federal Reclamation law to Water Delivered pursuant to this Contract or to lands which receive Water Delivered to Contractor pursuant to this Contract.

(c) Water or water rights now owned or hereafter acquired by the Contractor, other than from the United States or adverse to the Project or its contractors (i.e., non-project water), may be stored, conveyed and/or diverted through Project facilities, other than Friant Division Facilities, subject to the completion of appropriate environmental documentation, with the approval of the Contracting Officer and the execution of any contract determined by the Contracting Officer to be necessary, consistent with the following provisions:

(1) The Contractor may introduce non-project water into Project facilities and deliver said water to lands within the Contractor's Service Area subject to payment to the United States and/or to any applicable Operating Non-Federal Entity of an appropriate rate as determined by the Contracting Officer. In addition, if electrical power is required to pump non-project water, the Contractor shall be responsible for obtaining the necessary power and paying the necessary charges therefor.

(2) Delivery of such non-project water in and through Project facilities shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to other Project Contractors; (iii) interfere with the delivery of contractual water

entitlements to any other Project Contractors; (iv) interfere with the physical maintenance of the Project facilities; or (v) result in the United States incurring any liability or unreimbursed costs or expenses thereby.

(3) Neither the United States nor the Operating Non-Federal Entity shall be responsible for control, care or distribution of the non-project water before it is introduced into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and their respective officers, agents, and employees, from any claim for damage to persons or property, direct or indirect, resulting from Contractor's diversion or extraction of non-project water from any source.

(4) Diversion of such non-project water into Project facilities shall be consistent with all applicable laws, and if involving groundwater, consistent with any groundwater management plan for the area from which it was extracted.

(5) After Project purposes are met, as determined by the Contracting Officer, the United States and the Contractor shall share priority to utilize the remaining capacity of the facilities declared to be available by the Contracting Officer for conveyance and transportation of non-project water prior to any such remaining capacity being made available to non-project contractors.

(d) Non-project water may be stored, conveyed and/or diverted through Friant Division Facilities, subject to the prior completion of appropriate environmental documentation and approval of the Contracting Officer without execution of a separate contract, consistent with

subdivisions (c)(1) through (c)(5) of this Article and any other condition determined to be appropriate by the Contracting Officer.

OPINIONS AND DETERMINATIONS

19. (a) Where the terms of this Contract provide for actions to be based upon the opinion or determination of either party to this Contract, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each opinion or determination by either party shall be provided in a timely manner. Nothing in this Article of this Contract is intended to or shall affect or alter the standard of judicial review applicable under Federal law to any opinion or determination implementing a specific provision of Federal law embodied in statute or regulation.

(b) The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with the provisions of this Contract, the laws of the United States and the State of California, and the rules and regulations promulgated by the Secretary. Such determinations shall be made in consultation with the Contractor to the extent reasonably practicable.

COORDINATION AND COOPERATION

20. (a) In order to further their mutual goals and objectives, the Contracting Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and

with other affected Project Contractors, in order to improve the operation and management of the Project. The communication, coordination, and cooperation regarding operations and management shall include, but not limited to, any action which will or may materially affect the quantity or quality of Project Water supply, the allocation of Project Water supply, and Project financial matters including, but not limited to, budget issues. The communication, coordination, and cooperation provided for hereunder shall extend to all provisions of this Contract. Each party shall retain exclusive decision making authority for all actions, opinions, and determinations to be made by the respective party.

(b) It is the intent of the Secretary to improve water supply reliability. To carry out this intent:

(1) The Contracting Officer will, at the request of the Contractor, assist in the development of integrated resource management plans for the Contractor. Further, the Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to improve water supply, water quality, and reliability.

(2) The Secretary will, as appropriate, pursue program and project implementation and authorization in coordination with Project Contractors to improve the water supply, water quality, and reliability of the Project for all Project purposes.

(3) The Secretary will coordinate with Project Contractors and the State of California to seek improved water resource management.

(4) The Secretary will coordinate actions of agencies within the Department of the Interior that may impact the availability of water for Project purposes.

(5) The Contracting Officer shall periodically, but not less than annually, hold division level meetings to discuss Project operations, division level water management activities, and other issues as appropriate.

(c) Without limiting the contractual obligations of the Contracting Officer hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting Officer's ability to communicate, coordinate, and cooperate with the Contractor or other interested stakeholders or to make decisions in a timely fashion as needed to protect health, safety, physical integrity of structures or facilities, or the Contracting Officer's ability to comply with applicable laws.

CHARGES FOR DELINQUENT PAYMENTS

21. (a) The Contractor shall be subject to interest, administrative and penalty charges on delinquent installments or payments. When a payment is not received by the due date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six (6) percent per year for each day the payment is delinquent beyond the due date. Further, the Contractor shall pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest charge rate shall be the greater of the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate of one-half of one (0.5) percent per month prescribed by Section 6 of the Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received shall be applied, first to the penalty, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

EQUAL EMPLOYMENT OPPORTUNITY

22. During the performance of this Contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, disability, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, disability, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and

remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT

23. (a) The obligation of the Contractor to pay the United States as provided in this Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation may be distributed among the Contractor's water users and notwithstanding the default of individual water users in their obligations to the Contractor.

(b) The payment of charges becoming due hereunder is a condition precedent to receiving benefits under this Contract. The United States shall not make water available to the Contractor through Project facilities during any period in which the Contractor may be in arrears in the advance payment of water rates due the United States. The Contractor shall not furnish water made available pursuant to this Contract for lands or parties which are in arrears in the advance payment of water rates levied or established by the Contractor.

(c) With respect to subdivision (b) of this Article of this Contract, the Contractor shall have no obligation to require advance payment for water rates which it levies.

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

24. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as well as with their respective implementing regulations and guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

(b) These statutes require that no person in the United States shall, on the grounds of race, color, national origin, handicap, or age, be excluded from participation in, be

denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation. By executing this Contract, the Contractor agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.

(c) The Contractor makes this agreement in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Contractor recognizes and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this Article, and that the United States reserves the right to seek judicial enforcement thereof.

PRIVACY ACT COMPLIANCE

25. Omitted.

CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

26. In addition to all other payments to be made by the Contractor pursuant to this Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill and detailed statement submitted by the Contracting Officer to the Contractor for such specific items of direct cost incurred by the United States for work requested by the Contractor associated with this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and procedures. All such amounts referred to in this Article of this Contract shall not exceed the amount agreed to in writing in advance by the Contractor. This Article of this Contract shall not apply to costs for routine contract administration.

WATER CONSERVATION

27. (a) Prior to the delivery of water provided from or conveyed through Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor

shall be implementing an effective water conservation and efficiency program based on the Contractor's water conservation plan that has been determined by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water conservation plans established under Federal law. The water conservation and efficiency program shall contain definite water conservation objectives, appropriate economically feasible water conservation measures, and time schedules for meeting those objectives. Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's continued implementation of such water conservation program. In the event the Contractor's water conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of this Article of this Contract have not yet been determined by the Contracting Officer to meet such criteria, due to circumstances which the Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently works with the Contracting Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor immediately begins implementing its water conservation and efficiency program in accordance with the time schedules therein.

(b) Omitted.

(c) The Contractor shall submit to the Contracting Officer a report on the status of its implementation of the water conservation plan on the reporting dates specified in the then-existing conservation and efficiency criteria established under Federal law.

(d) At five (5) -year intervals, the Contractor shall revise its water conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating

water conservation plans established under Federal law and submit such revised water management plan to the Contracting Officer for review and evaluation. The Contracting Officer will then determine if the water conservation plan meets Reclamation's then-existing conservation and efficiency criteria for evaluating water conservation plans established under Federal law.

(e) If the Contractor is engaged in direct groundwater recharge, such activity shall be described in the Contractor's water conservation plan.

EXISTING OR ACQUIRED WATER OR WATER RIGHTS

28. Except as specifically provided in Article 18 of this Contract, the provisions of this Contract shall not be applicable to or affect non-project water or water rights now owned or hereafter acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such water shall not be considered Project Water under this Contract. In addition, this Contract shall not be construed as limiting or curtailing any rights which the Contractor or any water user within the Contractor's Service Area acquires or has available under any other contract pursuant to Federal Reclamation law.

OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

29. (a) The O&M of a portion of the Project facilities which serve the Contractor, and responsibility for funding a portion of the costs of such O&M, have been transferred to the Operating Non-Federal Entity by separate agreement between the United States and the Operating Non-Federal Entity. That separate agreement shall not interfere with or affect the rights or obligations of the Contractor or the United States hereunder.

(b) The Contracting Officer has previously notified the Contractor in writing that the O&M of a portion of the Project facilities which serve the Contractor has been transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer under the terms and conditions of the separate agreement between the United States and the Operating Non-Federal Entity described in subdivision (a) of this Article of this Contract, all rates, charges or assessments of any kind, including any assessment for reserve funds, which the Operating Non-Federal Entity or such successor determines, sets or establishes for (i) the O&M of the portion of the Project facilities operated and maintained by the Operating Non-Federal Entity or such successor, or (ii) the Friant Division's share of the operation, maintenance and replacement costs for physical works and appurtenances associated with the Tracy Pumping Plant, the Delta-Mendota Canal, the O'Neill Pumping/Generating Plant, the federal share of the O'Neill Forebay, the Mendota Pool, and the federal share of San Luis Unit joint use conveyance and conveyance pumping facilities. Such direct payments to the Operating Non-Federal Entity or such successor shall not relieve the Contractor of its obligation to pay directly to the United States the Contractor's share of the Project Rates and Charges, except to the extent the Operating Non-Federal Entity collects payments on behalf of the United States in accordance with the separate agreement identified in subdivision (a) of this Article of this Contract.

(c) For so long as the O&M of any portion of the Project facilities serving the Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the

Contracting Officer shall adjust those components of the Rates for Water Delivered under this Contract representing the cost associated with the activity being performed by the Operating Non-Federal Entity or its successor.

(d) In the event the O&M of the Project facilities operated and maintained by the Operating Non-Federal Entity is re-assumed by the United States during the term of this Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the Contractor for Project Water under this Contract representing the O&M costs of the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the absence of written notification from the Contracting Officer to the contrary, pay the Rates and Charges specified in the revised Exhibit "B" directly to the United States in compliance with Article 7 of this Contract.

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

30. The expenditure or advance of any money or the performance of any obligation of the United States under this Contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations under this Contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

BOOKS, RECORDS, AND REPORTS

31. (a) The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Contract, including: the Contractor's financial transactions, water supply data, and Project land and right-of-way agreements; the water users' land-use (crop census), land ownership, land-leasing and water use data; and other matters that the Contracting Officer may require. Reports thereon shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this

Contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this Contract.

(b) Notwithstanding the provisions of subdivision (a) of this Article of this Contract, no books, records, or other information shall be requested from the Contractor by the Contracting Officer unless such books, records, or information are reasonably related to the administration or performance of this Contract. Any such request shall allow the Contractor a reasonable period of time within which to provide the requested books, records, or information.

(c) At such time as the Contractor provides information to the Contracting Officer pursuant to subdivision (a) of this Article of this Contract, a copy of such information shall be provided to the Operating Non-Federal Entity.

ASSIGNMENT LIMITED—SUCCESSORS AND ASSIGNS OBLIGATED

32. (a) The provisions of this Contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest therein shall be valid until approved in writing by the Contracting Officer.

(b) The assignment of any right or interest in this Contract by either party shall not interfere with the rights or obligations of the other party to this Contract absent the written concurrence of said other party.

(c) The Contracting Officer shall not unreasonably condition or withhold approval of any proposed assignment.

SEVERABILITY

33. In the event that a person or entity who is neither (i) a party to a Project contract, nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor

(iii) an association or other form of organization whose primary function is to represent parties to Project contracts, brings an action in a court of competent jurisdiction challenging the legality or enforceability of a provision included in this Contract and said person, entity, association, or organization obtains a final court decision holding that such provision is legally invalid or unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final court decision identify by mutual agreement the provisions in this Contract which must be revised and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time periods specified above may be extended by mutual agreement of the parties. Pending the completion of the actions designated above, to the extent it can do so without violating any applicable provisions of law, the United States shall continue to make the quantities of Project Water specified in this Contract available to the Contractor pursuant to the provisions of this Contract which were not found to be legally invalid or unenforceable in the final court decision.

RESOLUTION OF DISPUTES

34. Should any dispute arise concerning any provisions of this Contract, or the parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring any matter to Department of Justice, the party shall provide to the other party thirty (30) days written notice of the intent to take such action; Provided, That such notice shall not be required where a delay in commencing an action would prejudice the interests of the party

that intends to file suit. During the thirty (30) day notice period, the Contractor and the Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to waive or abridge any right or remedy that the Contractor or the United States may have.

OFFICIALS NOT TO BENEFIT

35. No Member of or Delegate to Congress, Resident Commissioner, or official of the Contractor shall benefit from this Contract other than as a water user or landowner in the same manner as other water users or landowners.

CHANGES IN CONTRACTOR'S SERVICE AREA

36. (a) While this Contract is in effect, no change may be made in the Contractor's Service Area or boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise, except upon the Contracting Officer's written consent.

(b) Within thirty (30) days of receipt of a request for such a change, the Contracting Officer will notify the Contractor of any additional information required by the Contracting Officer for processing said request, and both parties will meet to establish a mutually agreeable schedule for timely completion of the process. Such process will analyze whether the proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply with the National Environmental Policy Act and the Endangered Species Act. The Contractor will be responsible for all costs

incurred by the Contracting Officer in this process, and such costs will be paid in accordance with Article 26 of this Contract.

FEDERAL LAWS

37. By entering into this Contract, the Contractor does not waive its rights to contest the validity or application in connection with the performance of the terms and conditions of this Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the terms and conditions of this Contract unless and until relief from application of such Federal law or regulation to the implementing provision of the Contract is granted by a court of competent jurisdiction.

EMERGENCY RESERVE FUND

38. The Contractor and Contracting Officer acknowledge that the requirements to establish and maintain a minimum reserve fund account to finance extraordinary O&M costs of Friant Division Facilities is and will continue to be administered under Contract No. 8-07-20-X0356 titled Agreement To Transfer The Operation, Maintenance And Replacement And Certain Financial And Administrative Activities Related To The Friant-Kern Canal And Associated Works, dated March 1, 1998 as amended, supplemented, assigned, or renewed.

MEDIUM FOR TRANSMITTING PAYMENT

39. (a) All payments from the Contractor to the United States under this contract shall be by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States.

(b) Upon execution of the contract, the Contractor shall furnish the Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose

for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the Contractor's relationship with the United States.

NOTICES

40. Any notice, demand, or request authorized or required by this Contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno, California 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors of Lower Tule River Irrigation District, 357 East Olive Avenue, Tipton, California 93272. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article of this Contract for other notices.

CONFIRMATION OF CONTRACT

41. The Contractor, after the execution of this Contract, shall promptly provide to the Contracting Officer a decree of a court of competent jurisdiction of the State of California, confirming the execution of this Contract. The Contractor shall furnish the United States a certified copy of the final decree, the validation proceedings, and all pertinent supporting records of the court approving and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

CONTRACT DRAFTING CONSIDERATIONS

42. Articles 1 through 15, subdivision (c) of Article 16, Articles 18 through 20, subdivision (c) of Article 23, Articles 26 through 29, subdivisions (b) and (c) of Article 31, subdivisions (b) and (c) of Article 32, Articles 33 through 34, subdivision (b) of Article 36, and Articles 37 through 38 of this Contract have been drafted, negotiated, and reviewed by the parties hereto, each of whom is sophisticated in the matters to which this Contract pertains, and no one party shall be considered to have drafted the stated Articles.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written.

OPTION AND LONG TERM WATER TRANSFER AGREEMENT

THIS OPTION AND LONG TERM WATER TRANSFER AGREEMENT is made this 13 day of April, 2011, by and between the Lower Tule River Irrigation District, a California irrigation district organized under Division 11 of the California Water Code ("LTRID"), and Fresno County Water Works District No. 18, a county waterworks district formed pursuant to the County Waterworks District Law contained in California Water Code Section 55000 et seq. ("WWD #18") (collectively, the "Parties") with reference to the following facts:

RECITALS:

WHEREAS, LTRID provides water for irrigation purposes to landowners within its service area, and is empowered to transfer and sell a portion of its water supply to WWD #18 as provided for in this Agreement;

WHEREAS, WWD #18 is empowered to purchase water from LTRID as provided in this Agreement;

WHEREAS, LTRID has an entitlement of 61,200 acre feet of Class 1 Water (the "LTRID Class I Water Entitlement") from the United States Bureau of Reclamation ("USBR") pursuant to that certain written agreement entitled "Long-Term Renewal Contract Between the United States and the Lower Tule River Irrigation District Providing For Project Water Service from Friant Division, Irrigation and other Contract No. 175r-2771-LTR1 dated January 20, 2001," as amended and renewed from time to time ("the LTRID Contract") for delivery of water from the Friant Division of the Central Valley Project. Unless otherwise defined herein, all defined terms used in this Agreement shall have the meaning set forth in the 9d Contract;

WHEREAS, WWD #18 has an entitlement of 150 acre-feet of Class 1 Water pursuant to its water supply contract with the USBR, Contract No. 14-065904-LTR1 for Municipal and Industrial uses, as amended and renewed from time to time (WWD #18 Contract), for delivery of water from the Friant Division of the Central Valley Project;

WHEREAS, WWD #18 has the responsibility to provide a water supply to the residential and commercial customers located within its district which is generally located within the unincorporated community of Friant, County of Fresno, State of California. WWD #18 owns a water treatment facility and water supply distribution system to serve its customers. Friant Ranch is located immediately adjacent to the service area of WWD #18;

WHERAS, Friant Ranch, a Limited Partnership ("Friant Ranch, L.P.") owns approximately 942 acres of land in and around the community of Friant (hereinafter called "Friant Ranch"). The County of Fresno approved the Friant Ranch Specific Plan and has reviewed and certified the environmental impact report regarding the development of a master planned residential community containing an active adult (ages 55+) retirement village consisting of approximately 2,500 units of age restricted single family housing with such amenities as are customary for a premier lifestyle community targeted to the primarily age-qualified households within the Fresno/Clovis Metropolitan Area and other Central California markets, and a commercial and retail village (the "Project");

WHEREAS, in furtherance of the Project, Friant Ranch, L.P. has requested that WWD #18 enlarge, with Fresno County Local Agency Formation Commission ("LAFCO") and USBR approval, its service area to include land within the Project in order that WWD #18 may provide a safe and reliable water supply for the residents and landowners at the Project;

WHEREAS, WWD #18 and Friant Ranch, L.P. have entered into an agreement establishing their respective rights and obligations regarding the expansion of the WWD #18 service area, the expansion of existing water supply facilities, the acquisition by WWD #18 of necessary and appropriate water resources, the provision of sewage disposal services for the Project and other necessary infrastructure service requirements for the Project. LTRID is not a party to such agreement;

WHEREAS, WWD #18 intends by this Agreement to obtain long term contract rights to 2,000 acre-feet per year of Class 1 Water in order to provide a safe and reliable long term water supply for the residents and landowners within the Project and within the existing Friant community (the "WWD #18 Service Area");

WHEREAS, LTRID has negotiated, and has now executed, a conversion of the LTRID Contract to a permanent repayment contract, entitled "Contract Between the United States and Lower Tule River Irrigation District Providing For Project Water Service From the Friant Division and for Facilities Repayment, Irrigation and Other Contract No. 175r-2771D", pursuant to Section 9(d) of the Reclamation Project Act of 1939 (Public Law No. 260) and the San Joaquin River Restoration Settlement Act (Public Law No. 111-11) ("9d Contract"). Pursuant to the 9d Contract, the water supply to which LTRID is entitled and to which WWD #18 shall have transfer rights hereunder remains the same, but certain provisions regarding payment of costs related to LTRID's capital payments associated with the Water Supply (as hereinafter defined) has been modified as expressly provided herein. Any reference herein to the LTRID Contract or provision thereof shall be deemed to refer to the 9d Contract or corresponding provision thereof;

WHEREAS, LTRID intends to use the financial benefits of this Agreement (i) to keep agriculture viable within its boundaries and benefit its constituent water users and landowners;

(ii) to develop facilities to recharge groundwater underlying LTRID's boundaries; (iii) to increase the efficiency of the use of water within its boundaries; (iv) to develop and implement water conservation programs within its boundaries; and (v) to acquire replacement water supplies or otherwise manage existing and new supplies to benefit its constituent water users and landowners;

WHEREAS, the Parties have complied with all environmental and other laws applicable to their respective approval and implementation of this Agreement, including but not limited to, the California Environmental Quality Act (CEQA); and

WHEREAS, along with additional related approvals that may be required by WWD # 18 and LTRID, the Parties have initiated and are actively processing certain approvals from USBR and LAFCO, consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Reclamation Law, and the National Environmental Policy Act (NEPA), necessary to carry out the Water Transfer contemplated herein and more fully described in section 6.2(c) herein (collectively "Final Approval"); and

WHEREAS, WWD #18 desires to purchase an option to purchase water for the WWD #18 Service Area and LTRID desires to sell an option to purchase water to WWD #18 on the terms and subject to the conditions provided herein.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals which are hereby incorporated in this Agreement and in consideration of the mutual promises, obligations and covenants contained herein, the Parties hereby agree as follows:

1. **Definitions**.

1.1 When used herein, unless otherwise expressed defined, or manifestly incompatible with the intent hereof, the term:

(a) "Annual Water Rate" shall have the meaning given it in Section 5.1(a).

(b) "Base Payment" shall have the meaning given it in Section 5.1(a)(i).

(c) "Contractual Transfer Commitments" shall have the meaning given it in Section 9.1(i).

(d) "Cost of Water" shall have the meaning given it in Section 5.2.

(e) "Effective Date" shall mean the date of execution of this Agreement by all Parties.

(f) "Expiration Date" shall have the meaning given it in Section 3.3.

(g) "Escrow Holder" shall mean First American Title Company (insert address).

(h) "Exercise Notice" shall have the meaning given it in Section 4.2.

(i) "Expiration Date" shall have the meaning given it in Section 3.3.

(j) "Final Approval" shall mean the date that final approval of the Water Transfer occurs as defined in Section 6.1(a).

(k) "Final Water Delivery Schedule" shall mean the final written schedule for delivery of water provided by WWD #18 to LTRID on or before September 1st of each Water Year in accordance with Section 5.3.

(l) "LTRID Contract" shall mean that certain written agreement entitled "Long-Term Renewal Contract Between the United States and the Lower Tule River Irrigation District Providing For Project Water Service from Friant Division, Irrigation and other Contract No. 175r-2771-LTR1 dated January 20, 2001," as amended and renewed from time to time.

(m) "LTRID Class I Water Entitlement" shall have the meaning given it in third recital on page 1 of this Agreement.

(n) "LTRID Default" shall have the meaning given it in Section 11.3.

(o) "9d Contract" shall have the meaning given it in the third recital on page 3 of this Agreement.

(p) "Option Exercise Payment" shall have the meaning given it in Section 4.2.

(q) "Point of Delivery" of the Water Supply shall be the point(s) of delivery as agreed upon by WWD 18 and USBR consistent with the terms of the WWD #18 Contract.

(r) "Preliminary Water Delivery Schedule" shall mean the preliminary written schedule for delivery of water provided by WWD #18 to LTRID on or before March 1st of each Water Year in accordance with Section 5.3.

(s) "Remarket Water" shall have the meaning given it in Section 5.7.

(t) "Repayment Share" shall have the meaning given it in Section 5.2(c).

(u) "Repurchase Option" shall have the meaning given it in Section 5.7.

(v) "Reserve Payment" shall have the meaning given it in Section 4.1.

(w) "Scheduled Water" shall have the meaning given it in Section 5.1.

(x) "USBR" shall mean the United States Bureau of Reclamation.

(y) "Water Supply" shall have the meaning given it in Section 3.1.

(z) "Water Year" shall mean the period from and including March 1 of each calendar year through the last day of February of the following calendar year.

(aa) "WWD #18 Contract" shall mean that certain written agreement entitled "Long-Term Renewal Contract Between the United States and the Fresno County Water Works District No. 18 Providing For Project Water Service from Friant Division, Contract No. 14-065904-LTR1 dated January 20, 2001" for Municipal and Industrial uses, as amended and renewed from time to time

(bb) "WWD #18 Default" shall have the meaning given it in Section 11.1.

(cc) "WWD #18 Service Area" shall have the meaning given it in the second recital on page 3 of this Agreement.

2. **Effective Date; Term; Deposit**.

2.1 This Agreement shall be effective upon its execution by all of the Parties (the "Effective Date") and shall remain in effect so long as the LTRID Contract (as converted pursuant to the executed 9d Contract) is in effect. Subject to the terms and conditions hereof, in the event the term of the LTRID Contract is extended, modified or terminated, the term of this Agreement will be similarly extended, modified or terminated. It is the intent of the Parties that WWD #18 shall have the right to the Water Supply from LTRID for so long as LTRID has the right to receive Friant Division CVP water.

2.2 Good Faith Deposit. Friant Ranch, L.P. placed $50,000 into escrow with First American Title Company (the "Escrow Holder") in accordance with the terms of that certain Letter of Intent dated April 21, 2005 between LTRID and Friant Ranch, L.P. (the "Good Faith Deposit"). WWD #18 and Friant Ranch, L.P. Escrow Holder released the Good Faith Deposit, including interest, to LTRID. The Good Faith Deposit, including interest, will be credited against the first Option Exercise Payment made by WWD #18. The Good Faith Deposit and any interest thereon shall be non-refundable to WWD #18.

3. **Option to Purchase Water Supply**.

3.1 LTRID hereby grants to WWD #18 the irrevocable right ("Option") to purchase from LTRID the permanent right to receive annually up to 2,000 acre-feet of the LTRID Class 1 Water Entitlement for use in the WWD #18 Service Area (referred to herein as the "Water Supply") subject to the terms and conditions of this Agreement.

3.2 WWD #18 shall have the right to exercise its Option to purchase the Water Supply in full or in part in accordance with the terms of this Agreement, provided that the Option must be exercised in increments of 500 acre-feet of Water Supply.

3.3 To the extent not previously exercised, the Option to purchase all or any remaining part of the Water Supply shall expire on the earlier of the following dates (each of which is referred to herein as an "Expiration Date"): (i) Five (5) years following Final Approval, unless prior to such date WWD #18 has exercised its Option in accordance with Section 4.2 to purchase at least 500 acre-feet of Water Supply; (ii) Seven (7) years following Final Approval, unless prior to such date WWD #18 has exercised its Option in accordance with Section 4.2 to purchase a total of at least 1,500 acre-feet of Water Supply; or (iii) Ten (10) years following Final Approval.

4. **Option Payments to LTRID; Purchase of Water Supply**.

4.1 Reserve Payment. As consideration for the granting of the Option to purchase and the reservation of the allocation of the Water Supply described herein, WWD #18 agrees to pay LTRID a one-time payment of $300,000 based upon $150 per acre-foot for the entire 2,000 acre-feet of the Water Supply (the "Reserve Payment"). The Reserve Payment shall be made not later than 90 days following Final Approval, and in any event no later than three (3) years after the Effective Date of this Agreement. The Reserve Payment shall not be

refundable except in the event of a LTRID Default and except as provided in Section 6.2. Notwithstanding any term or provision to the contrary herein, WWD #18's obligation to make the Reserve Payment shall be tolled if at the time the Reserve Payment is required litigation is pending in any state or federal court which seeks to enjoin or otherwise limit a Party's performance under this Agreement.

4.2 Exercise of Option. WWD #18 may exercise the Option to purchase the Water Supply as described in Section 3 hereinabove by the delivery of written notice to LTRID exercising the Option and specifying a date in the succeeding Water Year for the commencement of the delivery of the Water Supply (the "Exercise Notice") and by the one-time payment of Three Hundred Dollars ($300) per acre-foot for each acre-foot of the Water Supply WWD #18 desires to purchase ("Option Exercise Payment"). The Exercise Notice and the Option Exercise Payment shall be delivered on or before the Expiration Date. Notwithstanding any term to the contrary in this Agreement, the Exercise Notice and Option Exercise Payment must be delivered at least 45 days prior to the date specified in the succeeding Water Year for the commencement of the delivery of the Water Supply.

4.3 Purchase of Water Supply. Effective upon the timely exercise of the Option as provided hereinabove, LTRID agrees to sell and WWD #18 agrees to purchase the Water Supply on the terms and conditions set forth herein. Upon exercise and purchase, WWD #18's right to receive the Water Supply shall continue regardless of whether the Option to purchase any additional amount of the Water Supply should later expire before being exercised.

5. **Annual Operation and Payment for Water Supply**.

5.1 Annual Water Rate; Definition of "Scheduled Water."

(a) Following the exercise of the option to purchase the Water Supply in accordance with Section 3.2, WWD #18 shall pay annually (i) an additional "Base Payment" of Four Hundred Dollars ($400) per acre-foot for each acre-foot of Scheduled Water, which amount shall be subject to adjustment commencing in 2026 as provided in paragraph (c) below; and (ii) LTRID's "Cost of Water" as defined below for each acre-foot of Scheduled Water (The sum of subparagraphs (i) and (ii) of this paragraph 5.1(a) shall constitute the "Annual Water Rate" to be applied to Scheduled Water).

(b) Definition of Scheduled Water. For purposes of determining the amount of water to which the Annual Water Rate shall apply, Scheduled Water shall be defined as the greater of the following: (i) the number of acre-feet of water indicated in the Final Water Delivery Schedule for the applicable Water Year provided by WWD #18 pursuant to paragraph 5.3 below; (ii) the number of acre-feet of water actually delivered to the Point of Delivery for the applicable Water Year; (iii) the number of acre-feet that is equal to eighty percent (80%) of the Water Supply WWD #18 has purchased to date.

(c) Adjustment of Annual Water Charge. The Base Payment for each acre foot of Scheduled Water as provided for in paragraph (a)(i) above shall be subject to adjustment according to the following terms:

(i) There shall be no adjustment in the $400 per acre-foot amount of the Base Payment until the year 2026.

(ii) Starting in 2026, the Base Payment shall be adjusted annually to reflect inflation as indexed by the Consumer Price Index for All U.S. Cities, All Goods (CPI).

(iii) The annual increase in the Base Payment shall be limited to no more than a 3 percent increase in any year.

(iv) The Base Payment may be adjusted downward consistent with the CPI but in no case shall it ever be reduced to less than $400 per acre-foot.

(v) Starting in 2051, the Base Payment shall be adjusted annually using the CPI without any cap.

(vi) In 2051 the actual increase in Base Payment (as capped by the 3 percent per year inflationary cap) between 2026 and 2051 will be reconciled against the actual increase in the CPI between 2026 and 2051. To avoid a potential significant increase in the Base Payment in 2051 resulting from inflation that occurs in excess of the 3 percent per year inflationary cap, the difference between the adjusted Base Payment as limited by the 3 percent cap and the adjusted Base Payment reflected by application in CPI change without limits between 2026 and 2051, shall be uniformly added to the price over the subsequent 10 years along with any full CPI adjustments over that 10 years.

5.2 Cost of Water Defined.

(a) LTRID's Cost of Water consists of the canal-side per acre-foot cost of LTRID's federal CVP Friant Division Class 1 water supply consisting of all charges which LTRID must pay for the applicable Water Year in order to receive the federal CVP Friant Division Class 1 water supply, including, but not limited to: (i) USBR Rates, Charges and the Tiered Pricing Components as those terms are used and provided for in Articles 7 and 11 of the 9d Contract; and (ii) Friant-Kern Canal and Delta Mendota Canal operation and maintenance charges payable to the Operating Non-Federal Entities as those charges and entities are used and provided for in Article 29 of the 9d Contract and State Water Resource Control Board fee or charges. To the extent USBR's charges related specifically to the Water Supply are less than or in excess of those LTRID otherwise is required to pay for other portions of its contract water

supply to reflect the municipal/industrial use of the Water Supply by WWD #18, such reduced or additional charges related specifically to the Water Supply shall constitute the Cost of Water for purpose of determining the Annual Water Rate.

(b) On or before March 1 of each year, LTRID will provide WWD #18 with the Cost of Water for that Water Year which shall break out with reasonable detail all components of the Cost of Water. The components of the Annual Water Rate, including the components of the Cost of Water as of the date of this Agreement, are set forth on Exhibit A. Should there be a change or subsequent reconciliation of the charges LTRID must pay in order to receive the federal CVP Friant Division water supply, such changes will be passed through to WWD #18 and appropriately addressed in the subsequent Year's calculation of the rate to be paid to LTRID by WWD #18. LTRID shall provide WWD #18 upon request by WWD #18 with all information and documentation reasonably necessary to substantiate the Cost of Water calculations.

(c) In recognition of the conversion of the LTRID Contract into a 9d Contract, the repayment obligation established by the 9d Contract will be prorated and amortized such that WWD #18 shall, as a component of the Cost of Water, pay a proportionate share of the capital repayment obligation, according to the formula set forth in Exhibit A (the "Repayment Share"). WWD #18 will pay the Repayment Share through annual installments to LTRID in place of certain USBR rates and charges associated with capital repayment and imposed under the LTRID Water Contract as it existed prior to conversion to the 9d Contract.

5.3 Water Request and Payment Procedures. On or about March 1st of each Water Year, WWD #18 shall provide LTRID with a preliminary written schedule for delivery of water for such Water Year ("Preliminary Water Delivery Schedule"). On or before, but no later

than, September 1 of each Water Year, WWD #18 shall provide LTRID with a final written schedule for delivery of water for such Water Year ("Final Water Delivery Schedule"). WWD #18 shall pay the Annual Water Rate for one-half of the water requested on the date the Preliminary Water Delivery Schedule is provided by WWD #18 to LTRID in each Water Year. WWD #18 shall pay the balance of the Annual Water Rate for the water requested in the Preliminary Water Delivery Schedule or, if different, in the Final Water Delivery Schedule on or before September 1 of the Water Year. If the schedule changes between March 1 and September 1, such that WWD #18 requires less water than indicated in the Preliminary Water Delivery Schedule, LTRID will, on or about October 1, of each Water Year, refund to WWD #18 any balance resulting from a reduction in need calculated by the difference between the Preliminary Water Delivery Schedule and the Final Water Delivery Schedule in each Water Year.

5.4 Changes to Final Schedule After September 1. Following September 1, in each Water Year, and through the balance of the Water Year, any downward changes in the Final Water Delivery Schedule shall not result in the refund of any monies paid pursuant to paragraph 5.3 above. Any desire to increase the amount indicated in the Final Water Delivery Schedule shall be subject to LTRID's determination of water availability. If following September 1 of any Water Year, WWD #18 requests additional water beyond that requested in the Final Water Delivery Schedule, and LTRID is capable of delivering such water, WWD #18 shall pay the appropriate Annual Rate for such water at the time such request is made.

5.5 Monthly Delivery Report. WWD #18 shall provide to LTRID a monthly delivery report that shall include the actual amount of LTRID water delivered to the WWD #18 Point of Delivery for the preceding month and an estimate for the succeeding month on or before the 10th day of each month.

5.6 Point of Delivery. LTRID agrees to deliver the Water Supply to the Point of Delivery. The Parties hereby acknowledge that the necessary metering equipment for measuring the water delivered to WWD #18 is currently installed and operated by the USBR at the WWD #18 Point of Delivery.

5.7 Remarket. WWD #18 shall be entitled to remarket to third parties in any given Water Year (subject to state and federal law and regulation) some or all of the Water Supply provided such third parties are able to take delivery of such water within the place of use for Central Valley Project water (the "Remarket Water"). Notwithstanding the foregoing, prior to remarketing the Remarket Water, WWD #18 shall first provide LTRID with the first option to purchase the Remarket Water (the "Repurchase Option") at the same annual cost as WWD #18 pays for the Water Supply (i.e., the Annual Water Rate). The Repurchase Option must be exercised by written notice to WWD #18 as to all of the Remarket Water within 30 days after WWD #18 gives LTRID written notice of the proposed remarketing; otherwise, it shall become null and void as to the proposed remarketing, and WWD #18 may proceed to sell some or all of the Remarket Water as provided hereinabove. If the sale or other transfer of some or all of the Remarket Water is not completed within six months from the date the notice is provided to LTRID, WWD #18 may not the sell the Remarket Water except upon re-noticing LTRID of its option to purchase as provided hereinabove.

5.8 Indemnification. LTRID makes no representations or guarantees as to the quality of the water. Upon receipt at the Point of Delivery, WWD #18 shall indemnify, defend (at LTRID's option) and hold LTRID, its officers, directors, agents and employees harmless on account of damage or claim of damage of any nature whatsoever for which there is legal liability for the use of the Water Supply after its receipt at the Point of Delivery to the extent of and as

limited by WWD #18's obligation to indemnify the United States as set forth in Article 5(e) of the WWD #18 Contract.

6. **Approval of USBR and Regulatory Compliance**.

6.1 **Final Approval for Water Transfer**. The Parties shall jointly prepare and process all applications, petitions, permits, studies and documents required to obtain and shall use their best good faith commercial efforts to obtain promptly Final Approval of the Water Transfer. WWD #18 shall prepare and process all applications, petitions, permits, studies and documents required to enlarge its service area to encompass Friant Ranch and to achieve delivery of the Water Supply to its facilities.

(a) "Final Approval" of the Water Transfer shall mean that all governmental approvals, consents, and other requirements necessary to complete and finalize the Water Transfer provided for herein have been obtained, including but not limited to: (i) approval of the WWD #18 boundary change by the USBR, LAFCO and WWD #18, or in lieu thereof, the creation of a new or successor public water agency capable of owning and operating a public water system for the Project; (ii) approval of the Water Transfer and related infrastructure improvements by USBR; (iii) compliance with applicable environmental laws, including but not limited to the National Environmental Policy Act ("NEPA"), CEQA, and the Endangered Species Act ("ESA") has occurred; (iv) adoption of any amendments to this Agreement deemed necessary by USBR after completion of the NEPA review associated with the Water Transfer; (v) the time period to petition for review of the certification of any CEQA document prepared in connection with the Project and of any Project or Water Transfer approval relying thereon shall have expired without the filing of litigation, or if a petition has been filed, such matter is resolved to the satisfaction of WWD #18; (vi) the time period to appeal to the USBR Regional Director or

the Secretary of the Interior the filing or publishing of the Record of Decision approving the Water Transfer shall have expired with the filing of such an appeal or litigation, or if an appeal or litigation has been filed, such matter is resolved to the satisfaction of WWD #18; and (vii) WWD #18 is fully entitled to order and receive water from LTRID and USBR pursuant to this Agreement for use in the WWD #18 Service Area.

(b) WWD #18 shall give notice of Final Approval of the Water Transfer to LTRID immediately upon satisfaction of the requirements to obtain Final Approval as set forth hereinabove.

6.2 **Termination Due to Inability to Obtain Final Approval**. WWD #18 shall have the right to terminate this Agreement if, at any time within five (5) years from the Effective Date, WWD #18 and LTRID mutually determine that it is not possible or economically feasible to obtain Final Approval of the Water Transfer due to a cause which is outside the control of either party. Upon such termination, neither party will have any further rights, liabilities or obligations to the other as a result of this Agreement except that LTRID shall refund the Reserve Payment to WWD #18.

7. **Environmental Review**.

7.1 **Cooperation for Environmental Review**. The Parties acknowledge that they have adopted CEQA findings in connection with the Water Transfer, after consideration, as responsible agencies, of the environmental impact reports prepared by Fresno County. Notwithstanding the foregoing, the Parties agree to cooperate with regard to and complete any further environmental documentation and other regulatory requirements which may be required to obtain Final Approval of the Water Transfer contemplated by this Agreement. The parties also acknowledge that USBR may be required to comply with the requirements of NEPA in

order to provide the approval required by this Agreement. If so, the parties agree to cooperate with USBR in completing said environmental review and to make any necessary reasonable amendments to this Agreement arising out of said environmental review in order to facilitate completion of the Water Transfer pursuant to this Agreement.

7.2 **Costs and Expenses**. Any and all costs and expenses in connection with obtaining approval of the Water Transfer, including environmental review and documentation for which either LTRID or WWD #18 is responsible, shall be paid by WWD #18. Notwithstanding the foregoing, LTRID shall pay all costs and expenses in connection with any mitigation or other activities which it must undertake to obtain Final Approval of the Water Transfer.

8. **Joint Defense; Sharing of Regulatory and Litigation Costs**.

8.1 **Joint Defense of Litigation**. The parties mutually agree that they shall each be entitled to but not obligated to vigorously defend any litigation or regulatory challenge to the sale of the Water Supply, including, but not limited to, any Final Approval necessary thereto. Each party agrees agree to cooperate fully with the other party in the defense of any such action in furtherance of Final Approval of the sale of the Water Supply. The Parties are each entitled to defend their interests separately at their own cost or they may agree to share counsel and participate jointly in strategic and other decision making in defense of any litigation or regulatory challenge to the Water Transfer in which case the Parties agree to share the costs of such defense as may be later agreed. In the event of a challenge to the water entitlement under the LTRID Contract, before or after the Water Transfer becomes effective, LTRID shall be solely responsible for the defense and cost of such litigation and shall retain full discretion regarding direction of such defense.

8.2 **Sharing of Confidential Information**. The Parties agree that, in the event of a challenge to the Water Transfer, they may have interests in common and may litigate common claims and legal theories, and each Party may benefit from open communication with one another about all matters relating to the litigation. The Parties agree that such disclosures and communications are wholly consistent with the purpose of the attorney work product privilege, which is to safeguard mental impressions, opinions, strategies, work product and trial preparation. The Parties agree that, from time to time, the mutual interests of the Parties can best be served by sharing documents, factual material, mental impressions, memoranda, interview reports, legal research, expert data and other information hereinafter referred to as "confidential materials." These confidential materials are privileged from disclosure to adverse parties or other third parties as a result of the attorney-client privilege, the attorney work product privilege, and other applicable privileges. All information, which is provided by a Party to the other or to litigation counsel in furtherance of this agreement, shall be considered confidential in nature and may not be used for any other purpose.

8.3 **No Waiver of Privilege**. The Parties recognize that much of the information, which is required to be provided to assist in defense of any challenge, may be provided by or under the supervision of a Party's counsel. As such the information may be protected by the work product or the attorney-client privilege. When providing information to one of the other Parties, or to special counsel, a Party is intended to fulfill its obligations to cooperate in defense of challenges, and such communications are not intended to constitute a waiver of the applicable privileges. Similarly, information provided by, or to, the other Party is not intended to waive any applicable privilege, but to further the common interests of the Parties.

8.4 **No Derogation of Existing Rights**. In addition to the foregoing, and not in derogation thereof, the Parties are each entitled to defend their interests in any litigation or regulatory action challenging the validity of any aspect of the Water Transfer, including but not limited to USBR's actions, and environmental compliance, at its own cost. The Parties shall be separately responsible financially and otherwise to defend and/or advocate their interests with respect to matters related to the Parties' respective underlying contract entitlements, which matters are not caused by and exist independent of the Water Transfer.

9. **Representations and Warranties**.

9.1 **Representations and Warranties of LTRID**. LTRID represents and warrants that:

(a) The LTRID Contract constitutes LTRID's entire agreement with the USBR concerning the delivery of CVP Friant Division water to LTRID by USBR, and the LTRID Contract has not been revoked, amended or modified in any way, except that LTRID expressly discloses that the LTRID Contract as referenced herein constitutes an amended contract, and that the effect of the most recent amendment was to, among other things, make the LTRID Contract conform to and be subject to the September 13, 2006 Stipulation of Settlement filed in *Natural Resources Defense Council, et al. v. Rodgers, et al.*, No. CIV-S-88-1658-LJ/GGH and the related orders and Judgment issued by the United States Eastern District Court of California and the San Joaquin River Restoration Settlement Act, Title X, Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349). WWD #18 expressly acknowledges this disclosure and represents that it has had a full opportunity to review all amendments to the original LTRID Contract and to investigate for itself the impact of any and all amendments, settlement documents and legislation as referenced therein.

(b) USBR does not (i) presently assert any default by LTRID under the LTRID Contract, or any claim against LTRID, nor (ii) does LTRID know of any fact which, with the giving of notice or the passage of time, or both, could give rise to any such default or claim.

(c) USBR does not (i) presently assert any matured right to terminate or to cancel the LTRID Contract nor (ii) does LTRID know of any fact which, with the giving of notice or the passage of time, or both, could give rise to any such right.

(d) LTRID has performed all duties and obligations required to be performed by it pursuant to the terms of the LTRID Contract.

(e) LTRID has the right, power, legal capacity, and authority to enter into, and perform their respective obligations under this Agreement, and no approvals or consents of any persons other than the Final Approvals are necessary in connection with it. The execution and delivery of this Agreement by LTRID have been duly authorized by all necessary corporate action on the part of LTRID.

(f) There are no legal actions or governmental proceedings or investigations pending or, to the best of LTRID's knowledge, threatened, affecting either the Water Supply or the LTRID Contract except as disclosed herein and in the amendments that comprise the LTRID Contract.

(g) The execution, delivery and performance of this Agreement by LTRID will not (i) violate any provision of law or of LTRID's Articles of Incorporation or By-Laws, (ii) conflict with, cause the breach of, or constitute a default under, the provisions of any agreement of other instruments to which LTRID is a party or by which it or its property is bound or affected, or (iii) result in the creation of any lien, charge, or encumbrance on the Water Supply transferred to WWD #18 pursuant to the terms of this Agreement.

(h) LTRID has good and marketable title to the Water Supply and subject to obtaining Final Approval has the right to transfer the Water Supply free and clear of any and all liens, claims, demands, encumbrances, defects and exceptions to title. There are no options or other agreements of any type with any other person that would preclude LTRID from transferring the Water Supply to WWD #18.

(i) LTRID has made prior transfers of the right to receive water from the LTRID Class I Water Entitlement to certain third parties in the amounts as follows, and only to these third parties and no others: (i) agreement to transfer up to 2,000 acre-feet annually to the City of Orange Cove pursuant to Agreement dated April 3, 2002; (ii) agreement to "firm up" water supply for County of Fresno (on behalf of CSA-34) up to amount of 1,520 acre-feet annually pursuant to Agreement dated May 8, 2007; (iii) agreement to transfer in dry years up to 10,000 acre-feet to Terra Bella Irrigation District pursuant to Agreement dated April 21, 1988; and (iv) agreement to provide backup water supply to Terra Bella Irrigation District in dry years up to 7,438 acre-feet pursuant to Agreement dated August 22, 2000 (collectively, the "Contractual Transfer Commitments").

9.2 **Representations and Warranties of WWD #18**. WWD #18 represents and warrants that:

(a) WWD #18 is a public agency of the State of California duly organized and validly existing in the State of California.

(b) WWD #18 has full power and authority to execute and deliver this Agreement, and all documents now or hereafter to be executed and delivered by WWD #18 pursuant to this Agreement and to perform all obligations arising under this Agreement.

(c) WWD #18 has had full opportunity to review the LTRID Contract, all amendments encompassed thereby, and any and all litigation, settlement documents, and implementing legislation referenced therein, and acknowledges that it is responsible for determining the legal status and significance of the LTRID Contract.

10. **Additional Covenants of LTRID**. LTRID acknowledges that WWD #18 is relying on the Annual Water Supply provided for by this Agreement to provide a reliable and long term water supply for the residents and landowners within the WWD #18 Service Area. Accordingly, from and after the Effective Date and throughout the term of this Agreement:

10.1 LTRID expressly disclaims any warranty, express or implied, regarding the quality or fitness for a particular or intended purpose of the Water Supply, and WWD #18 expressly acknowledges that LTRID has made no representations regarding the quality or fitness for a particular or intended purpose of the Water Supply.

10.2 LTRID agrees that it shall take no action to modify, alter, amend or terminate the LTRID Contract so as to materially affect the provision of the Water Supply and any such modification, alteration, amendment or termination shall be ineffective, without WWD #18's prior written consent;

10.3 LTRID agrees to use its best efforts and to take all actions required to cause the LTRID Contract, including any renewal, extension or conversion thereof, to be renewed with the USBR for as long a period as possible under the LTRID Contract or existing law;

10.4 LTRID agrees that, whenever LTRID has the right to consent, approve or reject under the LTRID Contract, LTRID shall exercise such right in good faith and in a reasonable manner so as to facilitate the Water Supply provided to WWD #18 by LTRID;

10.5 LTRID agrees that it will perform all duties and obligations required to be performed by it and pay all amounts required to be paid by it pursuant to the terms of the LTRID Water Contract; and

10.6 LTRID agrees (i) that the Water Supply provided to WWD #18 shall be a first priority claim against the LTRID Class 1 Water Entitlement superior to the rights of all other users of the LTRID Class 1 Water Entitlement, except that the Water Supply shall be of equal priority with the Contractual Transfer Commitments, and that the Water Supply provided to WWD #18 shall not be apportioned with other users of the LTRID water entitlement in the event of a Condition of Shortage but rather WWD #18 shall have first priority on all water provided to LTRID, except that the Water Supply shall be of equal priority with the Contractual Transfer Commitments; (ii) that it shall not sell, transfer or encumber the Water Supply to any other person; (iii) that it shall advise all other third party transferees of the LTRID Class 1 Water Entitlement that the Water Supply transferred to WWD #18 is a first priority claim against the LTRID Class 1 Water Entitlement; and (iv) that it shall take no action which may cause the Water Supply to be or become unavailable to WWD #18.

10.7 LTRID agrees to promptly deliver to WWD #18 notice of any default or other communication from USBR under which USBR contends that it has the right to take action which may affect the availability of the Water Supply in any way.

11. **Acts Constituting Default**.

11.1 **Default by WWD #18**. The following acts shall constitute a default under this Agreement by WWD #18 ("WWD #18 Default"):

(a) The failure to pay any monetary sum required to be paid hereunder, if the failure is not cured within ten (10) days after receipt of notice of delinquency;

(b) The failure to perform or comply with any material covenant or take any action required to be taken by WWD #18 under the terms of this Agreement, if the failure is not cured within thirty (30) days after receipt of notice thereof; or in the case of a default not susceptible of cure within 30 days, WWD #18 fails promptly to commence to cure such default and thereafter to prosecute diligently such cure to completion within a reasonable time; or

(c) The making by WWD #18 of any general assignment or general arrangement for the benefit of creditors; the filing by or against WWD #18 of a petition to have WWD #18 adjudged bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against WWD #18, the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of WWD #18's assets or of WWD #18's interest in this Agreement, where possession is not restored to WWD #18 within sixty (60) days; or the attachment, execution or other judicial seizure of substantially all of WWD #18's assets or of WWD #18's interest in this Agreement, where such seizure is not discharged within sixty (60) days.

11.2 **Notice to Friant Ranch, L.P. and Right to Cure**. Until such time as the delivery of the Water Supply to WWD #18 has commenced, as a condition precedent to pursuing any remedy for a WWD #18 Default, LTRID shall, before pursuing any remedy, give fifteen (15) days advance written notice of the WWD #18 Default to Friant Ranch, L.P. with respect to any failure to pay any monetary sum required to be paid hereunder and thirty (30) days advance written notice of default with respect to any other alleged default of any term or provision of this Agreement. Each notice of default shall specify in detail the alleged event of default and the intended remedy. If the alleged default is nonpayment of any monetary sum required to be paid hereunder, Friant Ranch, L.P. shall have fifteen (15) days after notice is given to cure the default.

For the cure of any other default, Friant Ranch, L.P. shall promptly and diligently after the notice commence curing the default and shall have ninety (90) days after notice is given, to complete the cure, unless, however, if the nature of WWD's obligation is such that more than ninety (90) days are required for performance, then Friant Ranch, L.P. shall not be in default if Friant Ranch, L.P. commences performance with such ninety (90) day period and thereafter diligently prosecutes the same to completion.

11.3 **Default by LTRID**. The following acts or conditions shall constitute a default under this Agreement by LTRID ("LTRID Default"):

(a) The failure to deliver the Water Supply pursuant to the terms and conditions of this Agreement.

(b) The failure to perform or comply with any material covenant or take any action required to be taken by LTRID under the terms of this Agreement.

(c) If any of the representations and warranties of LTRID are not true and complete in all respects.

12. **Remedies**.

12.1 LTRID Remedies. Upon the occurrence of a WWD #18 Default, LTRID, in addition to any other remedies given LTRID by law or equity, may:

(a) Continue this Agreement in effect by not terminating WWD #18's right to receive water and submitting any dispute to binding arbitration for resolution; or

(b) Terminate this Agreement and all rights of WWD #18 under this Agreement and recover from WWD #18 all damages authorized by law.

12.2 WWD #18's Remedy. Upon the occurrence of a LTRID Default under this Agreement, WWD #18, in addition to any other remedies which may be available to WWD #18 in law or equity, may:

(a) Obtain injunctive relief to prevent breaches of the provisions of this Agreement and specifically to enforce the terms and provisions hereof, including, but not limited to, compelling delivery of the Water Supply to WWD #18, in any action instituted in any court of the United States or any state thereof having subject matter jurisdiction. LTRID acknowledges that WWD #18 would be irreparably damaged if any of the provisions of this Agreement are not performed in accordance with their specific terms and that monetary damages would not provide an adequate remedy in such event;

(b) Continue this Agreement in effect by not terminating WWD #18's right to receive water and submitting any dispute to any court of the United States or any state thereof having subject matter jurisdiction for resolution; or

(c) Terminate this Agreement and all rights of LTRID under this Agreement and recover from LTRID all damages authorized by law.

12.3 Rights and Remedies Are Cumulative. The rights and remedies of the parties to this Agreement are cumulative and the exercise by either party of any one or more of such remedies will not preclude the exercise by it, at the same time or a different time, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other party. No waiver made by either party with respect to the performance, or manner or time thereof, of any obligation of the other party or any condition to its own obligation under this Agreement will be considered a waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived and to the extent

thereof, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

13. **Assignment**.

13.1 WWD #18 shall have the right to assign this Agreement without the consent of LTRID to any other public agency authorized to provide water services to the Project now existing or to be formed at a later time subject to approval of the USBR and other applicable regulatory agencies provided that said agency assumes the obligations of WWD #18 under this Agreement.

13.2 Except as otherwise provided herein, WWD #18 shall not assign or transfer this Agreement, by operation of law or otherwise, without the consent of LTRID, which consent shall not be unreasonably withheld or delayed.

13.3 This Agreement shall not be assigned by LTRID.

14. **Third Party Beneficiary**. It is expressly agreed that Friant Ranch, L.P., and its successors or assigns, shall be a third party beneficiary of the rights of WWD #18 under this Agreement with the full right and authority to enforce the terms and provisions of this Agreement. Nothing in this Agreement, expressed or implied, is intended to confer upon any person, other than Friant Ranch, L.P. and its respective successors and assigns, any rights or remedies.

15. **Miscellaneous Provisions**.

15.1 Notices. All notices or other communications required or desired to be given under this Agreement shall be given in writing and mailed, delivered or transmitted to the other party at the address indicated below:

To WWD #18 at:

Fresno County Water Works District No. 18
c/o Dan Pearce, General Manager
P.O. Box 92
Friant, CA 93626

With Mandatory Copy to:

Friant Ranch, a Limited Partnership
c/o Bryan N. Wagner
1322 E. Shaw Ave., Suite 340
Fresno, CA 93710
Telephone: 559-224-0871
Facsimile: 559-224-0885

To LTRID at:
Lower Tule River Irrigation District
357 E. Olive Avenue
Tipton, CA 93272
Attention: Dan Vink, Manager
Telephone: 559-686-4716
Facsimile: 559-686-0151

Each such notice or other communication shall be deemed effective and given (i) upon receipt, if personally delivered; (ii) upon being transmitted, if sent by facsimile or electronic mail, if a copy of the notice is also sent by United States first class mail and provided receipt is confirmed by a transmission report otherwise; (iii) two (2) business days after deposit in the United States mail, postage prepaid, properly addressed to the party served; or (iv) upon receipt if sent in any other way. Either Party may from time to time, by written notice, designate a different address then that set forth above for the purpose of notice, provided, however, that no notice of change of address shall be effective until actual receipt of the notice.

15.2 Modification. This Agreement may not be modified, renewed, extended, or amended except by a written agreement signed by the parties, or their respective successors in interests.

15.3 Attorney's Fees. On any action commenced to enforce or interpret or for a breach of any provision of this Agreement, or to collect damages as a result of any breach thereof, the party prevailing in any such action shall be entitled to recover against the party not prevailing its reasonable attorney's fees and costs incurred in such action, subject to the limitations contained in the paragraph thereof.

15.4 Successors. Subject to the limitations on assignment set forth hereinabove, every provision of this Agreement shall be binding upon, and shall inure to the benefit of, the legal representatives, heirs, successors and assign of the parties.

15.5 Counterparts. This agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same agreement.

15.6 Section Headings. The various section headings in this Agreement are inserted for convenience of reference only, and shall not affect the meaning or interpretation of this Agreement or any provision hereof. All uses of the words "articles(s)" and "section(s)" in this Agreement are references to articles and section in this agreement, unless otherwise specified.

15.7 Severability. If any provision or portion of this Agreement shall become illegal, unenforceable, invalid, null or void or against public policy for any reason, or shall be held by any court of competent jurisdiction to be illegal, unenforceable, invalid, null or void or against public policy, the legality, validity or enforceability of the remaining provisions of this Agreement shall not be effective thereby.

15.8 Entire Agreement. This Agreement is the entire integrated Agreement of WWD #18 and LTRID with respect to the rights granted hereunder, and contains all of the terms

and conditions to which each have agreed. This agreement supersedes and replaces entirely all previous oral and written understandings, if any, of WWD #18 and LTIRD with respect to the rights granted hereunder.

15.9 Cooperation. To the extent reasonably required, each party to this Agreement shall, in good faith, execute such further agreement or documents and take such further actions as are needed to consummate this Agreement. The parties agree to cooperate and assist each other in good faith in meeting such requirements of regulatory agencies as may be applicable to the performance of any terms of this Agreement.

15.10 Objective Construction. This Agreement reflects the negotiated Agreement of the Parties. Accordingly, notwithstanding Civil Code Section 1654, this Agreement shall be construed as if both parties jointly prepared this Agreement and no presumption against one Party or the other shall govern the interpretation or construction of any of the terms of this Agreement.

15.11 Governing Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of State of California.

15.12 Waivers. A waiver of breach of a covenant or provision in this Agreement shall not be deemed a waiver of any other covenant or provision in this Agreement, and no waiver shall be valid unless in writing and executed by the waiving party. Any extension of time for performance of any obligation or act shall not be deemed an extension of time for performance of any other obligation or act.

15.13 Conflicts of Interest. Each party covenants and declares that it has no Conflicts of Interest that would in any manner impair or affect its ability to perform under this Agreement.

15.14 Effectiveness and Acceptance. This Agreement shall not constitute or be deemed a contact between WWD #18 and LTRID until and unless it is fully executed by both parties.

15.15 Authority. Each signatory to this Agreement represents and warrants that it is authorized to enter into this Agreement and covenants to carry out its terms and conditions.

15.16 Memorandum of Contract. LTRID shall execute, acknowledge and deliver, at no cost to WWD #18, upon request of WWD #18, a short form memorandum suitable for recording evidencing the material provisions of the agreement herein contained.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth above.

LOWER TULE RIVER IRRIGATION DISTRICT
a California irrigation district organized under
Division 11 of the California Water Code

By: _____
Chairman of the Board

ATTESTED BY:

_____
Secretary of the Board

APPROVED AS TO FORM:

By: _____
Counsel for Lower Tule River I.D.

WATER WORKS DISTRICT NO. 18, ~~a California irrigation district organized under Division 11 of the California Water Code~~

By: _____

Chairman of the Board

ATTESTED BY:

Darlene Storm

Secretary of the Board

APPROVED AS TO FORM:

By:_____

Counsel for the Water Works District No. 18

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EXHIBIT A
Article 4 Annual Water Rate Formula and Sample

Reference: Agreement between Lower Tule River Irrigation District
&
Fresno County Water Works #18

Water Year: 2011

	Post 9d Contract Formula
Current Year M&I Rate (Schedule T-1 USBR Special Rate Book) Current Contract with Capital Component; Post 9d without Capital Component	$ 24.50
+ CVPIA - Friant Surcharge	$ 7.00
+ CVPIA - Restoration & Trinity PUD Fund (see CVP M&I Sch A-1)	$ 18.64
+ Prior Year FKC and DMC O&M Expense, per a.f.	$ 9.70
9d Contract Repayment - Financing Expense	$ 13.83
Article 4.1 Charge	$ 400.00
= **Total Cost Per A/F for 2010**	**$ 473.67**

Prior Year Total Friant-Kern Canal and Delta Mendota Canal O&M Cost to LTRID — **$ 1,562,908**

Year: 2010

Prior Year CVP Friant Division Long-term Contract water deliveries

Percentages		
Class 1	100%	
Class 2	42%	

(Note: Class II includes all LT Contract supply delivered to LT under Class II contract rates)

	Contract Total	x Prior Year %
Lower Tule River Contractual Class 1 Supply	61,200	61,200
Lower Tule River Contractual Class 2 Supply	238,000	99,960
Total	299,200	**161,160**

Sum: Annual O&M Cost / Prior Year Total Deliveries — **$ 9.70**

Allocated Capital and Financing Cost	$	20,779,400
Class One	$	12,467,640
Class Two	$	8,311,760
Class One Ratio		60%
Class Two Ratio		40%
Annual Debt Service	$	1,410,550
Debt Service Allocated to Class One *Annual Debt Service x ratio*		846,330
Lower Tule River "CVP - New Capital" Annual Payment *To be determined annually by Bureau per 9d Contract*		
Lower Tule River Contractual Class One Supply		61,200
Annual Debt Service - Per Acre Foot Class One *Annual Class One Debt Service+ New Capital Debt Pmt / Class One Contract*	$	13.83

NOTE: All figures presented in this Exhibit A are samples only, based on costs and deliveries that would be applicable for the 2010 Water Year. LTRID shall prepare a revised exhibit for each water year in which water is delivered pursuant to this Contract, based on cost and delivery figures for the subject year.

Comment 16.4: *The water supply assessment provided to meet the requirements of SB 610 leaves significant unanswered questions about the sufficiency of the water supply to meet projected water demands. The proposed water supplier, Wastewater District 18, currently has a contract for 150 acre feet of Friant Division water, and provides water to 219 residential and 19 commercial/industrial customers. The Friant Ranch project at full buildout will require delivery of approximately 2000 acre feet per year to more than 2000 customers. It is unknown whether WWD 18 has the technical and managerial capacity to handle such a significant increase in services.*

Response 16.4: Certainly the WWD 18 as it exists today does not have adequate staff or capital reserves to serve a fully built out community of nearly 3,000 homes. However, the District will have the opportunity to grow with the development and will be positioned to provide an appropriate level of service to its customers all along the way. In coordination with the Specific Plan applicant, the District has prepared a Strategic Plan for growth that anticipates the buildout of the Friant Ranch project. This strategic plan has been shared with the Fresno County Public Works staff, and has been enhanced at their request to include more detailed consideration of utility rates, cash flow and staffing needs. The Strategic Plan relies on the Specific Plan applicant to construct and provide capital for the water and sewer facilities necessary. The District recognizes that additional, more highly trained technical staff will be needed, and the Strategic Plan anticipates the District may retain contract services to provide these skilled personnel as the District grows.

Comment 16.5: *The water supply that is relied upon for the project is based on a letter of intent with the Lower Tule River Irrigation District that refers to a formal water supply agreement which will contain definitive terms covering the water supply and terms..." Until the formal water supply agreement is drafted and executed, the water supply for the project appears somewhat uncertain, and therefore does not meet the intent of SB 610.*

Response 16.5: SB 610 requires WWD 18 to assess available water supplies to serve the Project. The Water Supply Assessment and Letter of Intent attached thereto identify the proposed water supply, including vendor, quantity, cost and proposed terms. This is appropriate for the level of entitlement here sought (i.e., Specific Plan). Consistent with SB 610, the Water Supply Assessment summarizes the potential uncertainties associated with finalization of the water transfer agreement and explains the processes required to approve the agreement. One of these processes is the completion of environmental review for the water transfer agreement. Though terms have been negotiated, the agreement has not yet been approved because potential impacts of the water transfer, which is a component of the Specific Plan project, are being analyzed within this EIR. Upon certification of the EIR, WWD 18 and LTRID will consider approval of the water transfer agreement after consideration of the pertinent information in this EIR. SB 221, a sister statute to SB 610, requires formal verification of the water supply prior to approval of tentative maps for large subdivisions. Similarly, Mitigation Measure #3.14.1 requires approval of the agreement by LTRID and WWD 18 prior to the approval of any

tentative maps for the Specific Plan Area, effectively preventing any development within the Specific Plan Area prior to WWD 18 and LTRID approval of the final water transfer agreement.

Comment 18.3: *Under Impact #3.2.1 the conclusion states, "The conversion of non-prime and non-important agricultural land does not result in a significant impact to agricultural resources."*

The Division does not agree with this assessment. Grazing land is still considered an agricultural resource and non-prime farmland is still farmland (Unique, Statewide, or Local). If property is being used for agricultural purposes (grazing), then it still has agricultural value. Therefore, we suggest that mitigation measures be applied for the conversion and loss of agricultural land.

Response 18.3: Section 3.2.3 on page 3-23 of the DEIR sets forth the following three criteria "based on Appendix G of the 2008 CEQA Guidelines" for use in identifying significant adverse impacts associated with agricultural resources:

a) *Converts Prime Farmland, Unique Farmland, Farmland of Local Importance, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural uses.*

b) *Conflicts with existing zoning for agricultural use, or a Williamson Act contract.*

c) *Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland (Prime Farmland, Unique Farmland, or Farmland of Statewide Importance), to non-agricultural use.*

Page 3-23 of DEIR applied criteria (a) set forth in section 3.2.3 of the DEIR to conclude that the conversion of "non-prime and non-important agricultural land" resulted in no significant impact to agricultural resources. This determination was appropriately based on the fact that "none of the land designated Prime Farmland or Farmland of Statewide Importance within the Project Area will be converted to non-agricultural use, and there are no lands designated as Unique Farmland within the Project Area." The DEIR significance criteria (a) in section 3.2.3 and Appendix G of the CEQA Guidelines apply the definition of "agricultural land" set forth in

Public Resources Code section 21060.1, which defines agricultural land as "prime farmland, farmland of statewide importance, or unique farmland, as defined by the United States Department of Agriculture land inventory and monitoring criteria, as modified for California." The DEIR identifies the classifications of farmland set forth in Public Resources Code section 21060.1, in accordance with the United States Department of Agriculture definitions. (DEIR, section 3.2.1, page 3-15.)

This threshold of significance is also supported by the Fresno County General Plan goals and policies. The County General Plan Goal LU-A is "[t]o promote the long-term conservation of productive and potentially productive agricultural lands...." Page 2-2 of the Fresno County General Plan defines "Productive (Prime) Agricultural Land" as "[s]oils which are suitable for the production of most climactically adapted irrigated crops", including land "which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one (1) animal unit per acre as defined by the USDA." With its current topography and soil structure, the Friant Ranch Specific Plan Area is not and never has been irrigated. The lands are not suitable for irrigation of crops or irrigated pasture. Unirrigated, foothill grazing land such as that within the Friant Ranch Specific Plan Area does not meet the County's definition of Productive (Prime) Agricultural Land. The rolling hills, sandy loam soils, and lack of reliable onsite water supplies make such lands unsuitable for the production of irrigated crops. Moreover, in order to maintain a livestock carrying capacity of at least one (1) animal unit per acre in the San Joaquin Valley of California, as set forth in said definition, irrigation is required. The grazing lands within the Friant Ranch Specific Plan Area are not conducive to irrigated pasture. The County General Plan definition of Productive (Prime) Agricultural Land also references the same Class I or II soil classifications of the Natural Resource Conservation Service as referenced in the DEIR's section 3.2.3(a) threshold. See page 3-15 of the DEIR for discussion of the Natural Resource Conservation Service classifications. The General Plan defines "Potentially Productive Agricultural Land" as soils that can be altered to "make them more productive for essential food crops such as grain and vegetables." The subject property does not meet this definition. As explained above, the rolling hills, sandy loam soils, and lack of reliable onsite water supplies make such lands unsuitable for the production of irrigated crops.

Criterion (b) of section 3.2.3 acknowledges impacts based on conflicts with existing agricultural zoning. The DEIR analyzed that the proposed use of approximately 606 acres within the Friant Ranch Specific Plan Area and Depot Parcel for commercial and residential uses will conflict with the existing agricultural zoning. Page 3-24 of the DEIR concludes that these conflicts with existing agricultural zoning will result in a significant impact under criteria (b) set forth in section 3.2.3 of the DEIR. The DEIR concludes that there is no feasible mitigation to mitigate the redesignation of these lands from the existing agricultural zoning.

However, page 3-24 of the DEIR explains that Mitigation Measures #3.4.lb and #3.4.lc require the applicant to prepare a grazing management plan for the 275 acres of revegetated and undisturbed open space within the Friant Ranch Specific Plan. Further, Mitigation Measures #3.4.ld, #3.4.le, #3.4.3a(l), #3.4.3a(2)(a) and #3.4.5 require the applicant to preserve the onsite undisturbed and revegetated open space and additional offsite grazing lands in perpetuity through a conservation easement. As such, the commenter's request for requiring a conservation easement

on grazing land of at least equal size as compensation for loss of farmland is already required by mitigation in this EIR mandating preservation of over 1,000 acres of grazing lands. See also Response 7.11 for additional information about the offsite grazing lands to be preserved under conservation easement.

Furthermore, Chapter 4 of the DEIR analyzes a No Project alternative and three reduced Project alternatives, each of which reduce the amount of grazing land proposed for uses that would conflict with the existing agricultural zone.

For example, the DEIR discusses (at page 4-29) the reduced impact of the environmentally superior alternative (Alternative 3) on agricultural resources. Alternative 3 proposes to convert approximately 443 acres of agriculturally zoned lands to land uses that conflict with the existing agricultural zoning, as compared to approximately 600 acres of agriculturally zoned lands under the Project scenario. Moreover, Alternative 3 further proposes to place 460 acres of undisturbed grazing lands and an additional 22.4 acres of revegetated slopes into permanent open space managed through grazing. This is a significant increase in onsite preservation of grazing lands from the approximately 275 acres of proposed open space under the Project scenario. In addition, the offsite preservation requirements set forth in Mitigation Measures #3.4.ld, #3.4.le, #3.10.2e, #3.4.3a(l), #3.4.3a(2)(a) and #3.4.5 still apply to the alternative development scenarios and will ensure the preservation of similarly situated grazing lands through conservation easements.

Comment Letter #19

City of Fresno
2600 Fresno Street
Fresno, CA 93721-3601

Comment 19.1: *This letter contains the City of Fresno's (City) comments on the Draft Environmental Impact Report (EIR) for the Friant Community Plan Update (Community Plan) and the Friant Ranch Specific Plan (Specific Plan) prepared by the County of Fresno (County).*

The City strongly objects to the Project, which involves a huge expansion of urban growth within the County in an area currently zoned for agricultural use without available public services. The Project violates fundamental principles of the County and City General Plans and the Memorandums of Understanding (MOU) between the County and cities. These documents direct urban development to existing cities and urbanized areas which have available service capacity to accommodate such development. They focus on preserving agricultural land and environmental resources. The Project completely contradicts these principles, not to mention the purpose and intent of SB 375, which requires local agencies to develop regional targets and plans to reduce greenhouse gas emissions from land use and transportation. The Project expands the Community Plan area over 1800 acres and rezones over 900 acres of agricultural land to residential and commercial use. It significantly expands urban development outside the existing Friant community. It will increase the population in the area from 519 to 6,000 and housing units from 236 to almost 3,000. There is no available service capacity in the area for this very large development, so the Project requires building a new wastewater treatment facility, expanding the existing water treatment facility, and importing water from another county/ watershed.

Response 19.1: See Response 19.74 (regarding MOUs). Commenter misstates the origin of the proposed water supply, which is water stored behind Friant Dam just north of the Project Area (the same origin of the water supply currently used to serve the existing development within the Project Area). Though the proposed water supply is currently exported to Lower Tule River Irrigation District in Tulare County, the proposed water supply originates in Fresno County.

Comment 19.2: *Given the extent of development proposed and its location, it should come as no surprise that the EIR identifies a massive amount of environmental impacts from the Project. The EIR identifies significant impacts in almost all areas (including many significant and unavoidable impacts) and contains numerous mitigation measures. Despite this, the EIR fails to adequately disclose and address all significant environmental impacts and includes many mitigation measures, which will not result in reducing these impacts to less than significant. These impacts will adversely affect City and County residents and impede the City's plans for future development.*

Response 19.2: The commenter does not provide specific references to impact areas that are purportedly inadequate. Therefore a specific response in not possible. Please refer to the remaining responses to comments made by commenter.

Comment 19.3: *The City respectfully requests that the County reconsider moving forward with this Project. If the County decides to continue to go forward with this Project, the Draft EIR needs to be substantially revised and recirculated because, as explained below, it substantially understates the significant impacts of the Project, contains inadequate mitigation measures, and, overall, fails to meet the requirements of the California Environmental Quality Act (CEQA).*

Response 19.3: Comment noted. The commenter does not provide specific references to impact areas that are purportedly inadequate or allegedly require recirculation. Therefore, a specific response is not possible.

Comment 19.4: ***General Comments:***

The level of detail and amount of information provided in the EIR on Project components do not support project-level review for the Specific Plan. Although the EIR states that it contains project-level review for the Specific Plan, the analysis does not meet the CEQA standard. This is of particular concern because the EIR states that it will be relied on for the CEQA environmental review for the implementation of the Specific Plan project with no further analysis required (esp. given the state law exemption for residential projects that are part of a specific plan with a certified EIR). As currently drafted, the EIR cannot be relied upon for implementation of the Project, including the Specific Plan, and further CEQA environmental review will be required.

Response 19.4: Comment noted. The DEIR was prepared pursuant to CEQA Guidelines and contains adequate review of project-level components. The commenter does not provide a specific comment and therefore a specific response is not possible. See discussion of Project-level analysis and appropriate supplemental environmental review at pages 1-2 and 1-3 of DEIR.

Comment 19.5: *As an example, one Project component for which the EIR purports to provide detailed project level review is "a land use designation and zone change" for the Depot Parcel. However, full extent of the Project's proposal for the Depot Parcel is not clear, since the Air Quality chapter of the EIR states that "[t]he Depot Parcel consists of: 73,508 [square feet] of shopping center use ..." The EIR is entirely inadequate as a project level evaluation of development of a 70,000+ square foot shopping center project on the Depot Parcel site. The EIR provides absolutely no information about the physical configuration of, or anchor tenants for a shopping center proposal for the Depot Parcel site. Therefore, the EIR cannot possibly provide project level analysis of the environmental impacts of such a specific development proposal.*

Response 19.5: The Depot parcel was analyzed for traffic, air quality, and other impact areas at a project specific level. No tenants have yet been identified, but would be required to fit into the Highway Commercial designation. If identification of a specific tenant and/or land use within the Highway Commercial designation prior to future discretionary approvals triggers supplemental environmental analysis pursuant to CEQA Guidelines section 15162, then additional environmental analysis pertaining to such new information will be conducted. At this time, however, analysis or impacts of a specific tenant or specific end use would be based on pure speculation.

Comment 19.6: *The EIR contains no information on the Development Agreement. Therefore, the approval of the Development Agreement cannot rely on the EIR for its environmental review to the extent its impacts are not analyzed in the document.*

Response 19.6: The Development Agreement is discussed under "Proposed State and Local Entitlements and Approvals" on page 2-12 of the DEIR. The Development Agreement can therefore rely on the EIR for its environmental review. Pursuant to Public Resources Code 21166, if the Development Agreement includes actions outside the scope of the EIR, then supplemental CEQA documentation may be required.

Comment 19.7: *The Project Objectives are too narrow and basically recite the elements of the Project. It is a violation of CEQA to tailor Project Objectives to the specific project being proposed which constrains the proper consideration of alternatives. The improper Project Objectives allow the County to reject consideration of certain alternatives as "not meeting the Project Objectives."*

Response 19.7: Consistent with CEQA Guidelines section 15124(b), the EIR provides a statement of objectives sought by the proposed project and describes the underlying purpose of the project. As such, it is not unreasonable for project objectives to reference key goals of the proposed project. The stated project objectives found on page 2-29 and 2-30 of the DEIR are necessarily designed to relate to the proposed project and to facilitate development of the reasonable range of project alternatives analyzed in Chapter Four of the DEIR.

Comment 19.8: *The EIR must analyze whether the approval of the Specific Plan will contribute to further blight or urban decay within the Friant Redevelopment Project Boundary by concentrating new development outside the Redevelopment Project Plan Area. The EIR contains no analysis of this potential significant impact.*

Response 19.8: As stated in CEQA Guidelines Section 15064(e) economic changes resulting from a project shall not be treated as significant effects on the environment. Section 15064 (d)(3) further states that indirect physical change (such as blight or urban decay) is to be considered only if that change is a reasonably foreseeable impact that may be caused by the project. The nature and magnitude of future commercial enterprise within both the Friant Redevelopment Project Boundary and the Friant Specific Plan Boundary is unknown at this time and, absent such detailed information, an assessment of urban blight effects of the proposed Specific Plan on the Friant Redevelopment Project Area is not viable and the possibility of such impact is not, therefore, reasonably foreseeable. Moreover, a significant portion of the commercial development proposed within the Friant Ranch Specific Plan Area is located within the Friant Redevelopment Plan Area and, as such, is anticipated to generate additional revenues to support redevelopment.

Comment 19.9: *It also does not provide the text of the Friant Redevelopment Plan commercial development standards that are proposed to be repealed and analyze the effect of the repeal on the redevelopment goals and policies.*

Response 19.9: Comment noted. This comment does not address environmental issues. The Friant Redevelopment Plan commercial development standards proposed for repeal can be found online at Fresno County's website dedicated to information about this Project (http://www.co.fresno.ca.us/departmentpage.aspx?id=4238) at pages 47 through 51 of the 1992 Friant Redevelopment Plan. The standards were enacted in 1992 and no longer reflect common commercial standards currently used by land use planning agencies. The development standards set forth in the proposed Friant Community Plan Update, the Friant Ranch Specific Plan, Fresno County design standards, and the Fresno County Zoning Ordinance (including revisions thereto proposed by the Project) will take the place of the standards set forth in the 1992 Redevelopment Plan.

Comment 19.10: *The analysis of growth inducing impacts is cursory and completely inadequate. The Project will have significant growth-inducing impacts due to the expansion of public services available in this unincorporated area, especially wastewater treatment and water services. For instance, according to the Municipal Service Review prepared by LAFCO, dated July 2007, Waterworks District 18, the district that will provide water service for this project, currently, encompasses 444 acres and services 234 customers. As such, this project will increase the number of the district's customers in excess of tenfold. These new services and related infrastructure will induce new growth in the entire Community Plan area and beyond. The impacts of this future growth should be analyzed in the EIR.*

Response 19.10: The DEIR discussion of Impact #3.11.1 (DEIR, pages 3-255-3-256) explains that the Project will induce substantial population and housing growth by facilitating the development of up to 2,996 new households within the Specific Plan Area and development of vacant properties in the Existing Friant Community Plan Area, and will considerably accelerate projected population growth within the Friant Community Plan Area.

As explained in the Growth Inducing section of the DEIR at page 6-5, "induced growth is any growth that exceeds planned growth and results from new development that would not have

taken place in the absence of the proposed project." As explained at DEIR page 6-6, the public facilities improvements proposed for the unincorporated community of Friant by the Project (e.g., new tertiary treated wastewater treatment plant and expanded water treatment plant) are designed with sufficient capacity to meet only the needs of planned development in the area. The wastewater treatment plant capacity is limited to what is needed to support the existing and planned future uses within the Project Area, but the Project only includes connections to hookup the existing Millerton Lake Village Mobile Home Park and the Friant Ranch Specific Plan Area to the new plant (see DEIR pages 3-362 through 3-364). The water treatment plant expansion is designed with sufficient treatment capacity for the existing and planned future uses within the Project Area. (DEIR page 3-359.) As such, contrary to commenter's suggestion, the new public services and related infrastructure will not have sufficient capacity to provide for new growth "beyond" the planned buildout of the Existing Community Plan Area and the Friant Ranch Specific Plan Area.

Comment 19.11: *There is no discussion in the EIR of preliminary consultation by the County with the DWR, RWCB, or the Department of the Interior to investigate the adequacy of the Project's water supply plan or its wastewater discharge plan.*

Response 19.11: The California Department of Water Resources and the Central Valley Regional Water Quality Control Board have no jurisdiction over project water supply. The proposed water purveyor, WWD 18, prepared and adopted the State-required Water Supply Assessment, and has found that the proposed water supply is adequate to meet project demands in normal, dry and multiple dry years. The Specific Plan applicant has been consulting with the Bureau of Reclamation (within the Department of the Interior) to accomplish the federal approvals needed for the Bureau to approve the proposed LTRID-WWD 18 agreement. These approvals are described at pages 2-27 through 2-28 of the DEIR.

DWR and the Department of the Interior have no direct regulatory jurisdiction over municipal wastewater treatment. The Central Valley Regional Water Quality Control Board is charged with review of the wastewater treatment plant and will issue waste discharge requirements subsequent to certification of the CEQA document. In addition, the Board, together with the California Department of Public Health, will review the project's report of water reclamation and Board will issue the appropriate permit, after certification of this EIR. The project applicant has been consulting with the Central Valley Regional Water Quality Control Board concerning these requisite approvals. These approval processes are described at pages 2-25 and 2-26 of the DEIR. The DEIR acknowledges the Board as a responsible agency at page 2-30 and 2-31 of the DEIR.

Comment 19.12: *Furthermore, the EIR fails to provide any performance history of Waterworks District 18, or provide evidence of its ability to meet regulatory standards.*

Response 19.12: WWD 18 has a consistent history of achieving its water quality objectives. Consumer Confidence Reports are prepared annually by the District, are distributed to all customers of the District and are available to the public at the District office. These reports provide a comprehensive record of the District's performance since 2000. See also Response 16.4.

Comment 19.13: *The EIR also needs to describe any impacts to the existing aged water distribution system as a result of the proposed new development and infrastructure.*

Response 19.13: The existing water system serving the relatively limited development in the vicinity of the Friant Ranch Project will be upgraded/replaced as necessary pursuant to implementation of the Friant Ranch Infrastructure Master Plan found as Appendix N to the DEIR.

Comment 19.14: ***Chapter 3.1 Aesthetics***

County General Plan Policy OS-L.3 requires that development proposals of more than four lots be designed to "blend in" to the natural landscape and minimize scarring of vegetation and terrain. The EIR claims that the Friant Ranch Project will "preserve the integrity of the existing terrain and natural vegetation in visually sensitive areas." Yet it is impossible to judge the accuracy of this claim, since the EIR provides illustrations only of pre-Project conditions, without any illustration showing the effect of the Project on existing scenic vistas and visually sensitive areas. The EIR should be revised to provide this information in visual, illustrative form.

Response 19.14: At this early stage of project entitlement, it is impossible to simulate the precise layout of the Friant Ranch Specific Plan development as against existing conditions. However, among other things, the visual simulations provided in the Friant Ranch Specific Plan (available online at Fresno County's website dedicated to information about this Project, http://www.co.fresno.ca.us/DepartmentPage.aspx?id-41096) support the DEIR's determinations about the Project's aesthetic impacts and General Plan consistency. The proposed Friant Ranch Specific Plan document contains a visual simulation of the main entrance of the Friant Ranch project from Friant Road (Specific Plan cover page) and of the proposed Village Center (Specific Plan section 2.3.2).

Comment 19.15: ***Chapter 3.2 Agricultural Resources***

The EIR must include and analyze mitigation measures to address the significant impact from the rezoning of over 900 acres of Agricultural land to urban uses. The EIR does not contain any mitigation measures to address this significant impact because it states that no mitigation measures are "available". Therefore, the EIR identifies the impact as significant and unavoidable. CEQA requires that all feasible mitigation measures be adopted for any significant and unavoidable impact. So, the EIR must analyze any available feasible mitigation measures to reduce agricultural impacts. Examples of feasible mitigation measures to address the loss of agricultural land include, but are not limited to, protecting existing agricultural land from conversion through imposing easements or Williamson Act contracts, and adopting a fee mitigation program to fund permanent preservation of agricultural land. The EIR should evaluate these mitigation measures and the County should adopt any feasible mitigation measures. In addition, since the impact is significant and unavoidable, the EIR should evaluate alternatives that could reduce this impact, such as significantly reducing or eliminating the conversion of agricultural land included as part of the Project.

Response 19.15: See Response 18.3.

Comment 19.16: *The EIR incorrectly concludes that the Project's conversion of agricultural land is consistent with the County General Plan. However, this agricultural land conversion violates central goals and policies of the General Plan to protect agricultural land, including Goal LU-A (promote long term conservation of productive and potentially productive agricultural land) and Policy LU-A.1 (County shall maintain agriculturally designated land for agricultural use and direct urban growth away from this land). The inconsistency with these policies is a significant environmental impact which requires mitigation.*

Response 19.16: See Response 18.3 regarding consistency with Fresno County General Plan LU-A. Page 2-10 of the Fresno County General Plan explains the County's goal to "minimiz[e] the conversion of productive agricultural land" and to "not preclude intensive development but to direct it to minimize loss of valuable open space." As discussed in Response 18.3, the Friant Ranch Specific Plan Area does not meet the General Plan definitions of "productive (prime) agricultural land" or "potentially productive agricultural land." As such, the reference to "valuable agricultural lands" in Policy LU-A.1 implies productive or potentially productive agricultural lands, which are not implicated by the proposed development within the Friant Ranch Specific Plan Area. Consistent with Policy LU-A.1, the Friant Ranch Specific Plan proposes growth immediately adjacent to the unincorporated community of Friant where public facilities and infrastructure are available. In fact, some of the lands within the Friant Ranch Specific Plan Area are already zoned and designated for commercial and residential uses, as well as included in the Friant Redevelopment Area. This location of the Project will facilitate the Friant Redevelopment Plan goal of reviving this unincorporated area, and will also improve the public facilities and infrastructure available to the existing community. The Project is consistent with Fresno County General Plan Goal LU-A and Policy LU-A.1.

Comment 19.17: *The EIR should evaluate the significance of impacts on agricultural land by using soils evaluation criteria (such as use of the Storie index) rather than solely relying on Statewide farmland maps. The lack of designation on the Statewide maps or historic use of the land for grazing does not conclusively determine its viability for agriculture.*

Response 19.17: The use of statewide farmland maps is a common and accepted method for evaluating agricultural land impacts in EIRs. Also see Response 18.3. Further, even if the County applied alternative thresholds, such as use of the Storie index, the soils of the subject property are not of sufficient quality to warrant special consideration. The Storie index Soil Rating is a method of soil rating based on soil characteristics that govern the land's potential utilization and productive capacity independent of other physical or economic factors. Hilly terrain and sandy soils receive low scores under the Storie index. As described at page 3-67 of the DEIR, the Friant Ranch Specific Plan Area "consists of gently rolling to increasingly hilly terrain that ranges from approximately 330 feet in the southwest corner to 694 feet near the northern portion of the site" and "soils on the site are primarily Pollasky-Montpellier Complex, Rocklin Sandy Loam, and Friant Fine Sandy Loam...." As such, the soil and topography of the Friant Ranch Specific Plan Area provide further support for the County's characterization of the site as unproductive agricultural land.

Comment 19.18: *The EIR needs to provide further evidence to support its conclusion that the transfer of water from the Lower Tule River Irrigation District (LTRID) that currently serves*

agricultural users will not have a significant impact on agricultural. The statement that LTRID will use "supplemental" sources to replace water divert from these users is insufficient, especially given the significant uncertainties surrounding water available for agricultural users in the Central Valley (see comments on water supply analysis below).

Response 19.18: See Responses 19.134 and 19.136.

Comment 19.19: *The EIR improperly ignores grazing land as a category of farmland worthy of conservation and fails to analyze or mitigate potential adverse impacts to grazing. Grazing is important to Central Valley agriculture. The 2008 Fresno County Crop & Livestock Report showed Countywide $7.84 million revenue from beef calf production, $31.55 million from feeder beef stock, and $131.39 million from beef cattle slaughter stock. Due to parcelization on the Valley floor and concomitant loss of winter pasture, beef cattle raising is a threatened industry in the County.*

Response 19.19: Comment noted. This comment does not address environmental issues. See also Response 18.3.

Comment 19.20: *The EIR contains no data or analysis on the importance of the Project's valley land for the annual rotation of stock from high country (summer) pastures to winter pastures (winter pasture is needed due to snowfall in high country).*

Response 19.20: Comment noted. This comment does not address environmental issues. See also Response 18.3.

Comment 19.21: *The EIR does not provide any information on how this proposal could adversely affect supply of grazing land, particularly winter grazing land, in Fresno County. Current conditions are that the Friant Ranch is available for grazing and customarily leased for this purpose. Loss of grazing land from the Project cannot be dismissed as an impact simply because current zoning could allow 40-acre home sites, since grazing and livestock activities occurs on virtually all 40 acre grassland parcels in Fresno County.*

Response 19.21: Chapter 3.2 of the DEIR analyzed the significant impacts associated with the conflict between the proposed commercial and residential uses and the existing zoning allowing for grazing within the Specific Plan Area and the Depot Parcel. Section 5.2.2 of the DEIR discussed cumulative impacts associated with conversion of grazing lands. See also Response 18.3.

Comment 19.22: ***Chapter 3.3 Air Quality***

The EIR purports to evaluate, as a standard of significance for air quality impacts, whether Project related air pollution would result in exposure of sensitive receptors to substantial pollutant concentrations. Yet, in fact, while the EIR discusses the Project's construction and operational emissions, it does not proved any discussion of, or conclusions about, Project-related effects on air pollutant concentrations.

Response 19.22: Comment noted. The text of the DEIR is amended at page 3-41 (Impact #3.3.1) to address construction related air pollution concentrations/sensitive receptors as follows:

> **Impact #3.3.1 – Construction Impacts for the development of the Friant Ranch Specific Plan (5 phases) and Community Plan Update Carbon Monoxide (CO), Reactive Organic Gases (ROG), Nitrogen Oxide (NOx), Particulate Matter (PM_{10}), & Fine Particulate Matter ($PM_{2.5}$))**
> **[Evaluation Criteria (a), (b), (c), (d)]**
>
> Although the impacts from construction related air pollutant emissions are temporary in duration, such emissions can become a significant air quality impact. Construction activities such as grading, excavation, building construction, and paving can generate substantial amounts of air pollution. Emissions from construction equipment engines also contribute to elevated concentrations of $PM_{10,}$ $PM_{2.5,}$ and CO, as well as ROGs and NOx.
>
> Sensitive construction related emission receptors in the vicinity of the project site are minimal at present and consist primarily of single family residential properties. Construction related emission concentrations that could affect these residences would primarily be mobile sources of toxic air contaminants which are not subject to the regulations of the SJVAPCD.
>
> In 1998, the California Air Resources Board (CARB) identified particulate matter from diesel-fueled engines as a toxic air contaminant (TAC). CARB has completed a risk management process that identified potential cancer risks for a range of activities using diesel-fueled engines. The greatest diesel particulate risks from construction activities are generally associated with locations where diesel engines are allowed to idle for extended periods of time.
>
> The potential impacts to sensitive receptors from the idling of diesel powered trucks and equipment would be less than significant because the majority of these trucks are subject to State of California – Title 13, Section 2485, Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling.
>
> The purpose of the airborne toxic control measure is to reduce public exposure to diesel particulate matter and other air contaminants by limiting the idling of diesel-fueled commercial motor vehicles. This regulation applies to diesel-fueled commercial motor vehicles that operate in the State of California with gross vehicular weight ratings of greater than 10,000 pounds that are, or must be, licensed for operation on highways. The regulation applies to vehicles based inside and outside of the State of California. Effective February 1, 2005, all applicable diesel powered vehicle operators must not idle the vehicle's primary diesel engine for greater than five minutes at any location. The potential for sensitive receptors to be impacted by substantial diesel truck generated pollutant concentrations near construction sites is less than significant due to compliance

with State of California – Title 13, Section 2485- Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling.

In addition to trucks, s~~S~~everal pieces of diesel-powered heavy equipment will operate during the construction of the Friant Ranch Specific Plan. Site preparation activity emissions have been estimated based on the maximum fleet recommended by the SJVAPCD. Exhaust and fugitive dust emissions will be generated by construction activities in the Specific Plan area, such as excavation and grading, construction vehicle traffic, wind blowing over exposed earth,

The DEIR is further amended at page 3-49 to address construction related air pollution concentrations/sensitive receptors as follows:

Emission Receptors: Construction related sensitive receptors.

Sensitive construction related emission receptors in the vicinity of the project site are minimal at present and consist primarily of single-family residential structures. Future development in accordance with the proposed Community Plan Update and Friant Specific Plan would result in a gradual emergence of new sensitive construction related sensitive receptors. Construction related emission concentrations that could affect these future receptors would primarily be mobile sources of toxic air contaminants that are not subject to the regulations of the SJVAPCD.

Conclusion: The potential impacts to sensitive receptors from the idling of diesel powered trucks and equipment would be ***less than significant*** because the majority of the trucks are subject to State of California – Title 13, Section 2485, Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling.

Mitigation Measures: No mitigation measures are required.

Impact #3.3.2 of the DEIR is further amended at page 3-51 to address operational related air pollution concentrations/sensitive receptors as follows:

Impact #3.3.2 – Violation of Air Quality Standards by Area and Operational Emissions
[Impact Evaluation Criteria (a), (b), (c), (d)]

Adoption of the proposed Community Plan Update and Friant Ranch Specific Plan will result in additional development and urbanization in the Friant Community, which would in turn increase criteria air pollutants in an area that is currently designated as a severe non-attainment area.

The URBEMIS software was used to estimate area and operational emissions for the proposed Friant Ranch Specific Plan and the future build-out of the proposed Community (see Appendix C).

Operational and Area emissions at build-out under the proposed Community Plan are estimated to be approximately 107 tons per year for ROG, 786 tons per year for CO, 1.56 tons per year for SO_2, 99 tons per year for NOx, and 114 tons per year for PM_{10}.

Nearly all development projects in the San Joaquin Valley, from general plans to individual site plans, have the potential to generate pollutants that will reduce air quality or make it more difficult for state and national air quality standards to be attained. The SJVAPCD has prepared the Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI) and Air Quality Element Guidelines as advisory documents that provide Lead Agencies with uniform procedures for addressing air quality in environmental documents.

Sensitive area and operational emission receptors in the vicinity of the project site are minimal at present and consist primarily of single family residential structures. Future development in accordance with the proposed Community Plan Update and Friant Specific Plan would include a variety of commercial uses and there is some uncertainty as to what pollutants will be introduced to the area that could affect sensitive receptors that may emerge in the future.

The proposed project would result in two new sources of toxic air contaminants, one mobile and one stationary. Mobile sources of toxic air contaminants are not subject to the regulations of the SJVAPCD, while stationary sources are subject to SJVAPCD regulations and must obtain a permit from the District.

In 1998, the California Air Resources Board (CARB) identified particulate matter from diesel-fueled engines as a toxic air contaminant (TAC). CARB has completed a risk management process that identified potential cancer risks for a range of activities using diesel-fueled engines. The greatest diesel particulate risks from new development are generally associated with stationary diesel engines and locations where diesel engines are allowed to idle for extended periods of time. Where air districts have developed guidelines for diesel risk assessments for CEQA documents, the identified situations requiring analysis are locations with extended truck idling (truck stops, warehouse/distribution centers, transit centers), and train idling.

The potential impacts to sensitive receptors from the idling of diesel powered trucks would be less than significant because the majority of these trucks are subject to State of California – Title 13, Section 2485, Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling.

The purpose of the airborne toxic control measure is to reduce public exposure to diesel particulate matter and other air contaminants by limiting the idling of diesel-fueled commercial motor vehicles. This regulation applies to diesel-fueled commercial motor vehicles that operate in the State of California with gross vehicular weight ratings of greater than 10,000 pounds that are, or must be, licensed for operation on highways. The regulation applies to vehicles based inside and outside of the State of California. Effective February 1, 2005, all applicable diesel powered vehicle operators must not idle the vehicle's primary diesel engine for greater than five minutes at any location. The regulations do include exceptions, however typical diesel powered trucks used for delivery of goods to retail locations would not be exempted from the regulations.

The potential for sensitive receptors to be impacted by substantial pollutant concentrations is ***less than significant*** due to compliance with State of California – Title 13, Section 2485- Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling.

STATIONARY SOURCE TOXIC AIR CONTAMINANTS FROM GASOLINE FUELING STATIONS

Future development in accordance with the proposed Community Plan Update and Friant Specific Plan may include one, or more, gasoline fueling stations. The exact location of the facilities is unknown, but would most likely be within areas designated for future commercial uses. Gasoline stations are a source of gasoline vapors that would include Toxic Air Contaminants (TACs) such as benzene. Gasoline vapors are released during the filling of both the stationary underground storage tanks and the transfer from those underground tanks to individual vehicles. Small amounts of gasoline vapor (a reactive organic gas) escape to the atmosphere at filling stations due to loading loss, breathing loss, refueling loss and spillage. The rate of allowable emission, for stations with CARB Phase I and Phase II emission controls and vent valves (as required by SJVAPCD permit requirements) is 1.269 pounds per thousand gallons.[1]

The SJVAPCD has stringent requirements for the control of gasoline vapor emissions from gasoline dispensing facilities that require all new facilities to install and maintain CARB Certified Vapor Recovery Systems. Primary applicable SJVAPCD regulations are Rule 3:3, "Gasoline Loading, Transfer and Dispensing" and Rule 2:1, New Source Review". As a source of TACs, a gasoline fuelling station is subject to the SJVAPCD's toxic risk screening and risk management procedures.

The DEIR is further amended at page 3-57 (conclusion statement to operational related impact analysis) to address operational related air pollution concentrations/sensitive receptors as follows:

[1] California Air Pollution Control Officers Association (CAPCOA), *Gasoline Service Station Industry-wide Risk Assessment Guidelines*, December 1997.

Conclusion: The Friant Ranch Specific Plan and Community Plan Update propose to add land for residential, public facilities, commercial uses, public and open space and park uses. The primary source of emissions is from vehicular traffic. Sensitive area and operational emission receptors in the vicinity of the project site are minimal at present and consist primarily of single family residential structures. Future development in accordance with the proposed Community Plan Update and Friant Specific Plan would include a variety of commercial uses and there is some uncertainty as to what pollutants will be introduced to the area that could affect sensitive receptors that may emerge in the future. The proposed project would result in two new sources of toxic air contaminants, one mobile and one stationary. Mobile sources of toxic air contaminants are not subject to the regulations of the SJVAPCD, while stationary sources are subject to SJVAPCD regulations and must obtain a permit from the District.

The impact will be lessened by policies of the proposed Specific Plan and Community Plan, as mentioned above, which will promote the use of alternative transportation, air quality mitigation for new developments, and strategies to minimize the number and length of vehicle trips. However, there are no known additional feasible mitigation measures which will reduce the impact to a less than significant level. These projects will create a ***significant*** impact in regards to the area and operational emission content. While the following mitigation measures won't reduce the impact to a less than significant level, they are included to reduce air quality impacts as a result of the proposed project.

Comment 19.23: *Neither does the EIR identify any potentially affected sensitive receptors, nor does it conclude whether sensitive receptors would be exposed to substantial concentration levels. The County must revise the EIR to address this subject, and recirculate the document if any significant air pollutant concentration impacts are identified.*

Response 19.23: As inferred in Response 19.22 above, identification of potentially affected future sensitive receptors or drawing a conclusion as to whether such receptors would be exposed to substantial concentration levels of pollutants is speculative and can not be determined at this time. As also stated in Response 19.22, existing development in the vicinity of the proposed Community Plan Update and Friant Ranch Specific Plan is minimal and is not comprised of sensitive air emissions receptor uses such as schools, hospitals, employment centers, and the like.

Comment 19.24: *The EIR also includes, among its standards of significance for air quality impacts, the potential for the Project to expose sensitive receptors or the general public to substantial levels of toxic air contaminants. Yet the EIR does not discuss or determine the significance of the Project's toxic air contaminant impacts. For instance, the bulk of the Project's traffic congestion would be occurring on roadways outside the project area, such as Friant Road, yet there is no CALINE 4 or diesel exhaust analysis on these congested segments and intersections to indicate what the health effects would be to Fresno residents and schoolchildren near Friant Road.*

Response 19.24: Existing CALINE 4 information at intersections most severely impacted by anticipated Project traffic were available and sufficient so as not to require a separate CALINE 4 analysis for this Project. The SJVAPCD *Guide for Assessing and Mitigating Air Quality Impacts* recommends that lead agencies rely on previous CALINE4 CO modeling that took into account the project and relevant intersections impacted by a project. In addition, according to the Caltrans Guidance document "Transportation Project-Level Carbon Monoxide Protocol", if a project's most severely impacted intersection is determined to have a less than significant CO concentration, then a CALINE4 analysis is not required for other less-severely impacted intersections. In this case, the Air Quality Impact Analysis Report prepared by Michael Brandman and Associates on September 17, 2008 contains CO modeling was done for the City of Fresno's "Fresno 40" Project EIR (SCH# 2001021030, November 20. 2008), and included the intersections most severely impacted by the Project and accounted for anticipated traffic counts from the Project in the cumulative condition.

Therefore, the CALINE4 model that was run for the Fresno 40 project provides sufficient information for the Project CO concentration analysis. The following table provides the results from the CALINE analysis for the Fresno 40 project, which included traffic counts associated with buildout of the Friant Ranch project:

Fresno 40 Project
CO Concentrations

Intersection	1 Hour Estimated CO Concentration (ppm)*		8 Hour Estimated CO Concentration (ppm)**		Significant Impact?***
	2010	2030	2010	2030	
N. Friant Road/E. Shepherd Avenue	6.8	4.4	4.8	3.1	No
N. Friant Road/E. Audubon Drive	7.1	7.1	5.0	2.9	No
N. Friant Road/N. Fresno Street	6.9	4.5	4.8	3.1	No
N. Herndon Avenue/SR-41 NB off-ramp	6.9	4.2	4.8	2.9	No
N. Friant Road/SR-41 NB off-ramp	6.6	4.4	4.6	3.1	No
N. Blackstone Avenue/N. Van Ness Avenue	6.1	4.2	4.3	2.9	No
N. Fresno Street/N. Van Ness Avenue	5.6	4.2	3.9	2.9	No

Notes:
* Caline4 output (see Appendix B for model output) plus the 1-hour background concentration of 3.30 ppm (CARB 2008).
* The 8-hour project increment was calculated by multiplying the 1-hour Caline4 output by 0.7 (persistence factor), then adding the 8 hour background concentration of 2.3 ppm (CARB 2008).
*** Comparison of the 1-hour concentration to the state standard of 20 ppm and the 8-hour concentration to the state/national standard of 9 ppm.
Source: Michael Brandman Associates, 2008.

The Project produces the greatest impact (in terms of AM and PM Peak Hour traffic) at the intersection of Friant Road and Audubon Drive (see traffic counts shown in Appendix D of DEIR). According to the table above, the CO concentration at this intersection is not projected to be significant under the regional cumulative condition including Friant Ranch traffic). Consistent with the Caltrans guidance referenced above, since CO concentrations at the most severely impacted intersection do not create significant impacts or exceed applicable concentration limits, it is not necessary to conduct additional analyses for intersections less

impacted by traffic anticipated in the Project's cumulative condition. Therefore, there is no significant impact regarding CO concentrations from the Friant Ranch project and no further analysis is required.

Comment 19.25: *Furthermore, under CEQA, the EIR must disclose the human health related effects of the Project's air pollution impacts. (CEQA Guidelines section 15126.2(a).) The EIR fails completely in this area. The EIR should be revised to disclose and determine the significance of TAC impacts, and of human health risks due to exposure to Project-related air emissions.*

Response 19.25: Health Risk Assessments are typically prepared for inclusion in development specific project EIRs when certain types of development commonly known to have the potential to result in a human health risk are being proposed (automobile fueling stations and certain types of manufacturing facilities for example). Due to the broad nature of the planning approvals analyzed in this EIR, it is not possible to conduct a human health risk assessment based on specific proposed uses at specific locations within the boundaries of the Project Area because such specific information has not been determined. However, the DEIR does provide a general discussion of adverse health effects associated with certain development related pollutants such as ozone (DEIR page 3-35 fourth paragraph), particulate matter (DEIR page 3-36 fourth paragraph), carbon monoxide (page 3-37 fourth paragraph), nitrogen dioxide (DEIR page 3-37 sixth paragraph) and sulfur dioxide (DEIR page 3-38 second paragraph).

Comment 19.26: *An EIR is required to evaluate all foreseeable project activities and impacts, including both direct and indirect environmental effects of a Project. The EIR identifies the Project as having a growth-inducing impact, particularly on the area covered by the existing Friant Community Plan. In fact, a key objective of the Project is the "revitalization" of the existing Friant Community. Yet the EIR categorically excludes any evaluation of air quality impacts which will occur. In the Community Plan area outside the Friant Ranch Specific Plan Area and the Depot Parcel. (See DEIR page 3-40.) This refusal to evaluate the foreseeable air quality impacts of the Project's "revitalization" of the existing Friant Community is a failure to evaluate a foreseeable environmental impact of the Project, and is fatal to the EIR.*

Response 19.26: The Friant Community Plan Update does not propose any changes to land use designations for lands other than those within the Friant Ranch Specific Plan area and the Depot Parcel. The Community Plan area outside of the Friant Ranch Specific Plan Area, with exception of the Depot Parcel project, was analyzed at a programmatic level because no development is presently proposed for those parcels and there exists uncertainty about the timing of construction of future projects. Future development within the Community Plan will be subject to additional air quality analysis at the time individual projects are proposed.

Comment 19.27: *Impact area 3.3-1 purports to identify construction impacts related to a number of criteria pollutants, as well as particulate matter (PM_{10}) and Fine Particulate Matter ($PM_{2.5}$.) Yet, in fact, the Air Quality chapter contains no disclosure, discussion, or significance determinations related to Project-related $PM_{2.5}$. The EIR must be revised to provide analysis of $PM_{2.5}$ impacts.*

Response 19.27: Tables 3.3-3 through 3.3-8 of the DEIR are amended as follows to add a column summarizing the anticipated $PM_{2.5}$ emissions resulting from Project construction as set forth in Appendix C of the DEIR. Table 3.3-12 of the DEIR is amended as shown in Response 19.37 to add a column summarizing the anticipated $PM_{2.5}$ emissions resulting from Project operations as set forth in Appendix C of the DEIR. The SJVAPCD has not established a significance threshold for $PM_{2.5}$ or a method for evaluating impacts associated with emissions of $PM_{2.5.}$ However, because project-generated construction and operation related emissions of $PM_{2.5,}$ by definition, would be a subset of PM_{10} emissions, SJVAPCD-recommended methodologies and mitigation measures for PM_{10} would also be relevant to emissions of $PM_{2.5..}$ As discussed in Response 10.3 above, according to the SJVAPCD, construction related impacts from fugitive dust are assumed to be less than significant when compliance with Regulation VIII and SJVAPCD Enhanced and Additional Control Measures are implemented as appropriate. A discussion regarding $PM_{2.5.}$ and its relation to PM_{10} is included in the DEIR page 3-36. As explained therein, the types of impacts, particularly human health impacts, related to $PM_{2.5}$ are the same as those expected to occur with PM_{10} emissions. Although, as noted at page 3-36, $PM_{2.5}$ poses an increased health risk because the particles can deposit deep in the lungs and contain substances that are particularly harmful to human health. As stated at page 3-57 of the DEIR, the anticipated Project-generated, operational emissions of ROG, NOx, and Particulate Matter emissions will result in a ***significant and unavoidable impact*** to air quality.

Table 3.3-3
Construction Equipment Exhaust Emissions (Tons/Year): Phase 1

	ROG	NOx	CO	SO_2	PM_{10}	$\underline{PM_{2.5}}$
Unmitigated Conditions						
Year 2010	0.86	5.23	8.9	0.01	15.34	<u>3.34</u>
Year 2011	0.85	4.6	10.76	0.01	0.33	<u>.27</u>
Year 2012	6.25	4.57	10.30	0.01	0.33	<u>.27</u>
Total	**7.96**	**14.4**	**29.96**	**0.03**	**16**	**<u>3.88</u>**
Mitigated Conditions (Option 2)						
Year 2010	0.86	3.5	8.9	0.01	15.21	<u>3.14</u>
Year 2011	0.85	3.47	10.76	0.01	0.22	<u>.22</u>
Year 2012	3.82	3.39	10.30	0.01	0.23	<u>.22</u>
Total	**5.53**	**10.36**	**29.96**	**0.03**	**15.66**	**<u>3.58</u>**

Source: URBEMIS v.9.2.4
ROG = Reactive Organic Gases; NOx = Nitrogen Oxides; CO = Carbon Monoxide; SO_2=Sulfur Dioxide
PM_{10} = Particulate Matter, 10 Microns<u>; $PM_{2.5}$ = Particulate Matter, 2.5 Microns</u>

Table 3.3-4
Construction Equipment Exhaust Emissions (Tons/Year): Phase 2

	ROG	NOx	CO	SO_2	PM_{10}	$PM_{2.5}$
Unmitigated Conditions						
Year 2011	1.23	8.24	12.92	0.01	45.38	9.78
Year 2012	1.02	5.07	16.97	0.02	0.38	.30
Year 2013	0.93	4.63	15.61	0.02	0.35	.27
Year 2014	11.42	4.66	14.79	0.02	0.36	.28
Year 2015	0	0.01	0.05	0	0	0
Total	**14.6**	**22.61**	**60.34**	**0.07**	**46.47**	**10.64**
Mitigated Conditions (Option 2)						
Year 2011	1.23	4.93	12.92	0.01	45.2	9.78
Year 2012	1.02	3.77	16.97	0.02	0.29	.30
Year 2013	0.93	3.41	15.61	0.02	0.27	.27
Year 2014	6.72	3.37	14.79	0.01	0.27	.28
Year 2015	0	0.01	0.05	0	0	0
Total	**9.9**	**15.49**	**60.34**	**0.06**	**46.03**	**10.64**

Source: URBEMIS v.9.2.4
ROG = Reactive Organic Gases; NOx = Nitrogen Oxides; CO = Carbon Monoxide; SO_2=Sulfur Dioxide
PM_{10} = Particulate Matter, 10 Microns; $PM_{2.5}$ = Particulate Matter, 2.5 Microns

Table 3.3-5
Construction Equipment Exhaust Emissions (Tons/Year): Phase 3

	ROG	NOx	CO	SO_2	PM_{10}	$PM_{2.5}$
Unmitigated Conditions						
Year 2013	0.87	5.47	9.23	0.01	23.63	5.15
Year 2014	0.71	3.64	10.54	0.01	0.27	.21
Year 2015	8.35	3.6	10.04	0.01	0.28	.22
Year 2016	0	0.01	0.03	0	0	0
Total	**9.93**	**12.72**	**29.84**	**0.03**	**24.18**	**5.58**
Mitigated below Threshold (Option ~~1~~2)						
Year 2013	0.87	4.16	9.23	0.01	23.63	5.03
Year 2014	0.71	2.9	10.54	0.01	0.2	.15
Year 2015	8.35	2.86	10.04	0.01	0.2	.15
Year 2016	0	0.01	0.03	0	0	0
Total	**9.93**	**9.93**	**29.84**	**0.03**	**24.03**	**5.33**

ROG = Reactive Organic Gases; NOx = Nitrogen Oxides; CO = Carbon Monoxide; SO_2=Sulfur Dioxide
PM_{10} = Particulate Matter, 10 Microns; $PM_{2.5}$ = Particulate Matter, 2.5 Microns
Source: URBEMIS v.9.2.4

Table 3.3-6
Construction Equipment Exhaust Emissions (Tons/Year): Phase 4

	ROG	NOx	CO	SO_2	PM_{10}	$PM_{2.5}$
Unmitigated Conditions						
Year 2015	0.78	4.77	9.18	0.01	28.49	6.13
Year 2016	0.64	3.22	10.67	0.02	0.26	.19
Year 2017	10.19	3.17	10.15	0.02	0.26	.19
Total	**11.61**	**11.16**	**30**	**0.05**	**29.01**	**6.51**
Mitigated below Threshold (Option ~~1~~2)						
Year 2015	0.78	4.2	9.18	0.01	28.49	6.04
Year 2016	0.64	2.93	10.67	0.02	0.2	.14
Year 2017	8.29	2.85	10.15	0.02	0.2	.14
Total	**9.71**	**9.98**	**30**	**0.05**	**28.89**	**6.32**

ROG = Reactive Organic Gases; NOx = Nitrogen Oxides; CO = Carbon Monoxide; SO_2=Sulfur Dioxide
PM_{10} = Particulate Matter, 10 Microns; $PM_{2.5}$ = Particulate Matter, 2.5 Microns
Source: URBEMIS v.9.2.4

Table 3.3-7
Construction Equipment Exhaust Emissions (Tons/Year): Phase 5

	ROG	NOx	CO	SO_2	PM_{10}	$PM_{2.5}$
Unmitigated Conditions						
Year 2017	0.62	3.79	6.94	0.01	22.81	4.90
Year 2018	0.48	2.45	7.79	0.01	0.2	.15
Year 2019	8.26	2.45	7.55	0.01	0.2	.15
Year 2020	0	0.1	0.03	0	0	0
Total	**9.36**	**8.79**	**22.31**	**0.03**	**23.21**	**5.20**
Mitigated below ~~Conditions~~ Threshold (Option 2)						
Year 2017	0.62	2.24	6.94	0.01	22.73	4.83
Year 2018	0.48	1.65	7.79	0.01	0.16	.11
Year 2019	4.77	1.63	7.55	0.01	0.16	.11
Year 2020	0	0.01	0.03	0	0	0
Total	**5.87**	**5.53**	**22.31**	**0.03**	**23.05**	**5.05**

ROG = Reactive Organic Gases; NOx = Nitrogen Oxides; CO = Carbon Monoxide; SO_2=Sulfur Dioxide
PM_{10} = Particulate Matter, 10 Microns; $PM_{2.5}$ = Particulate Matter, 2.5 Microns
Source: URBEMIS v.9.2.4

Table 3.3-8
Construction Equipment Exhaust Emissions (Tons/Year): Depot Parcel

	ROG	NOx	CO	SO_2	PM_{10}	$PM_{2.5}$
Unmitigated Conditions						
Year 2020	0.02	0.15	0.13	0	0.21	.05
Year 2021	0.81	0.37	0.52	0	0.08	.03
Year 2022	0.01	0.04	0.05	0	0	0
Total	**0.84**	**0.56**	**0.7**	**0**	**0.29**	**.08**

ROG = Reactive Organic Gases; NOx = Nitrogen Oxides; CO = Carbon Monoxide; SO_2=Sulfur Dioxide
PM_{10} = Particulate Matter, 10 Microns; $PM_{2.5}$ = Particulate Matter, 2.5 Microns

Comment 19.28: *The EIR's discussion of construction and operational air emissions identifies a significant impact as (inter alia) a violation of SJVAPCD emissions standards. The EIR sets out the federal and state ambient (concentration) thresholds for various pollutants in Table 3.3-1, but does not present the emissions thresholds for CO, ROG, NOx, PM_{l0} or PM $_{2.5}$. The EIR should be revised to provide that information.*

Response 19.28: The SJVAPCD thresholds for ROG and NOx are found at page 3-40 of the DEIR as shown below. Page 3-40 is amended as follows to provide SJVAPCD emission thresholds for CO, PM_{l0}, and PM $_{2.5}$:

> The following thresholds of significant are based on the quantitative and qualitative criteria recommended by SJVAPCD. For purposes of this EIR, the Project would have significant adverse air quality impacts if it would do any of the following:
>
> - Projects that emit ozone precursor (ROG and NOx) air pollutants in excess of 10 tons/year;
>
> - Projects that emit CO air pollutants in excess of 9 parts per million (ppm) averaged over 8 hours and 20 ppm for 1 hour;
>
> - Projects that emit PM_{10} air pollutants in excess of 15 tons/year (no standard for $PM_{2.5)}$ and do not incorporate into project design or implement during project construction all dust (PM_{10} and $PM_{2.5}$) control measures in compliance with the requirements of Regulation VIII-Fugitive Dust Prohibition and implementation of all other appropriate SJVAPCD recommended control measures (set forth in Tables 3.3-9, 3.3-10, and 3.3-11 herein);
>
> - Any project with the potential to expose sensitive receptors or the general public to substantial levels of toxic air contaminants; and
>
> - Any odor impacts to local residents and/or complaints from neighbors

Comment 19.29: *The EIR's discussion of construction emissions understates and conceals Project impacts by artificially breaking construction of the Project into five discrete "phases" which are each discussed in a vacuum, without reference to contemporaneous construction emissions from other "phases." For example, by disclosing and evaluating the air emissions associated with "phase 1" (2010 – 2012) separately from "phase 2" (2011 – 2015), the EIR fails to disclose the total construction emissions that will occur during the years when phases 1 and 2 are both occurring (2011 and 2012).*

Response 19.29: The comment regarding phase overlap emissions analysis is noted, but does not affect the DEIR's analysis of the magnitude of impacts of, or the necessary mitigation measures, for construction-related air emissions.

In order to provide a realistic analysis of the likely emissions that will result from construction of the Project over its anticipated 10-year buildout, the air quality analysis summarized in section 3.3 started with an identification of a reasonably foreseeable construction schedule. It is common knowledge that master planned development such as that proposed within the Friant Ranch Specific Plan is constructed over a period of years and that it is not reasonably foreseeable for all of the units to be constructed in a short period of time. As such, to estimate expected emissions at any given time, the air quality analysis applied the phases described in Table 2-2 at page 2-19 of the DEIR to estimate the potential emissions that may result from the Project. Table 2-2 explains the likely "overlap" referred to be commenter by and through the second to last row in the table, entitled "Total". Page 2-19 further explains that: "Phases may occur in any sequence and concurrently with one another…." For example, in year 2, Table 2-2 identifies that the "Total" units to be constructed is 300 units. This number includes the 200 anticipated Phase 1 units and the additional 100 anticipated Phase 2 units to be constructed during Year 2. Notably, the "Total" units to be constructed in any given year never exceeds the total number of units expected for any given phase.

Section 3.3 of the DEIR summarizes the URBEMIS modeling for the Project construction emissions in Tables 3.3-3 through 3.3-8. In order to assess the overall significance of construction impacts associated with ROG, NOx, CO, SO_2, PM_{10}, and $PM_{2.5}$ emissions, the DEIR broke the data up into the phases identified in Table 2-2. The analysis concluded that the Specific Plan will have significant and unavoidable impacts to air quality because, even with mitigation, the total amount of emissions anticipated for entire phases (expected to occur over a period of years) would exceed the applicable annual significance threshold. For example, in analyzing Phase 2 of the Specific Plan, the DEIR analyzed the combined emissions of anticipated construction for Phase 2 (which would occur during the years 2011 through 2015) and applied the "Total" emissions anticipated during those years as a result of Phase 2 development to determine whether the annual emission thresholds were exceeded. During Phase 2, the annual NOx standard of 10 tons/year would not be exceeded in any given year, however, the total of Phase 2 emissions exceeds the annual standard. As such, though the DEIR showed the expected annual emissions, the DEIR compared the total emissions from any given phase against the applicable annual emissions standard. This provides a worst-case analysis that assumes the entire phase was built in a single year, which is not contemplated.

Had the analysis contained in the DEIR not conducted such a phased analysis, but rather provided a year-by-year analysis (accounting for projected emissions from any phase in any given year), the resultant impacts would have been determined to be less than significant on a year-by-year basis. For example, isolating year 2015 (which between the anticipated Phase 2, 3 and 4 emissions in that year had the highest total ROG – 9.13 and a high NOx – 7.07), the determination would have been that construction during that year did not exceed any ROG or NOx thresholds and the impact would have been less than significant. However, since the project is not going to be completed in one year, and it is difficult to precisely predict the amount of development in any given year, project activity was divided into phases based on typical construction of large-scale mixed-use developments and assumptions of future market conditions, demand, infrastructure requirements to provide the most likely scenario of future project activity, based on available information.

Moreover, this conservative analysis assumes more units constructed in an individual year than would be expected under the "overlap" condition described by commenter. As noted above, Table 2-2 estimates that Phase 2 would involve the greatest number of units in any phase—781 units--- and (accounting for "overlap"), Year 5 would involve the greatest number of units in any given year—405 units. Accordingly, the DEIR's application of annual thresholds to the multi-year Phase 2 construction of 781 units analyzes a construction situation that nearly doubles the potential worst-case "overlap" year described by commenter.

For the reasons described above, based on the reasonable assumptions about Project phasing in Table 2-2 and the URBEMIS analysis based on that table, the DEIR air quality analysis thus accounted for likely overlap and the reasonably foreseeable worst-case construction emissions.

In sum, the DEIR found that the Specific Plan development would result in a significant impact from short-term construction-related emissions of criteria air pollutants. Though a less than significance for any given individual phase as analyzed is informative, it does not override the fact that overall, the Project will result in a significant impact due to construction emissions. The DEIR has been revised at page 3-51 to clarify this overall significance determination for the reader.

> **Conclusion:** Project-generated, construction related emissions of criteria air pollutants will result in ***significant and unavoidable*** impacts on air quality. Even after application of all feasible mitigation measures, construction related emissions of ROG and NOx emissions would exceed SJVAPCD's significance threshold of 10 tons per year. With respect to construction-related emissions of PM_{10} and $PM_{2.5}$, the Project must adhere to the Regulation VIII-Fugitive Dust Prohibition and Mitigation Measures 3.3.1a, 3.3.1b, 3.3.1c, 3.3.1d, and 3.3.1e which require implementation of SJVAPCD-recommended control measures beyond compliance with Regulation VIII-Fugitive Dust Prohibition. As such, the potentially significant impacts from construction-related emissions of PM_{10} and $PM_{2.5}$ that could occur without the implementation of any dust control measures would be reduced to less than significant.

Comment 19.30: *The same is true for 2013 - 2014 (when phases 2 and 3 will overlap), 2015 (when phases 2, 3 and 4 will overlap) 2016 (when phases 3 and 4 will overlap) 2017 (when*

phases 4 and 5 will overlap) and 2020 (when phase 5 will overlap with construction of shopping center on the Deport Parcel). By segmenting construction of the Project in this manner, the EIR conceals the total level of emissions that will result from Project construction in the years in which phases overlap, and thereby substantially under-reports the Project's significant construction emissions impacts.

Response 19.30: See Response 19.29 above.

Comment 19.31: *This segmentation furthermore calls into question the EIR's determination that construction emissions under phases 3 and 4 will be less than significant, since construction emissions under both of those phases will overlap with significant construction emissions impacts under phase 2. The EIR must be revised to disclose and determine the significance of all contemporaneously occurring Project-related construction emissions.*

Response 19.31: See Response 19.29.

Comment 19.32: *Finally, the EIR must be revised to disclose and determine the significance of the Project's total air emissions, in years when Project construction emissions overlap with Project operational emissions.*

Response 19.32: The Friant Ranch Specific Plan development is estimated to build out over a 10-year period. As explained in the Draft EIR (page 2-19), project phasing is conceptual only; the actual phasing may vary from that identified in DEIR Table 2-2, which sets forth the potential phasing of Project construction. While the DEIR explained that construction phases may occur in any sequence and concurrently with one another, the EIR emissions calculations did not account for the combined emissions that could occur as a result of concurrent construction and operation. This approach is consistent with the San Joaquin Valley Air Pollution Control District's *Guide for Assessing and Mitigating Air Quality Impacts,* which at page 44 (section 5.5) "recommends separating emissions occurring in the construction phase of a project from emissions occurring in the operational phase for analysis purposes. The reason for this separation is that construction produces only temporary impacts while the operational phase will produce emissions indefinitely into the future. Although construction activities can produce substantial emissions and can represent a significant air quality impact, the effect is not permanent."

It is possible to calculate the hypothetical combined emissions for any given year in which there could be overlap between construction and operations. However, that exercise would not provide meaningful information that would substantially enhance the understanding of the Project's potential air quality effects, nor would these calculations result in information that would change any of the significance determinations in the DEIR, for several reasons. First, it is not possible to accurately predict the emissions that might occur in any given year in which construction and operational activities may overlap, because construction activity varies considerably due to seasonal and other factors and not all uses become fully active at once (i.e., not all homes become occupied, or commercial uses open). Second, the DEIR identified impacts from operational emissions each as significant and unavoidable for all constituents even after implementation of all available mitigation. (See DEIR at p. 3-59.) The DEIR also anticipated

impacts from construction emissions as significant and unavoidable. The levels of mitigated Project emissions from construction are very low compared to the mitigated operational emissions, such that the combined effect of overlapping construction and operation emissions would not result in a new or substantially more severe air quality impacts than those identified in the DEIR, including the assessment of the Project's contribution to cumulative air quality impacts (see DEIR page 5-9).

For example, as shown on DEIR page 3-51, maximum operational emissions are estimated as 110 tons per year for ROG, 810 tons per year for CO, 1.6 tons for SO_2, 102 tons per year for NOX and 117 tons per year for PM_{10}, and 45 tons per year for $PM_{2.5}$. By contrast, maximum mitigated construction emissions for the fourth year of project buildout (year 2014 in Phases 2) are 6.72 tons for ROG, 14.79 tons for CO, 0.01 for SO_2, 3.37 tons for NOx, 0.27 tons for PM_{10}, and 0.28 tons for $PM_{2.5}$. The increase in total emissions from adding construction and operational effects is minor, especially considered in light of the San Joaquin Valley Air Pollution Control District thresholds of significance for emissions, such as those for ROG and NOx, which are 10 tons per year for each constituent, and the combined levels would not change the determination about the significance of project emissions (which the DEIR concluded are significant and unavoidable) nor would it result in substantially more severe air quality impact than those identified in the DEIR.

Comment 19.33: *Phase 1 construction emissions are determined to be significant and unavoidable, even after the application of Option 2 (enhanced mitigation) measures. Yet the mitigation described in the EIR for Phase 1 construction impacts requires "[u]se of diesel oxidation catalysts capable of a 15% - 40% reduction in NOx emissions on all diesel equipment." In light of the significance of this impact, a mitigation measure which allows such a broad range of emission reductions is insufficient. Unless and until the impact is reduced to less than significant, CEQA requires the County to impose all feasible mitigation. This mitigation measure must be revised to require the maximum feasible (40%) reduction. In NOx (and other significant criteria pollutant) emissions.*

Response 19.33: See Response 19.35 for amended text for Mitigation Measures #3.3.1a, #3.3.1b, #3.3.1c, #3.3.1d, and #3.3.1e, which clarifies that a 40% reduction in NOx emissions is required for all diesel equipment used in construction (with the exception of cranes and forklifts, which require a 15% reduction).

Comment 19.34: *The EIR must also determine, on the basis of substantial evidence, that no additional feasible mitigation measures would further reduce or avoid the Project's air quality impacts which remain significant after imposition of the EIR's recommended mitigation measures. For example, the EIR must evaluate the feasibility of mitigating significant construction emissions impacts by requiring:*

1) *all heavy-duty diesel trucks to comply with EPA on-road PM emissions standards and be equipped with Best Available Control Technology (BACT) devises certified by CARB.*

2) *Idling restrictions (maximum 5 minutes) on construction equipment, when not in use.*

3) *Construction equipment to incorporate, where feasible, emissions-savings technology such as hybrid drives and specific fuel economy standards.*

4) *"Other Construction Equipment Mitigation Measures," as listed in EIR Table 3.3-11. Since SJVAPCD requires the mitigation measures listed in Table 3.3-11 for significant construction-related air quality impacts, the EIR is deficient for not imposing them on significant Project construction emissions impacts.*

Response 19.34: See Response 19.35 for amended text for Mitigation Measures #3.3.1a, #3.3.1b, #3.3.1c, #3.3.1d, and #3.3.1e, clarifying that additional control measures identified in the DEIR shall be implemented to further reduce Project air quality impacts.

Comment 19.35: *EIR Table 3.3-10 additionally lists "Enhanced [PM] Control Measures" which "should be implemented at construction sites when required to mitigate significant PM_{10} impacts." Yet EIR Table 1-1 does not list any of these "enhanced" control measures as being imposed on Project construction -even for significant PM impacts. These "enhanced" PM control measures must be imposed on Project construction.*

Response 19.35: Mitigation Measures #3.3.1a, #3.3.1b, #3.3.1c, #3.3.1d, and #3.3.1e are amended as follows to clarify that the additional control measures identified in the DEIR shall be implemented as mitigation measures to further reduce the potentially significant impacts from construction-related emissions of PM_{10} and $PM_{2.5}$ that would occur without the implementation of any dust control measures:

> **Mitigation Measures #3.3.1a:** To reduce emissions and thus reduce air quality impacts, the following Option 2 (enhanced mitigation) measures shall be implemented for Phase 1:
>
> 1. The use of aqueous diesel fuel for the construction vehicles.
>
> 2. Use of diesel oxidation catalysts capable of a ~~15% –~~ 40% reduction in NOx emissions on all diesel equipment <u>with the exception of cranes and forklifts which will require a 15% reduction in accordance with URBEMIS 9.2.4 (see Appendix C.)</u>
>
> 3. Use of low-volatile organic compound paints capable of reducing ROG emissions by 45% compared to existing architectural coating rules.
>
> 4. <u>All heavy-duty diesel trucks shall comply with EPA on-road PM emissions standards and be equipped with Best Available Control Technology (BACT) devices certified by CARB.</u>
>
> 5. <u>Idling restrictions (maximum 5 minutes) shall apply to construction equipment, when not in use.</u>

6. Construction equipment shall incorporate, where feasible, emissions-savings technology such as hybrid drives and specific fuel economy standards.

7. Use of alternative fueled or catalyst equipped diesel construction equipment.

8. Operation of heavy duty equipment and/or the amount of equipment in use shall be limited to the minimum number of hours practicable each day.

9. To the extent practicable fossil-fueled construction equipment shall be replaced with electrically driven equivalents (provided they are not run via a portable generator set).

10. Construction activities shall be curtailed during periods of high ambient pollutant concentrations; this may include ceasing of construction activity during the peak-hour of vehicular traffic on adjacent roadways.

11. Construction activity management shall be implemented as practicable (e.g., rescheduling activities to reduce short-term impacts).

12. During construction activity, traffic speeds on unpaved roads shall be limited to 15 mph.

13. During construction activity, sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.

14. During construction activity, wheel washers shall be installed for all exiting trucks, or wash off all trucks and equipment leaving the site.

15. During construction activity, wind breaks shall be installed at windward side(s) of construction areas.

16. During construction activity, excavation and grading activity shall be suspended when winds exceed 20 mph.

17. During construction activity, areas subject to excavation, grading, and other construction activity shall be limited at any one time.

Mitigation Measures #3.3.1b: To reduce emissions and thus reduce air quality impacts, the following Option 2 (enhanced mitigation) measures shall be implemented for Phase 2:

1. The use of aqueous diesel fuel for the construction vehicles.

2. Use of diesel oxidation catalysts capable of a ~~15% –~~ 40% reduction in NOx emissions on all diesel equipment with the exception of cranes and forklifts

which will require a 15% reduction in accordance with URBEMIS 9.2.4 (see Appendix C.)

3. Use of low-volatile organic compound paints capable of reducing ROG emissions by 45% compared to existing architectural coating rules.

4. All heavy-duty diesel trucks shall comply with EPA on-road PM emissions standards and be equipped with Best Available Control Technology (BACT) devices certified by CARB.

5. Idling restrictions (maximum 5 minutes) shall apply to construction equipment, when not in use.

6. Construction equipment shall incorporate, where feasible, emissions-savings technology such as hybrid drives and specific fuel economy standards.

7. Use of alternative fueled or catalyst equipped diesel construction equipment.

8. Operation of heavy duty equipment and/or the amount of equipment in use shall be limited to the minimum number of hours practicable each day.

9. To the extent practicable fossil-fueled construction equipment shall be replaced with electrically driven equivalents (provided they are not run via a portable generator set).

10. Construction activities shall be curtailed during periods of high ambient pollutant concentrations; this may include ceasing of construction activity during the peak-hour of vehicular traffic on adjacent roadways.

11. Construction activity management shall be implemented as practicable (e.g., rescheduling activities to reduce short-term impacts).

12. During construction activity, traffic speeds on unpaved roads shall be limited to 15 mph.

13. During construction activity, sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.

14. During construction activity, wheel washers shall be installed for all exiting trucks, or wash off all trucks and equipment leaving the site.

15. During construction activity, wind breaks shall be installed at windward side(s) of construction areas.

16. During construction activity, excavation and grading activity shall be suspended when winds exceed 20 mph.

17. During construction activity, areas subject to excavation, grading, and other construction activity shall be limited at any one time.

Mitigation Measures #3.3.1c: To reduce emissions and thus reduce air quality impacts, the following Option ~~1~~2 (enhanced mitigation) measures shall be implemented for Phase 3:

~~*Option 1 mitigation measures:*~~

1. The use of aqueous diesel fuel for the construction vehicles.

2. Use of diesel oxidation catalysts capable of a ~~15% –~~ 40% reduction in NOx emissions on all diesel equipment with the exception of cranes and forklifts which will require a 15% reduction in accordance with URBEMIS 9.2.4 (see Appendix C.)

3. Use of low-volatile organic compound paints capable of reducing ROG emissions by 45% compared to existing architectural coating rules.

4. All heavy-duty diesel trucks shall comply with EPA on-road PM emissions standards and be equipped with Best Available Control Technology (BACT) devices certified by CARB.

5. Idling restrictions (maximum 5 minutes) shall apply to construction equipment, when not in use.

6. Construction equipment shall incorporate, where feasible, emissions-savings technology such as hybrid drives and specific fuel economy standards.

7. Use of alternative fueled or catalyst equipped diesel construction equipment.

8. Operation of heavy duty equipment and/or the amount of equipment in use shall be limited to the minimum number of hours practicable each day.

9. To the extent practicable fossil-fueled construction equipment shall be replaced with electrically driven equivalents (provided they are not run via a portable generator set).

10. Construction activities shall be curtailed during periods of high ambient pollutant concentrations; this may include ceasing of construction activity during the peak-hour of vehicular traffic on adjacent roadways.

11. Construction activity management shall be implemented as practicable (e.g., rescheduling activities to reduce short-term impacts).

12. During construction activity, traffic speeds on unpaved roads shall be limited to 15 mph.

13. During construction activity, sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.

14. During construction activity, wheel washers shall be installed for all exiting trucks, or wash off all trucks and equipment leaving the site.

15. During construction activity, wind breaks shall be installed at windward side(s) of construction areas.

16. During construction activity, excavation and grading activity shall be suspended when winds exceed 20 mph.

17. During construction activity, areas subject to excavation, grading, and other construction activity shall be limited at any one time.

Effectiveness of Mitigation: Option ~~1~~2 mitigation measures are presented above and are required to reduce emissions of the construction phase to under the SJVAPCD threshold and will result in a ***less than significant impact with mitigation incorporated***.

Mitigation Measures #3.3.1d: To reduce emissions and thus reduce air quality impacts, the following Option ~~1~~2 (enhanced mitigation) measures shall be implemented for Phase 4:

~~*Option 1 mitigation measures:*~~

1. The use of aqueous diesel fuel for the construction vehicles.

2. Use of diesel oxidation catalysts capable of a ~~15% –~~ 40% reduction in NOx emissions on all diesel equipment with the exception of cranes and forklifts which will require a 15% reduction in accordance with URBEMIS 9.2.4 (see Appendix C.)

3. Use of low-volatile organic compound paints capable of reducing ROG emissions by 45% compared to existing architectural coating rules.

4. All heavy-duty diesel trucks shall comply with EPA on-road PM emissions standards and be equipped with Best Available Control Technology (BACT) devices certified by CARB.

5. Idling restrictions (maximum 5 minutes) shall apply to construction equipment, when not in use.

6. Construction equipment shall incorporate, where feasible, emissions-savings technology such as hybrid drives and specific fuel economy standards.

7. Use of alternative fueled or catalyst equipped diesel construction equipment.

8. Operation of heavy duty equipment and/or the amount of equipment in use shall be limited to the minimum number of hours practicable each day.

9. To the extent practicable fossil-fueled construction equipment shall be replaced with electrically driven equivalents (provided they are not run via a portable generator set).

10. Construction activities shall be curtailed during periods of high ambient pollutant concentrations; this may include ceasing of construction activity during the peak-hour of vehicular traffic on adjacent roadways.

11. Construction activity management shall be implemented as practicable (e.g., rescheduling activities to reduce short-term impacts).

12. During construction activity, traffic speeds on unpaved roads shall be limited to 15 mph.

13. During construction activity, sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.

14. During construction activity, wheel washers shall be installed for all exiting trucks, or wash off all trucks and equipment leaving the site.

15. During construction activity, wind breaks shall be installed at windward side(s) of construction areas.

16. During construction activity, excavation and grading activity shall be suspended when winds exceed 20 mph.

17. During construction activity, areas subject to excavation, grading, and other construction activity shall be limited at any one time.

Effectiveness of Mitigation: Option ~~1~~2 mitigation measures above will reduce construction exhaust emissions below the SJVAPCD thresholds for Phase 4 of the Project and will result in a ***less than significant impact with mitigation incorporated***.

Comment 19.36: *Table 3.3-10 furthermore identifies "Additional [PM] Control Measures," which are "strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reductions." The Project construction site is certainly large, and is likely located near sensitive receptors (although, as discussed above, the EIR provides no disclosure about potentially affected sensitive receptors). Yet Table 1-1 does not list any of these "additional" PM control measures as being imposed on Project construction, either. These "additional" PM control measures must also be imposed on the Project.*

Response 19.36: See Response 19.35 related to the additional PM control measures. See also Responses 19.22, 19.23, 19.24, and 19.25 related to sensitive receptors.

Comment 19.37: *Table 3.3-12 divides Project operations emissions into those under the Friant Ranch Specific Plan, and those under the Community Plan "outside the Friant Ranch Specific Plan." It is unclear from this table into which category the EIR places operational emissions from the Depot Parcel. The EIR elsewhere describes development of the Depot Parcel as included within the "project level" analysis which is afforded to the Specific Plan area. Yet 3.3-12 says that the Community Plan Area, outside the Friant Ranch Specific Plan Area, "includes the Depot Parcel." From this, it is unclear whether operational emissions from the Depot Parcel are being given general program level analysis or detailed project level analysis.*

Response 19.37: The Specific Plan and the Depot Parcel were given detailed project level analysis of both the construction emissions and operational/area emissions. The remainder of the Community Plan was not analyzed for construction emissions, but a hypothetical worst-case scenario programmatic level analysis for the operational/area emissions was analyzed. As specified in the DEIR text, when detailed individual projects are proposed within the Community Plan Area (outside of the Specific Plan and Depot Parcel) additional air quality analysis will be required. The following errata clarifies how the air quality emissions for the Specific Plan, Depot Parcel, and Community Plan were analyzed.

The Section 3.3.4 Impact Analysis text (DEIR page 3-40) has been amended as follows to clarify the category and type of emissions analyzed:

> The impact analysis is divided up into several sections ~~because portions of the project have proposed development and other portions do not have development proposed at this time.~~ to reflect that this EIR provides a project level analysis for the Friant Ranch Specific Plan and Depot Parcel and a programmatic level for the Community Plan Area outside of the Friant Ranch Specific Plan Area and excluding the Depot Parcel, for which no changes are proposed from the prior Community Plan and for which no specific development has been proposed. The analysis is broken up ~~into two different project areas and then further broken down into~~ between the short-term construction emissions and the long-term, ongoing area/operational ~~phases~~ emissions. ~~The two project areas are~~ The analysis considers construction impacts for the Friant Ranch Specific Plan Area and the Depot Parcel (but not the remainder of the Community Plan Area because there is no specific development presently proposed and no way to estimate anticipated

equipment or timing for any future construction at this stage of the programmatic analysis). The analysis considers operational/area emissions for the entire Project Area.~~and the Community Plan Update area outside of the Friant Ranch SP area.~~

This section identifies and discusses the environmental impacts resulting from the proposed project and suggests mitigation measures to reduce the level of impacts. The proposed plan will affect air quality during both construction and operational phases. Construction activities will result in criteria pollutant emissions through earthmoving activities, application of architectural coatings, and vehicle and equipment exhaust emissions. The proposed project operations would result in criteria pollutant emissions primarily from vehicular sources; however landscape maintenance equipment, residential heating sources, and other miscellaneous activities would also generate pollutant emissions.

This section will analyze the impacts from a local and regional standpoint. The section ~~will be quantifying~~ quantifies the construction emissions of the Specific Plan Area and Depot Parcel and relates the detailed project level effects to the significance criteria to determine the impact significance. The section also provides a hypothetical build out scenario for the Community Plan ~~Update~~ Area outside of the Friant Ranch ~~and~~ Specific Plan Area ~~conditions and relating the projects~~ through use of a worst-case scenario based on the greatest allowable uses allowed for the respective land use designations, and relates the effects of such scenario to the significance criteria to determine a worst case impact significance for operational/area emissions. Emissions that consist of mobile and stationary sources during construction and eventual operation were estimated using URBEMIS 2007, Version 9.2.4, (Rimpo and Associates, 2007). The Friant Ranch Specific Plan will be broken up into five separate phases, which will be evaluated accordingly. The construction will be evaluated and analyzed for the five different Specific Plan phases, since the project is not being completely built out all at once. The area and operational analysis will include an overall evaluation of the Specific Plan development in full operation. The Community Plan area outside of the Friant Ranch Specific Plan Area, with exception of the Depot Parcel project, is not being evaluated for construction emissions because no development is presently proposed for those parcels and there exists uncertainty about the equipment required for or timing of construction of future projects. A hypothetical build out scenario has been analyzed for the potential operational and area emissions based on the allowable uses under the land use designations at a general program level for the remainder of the Community Plan Area. Notably, the existing Community Plan designations for those parcels are not changing. Future development within the Community Plan Area (outside of the Specific Plan Area and the Depot Parcel) will be subject to additional detailed project level construction and operational/area air quality analysis at the time individual projects are proposed.

For clarification, Impact #3.3.2 (DEIR page 3-51) has been amended as follows:

Impact #3.3.2 – Violation of Air Quality Standards by Area and Operational Emissions
[Impact Evaluation Criteria (a), (b), (c), (d)]

Adoption of the proposed Community Plan Update and Friant Ranch Specific Plan will result in additional development and urbanization in the Friant Community, which would in turn increase criteria air pollutants in an area that is currently designated as a severe non-attainment area.

The URBEMIS software was used to estimate detailed project level area and operational emissions for the proposed Friant Ranch Specific Plan and Depot Parcel and to estimate general program level area and operational emissions for the future build-out of the ~~proposed~~ Community Plan Area (outside of the Specific Plan Area and Depot Parcel) (see Appendix C).

The results of the URBEMIS model for o~~O~~perational and Area emissions ~~at build-out under the proposed Community Plan~~ anticipated to result from the Project (reflecting the emissions anticipated for the entire Community Plan Area, including the Specific Plan Area and the Depot Parcel) are shown in Table 3.3-12. The Project emissions are estimated to be approximately 110 ~~107~~ tons per year for ROG, 810 ~~786~~ tons per year for CO, 1.6 ~~1.56~~ tons per year for SO_2, 102 ~~99~~ tons per year for NOx, ~~and~~ 117 ~~114~~ tons per year for PM_{10}, and 45 tons per year for $PM_{2.5}$.

Nearly all development projects in the San Joaquin Valley, from general plans to individual site plans, have the potential to generate pollutants that will reduce air quality or make it more difficult for state and national air quality standards to be attained. The SJVAPCD has prepared the GAMAQI and Air Quality Element Guidelines as advisory documents that provide Lead Agencies with uniform procedures for addressing air quality in environmental documents.

See the amended Table 3.3-12 on page 3-54 of the DEIR for clarification of the operational/area emissions:

Table 3.3-12
Air Quality Emissions in Tons/Year (Unmitigated)
Friant Ranch Specific Plan, and Friant Community Plan Remainder (Worst-Case Scenario for Future Build-Out)

	ROG	NOx	CO	SO_2	PM_{10}	$PM_{2.5}$
Friant Ranch Specific Plan 2020 Conditions						
Area	39.99	9.52	138.6	0.4	20.2	19.45
Operational	17.03	21.37	157.45	0.25	21.62	4.79
Total (A)	**57.02**	**30.89**	**296.05**	**0.65**	**41.82**	**24.24**

	ROG	NOx	CO	SO_2	PM_{10}	$PM_{2.5}$
Community Plan: Area outside Friant Specific Plan (includes Depot Parcel) Future Conditions						
Deport Parcel Only						
Area	0.10	0.13	0.25	0.00	0.00	0.00
Operational	2.18	3.53	24.65	0.04	3.66	0.81
Subtotal (B)	**2.28**	**3.66**	**24.90**	**0.04**	**3.66**	**0.81**
Community Plan Remainder						
Area	9.85	3.65	38.74	0.11	5.47	5.26
Operational	40.37	63.99	450.84	0.80	66.43	14.66
Subtotal (C)	**50.22**	**67.64**	**489.58**	**0.91**	**71.90**	**19.92**
Future Conditions (Depot Parcel + Community Plan Remainder)						
Area	9.95	3.78	38.99	0.11	5.47	5.26
Operational	42.55	67.52	475.49	0.84	70.09	15.47
Total (B+C)	**52.50**	**71.30**	**514.48**	**.95**	**75.56**	**20.73**
Project Total (A+B+C)	**~~190..52~~ 109.52**	**102.19**	**810.53**	**1.6**	**117.38**	**44.97**

Source: URBEMIS 9.2.4
*Note: Represents worst case scenario without any mitigation

Comment 19.38: *Furthermore, since the shopping center which is apparently proposed for the Depot Parcel is not described in any detail in the EIR, it is unclear how operational emissions from that shopping center were determined, or even whether the EIR included operation of the shopping center when it estimated the Project's operational emissions.*

Response 19.38: The Depot Parcel change of land use is described in Section 2.2 and 2.4 of the DEIR. Text on page 49 of the Traffic Impact Study (see Appendix D) describes how, under the proposed zoning and land use designations, the Depot Parcel could potentially be developed as up to 73,508 square feet of shopping center (assuming a 25-percent floor area ratio land use which is consistent with the Highway Commercial land use designation). Table 9.6 of the TIS then provides the trip generation volumes for use with the traffic and air quality analysis in the DEIR of the Depot Parcel.

Also, see Response 19.37 above for clarification of the operational emissions and errata changes to Table 3.3-12.

Comment 19.39: *The EIR identifies a significant and unavoidable impact from Project operational emissions. The EIR imposes mitigation measure 3.3-2, which contains a laundry list of measures. The description of mitigation measure 3.3-2 states an "intent" that some of these measures will be imposed "during review of future project-specific submittals for non-residential development," though only "where feasible and appropriate." Other measures are to be imposed "as determined by the County in consultation with the APCD," although it is unclear when such consultation will occur. Additionally, the mitigation measure provides that "the County and SJVAPCD may substitute different air pollution control measures for individual projects, which are equally effective or superior to" the measures listed in mitigation measure 3.3-2. However, it is entirely unclear how the County and SJVAPCD will determine whether a proposed substitute*

measure is equally or more effective, since the effectiveness of the measures listed in mitigation measure 3.2 is not quantified or even qualitatively described. This mitigation measure is entirely inadequate for the Project's significant operational emissions impacts - particularly with regard to the activities purportedly receiving project level analysis in this EIR. Mitigation measure 3.3-2 improperly defers committing to specific mitigation measures, without committing to achieve a definite quantity of impact reduction in the EIR. It is therefore not a valid mitigation measure under CEQA.

Response 19.39: Mitigation Measure #3.3.2 sets forth common control measures designed to reduce operational air quality emissions of the Project. However, the DEIR recognizes that these measures are not sufficient to reduce the operational impact of the Project to less than significant. The mitigation measure further recognizes that as subsequent project-level discretionary approvals are sought for proposed development within the Project Area, applicants will have to consult with the San Joaquin Valley Air Pollution Control District and comply with applicable requirements. For example, during the tentative map processing for any development within the Friant Ranch Specific Plan Area, the applicant will be required by State regulation to consult with the San Joaquin Valley Air Pollution Control District and comply with the District's Rule 9510 Indirect Source Rule. As explained in the San Joaquin Valley Air Pollution Control District's Comment 10.4 on the DEIR, the District's Rule 9510 requires the applicant to mitigate Project impacts through project design elements. As such, Mitigation Measure #3.3.2 does not foreclose the possibility of the San Joaquin Valley Air Pollution Control District imposing conflicting or alternative measures during said process. Mitigation Measure #3.3.2 does not defer analysis of mitigation measures, but rather identifies possible mitigation and discloses that as specific project details become known some of the available measures may need to be modified or changed.

Comment 19.40: *The EIR's analysis of Project odor impacts (Impact 3.3.3), while discussing relatively minor irritants such as barbeques, completely fails to address, or determine the significance of, odor impacts from the proposed wastewater treatment plant. This renders the odor impact analysis useless.*

Response 19.40: The potential odor impacts from the wastewater treatment plant were analyzed and mitigated in Chapter 3.14 of the DEIR. For clarification, Impact #3.3.3 (DEIR page 3-59) is amended as follows:

> **Impact #3.3.3 – Project could cause objectionable odors and the potential for odor complaints**
> **[Evaluation Criteria (e)]**
>
> Because offensive odors rarely cause any physical harm and no requirements for their control are included in state or federal air quality regulations, the SJVAPCD has no rules or standards related to odor emissions, other than its nuisance rule. Any actions related to odors are based on citizen complaints to local governments and the SJVAPCD.

Construction activity will require the operation of equipment which may generate exhaust from either gasoline or diesel fuel. Construction of new buildings will also require the application of architectural coatings and the paving of roads which would generate odors from materials such as paints and asphalt. These odors are of a temporary or short-term nature and quickly disperse into the surrounding atmosphere.

Future residential development will also involve minor, odor-generating activities, such as backyard barbeque smoke, garden equipment exhaust, and the application of exterior paint for home improvement activities. These types of odors are typical of most residential communities and are not considered significant generators of odor impacts.

As discussed at page 3-364 of the DEIR, "[i]n accordance with requirements set forth in the Friant Ranch Infrastructure Master Plan, the [proposed wastewater treatment] plant shall incorporate an aerated biological process known as a Membrane Bio-reactor (MBR) design, satisfactory to the Regional Water Quality Control Board and other jurisdictional agencies. That process will be fully enclosed within a building, facilitating odor control and reducing the aesthetic impacts of the treatment facility upon the surrounding developed area." The MBR treatment plant is a robust wastewater treatment facility with features designed to provide reliable and efficient wastewater treatment and reclamation. Unlike older, less efficient odor producing wastewater treatment plants, the MBR systems have minimal impact because they minimize odor through covered headworks and treatment basins and produce treated wastewater that meets stringent discharge requirements. Further, as discussed at page 3-368 of the DEIR, "The design plans for the WWTP will incorporate appropriate and cost-effective odor and noise reduction measures, to the satisfaction of Fresno County; [t]he WWTP will be located at the northwesterly corner of the Specific Plan area, separated from residential development by both roads and open spaces, to minimize both the aesthetic impacts of the treatment facility and the potential for odor impacts within the Project; and [t]he design of the WWTP will minimize production of odor by enclosing most odor sources and providing careful control of the process to maximize treatment efficiencies and minimize the chances of odor or process upset[; and] [d]etailed designs will be brought forward for review by County and RWQCB staff subsequent to Project entitlement." Mitigation Measure #3.14.3g of the EIR requires that the design plans for the WWTP incorporate appropriate and cost-effective odor and noise reduction measures, to the satisfaction of the Fresno County Planning and Public Works Departments, prior to issuance of the conditional use permit for the wastewater treatment plant.

The proposed plant will be located in an area that is buffered from planned residential areas. Further, even if the proposed MBR treatment plant is located within the windshed of proposed residences, the technology employed in the design and operation of the proposed on-site MBR treatment plant will result in

minimal odor release into the atmosphere as there will be no odor generating exposed treatment processes at the plant.

Additionally, the proposed wastewater treatment system will be subject to review and permit approval by the Regional Water Quality Control Board (RWQCB). Should the RWQCB find it necessary to require odor scrubbers, the applicant will be required to install them at the facility.

Conclusion: The Project will not cause objectionable odors or related complaints. The majority of the odors resulting from the project area will be temporary or short-term and will not be a permanent nuisance. ~~therefore, the impact is considered ***less than significant***.~~ Furthermore, the use of the closed MBR treatment plant and compliance with the requirements of Mitigation Measure #3.14.3g of this EIR as well as any necessary RWQCB requirements pertaining to the reduction of odor will result in a ***less than significant*** impact.

Mitigation Measure: No mitigation measures are required.

Comment 19.41: ***Chapter 3.4 Biological Resources***

Despite the numerous significant impacts on biological impacts documented in the EIR, it concludes that all impacts can be mitigated to less than significant. This conclusion is not supported for the vast majority of the impacted biological resources. As explained in more detail below, many of the mitigation measures lack detail and definiteness to determine how they will be implemented and their effectiveness. Others constitute deferred mitigation by requiring only the future development of certain "plans" without identifying elements of the plans or standards they must meet.

Response 19.41: Comments 19.41 and 19.42 are introductory in nature and do not refer to specific impacts or mitigation measures such that meaningful responses can be provided. Since more specific comments that appear to relate to Comments 19.41 and 19.42 are made later in his letter, specific responses will be made later in this document. (See Responses 19.43, 19.47, 19.48, 19.50, 19.51 and 19.53)

Comment 19.42: *Also, preservation of existing resources does not mitigate for the loss of resources. Only creation or restoration of resources to replace those lost constitutes mitigation under CEQA. Overall, the Project will result in many significant and unavoidable impacts on biological impacts that were improperly identified as less than significant with mitigation in the EIR.*

Response 19.42: Comments 19.41 and 19.42 are introductory in nature and do not refer to specific impacts or mitigation measures such that meaningful responses can be provided. Since more specific comments that appear to relate to Comments 19.41 and 19.42 are made later in his letter, specific responses will be made later in this document. (See Responses 19.43, 19.47, 19.48, 19.50, 19.51 and 19.53)

Comment 19.43: *For vernal pools and the species they support (vernal pool fairy shrimp), the proposed mitigation is completely inadequate. The EIR does not explain why it is infeasible to design the Project to avoid impacts to all vernal pools. Preservation of existing vernal pools is not mitigation for filling pools. Creation and restoration are the only mitigations under CEQA. The EIR does not contain any standards for creation and restoration. It does not require that any created or restored wetlands have the functional and value equivalency to the destroyed pools. The option for mitigation through use of a conservation bank is similarly standardless because it does not establish criteria that the conservation bank must meet. Similarly, the "mitigation" through payment into a fund does not assure that the money will actually result in the creation of the required amount and quality of pools to mitigate the impact.*

Response 19.43: Since vernal pool fairy shrimp are federally listed species, the USFWS requires mitigation for project impacts to vernal pool fairy shrimp. This mitigation is a condition of the "incidental take" authorization issued by the USFWS for a given project impacting this species' habitat. The vernal pool fairy shrimp was federally listed as threatened when populations were known from relatively few vernal pools scattered throughout primarily the northern Central Valley. This species is now known to occur in vernal pools of the Rogue Valley of Oregon, in vernal pools and man-made puddles occurring throughout California's Central Valley, and in vernal pools occurring in scattered locations of California's Coast Ranges from the San Francisco Bay Area south to San Diego. The range of this species is far greater than what was known at the time this species was listed, and the current known occurrences in seasonal pools/puddles far exceeds the known occurrences when this species was listed in 1994. Because the range and occurrences of this species throughout California is now known to be significantly greater than when it was listed, it is no longer clear that this species is all that rare, but the DEIR nonetheless treats impacts to it as potentially significant, because it is a federally threatened species, and the "take" of this species requires USFWS authorization. (See DEIR at page 3-104.)

Responses to individual comments related to vernal pool fairy shrimp are provided below:

a. *Comment: EIR fails to explain why it is infeasible to design the Project to avoid impacts to all vernal pools (pages 7 and 8).* The Project is not obligated to avoid all impacts to vernal pools. CEQA does not require that Projects avoid all impact to habitats or species. Avoidance may be the generally preferred mitigation, but where avoidance is not feasible, other mitigation measures, including preservation of existing habitat and creation of compensatory habitat may be considered. The Fresno County General Plan does not require avoidance and contemplates the use of various mitigation measures, including avoidance, minimization and compensation. Furthermore, the federal Clean Water Act does not require that all waters of the U.S. be avoided. The USACE routinely issues permits to fill such waters where such waters cannot be avoided.

   In fact, few large projects in the eastern Central Valley and low foothills of the Sierra Nevada can entirely avoid impacts to natural drainages and wetlands. Undeveloped rangeland occurring in and just below the Sierra foothills of Fresno and Madera Counties, like the Specific Plan Area, consists of a mosaic of vernal pools, natural drainages, wetland swales, and non-native grassland. Development of the Specific Plan Area is not possible without

some impact to hydrologic features. The Specific Plan applicant has attempted, however, to minimize impact to vernal pools and vernal swales. Of the 26.75 acres of vernal pool/vernal swale complexes identified within the Specific Plan Area and verified by the USACE, the Project preserves 16.44 acres of such waters, including 12.09 acres of vernal pools and 4.35 acres of vernal swales. The Project preserves approximately 61% of the existing vernal pool and vernal swales within the Specific Plan Area in dedicated open space. This effort to avoid impact to naturally occurring wetlands of the Specific Plan Area is entirely consistent with the requirements of CEQA.

Finally, the DEIR evaluates a no project alternative, as well as three project alternatives that provide for varying degrees of avoidance of vernal pool fairy shrimp habitat (i.e., vernal pool wetlands), other wetland habitats, and other sensitive biological resources. For example, the Environmentally Superior Alternative – Alternative 3 – avoids all but 0.99 acres of vernal pools within the Specific Plan Area. Given the physical limitations described above, Alternative 3 provides the greatest amount of avoidance that is feasible while still providing sufficient area for a viable development area to achieve most of the Project objectives. (See DEIR at pages 4-26 – 4-30.)

b. *Comment: Preservation of existing vernal pools is not mitigation for filling of pools (page 8).* Preservation of existing vernal pools is mitigation for filling of pools. Preservation of existing habitat in fact offsets habitat losses when preserved habitat can be enhanced and actively managed to maximize habitat values into the future. Managed grazing, cessation of rodent control, weed control, and control of public access are management activities that can significantly enhance existing lands.

Preservation of existing habitat is not, however, the only mitigation required by the DEIR. The DEIR also requires off-site creation/restoration of vernal pool habitat (Mitigation Measure #3.4.1c[3]).

Mitigation Measure #3.4.1c on pages 3-104, 3-105, and 3-106 of the DEIR is consistent with the requirements of the USFWS. The USFWS has determined that the mitigation standard for the loss of vernal pool fairy shrimp and its habitat would be preservation of existing habitat (vernal pools) at a 2:1 ratio (i.e., two acres of preservation for each acre of impact) and creation/restoration of existing habitat (vernal pools) at a 1:1 ratio (i.e., one acre of creation/restoration for each acre of impact). This mitigation standard has been maintained for more than 15 years by USFWS – the only resource agency charged with protecting the vernal pool fairy shrimp from extinction. Moreover, as discussed at DEIR pages 3-121 and 3-122, these mitigation requirements are consistent with the following Fresno County General Plan policies related to wetlands mitigation (emphasis added):

> OS-D.1: The County shall support the "*no-net-loss" wetlands policies of the US Army Corps of Engineers, the U.S. Fish and Wildlife Service*, *and the California Department of Fish and Game*. Coordination with these agencies at all levels of project review shall continue to ensure that appropriate mitigation measures and the concerns of these agencies are adequately addressed.

OS-D.2: The County shall require new development to fully mitigate wetland loss for function and value in regulated wetlands *to achieve "no-net-loss" through any combination of avoidance, minimization or compensation.* The County shall support mitigation banking programs that provide the opportunity to mitigate impacts to rare, threatened and endangered species and/or the habitat which supports these species in wetland and riparian areas.

The biologists preparing the DEIR biological section believe that the mitigation ratios set forth in the DEIR are appropriate to mitigate the impacts to vernal pool fairy shrimp to a less than significant level. The assured preservation and enhancement of 4.58 acres of vernal pool fairy shrimp habitat and the creation/restoration of an additional 2.29 acres of vernal pool fairy shrimp habitat will ensure that the Specific Plan impacts to 2.29 acres will not have a substantial adverse effect on the vernal pool fairy shrimp population.

Moreover, the Specific Plan applicant has consulted with the USFWS about the preservation of one on-site open space preserve and three off-site preserves, and the creation/restoration of vernal pool habitat, as outlined in the DEIR, and has received informal concurrence from the USFWS that this mitigation is sufficient to avoid substantial adverse effects to vernal pool fairy shrimp. The USFWS has informed the applicant that these mitigation requirements will likely be memorialized in a biological opinion to be issued sometime during the late winter/early spring of 2010. The assertion on page 8 of the commenter's letter that the mitigation in the DEIR is "completely inadequate" is incorrect. The mitigation is consistent with the Fresno County General Plan policies and the requirements of the USFWS, the trustee agency in charge of protecting this species.

c. *Comment: EIR fails to provide any standards for creation and restoration (page 8).* The DEIR provides explicit standards related to wetland creation on page 3-105 (see Mitigation Measure #3.4.1c[3]). Standards established in the DEIR relate to the type of lands acceptable for vernal pool creation, the required soil types, required topography, how long created pools must hold water, how deep the water should be, and the type of vernal pool plant species that should be present. Furthermore, Mitigation Measure #3.4.1c[3] requires consultation with the USFWS, and consistency of the mitigation and monitoring plan with USACE guidelines, to ensure the successful creation or restoration of vernal pool habitat. The USFWS and USACE guidelines require detailed assessments of soils, hydrology, vegetation, fauna, and land use at both the location of wetland impact and proposed wetland mitigation such that the USACE can fully evaluate the proposed wetland creation plan and then determine if implementation would result in the no-net-loss of wetland acreage, functions, and values.

d. *Comment: Purchase of credits from a conservation bank and payment into a fund does not ensure that vernal pool habitat will be preserved/created that has the equivalent functions and values of the pools impacted (page 8).* USFWS and USACE have authority over conservation banks and the vernal pool fund. The USFWS and USACE must approve the bank or fund before it can accept payment from project proponents to purchase "mitigation" credit. Purchase of conservation credits from a USFWS-approved conservation bank is an entirely acceptable manner in which to mitigate impacts to vernal pool fairy shrimp habitat. These banks have been set up for projects such as the Specific Plan project. The only credits

available to the Specific Plan project would be those specifically designated for vernal pool fairy shrimp, which means that the USFWS has already agreed that the vernal pools conserved in the bank harbor populations of vernal pool fairy shrimp. Since the DEIR was drafted, the vernal pool fund has been eliminated where projects are being constructed within the service area of a conservation bank having vernal pool fairy shrimp credits to sell. Therefore, the Specific Plan applicant has been negotiating an agreement with a ranch owner to purchase creation/ restoration credits from the proposed Knapp Ranch Conservation Bank in Madera County. The applicant cannot purchase any credits from this ranch owner until the ranch has been formally approved as a conservation bank by the USACE and the USFWS and the sale of credits has been approved by both agencies for the Friant Ranch project. USACE and USFWS have preliminarily indicated that the purchase of these credits will be acceptable.

Further, Fresno County General Plan Policy OS-D.2 (discussed above in this response) requires the County to support mitigation banking programs to mitigate impacts to protected species and wetlands.

Moreover, the use of conservation banks to mitigate project impacts to wetlands and endangered species habitat appears to be an accepted practice of the commenting agency. Copper River Ranch, a project approved by City of Fresno in 2003, mitigated its wetland impacts by purchasing credits at the Kennedy Table Conservation Bank. City of Fresno also approved in 2009 a project for the "Fresno 40" (a parcel located just south of Friant Road and east of Fresno Street), which mitigated its wetland impacts by payment of an in-lieu fee to a vernal pool fund managed by the Center for Natural Lands Management. This in-lieu fee was eventually applied to the purchase of credits at the Kennedy Table Conservation Bank. These Kennedy Table Conservation Bank credits effectively reduced the identified impacts of these projects by sustaining newly restored/created viable pools in the region to replace the habitat lost from the projects. Similarly, the purchase of conservation credits or participation in a vernal pool fund will offset the Specific Plan impacts to vernal pool fairy shrimp and ensure that no substantial adverse effects to the species occur as a result of the Specific Plan development.

Comment 19.44: *The EIR does not analyze indirect impacts of the Project on vernal pools. The EIR must evaluate whether the Project's effects on the uplands and watersheds that support "reserved" vernal pools will have an adverse impact on these pools.*

Response 19.44: The DEIR acknowledges that indirect impacts to some vernal pools may occur, which could adversely affect vernal pool fairy shrimp (see page 3-104, second paragraph of Impact #3.4.1c). The DEIR states:

> Proposed development surrounding designated open space could result in the discharge of polluted water into pools. The hydrology could be altered by changes in drainage patterns, resulting in some vernal pools being de-watered. (DEIR at page 3-104.)

This potential impact applies to less than 10% of the vernal pools proposed for inclusion within the on-site open space preserve. The watersheds of most of the vernal pools within the on-site open space preserve will not be affected by the Project, including by way of alteration of existing drainages or stormwater runoff. However, the DEIR concludes that the possible degradation of habitat in that small portion of designated open space potentially affected would constitute a significant adverse environmental impact of the Project and imposes mitigation measures to ensure that the impact would be reduced to less than significant. (See, for example, Mitigation Measures #3.4.1c(3) and #3.4.1c(4).) See Response 19.47 for discussion of proposed mitigation.

Comment 19.45: *Similarly, the EIR does not analyze whether the Grazing Management Plans and Open Space Access Plan required by mitigations will adversely affect the preserved pools.*

Response 19.45: The Specific Plan Area is currently grazed and as such grazing is part of the environmental baseline for the analysis of Project impacts. However, the conservation easement associated with the open space preserves will require continued grazing because it is now widely recognized, by the USFWS among others, that in the absence of grazing elk, pronghorns, and deer, and in the absence of fire, vernal pool landscapes require moderate cattle grazing to ensure that alien grasses and forbs do not out-compete native grasses and forbs. (See DEIR at page 3-104.) A grazing plan providing for regulated grazing of the open space preserves is required by the DEIR (page 3-106). The grazing plan will regulate when cattle can graze the open space preserves, how many head of cattle per acre will be acceptable, and the minimal residual dry matter that must remain on each preserve throughout the year. Therefore, contrary to the suggestion of the commenter, the grazing plan will result in a beneficial effect on vernal pools, not an adverse effect.

The open space will not be accessible to the public, and will be fenced and posted with signs.

Comment 19.46: *The EIR also does not properly analyze the impacts of storm water runoff on vernal pools. Storm water run-off may result in over-inundation of vernal pools or contamination from urban run-off. All these indirect impacts should be analyzed and mitigated.*

Response 19.46: See Responses 19.44 and 19.47.

Comment 19.47: *The mitigation measures which require the development of Drainage Plan to address the impacts of storm water runoff on resources is inadequate. The mitigation measure does not specify methods that the Drainage Plans must implement or set performance standards. Rather the Drainage Plans set aspirational and amorphous goals, such as "ensuring" that post-project runoff into open space will "mimic to the extent possible" pre-project conditions and run-off to vernal pools will be "roughly equivalent" to pre-project conditions. These measures are inadequate to assure less than significant impacts. Vernal pools are very sensitive resources and impacts to preserved pools can only be avoided if the amount and quality of water needed to support these resources and their species is mandated by strict standards. The absence of these standards violates CEQA.*

Response 19.47: The DEIR and the *Final Biological Evaluation Report and Supplement, Friant Ranch Specific Plan, Fresno County, CA* (Appendix E of the DEIR) both recognize that the

quantity and quality of the water entering some vernal pools (and other natural drainage features, including wetlands) within the Specific Plan Area could be affected, absent effective mitigation measures. See Response 19.44 for discussion of vernal pool impacts associated with stormwater runoff from the Specific Plan development.

The Specific Plan applicant's conceptual drainage plan evaluated by the DEIR provides sufficient detail to permit an evaluation of its merits. The DEIR describes conceptually the stormwater management approach in the Specific Plan and provides mitigation measures to ensure that definable and achievable standards are met in protecting the quality and quantity of water entering drainages down slope of the Specific Plan development. (See, for example, DEIR, pages 3-211, 3-219.) Stormwater collection, treatment, detention and disposal systems proposed by Friant Ranch are discussed in detail in the Infrastructure Master Plan (DEIR Appendix N) and particularly Appendix A to the Infrastructure Master Plan. Implementing the LID stormwater management approach, stormwater runoff quantities would be limited to predevelopment flow rates, in accordance with widespread national practice and statewide regulation.

LID addresses stormwater management through small landscape features located primarily at the lot level. These features are known as integrated management practices. Individual practices will address hardscapes (i.e., impervious surfaces), the retention of runoff on Site using landscape features, the cleansing of runoff (i.e., the routing of flows through vegetated swales and a system of retention basins), and the development and implementation of a community-wide plan to reduce the introduction of pollutants to the environment. The detailed design of the practices will be based on a detailed study of the site's hydrology and topography and the Project's final grading plan, prior to issuance of a grading permit. Preliminary analysis completed for the Infrastructure Master Plan identifies areas of the site subject to sheet flow during winter storms, subsurface lateral transport of water when soils become saturated, and overall soil permeability. As such, stormwater runoff would be filtered through bio-filtration swales and/or retention basins, which would avoid significant impacts to water quality.

The LID stormwater management approach is of sufficient interest to the California State Water Resources Control Board (SWRCB) that its Stormwater Program formally initiated a review of low impact development policies so that mechanisms for removing institutional barriers to the adoption of these policies could be identified (*A Review of Low Impact Development Policies: Removing Institutional Barriers to Adoption* (Gearheart, P.E., 2007). LID elements that are relevant to protecting the quantity and quality of water entering vernal pools include the following:

- The development and implementation of water conservation measures;
- The minimization of stormwater generation using a variety of techniques including the reduction of impervious surfaces;
- Providing for strategic runoff timing by slowing flows using landscaping features;

- Developing and implementing an array of integrated management practices to reduce and cleanse runoff;

- Developing and implementing a pollution prevention program to reduce the introduction of pollutants to the environment; and

- Developing a system of retention/detention basins that will intercept pretreated storm water and then release that stormwater via weirs or other outlet facilities to mimic pre-development peak runoff rates.

The LID stormwater management approach adopted by the Specific Plan applicant is not discretionary. LID is part of the Project and is memorialized in specific policies of the proposed Community Plan Update and the proposed Specific Plan (see page 3-212 of the DEIR), described in the proposed Infrastructure Master Plan (Appendix N of DEIR) and is required by Mitigation Measure #3.8.3a on page 3-219 of the DEIR. Furthermore, Mitigation Measure #3.4.1c[4a and b] on page 3-105 of the DEIR requires that prior to the issuance of a grading permit for the Specific Plan Area, a drainage plan must be prepared that satisfies the following criteria:

(1) It must ensure that all stormwater runoff entering existing pools is filtered through bio-filtration swales and/or retention basins;

(2) There can be no significant reduction in the volume of surface or subsurface water that flows into vernal pools, vernal swales, and other wetland drainages of the site; and

(3) All irrigation runoff must be routed away from all vernal pools.

Consistent with standard Fresno County procedures, a comprehensive stormwater drainage plan will be drafted and reviewed by the County during the grading permit process. The drainage plan must achieve the above-referenced goals, implement the standards imposed by the LID program, and conform to the adopted stormwater management approach outlined on page 3-211 of the DEIR. At this point in the entitlement process, the Specific Plan stage, it is premature to define the precise parameters of a drainage plan since the grading plan and building envelope locations have not been developed. The Project approvals analyzed in this DEIR do not dictate specific elevations or topography for the development such that the precise drainage plan can be configured at this point in the process. During the grading permit process, Fresno County routinely requires the applicant to submit a detailed drainage plan based on the proposed grading plan. The engineering details of the plan need not be spelled out in the DEIR, but the final drainage plan based upon the then known parameters of the proposed grading, when fully implemented, must achieve these goals. Prior to the issuance of a grading permit, Fresno County engineers can objectively evaluate the engineering details of the drainage plan to ensure accomplishment of the goals and standards established in the EIR.

In addition to the above-described Project features and mitigation measures, DEIR analyzes alternative development scenarios to further reduce the stormwater impacts to vernal pools. The Environmentally Superior Alternative – Alternative 3 – reduces the number of vernal pools

potentially affected by stormwater runoff from the Specific Plan development to approximately 5% of the vernal pools proposed for inclusion within the on-site open space preserve. Alternative 3 also incorporates the Project features and mitigation measures discussed in this response above.

Comment 19.48: *For impacts on the California Tiger Salamander (CTS) and the western spadefoot, the mitigation is inadequate because it relies on preservation of existing potential habitat and does not describe or explain why the preservation areas identified are adequate to support or do support the species. Again, preservation is not proper mitigation. The mitigation should specifically describe sites that have been evaluated for the presence or support of the species and how these sites will be managed to assure that they provide successful habitat for CTS breeding and aestivation and western spadefoot habitat.*

Response 19.48: The USFWS, the federal trustee agency charged with protecting the California tiger salamander, has determined that preservation of existing upland aestivation habitat is appropriate mitigation for California tiger salamander. Since the DEIR was prepared the Specific Plan applicant has formally participated in the process to obtain California tiger salamander "take" authorization from the USFWS via the ESA Section 7 consultation. In doing so, the Specific Plan applicant has formally agreed to the establishment of the one on-site open space preserve and the three off-site preserves identified in the DEIR at Table 3.4-3 and related discussion. The off-site preserves total 1,038 acres that will be managed to maximize habitat value for the California tiger salamander. See also Response 7.11. As noted in the DEIR (Mitigation Measure #3.4.1d[3]), this habitat must be suitable and known habitat for the California tiger salamander. Such is the case for each open space preserve identified in the DEIR. As reported in the DEIR, the on-site open space preserve is known California tiger salamander habitat (see page 3-95, "California tiger salamander"). Consistent with the requirements of Mitigation Measure #3.4.1d(3) each of the three off-site open space preserves provide both breeding and aestivation habitat for the California tiger salamander. The California tiger salamander has been documented on two of the off-site preserves, and has been documented within 0.25 miles of the third. Because the California tiger salamander is known to move up to 1.3 miles from its breeding habitat in search of upland aestivation habitat, the USFWS and the biologists preparing the biological section of the DEIR consider all four preserves to be occupied habitat by the USFWS.

Qualified biologists from Live Oak Associates did not encounter western spadefoot toad during the spring of 2008 surveys of the off-site preserves, likely due to the dry winter and spring. This species has been documented on nearby lands (Millerton New Town, Friant Ranch west of the Friant-Kern Canal, and lands south and north of Highway 145). Western spadefoot toads occupy the same habitats as the California tiger salamander and in fact co-occur with the California tiger salamander. There can be little question that this species occurs on the off-site preserves.

See Response 19.50 related to general management of off-site preserves for benefit of the special status species, including California tiger salamander and western spadefoot toad.

Comment 19.49: *For the succulent owl's clover, it is unclear why the Project will not result in direct impacts to the species since the filling of wetlands and vernal pools (where this species is located) will occur under the proposed Project.*

Response 19.49: The Project avoids the only two vernal pools within the Specific Plan Area in which this species occurs. As noted on page 3-90 of the DEIR under the heading "Succulent Owl's-clover," two rare plant surveys for this species were conducted, one in 1991 and one in 1995. During these surveys, this species was documented in only two vernal pools within the Specific Plan Area. As noted in *Final Biological Evaluation Report and Supplement, Friant Ranch Specific Plan, Fresno County, CA* (Appendix E of DEIR), an additional rare plant survey was conducted in the spring of 2006. No additional populations of succulent owl's-clover were observed within the Specific Plan Area at that time. All the evidence supports the conclusion that the succulent owl's-clover occurs in only two vernal pools within the Specific Plan Area. As noted on page 3-101 of the DEIR the Project avoids these pools.

The DEIR concludes that indirect impact to the pools harboring this species may occur, and that the impact is potentially significant. Since the DEIR was prepared, the applicant has, in consultation with the USFWS, agreed to purchase 0.5 acre of succulent owl's-clover mitigation credits from a conservation bank as additional mitigation for any potential indirect effects on succulent owl's-clover occupying two vernal pools with a combined area of approximately 0.5 acre. See also Response 11.10.

Comment 19.50: *It is also unclear how the mitigation requiring the development of a Land Management Plan, which is described in only very general terms, will mitigate any impacts. Both these issues need to be explained in more detail and the actual Plan needs to be included in the mitigation measure. The Plan should specify mandatory elements and actions, and the remedial actions that will be taken if the Plan fails, rather than just stating these elements will be developed. Also, a Management Plan to protect preserved resources does not mitigate for the loss of plants. The information in the EIR is insufficient to support a less than significant finding.*

Response 19.50: The EIR for the Specific Plan need not include as mitigation a finalized land management plan so long as the required elements of such a plan are identified. The DEIR and the *Final Biological Evaluation Report and Supplement, Friant Ranch Specific Plan, Fresno County, CA* (Appendix E of the DEIR) identify the standards for such a plan to be the conservation of sensitive biological resources of the site (i.e., succulent owl's-clover, Hartweg's golden sunburst, western spadefoot toad, vernal pool fairy shrimp, California tiger salamander, etc.) in perpetuity. The DEIR is prescriptive in how it is to be prepared and what it will address. Requirements of the DEIR include:

(1) that it be prepared in consultation with USFWS and CDFG (this is necessary, because the applicant must obtain incidental take coverage from both agencies, and a streambed alteration agreement from the CDFG);

(2) clearly defined management goals and objectives, which must support the goal of preserving biological resources of the site in perpetuity;

(3) a provision for monitoring sensitive species of the site in order to assess how these resources are doing;

(4) a provision for grazing to reduce competition from non-native annual grasses and forbs that may eliminate native species and fill vernal pools with thatch;

(5) a provision for monitoring human access on to open space preserves and that measures be implemented to ensure that uncontrolled access does not occur;

(6) a provision for adaptive management of the site; and

(7) that remedial actions and alternatives be conceptually developed so that they can be implemented should initial land management fail to adequately protect sensitive biological resources.

Contrary to the assertion of the commenter that the DEIR should provide the actual land management plan, the DEIR should provide for what the plan would address and how it should be prepared. The DEIR does both. This mitigation, along with the required preservation of potential succulent owl's clover habitat, the creation of succulent owl's clover on a 1:1 basis as discussed in Responses 11.10 and 19.49, the required buffers around the vernal pools, and the LID stormwater program (discussed in detail in Responses 19.47 and 19.62) will ensure that any indirect impact to succulent owl's clover resulting from the Specific Plan development will not have a substantially adverse effect on the succulent owl's clover.

In fact, the commenter's assertion that the land management plan should be included in the DEIR is neither feasible nor desirable. This is so for the following reasons:

(1) The Specific Plan applicant has been consulting for some time with the state and federal resource agencies on project design and potential mitigation requirements associated with Clean Water Act, ESA, and state law compliance. The preparation of a land management plan is one component of the larger mitigation and monitoring plan effort required by the USFWS and USACE. A mitigation and monitoring plan and long-term land management plan for all open space preserves are being prepared in draft form for USFWS and USACE review. These plans are likely to be modified during the course of these two agencies' review. Memorializing the plan in the DEIR before state and federal resource agencies have completed their review of the proposed plan would potentially result in inconsistent requirements for managing the conservation properties.

(2) Mitigation and monitoring plans and management plans prepared to comply with federal standards for preservation properties are lengthy documents, typically in excess of 50 pages in length each (the drainage plan the commenter asserts should be included in the DEIR's mitigation measures is likely to be a larger document than the land management plan). Including

detailed plans in the mitigation measures of the DEIR would potentially add hundreds of pages (depending on the number of plans required) to already voluminous EIRs, with no appreciable benefit to the public review process. It is sufficient for the DEIR to provide direction as to how these plans are drafted and what they include, and then tie the completion of these plans to the County's consideration of a grading permit. That is, prior to issuing a grading permit, the County will have the opportunity to review and accept the land management plan, based on the standards set forth in the DEIR.

Comment 19.51: *The similar mitigation for the Hartweg's golden sunburst has these same deficiencies.*

Response 19.51: See generally Response 19.50 immediately above with respect to comment about the inclusion of mitigation and monitoring plan and land management plan as mitigation. An existing Hartweg's golden sunburst population has been preserved for years within a 4-acre parcel by the Friant water tank, within the Specific Plan Area just east of the Millerton Lake Mobile Home Park, with no land management plan, and the species is in fact thriving. All that has been required to protect the species has been fencing to keep people out of the preserve. The DEIR provides for protective measures for a much larger preserve that includes the existing preserve. In fact, the DEIR provides for a management plan that will focus attention on this species and ensure that grazing, human encroachment on the preserve, possible erosion, or other unforeseen issues are addressed promptly, which can only improve the likelihood that this species will continue to thrive within open space of the Specific Plan Area. (See Mitigation Measures #3.4.1b and #3.4.1a[2].)

Comment 19.52: *The removal of 942.2 acres of foraging habitat under the Specific Plan for the burrowing owl and Swainson's hawk should be described as a significant impact and mitigation should be required. The on-site preserve is not proper mitigation. This Project's removal of this large amount of habitat also is a significant cumulative impact which the EIR fails to identify (see discussion of cumulative impacts below).*

Response 19.52: Contrary to statement of commenter, the proposed Specific Plan development evaluated by the DEIR would not remove 942.2 acres of foraging habitat for Swainson's hawks and burrowing owls. The Specific Plan development would permanently remove 666.8 acres of likely foraging habitat and preserve approximately 245 acres of the 942.2 acres as undisturbed open space and approximately 30 additional acres of revegetated slopes that will be included in the open space preserve. The commenter is referred to Page 2-17 of the DEIR (see Table 2-1). As shown in this table, the Specific Plan Area is 942.2 acres in size. Development makes up 666.8 acres, revegetated slopes take up approximately 30 acres, and undisturbed open space makes up the remaining 245.4 acres of the Specific Plan Area.

Impacts #3.4.1f and #3.4.1g (DEIR page 3-109) have been amended as follows to clarify the conserved acreage onsite.

> **Impact #3.4.1f - Impacts to Swainson's hawks**
>
> A Swainson's hawk was observed foraging on the Friant Ranch Specific Plan Site. Nesting Swainson's hawks were not observed on or near the Site. The Project would remove approximately ~~942.2 acres~~ 667 acres of Swainson's hawk foraging habitat.
>
> **Conclusion:** The loss of foraging habitat would be ***less than significant*** in a regional context, particularly because Swainson's hawks are no known to nest within 5 miles of the project site and the only potentially available nesting location on the site are several power poles and a Fremont's cottonwood tree. Moreover, the Project conserves ~~460 acres~~ approximately 275 acres of potential foraging habitat onsite in a region where considerable foraging habitat exists.
>
> **Mitigation Measures:** No mitigation measures are required.
>
> **Impact #3.4.1g –Impacts to Burrowing Owls**
>
> Burrowing owls are known to forage and may nest on the Friant Ranch Specific Plan Site. The loss of approximately ~~942.2 acres~~ 667 acres of foraging habitat would be a ***significant*** adverse impact. However, the project will conserve approximately ~~460 acres~~ 275 acres of potential foraging habitat on site and up to an additional 1,016 acres of off-site habitat could be protected as required in mitigation measure 3.4.1d.

Swainson's hawks are rarely observed in this part of the San Joaquin Valley. They more commonly occur (nesting and foraging) in the trough of the Central Valley 30-40 miles to the west and northwest. Where they occur, they commonly forage in non-native grassland, forage crops (grass hay and alfalfa), and pastures. The loss of approximately 667 acres of suitable foraging habitat in the Friant/Millerton area that is rarely used by this species for foraging constitutes a less than significant impact on this species. (See DEIR at page 3-109.) Moreover, the Project would conserve 275 acres within the Specific Plan Area and more than 1,000 acres off-site that would constitute habitat for many species, including the Swainson's hawk. These preserves will be managed to maximize species diversity, which means that ground squirrel populations (and other rodent populations) will be encouraged (i.e., not poisoned). Rodents are the primary prey of Swainson's hawks and other raptors. Therefore, these management practices will encourage many raptor species to forage over these lands.

Burrowing owls may well occur within the Specific Plan Area, but the preservation and management of more than 1,300 acres of rangeland will result in a net increase of high quality habitat for this species. DFG requires that 6.5 acres of foraging habitat be preserved for every burrowing owl pair displaced by development. This Project will dedicate as open space preserve sufficient habitat for project displacement of over 200 burrowing owl pairs. During several years

of surveys of the Specific Plan Area, only one burrowing owl has been observed. As such, the Project is providing mitigation that far exceeds what is required to ensure the potential impact to this species does not result in substantial adverse effects to the species, and if anything, the Project will result in a beneficial impact to burrowing owls.

Comment 19.53: *The erosion control plan should specify measures that will be required under the Plan. As currently drafted, the mitigation does not require any specific measures, but only identifies possible "typical" measures (Mitigation Measure 3.4.3b).*

Response 19.53: A detailed erosion control plan specifying the exact measures that must be implemented is not appropriate at this time. The measures must be tailored to the terrain and soils being affected, the phasing of the grading, the time of year the grading will take place, etc. The details of the proposed development are generally known but not precisely known at this time. It is appropriate to design the detailed erosion control plan prior to issuance of a grading permit because, at that time, the applicant engineers will have designed the proposed grading plan, examined the requisite elevations for the building envelopes, and determined what precise measures are necessary to control erosion. The DEIR appropriately allows some engineering flexibility in designing the erosion control plan prior to project construction. However, the DEIR sets forth standards by which Fresno County can assess the appropriateness of the erosion control plan prior to issuance of the grading permit.

Comment 19.54: *The Project is inconsistent with many policies of the County General Plan to protect biological resources. Therefore, the EIR conclusion that there is no inconsistency with plans and no resulting significant impact is incorrect.*

Response 19.54: See Responses 19.55 through 19.58 below.

Comment 19.55: *County General Plan goals and policies that the Project is inconsistent with include: (1) Goal OS-D and Policies OS-D.2 and OS-D.5 which require no net loss of the "function and value" of wetlands and require avoidance, minimization or compensation for impacts. The mitigation measures do not require the created wetlands provide the same function and value as the impacted wetlands. Preservation of existing wetlands is not allowed for mitigation. The proposed mitigation is inconsistent with these polices;*

Response 19.55: The DEIR explicitly requires that compensatory mitigation be provided for the loss of wetlands. Compensatory mitigation, as described in Mitigation Measures #3.4.1c(2) and #3.4.3a(2) require that wetland habitats be replaced at a minimum of a 1:1 ratio (hence, there will be no net loss of wetland habitat) and provide explicit guidance as to how those wetlands will look and function. As noted in Response 19.43, the DEIR mitigation measures set forth performance standards for what type of land can be used for creation/restoration, what the topography should be, what soils would be required, and what the site hydrology should be. The mitigation measures further stipulate for the created wetlands what the topography should be, what the duration of inundation must be, and what plant species must be established. The requirements of the DEIR are explicit, and if the requirements are met, the created wetlands (i.e., vernal pools, vernal swales, and wetland channels) will have essentially the same functions and values as the wetlands impacted by the Project. These DEIR requirements are consistent with

Fresno County's "no net loss" policy. See also Response 19.43 related to the appropriateness of requiring preservation as mitigation.

Comment 19.56: *(2) Policy 0S-D.5 which requires coordination with regulatory agencies at all levels of environmental review. The EIR does not contain any information on the County consulting with regulatory agencies in the evaluation of impacts or development of mitigation measures. In fact, many mitigation measures state that the development of plans and consultation will take place at a later date when agencies consider approval of permits;*

Response 19.56: Policy OS-D.1 (not Policy OS-D.5) requires coordination with the USACE, USFWS, and CDFG. The project is in full compliance with OS-D.1. The applicant has been in consultation with these agencies since the beginning of the planning process. The applicant's consultants completed a delineation of waters of the U.S. and state in 2008. The USACE issued a letter verifying the delineation on October 1, 2008. The Specific Plan applicant applied to the USACE for a Department of the Army permit in June of 2008. (See Appendix E, pages 105-106. The USACE initiated consultation with the USFWS on the proposed development in the spring of 2009. Meetings were held with the CDFG in June of 2008 and again in November of 2009 to discuss first conceptually and later in detail CDFG requirements for anticipated "take" of protected species. The USFWS is expected to issue a biological opinion for development within the Specific Plan Area during the winter/spring of 2010.

Comment 19.57: *(3) Policies 0S-E.14 and OS-E.17 which require that wetlands, riparian habitat and rare and endangered species habitat should be preserved "to the maximum extent practicable". The Project's numerous significant impacts on these resources violates these policies; and*

Response 19.57: The Specific Plan is in compliance with Policy OS-E.14 and Policy OS-E.17. Policy OS-E.14 addresses minimum setbacks for wildlife corridors along the San Joaquin and Kings Rivers. The Specific Plan Area does not border either river, so this policy is not relevant to the Specific Plan Area. Nothing in Policies OS-E.13 and OS-E.17 suggests that projects impacting wetlands (or endangered species habitat) would be in violation of the policy. This policy merely requires the County to protect these resources to the maximum extent possible. There are many ways to meet the requirements of these policies. As identified in the DEIR, the Specific Plan does so in the following ways:

(1) Avoidance of Sensitive Habitats/Species. The Specific Plan has been designed to avoid and protect wetlands and endangered species habitat. The establishment of one on-site preserve and three off-site preserves will protect a minimum of 1,313 acres of existing open space consisting of at least 31 acres of vernal pools and 51.6 acres of vernal swales and wetland channels. Of the nearly 1.5 acres of Hartweg's golden sunburst occurring on the site, the Specific Plan development would impact approximately 0.02 acre, or 1.4% of the on-site area supporting this species. It is also important to note that Project alternatives analyzed in the DEIR reduced impacts to this species through additional avoidance measures.

(2) Creation/Restoration. The DEIR stipulates that unavoidable impacts to wetlands of various types be mitigated through creation/restoration at a 1:1 ratio, consistent with requirements of the USACE and USFWS. Proposed mitigation also includes the re-establishment of a population of Hartweg's golden sunburst in a suitable location within the Specific Plan Area such that there will be no net loss of this species, and the creation/restoration of 0.5 acres of succulent owl's clover habitat as discussed in Responses 11.10 and 19.49.

(3) Land Management Plans. The DEIR stipulates that the Specific Plan applicant prepare long-term land management plans that would foster the conservation of sensitive biological resources within on- and off-site open space preserves, and provides specific direction as to how these plans will be prepared and what they will include.

The DEIR stipulates that the Specific Plan applicant go to considerable effort, in full compliance with County General Plan Policies, to minimize impact to wetlands and endangered species habitat.

Comment 19.58: *(4) Policy 0S-D.6 which requires preservation of riparian habitat and other sensitive communities unless there are public safety concerns. The Project's impacts on these resources violates this policy because there is no underlying public safety concern, such as flood protection, that justifies the Project's impacts.*

Response 19.58: Fresno County General Plan Policy OS-D.6 states that "The County shall require new private or public developments to preserve and enhance existing native riparian habitat unless public safety concerns require removal of habitat for flood control or other purposes." This policy addresses the preservation of riparian habitat only and contrary to the commenter's statement, does not address "other sensitive communities." This policy is not relevant to the Specific Plan Area because there is no riparian habitat within the Specific Plan Area. (See DEIR at page 3-115 ["The project will have no impact on riparian habitat or other sensitive natural vegetative communities (which do not occur within the Specific Plan Area)"].) Though there is some riparian habitat within the Friant Community Plan Area, such as at Lost Lake Park, the DEIR establishes mitigation measure 3.4.10 to ensure that any disturbance to riparian habitat is consistent with General Plan Policy OS-D.6 and does not result in a significant impact to riparian habitat. (DEIR, page 3-141.) In fact, Mitigation Measure #3.4.10 requires the 3:1 mitigation set forth in General Plan Policy OS-D.6. (DEIR, page 3-141.)

Comment 19.59: *The use of limited reconnaissance surveys to evaluate impacts in the Community Plan area is insufficient for even a program-level EIR. More detail about the existing conditions should be included in the EIR. A program EIR is allowed to evaluate the project in less detail, but it does not allow a less detailed or cursory review of existing conditions.*

Response 19.59: The Community Plan Area was surveyed extensively for biotic habitats during the Friant Road Widening environmental review process, which began in 1998 and continued

through 2004. Considerable additional information was collected in Lost Lake Park during its master planning process in 2008. It is clear that most of the Community Plan Area consists of developed lands that have been highly disturbed. Although Lost Lake Park consists of high quality riparian habitat along the San Joaquin River, most other habitats are highly disturbed from gravel mining. Therefore, the DEIR accurately describes the habitats of the Community Plan area at a level of detail sufficient to understand the biological resources issues associated with it, and it provides programmatic mitigation measures that if implemented will protect sensitive biological resources or compensate for impacts related to future projects within the Community Plan Area. Such mitigation measures require appropriately timed protocol surveys for vernal pool plants, vernal pool fairy shrimp, the valley elderberry longhorn beetle, California tiger salamander, western spadefoot toad, western pond turtle, Swainson's hawks, burrowing owls, other nesting raptors, nesting birds, American badger, special status bat species, riparian habitat and other sensitive communities, and wetlands. Additional mitigation measures are required if such protocol surveys determine that a sensitive natural resource is present on a given site within the Community Plan Area. Providing a more detailed description of the biological resources of the Community Plan Area at this time would not in any conceivable way increase the level of protection to sensitive natural resources of the Community Plan Area from that already provided in the DEIR.

Comment 19.60: *In addition, some of the mitigation measures for the same species impacts are different for the Community Plan than the Specific Plan. The EIR should explain the basis for differences and inconsistencies in mitigation for similar impacts.*

Response 19.60: The Community Plan Area is evaluated at a programmatic level of analysis while the Specific Plan Area is evaluated at a project level of analysis. This requires that additional surveys must occur in the Community Plan Area under certain circumstances and that additional mitigation measures be listed to account for various anticipated conditions. Permitting options and strategies may substantially differ. With these exceptions, concomitant mitigation measures are consistent.

Comment 19.61: ***Chapter 3.7 Hazards and Hazardous Materials***

The EIR notes that hazards due to proximity of the Project to the Friant-Kern Canal and abandoned water wells were raised as an issue of concern during the scoping process for the EIR. Yet the EIR's Hazards and Hazardous Materials chapter does not acknowledge this comment in its cursory treatment of existing hazardous material sites or risks of contamination. The EIR should be revised to address this concern.

Response 19.61: Impact #3.7.8 is added to the DEIR (top of page 3-190) as follows:

> **Impact #3.7.8 – Exposure to Hazardous Conditions**
> **[Evaluation Criteria (i)]**
>
> Proximity of the proposed project to the Friant-Kern Canal and potentially abandoned water wells could pose a hazard to future Friant Community Plan area residents. Public access to the Friant-Kern Canal is precluded by installation of

appropriate barriers and fencing. Abandoned wells will be sealed as legally required.

Conclusion: Installation of appropriate barriers and fencing along the Friant-Kern Canal and compliance with provisions of law pertaining to well abandonment will reduce this potential impact to a ***less than significant*** level.

Mitigation Measures: No mitigation measures are required.

Comment 19.62: ***Chapter 3.8 Hydrology and Water Quality***

The EIR's conclusion that the impact from storm water runoff will be less than significant due to the implementation of Low Impact Development (LID) measures as part of the Project is unsupported by evidence. The Project polices on LID referenced in the EIR do not specify or mandate these measures. Many of the policies are qualified by the words "where warranted" or "where feasible". The Plan does not provide specific information on pretreatment of storm water before it is discharged to "swales", the San Joaquin River or elements of the Fresno Stream Group. Since there are no specific measures and no final Plan that is required as part of the Project, the EIR cannot rely on these potential LID measures to support a less than significant finding. The EIR should be revised to find the impacts from storm water potentially significant and include a mitigation measure which requires the implementation of specific LID measures that will reduce the impact to less than significant.

Response 19.62: The EIR evaluates the potential effects of implementing the Specific Plan, which includes an Infrastructure Master Plan (DEIR, Appendix N). The LID program set forth in the Infrastructure Master Plan and described in the DEIR is an integral and requisite part of the green and sustainable elements of the project's conservation land planning. As explained in the DEIR, adherence to the LID program will be a condition of Specific Plan approval. (See DEIR pages 3-211 - 3-213.) Moreover, contrary to commenter's characterization of the DEIR, the DEIR concludes that stormwater impacts are potentially significant, and requires adherence to the LID management practices through Mitigation Measure #3.8.3a. (See DEIR at pages 3-219 - 3-220.) In addition, Mitigation Measure #3.4.3b requires all post-construction runoff to be routed through a system of grease traps, stormwater retention/detention basins, and biofiltration swales. (DEIR at page 3-120.) As described in Response 19.47, above, the LID Program sets forth a range of feasible stormwater management measures and performance criteria designed to protect both the quantity and quality of stormwater. At this stage in the project planning process, it is not possible to know with certainty which LID measures will be appropriate in every circumstance of Project development. Because certain practices and facilities will work in specific circumstances better than others, it would not be appropriate at the Specific Plan level to mandate across-the-board use of any particular LID measure. Thus, many elements of the Project are described in terms of design standards and practices, with detailed infrastructure design necessarily occurring after completion of the Specific Plan approval process and prior to issuance of a grading permit. This level of detail is common to large entitlement projects at the Specific Plan stage and represents the best available information about the Project commensurate with the stage of Project approval.

What is known with certainty is that the LID measures described in the Infrastructure Master Plan and required by Mitigation Measure #3.8.3a have been proven to be effective in ensuring that there will not be significant adverse effects on water quality from stormwater runoff, and their effectiveness is widely acknowledged. Caltrans completed a study of the effectiveness of a spectrum of storm drain water quality enhancement measures, including LID, in 2004 ("*BMP Retrofit Pilot Program: Final Report*," Report ID CTSW-RT-01-050, Caltrans, Division of Environmental Analysis, January 2004). This report, a copy of which is maintained by the County of Fresno as part of the Project record, evaluates the effectiveness of a variety of storm drain water quality devices intended to provide pretreatment of storm water prior to discharge to Waters of the United States, including media filters, extended detention basins, drain inlet inserts, biofiltration (an LID measure), infiltration devices, wet basins, oil-water separators, and continuous deflective separation. The study concluded that biofiltration best management practices (BMPs) (including bioswales and biofiltration strips) are technically feasible and provide one of the lowest life-cycle costs of the various measures examined.

As reported in Section 7.1 of the Caltrans report, bioswales "lend themselves well to being part of a 'treatment-train' system of BMPs, especially infiltration basins and trenches." (See also Section 8.1. of the Caltrans report.) Tables 7-3, 7-4 and 8-4 of the Caltrans report provide numeric data regarding observed reduction in chemical concentrations resulting from these two devices. Results vary by constituent but are generally in the range of 50 to 80 percent removal. Section 16.5 of the report concludes that filter strips and bioswales "were found to be technically feasible at the piloted locations are particularly applicable where sufficient space is available. They were among the least expensive of the devices evaluated in this study and were among the best performers for reducing sediment and heavy metals in runoff."

If the Specific Plan is approved, then Project engineers and designers will specify detailed Project design criteria to ensure compliance with the Infrastructure Master Plan performance standards as part of the development of subdivision maps and detailed grading plans. The information about the various LID measures, combined with the Infrastructure Master Plan requirement that the Project incorporate appropriate measures that meet performance standards designed to ensure that there will not be adverse effects from the volume or quality of stormwater, provide sufficient information upon which to determine that project will not result in significant impacts related to stormwater. (See DEIR at pages 3-211 – 3-213 and 3-216 – 3-221.)

Comment 19.63: *The EIR does not properly analyze storm water drainage capacity impacts. There is no quantification of pre-project and post-project runoff amounts. There is no discussion of capacity of existing storm drainage system and how well it functions. The reliance on a LID plan to be approved in the future based on "suggested management practices" listed in the mitigation measure is inadequate. The EIR should require compliance with an already developed plan that shows that these measures can be successfully implemented to handle the estimated increased in runoff from the Project, especially in light of the significant conversion of existing undeveloped and unpaved land proposed by the Project. The Plan also should show the capacity of the soils in retention/detention basins to absorb runoff. The mitigation should require that the amount of post-Project runoff does not exceed pre-Project levels for each Project Phase. The analysis and mitigation measure in the EIR are insufficient to support the less than significant conclusion.*

Response 19.63: CEQA does not require the Project to be fully designed at the Specific Plan entitlement phase. However, the Infrastructure Master Plan (attached to the Specific Plan and Appendix N to the DEIR) provides sufficient information about drainage design, including design and performance standards, to evaluate the Project's potential effects. As discussed in Responses 19.47 and 19.62 above, Fresno County requires a detailed drainage plan prior to issuance of a grading permit, but not at the Specific Plan stage. Since no specific development proposal (i.e., building envelopes, tentative map, grading plan) has yet been made, the Project and County engineers do not yet have all the information they need to establish the drainage plan for the Specific Plan. Moreover, the County also makes the predevelopment flow determination as part of their regular grading permit process. The Project engineers will complete a predevelopment flow study prior to submitting a grading permit application, and the County will review and consider the predevelopment flow calculations during the grading permit process, prior to any grading permit approval. The predevelopment flows accepted by the County at that time will become the standard that the post-development drainage design must meet.

Section 6D of the Infrastructure Master Plan (DEIR Appendix N, page 31) discusses the existing cross-project drainages. Section 6H of the Infrastructure Master Plan (DEIR Appendix N, page 38) discusses an existing location near the northwest corner of the Specific Plan Area where the existing pipe is not large enough to carry commonly-occurring storm drainage across Friant Road, causing puddling and flooding adjacent to existing businesses. The Infrastructure Master Plan discusses how the Project will provide additional storage to buffer this flow, mitigating the existing flooding condition.

Both the Specific Plan and the Infrastructure Master Plan require the project to maintain pre-development flows within the Specific Plan Area. (See Section 6.E.5 of the Infrastructure Master Plan, DEIR, Appendix N, page 34.) Specific information on storm drainage design and design standards is included in Appendix A of the Infrastructure Master Plan. Figure 1-SD (page 5 of Appendix A to the Infrastructure Master Plan) shows the sub-drainage area boundaries established for the project's overall grading plan. Figures 5-SD and 6-SD (pages 17 and 18 of Appendix A to the Infrastructure Master Plan) provide the United States Department of Agriculture, Soil Conservation Service (SCS) curve numbers to be used for pre- and post-development runoff calculations respectively. SCS curve numbers take into account soil type classifications since the porosity or imperviousness of the soil significantly affects the amount of runoff during a rain event. Figure 7-SD (page 20 of Appendix A to the Infrastructure Master Plan) shows master-planned hydraulic control elevations for the master-grading plan. Pages 23 and following of Appendix A to the Infrastructure Master Plan present the hydraulic calculations for one of the micro-drainage basins, as an example of proposed design. Calculation of other micro-drainage areas will be completed once final lot configuration, road section and project grading are known, and prior to the issuance of a grading permit. Specific calculations of other areas are not necessary in order to evaluate the significance of impacts in the DEIR because all drainage areas will be built to the design and performance standards in the Infrastructure Master Plan, and the hydraulic calculations of the sample micro-drainage basin on page 23 of Appendix A to the Infrastructure Master Plan will allow the County to ensure that the stormwater design will achieve the performance criteria.

Further, the DEIR states that the Specific Plan development requires as a component of Project approval the SWRCB's acceptance of the Specific Plan applicant's notice of intent for coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities, Order No. 2009-0009-DWQ (Construction General Permit). (DEIR at page 2-16.) The Construction General Permit contains post-construction standards that will be applicable to ongoing operations of the Specific Plan development. Specifically, the post-construction standards require the Project to replicate the pre-project water balance through the use of non-structural and structural measures. (See Construction General Permit at page 36.) Storm runoff during construction will be regulated under SWRCB 2009-0009-DWQ, and the project will be subject to the revised Storm Water Pollution Prevention Plan (SWPPP) requirements becoming effective July 2010, which include requirements to monitor construction runoff for turbidity and certain other constituents and mandate Best Management Practices to control impacts to Waters of the United States. Compliance with the Construction General Permit, the Infrastructure Master Plan provisions, and SWPPP requirements will ensure that there is no significant adverse effect from stormwater runoff or sedimentation from construction activities.

The information in the DEIR stormwater analysis, at pages 3-211 thru 3-213 and 3-216 thru 3-221, which is supported by the Infrastructure Master Plan design and performance standards as well as State Water Board permit requirements, supports a determination that the Project will not have a significant effect from stormwater runoff.

Comment 19.64: *The EIR does not describe or analyze how effective control of mosquitoes, and mosquito-borne diseases, such as West Nile Virus and dengue fever, will be achieved if the LID concept creates a plethora of small ponding areas in the Project area.*

Response 19.64: The DEIR calls for the LID Integrated Management Practices and Best Management Practices to be designed in accordance with national and state LID standards, which address mosquito control. (See DEIR at pages 3-216, 3-219, and Appendix N at page 35 and Appendix A thereto.) Structural treatment controls and LID practices that include landscaping and depressed areas that temporarily pond water are designed to prevent mosquitoes. So long as these facilities are designed correctly, properly planted, maintained adequately, and infiltrating properly, no breeding of mosquitoes is expected. This subject is addressed in detail in University of California Division of Agriculture and Natural Resources Publication No. 8125, "Managing Mosquitoes in Stormwater Treatment Devices," available at http://anrcatalog.ucdavis.edu/.

In bioretention basins, proper infiltration rates are attained through the use of engineered soils with good permeability and proper plant composition. Proper design and routine maintenance will ensure that water is not ponded for more than 72 hours, which is the accepted standard to prevent mosquito breeding since the mosquito gestational cycle is approximately five days.

BMPs that permanently retain water, such as storm water ponds and wetlands, must be designed and maintained based on the standards presented in the current version of the LID National Handbook and/or LID techniques from the SWRCB, as specified in Appendix A of the Infrastructure Master Plan. These standards include rock lining embedded in concrete and steep

slopes along the edge of storm water ponds and wetlands and periodic removal of debris and vegetation. Mosquito fish (Gambusia sp.) that eat mosquito larvae can also be introduced to perennial storm water ponds and wetlands to provide an additional method of control.

The potential for impact is reduced to less than significant by following the design guidelines and standards specified in the Infrastructure Master Plan, as required by Mitigation Measure #3.8.3a.

Comment 19.65: *The EIR does not contain sufficient evidence to support its conclusion that the use of treated effluent for landscaping and on the Beck, Lost Lake Park "or similarly situated property" will be less than significant. The EIR addresses this issue in a single conclusory paragraph. More detail is required to demonstrate that the planned application of treated effluent on open lands will not affect water quality or have other impacts.*

Response 19.65: The SWRCB adopted a new Recycled Water Policy (Recycled Water Policy) on February 3, 2009. The Recycled Water Policy primarily addresses the use of recycled water for landscape irrigation and groundwater recharge. The Recycled Water Policy creates a presumption specifically for CEQA purposes that the use of recycled water in accordance with the Recycled Water Policy has a beneficial impact and not a significant impact. Specifically, the SWRCB finding reads:

> The State Water Board finds that the use of recycled water in accordance with this Policy, that is, which supports the sustainable use of groundwater and/or surface water, which is sufficiently treated so as not to adversely impact public health or the environment and which ideally substitutes for use of potable water, *is presumed to have a beneficial impact*. *Other public agencies are encouraged to use this presumption in evaluating the impacts of recycled water projects on the environment as required by the California Environmental Quality Act (CEQA)*. (Recycled Water Policy at page 2-3, finding 3, emphasis added.)

Accordingly, public health and safety impacts and water quality impacts for projects are "beneficial" or "not significant" if the recycled water is used consistent with the Policy.

The Project proposes that recycled water be used conjunctively for landscape irrigation to the greatest extent practical, and proposes that the balance of the recycled water be applied to agricultural use at agronomic rates, sufficient land for which is available at the Beck property and potentially at other reasonably-proximate locations, such as Lost Lake Park. The County has no substantial evidence, and none is presented by the commenter, that rebuts the presumption of the State entity charged with regulating the use and disposal of recycled water that use of recycled water for landscaping and agricultural reuse consistent with State requirements will have anything but a beneficial impact.

The DEIR relied upon the Water Quality Assessment (Appendix L of DEIR) and the site investigation and findings of qualified biologists at Live Oak Associates and an engineer at Provost & Pritchard to support the conclusions in the DEIR. (See Live Oak Associates, Inc. *2009 Beck Property Biological Resources Analysis*, which incorporated as Appendix A thereto

the Provost & Pritchard 2009 *Evaluation of the Beck Property for Effluent Storage and Reclamation*). The Provost & Pritchard and Live Oak Associate memoranda noted above are included as Appendix Q. See also Response 32.8.

Comment 19.66: *The EIR inadequately analyzes impacts from biosolids generated by the wastewater treatment plant. The EIR, Appendix N, and the Project Infrastructure Plan do not present specific information on storage or disposal of biosolids from the proposed tertiary treatment. The EIR only states that disposal of biosolids will conform to regulations and will go to landfill (which would contravene AB 939 solid waste diversion mandates). No impacts from biosolid storage, transport or disposal are analyzed or mitigated, neither within the Project area, nor for transport to and disposal in some other municipality's area.*

Response 19.66: The EIR and supporting documents provide sufficient information to evaluate the potential effects of biosolids storage and disposal. The DEIR and the Specific Plan identify the relevant standards and regulations that will govern storage and disposal of biosolids from the wastewater treatment plant in order to minimize environmental impacts. (See, for example, DEIR Appendix N at page 28; see also DEIR at page 3-210.) Compliance with these regulations will ensure that impacts are less than significant.

As stated in the Infrastructure Master Plan (DEIR Appendix N at page 29), the wastewater treatment process will be housed in an enclosed facility, which will avoid significant visual, odor and noise impacts. (See also, DEIR at page 3-364.) Processing and storage of process sludge (biosolids) will occur within the structure and facilities. Processing will include a mechanical sludge press to accomplish dewatering. The dewatered sludge will be stored in bins within the facility and will be removed by truck on a periodic basis as necessary and appropriate. Biosolids will be removed to a properly permitted landfill facility that has capacity to accept Project biosolids. The Project is not anticipated to generate significant quantities of biosolids such that adequate landfill capacity would not be available to accommodate them. Truck trips associated with sludge removal would be infrequent (not daily or even weekly) and therefore do not materially affect the analysis of Project peak hour traffic impacts. Because no significant impact would occur, no mitigation is required.

The commenter offers no specific evidence to support the legal conclusion that disposal of the biosolids to landfill contravenes the intent of AB 939. It should be noted that the legislative trend in the Central Valley has been to prohibit application of even Class 1 biosolids to agricultural lands, leaving no other viable alternative to landfill disposal. However, processed biosolids can be used as day cover in the landfill, making their contribution to landfill volume a net zero, as they take the place of other inert material that would otherwise be used for that purpose.

Comment 19.67: *The EIR does not analyze the conflicts between the County Land Use policies for River Influence Areas and the proposal to site wastewater plant facilities serving development unrelated to the River within the River Influence Area.*

Response 19.67: The proposed wastewater treatment plant site within the Friant Ranch Specific Plan Area is not within the River Influence Area as depicted on the San Joaquin River Corridor

Overlay map. (Fresno County General Plan, Figure LU-2.) However, the proposed alternative site on the Beck Property (discussed in DEIR at pages 4-36 thru 4-43) is within the River Influence Area.

Policy LU-C.4, taken from Section C, "River Influence Areas of the Agriculture and Land Use Element" of the County General Plan, states the following: "The policies of the Friant Community Plan shall remain applicable in the Friant Community Plan area." The Beck property is within the existing Friant Community Plan boundary, which defines the land uses allowed within its boundary. The existing Community Plan designates the Beck Property for Agriculture. The proposed Community Plan Update maintains this designation. The Agricultural designation is described as "Land designated for the production of crops and livestock, and for location of necessary agricultural commercial centers, agricultural processing facilities *and certain nonagricultural activities*." (See Fresno County General Plan at page 2-7, emphasis added.) The Beck Property is zoned AE (Exclusive Agricultural). Section 816.3, Item L of the Fresno County Zoning Ordinance provides for "sewage disposal and treatment plants" as a permitted use subject to issuance of a Conditional Use Permit. As such, the proposed wastewater treatment plant site on the Beck Property does not conflict with the County policies for the River Influence Areas.

Comment 19.68: *The EIR improperly evaluates the required level of protection in the San Joaquin Riverbottom which is now keyed to a 200-year floodplain (not a 100-year floodplain). It also does not analyze the jurisdiction of the Central Valley Flood Protection Board as they now exist, nor as their jurisdiction will be expanded under recent California flood prevention legislation (SB 5, SB 17, SB 85, AB 5, AB 70, AB 156, and AB 162 effective in 2008).*

Response 19.68: The legislation cited by the commenter is summarized in the publication 2007 California Flood Legislation Companion Reference, prepared and published by the Department of Water Resources. The several bills provide comprehensive new regulation of development in "flood hazard areas," defined as being those within the 200-year flood plain and particularly those protected by levees within the Sacramento-San Joaquin drainages.

The 2007 legislation directs the California Department of Water Resources (DWR) to define the 200-year flood plains. DWR has yet to define the 200-year flood plain and, as such, there is no information available to describe the 200-year flood plain in the Project Area. However, the 200-year flood plain by definition will lie between the 100-year and 500-year flood plains. The entire area to be developed under the Specific Plan lies outside of the 100-year and 500-year flood plains. As noted in the DEIR, the only lands within the Specific Plan Area that fall within a flood plain is the large playa pool shown on Figure 3.8-1 of the DEIR, which is within the proposed open space preserve.

Though portions of the Beck Property are at or near the 500-year flood plain, it is unlikely that the alternative wastewater treatment plant location will fall within the pending 200-year flood plain. According to the available Federal Emergency Management Agency (FEMA) mapping, the 500-year flood plain is about 10 feet above the 100-year flood plain. The 200-year flood plain can be anticipated to be four to five feet at most above the 100-year flood plain. The

alternative wastewater treatment plant will likely have a finish floor elevation several feet above the 200-year flood plain.

Based on the available mapping, and State and County requirements related to floodplains, it is reasonable to conclude that the Project and proposed alternatives will comply with all applicable flood protection requirements.

The Central Valley Flood Protection Board (CVFPB), formerly the Reclamation Board, now is charged with reviewing developments within designated "flood hazard areas," and with reviewing the planning efforts of the various municipalities within the Sacramento-San Joaquin drainage area to assure compliance with the changes mandated in the laws. So long as the development provides flood protection by incorporating adequate finish floor elevations to be above the flood plain, the CVFPB will not have jurisdiction. Should a levee be proposed to provide flood protection for a part of the development, which is not anticipated, review and approval of the levee by CVFPB would be required.

Comment 19.69: *The EIR does not analyze how Corps of Engineers flood detention structures on the Fresno Stream Group could be affected by development of the Project area, which would greatly increase the extent of impervious surfaces and generate runoff.*

Response 19.69: Fresno Metropolitan Flood Control District's (FMFCD) 2009 District Services Plan states, "The District's flood control program consists of a system of facilities and operations which control the flows from several low-elevation streams that drain a part of the west slope of the Sierra Nevada between the San Joaquin and Kings rivers. These streams are collectively referred to as the Fresno County Stream Group."

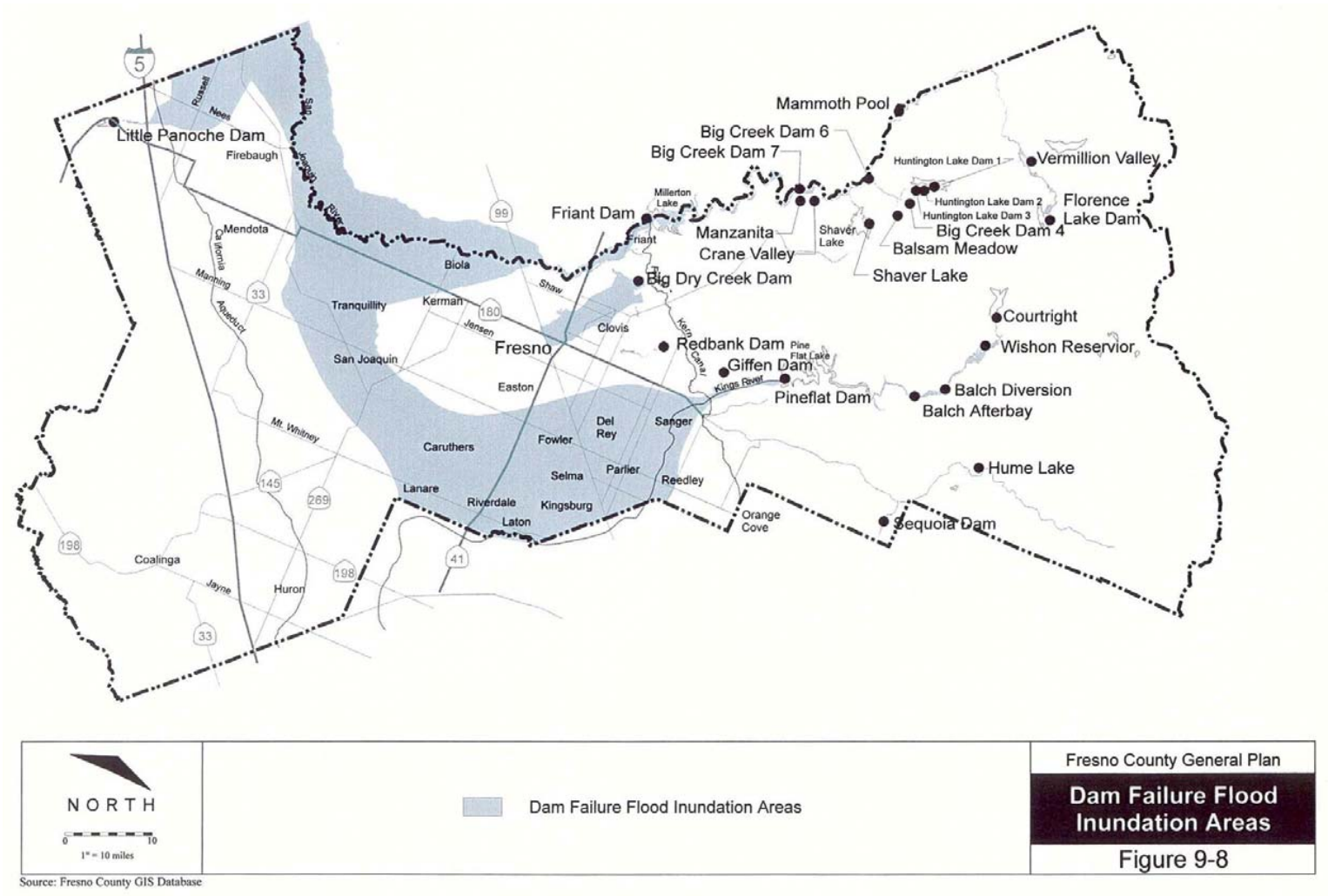
The proposed development within the Project Area is not within the FMFCD's service area. Moreover, as noted in Response 19.63 above, the Project will maintain pre-development stormwater runoff levels. As such, the Project will have no effect upon the Army Corps of Engineers or FMFCD's facilities within that service area.

Comment 19.70: *For possible inundation from Friant Dam and Millerton Lake, the EIR should include a map that shows the area that is subject to inundation and the land uses allowed in that area to support its less than significant conclusion.*

Response 19.70: The DEIR addresses this subject on page 3-221 and refers to Figure 9-8 of the Fresno County General Plan Background Report. A depiction of this inundation area has been added as Figure 3.8-3 to the EIR below. As shown on Figure 3.8-3 and consistent with the discussion on page 3-221 of the DEIR, the Depot Parcel and the entire Specific Plan Area (both situated east of Friant Road) are outside of the inundation area.

The text of the DEIR (page 3-221) has been amended as follows to include a reference to Figure 3.8-3, which shows the "Dam Failure Flood Inundation Areas" depicted in Figure 9-8 of the General Plan Background Report.

Friant Dam and Millerton Lake are located just north of the Project site. An inundation study completed in 1997 by the USBR redefined a worst-case scenario dam break of Friant Dam to include inundation of a significant portion of the City of Fresno and a much larger portion of Fresno County than previously described. In addition, failure of upstream dams on Shaver Lake, Edison, Huntington, Florence, and Mammoth Pool could contribute to flooding conditions on Millerton Lake and subsequently the San Joaquin River if downstream dam capacity is exceeded. According to Figure 9-8 (Figure 3.8-3 of this Draft EIR) of the Fresno County General Plan Background Report, only the portion of the Project Area along the San Joaquin River, west of Friant Road, would be subject to inundation as a result of the failure of Friant Dam. The majority of this land is currently used for recreation purposes and is not proposed for development by the Project.



Quad Knopf	DAM FAILURE FLOOD INUNDATION AREAS	Figure 3.8-3

Comment 19.71: *The EIR identifies 23 pollutants that will exceed regulatory standards in the mixing zone for the wastewater discharge. The EIR should identify this as a significant impact and include mitigation measures to address the impact.*

Response 19.71: Appendix L of the DEIR includes the aquatic assessment prepared by Robertson-Brian Inc. (RBI), a consulting firm specializing in water and power resources. The RBI report identifies 22 pollutants that may exceed regulatory standards on an ephemeral basis in the mixing zone of the river, under worst-case conditions of temperature and flow. RBI analyzed each of these constituents extensively at pages 28 through 64 and concludes without exception that any impacts upon the river, or the vertebrate and invertebrate species therein (including anadromous species) would be less than significant.

State and federal regulations and guidance allow for the use of mixing zones as long as beneficial uses are protected. Federal guidance explains: "It is not always necessary to meet all water quality criteria within the discharge pipe to protect the integrity of the water body as a whole. Sometimes it is appropriate to allow for ambient concentrations above the criteria in small areas near outfalls. These areas are called mixing zones." (Water Quality Standards Handbook (2nd ed.), EPA 823-B-94-005a, § 5.1 (June 2007).) In short, a mixing zone is a limited area or volume of water where initial dilution of a discharge takes place. The federal guidance further explains that states have discretion as to whether to establish a mixing zone policy.

The state policies that would apply to any mixing zone for the proposed wastewater treatment plant's discharges of treated effluent are the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (State Implementation Plan or SIP) and the Sacramento-San Joaquin Basin Plan. The SIP expressly applies to priority pollutants and authorizes mixing zones and dilution credits. (SIP at pages 3, 15.) Under the SIP, the Central Valley Regional Water Quality Control Board (RWQCB) may establish and determine compliance with effluent limitations for human health or (acute or chronic) aquatic life criteria/objectives or the toxicity objective for aquatic life protection by granting mixing zones and dilution credits to dischargers. (SIP at page 15.) The SIP provides that the "applicable priority pollutant criteria and objectives are to be met throughout a water body except within any mixing zone granted by [the RWQCB]." (SIP, emphasis added.) A mixing zone must be as small as practicable to protect beneficial uses, satisfy the SIP and comply with any other regulatory requirements. (SIP at page 17.)

Consistent with the SIP, the RWQCB defines "mixing zone" as "a limited volume of receiving water that is allocated for mixing with a wastewater discharge where water quality criteria can be exceeded without causing adverse effects to the overall water body." (Order No. R5-2009-0095, NPDES No. CA0081558 at page A-3, emphasis added.) Moreover, the Sacramento-San Joaquin Basin Plan states that water quality objectives "may not apply at or in the immediate vicinity of effluent discharges, but at the edge of the mixing zone if areas of dilution or criteria for diffusion or dispersion are defined in the waste discharge specifications." (Sacramento-San Joaquin Basin Plan at page III-2.00, emphasizes in original.)

The Water Quality Assessment (DEIR Appendix L) for the Project includes a dilution study that establishes mixing zones and estimates the dilution available in the San Joaquin River for the

project's proposed wastewater discharge. (DEIR at page 3-208.) Consistent with applicable law and guidance, the RWQCB may grant the wastewater treatment plant the smallest practicable mixing zone in which applicable water quality objectives may be exceeded. The DEIR relies upon that evidence for its analysis and impact assessment. While the commenter asserts that the impact should be significant, no evidence supporting that conclusion is given, so no further response is required and no additional mitigation measures are necessary.

Comment 19.72: ***Chapter 3.9 Land Use and Planning***

The Project presents fundamental inconsistencies with the land use and planning policies in the County of Fresno General Plan and the General Plans of surrounding cities. The proposed General Plan Amendment to change the Community Plan boundaries and General Plan land use designations cannot "cure" this fundamental inconsistency. The Project will result in a development that is incompatible with many of the central goals and policies that guide land use development in the County. The main inconsistency that results from the Project is the development of intense urban uses on agricultural land in an incorporated area which does not have adequate pubic services. The policies of directing urban development to incorporated areas with existing services to support development and away from agricultural land are contradicted by the Project. The EIR conclusion that the Project is not inconsistent with planning policies is wrong.

Response 19.72: See Response 19.16.

Comment 19.73: *The inconsistencies with County land use policies include but are not limited to the following: (1) policies that promote the Friant area as a recreational hub since Specific Plan does not focus on recreational uses; (2) policies for preservation of agricultural land (see comments in Agriculture section above). The Right to Farm notices does not mitigate the impacts of urban development next to agricultural land; (3) inconsistencies with the Community Plan which does not contemplate or allow the type of development under the Specific Plan or the large expansion of its Plan area.*

Response 19.73: With respect to alleged inconsistencies with "policies for preservation of agricultural land", see Response 19.16. With respect to the effect of Right to Farm notices, see General Plan Policy LU.A-15 and DEIR discussion at page 3-24. The Project includes a Community Plan amendment to update the boundaries of the Community Plan. The Fresno County General Plan and the existing Community Plan do not restrict the County's ability to expand the Community Plan boundaries. In fact, the Fresno County General Plan contemplates potential new growth areas in the Friant-Millerton Area and recognizes that it is an area void of productive agricultural soils. (See General Plan Policy LU.H8.) The commenter has not identified any specific policies promoting the Friant area as a "recreational hub" or otherwise explained the allegation that the Project conflicts with such policy. As such, no further response is possible. Notably, however, the Friant Ranch Specific Plan focuses on the recreational nature of the Project Area. For example, as explained at page 3-231 of the DEIR, the Friant Ranch Specific Plan "emphasizes the design feature of connecting the new growth to the existing community and the area's recreational amenities through trails and pedestrian linkages." Further,

business that may emerge within the Project Area as a result of the Project may actually enhance the recreational amenities of the Friant area and encourage additional recreational uses.

Comment 19.74: *The EIR does not provide any analysis of the Project inconsistencies with the January, 2003 Amended and Restated MOU between the County and City, and the MOU between the County and the City of Clovis. The Project is inconsistent with the City/County MOU because: (1) The MOU requires the County to consult with the City in the early stages of preparation for projects (such as this Project) that involve new urban development inconsistent with existing County Plans (MOU, Section 4.4); and (2) the MOU requirement for the County to adhere with Rural Residential Development Restriction policies and preserve agricultural land (MOU, Section 4.5).*

Response 19.74: The Project does not conflict with the cited Memorandum of Understanding (MOU) between the City and Fresno County or with the MOU between the City of Clovis and Fresno County. Those MOUs primarily address land use planning and tax revenue sharing between the cities and County for future development within the sphere of influence of the cities, or within a defined expanded sphere of influence for each city (comprising lands adjacent to the existing sphere). The Project Area is not within or adjacent to the sphere of influence of either city. At its closest point, the Specific Plan is 3 miles north of the City of Fresno's sphere of influence and 4 miles north of the City of Clovis's sphere of influence. Nor is the Project within the Fresno-Clovis Metropolitan Area boundary, as designated in the City of Fresno/County MOU, or within the designated area outside of the City of Clovis's sphere of influence. Thus, neither Section 4.4 of the City of Fresno/County MOU nor Section 4.3 of the City of Clovis/County MOU applies to the Project. Finally, the Project does not include land with the current General Plan designation of Rural Residential, nor does it propose to designate land as Rural Residential. As a result, City of Fresno/County MOU Section 4.5 (related to Rural Residential development restrictions) does not apply to the County's consideration of the Project. For these reasons, the MOUs referenced in the City's letter do not apply to the County's consideration of the Project. The County has considered the City's comments about the Project made both in scoping for this EIR and comments on the EIR itself, and those comments will inform the County's consideration of the EIR and Project.

Comment 19.75: *The EIR does not characterize the Bigelow Ranch (Friant Ranch) as eastside rangeland, and does not analyze the Project's consistency with County General Plan policies for Eastside Rangeland and Eastside Grazing Land.*

Response 19.75: Although the term “eastside rangeland” is not used in the physical setting section of the DEIR at page 3-22, the first two paragraphs of section 3.2.2 PHYSICAL SETTING clearly identifies the Friant Ranch area as grazing land. Although the Country General Plan includes policies for “Westside Grazing Land”, no such policies can be found pertaining to “Eastside Grazing Land”

Comment 19.76: *The EIR fails to evaluate the Project's consistency with the San Joaquin Valley Regional Blueprint: Vision for the Valley.*

Response 19.76: Comment noted. The San Joaquin Valley Regional Blueprint: Vision for the Valley provides general policy guidance for county/city coordination on a voluntary basis throughout the entire valley and is not considered part of the regulatory setting for the DEIR.

Comment 19.77: *The Project is also completely inconsistent with the land use and transportation policies of SB 375. The goal of SB 375 is to reduce greenhouse gas (GHG) emissions from vehicle trips through regional land use and transportation planning. Under SB 375, a sustainable community strategy (SCS) will be developed as part of the regional transportation plan process. The SCS will reduce GHG emissions by reducing vehicle miles traveled relating to land use. The type of development that the SCS promotes is concentrated urban development in existing urban areas and reduced sprawl development. The SCS should include urban infill development that includes mixed use, higher density housing, proximity to transit or incorporation of alternative transportation elements, and the location of housing near jobs. SB 375 also promotes sustaining existing agricultural land and preventing its conversion to urban uses. The Project flies in the face of all these policies. It is classic sprawl development which converts existing agricultural land and open space to create housing that is not proximate to jobs, existing urban development, or transit. It will result in an increase rather than decrease of GHG emissions and vehicle miles traveled. It will impede the creation of a SCS for Fresno County that can meet the GHG reduction goals for the County established under SB 375.*

Response 19.77: On September 30, 2008, Governor Arnold Schwarzenegger approved *Senate Bill 375, The California Sustainable Communities and Climate Protection Act*, which supports AB 32's goals through regional planning coordination requirements. The bill directs the Air Resources Board (ARB) to develop and set greenhouse gas (GHG) emission reduction targets for the automobile and light truck sectors for 2020 and 2035. The targets must be set for each region that has a metropolitan planning organization (MPO). ARB is to propose draft targets by June 30, 2010 (this has not yet occurred), and adopt final targets by September 30, 2010. Once the targets are adopted, the MPOs must prepare a sustainable communities strategy to reduce the amount of vehicle miles traveled in their respective regions and demonstrate the region's ability to attain ARB's targets through integrated land use, housing and transportation planning. The adopted SCS would be incorporated into the region's federally enforceable regional transportation plan. If ARB determines that a region's sustainable communities strategy would not achieve the GHG emission reduction targets, the MPO must prepare an alternative planning strategy, describing alternatives to achieve the targets. The alternative planning strategy would not be incorporated into the regional transportation plan.

SB 375 does not set any numeric targets for GHG emissions, and does not require that city or county land use policies and regulations, including general plans, be consistent with the sustainable communities strategy or alternative planning strategy. The bill does provide incentives to developers for certain projects that implement the region's sustainable communities strategy by relaxing CEQA requirements.

SB 375 requires ARB to develop and set GHG emission reduction targets prior to the development of the region's SCS. ARB is required to finalize the GHG emission reduction targets by September 30, 2010, and has yet to propose any such targets. The SCS must be based on various planning assumptions, including assumptions related to the regional housing need,

economic segments of the population, migration to the region, population growth, employment growth, and household formation. Given the absence of established GHG emission reduction targets for the subject region and studies in preparation of the SCS, any determination of this project's impact on the ability of Fresno County to meet the GHG emission reduction targets for the County would be based on pure speculation.

Section 3.15 of the DEIR addresses the greenhouse gases with regard to the Project in general and vehicle miles traveled. CEQA Guidelines proposed at the time the DEIR was released (October 2009) provided that GHGs should be addressed if either of the two following criteria apply: (1) the Project would generate GHGs, either directly or indirectly, that may have a significant impact on the environment, based on any applicable threshold of significance; or (2) the Project would conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of GHGs. (DEIR at p. 3-384.) When the DEIR was released, there were no adopted significance thresholds for GHG emissions or adopted methodology for analyzing impacts related to GHG emissions, and the DEIR outlined then-current regulatory guidelines. (See also Response 19.144.) GHG emissions associated with the Project were estimated using CO2 emissions as a proxy for all GHG emissions. This is consistent with the current reporting protocol of the California Climate Action Registry (CCAR). Calculations of GHG emissions typically focus on CO2 because it is the most commonly produced GHG in terms of both number of sources and volume generated, and because it is among the most accurate GHGs to measure. (DEIR at p. 3-384.)

The URBEMIS modeling program was used to calculate CO2 emissions. The program estimates CO2 emissions from project-generated vehicle trips. The estimates were based on the trip-rates from the traffic study and proposed detailed land use information from the Friant Ranch Specific Plan and an estimate of possible uses for the areas outside the Friant Ranch Specific Plan and within the Community Plan boundary, including the Depot Parcel, based on the Friant Community Plan. A summary of the URBEMIS findings is provided at pages 3-384 and 3-385 of the EIR.

Given the significant adverse environmental effects linked to global climate change induced by GHGs, the emission of GHGs is considered a significant cumulative impact. Therefore, the DEIR at Impact 3.14.1 concludes that development of the Project could potentially result in a cumulatively considerable incremental contribution to the significant cumulative impact of global climate change. (DEIR at p. 3-387.) The Project thus includes various mitigation measures to reduce its impacts on global climate change. (See e.g., DEIR at pp. 3-391 to 3-393.)

See also Response 9-5 regarding the San Joaquin Valley Blueprint list of Smart Growth Principles and see Response 18-3 related to conversion of agricultural land.

Comment 19.78: ***Chapter 3.10 Noise***

The EIR's determination that installation of sound insulation within existing structures is not feasible mitigation is not supported by substantial evidence. The EIR explains that installation of sound insulation is infeasible "because it would require remodeling of existing structures along

the roadways." This vague, unsupported, and unquantified assertion is not sufficient to support a determination that mitigation by installing sound insulation in existing structures.

Response 19.78: Comment noted. The "rule of reason" applies here. Existing structures are grandfathered in place and installation of additional sound proofing insulation can not be enforced. The statement in the DEIR is valid.

Comment 19.79: ***Chapter 3.11 Population and Housing***

This section of the EIR concludes that the Project is consistent with the goals of the County's Housing Element in that the Project will provide adequate housing and supportive services for persons age 55 and older, who have special needs. This conclusion is unsupported, since the Project makes no provision for the skilled nursing facilities, hospital facilities, or community care assisted facilities which are typically required supportive services for this population.

Response 19.79: Section 8.3.1 of the proposed Friant Ranch Specific Plan discusses Conformance to General Plan and lists goals and policies to conform with General Plan Housing Element items, including appropriate supportive services for the active adult 55+ population. Section 1.4 of the proposed Friant Ranch Specific Plan provides for integrating "health and wellness amenities and medical facilities within Friant Ranch community and the Friant Ranch Village Center." Further, section 7.5.3 of the Specific Plan provides for Active Adult Recreation Centers with many social amenities for this population. Section 2.3.2 of the Specific Plan also describes the planned Village Center that will incorporate medical and social gathering uses.

Comment 19.80: *The Project, and the EIR, must be revised to address adequate provision of medical care and social services for the age 55+ population accommodated by the Project.*

Response 19.80: Because of the proposed project orientation to the 55+ population it is anticipated that medical care and social services facilities to serve this population will be developed as the need arises with implementation of the proposed project. The land use designations and configurations proposed by the Project do not preclude such facilities and services. See also Response 19.79.

Comment 19.81: *The population and housing section of the EIR also fails to demonstrate that there is any actual demand for housing for active adults aged 55+ in the Friant area, nor does it provide any evidence to support a conclusion that the Project's housing would be price-accessible to lower-income seniors.*

Response 19.81: Comment noted. This comment does not address environmental issues. For summary of DEIR analysis and related information about demand for active adult 55+ housing, see Responses 9.8 through 9.10.

Comment 19.82: *The Project also fails to make adequate provision for other housing age groups, particularly children.*

Response 19.82: Comment noted. This comment does not address environmental issues.

Comment 19.83: *The EIR does not identify any provision that provides the County with power to enforce the "age 55 or older" requirement for the residential units designated for such a requirement. In Fresno County, it is currently estimated that a significant percentage of senior citizens are currently raising or housing their grandchildren, due to socioeconomic conditions. In light of the lack of County enforcement power, the EIR needs to either provide evidence to support a conclusion that CC&R and HOA regulations will be adequate to enforce the residential age requirements, or else revise its projections of the age groups likely to be accommodated by the Project.*

Response 19.83: See Response 9.11.

Comment 19.84: ***Chapter 3.12 Public Services and Recreation***

The EIR's section on Public Services and Recreation determines that a potentially significant impact of increased demand for fire protection services will be mitigated to a less than significant level by establishment of a CFD to serve Friant Ranch "consistent with fire and emergency response time standards established in the County General Plan. However, the County standards do not quantify required response times, nor does the EIR contain any quantification or data on the fire/emergency response times which will be achieved under this mitigation measure. It is entirely unclear, therefore, how the EIR determines that this impact will be reduced to a less than significant level. The EIR must be revised to commit to achieve an acceptable, quantified level of fire/emergency response time.

Response 19.84: See Responses 19.85, 26.5, and 26.10.

Comment 19.85: *Additionally, as discussed below in comments on the Transportation/Traffic section, the EIR must be revised to address the potential for unacceptable levels of service on the Project's main access roads to significantly impair fire and emergency response times.*

Response 19.85: The DEIR addressed fire and emergency response times for the Project Area and found that the Specific Plan project's main access roads were sufficient to ensure adequate fire and emergency response times. Adherence to the County's policies established to ensure emergency response and safety, rather than levels of service on the main access roads, are the driving factor in ensuring appropriate emergency response times because all traffic is required by law to clear the roadway for emergency vehicles. See Fresno County General Plan Policy PF-H.8, which establishes minimum standards for average first alarm response times. "15 minutes in suburban areas" is the standard applicable to the Friant Ranch Project. Ingress and egress to support emergency vehicles is analyzed in Section 3.7 of the DEIR at pages 3-181, 3-188, and 3-189. Applicable Fresno County General Plan policies regarding fire protection are explained on pages 3-257 and 3-258 of the DEIR. Impact and mitigation analysis #3.12.1 (Increased Demand for Fire Protection Services and Personnel) on pages 3-265 and 3-266 of the DEIR discussed how the Project will be required to mitigate to ensure adequate fire protection.

Comment 19.86: *The above comments also apply to the EIR's unquantified analysis of law enforcement services. The EIR concludes that potentially significant impacts in this area will be reduced by formation of a CFD to maintain "adequate" staffing and facilities to serve the Friant*

Ranch community – without any explanation of how "adequacy" in this regard will be determined. The EIR provides no data or quantification regarding the need for law enforcement staffing and facilities which will be created by the Project.

Response 19.86: See Response 20.1.

Comment 19.87: *Nor does the EIR address any potential for significant environmental impacts to result from construction/operation of new law enforcement facilities for which the Project will create a need. The EIR needs to be revised to discuss these issues.*

Response 19.87: Should the project create a need for new law enforcement facilities, such facilities would be built within areas designated for commercial or public land uses by the General Plan or Specific Plan in effect at the construction location. Environmental Impacts associated with development under the respective General or Specific Plan have been addressed in the environmental documents prepared for the General or Specific Plans and all applicable mitigation measures will be required at the time of construction. If identification of a specific location for law enforcement facilities during processing of future discretionary approvals triggers supplemental environmental analysis pursuant to Public Resources Code section 21166, then additional environmental analysis pertaining to such new information will be conducted. At this time, however, analysis of impacts of potential law enforcement facilities would be based on pure speculation.

Comment 19.88: *Furthermore, the EIR does not appear to respond to the comments of the California Highway Patrol, on the NOP, that the Project is likely to create a need for a minimum of five, and as many as seven, additional officers to handle the increase in traffic volume and attendant collisions and other traffic-related emergencies created by the Project. The EIR needs to be revised to address those impacts, and to provide for the Project to fund the necessary CHP services.*

Response 19.88: The proposed project will pay fees in accordance with Mitigation Measure #3.12.2 found at page 3-266 of the DEIR to provide additional law enforcement services required as the proposed project develops. Meeting increased demand for CHP service is a function of the State budget process and would addressed in this manner.

Comment 19.89: *Finally, the EIR needs to evaluate whether there will be any additional need to bus students from the Project area to public schools, and to address any impacts to public services related to such a need.*

Response 19.89: Although the focus of the proposed Friant Ranch Specific Plan is to provide housing for the 55+ population, there will be a need to bus students from the proposed non-age restricted units within the Project Area to schools that are located far enough from a student's residence to qualify the student for bus service. Provision of school bus service to the proposed project site will be accomplished, as throughout the County, through the school district budgeting process as the need arises. Impacts on public schools will be addressed as stated in the discussion of Mitigation #3.12.3 found at page 3-267 of the DEIR.

Comment 19.90: *The EIR should disclose and determine the significance of the impacts on existing recreational facilities (e.g., Lost Lake Park, Millerton Lake Recreation Area, and San Joaquin River Parkway) of increased use by the new residents who would be introduced by the Project.*

Response 19.90: As stated in the discussion of Mitigation #3.12.4 found at page 3-268 of the DEIR, at buildout the proposed project will be in compliance (exceed) the County acreage of parkland to population standards and the impact on surrounding recreation facilities will be less than significant.

Comment 19.91: ***Chapter 3.13 Transportation/Traffic***

The EIR's traffic and transportation impacts analysis, and Appendix D (Traffic Impact Study, or TIS) is inadequate in many respects. The City of Fresno does not agree with the peak hour trip generation rate reductions. The EIR appears to assume that active adults aged 55 and above constitute a category of residents whose commuting patterns can be assumed to differ from those of the general population. Even though this is predominately an active senior (55 and over) housing project many people in this low socioeconomic region are still working 8AM-5PM positions well beyond the age of 55. This proposed project does not require that the active seniors are retired. The ITE trip generation rates for senior housing are for projects closer in proximity to the city center or adjacent to a metropolitan region. In addition, projects cited in the Fehr & Peers projects were in affluent communities and in a different economic period than a recession. The City of Fresno requires that intersection within its jurisdiction utilize the ITE trip generation rate for a single family home. All impact fees and mitigation should be calculated based on this single family home trip generation rate.

Response 19.91: See Responses 9.6 and 9.11. Active adult communities do not require that the residents be retired. The description of ITE Code 251 indicates that the "*The percentage of retired residents varies by development."* The description of ITE Code 252 states that residents may or may not be retired. Furthermore, the City of Fresno Traffic Impact Study Report Guidelines do not suggest modification of trip generation analyses based on a "*low socio-economic region*."

ITE Codes 251 and 252 best match the description of the active-adult residential portion of the proposed Project. The descriptions of ITE Codes 251 and 252 acknowledge that residents may be employed. However, the active adult community is not expected to generate trips similar to a single-family detached housing (ITE Code 210), especially considering the location as described in the TIS, the fact that far fewer school-aged children are expected, and the percentage of retired residents is expected to be much greater than the typical neighborhood. See also Responses 19.93, 28.1 and 28.2.

Comment 19.92: *Furthermore, this assumption appears at least potentially at odds with the comments by CalTrans, on the NOP, that the Project has the potential to generate in excess of 30,000 daily vehicle trips.*

Response 19.92: The Caltrans comments on the NOP were prepared before the TIS was prepared and appear to have overestimated the trip generation. The TIS indicates that the Friant Ranch portion of the Project is expected to generate 17,673 trips per day after accounting for internalization (see DEIR, Appendix D at Appendix E thereto) and the Friant Depot portion of the Project is expected to generate 3,157 trips per day (see Table 9.6 of Appendix D of the DEIR). The methodology used by the traffic engineer for estimating daily trips is consistent with nationwide practices.

Comment 19.93: *It also contradicts the experience of the City of Fresno, which has observed that most or many homeowners in this age group commute to work daily, if only to afford their mortgages. The EIR's traffic analysis should be revised to reflect current societal conditions, under which great numbers of active adults over the age of 55 – particularly in suburban developments like the proposed Friant Ranch Project – have driving patterns similar to the general population.*

Response 19.93: This comment suggests that the City of Fresno has observed that the percentage of working persons in the 55-and-older age group is similar to the percentage of working persons in both the under-55 age group and the population as a whole. However, this observation was not substantiated. The comment that "most" persons over the age of 55 commute to work daily is also unsubstantiated. The ITE code utilized in the study indicates that the active adult communities include working residents. The ITE trip generation rates applied in the analysis hinge more on the overall lifestyles (i.e., 1-2 person household with fewer school extracurricular activities requiring daily trips). See also Responses 9.6, 9.11, 28.1 and 28.2.

Comment 19.94: *Appendix D identifies Friant Road and Willow Avenue as the major routes providing access to the Project site. Yet the EIR identifies multiple road segments and intersections on both Friant Road and Willow Avenue as operating at unacceptable levels of service either now or by 2030. Furthermore, the EIR concludes that no mitigation can feasibly result in either of these two major access routes operating at acceptable levels of service. Yet the EIR's traffic analysis concludes that development under the Friant Ranch Specific Plan, on property served by these two unacceptably impeded roadways will have absolutely "no impact" to emergency services access. The EIR, as a document providing environmental analysis of a project to create a new community containing nearly 3,000 residences for active adults (age 55+), must explain how it determines that access for necessary medical services will not be significantly affected by the unacceptable traffic conditions on Friant Road and Willow Avenue.*

Response 19.94: The Project is consistent with Fresno County General Plan Policies HS-B.4 and HS-B.5, and there are no limitations to the access of emergency vehicles to any portion of the existing Friant Community Plan Area. The improvement standards adopted by Fresno County provide adequate street width and requirements for secondary access to ensure that future development in the Friant area makes adequate provision for emergency vehicle access. According to the project's Infrastructure Master Plan, fire response will be from the CalFire station located in the town of Friant, approximately one mile north of the main project entrance, and is unaffected by any of the subject Friant Road segments and intersections. (See Section 3.7 of DEIR for discussion of impacts to emergency preparedness, which would not be significant.)

Comment 19.95: *The City of Fresno does not agree that the Average Daily Traffic (ADT) volumes will decrease due to trip chaining of a remote development. The model is showing that 75% of the proposed project traffic will be directed to the City of Fresno. While the percentage might not change the total amount of the project traffic based on the trip generation may change drastically and have significant impacts. We agree that the total average daily trips (ADT) at the entrance to this subdivision might be less based on the distance it is from the attractions, however I would argue that the Vehicle Miles Traveled (VMT) per trip would be substantially higher than a typical trip in the Fresno COG model for the City of Fresno due to its remote location and this could greatly affect air quality emissions in a region that is already not meeting air quality standards.*

Response 19.95: The TIS did not apply a reduction to the ADT volumes or a reduction due to trip chaining of a remote development. See also Response 19.128 that addresses vehicle miles traveled issue.

Comment 19.96: *In addition the City of Fresno has never approved a pass-by trip reduction of more than 15%, which is consistent with the Caltrans Traffic Impact Study Guidelines. This would assume that the adjacent roadway facility traffic volumes could support this amount of reduction (which was not discussed in the traffic impact study) and that the proposed commercial land uses would be of convenience that would support a pass-by reduction.*

Response 19.96: The application of pass-by reductions to retail-oriented developments is a standard and well-established traffic engineering practice as well as an empirical reality. The Caltrans Guide for the Preparation of Traffic Impact Studies requires that any pass-by reductions in excess of 15 percent be justified in the TIS, but does not disallow greater pass-by reductions. ITE allows the use of up to a 35% pass-by reduction (and up to 50% reductions for certain uses such as drive-thrus and gas stations). The pass-by reductions utilized in the TIS were justified with empirical data published in the ITE *Trip Generation Handbook* as described in the TIS in accordance with standard industry practice and were not applied to the residential and office aspects of the Project.

Only reasonable pass-by reductions substantiated with published data were applied, and only in the year 2030 scenario when a significantly greater amount of buildout creating pass-by trips is anticipated in Rio Mesa and Millerton New Town. See Section 9.4 of the TIS.

Comment 19.97: *Table 4.1 of Appendix D identifies a number of study intersections as operating acceptably under existing conditions. However field observations by the City of Fresno's Traffic Engineer confirm that these intersections are not operating acceptably due to long queues, demand exceeding capacity, traffic signal cycle length, and unserved demand. Many of these intersections operate at unacceptable levels for multiple hours and periods of the day. The "black box" analysis approach, utilized in the preparation of Appendix D, of merely counting the traffic volume that makes it through the intersection, is inadequate. The analysis must include identifying the demand and calculating the saturation flow rates due to ramp metering, blocked through lanes due to queues that exceed turn pockets, through lane queues that block both left and right-turn pockets, upstream queues that do not accept through traffic, and lane utilization. This requires peak hour field observations and documentation by a qualified*

professional engineer. Failure to perform this level of analysis appears to have grossly underestimated the impacts of the proposed project, and concealed the true level of service, demand, or capacity of the roadway. Some of the study intersections are misrepresented by 1-4 level of service grades. The entire TIS needs to be redone to actually reflect the existing conditions experienced in the field. Until this analysis is corrected the entire documentation and analysis in the TIS and DEIR is baseless and lacking in evidentiary support.

Response 19.97: See Response 19.98 below.

Comment 19.98: *The City of Fresno's preliminary review indicates that the following intersections are inaccurately analyzed in the EIR, and as a result affect all the analysis through the environment document as this is the base condition from which all impacts are determined, evaluated, and mitigated:*

1. *Friant/Shepherd (queues and capacity affected by ramp metering which serves between 1,500-1,900 vehicles per hour, in addition westbound left-turns are not fully served and northbound right-turn queues exceed capacity)*

2. *Friant/Audubon (queues and capacity affected by ramp metering which serves between 1,500-1,900 vehicles per hour)*

3. *Friant/Fresno (queues and capacity affected by ramp metering which serves between 1,500-1,900 vehicles per hour)*

4. *Friant/SR 41 NB off ramp (queues and capacity affected by ramp metering which serves between 1,500-1,900 vehicles per hour)*

5. *Friant/SR 41 SB off-ramp (adjacent queues and lane utilization affect this intersection)*

6. *Blackstone/Nees (SR 41 southbound on-ramp backs up into this intersection due to ramp metering. Northbound through lanes, Westbound left-turns, southbound U-turns/left-turns, and eastbound right turns all are impacted due to ramp metering)*

7. *Herndon/Blackstone (City of Fresno has identified the WE right-turn needs to be extended by over 300 feet and become an overlap phase yet the TIS suggests that the queue is only 90 feet. This capital improvement grant application was ranked highly by the regional review panel as most people in the Fresno region are aware of the regular congestion at this intersection)*

8. *Fresno/Nees (due to queues and delays on Friant many northeast commuters have shifted to Nees Avenue to access the southbound SR 41 on-ramp)*

9. *Audubon/Nees (needs to be signalized and synchronized with both Palm/Nees and Nees/lngram)*

10. *Palm/Nees (adjacent queues from intersections affect intersection operations)*

11. *Palm/Herndon (intersection capacity exceeds demand. City of Fresno recently installed southbound right-turn overlap phasing as queues extend north to adjacent intersection)*

12. *Willow/Herndon (City of Clovis just widened intersection because of level of service operations)*

13. *Willow/Bullard (a capital project is already identified by both the City of Clovis and City of Fresno for unacceptable levels of service for which the traffic consultant that prepared the TIS bid on the design work)*

14. *Herndon/SR 41 NB off ramp (queues on the northbound off-ramp routinely back up to Sierra and Bullard Avenue on the SR 99 mainline in addition queues from Herndon/Blackstone and Herndon/Fresno block capacity)*

15. *Herndon/SR 41 SB off ramp (intersection is routinely blocked by queues from Herndon/Blackstone and Herndon/Fresno)*

Response 19.98: Peters Engineering Group performed additional field observations and reviewed the following reports:

- Traffic Impact Analysis, Fresno 40 Development dated September 17, 2008 by VRPA Technologies, Inc. (hereinafter referred to as the "VRPA Report");

- Transportation Impact Analysis Report for Tesoro Viejo Project dated November 2007 by Fehr & Peers (hereinafter referred to as the "Fehr & Peers Report").

Each of the reports listed above included analysis of several locations in common with the Friant Ranch TIS, including several intersections on Friant Road, the SR 41 interchange at Friant Road, and the SR 41 interchange at Herndon Avenue.

The EIR for the Fresno 40 report has been certified by the City of Fresno. The EIR for the Tesoro Viejo project has been certified by the County of Madera and the City of Fresno did not object to the traffic analyses presented in the Fehr & Peers Report.

The VRPA Report and the Fehr & Peers Report contained vastly different characterizations of the existing conditions at many of the study locations identified in Comment 19-98 by the City of Fresno. The VRPA Report typically reported that substandard levels of service exist based only on observations of queues and not based on the results of operational analyses (in many cases operational analyses were not performed to characterize the existing conditions). The Fehr & Peers Report presented operational analyses that were very similar to the results of the analyses presented in the Friant Ranch TIS. The discussions below will clarify and characterize the existing conditions at the study locations based on the results of the analyses presented in the TIS and recent field observations made by Peters Engineering Group.

Prior to addressing the intersections specifically identified by the City of Fresno in Comment 19-98, the operation of the Friant Road corridor between Blackstone Avenue and Shepherd Avenue should be clarified. During the a.m. peak hour, ramp metering at the SR 41 SB loop on-ramp

(which consists of two lanes) was observed serving approximately 22 vehicles per minute during peak a.m. periods (equating to a flow rate of approximately 1,320 vehicles per hour on the on-ramp and 660 vehicles per hour per lane on the on-ramp). Caltrans has indicated in discussions with Peters Engineering Group that each meter is on an eight-second cycle to maximize the metering rate at 900 vehicles per hour per lane (two vehicles per green). The on-ramp queue and high lane utilization in the Number 2 and Number 3 lanes of southbound Friant Road extend beyond the intersection of Friant and Audubon. The Number 1 lane (leftmost lane) of southbound Friant Road is not highly utilized, and those vehicles using the Number 1 lane southbound were observed experiencing a good LOS at each of the study intersections.

During the a.m. peak hour in the northbound direction, ramp metering on the SR 41 SB direct on-ramp (which consists of only one lane) was observed serving on the order of 14 vehicles per minute (flow rate of 840 vehicles per hour). The on-ramp queue extends to the intersection of Blackstone and Nees Avenues, at times blocking the westbound left turn, the eastbound right turn, and the northbound through.

During the p.m. peak hour, the predominant traffic flow is from the SR 41 NB off ramp, with the busiest conditions observed between approximately 5:30 p.m. and 6:00 p.m. The off ramp has three right-turn lanes; the Number 1 (leftmost) right-turn lane is not highly utilized. The Number 2 and Number 3 right-turn lanes are highly utilized, and this utilization of the Number 2 and Number 3 lanes extends along northbound Friant Road as drivers planning to turn right at Shepherd Avenue do not highly utilize the Number 1 lane on northbound Friant Road. Queues in the Number 3 lane extend from Fresno Street to the SR 41 NB off ramp, blocking the off ramp and creating queues on the off ramp, observed as long as approximately 700 to 800 feet. However, the queues at these intersections typically dissipate within one traffic signal cycle before building back up again with few, if any, drivers moving to the Number 1 right-turn lane.

Peters Engineering Group observed a vehicle traveling northbound on Friant Road at approximately 5:45 p.m. was stopped in the Number 3 lane at the back of the queue extending from Fresno Street near the end of the curb return at the east side of the northbound off ramp. It took exactly three minutes to travel from this point entirely within the Number 3 lane on Friant Road to completion of the right turn at Shepherd Avenue (a distance of approximately 0.87 miles), which is an average speed of 17.4 miles per hour. A faster speed would have been accomplished in the Number 1 lane where the observed queues were shorter. Friant Road most nearly matches the description of a Class II urban street in Chapter 10 of the *Highway Capacity Manual*, for which an average speed of 17 miles per hour is classified as an acceptable LOS for this City of Fresno roadway.

1. Friant / Shepherd: DEIR identified a cumulatively significant impact at the intersection (Impact #3.13-6a). Mitigation measure 3.13-6a requires payment of a fair share fee to fund a second northbound right-turn lane, a third westbound left-turn lane, and a third southbound through lane.

   Peters Engineering Group staff observed the intersection on a normal weekday during both the a.m. and p.m. peak hours. Queues associated with ramp metering did not impede traffic flows at the intersection. Table 3.13-2 of the DEIR indicates an existing a.m. peak hour 95th-percentile westbound left-turn queue of 653 feet and existing p.m. peak hour 95th-percentile

northbound right-turn queue of 1,094 feet. This exceeds the VRPA Report observations of a 500-foot westbound left-turn queue and no mention of the northbound right-turn queue or ramp meter queues. Peters Engineering Group staff did not experience substandard levels of service or excessive delays while traveling through the intersection during peak hours. Therefore, the characterization of the intersection as presented in the TIS is accurate.

It should also be noted that, although long queues were observed in the northbound right-turn lane at Shepherd Avenue, the overlapping right-turn signal phase creates a condition in which the northbound right-turn queue typically continues to move with little stopping. It is anticipated that the addition of a second northbound right-turn lane may partially relieve lane utilization issues that extend to the northbound off ramp from SR 41 if the right-turn lanes are designed long enough and with an adequate weaving segment so as to facilitate entry into the right-turn lanes for vehicles in the Number 2 lane of Friant Road.

2. Friant / Audubon: Table 3.13-2 of the DEIR identified this intersection as operating at a substandard LOS with a queuing deficiency during the existing p.m. peak hour. Table 3.13-1 of the DEIR also identified the intersection as operating at LOS B during the existing a.m. peak hour. Impact #3.13-6 of the DEIR indicated that the Project will create significant impacts at the intersection. However, the DEIR explained that the intersection is constructed to its largest reasonable feasible configuration, the City of Fresno has identified this location as constrained, and the Project's impacts will be significant and unavoidable.

   Table 3.13-1 indicates an existing p.m. peak hour 95th-percentile eastbound left-turn queue of 525 feet. This exceeds the VRPA Report observations of a 200-foot eastbound left-turn queue. Peters Engineering Group staff did not experience substandard levels of service or excessive delays while traveling through the intersection during the a.m. peak hour (traveling in the Number 1 lane when traveling southbound on Friant Road as excessive on-ramp queues were observed in the Number 2 and Number 3 lanes).

   It is the conclusion of Peters Engineering Group that the deficiency during the a.m. peak hour is not with the intersection of Friant and Audubon, as no improvements at this location would mitigate the actual deficiency which occurs at the SR 41 SB loop on-ramp and no additional capacity is needed on any of the other movements during the a.m. peak hour. Therefore, the characterization of the Friant/Audubon intersection as presented in the EIR is accurate, with the caveat added that deficiencies at the SR 41 SB loop on-ramp extend through the Friant/Audubon intersection.

3. Friant / Fresno: The EIR reported this intersection as operating at LOS C during both the existing a.m. and p.m. peak hours in Table 3.13-1 with an eastbound p.m. peak hour 95th-percentile queue of nearly 700 feet (see Table 3.13-2). Field observations support these results, with queues clearing on all approaches during nearly every signal cycle, and eastbound queues in the Number 3 lane extending up to as much as 900 feet during approximately five percent of the traffic signal cycles during the p.m. peak hour. Additional capacity is typically available in the eastbound Number 1 lane. The only lanes approaching the intersection that may be operating below LOS D during the p.m. peak hour are the Number 2 and Number 3 eastbound lanes. All other approaches at the intersection appear to be operating at acceptable levels of service.

The DEIR identified that the Project will create a significant impact at the intersection (Impact #3.13-6c). The TIS identified in Mitigation Measure #3.13-6c that the intersection is constructed to its largest reasonable feasible configuration, the City of Fresno has identified this location as constrained (Chapter 4.E Public Facilities Element of the City of Fresno 2025 General Plan), and the Project's impacts will be significant and unavoidable.

It is the conclusion of Peters Engineering Group that the deficiency during the a.m. peak hour is not with the intersection of Friant and Fresno, as no improvements at this location would mitigate the actual deficiency which occurs at the SR 41 SB loop on-ramp and no additional capacity is needed on any of the other movements during the a.m. peak hour. Therefore, the characterization of the Friant/Fresno intersection as presented in the TIS is accurate, with the caveat added that deficiencies at the SR 41 SB loop on-ramp extend through the Friant/Fresno intersection.

4. Friant / SR 41 NB off ramp: The EIR identified this intersection in Table 3.13-1 as operating at acceptable levels of service during the peak hours. DEIR identified a cumulatively significant impact at the intersection (Impact #3.13-3d). Mitigation Measure #3.13.3d requires payment of a fair share fee to fund necessary improvements to this intersection.

   As discussed above, queues originating at the SR 41 SB loop on-ramp during the a.m. peak hour extend through the intersection in the Number 2 and Number 3 lanes of westbound Friant Road. These queues cause drivers in the northbound left-turn lanes to heavily utilize the Number 1 (leftmost) left-turn lane while some blocking difficulty is experienced by drivers in the Number 2 left-turn lane. However, all approaches that are not within the on-ramp queue experience good LOS during the a.m. peak hour, including the westbound Number 1 lane which was not heavily utilized and was observed to have substantial reserve capacity.

   During the p.m. peak hour, the predominant traffic flow is the northbound right turn. The off ramp has three right-turn lanes; the Number 1 (leftmost) right-turn lane is not highly utilized and has substantial reserve capacity. The Number 2 and Number 3 right-turn lanes are heavily utilized as described above, presumably because drivers planning to turn right at Fresno, Audubon, and Shepherd appear to be reluctant to use the Number 1 lane. Queues from Fresno Street at times block the Number 2 and Number 3 lanes of the off ramp, creating queues observed as long as 700 to 800 feet in the Number 3 lane of the off ramp. (It should be noted that queues this long were observed an estimated amount of less than five percent of the signal cycles.) However, the queues at these intersections typically dissipate within one traffic signal cycle before building back up again with few, if any, drivers moving to the Number 1 right-turn lane.

   Peters Engineering Group staff did not experience substandard levels of service or excessive delays while traveling through the intersection during the peak hours (traveling in the Number 1 lane when traveling southbound on Friant Road during the a.m. peak hour as excessive on-ramp queues were observed in the Number 2 and Number 3 lanes).

   It is the conclusion of Peters Engineering Group that the deficiency during the a.m. peak hour is not with the intersection of Friant and the SR 41 NB off ramp, as no improvements at this

location would mitigate the actual deficiency which occurs at the SR 41 SB loop on-ramp and no additional capacity is needed on any of the other movements. Therefore, the characterization of the Friant/ SR 41 NB off ramp intersection as presented in the TIS and DEIR is accurate, with the caveat added that deficiencies at the SR 41 SB loop on-ramp extend through the Friant/ SR 41 NB off ramp intersection during the a.m. peak hour, and northbound right-turn queues extend to as much as 700 to 800 feet in the Number 3 right-turn lane.

5. Friant / SR 41 SB off ramp: This intersection was observed during the a.m. and p.m. peak hours by Peters Engineering Group and adjacent queues and lane utilization had no effect on the operation of the intersection. Therefore, the characterization of the Friant/ SR 41 SB off ramp intersection as presented in the TIS and DEIR is accurate.

   The DEIR identified a cumulatively significant impact at the intersection (Impact #3.13-3e). Mitigation Measure #3.13-3e requires payment of a fair share fee to fund required interchange improvements.

6. Blackstone / Nees: The DEIR identified the intersection of Blackstone and Nees as operating at substandard LOS with queuing deficiencies. (See Tables 3.13-1 and 3.13-2.) It is acknowledged that queues originating at the SR 41 SB direct on ramp from NB Blackstone Avenue/Friant Road extend to the intersection of Blackstone and Nees, blocking the eastbound left turn, the westbound right turn, and the Number 3 lane of the northbound through movement. These movements would not be heavily influenced by Friant Ranch project traffic. The characterization of the Blackstone / Nees intersection as presented in the DEIR is accurate.

7. Herndon / Blackstone: Recent traffic counts obtained from the City of Fresno suggest that traffic volumes on Herndon Avenue have increased since the original traffic counts for the Project TIS were taken, likely as a result of coordination of the Herndon corridor. Observation of the intersection of Herndon and Blackstone suggests that the intersection currently operates at LOS F. Errata revisions to the DEIR have been made to clarify the existing conditions at this intersection are at LOS F. Westbound queues typically extend to the SR 41 SB off ramp and impede traffic from the off ramp. The TIS identified that the intersection would eventually operate at LOS F, but that the Project trips at the intersection do not create a significant impact. This location has been identified as constrained in the City of Fresno General Plan (Herndon between Palm and Cedar would need 12 lanes to operate at LOS D). As such, LOS F is the level of service for this intersection, pursuant to the City of Fresno General Plan. The Project will not have any individually or cumulatively significant impacts to this intersection. No further revisions to the TIS or DEIR, particularly the identification of new Project impacts, are required as a result of this comment.

8. Fresno / Nees: The TIS characterized the intersection in a very similar manner with similar traffic volumes to the results of the VRPA Report. The Project trip assignment accounts for the traffic engineers' estimate of the "shift" described by commenter and reflects current industry practice. (See DEIR, Appendix D at section 5.3 ["the use of travel models requires that engineering judgment be incorporated into the values that are presented"].) Therefore,

the characterization of the Fresno / Nees intersection as presented in the TIS and DEIR is accurate.

9. Audubon / Nees: The DEIR identified the intersection of Audubon and Nees as operating at substandard LOS with traffic signals warranted in the existing condition during both the a.m. and p.m. peak hours. (See Table 3.13-1.) The DEIR identified a cumulatively significant impact at the intersection (Impact #3.13-6d). Mitigation Measure #3.13-6d requires payment of a fair share fee to fund the required intersection improvements.

   The analyses presented in Appendix C of the TIS indicate an existing p.m. peak hour 95th-percentile eastbound left-turn queue of 317 feet. This compares to the VRPA Report observations of a 315-foot eastbound left-turn queue. The characterization of the Audubon / Nees intersection as presented in the TIS is accurate. Peters Engineering Group concurs that the intersection should be synchronized with the intersection of Palm and Nees, and the Project's fair share of the traffic signal facilities includes the required interconnect facilities to synchronize the signals (either fiber optic or wireless as determined by the City of Fresno).

10. Palm / Nees: The 95th-percentile queues in the westbound left-turn lane at Audubon Drive identified in Table 3.13-2 of the DEIR extend nearly to the intersection of Palm and Nees, and at times would be expected to block the eastbound through, the southbound left-turn, and the northbound right-turn movements.

    It is the conclusion of Peters Engineering Group that the deficiency is not with the intersection of Palm and Nees, as no improvements at this location would mitigate the actual deficiency which occurs at the intersection of Audubon and Nees. Therefore, the characterization of the Palm / Nees intersection as presented in the TIS and DEIR is accurate, and the impacts and mitigations identified for the intersection of Audubon and Nees are intended to alleviate blocking at Palm and Nees as well as to improve the LOS at Audubon and Nees.

11. Palm / Herndon: The DEIR identified the intersection of Palm and Herndon Avenues as operating at substandard LOS with queuing deficiencies. (See Table 3.13-2.) However, the DEIR and TIS identified that the Project would not result in individually or cumulatively significantly impacts to the intersection.

12. Willow / Herndon: The DEIR identified in Table 3.13-1 that the intersection of Willow and Herndon currently operates at LOS D. Recent observation of the intersection confirms that this characterization is accurate. It is acknowledged that the City of Clovis recently widened Herndon Avenue to six lanes east of Willow Avenue. The intersection is constructed to its ultimate configuration. The TIS identified that the Project will create significant impacts at the intersection (Impact #3.13-7b). The DEIR identified that the Project will be responsible for paying its fair share of the ultimate buildout of the intersection. The TIS identified that the intersection will be constructed to its largest reasonable feasible configuration, the City of Fresno has identified this location as constrained, and the Project's impacts will be significant and unavoidable.

13. Willow / Bullard: Table 3.13-1 of the DEIR identified that the intersection currently operates at LOS D. The DEIR identified a cumulatively significant impact at the intersection (Impact #3.13-7d). The DEIR further explained that the intersection will be constructed to its largest reasonably feasible configuration and the cumulative impact is significant and unavoidable.

    The City of Fresno indicated to Peters Engineering Group that no improvements should be assumed prior to the year 2025, and the TIS was completed in accordance with these descriptions. The Request for Proposals for the design work was released by the City of Fresno after completion of the TIS, and the fact that Peters Engineering Group submitted a proposal is not relevant to the TIS. The DEIR identified that the intersection will be constructed to its largest reasonable configuration prior to year 2030.

14. Herndon / SR 41 NB off ramp: Table 3.13-1 of the DEIR identified this intersection as operating at LOS C during the peak hours in the existing condition and that the Project does not create significant impacts at the intersection. Queues in the westbound Number 3 lane typically extend to Fresno Street and beyond as a result of lane utilization favoring the southbound loop on ramp to SR 41. Caltrans has previously identified the need for widening of the off ramp and an auxiliary lane to minimize queues extending in the mainline of SR 41. See Response 9.33.

15. Herndon / SR 41 SB off ramp: Table 3.13-1 of the DEIR identified this intersection as operating at LOS A during the peak hours in the existing condition and that the Project does not create significant impacts at the intersection. Peters Engineering Group recently observed the intersection and determined that the two-phase signal operation is capable of providing the LOS characterized in the TIS and DEIR. It should be noted that queues originating at the intersection of Herndon and Blackstone in the westbound lanes typically extend to the off ramp and impede the off ramp. Caltrans has previously identified the need for widening of the off ramp and an auxiliary lane to minimize queues extending in the mainline of SR 41. See Response 9.33.

Comment 19.99: *Additional problems with the TIS include the queuing analysis from the software program Output, utilized in preparation of Appendix D. That analysis does not reflect existing conditions during the peak hours/periods in the field. These queues need to be measured in the field to verify that the analysis is done correctly. Queues affect lane utilization, accessibility of turn pockets, saturation of through lanes, and downstream and upstream intersection operations. Some of the worst congestion in the City of Fresno occurs on the intersections and roadway segments analyzed within this DEIR/TIS due to the imbalance of land uses in northeast Fresno. The Friant Ranch proposed project is adding more residential that already exists in northeast Fresno.*

Response 19.99: See Response 19.98 above.

Comment 19.100: *Section 4.3 of the TIS, concerning Existing Bicycle and Pedestrian Facilities, also contains errors. Willow Avenue from Shepherd to Friant Road in the County does not have Type II Bike Lanes as defined by the Caltrans Highway Design Manual. They need all of the following to qualify: stripe at the appropriate width, bike lane stencil, bike lane regulatory sign, and no parking signs.*

Response 19.100: Comment noted.

Comment 19.101: *With regard to Table 4.3 of the TIS, how can roadway segments operate worse than intersection level of service? When roadway segments are at capacity the intersections (or nodes) become the capacity constraint.*

Response 19.101: The criteria for intersection LOS are different from the criteria for road segment LOS. Generally, intersection assessments are more detailed and thus more accurate than segment analyses. Intersection levels of service are based on the average control delay per vehicle at an intersection, which is correlated to driver frustration, while road segment levels of service are based on average travel speed. It is possible that one direction of travel on a road segment approaching an intersection may experience reduced travel speeds due to high volumes, however, the adjacent intersection may have signals timed to minimize any additional delays caused by the signals and to minimize the delay on all the other approaches to the intersection. Therefore, the LOS of one high-volume approach segment may differ from the overall LOS at the intersection.

It should also be noted that levels of service are based on subjective measures of the acceptability of a certain amount of delay at a given location. For example, the Highway Capacity Manual presents different level-of-service criteria for signalized and unsignalized intersections as described in Section 2.1 of the TIS. The criteria suggest that a driver sitting at stop sign is experiencing LOS F if the driver is delayed more than 50 seconds, but the same driver sitting at a traffic signal experiences only LOS D if delayed up to 55 seconds. The rationale for the different criteria is that a driver at a traffic signal knows that a green light will eventually appear and accepts a greater amount of delay before frustration sets in, while a driver at a stop sign can become frustrated more quickly waiting for a gap in traffic to proceed.

Comment 19.102: *The TIS fails to account for the shift in traffic to adjacent facilities caused by the queues and level of service on Friant Road. Motorists will find the path of least resistance such as Audubon Drive (between Friant Road and Nees Avenue), Nees Avenue, and Herndon Avenue that are not reflected in the model because multiple travel time runs and field observations need to be completed to determine the path of least resistance.*

Response 19.102: The traffic modeling performed by the Council of Fresno County Governments for this Project was performed in the same manner as all traffic model runs performed for projects in the City of Fresno. The Fresno County travel model includes a feedback loop to determine congested speeds and an equilibrium assignment to balance traffic volumes where roadways are congested as required by the FHWA for conformity. Therefore, the analyses inherently address the "shift" in traffic resulting from the addition of the Project. Further, the Project trip assignment accounts for the traffic engineers' estimate of the path of least resistance and reflects current industry practice. (See DEIR, Appendix D at Section 5.3 ["the use of travel models requires that engineering judgment be incorporated into the values that are presented"].)

Comment 19.103: *Roundabouts have been identified to calm traffic on Audubon Drive between Friant and Nees as a result of the traffic shift and queues in a number of traffic impact studies in*

northeast Fresno for large developments. This was not reflected as part of this DEIR/TIS. Contribution to these roundabouts should be included in these environmental documentations as this project further exacerbates Friant Road.

Response 19.103: The DEIR does not identify individually or cumulatively significant impacts to the segment of Audubon Drive between Nees Avenue and Friant Avenue (or to the intersections within that segment that would be served by any such roundabouts) resulting from the Project. As such, no mitigation is needed. Further, it appears that the identified roundabout improvements have been proposed to address quality of life issues along Audubon Drive rather than operational deficiencies of the roadway.

Comment 19.104: *On page 22 of the TIS, Shepherd Avenue/Willow Avenue traffic signal has already has been constructed. The traffic consultants for this TIS prepared the design for this traffic signal and were aware of the construction timing and completion.*

Response 19.104: Comment that the Shepherd and Willow Avenue traffic signal has been constructed is noted. Page 3-309 of the DEIR identifies the signalization of the intersection of Willow and Shepherd Avenues as a pending project (completion expected by 2011). Page 23 of the TIS indicates that the City's project to install traffic signals at the intersection of Willow and Shepherd Avenues was out to bid as of the date of the TIS and had not yet been constructed.

Comment 19.105: *On page 22 of the TIS, Herndon Avenue does not have bike lanes. It is designated as an Expressway from SR 99 to Willow Avenue in the City of Fresno General Plan.*

Response 19.105: The description that can be found on the Measure C web site (www.measurec.com/extension.php) is quoted as follows: *"Complete the widening of Herndon Ave to a 6-Lane Divided Road from State Route 99 to De Wolf Ave and retrofit existing bike paths."* The phrase as presented in the TIS was intended to accurately reflect the description of the project as reported on the Measure C web site and was not purported to be the result of a field review of Herndon Avenue.

Comment 19.106: *Rural level of service roadway segment thresholds should not be used for 4 lane divided roadways like Friant Road from Copper to the Town of Friant. When 3,000 homes are added and a 4 lane roadway is constructed it becomes more suburban (urban) setting and not a rural. Failure to correctly evaluate thresholds underestimates the existing conditions and impacts from the proposed project. The entire TIS needs to be redone correctly so that the existing conditions actually reflect the existing conditions experienced in the field so that the proposed project impacts can be evaluated, determined, and mitigated.*

Response 19.106: As discussed at page 3-272 of the DEIR, Fresno County General Plan Policy TR-A2 states:

> The County shall plan and design its roadway system in a manner that strives to meet level of service (LOS) D on urban roadways within the spheres of influence of the cities of Fresno and Clovis and LOS C on all other roadways in the county.

See Tables 3.13-7 and 3.13-13 of the DEIR for application of this General Plan Policy TR-A2 to the minimum acceptable road segment LOS and the road segment analysis criteria. For example, the Friant Road segment between Copper and Road 206 is analyzed as a rural roadway since it is not within the City of Fresno or City of Clovis spheres of influence, based upon County interpretation of Policy TR-A2. As discussed in Response 19.101, this method results in a more conservative impact analysis as more stringent levels of service are demanded for rural roadways compared to acceptable levels of service for urban roadways.

Comment 19.107: *The City of Fresno does not agree with the methodology for determining how many lanes would be required if the roadways could be more than 6 lanes or that the capacity of a single lane is 742 vehicles per lane. This analysis does not adequately address the further exacerbation of infrastructure created by the proposed project.*

Response 19.107: The TIS and DEIR identify a significant impact where the Project will exacerbate constrained conditions and reveals that those impacts would be significant and unavoidable if the Project is approved. (See threshold discussion at page 3-282 of DEIR.) The methodology used to determine how many lanes could be required if roadways could be more than 6 lanes was taken from footnote 3 of Table VB-4: "Streets with Constrained Capacity"—Master EIR for the 2025 City of Fresno General Plan.

Comment 19.108: *The EIR's transportation and traffic impacts chapter, based on the TIS, is also riddled with errors. The County of Fresno has already identified the Friant Road as a dangerous roadway with fatality/accident billboards and the capital improvement project to widen a LOS A, two lane roadway to a LOS A, 4 lane roadway separated by a median prior to it experiencing capacity deficiency. Fatal accidents were associated with passing, high speeds, and driving under the influence. Adding more traffic to Friant Road without adequately addressing all the safety issues of Friant Road from Millerton Lake to the City of Fresno could cause more accidents. Friant Road should have a barrier in the median to keep motorists under the influence from hitting on-coming motorists.*

Response 19.108: The County of Fresno has not designated Friant Road as a dangerous road. The County of Fresno has designed and is constructing the road widening improvements to Federal and State standards.

Comment 19.109: *In addition, a Class 1 Trail may need to be constructed adjacent/parallel to Friant Road from the City of Fresno to Friant Ranch to allow cyclists a separation from the increased traffic volumes. The City of Fresno is concerned about the safety of the cyclist community on Friant Road. This is a main recreation route for many City of Fresno residents. The roadway was recently widened to improve safety of existing traffic, but that project did not anticipate this growth to occur outside of the urban metropolitan areas. More vehicles could cause more conflicts with cyclists that use this route as a major recreation area.*

Response 19.109: The improvements identified by commenter do not address any individually or cumulatively significant impact of the Project identified in the DEIR. No evidence suggests that such improvements are necessary or appropriate.

Comment 19.110: *Due to the Friant Road 4 lane widening project, traffic volumes on Friant Road are now driving faster than ever before. Fresno Police Department enforces these speeds regularly within the City of Fresno city limits but both County Sheriff Departments and the California Highway Patrol have funding and resource constraints on their ability to adequately serve and protect a new suburban area in northeast Fresno. The traffic impact study does not address the 85th percentile with respect to the posted speed limit of Friant Road.*

Response 19.110: The agency having jurisdiction over the roadway is responsible for analyzing and posting the appropriate speed limit based on observed speeds and other applicable factors. Under state law, speed surveys are required every 5 years.

Comment 19.111: *In addition, the speed differential of traffic on Friant Road north of Copper River and south of Shepherd (back of completely stopped vehicles due to ramp metering) has not been adequately addressed. A series of three overhead changeable message signs should be installed southbound between Willow Avenue and Shepherd Avenue (connected to the City of Fresno ITS system) to notify motorists of stopped traffic ahead. Sensors should be constructed between SR 41 and Copper Avenue to determine the flow of traffic and when stopped traffic occurs so that the Changeable Message Signs can automatically notify motorists.*

Response 19.111: Commenter has not provided sufficient information to warrant a meaningful response about potentially significant impacts of the Project. The suggested improvements do not address any identified impacts of the Project. City of Fresno has jurisdiction over control of traffic southbound on Friant Road between Willow Avenue and Shepherd Avenue. The identified concerns could be addressed by coordinating the signals along this segment. City of Fresno is responsible for coordinating the traffic signals along this segment. See also Responses 19.108 and 19.110 related to safety requirements and required speed limit analysis.

Comment 19.112: *The County of Madera is currently considering whether to approve two mining operations, the Jackson Mine and the 145/41 Vulcan Mine operation. We understand that both of these mining operations intend to utilize portions of Friant road as truck routes. Truck traffic and mining operations have a significant impact on our circulation infrastructure. Eighty percent of wear and tear damage to roadways is caused by heavy truck traffic, so when the percentage of truck traffic increases on a roadway the failure of the roadway infrastructure occurs faster. Friant Road has failed in the #3 and #2 outside lane because of truck traffic from County Vulcan mine near Copper River/Friant Road. It is our understanding that the County of Fresno failed to collect mitigation for the continued mining operation extension permit for maintenance of Friant Road per the request of the City of Fresno.*

Response 19.112: Comment noted. No response is warranted.

Comment 19.113: *Furthermore, the EIR does not make clear which of the cumulative projects, discussed in the EIR's cumulative impacts analysis, were or were not included in the EIR's discussion of cumulative traffic impacts. It is not clear whether either of these proposed mining operations in Madera County where included to determine the cumulative traffic impacts caused by this project.*

Response 19.113: These mining Projects would not result in meaningful changes to the cumulative conditions because it has been determined by the County that the proposed projects would generate less than 10 peak hour and 100 daily truck trips on County roadways. Therefore, truck trips within the study area generated by the two proposed aggregate mines in Madera County are unlikely to be noticeably different if these mines are approved.

Moreover, the existing, operating mines with access to Friant Road south of the Project site were included in the analysis, and no deduction was applied to the 2030 traffic volumes for the existing projects to account for the expected and planned completion of mining activities at the existing, operating mines long before 2030. As such, the traffic expected from the proposed mining activity will in all likelihood merely replace the traffic that now occurs from active mines in the area that will eventually cease operation due to completion of applicable reclamation/mining plans.

Comment 19.114: *Another significant impact of the Friant Ranch project is the "temporary" (10-30 years) of construction traffic to build out Friant Ranch. The City of Fresno does not have adequate maintenance resources to mitigate the impacts of Friant Ranch construction traffic.*

Response 19.114: Construction traffic volumes will be concentrated within the County of Fresno. Existing businesses within the City of Fresno that currently offer construction services are likely to perform construction services at Friant Ranch. It is logical that the demand for housing in the Fresno region will be the same whether or not the Friant Ranch project is approved, and the volume of construction traffic generated by construction businesses in the City of Fresno will likely be the same with or without the Project. The volume of traffic expected from construction of the Project will not be individually or cumulatively significant.

Comment 19.115: *The discussion of mitigation in the EIR is also inadequate. While payment consistent with the policies and nexus study of the City of Fresno Traffic Signal Mitigation Impact (TSMI) fee and Fresno Major Street Impact (FMSI) fee may help to mitigate some of the impacts of the Friant Ranch, this proposed project was not assumed as part of the modeling for those impact fees. The Friant Ranch project could be further exacerbating conditions for which those impact fees are intended to mitigate. The Friant Ranch project could consume reserve capacity for projects within the City of Fresno that are not fully built out but were assumed to be built out with the impact fee programs. Unfortunately the analysis provided in the existing conditions and subsequent phasing does not represent the field conditions so the City of Fresno is not able to determine the impacts and necessary mitigation measures.*

Response 19.115: The traffic modeling done to support the TIS is consistent with the *Model Steering Committee Recommended Procedures for Using Traffic Projections from the Fresno COG Travel Model* and the *Caltrans Guide for the Preparation of Traffic Impact Studies*. The traffic modeling performed by the Council of Fresno County Governments for the Project was conducted in the same manner as all traffic model runs performed for projects in the City of Fresno. The level of detail in the analyses contained in the TIS exceeds the level of detail presented in the City-Wide Traffic Signal Mitigation Impact Fee Nexus Analysis for Proposed Fee Update or the Draft Master Environmental Impact Report for the 2025 Fresno General Plan (which does not include intersection analyses). The baseline 2030 conditions in the TIS

essentially represent the conditions upon which the City of Fresno traffic impact fees were derived. The year 2030 with-Project analyses test the extent to which the Project may cause additional impacts. Therefore, the analyses in the TIS/DEIR are sufficient to identify Project impacts. If the Project would create an impact over and above that covered by the City impact fees then an additional fair share or construction of the improvements was required where feasible.

Comment 19.116: *The County of Fresno does not have an impact fee program for traffic signals or roadway improvements. Payment of pro-rata fair share is not consistent with CEQA to fully mitigate the impacts of the Friant Ranch project. CEQA requires that the mitigation project be included in a Capital Improvement Plan and be fully funded or an impact fee be developed consistent with the Mitigation Fee Act so that the mitigation project can be implemented. Until the details of a mitigation fee program can be finalized between the County and all other public agencies with jurisdiction over potentially affected roadway infrastructure, the mitigation measures in the EIR may be unenforceable and therefore invalid.*

Response 19.116: The DEIR acknowledges that the payment of the fair share fee to the County for improvements in another jurisdiction may not result in timely improvements such that the impact would be avoided. As such, the DEIR concludes that the impacts will remain significant and unavoidable until improvements are constructed.

Comment 19.117: *The EIR states that, where an intersection or roadway segment is identified as operating at an unacceptable level of service but the EIR provides no mitigation for the Project's contribution to that unacceptable level of service, the Project's contribution has been "deemed" not significant or cumulatively considerable. The EIR cannot "deem" Project impacts insignificant simply by refusing to discuss them. Where the Project would result in a significant transportation/traffic impact, or would contribute to a significant transportation/traffic impact, the EIR needs to explain, and support with substantial evidence, any conclusion that the Project's contribution is less than significant or less than cumulatively considerable.*

Response 19.117: As noted in the discussion of existing conditions and Year 2030 no Project conditions in the DEIR, regional growth in the Project vicinity has created, and is anticipated to create, deficiencies in the regional roadway network. Where deemed significant, the Project's contribution to these deficiencies is noted. To the extent a deficient roadway or intersection is not discussed, but is identified as deficient under the existing conditions or year 2030 no Project conditions, the Project's contribution to the deficiency, if any, is deemed less than significant and not cumulatively considerable.

A traffic impact is recognized if the Project will decrease the LOS below the minimum LOS presented in Tables 3.13-7 and 3.13-8 of the DEIR. A traffic impact is also recognized if the Project will exacerbate average delays at an intersection that is deficient under baseline conditions. In some cases, a very slight increase in average delay is not likely to be perceptible to motorists at intersections already operating at LOS E or F. In these cases the existing condition is not considered to be exacerbated and the impact is less than significant.

Comment 19.118: *The EIR also fails to address the NOP comments of the Public Utilities Commission, that the Project will create and/or contribute along with other cumulative development in Fresno and Madera Counties, to traffic impacts at at-grade rail crossings. The EIR needs to be revised to disclose the Project's impacts in this area, to determine their significance, and to provide mitigation for any significant Project-specific or cumulative impacts to at-grade rail crossings.*

Response 19.118: There are no active railroad crossings within the study area.

Comment 19.119: *The EIR's mitigation measure requiring that "information regarding alternative transportation such as ridesharing and mass transportation" is likely to be ineffective, since the Project does not include infrastructure for park and ride facilities, mass transit facilities, or other transportation services.*

Response 19.119: Comment noted. See Response 19.128.

Comment 19.120: *The City has also identified additional infrastructure which may require improvement due in part or in whole to the proposed Project. The intersection of Willow/Friant will definitely need improvements due to the high speed traffic, ability of motorists to judge gap acceptance, and available gaps in traffic.*

Response 19.120: The DEIR identifies feasible mitigation to address individually and cumulatively significant impacts resulting from the Project. For the intersection of Willow/Friant, Mitigation Measure #3.13-5c requires payment of a fair share fee to fund necessary improvements to this intersection to mitigate cumulatively significant impacts of the Project.

Comment 19.121: *Friant Ranch may also be required to fund or contribute to a second San Joaquin River Crossing be constructed or at a minimum an implementation and funding program developed so that Friant Ranch contributes to the construction of the new bridge. The County Board of Supervisors shall be on board with the San Joaquin River Crossing project and implementing that project and fee program prior to development in this area of the County to facilitate access to this region. Failure to do so would create a significant and unavoidable impact to the region.*

Response 19.121: The San Joaquin River Crossing study is not a completed approved study, and the location and funding for an additional river crossing has not been identified.

Comment 19.122: *The TIS/DEIR does not adequately address the existing capacity or substandard design of the existing bridge crossing near Friant Ranch over the San Joaquin River.*

Response 19.122: Mitigations 2030-31 and TR-34 presented in the TIS indicate that the bridge will need to be widened and the Project is responsible for a fair share of the improvement costs for widening the bridge. Mitigation Measures #3.13.4b and #3.13-5o of the DEIR (pages 3-316

and 3-322) have been amended as follows to clarify, as explained within the TIS, that the improvement identified for the fair share obligation includes widening the bridge:

> **Mitigation Measure #3.13.4b (TR-34):** The Madera County segment of Road 206, including the bridge, west of Friant Road should be widened to four lanes. The estimated percentage of the 2030 cumulative traffic volume attributable to the Project (as shown in Table 3.13-23) is 17.1%.
>
> **Mitigation Measure #3.13-5o (TR-34):** Road 206, including the bridge, west of Friant Road for the Fresno County segment should be widened to four lanes to provide an acceptable level of service (LOS C or better) under the 2030 cumulative condition. The estimated percentage of the 2030 cumulative traffic volume attributable to the Project (as shown in Table 3.13-23) is 17.1%.

Comment 19.123: *Friant Ranch may be required to pay the Measure C Regional Transportation Mitigation Fee (RTMF) through the Joint Powers Authority that will be put in place January 2010. Failure to contribute to the RTMF will cause significant and unavoidable impacts to the Measure C program for which this project is relying on to construct infrastructure to mitigate impacts. However, the timing of those assumed mitigation improvements are not consistently identified.*

Response 19.123: Comment noted. In addition to the mitigation measures identified in this EIR, Friant Ranch will be required to pay RTMF pursuant to standard County requirements. The text of the DEIR (page 3-309) will be amended as follows:

> The adopted ~~proposed~~ RTMF Program is summarized in a report entitled Fresno Regional Transportation Mitigation Fee Final Report dated August 2008 by PB Americas, Inc. The RTMF Program has ~~not yet~~ been adopted by local jurisdictions, including Fresno County ~~but is expected to be adopted by the County of Fresno based on information provided by County staff~~. On September 24, 2009, the Fresno County Regional Transportation Mitigation Fee Agency was established to administer the program. The RTMF fee took effect January 1, 2010. In addition to mitigation measures identified in this EIR, the Project will be subject to the RTMF fee.

Comment 19.124: *Since this proposed project will be utilizing the Friant Road/SR 41 interchange the southbound on-ramp auxiliary lane will need to be constructed from Friant Road to Herndon Avenue interchanges. Friant Road/SR 41 interchange was designed without knowledge of the Friant Ranch project and its associated traffic volumes. This project further exacerbates the need for the auxiliary lane.*

Response 19.124: See Response 9.27 above.

Comment 19.125: *Payment of the pro-rata Caltrans fair share does not fully mitigate the impacts of Friant Ranch because the improvement is not constructed and there is not an Implementation plan or identified funding to construct the project.*

Response 19.125: As discussed in Response 9.27, Mitigation Measure #3.13.3e of the DEIR requires payment of a fair share for necessary improvements to SR 41/Friant Road, including the auxiliary lanes adjacent to the SR 41 ramps at Friant Road. The DEIR recognizes that the impact will remain significant and unavoidable until complete funding is obtained and the identified improvement is constructed.

Comment 19.126: *Failure to construct these freeway improvements will result in a significant and unavoidable impact that is not acceptable to the City of Fresno.*

Response 19.126: Comment noted. See Response 19.125.

Comment 19.127: *Additionally, since this proposed project will be utilizing Friant Road/SR 41 interchange and the motorists have to either exit Herndon Avenue/SR41 interchange (or shift existing traffic to the Herndon Avenue/SR 41 interchange from the Friant Road/SR 41 interchange due to exacerbating the impacts of Friant Road) or else drive past the Herndon/SR 41 interchange of the SR 41 mainline, the northbound off-ramp at Herndon/SR 41 will need an auxiliary lane constructed from Sierra to Herndon along with off-ramp widening (to dual lefts and dual rights) to keep three through lanes on Northbound SR 41 operational for sprawl traffic to Friant/SR 41 interchange and Madera County from rear-ending motorists on SR 41 exiting Herndon Avenue. Observation of tire marks on the freeway suggests a lot of rear end accidents at high speeds under existing conditions, which will be exacerbated by the Project. Failure to construct these freeway improvements will result in a significant and unavoidable impact that is not acceptable to the City of Fresno.*

Response 19.127: See Response 9.33.

Comment 19.128: *Finally, these and other faults of the EIR's transportation and traffic section contaminate the rest of the EIR, resulting in an underestimation of the impacts of the Project in other areas. The Project will significantly increase the Vehicle Miles Travelled (VMT) for an existing single family home assumed in the Fresno Council of Government model for air quality conformity. Fresno County and the San Joaquin Valley are already in non attainment. In addition, an increase in VMT has a negative impact on the consumption of fossil fuels. This proposed project will not be served by alternative models of transportation such as transit. The proposed density would not make serving this project economically feasible for a region that is attempting to become more sustainable both fiscally and environmentally. In actuality single family homes at this density and at this remote location are not economically feasible to serve public safety, public infrastructure maintenance, or with public services.*

Response 19.128: Sections 2.13 and 2.14 of the DEIR explain implementation of public safety, public infrastructure maintenance, and public services through special zones of benefit and Specific Plan-specific funding mechanisms that are economically feasible. The DEIR acknowledges that bus service is not currently provided in the Project Area. The Specific Plan sets aside locations for future transit stops at such a time as when it becomes feasible and warranted to expand bus service to the Project Area. Overall vehicle miles traveled (VMT) per person may actually be less given the reduced non-discretionary trips due to the active-adult component of the Project.

Comment 19.129: *The County is proposing a development outside an incorporated or sphere of influence area that does not have fee programs in place that may cause future sprawl or expansion of our current City of Fresno sphere of influence similar to Copper River Ranch. Until the County of Fresno develops policies on sprawl and new town development or expansions consistent with SB 375 and AB 32 any approval of projects of this magnitude is a significant and unavoidable impact.*

Response 19.129: The DEIR determines the significance of impacts to regional roadways based on detailed traffic analyses. Further, the DEIR identifies mitigation measures to assess fair share fees for improvements within Fresno County and surrounding jurisdictions where warranted. The DEIR also analyzes growth-inducing impacts of the Project as required. Contrary to commenter's suggestion, the recent enactments of SB 375 and AB 32 do not justify a finding of any new significant and unavoidable impacts resulting from the Project.

Comment 19.130: *The County developing this project to County standards could cause ADA issues without sidewalks on both sides of residential streets. Seniors have a higher tendency to need ADA infrastructure. How will ADA seniors be served by para transit?*

Response 19.130: Sidewalk infrastructure for the Project will be implemented consistent with the Specific Plan and in compliance with ADA and CalACCS.

Comment 19.131: *The widening of Friant Road to four lanes has now become a sprawl inducing transportation capital improvement project when it was originally identified as a safety project. Without the widening of Friant Ranch to four lanes, this proposed project would not be economically feasible.*

Response 19.131: Comment noted. No response is warranted.

Comment 19.132: ***Chapter 3.14 Utilities and Service Systems***

The water supply analysis does not satisfy the CEQA standards under Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova. Under Vineyard, the CEQA analysis must show a reasonable likelihood of adequate water being available to meet the Project and cumulative demand in the short-term and long-term. As the EIR acknowledges, there are significant uncertainties regarding the ultimate provision of water to serve the Project including: no water source currently available to serve the project; water is anticipated to be provided through an "agreement in principle" with LTRID involving Central Valley Project (CVP) water which has not been finalized and is subject to approval by the federal government; numerous lawsuits and settlements involving water rights and usage in the area; the need for LTRID to allocate other sources of water for existing agricultural users to replace the water transferred to meet Project demand; and impacts from global warming. Additional uncertainties which the EIR does not discuss include the recently announced reductions in CVP allocations for 2010 and the series of legislative bills passed this fall by the State Legislature which include a bond measure requiring voter approval. In light of all these uncertainties, Vineyard requires that the EIR analyze alternative sources of water and the impacts of obtaining these sources. The EIR does not contain this analysis. Also, since the proposed LTRID Agreement may terminate in the

future, the EIR should analyze the impacts of curtailment of the Project after it has been partially built out as required under Vineyard.

Response 19.132: The Water Supply Assessment, included as Appendix D to the DEIR and summarized in Section 3.14, concludes that the water supply WWD 18 proposes to contract from LTRID will meet the Project demands, over the required 20-year planning horizon, in normal, critically dry, and multiply dry years. The California Supreme Court decision in *Vineyard Area Citizens for Responsible Growth, Inc. v. Rancho Cordova* (2007) 40 Cal.4th 412 explained that if there are uncertainties regarding the actual availability of water supplies, the lead agency must acknowledge those uncertainties, discuss reasonably foreseeable alternatives to the water sources detailed in the EIR, and disclose significant environmental impacts of each alternative and mitigation measure designed to minimize those significant impacts.

The commenter raised the following specific issues related to the proposed water transfer, each of which is addressed in turn:

(1) *Final Water Transfer Agreement.* As explained in the DEIR and the Water Supply Assessment, no formal contract has been signed between WWD 18 and LTRID for the identified short-term and long-term water supply from LTRID. The districts have not yet approved the agreement because potential impacts of the water transfer, which is a component of the Specific Plan project, are being analyzed within this EIR. Upon certification of the EIR, WWD 18 and LTRID will consider approval of the water transfer agreement after consideration of the pertinent information in this EIR. The U.S. Bureau of Reclamation will also consider approval of the proposed transfer and related federal actions at that time. *Vineyard* acknowledges this situation may occur and provides for approval of development projects on the basis of proposed water supply agreements. (*Vineyard,* 40 Cal.4th at 432, 433-434.) The DEIR addresses any potential uncertainties caused by the lack of a signed agreement by including mitigation to ensure that the development of the Specific Plan Area is subject to the water supply agreement. Mitigation Measure 3.14.1 requires that the proposed water agreement be in place prior to approval of any Tentative Map. (Mitigation Measure 3.14.1.) Mitigation Measure 3.14.1 insures that the Specific Plan development cannot proceed until final approval of the water supply agreement by WWD 18, LTRID, and the U.S. Bureau of Reclamation.

(2) Recent Reductions in CVP Allocations: The comment seems to blur the distinction between Friant Division CVP Class 1 supplies and some other CVP deliveries pumped through the Delta into the California Aqueduct and delivered to the west side of the San Joaquin Valley, which supplies have been subject to significant shortfalls in recent years as discussed in the DEIR. The DEIR discusses the potential uncertainty for Friant Division Class 1 supplies related to the recent reductions to CVP allocations for through-Delta water at page 3-356 of the DEIR. Reliability of Friant Division CVP Class 1 supplies is analyzed in the DEIR and Water Supply Assessment, and has typically been over 94 percent reliable annually. As explained in the Water Supply Assessment, no substantial change to that historical performance is expected as a result of either potential global climate changes or changes in the

regulatory setting. Further, the U.S. Bureau of Reclamation's Class 1 declaration for the 2010 water year is 100% allocation of contracted Class 1 supplies.

(3) *Legislative Developments.* The comment about uncertainties created by the recently enacted water bond measure for voter approval does not provide enough specific information to warrant a meaningful response. The California Legislature enacted Senate Bill 2 (SB 2 or SB7X 2) during its 2009-2010 legislative session. SB7X 2 authorizes the issuance of over $11 billion in bonds for various water-related projects throughout the State, subject to voter approval during the November 2010 general elections. Though the approval of SB7X 2 creates a possibility of additional storage within the CVP Friant Division, which would increase available supplies, the approval or disapproval of SB7X 2 during the November 2010 general election has no potential to impact the planned agreement between LTRID and WWD 18. Nor does approval or disapproval of the bond have any potential negative impact upon existing CVP Friant Division Class 1 supplies.

(4) *Term of Water Transfer Agreement.* The term of the proposed water transfer agreement will extend until the expiration of the LTRID Contract, including all renewals or conversions thereof. As described in the DEIR and Water Supply Assessment, the current LTRID Contract expires on February 28, 2026 with a right to renewal. The proposed water transfer agreement requires LTRID to take all action necessary to continually renew the LTRID Contract as provided for under LTRID's contract with Reclamation.

Notably, LTRID's contract with Reclamation and Reclamation law contemplates that the Friant Division construction would be completed by December 31, 2024, and that the LTRID contract with Reclamation will thereafter be ripe for conversion to a 9d repayment contract by 2030. Under 9d of the Reclamation Project Act of 1939, a 9d repayment contract would give LTRID a "permanent right to a proportionate share" of the Friant Division water supplies. (Water Supply Assessment, Appendix C.) Upon any such conversion of LTRID's USBR contract, the water transfer agreement would remain in effect for the duration of the 9d repayment contract. The recent San Joaquin River Settlement legislation authorizes and directs Reclamation to accept early prepayment and convert LTRID's long-term contract to a 9d repayment contract prior to December 31, 2010. Under the settlement legislation, early repayment warrants conversion to a 9d contract with a *perpetual term*. Thus, upon early repayment and conversion, LTRID would have a permanent right to its proportionate share of CVP Friant Division supplies in perpetuity so long as LTRID complies with the 9d repayment contract. In such case, LTRID would be obligated through the proposed water transfer agreement to continue to transfer the 2,000 acre-feet to Friant Ranch in perpetuity (barring any unforeseen breach of their then perpetual contract with Reclamation).

Thus, the contract obligates LTRID to provide water to the Project for so long as LTRID has a right to receive CVP Friant Division Class 1 supplies from the U.S. Bureau of Reclamation.

(5) *Alternative Supplies. Vineyard* does not require every EIR to analyze impacts of possible curtailment of the Project. *Vineyard* requires that where uncertainties "make it impossible to confidently identity 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 . . . ." (*Vineyard,* 40 Cal.4th at 434.) The present circumstances do not warrant analyzing a curtailment alternative because the DEIR confidently identifies a long-term water supply, which is explained and analyzed in the Water Supply Assessment. As noted above, the proposed water transfer provides for supplies to the Project so long as LTRID has a right to receive water from CVP Friant Division. LTRID's existing contract term extends beyond the planned ten- year buildout of the Project. (See DEIR at page2-19 for discussion of phasing.) Therefore, the curtailment option is not appropriate as the Water Transfer Agreement firmly commits LTRID to providing the identified supplies through the long-term planning horizon and well after construction of all the Project phases.

In the unlikely event LTRID no longer had a contractual right to CVP Friant Division supplies such that the water transfer agreement expired after buildout of the Project, WWD 18 would need to negotiate an agreement with another or other of the 28 Friant Division contractors entitled to water stored behind Friant Dam to serve the Project. Potential impacts associated with such transfer would likely be similar to those analyzed in the DEIR for the LTRID transfer; however, specific impacts of such a transfer are too speculative given that no such deal has been, or needs to be, negotiated since the Project proposes to use long-term water supplies identified through the proposed LTRID-WWD 18 transfer.

Comment 19.133: *The EIR does not analyze the environmental impacts of the water facilities needed to serve the Project. These facilities include the expansion of WWD 18 water treatment plant and other water system facilities. These are not included in the Project description and are not specifically analyzed in the EIR.*

Response 19.133: The required project water infrastructure facilities are set forth and described in the Infrastructure Master Plan, which is an included part of the Specific Plan and attached as Appendix N to the DEIR. The DEIR summarizes the proposed facilities at pages 3-357 through 3-362. The project description (at DEIR page2-9) describes the need for a new water treatment plant. Further, the project description (at DEIR pages 2-27 and 2-28 of the DEIR) recognizes the associated discretionary actions of responsible agencies related to the proposed water infrastructure facilities. As explained in the DEIR and the Infrastructure Master Plan, the proposed water treatment facilities and related infrastructure will include the expansion of the existing WWD 18 water treatment plant within the existing disturbed area (the WWD 18 "yard") for the existing water treatment plant, and the improvement of existing infrastructure to facilitate conveyance of water stored behind Friant Dam to the WWD 18 treatment facilities. The existing Reclamation infrastructure includes: (1) the existing Reclamation-owned 6" supply line and point of delivery; (2) approximately 2,050 lineal feet (LF) of the abandoned 24" pipeline previously used to provide water from Friant Dam penstocks to the California Department of

Fish and Game (CDFG) fish hatchery; and (3) the connection of the abandoned 24" line to the point of delivery through an existing pipeline to facilitate conveyance of water from Friant Dam to the 24" line. Minor improvements would be required to use the abandoned 24" line for conveyance of Project water. Since the existing piping of the 24" line is not suitable for potable water supply, the existing 24" pipeline would be refitted with an internal pipe of 18" or 20", installed from the end with a winch (sliplining), resulting in minimal ground disturbance only at the point of entry. Additionally, the existing 24" pipeline will require a special connection to the point of delivery from Friant Dam. Because the existing ground conditions are highly disturbed and covered by pavement or gravel, the proposed use and improvements of Reclamation's existing infrastructure would result in less than significant ground disturbance. Additional conveyance infrastructure to get the treated water from the WWD 18 treatment plant to the development will be constructed within the proposed development of the Specific Plan Area.

The DEIR analyzes potentially significant impacts of the water treatment plant and related infrastructure. Section 3.14 of the DEIR (page 3-332) states:

> Environmental Impacts associated with development of infrastructure, such as the wastewater treatment plant and water conveyance and storage system proposed in conjunction with the Friant Ranch Specific Plan, have been addressed, where appropriate, throughout the Draft EIR. More specifically, Section 3.1 Aesthetics (Impact 3.1.3), Section 3.3 Air Quality (Impacts 3.3.1 and 3.3.3), Section 3.4 Biological Impacts (All Impacts), Section 3.6 Geology, Soils and Mineral Resources (Impact 3.6.4), Section 3.7 Hazards and Hazardous Materials (Impact 3.7.2), Section 3.8 Hydrology and Water Quality (Impacts 3.8.1, 3.8.2 and 3.8.3), address impacts and provide mitigation, when appropriate, that could result from public utility and service system infrastructure development.

For example, page 3-69 of the DEIR explains that the water treatment plant and associated infrastructure improvements will be within ruderal, disturbed and degraded lands within the Existing Community Plan Area, and portions of the Specific Plan Area (the disturbance to which are analyzed with the general consideration of impacts associated with ground disturbance within the Specific Plan Area). As a further example, Page 3-14 of the DEIR explains that the water treatment plant facility will be in the immediate vicinity of the existing water treatment plant and, as such, will not significantly increase the visual impact of the area.

There is no evidence, and commenter has not provided any new evidence, of potentially significant impacts from the water facilities/infrastructure, other than the potential impacts associated with disturbance for any infrastructure within the Friant Ranch Specific Plan Area, which are discussed in that broader context throughout the document.

Comment 19.134: *The EIR does not adequately analyze the impacts of the proposed water transfer on the LTRID and its water users.*

Response 19.134: The premise of the water transfer agreement, as discussed in the Water Supply Assessment (DEIR, Appendix B) and particularly Appendix D thereto, is that LTRID currently has the water resources available to supply the contracted Class 1 amount to WWD 18

(see also Response 19.132 above), while also meeting the needs of growers within LTRID's own service area. LTRID conjunctively uses groundwater as the firm source of supply for its growers. Every irrigated parcel has access to groundwater as its firm source of supply. In dry years, LTRID has a history of not delivering any surface water to its growers and using its surface water supplies to "backstop" the water supplies of other regional water users that are water management partners with LTRID.

LTRID uses the proceeds from water management programs similar to the proposed transfer with WWD 18 to operate additional water distribution systems and additional groundwater recharge facilities, as well as purchase short-term water from other Friant division contractors on a year-to-year basis when needed. These additional facilities allow the District to take in more surface water in big water years and at flood times for groundwater recharge. The new water yield from flood water which otherwise would go unused, on the average, more than offsets the firm water dedicated to its water management partners such as WWD18 / Friant Ranch. This sort of conjunctive use agreement has been viewed as beneficial by USBR and other water regulatory agencies as conjunctive use is a primary purpose of the CVP Friant Division. The overall result is that the sale of LTRID's water for municipal use does not reduce but in fact enhances the water supplies available to LTRID's agricultural users. The outcome of this is that there are no potential adverse effects of the Project on LTRID or its users.

Comment 19.135: *There is no adequate description or graphic depiction of the location or size of the LTRID, nor any information on its total water supplies and current water uses.*

Response 19.135: Section 4.3 of the Water Supply Assessment (DEIR Appendix B) includes a comprehensive discussion of the District, its size and water resources. Figure 4-2 of the Water Supply Assessment and Figure 2-11 of the DEIR illustrate the LTRID service area. LTRID's resources are discussed at length in the Water Supply Assessment and are summarized in the DEIR at page 3-348.

Comment 19.136: *The EIR should specifically identify the customers and crops that will be deprived of the 2,000 AFY that the project proposes to divert to the Friant area.*

Response 19.136: See Response 19.135. No customers or crops in LTRID's service area will be deprived of water as a result of the Project, including the water transfer agreement. (See also Response 19.134 above.) LTRID has the water resources necessary to meet its obligations to its constituents, satisfy its existing contractual commitments, and fulfill the water transfer agreement with WWD 18. In addition, the water transfer agreement will result in an increase in useable water supply made possible by groundwater recharge facilities operated by the payments made by WWD 18 to LTRID.

Comment 19.137: *The EIR must analyze the impacts that the diversion of this water supply will have on the LTRID service area. If the EIR is relying upon the impact analysis in a certified environmental document prepared for the transfer of replacement water to the farmland located in LTRID, the analysis in the CEQA document must be summarized and the document incorporated by reference in this EIR. The EIR fails to comply with these requirements.*

Response 19.137: As discussed in Responses 19.134 and 19.135 above, no adverse impacts to LTRID have been identified. No other environmental document has analyzed the water transfer agreement. The DEIR acknowledges that LTRID prepared an environmental document for the construction of its Intertie project, however, that analysis did not analyze the subject water transfer agreement or the LTRID operations related to said agreement. LTRID is identified as a Responsible Agency for the purposes of this DEIR, and the LTRID Board of Directors will consider the EIR document as it relates to the proposed water transfer agreement. (See DEIR, at pages 2-22-2-25, 2-30-2-31.)

Comment 19.138: *The EIR should analyze the impacts of LTRID's use pre-I914 water in critical dry periods to meet demand. Although the Water Supply Assessment identifies the shortfall and LTRID's need to use this water to meet the demand, the EIR does not analyze the associated environmental impacts.*

Response 19.138: In critical dry years, LTRID expects to use its available pre-1914 Tule River supplies to meet its downstream commitments, south of LTRID's boundaries. In such years, the District has an existing policy of requiring in-District water users to rely on groundwater supplies rather than surface water supplies available to the District. The Tulare County Superior Court recognized and quantified the District's pre-1914 rights to the Tule River in 1916 through its decision in *Poplar Irrigation District v. Howard, et al.*, Case No. 7004. A water master has been assigned to ensure that LTRID's diversions on the Tule River, among other diversions subject to other pre-1914 rights recognized in said litigation, remain within the judicially recognized quantities. As such, LTRID's pre-1914 rights are fixed and enforced. The Project will not result in any additional use of Tule River water beyond the existing rights already exercised by LTRID. As noted in the DEIR, the pending Lower Tule Intertie improvement will allow LTRID to maximize the water diverted from the Tule River. To the extent LTRID chooses to exchange some of these pre-1914 supplies with other downstream transfer partners (not WWD 18 or otherwise related to the Project), LTRID could potentially transport the pre-1914 supplies in the Friant Kern Canal for delivery to the downstream uses. LTRID routinely participates in exchanges to maximize its available supplies, and such an exchange would be within the scope of its typical operations, which have not resulted in significant impacts. No reasonably foreseeable potentially significant impacts are expected to result from such an exchange in the future. The Project does not propose to use any Tule River water supplies within the Project Area.

Comment 19.139: *The EIR also does not analyze the regulations governing CVP water transfers, or use of this pre-1914 water. It is the City's understanding that the California Department of Water Resources has not yet obtained the detailed surface water user data to ascertain whether all surface water rights previously deemed "pre-1914 are, in fact, legitimate. The requirement for water used to report this date will begin next year, under provisions of SB7X 8. Until the status of "pre-1914 water rights are evaluated and affirmed after these surveys are done, it is too early to declare that LTRID's water transfers to the Friant Ranch Project can be made up by that surface water supply. Since this DEIR was released just prior to enactment of the SB7X 1, SB7X 2, SB7X 3, SB7 X 7 or SB7X 8 package of water reform legislation and since this legislation has such a significant impact on the projects proposed hydrology, re-analysis of the project under these new regulations, and recirculation of the DEIR, is warranted.*

Response 19.139: No Tule River water supplies will be used within the Project Area. The Project will receive CVP Friant Division Class 1 supplies stored in Millerton Lake in all years. (See DEIR, Section 9.3 of Appendix D.) The DEIR and Water Supply Assessment both explain the federal approval process applicable to the proposed transfer of CVP Class 1 water supplies from LTRID to WWD 18. (See e.g., DEIR, pages 3-354 and 354 and Appendix D at pages ES-3, 2, 40 and Appendix C thereto.)

While SB 7X 8 does impose heightened reporting requirements on diverters, it does not, as the commenter suggests, include the specific objective of reevaluating or reauthorizing existing pre-1914 water rights. However, under the new legislation, measurements must be obtained by "best available means" starting in 2012. Further, the new law imposes penalties for failure to report, which did no exist under prior law. LTRID has been required to provide records of its diversions for some time. In fact, as discussed in Response 19-138 above, a judicially appointed water master prepares detailed reporting of water diversions on the Tule River. Nothing in the law suggests that there will be immediate or dramatic changes in water rights allocations, and delaying decision on this Project until after 2012 is not justified.

SB7X 1 created the Delta Stewardship Council, a new body tasked with developing a comprehensive management plan for the Delta by the end of 2011. Since the Tule River is not tributary to the Sacramento/San Joaquin Delta system (it drains to the Tulare Lake Basin), it is not under the purview of this new council.

SB7X 2, if authorized by voters at the November 2010 statewide general election, would authorize over $11 billion in general obligation bonds to be issued by the state to provide funds for water supply and protection facilities. None of these facilities would directly impact pre-1914 waters of the Tule River.

SB7X 3 did not pass out of the Legislature, and requires no further discussion.

SB7x 7 requires that California achieve a 20% reduction in statewide urban per capita water use by 2020, with an interim reduction goal of 10% by 2015, based upon a policy of meeting the demands of increasing population, climate change, environmental protection and economic growth. No specific regulations have been promulgated, but the measure would affect the infrastructure and building details of the Project, not the interagency water agreement. Any likely effect on the Project would be a reduction, if possible, in overall water demand as compared with the anticipated demand under the current regulatory environment.

The recent enactment of the above-described legislation (and the possibility of voter approval of the water bond this fall) does not necessitate recirculation of the DEIR because this information is not significant and does not affect the analysis of environmental impacts resulting from the Project.

Comment 19.140: *The EIR's discussion of water supply impacts "conservatively" declines to adjust water use forecasts due to an assumption that residences in the Friant Ranch Specific Plan Area will have lower-than average occupancy rates. By contrast, however, the EIR's discussion of wastewater treatment impacts does not adopt this "conservative" assumption, and*

instead assumes that active adult housing in the Specific Plan area will produce lower than average demand for wastewater treatment. What is the substantial evidence upon which the EIR bases its decision to adopt these two, mutually inconsistent assumptions. In light of this inconsistency, the EIR needs to re-evaluate anticipated wastewater treatment demands created by the Project, and if necessary revise the Project to provide adequate wastewater treatment capacity.

Response 19.140: The assumptions in the Infrastructure Master Plan and the DEIR are consistent. Water supply is analyzed with a "conservative" assumption because the largest part of residential demand consists of outdoor irrigation use, which is not sensitive to household formation size. The conservation assumption is provided in the text of Section 3.14, which states, "Approximately 2/3 of domestic water is for external use (i.e., landscaping)." Moreover, commonly accepted calculations of average water usage are based on acre-feet per single-family residence rather than per capita.

Wastewater calculations, on the other hand, are commonly based on the number of persons in a household. The anticipated household formation size for the Specific Plan Area was described in the DEIR based upon the 2001 American Housing Survey by the U.S. Census, which identified the combined demographic for the 55-64 and 65-74 age categories to average 1.9 persons per dwelling unit. Thus, the 2,816 age-restricted units within the Friant Ranch Specific Plan Area are expected to average at 1.9 persons per dwelling unit. The per-capita wastewater generation rate used in the Infrastructure Master Plan is consistent with modern developments employing current water-use-reducing technologies including low-flow faucets, showers, laundry equipment and toilets. An example of a local development using such technologies and having such a wastewater generation rate is the Quail Lakes project in Fresno County.

Comment 19.141: *The EIR indicates that PG&E has stated that it has a sufficient power supply to serve the Project. Since it is commonly known that overall population growth and development in California and the San Joaquin Valley will lead to future power shortfalls unless there are major gains in energy conservation and alternative energy development, the EIR cannot simply rely on PG&E's purported statement, but must reconcile that assurance with the long-term energy supply outlook for the state and region, and needs to provide mitigation in the form of higher standards for conservation and alternative energy programs, built into every component of the Project.*

Response 19.141: The commenter has argued generally that there may not be sufficient energy resources to serve future long-term population growth throughout California but has provided no specific evidence to support the contention that sufficient energy resources will not be available to serve the Project. By contrast, the applicant has met several times with PG&E during project planning, and, as noted on DEIR page 3-376, PG&E has indicated that is has or can develop the necessary capacity to serve the Project Area with both gas and electricity. More information about the potential sources of energy available to PG&E is provided in the DEIR at pages 3-376 thru 3-377. However, the availability of energy statewide in the long term is beyond the scope of this Project EIR to evaluate. Any conclusion about the relationship between long-term statewide energy resources and availability of energy sources to serve the Friant Ranch project would be speculative. What can be stated at this time is that the availability of energy resources is driven

in significant part by market factors and that there is a strong financial incentive for privately owned utilities, such as PG&E, to develop and maintain sufficient energy supply to satisfy demand. Despite rapid growth in California in the past 50 years, and especially the Fresno area, the County is aware of no evidence that any utility was unable to supply a new development project in the San Joaquin Valley with necessary electrical or gas service. Moreover, incentives for the use and development of renewable energy sources, such as solar and wind energy, have become and increasingly are becoming more available, which can be expected to expand the amount and type of energy statewide.

The Friant Ranch project includes many design and conservation features that will reduce energy demand compared to existing development, including water-conserving features and policies, such as metering of municipal water for the Project (residential and commercial), with a tiered rate system in place to discourage excessive consumption. The Friant Ranch Specific Plan design also emphasizes water conservation and reclamation. Water conserving plumbing fixtures and conjunctive reuse of reclaimed water are principles central to the Specific Plan design standards. By conserving water to a greater degree than existing development, the Project will help minimize its energy use.

In addition, as set forth elsewhere in the DEIR and restated below, the Fresno County General Plan and Friant Community Plan both contain goals and policies that apply to the Project which are designed to increase conservation and efficient use of energy. Further, increasingly aggressive conservation requirements mandated by State law, including the California Energy Code and Green Building Standards Code, to which the Project will be subject, can be expected to reduce overall demand for energy throughout the state, compared to existing conditions, and these conservation requirements can be expected to extend the availability of existing resources as population of the State grows.

The following County General Plan policies applicable to the Project will help reduce energy demand compared to existing development by reducing project water use, which requires energy for pumping, treatment and heating of water.

> *Policy PF-C.25 The County shall require that all new development within the County use water conservation technologies, methods, and practices as established by the County.*
>
> *Policy PF-D.5 The County shall promote efficient water use and reduced wastewater system demand by:*
>
> *a. Requiring water-conserving design and equipment in new construction;*
> *b. Encouraging retrofitting with water-conserving devices; and*
> *c. Designing wastewater systems to minimize inflow and infiltration, to the extent economically feasible.*

As noted on pages 3-390 and 3-391 of the DEIR, the Friant Community Plan contains the following policies that will apply to the Project and that will help reduce project electrical and gas demand compared to existing development, including:

> ***Goals:*** *Incorporate green building and other sustainable building practices into development projects.*
>
> ***Policies:***
>
> *Encourage the use of domestic and commercial solar energy uses to conserve fossil fuels and improve air quality.*
>
> *Facilitate the use of green building standards and Leadership in Energy and Environmental Design (LEED) in both private and public projects, where feasible.*
>
> *Promote sustainable building practices that go beyond the requirements of Title 24 of the California Administrative Code, and encourage energy-efficient design elements, as appropriate.*
>
> *Encourage the use of domestic and commercial solar energy in the Friant Community Plan Area in an effort to conserve fossil fuels and improve air quality.*

Finally, mitigation measures recommended for the Project to address effects on air quality and global climate change will also help reduce project electrical and gas demand compared to existing development. See Mitigation Measure #3.3-2 (DEIR page 3-57 - 3-59) and Mitigation Measures #3.15.1a and #3.15.1g (DEIR pages 3-391 - 3-392).

Comment 19.142: *Since the Project includes a Specific Plan which is being examined at a project-specific level, the EIR needs to identify the routes of major electrical and gas transmission lines and distribution substations serving the Friant Ranch development.*

Response 19.142: As noted in the DEIR on page 3-376, electricity will be provided to the Specific Plan Area through extension of existing transmission lines located throughout the Project Area. The Project Area is presently not served by natural gas, so new lines would need to be extended to the area or an alternative use of propane gas may be pursued. The precise location of any necessary utility extensions cannot be known at this early stage in the project design and approval process, and will be developed at the time the tentative subdivision maps are created. Typically electrical and gas lines for new development are located within rights of way for existing or new roads and would be installed as part of the construction of new roads or expansion of existing roads. This is reflected in Mitigation Measure #3.14-7(a) (DEIR page 3-377), which requires that the Project Area work closely with the appropriate utility provider to ensure that development of electrical and natural gas infrastructure with the capacity to service the entire Project Area is located and provided concurrently with roadway construction and in accordance with applicable PUC regulations. This mitigation measure further requires that the applicant(s) grant all necessary easements for installation of electrical and natural gas facilities,

including utility easements along existing and future on-site arterial roads for the development of area-wide utility corridors.

As noted on page 3-332 of the DEIR, the DEIR evaluates the various impacts that are reasonably expected to occur from construction of project utilities in individual resource sections of the EIR. Because electrical and gas transmission lines would be installed as part of road construction, it is reasonable to assume there would be no new or different impacts than those already described in the DEIR for the proposed ground disturbance within the Specific Plan Area. Any service line extensions beyond the Specific Plan Area (e.g., gas lines) would be limited, would have impacts similar to those described in the EIR for road construction (e.g., air quality impacts from construction, minor traffic disruption from construction activity, possible minor biological impacts due to temporary disruption of vegetation) and would be subject to the same mitigation requirements identified in the EIR; there is no evidence to suggest such minor construction activity would result in any new significant impacts or substantially increase any impact identified in the EIR. In any event, the precise location of all proposed utilities will be included in the tentative subdivision maps for the project, which will be evaluated by County. At that time the County will consider whether the location or construction of any proposed utility line has the potential to result in new or different environmental impacts than those considered in this EIR and whether any additional environmental review is required.

Comment 19.143: *The EIR further needs to evaluate the impacts of transmission line construction, maintenance and operation on the Project site and other lands traversed by these lines (vegetation removal, erosion, fire hazards, EMF, etc.) The EIR cannot defer or segregate this vital component of the proposed Project for later design and evaluation.*

Response 19.143: See Response 19.142 above.

Comment 19.144: ***Chapter 3.15 Greenhouse Gas Emissions and Global Climate Change***

The discussion of the Regulatory Environmental is completely inadequate. There is no discussion of numerous laws and regulations on greenhouse gas (GHG) impacts and analysis including: (1)the latest state CEQA Guidelines amendments on greenhouse gas analysis before the State Resources Agency for adoption which are expected to be in effect January 2010. The greenhouse gas analysis should comply with these CEQA Guidelines; (2) the proposed regulations of the San Joaquin Valley Air Pollution Control District on addressing and mitigating GHG impacts from development. SJVAPCD has been developing these regulations for over a year and they are expected to be adopted shortly. The regulations include guidance on how to address GHG impacts under CEQA; (3) the A6 32 Scoping Plan which includes reductions from land use development; (4) SB 375 which requires the adoption of regional targets for GHG reductions from land use and transportation and the development of regional plans to achieve these reduction targets; (5) information developed by the State Attorney General's Office on the analysis and mitigation of GHG emissions under CEQA; and (5) the recent determination by the US Environmental Protection Agency that $C0_2$ threatens public health and the environment due to its impacts on climate change. The EIR should discuss these important regulatory developments and apply these regulations and guidance in its analysis of GHGs.

Response 19.144: The commenter is correct that there have been numerous recent updates to regulations involving greenhouse gas (GHG) in early 2010. However, at the time the DEIR was released (October 2009), there were no adopted significance thresholds for GHG emissions or adopted methodology for analyzing impacts related to GHG emissions, and the DEIR outlined then-current regulatory guidelines. The DEIR did however, contrary to the comment, provide analysis pursuant to the pending (at the time) CEQA Guidelines amendments involving GHG analysis (see page 3-384 of the DEIR). An errata to the DEIR at pages 3-379 and 3-381 (Section 3.15.1 Regulatory Setting) has been added as follows:

> ***California Air Resources Board***
>
> The CARB, a part of the U.S. EPA, is responsible for the coordination and administration of both federal and State air pollution control programs within California. The CARB conducts research, sets State ambient air quality measure standards, compiles emission inventories, develops suggested control measures, and provides oversight of local programs.
>
> ***Senate Bill 375***
>
> SB 375 was signed by Governor Schwarzenegger on September 30, 2008. The bill provides means to further reduce greenhouse gas (GHG) emissions from passenger vehicles and light trucks. The intent of the bill is to connect land use planning with transportation policy, resulting in more sustainable and environmentally friendly communities. The bill requires Metropolitan Planning Organizations (MPOs) to prepare a Sustainable Communities Strategy (SCS) within their Regional Transportation Plans (RTPs). The SCS sets forth a vision for growth of the region taking into account, transportation, housing, environmental, and economic needs of the region, with the goal of reducing the number of miles traveled by personal vehicles, and thus reducing GHG emissions. Under the law, the California Air Resources Board has two years to give each of California's MPO a GHG emissions reduction target for cars and light trucks. However this target GHG from cars and light trucks can only be implemented through changes in development pattern of the MPO. Once the guidelines have been established, (in mid-2010), regions will need to prepare an SCS an incorporate them into their RTPs.
>
> The GHG emissions reduction targets for each region are required to be established no later than September 30, 2010. Once the GHG emissions reduction targets for each region have been established, SB 375 requires the MPOs to prepare a Sustainable Communities Strategy (SCS) in their Regional Transportation Plan. While there is no deadline for adoption of the SCS, it is anticipated that the first plans would not be released until 2011, at the earliest. The SCS sets forth a development pattern for the region, which, when integrated with the transportation network and other transportation measures and policies, would reduce GHG emissions from transportation (excluding goods movement). The SCS is meant to provide individual jurisdictions with growth strategies that,

when taken together, achieve the regional GHG emissions reduction targets. However, the SCS does not require that local general plans, specific plans, or zoning be consistent with the SCS but provides incentives for consistency for governments and developers. If the SCS is unable to achieve the regional GHG emissions reduction targets, then the MPO is required to prepare an Alternative Planning Strategy that shows how the GHG emissions reduction target could be achieved through alternative development patterns, infrastructure, and/or transportation measures.

San Joaquin Valley Air Pollution Control District

The San Joaquin Valley Air Pollution Control District (SJVAPCD) has adopted guidelines for addressing greenhouse gas impacts in its *Guidance for Valley Land Use Agencies in Addressing GHG impacts for New Projects Under CEQA (2009)*. The guidance relies on performance-based standards, otherwise known as Best Performance Standards (BPS), to asses significance of project-specific GHG emissions on global climate change during the environmental review process. Projects implementing BPS's would be determined to have a less than cumulatively significant impact. Projects can also demonstrate compliance with the requirements of AB 32 by demonstrating that their emissions achieve a 29% reduction below "business as usual" levels.

To be determined to have a less than significant individual and cumulative impact on global climate changes, projects must be determined to have reduced or mitigated GHG emissions by 29% below "business as usual" conditions, consistent with GHG emission reduction targets established by the AB 32 Scoping Plan.

Projects meeting one of the following would have a less than significant impact on global climate change:

- Exempt from CEQA;
- Complies with an approved GHG emission reduction plan or GHG mitigation program;
- Project achieves 29% GHG reductions by using approved Best Performance Standards; and
- Project achieves AB 32 targeted 29% GHG reductions compared with "business as usual".

Comment 19.145: *The EIR should quantify the GHG emissions from all construction and operational activities of the Project, including the construction and operation of the new wastewater treatment plant and the expansion of the water treatment plant. Methodologies for quantification from all the Project uses are known and should be used, so that the full amount of emissions from the Project is disclosed. The EIR's estimated Project GHG emissions only focus on a narrow part of the Project and greatly understate the Project's emissions.*

Response 19.145: GHG emissions from all operational activities of the Project are quantified through the URBEMIS calculations in Appendix C of the DEIR and summarized at pages 3-385 of the DEIR. See page 3-384 for discussion of GHG methodology of using CO2 emissions as a proxy to ascertain the significance of all GHG emissions. The URBEMIS modeling for phases 1 through 5 of the Specific Plan accounts for construction activities including the new wastewater treatment facility and the expansion of the water treatment plant. The URBEMIS modeling calculates an operational emissions estimate that includes both vehicle source and area source emissions. The water treatment plant facility utilizes the pressure of the incoming water to move it through the filtration and chlorination process and as a result uses negligible amounts of power. The proposed treatment of 0.8 mgd at full build-out of the wastewater treatment plant would be expected to create only ROG emissions according to *Sewage Treatment Facilities (POTWS),* July 17, 1991 guidance from the Bay Area Air Quality Management District. The anticipated emissions, calculated in accordance with such guidance are as follows:

	Emission Factor (lb/yr per Mgal/day)	Hourly Emissions (lb/hr)	Yearly Emissions (tons/yr)
Methylene Chloride	95	0.0087	0.038
Chloroform	40	0.0037	0.016
1,1,1-TCA	110	0.0100	0.044
Benzene	34	0.0031	0.014
TCE	11	0.0010	0.0044
Toluene	28	0.0026	0.011
Tetrachloroethylene	37	0.0034	0.015
Xylenes	33	0.0030	0.013
1,4-Dichlorobenzene	5	0.0005	0.002
Total ROG Emissions		**0.036**	**0.16**

SJVPACD regulations require any person constructing, altering, replacing, or operating any source operation that emits, may emit, or may reduce emissions to obtain an Authority to Construct or a Permit to Operate. Operation of the wastewater treatment plant would emit approximately 0.16 tons of ROG per year, which equates to a 0.8% increase in ROG emissions. The wastewater facility daily emission rate is estimated at 0.86 lbs of pollutants per day. (Most new stationary sources, if they emit over 2 pounds of pollutants per day, will be subject to Best Available Control Technology in accordance with the SJVAPCD's *New Source Review Rule* (2004).) As such, the operational emissions anticipated for the water treatment plant and wastewater treatment plant do not measurably increase the Project's effect on global climate change.

Comment 19.146: *Since the EIR concludes that the impact from GHG emissions is significant and unavailable, it needs to evaluate and consider all feasible mitigation measures to reduce the impacts. The Plan policies and so-called mitigation measures included in the EIR to potentially reduce GHG are too general. The policies and programs are mostly to "support", "encourage" and "promote" certain actions, which are not requirements. Also, there is no evidence and analysis to show that the measures, if implemented, will actually reduce GHG emissions and, if so, by how much. The EIR should evaluate the feasibility of the Best Performance Standards proposed by the SJVAPCD as part of its Report for Addressing Greenhouse Gas Emissions Under CEQA (See http://www.valleyair.org/Programs/CCAP/11-05-*

09/1_CCAP_FINAL_CEQA_GHG_Draft_Staff_Report_Nov_05_2009.pdf) and the mitigations recommended by the Attorney General's Office to address GHG emissions under CEQA (See http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf).

Response 19.146: The DEIR provides numerous mitigation measures to reduce greenhouse gas emissions (See pages 3-391 – 3-393 of the DEIR; also see mitigation measures in Chapter Three – Air Quality). The SJVAPCD has not yet established Best Performance Standards as suggested by the commenter. Rather, the SJVAPCD adopted guidance to require the development of Best Management Practices to reduce greenhouse gas emissions. Such guidance provided examples of potential practices, but did not adopt them as actual SJVAPCD Best Management Practices. The SJVAPCD is working with stakeholders to develop acceptable Best Management Practices. See http://www.valleyair.org/Programs/CCAP/CCAP_idx.htm#bps%20development. In any event, many of the project's applicable mitigation measures are duplicate of or similar to those outlined by the SJVAPCD's sample of potential practices. However, as explained in the DEIR, even after implementation of the mitigation measures, the impact will remain significant and unavoidable.

Comment 19.147: *The EIR should analyze and reach a conclusion on the significance of the impacts of global warming on the Project for other issues besides water. The EIR should analyze the potential global warming impacts due to flooding and increased temperature (especially as it relates to increasing the likelihood of violations of air quality standards).*

Response 19.147: Please refer to page 3-395 of the DEIR for a discussion of global climate change impacts on Flooding. Additionally, in August 2009, the California Energy Commission (CEC) published a document entitled "Using Future Climate Projections to Support Water Resources Decision Making." (The document is available on the Web at http://www.eneray.ca.gov/2009publications.) The CEC report addresses the chance that an increase in average annual temperature will have potentially profound effects upon the accumulation of snowpack in the Sierra over the winter months, resulting in a marked decrease in runoff quantities between the months of April through July. The change would also result in an offsetting increase in the quantity of watershed runoff earlier in the wet season, perhaps from September through January. Much of this precipitation would be in the form of rain rather than snow, which could have significant impacts upon the existing river storage reservoirs and perhaps cause increased flood releases during the fall and winter months as storage facilities reach their rated limits and operators are forced to release runoff into the various rivers along the Sierra Nevada, including the San Joaquin. For any water user reliant upon the spring runoff, such an outcome could be very serious, and could require substantial changes in the way that agricultural operations around the state are operated. However, for LTRID and Water Works District No. 18, as well as other Friant Division contractors, the potential effect is not negative, and could even be positive. The Project differs from an agricultural water user in that while there is a peak water use season in the summer, there is substantial demand for water by the project's customers throughout the year. The Project needs water year-round. In addition, LTRID's recharge facility gives it the flexibility to accept high-flow water from Friant Dam (pursuant to the Section 215 water supply provisions of its contract with Reclamation) for recharge at any time of the year, not just in the summer months. Whether the water arrives in September, January or July does not make a difference to the operation, except that evaporation is reduced in the

cooler months of the year and net recharge may be marginally higher as a result. In cooler months, conveyance is available in the Friant Kern Canal to allow Section 215 water to be delivered to LTRID and other Friant Division contractors, which demonstrates LTRID positioned to take full advantage of this additional river water even in non-peak months.

The DEIR discloses significant and unavoidable impacts to air quality caused by greenhouse gas emissions, which encompasses such indirect impacts resulting from any increased temperatures.

Comment 19.148: *Even though the EIR finds that the impact on greenhouse gases is significant and unavoidable, it should establish a significance threshold on which to base this determination. Under the proposed SJVAPCD Guidance, the recommended standard of significance is a 29% reduction.*

Response 19.148: At the time the DEIR was published (October 2009), there were no adopted GHG thresholds. Since that time, the SJVAPCD has established guidance for local land use agencies related to analysis of GHG emissions. The comment does not completely explain the "threshold" recommended by SJVAPCD. The policy requires quantification of project specific GHG emissions. The DEIR quantified GHG emission at page 3-385. The text of page 3-385 been provided to clarify the breakdown of GHG emissions as between the Friant Ranch Specific Plan Area and the remainder of the Project. The SJVAPCD policy also allows a project to be found to have no significant effect on GHG emissions if it implemented appropriate (and as yet unspecified) "Best Performance Standards" (BPS) for minimizing GHG emissions. Though the policy provides some "illustrative" examples of these BPS, the SJVAPCD has yet to approve official standards to apply for use of this "threshold." Alternatively, the guidance provides that a project could be found to have no significant GHG impacts if it is shown that project specific GHG emissions have been reduced by 29%, compared to a projected "business as usual" operating standard for that particular type of equipment or operation set by the California Air Resources Board. Notably, this approach has been subject to scrutiny and is currently subject to litigation.

Regardless of the thresholds recommended by the guidance, and currently being refined and detailed by the SJVAPCD, the DEIR has concluded that the Project will have a significant and unavoidable impact on global climate change. It is not anticipated that use of either possible threshold identified by the new SJVAPCD policy would change that determination. Moreover, nothing in such policy would change the quantified GHG emissions anticipated to result from the Project, which the County has found to be cumulatively considerable in light of global climate change and as such a significant and unavoidable impact.

Comment 19.149: ***Chapter 4 Evaluation of Alternatives***

The EIR does not discuss an adequate or reasonable range of alternatives. Aside from the statutorily required No Project Alternative, the EIR only evaluates three alternative configurations of development under the Friant Ranch Specific Plan. These three "alternatives" are so similar as to not represent a reasonable range. The EIR admits that "[t]he North, East, and Northeast Development Configuration Alternatives are similar in terms of their level of impact."

Response 19.149: The range of alternatives analyzed in the DEIR was based on CEQA Guidelines Section 15126.6. As discussed in the DEIR, Chapter Four – Evaluation of Alternatives, the range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project. As such, the alternatives chosen reflect the project objectives as well as the inherent ties between the Friant Community Plan and the Friant Ranch Specific Plan. See section 4.3 of the DEIR for explanation of selection process for alternatives.

Comment 19.150: *The EIR's rejection of analysis of an off-site alternative is entirely self-serving and circular. The EIR bases its decision not to evaluate an off-site alternative primarily on the purpose of the Project to create "a master-planned active adult community" that is "within or immediately adjacent to the Friant Community." This "purpose" describes the proposed Project precisely, and so admits of no meaningful alternative. That is not acceptable under CEQA. An EIR may not reject consideration of off-site alternatives simply because they would not be identical to the proposed Project. The EIR is required to look at a range of reasonable alternatives to achieve the objectives of the Project while lessening its impacts, and so needs to broaden its range of alternatives to consider (1)other potential Project's to "revitalize" the existing Friant Community with fewer environmental impacts than the creation of a vast new residential development in the Specific Plan Area and (2) other potential locations for master-planned active adult communities in the County or neighboring counties, or in established urban areas of the County, which would have fewer impacts that the proposed Project.*

Response 19.150: As described in the DEIR, Chapter Four – Evaluation of Alternatives, an important component of the project is its proposed location near recreational facilities such as the San Joaquin River Parkway and Millerton State Recreational Area; of which similar facilities with the required amount of land required by the development are not available in the region. Further, the Applicant does not own or control land within the region, other than the proposed project site, which would be suitable for the proposed development. Finally, as described in the DEIR, development of the project on any suitable alternative site in or around the County would be unlikely to avoid or substantially lessen the Project's significant impacts, and therefore would not be a feasible alternative. Section 4.4 of the DEIR provides an adequate explanation of the alternatives considered and eliminated from consideration, such as potential off-site locations. This discussion addresses commenter's suggestion of locating the community within urban areas or other unincorporated parts of Fresno or Madera County. Unlike commenter, section 4.4 attempted to identify such properties and provided an explanation as to why specific off-site locations would not satisfy key objectives of the Project. Moreover, there is no evidence to support commenter's assumption that development within other unincorporated parts of Fresno and Madera County would necessarily result in less significant impacts. To the contrary, section 4.4 explains that such locations would have similar impacts. Commenter has not identified any specific locations that would in fact satisfy the key objectives of the Project and actually result in fewer environmental impacts. Commenter also notes that the EIR should analyze other ways of revitalizing the Existing Community Plan Area. Commenter has not provided any specific

suggestions, and it is unlikely that any such alterative would satisfy the key objective of the Project to meet an unmet need for active adult communities to serve a growing portion of the County's population.

Comment 19.151: *Additionally, the EIR should discuss a variation on the No Project Alternative, under which the "programmatic" changes proposed for the Community Plan and the Redevelopment Plan would occur, but the "project-level" activities in the Specific Plan Area and the Depot Parcel would not occur.*

Response 19.151: As described in the DEIR, Chapter Two – Project Description, the Update of the Friant Community Plan does not propose any changes to land use designations other than those within the Friant Ranch Specific Plan area and the Depot Parcel. Therefore, the "No Project Alternative" in Chapter Four – Analysis of Alternatives, essentially discusses implementation of the Community Plan, without "project-level" activities associated with the Specific Plan Area and the Depot Parcel.

Comment 19.152: *Finally, it does not appear that the EIR discusses any alternative for development of the Depot Parcel as a shopping center. In light of the existing vacant commercial and retail space in the Friant Community, the EIR should evaluate other potential uses for the site that would have fewer environmental impacts and would not potentially contribute to blight in the existing Friant Community by drawing away commerce.*

Response 19.152: The 6.75 acre Depot Parcel is located adjacent to Friant Road and is essentially surrounded by urban use. Development of an alternate type of land use (other than Highway Commercial) at this location could conflict with surrounding uses. As described in the DEIR, there are no specific uses yet identified for the Depot Parcel, and therefore quantification of impacts is based on land use, rather than project-specific use. As such, depending on land use, it is difficult to quantify whether or not another use would have less of an impact. Though the proposed land use of a "shopping center" was used as a worst case example for assessing potential traffic and air quality impacts, the Project does not specifically propose such use. If identification of a specific tenant and/or land use within the Highway Commercial designation prior to future discretionary approvals triggers supplemental environmental analysis pursuant to Public Resources Code section 21166, then additional environmental analysis pertaining to such new information will be conducted. At this time, however, analysis of potential urban decay or urban blight resulting from a specific tenant or specific end use would be based on pure speculation.

With regard to potentially contributing to blight within the existing Friant Community by drawing away commerce, the project itself is proposed to bring in additional population to the area who will potentially increase commerce at existing facilities as well as utilize proposed facilities.

Comment 19.153: ***Chapter 5 Cumulative Impacts***

The list of cumulative projects is inadequate. It fails to include past general plan amendments for projects on the east side of the Friant-Kern Canal, Madera County projects across the San

Joaquin River north of Friant, and the Blasingame project proposal to the south of the Project. Among relevant cumulative projects which are improperly not included in the EIR's cumulative analysis are (1) commercial developments, already approved but not yet constructed, at Freeway 41 and Friant Road; (2) the 40-acre retail commercial project located at the corner of Friant and Audubon; (3) the proposed Jackson Baker Mining Quarry in Madera County; and (4) the proposed Vulcan mining quarry in Madera County.

Response 19.153: The DEIR relied upon the list approach to establish a list of past, present and reasonably foreseeable future projects. (See Table 5-1 at DEIR pages 5-2 through 5-6). This list was compiled based upon the following criteria: projects for which an application had been filed for development as of the date of the notice of preparation for the DEIR (October 2007) that affect similar resources to that of the Project. (See DEIR Figure 5-1 on page 5-7 for a depiction of the geographic range.) Table 5-1 and corresponding Figure 5-1 were intended to show geographic context for cumulative impacts associated with aesthetics, agricultural resources, biological resources, cultural resources, geology/soils/mineral resources, hydrology/water quality, land use, noise, public services/recreation, and utilities/service systems. Cumulative 2030 traffic impacts were analyzed using the Fresno County COG models, pending roadway improvement programs and the pending projects within the region listed on Table 5.1 of the Traffic Impact Study (See Appendix D of the DEIR). Additionally, as discussed in the DEIR, cumulative impacts related to regional air quality, global climate change and energy usage, hazardous substances/materials, and population and housing are also not limited to consideration of the geographical area reflected in Figure 5-1.

Impacts and mitigation measures to be approved for the 356-acre Austin Quarry, a project proposed by Vulcan Materials Company, are not known with certainty at this time. The ADEIR for said project is in progress, and a draft has not yet been posted on Madera County's website. The mine site is located in Madera County south of Highway 145, north of the Madera Canal and west of Highway 41. For purposes of cumulative biological evaluation, the general project vicinity is an area where vernal pool wetlands are known to occur. An unknown area of such wetlands would likely be eliminated by the Vulcan project.

The California Natural Diversity Data Base (2010) confirms the presence of a number of state and federally listed plant and animal species in the Vulcan project vicinity that may occur in on-site vernal pool wetlands. The Vulcan project would likely result in impacts to California tiger salamander breeding and aestivation habitat, as well as seasonal aquatic habitat for the vernal pool fairy shrimp. It may result in impact to one or more of the following listed plant species: succulent owl's-clover, San Joaquin orcutt grass, hairy orcutt grass, and Greene's Tuctoria. Therefore, the Vulcan project would likely result in impacts to biological resources similar to impacts resulting from the Friant Ranch project. The Vulcan Materials Company has reportedly acquired two sections of land just to the west of the quarry site that would serve as mitigation (or partial mitigation) for impacts to grassland and vernal pool resources resulting from the quarry operation.

While impacts and mitigation measures associated with the Vulcan project are not known in detail, the Vulcan project will not affect the conclusions of the cumulative impact analysis for this Project. Biological mitigation required under federal law would eliminate or lessen project

impacts through avoidance, the creation of compensatory habitat in the region, and the improvement of existing habitat from restoration and management such that Vulcan's project impacts to biological resources would not materially affect the cumulative condition described in the DEIR, nor affect the analysis of the Project's contribution thereto. To the extent that the quarry site includes grazing land, such biological mitigation would also offset the loss of grazing land disturbed by the quarry development.

With respect to the Madera Ranch Quarry (referred to by commenter as the Jaxson/Baker Mine project), the California Court of Appeal, Fifth District held in an October 24, 2008 ruling that the environmental impact report for the project was inadequate and sent the project back to Madera County for further environmental review. Just recently (after circulation of the DEIR for the subject Project), Madera County adopted a new Madera Ranch Quarry EIR and approved the conditional use permit required for the proposed mining operations. The certified Madera Ranch Quarry EIR has been posted on the County's web page (http://www.madera-county.com/rma/planningdept/planning_dept_docs.html), dated March 2010 (State Clearinghouse No. 2003102128). The Madera County Planning Commission on March 16, 2010 voted to approve certification of the revised EIR and then the Madera County Board of Supervisors on April 13, 2010 also voted to approve certification. Without mitigation, the Madera Ranch Quarry would be expected to effect some of the same biological resources affected by the subject Project, including the California tiger salamander, nesting raptors and Golden Eagles, and the waters of the United States. The certified Madera Ranch Quarry EIR provides within its appendices a completed Army Corps Clean Water Act Section 404 Permit, USFWS Approval Letter, Regional Water Quality Control Board Clean Water Act Section 401 certification, and Department of Fish and Game Section1602 Permit, which collectively provide compensatory mitigation for the effects to the California Tiger Salamander, 1.55 acres of wetlands mitigation and restoration to riparian habitat. For the same reasons discussed for the Austin Quarry above, resurrection of this project does not change the analysis or conclusions for the cumulative impact analysis of the subject Project in the DEIR because mitigation required under federal law eliminates or considerably lessens each of the project's biological impacts through avoidance, the creation of compensatory habitat in the region, and the improvement of existing habitat from restoration and management such that the project impacts to biological resources would not materially affect the cumulative condition described in the DEIR, nor affect the analysis of the subject Project's contribution thereto. See also Response 19.113 discussing the de minimus effect of these mining projects on the cumulative traffic analysis. Similarly, these projects would not substantially increase the significant cumulative impact resulting from regional traffic air quality emissions discussed in the DEIR.

Projects to be built in already-developed areas of incorporated cities, such as Fresno (i.e., the Fresno 40 development at Highway 41 near Friant Road near Audubon, raised by commenter, commonly referred to as "Fresno 40" project), do not support the kind of resources to be affected by the Project. However, cumulative impacts related to such urban development were considered in the broader cumulative analysis such as air quality, global climate change and energy usage, population and housing, hazardous substances/materials, and traffic. For example, the Traffic Impact Study for the Project analyzed traffic impacts associated with the Fresno 40 project in the cumulative condition. (See Appendix D, Table 5-1.)

The Blasingame Project noted by the commenter, a project that appears to have been abandoned since the DEIR was prepared, was included on the DEIR Table 5-1 list under "Wellington Ranch" and was considered in the cumulative impact analysis.

Comment 19.154: *Overall, the cumulative analysis is inconsistent with CEQA requirements and vastly understates the significant cumulative impacts of the Project. The analysis is flawed in two important respects: (1) it improperly concludes, without any further analysis, that just because the Project level impact is reduced to less than significant, the Project's impact is less than cumulative considerable. CEQA law is clear that whether a project's cumulative impact is significant (i.e., cumulative considerable) cannot be determined based on the mitigation of Project level impacts; and (2) the EIR improperly finds that the Project contribution is less than cumulative considerable if the project impact is a small percentage of a large problem (ex. Project impact on "only 2 acres" of vernal pools as less than cumulatively considerable because small amount compared to overall number of vernal pools impacted by cumulative development). This use of the "ratio" rule has been firmly rejected by CEQA case law (see Kings County Farm Bureau v. City of Hanford). Contrary to the EIR analysis, the bigger the cumulative impact is, the smaller the Project contribution that should be considered significant. These flaws are especially prominent in the analysis of biological impacts where the impacts on vernal pools, CTS and its habitat, and riparian and special status species habitat are found less than cumulatively considerable because Project impacts are mitigated and there still remains a "significant amount" of these resources in County even after project impacts. The majority of the Project's impacts on biological resources should be found cumulatively considerable.*

Response 19.154: As stated in CEQA Guidelines Section 15130, cumulative impacts are to be analyzed where they are significant. A cumulative effect is deemed significant if the project's incremental contribution to a cumulative impact is "considerable." A cumulative impact is not considered significant if the impact can be mitigated to below the level of significance through mitigation, including providing improvements and/or contributing funds through fee-payment programs. As such, the applicable mitigation measures outlined for each resource area in Chapter Three are applied as mitigation to reduce the cumulative impacts, but not to a less than significant level.

Specific responses to cumulative impacts to resource areas follow in Responses 9.155 through 9.164.

With specific regard to cumulative impacts on biological resources, mitigation required by the DEIR will ensure the following:

(1) no net loss of Hartweg's golden sunburst population;
(2) no net loss of succulent owl's-clover population;
(3) no net loss of vernal pool fairy shrimp habitat or population;
(4) no net loss of California tiger salamander breeding habitat;
(5) no net loss of western spadefoot breeding habitat; and
(6) no net loss of waters of the U.S. and of state of California.

Since Project impacts to the aforementioned species and habitats will be mitigated such that there will be no net loss (i.e., no impact after mitigation), then it is not logical to conclude that Project impacts to these species are cumulatively considerable. Similarly, the Project will result in no impact to sensitive biological resources not present on the Project site (i.e., several species of special status plants and special status animals), so Project impacts to these species by definition will not be cumulatively considerable.

The Specific Plan development will result in the net loss of approximately 690 acres of open space (comprising mostly grassland habitat – there will be no net loss of wetland habitat) used as aestivation habitat by California tiger salamanders and western spadefoot toads, denning habitat by American badgers, and nesting and foraging habitat by various raptor species and western burrowing owls. The DEIR requires the management and preservation in perpetuity under conservation easement of approximately 1,300 acres of rangeland suitable for these species within the region. This requirement reduces Specific Plan impacts to them sufficiently such that impacts cannot be considered cumulatively significant. The management of these lands will control grazing in a manner favorable to these species (controlled grazing reduces the growth of annual grasses that would otherwise outcompete native forbs). Management will encourage rodent populations by eliminating rodent control using poison baits. Monitoring and management will ensure that noxious weeds inimical to native species are eradicated or not permitted to become established. These benefits resulting from the preservation and management of these lands sufficiently offset the impacts related to the loss of approximately 670 acres of open space. The DEIR further finds that the mitigation requirement for the creation of vernal pools will also result in associated grassland habitat around the new pools to provide new habitat suitable for aestivating CTS. As such, the Specific Plan development's impacts to open space used as aestivation habitat by California tiger salamanders and western spadefoot toads, denning habitat by American badgers, and nesting and foraging habitat by various raptor species and western burrowing owls, with mitigation replacing the functional values of the existing habitat, will not be cumulatively considerable. (See DEIR, at pages 5-12 -5-15.)

Contrary to the commenter's suggestion that the "ratio" rule was applied, the DEIR relies on the achievement of no net loss to vernal pools among other sensitive resources, and the replacement of the functional value of the affected grasslands through mitigation, to find that the Specific Plan development will not result in a cumulatively considerable significant impact to biological resources. (See DEIR at pages 5-10 – 5-17.)

Comment 19.155: *Since the Project's impact on agricultural resources is cumulatively considerable, there must be mitigation analyzed and adopted to address this significant impact (see discussion of mitigation of agricultural impacts above).*

Response 19.155: See Response 18.3 regarding the feasibility of mitigation for agricultural impacts resulting from the Project, as well as a discussion of agricultural conservation incorporated in Project design, the alternatives analysis, and biological mitigation.

Comment 19.156: *The Project's significant conflicts with land use and other policies create a cumulatively considerable impact. As discussed above, the Project violates the fundamental policies that guide County and city planning, including directing urban development to cities or*

within existing developed unincorporated area, preserving agricultural land, directing development to areas with public services in place, and protecting environmental resources.

Response 19.156: See Responses 18.3, 19.16, and 19.74. The Project does not conflict with Fresno County land use planning policies or agreements.

Comment 19.157: *The EIR's analysis of cumulative air quality impacts is severely inadequate under CEQA. The analysis does not distinguish among types of air quality impacts (e.g., emissions impacts, ambient or concentration impacts, odor impacts, etc.)*

Response 19.157: The DEIR, Chapter Five – Cumulative Impacts, page 5-9 has been revised as follows:

5.2.3 AIR QUALITY

As growth continues in the San Joaquin Valley, attainment of air quality standards will become more difficult, even though overall air quality has improved. Proposed cumulative development planned in Fresno, Tulare, Kings and Madera Counties will result in thousands of new homes and millions of square feet of new retail uses. The SJVAPCD is classified as a nonattainment area for the state and federal ozone standards. The region is also a nonattainment area for state and federal dust standards measured by particulate matter. Air pollution in the SJVAPCD comes primarily from mobile sources, such as on and off-road vehicles, as well as from stationary sources including agricultural operations, mineral industries, diesel generators, naturally occurring sources, among others.

The Project would contribute to cumulative air emissions by allowing for substantially greater development in the Project Area than currently exists. The amount of mobile and stationary emissions would be substantially greater than what would be generated under existing conditions, or future conditions if the Project Area were to remain rural. The SJVAPCD has adopted a cumulative threshold of significance of 10 ~~pounds per day~~ tons per year for ozone precursors (ROG and NOx). Project emissions of these two pollutants, after mitigation, would exceed this threshold. Consequently, the Project would contribute to air quality degradation, and impede the region's ability to attain air quality standards.

According to SJVAPCD methodology, any proposed project that would individually have a significant impact would also be considered to have a significant cumulative air quality impact. Significant Unavoidable air quality impacts identified in the DEIR are: 1) Construction Impacts resulting from the Development of the Friant Ranch Specific Plan and Community Plan Update ; and 2) Violation of Air Quality Standards by Area and Operation Emissions. The project will have a less than cumulatively considerable impact on creation of odors because the types of odors typical of residential communities are not considered significant generators of odor impacts.

Mitigation measures applied for short-term construction activities and long term operational activities of the project (as outlined in the DEIR, Section 3.3 – Air Quality) would lessen the impacts, but not to a less than significant level. The cumulative air quality impacts of the Project, together with other foreseeable development throughout the San Joaquin Valley air basin including build out of the Community Plan area pursuant to the existing General Plan designations, would be ***cumulatively considerable*** an as such ***significant and unavoidable.***

Comment 19.158: *The analysis furthermore fails to provide quantified data, or even to qualitatively describe the future cumulative air quality conditions to which the Project will make a cumulatively considerable contribution, or present any information on the relative size of the Project's contribution.*

Response 19.158: See Response 19.157.

Comment 19.159: *The discussion is also entirely lacking in any mention of mitigation for the Project's cumulatively considerable contribution to this significant cumulative impact. The discussion of cumulative air quality impacts must be fundamentally revised, made more detailed, and expanded.*

Response 19.159: See Response 19.157.

Comment 19.160: *The EIR's Project-specific analysis of population and housing impacts used a threshold under which impacts are significant if a Project would "induce substantial population growth in an area, either directly . . . or indirectly." Under this standard, the EIR identifies a significant and unavoidable Project-specific population and housing impact. However, the EIR's treatment of cumulative population and housing impacts is entirely inconsistent with its treatment of Project-specific impacts.*

Response 19.160: As discussed in Response 19.161 below, the Project will not have a significant adverse project-specific impact on population and housing, and it will not contribute considerably to any cumulative population and housing impact. In establishing the impact criterion (a) noted by the commenter, the DEIR further states: "according to CEQA, a significant impact on population and housing does nothing itself necessarily to result in significant adverse environmental impacts, but may cause physical changes that result in significant adverse environmental impacts." (DEIR at page 3-255.) The DEIR's discussion of project-specific and cumulative impacts related to population and housing impact criterion (a) has been revised as follows to clarify the project-specific impact determination and its implications for the cumulative impact determination.

The text of the DEIR (page 3-255) has been amended as follows:

As noted above, a significant impact on population and housing does nothing itself to result in significant adverse environmental impacts, but may cause physical changes that result in significant adverse environmental impacts. For purposes of this analysis, impacts on population and housing criterion (a) were

considered significant if they would result in significant impacts from unplanned growth. Other potential adverse physical changes that could result from the Project's effect on population and housing are evaluated in the other resource-specific sections of this EIR.

For more information about the analysis of population and housing, and the Project's potential to induce growth, see Response 19.161 below.

Comment 19.161: *The EIR's cumulative analysis inexplicably abandons the standards used in the Project-specific analysis, and purports to recognize cumulative impacts only if they result from unplanned growth. By this sleight of hand, the EIR reaches the unsupportable and absurd conclusion that the Project, which even by itself would have a significant and unavoidable population and housing impact, and which would clearly contribute along with other cumulative projects to "substantial population growth," would somehow not contribute to a significant cumulative population and housing impact. This conclusion is clearly irrational and unsupported. The EIR must be revised to recognize that the Project, in addition to resulting in significant Project-specific population and housing impacts, will additionally make a cumulatively considerable contribution to significant cumulative population and housing impacts.*

Response 19.161: CEQA requires that an EIR evaluate a project's potential to result in various significant effects on the environment. A "significant effect on the environment" is defined under CEQA as "a substantial, or potentially substantial, *adverse* change in any of the physical conditions within the area affected by the project." (CEQA Guidelines, § 15382, emphasis added.) One of the potential effects identified in Appendix G to the CEQA Guidelines is whether the project has the potential to induce substantial population growth in an area, either indirectly or indirectly. (See CEQA Guidelines Appendix G, Environmental Checklist, XII(a).) CEQA further provides that "It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment." (CEQA Guidelines, § 15126.2(d).)

DEIR Section 3.11.1 (pages 3-255 and 3-256) evaluated the Project's potential to induce substantial population growth. The DEIR further considered the Project's cumulative effects on population and housing growth in Section 5.2.11. Because approval of the Project would facilitate development of up to 2,996 new households within the Friant Ranch Specific Plan area as well as development of vacant properties within the Friant Community Plan area, the DEIR stated that the Project would induce substantial population growth, and that the project-specific impact would be significant.

Elsewhere, in the discussion of cumulative population and housing impacts (Section 5.2.11) and growth inducing impacts (Section 6.4), the DEIR explained why and how the Project would induce growth within the Friant Ranch Specific Plan and Community Plan area. There the DEIR also concluded that the Project would not have adverse effects related to unplanned growth because the policies of the Community Plan and Specific Plan will ensure that such growth is compatible with existing uses and consistent with General Plan policies relating to growth.

As stated above, CEQA provides that a substantial increase in population or housing is not in and of itself an adverse impact. The DEIR's analysis of population and housing impacts, Section 3.11.1, reflected this consideration in presenting its thresholds of significance: the DEIR on page 3-255 explained that "a significant impact on population and housing does nothing itself to result in significant adverse environmental impacts, but may cause physical changes that result in significant adverse environmental impacts." As was indicated in DEIR Section 5.2.11, population and housing effects were considered to be significant and adverse if they would result in substantial impacts from unplanned growth.

Although the Project would facilitate a substantial amount of growth primarily within the Friant Ranch Specific Plan Area and, to a much lesser degree, the Friant Community Plan Area, the Project includes policies and guidelines to control and direct growth in a well-planned manner, thus ensuring that such growth would be compatible with existing and future uses and with the General Plan policies related to growth, would provide needed housing and facilities for a growing segment of the population, and would improve jobs and housing opportunities in the community.

As described in DEIR Section 3.11.1, the Project's potential impact on growth outside of the Project Area is very limited: existing services are generally adequate to serve the Project and its future residents, and new jobs that might be created by the Project can be filled by the existing job-seeking population in the greater Fresno-Madera County area, which has relatively high levels of unemployment. The Project would not extend or result in the creation of new services outside the Project that would facilitate growth beyond the Project. For these reasons, there would not be a significant adverse project-level impact.

Consistent with the above, the DEIR analysis explained that there would not be a significant *adverse* project-level impact related to population and housing. (See, for example, DEIR, page 3-255 ["The Project will induce population growth in the area, both directly and indirectly, however; not at a rate considered substantial enough to result in a significant environmental impact"].) However, the DEIR applied a standard conclusion format used throughout the EIR that likely led to the commenter's confusion. That is, after determining that impacts were "significant" (though not *adverse),* the DEIR addressed the availability of mitigation and, identifying none, concluded that the project-specific impact was "significant" and that no mitigation measures were available to mitigate that impact. The use of this standard format appears to have led the commenter to infer, incorrectly, that project-specific impacts related to population and housing were considered to be "significant and unavoidable" adverse impacts. While the inducement of significant amount of growth in the Project area is inevitable in that the purpose of the Project is to create new housing and commercial opportunities, for the reasons stated, the impact, although significant, was not considered to be an adverse environmental impact. As such, the DEIR should have noted that no mitigation is required related to the project-specific population and housing analysis.

As stated in DEIR section 5.2.11, growth unrelated to the Project will occur outside of Friant, in other nearby cities and unincorporated communities in Fresno and Madera County. Fresno County and other incorporated and unincorporated jurisdictions are required by State law to use the General Plan process, as well as other planning processes, such as utility master plans, to

plan for and control future growth. As a result, a significant cumulative impact associated with unplanned growth is not expected, and the proposed Project would not contribute considerably to a significant cumulative impact related to population and housing.

In conclusion, the analysis in Section 3.11.1 should have more clearly explained how the EIR evaluated population and housing impacts. The use of a standard conclusion format relating to impact and mitigation contributed to potential confusion on this issue. To address the issues raised by the commenter, clarifications have been made to the text of DEIR Sections 3.11.1 and 5.2.11.

The text of the DEIR (page 3-255 thru 3-257, Section 3.11.4, Impact #3.11.1) has been amended as follows:

3.11.4 IMPACT ANALYSIS

Impact #3.11.1 – Induce Substantial Population Growth
[Evaluation Criteria (a)]

Project implementation will have a direct~~, growth inducing~~ impact on the area's population and housing stock by facilitating the development of up to 2,996 new households within the Friant Ranch Specific Plan Area and development of vacant properties in the Existing Friant Community Plan Area. Friant Ranch will be developed in five phases over a 10-year period. Because the majority of housing units will be occupied by individuals age 55 and over, it is expected that the average household size will be less than Friant's average household size of 2.27. According to the 2001 American Housing Survey by the U.S. Census, the combined demographic for the 55-64 and 65-74 age categories average 1.9 persons per dwelling unit. Thus, the 2,776 age restricted units within the Friant Ranch Specific Plan Area are expected to average at 1.9 persons per dwelling unit. The Friant area is presently rural in character, and the change in population and housing resulting from the Project will be substantial.

As noted above in the thresholds of significance, the primary concern with a significant change in population and housing is whether the change will result in a significant impact associated with unplanned growth. In addition to environmental impacts, unplanned growth can have other deleterious effects, by thwarting the implementation of General Plan and other applicable policies designed to ensure orderly development, or by occurring at a rate that would outpace the availability of essential public services. The Project includes policies and guidelines to control and direct growth in a well-planned manner, thus ensuring that such growth would be compatible with existing and future uses and with the General Plan policies related to growth, would provide needed housing and facilities for a growing segment of the population and would improve jobs and housing opportunities in the community.

The Project is consistent with Goal H-E of the County's Housing Element in that the Project will provide an adequate supply of housing and supportive services for

persons with special needs such as persons age 55 years and older. The Project is consistent with policies H-C.1, H-C.2 and H-D.3 in that the Project will provide a full range of quality housing that allows residents access to safe and affordable housing while preserving the character and integrity of existing neighborhoods; will include higher housing densities; and promotes mixed-use development where housing is located adjacent to jobs, services and shopping. The Project is consistent with Policy H-C.6 in that the Friant Community Plan is being updated. The Project is consistent with Fresno County General Plan Land Use Element Policy LU-G.23 in that the necessary public services can be provided in the Project area. ~~The Project will induce substantial population growth in the area, both directly and indirectly, however, not at a rate considered substantial enough to result in a significant environmental impact.~~

Not including the Friant Ranch Specific Plan Area, the majority of land designated residential in the Community Plan Area boundary is built out. The few remaining vacant parcels will be built dependent upon market conditions and need. The U.S. Census shows that Friant's population in 2000 was 519, total households were 226, and total housing units were 236. Vacant housing units in 2000 ~~was~~ were 10 units. The development of those 10 units would result in an increase of approximately 23 persons to the community of Friant. There are approximately 18 acres of Low Density, five acres of Medium Density, and eight acres of Medium High Density designated land in the Friant Community Plan Area that is vacant and available for development. The total number of units (.80 net density to account for right of way) which could be built is approximately 17 Low Density units, 29 Medium Density units and 116 Medium High Density units. At 2.27 persons per household, the total number of additional persons in the Friant Community Plan Area could be 367.

Much of the commercial frontage property on Friant Road is currently either vacant or under utilized. These parcels will develop dependent upon market conditions and need. The majority of land west of Friant Road within the Community Plan Area is designated Agriculture and Open Space and not subject to development.

The redevelopment of properties in the 597-acre Friant Redevelopment Area within the Community Plan Area is subject to available funding sources. The Friant Redevelopment Implementation Plan for the years 2005 – 2009 contains as a primary program, "the design and construction of a sewage treatment and collection system for the commercial strip along Friant Road and for new and existing residential development within the Community of Friant." These improvements have not yet been implemented due to lack of funding sources.

The Friant Ranch portion of the Project will bring new commercial uses into the area that will create new employment opportunities within the Project Area. The jobs created by the commercial areas could be filled by people already living in the area and future residents and would not substantially induce additional

population growth. Buildout of the remaining Friant Community Plan Area would also result in new employment opportunities as a good amount of the properties fronting onto Friant Road are vacant, so the potential for new development is available. It is unknown what future uses would develop in Friant and the timing of those future uses, therefore, it is speculative as to the number of employees that would be generated and when.

The Project will induce population growth in the Friant area, both directly and indirectly. However, the Specific Plan includes policies that will ensure that development does not occur before necessary public services are available, and development is not expected to occur at a rate considered substantial enough to result in any significant adverse impact. The Project's potential impact on growth outside of the Project area is very limited: existing services are generally adequate to serve the Project and its future residents, and new jobs that might be created by the Project can be filled by the existing job-seeking population in the greater Fresno-Madera County area, which has relatively high levels of unemployment. The Project would not extend or result in the creation of new services that would facilitate growth beyond the Project.

Conclusion: Implementation of the Friant Ranch Specific Plan will induce substantial population and housing growth ~~have a direct, growth inducing impact on the area's population and housing stock~~ by facilitating the development of up to 2,996 new households within the Specific Plan Area and development of vacant properties in the Existing Friant Community Plan Area. The proposed Project will considerably accelerate projected population growth within the Friant Community Plan Area, although not at a rate that would be expected to result in any significant adverse impact related to unplanned growth. The Project is consistent with, and promotes, all relevant General Plan land use planning policies and will not have any adverse impact relating to unplanned growth. While the change in population and housing is substantial, because it will not result in any adverse impacts from unplanned growth, the impact is not considered to be adverse. This impact is ***less than significant***. ~~and is considered a s***ignificant impact***.~~

Mitigation Measures: No mitigation measures are required. ~~available to reduce this impact to a less than significant level.~~

The text of the DEIR (page 5-20, Section 5.2.11) has been amended as follows:

SECTION 5.2.11 POPULATION AND HOUSING

As discussed ~~previously~~ in Section 3.11.1 and Section 6.4, population and housing effects are considered to be significant and adverse if they will result in substantial impacts from unplanned growth. T~~t~~he proposed project includes policies and guidelines to control and direct growth in a well-planned manner, thus ensuring that such growth is compatible with existing and future uses and

with the General Plan policies related to growth, provides needed housing and facilities for a growing segment of the population and would improve jobs and housing opportunities in the community. As stated in Section 3.11.1, the Project's potential impact on growth outside of the Project Area itself is very limited: existing services are generally adequate to serve the Project and its future residents, and new jobs that might be created by the Project can be filled by the existing job-seeking population in the greater Fresno-Madera County area, which has relatively high levels of unemployment. The Project would not extend or result in the creation of new services outside the Project that would facilitate growth beyond the Project. As a result, there would not be a significant adverse ~~or unavoidable~~ project-level impact. Growth unrelated to the Project will also occur outside of Friant, in other nearby cities and unincorporated communities in Fresno and Madera County. Fresno County and other incorporated and unincorporated jurisdictions are required by State law to use the General Plan process, as well as other planning processes, such as utility master plans, to plan for and control future growth. As a result, there would not be a cumulative impact associated with unplanned growth, and ~~As a result, the~~ the proposed project would ***not contribute considerably to a significant cumulative impact*** related to population and housing.

Comment 19.162: *The discussion of cumulative utilities/service systems impacts appears to conclude that the Project will not contribute to significant cumulative surface water demand impacts, simply because the Project applicant claims to have obtained adequate surface water supplies for the Project through 2030. That conclusion is incorrect under CEQA, under which a Project may make a cumulatively considerable contribution to a significant cumulative impact even if it has a less than significant Project-specific impact.*

Response 19.162: The cumulative impacts associated with the Project water transfer between LTRID and WWD # 18 is analyzed on pages 5-17 – 5-18 and 5-21 through 5-22 of the DEIR.

The comment inappropriately suggests that the water supply commitment only applies through 2030. For clarification, see Response 19.132 for further discussion of the nature of the water supply component of the Project. As analyzed in the Water Supply Assessment (Appendix B) and Chapter 3 of the DEIR, the Project includes a long-term contractual commitment of 2,000 acre-feet of water for the Project Area. This identified water supply exceeds the projected water demand of the Project and, as such, would actually increase the amount of water currently available to the existing uses within the Project Area. The result is a net benefit to water supplies in the Project Area. As such, the Project does not negatively affect the cumulative water supply condition.

Comment 19.163: *Furthermore, the EIR's implied conclusion that there is no significant cumulative water supply problem to which the Project would contribute is contradicted by the EIR's own (too brief) discussion of the West's finite water supply, which will likely be drastically reduced by factors including climate change. The EIR's discussion, which is entirely lacking in data about cumulative surface water supply impacts, and which fails to account for the Project's share in compounding those impacts, is completely inadequate under CEQA.*

Response 19.163: See discussion of Impact 3.15.2 in the DEIR as well as Responses 19.147 and 19.162.

Comment 19.164: *The EIR does not contain an analysis of the Project's contribution to the significant cumulative water impact in the region. The EIR analysis is a Project level analysis based on the Water Supply Assessment. The Project requires the reallocation of water from existing users. The EIR does not analyze how the water demand for the cumulative development in the area will be met. Given the existing water crisis and the lack of new supplies, the Project's demand should be found cumulatively considerable.*

Response 19.164: See Response 19.162.

Comment 32.12: *Policy LU-H.8 The County shall prepare a regional plan for the Friant-Millerton area. The preliminary study area boundaries for the new regional plan depicted in Figure LU-5 are designed to encompass the area's major recreation facilities and open space resources, include the area's existing and potential residential growth areas, but exclude most productive agricultural land. In the near-to-midterm, planning and development in the area should focus on expanding and enhancing the area's recreational activities and resources. In the long-term, the area may be suitable for urban development as the unincorporated county's largest remaining area without productive agricultural soils hear the Fresno-Clovis Metropolitan Area and recreational and scenic resources.*

The project identifies a change in land use which promotes a precedent setting action that results in the urbanization of land in a remote location (leapfrog development). The County is directed by the General Plan to prepare and adopt the Friant-Millerton Area Regional Plan by FY 02-03.

The necessity of the plan as identified in the General Plan is to identify and address issues such as open space, recreation, and groundwater and surface water supply in the near-term. In the long-term the area could be considered for development with identification of regional suitability issues for long-range urbanization. The Plan has failed to materialize and no public process was undertaken to identify or address these regional issues making the current planning process in conflict with the General Plan Policy LU-B.8

Response 32.12: A regional plan for the Friant-Millerton area has not been prepared. Several neighborhoods exist in areas surrounding the Specific Plan area. Additional nearby developments, including Millerton New Town, Brighton Crest, and Table Mountain Casino are planned or exist. The proposed project would not be considered leapfrog development. Plans for the Friant-Millerton area have considered the resources that were to be addressed in the regional plan.

As stated in the DEIR, page 3-232, "The Fresno County General Plan includes the following overall goal (LU-G) in the Incorporated City, City Fringe Area, and Unincorporated Community Development section of the Agriculture and Land Use Element: 'To direct urban development within city spheres of influence to existing incorporated cities and to ensure that all development in city fringe areas is well planned and adequately served by necessary public facilities and infrastructure and furthers countywide economic development goals.' The Project Area is not within an incorporated area of the County. However, the project furthers the purpose of General Plan Goal LU-G and Policy LU-G.23 by providing adequate public facilities services to meet the needs of the development…The Project also furthers Countywide economic development goals by providing necessary infrastructure that will assist in achieving implementation of the Friant Redevelopment Plan." See also Response 19.16 regarding consistency with General Plan Policy LU-A.1.

Comment 32.18: ***Water Supply***

The water supply for the project is not yet secured. The Bureau of Reclamation will be required to review and approve a long-term transfer agreement for 2,000 af/yr of water from the Lower Tule River Irrigation District. This approval will require NEPA and ESA findings and an analysis of groundwater impacts and economic and social effects, including environmental justice, of the proposed water transfers on both the transferor and transferee, before the transfer is approved. The San Joaquin Basin is losing 3.5 cubic kilometers [2.8 maf] a year due to groundwater overdraft. The groundwater basin below the Lower Tule Irrigation district is severely over-drafted and it is reasonable to assume that until groundwater programs are implemented and sustainability planning is underway, the district does not have a surplus supply to sell out of district. With severe shortages to other CVP users reliant on the Delta it is also reasonable to assume that the District's supplies could be reduced from the Cross Valley Canal Supply creating more demand from within the District for their Class 1 supplies. Any exports of district water can have a significant impact on their ability to recharge groundwater within the district. This water supply is not a "firm" supply and should provide an adequate backup supply for amounts needed in extremely dry years.

Response 32.18: See Responses 19.132 and 28.15. NEPA analysis of the proposed transfer and related USBR approvals is currently under way by USBR. The commenter is correct that no agreement between the parties would be final before USBR environmental analysis is complete. Mitigation Measure #3.14.1 set forth in the DEIR ensures that no tentative maps will be approved for the Specific Plan Area until USBR approves the proposed water transfer.

As explained in the DEIR and Water Supply Assessment, LTRID intends to rely on a variety of its supplies to ensure satisfaction of all of its in-district and out-of-district obligations, including the subject transfer, in critically dry years within the CVP Friant Division. The identification of the Cross Valley Canal supplies as a potential source of water in Appendix D to the Water Supply Assessment recognizes expected year-to-year shortages thereto (including a summary of historical delivery percentages). Future delivery of less than the full contractual entitlement to Cross Valley Canal supplies is anticipated and would not result in unexpected demand on Class 1 supplies.

In the 1980 update of DWR Bulletin 118, "California's Groundwater," the Tulare Lake basin is identified as critically over drafted, based upon work done by DWR that was funded by the Legislature in 1978. When Bulletin 118 was updated in 2003, DWR did not take a position on the overdraft condition or potential of the Tulare Lake basin or any basin in the State. The Bulletin states on page 98:

> In some basins or subbasins, groundwater levels declined steadily over a number of years as agricultural or urban use of groundwater increased. In response, managing agencies developed surface water import projects to provide expanded water supplies to alleviate the declining water levels. Increasing groundwater levels, or refilling of the aquifer, demonstrate the effectiveness of this approach in long-term water supply planning. In some areas of the State, the past overdraft is being used to advantage. When the groundwater storage capacity that is created through historical overdraft is used in coordination with surface water supplies in a conjunctive management program, local and regional water supplies can be augmented.

This excerpt appropriately describes the situation in the eastern portion of the Tulare Lake basin, where the groundwater management situation has changed substantially in the years since 1978 by the construction of subregional water banking projects. LTRID's banking facility, where the overall volume of water recharged has exceeded the volume pumped and groundwater levels have measurably recovered, is one such example of why the DWR's 1978 evaluation of basin condition no longer strictly applies. In its 2003 update, the Department recognized conditions were changing and was careful to not apply the old labels when it had not had the budget or opportunity to update its investigation.

Meaningful planning and implementation of sustainability programs within LTRID have been ongoing for many years. The commenter may be unaware that LTRID has already established a groundwater bank, and has sunk over 80,000 acre-feet of water into the bank that can be withdrawn to meet its dry year needs. Also, as noted in the Water Supply Assessment, revenues from the proposed agreement will be used by LTRID in part to enhance its ability to capture its

pre-1914 Tule River entitlements and other available surface water supplies (such as Class 2 CVP Friant Division water to which LTRID has a contractual right), which will be stored in the groundwater bank and used to enhance and increase the overall supply of water available to the District and its customers.

Parkway, and Millerton State Recreation Area; and a fee payment shall be made to Fresno County.

2) *Add the following Condition of Approval: Prior to issuing a building permit, the applicant shall work with the County of Fresno to establish a Benefit Assessment District that provides for the project's pro rata share of annual maintenance and improvement costs for Lost Lake Park, the San Joaquin River Parkway, and Millerton State Recreation Area.*

Response 4-4: See Response to Comment 1-3 above. There is no evidence to suggest any potentially significant impacts to Lost Lake Park, the San Joaquin River Parkway, or Millerton Lake State Recreation Area resulting from the Project. As such, conducting a fair share study or creating a new benefit assessment district is not appropriate or necessary.

Comment 4-5: *In summary, we believe the FEIR has not adequately evaluated the impacts of the project resulting from increased demand on existing public parks and recreation lands in the proximity of Friant. The County of Fresno has the ability to mitigate for these impacts and we request these measures are implemented.*

Response 4-5: See Response to Comments 4-2 through 4-4 immediately above.

Response to Attachments: Commenter provided materials identifying the public parks in the Project vicinity as well as information about fee assessments. Nothing within the attachments provides any evidence of significant impacts to parks or public recreation areas resulting from the Project. No response warranted.

Board of Supervisors Comment Letter 5
City of Fresno
James C. Sanchez
2600 Fresno St.
Fresno, CA 93721

Comment 5-1: *The City of Fresno ("City") thanks the County of Fresno for the opportunity to comment on the County's proposed approval of the Friant Community Plan Update and Friant Ranch Specific Plan Project ("Project" or "Friant Ranch Project"). The City previously submitted a letter, dated December 15, 2009, in which the City commented on the Draft Environmental Impact Report ("DEIR") for the Project. The purpose of this correspondence is to again express the City's strong concerns about the Project. As the City previously stated in its comments on the DEIR, this Project represents a huge expansion of urban growth in an area of the County that does not have the infrastructure or public facilities to support it. If this Project is approved, it will do the following:*

1. *Expand the Friant Community Plan Area from its current size of 585 acres to 1,505, nearly tripling its size;*

2. *Rezone over 900 acres of agricultural land to urban residential and commercial uses;*

3. *Significantly increase the number of housing units from 236 to 3,000; and*

4. *Substantially increase the population from approximately 519 to 6,000.*

Response 5-1: Commenter states that the "Project represents a huge expansion of urban growth in an area of the County that does not have the infrastructure or public facilities to support it." These allegations are inconsistent with evidence in the record to the contrary. (See FEIR, Response to Comment 32.12.)

Contrary to the assertions made within item 1 of Comment 5-1 and according to County records, the Existing Friant Community Plan Area comprises approximately 862 acres (not 585 acres). Though the total land area within the Community Plan Area would increase to include the entire 942-acre Specific Plan Area, approximately 482 acres of the Specific Plan Area will be conserved in permanent open space.

Contrary to the assertions made within item 2 of Comment 5-1, the Project will rezone approximately 460 acres (not 900 acres) to urban residential and commercial uses and approximately 482 acres to open space (for continued use as grazing land pursuant to conservation easement).

Comment 5-2: *Though this has been described as a "senior" or "retirement" housing project, it does not fit that definition. The proposed age restrictions would apply to only 80% of the units and the age restrictions would require that only one person 55 years of age or older live in the age restricted units. The other residents of the age restricted units could be of any age. Furthermore, according to a recent study of 10,000 U.S. worker's investment accounts reported on by the USA Today on December 3, 2010, that because of the recession, employees will have to continue to work at least two years longer, or until 73, in order to retire comfortably. Based upon this new data, the Friant Ranch Project has the potential to be another housing development for individuals working in the cities of Clovis and Fresno, as there are no significant employment opportunities in Friant, nor are any planned as part of this Project.*

Response 5-2: Federal law mandates that active adult communities may only limit occupant ages for 80% or fewer of units. (See DEIR, 2-9 – 2-12; see also FEIR, Response to Comment 19.11, pp. 3-21 – 3-22.) The ITE codes cited by the Traffic Impact Study analyze similar communities that adhere to the same federal law. As such, the Project fits the ITE 251 and 252 definitions for such communities. (See FEIR, Response to Comment 9.11.)

Furthermore, whether residents of the Friant Ranch community must work on average an additional two years prior to retirement makes little or no difference to the impact analysis. As explained by the County traffic engineers at the Planning Commission hearing on the Project, the ITE Codes (Codes 251 and 252 applying to active adult housing) used for calculating transportation impacts were updated in 2008 without any considerable change, well into the economic recession that has resulted in delayed retirements. In fact, ITE Codes 251 and 252 recognize that some residents of active adult communities will continue to commute to employment.

The comment mischaracterizes the potential employment opportunities created by the Project. The construction of the Friant Ranch Specific Plan is expected to create employment for approximately 660 workers annually over the 10-year buildout period earning a total of $264 million in employee income or an average of $40,000 annually per worker. (Economic & Planning Systems, Inc., Friant Ranch Economic Impact Analysis (June 11, 2010), p. 4.) The Friant Ranch Specific Plan development will also generate additional capital income of approximately $139 million including proprietary income, interest payments, rent, royalties form contracts, dividends, and corporate profits. (*Id.*) The additional output stimulated from household spending of residents within the Friant Ranch Specific Plan Area would support approximately 760 new jobs (part-time and full-time) in the County earning $23 million in employee income annually, an average of $31,000 annual income per worker. (*Id.* at 6.)

Comment 5-3: *Furthermore, this Project is being proposed in an area that currently does not have any of the infrastructure or public improvements to support such a major development. As detailed in the 103-page Friant Ranch Infrastructure Master Plan, this Project will require construction of enough infrastructure and public facilities to supply a small city. And although the Project applicant will be required to initially construct these improvements, it is unclear who will be responsible for the long term maintenance of these facilities, especially if the development doesn't work out as planned. The City has learned the hard way that the property tax generated by residential development doesn't come close to covering the costs and expenses associated with providing services (including police and fire services) to those developments.*

Response 5-3: The comments about construction and long-term maintenance of "infrastructure and public facilities" do not provide any information relevant to environmental impacts from the Project and, as such, do not warrant further response. As explained in Chapter 2 of the DEIR, however, the applicant will enter into a utility service agreement with Water Works District 18 that will address the construction and long-term operation of the Project infrastructure.

The Project does not rely solely on standard property taxes to pay anticipated operation & maintenance expenses for the necessary water and sewer infrastructure. Water Works District 18 will bill residents of the Project with water and sewer charges commensurate with those operating and maintenance expenses, as is typical in other jurisdictions. Since the water and wastewater facilities will be built in multiple phases, the cost burden for the initial users will not be out of proportion to the number of benefited users. Costs can be expected to increase generally in proportion to the number of completed and occupied units.

As noted on pp. 3-266 – 3-267 of the DEIR and in FEIR, Responses to Comments 19.85 and 19.88, prior to issuance of building permits, the Project will establish a CFD to provide the funding necessary to maintain adequate staffing and facilities to serve the Project with fire protection services and will pay fees in accordance with Mitigation Measure 3.12.2 to provide additional law enforcement services required as the proposed project develops. (See DEIR pp. 3-266-3-267; FEIR, Responses to Comments 19.85 and19.88.) As discussed in the EIR and at the Planning Commission hearings for the Project, the mitigation payment amounts are based on established local government standards applied to determine the appropriate service level needed.

Comment 5-4: *As such, contrary to the statements in the Staff Report to the County Board of Supervisors, this Project does not represent the implementation of "smart growth" principles. It reflects the exact opposite: Implementation of planning principles characterized by greenfield, leapfrog and otherwise unsustainable development. In short, this Project runs contrary to at least two key principles of "smart growth;" (1) Preserve Open Space, Farmland, Natural Beauty and Critical Environmental Areas; and (2) Strengthen and Direct Development Towards Existing Communities. This Project fails on both accounts.*

Response 5-4: The Project embraces and promotes important San Joaquin Valley Blueprint or "smart growth" principles. Contrary to the assertions within Comment 5-4, the Project proposes to conserve approximately 482 acres of rangeland open space within the Specific Plan Area (in addition to offsite open space areas) and is intended to revive the immediately adjacent existing unincorporated community, a majority of which falls within the County's only redevelopment area.

Further, the Project embraces the "smart growth" concept of clustering development to preserve open space and protect natural resources, directs development toward existing communities, creates walkable

and bikable neighborhoods, fosters distinctive, attractive communities with a strong sense of place, and supports actions that encourage environmental resource management. The Project implements these principles by providing nearly 13 miles of pedestrian/bicycle facilities, neighborhood trails and local retail linkages and linkage to regional trails as well as a community technology focus for telecommuting and intranet connectivity. (See also DEIR, p. 3-387.)

Comment 5-5: *As identified in the section of this letter identifying procedural violations in the County's hearing of this Project, this Board is barred by law from approving the Project at its December 7, 2010 hearing for improperly failing to notice that hearing after the County Planning. Commission reviewed the Project. Before the Board again considers approving the Project, the City respectfully requests that the County revise its environmental review consistent with the City's comments (in both this letter and the City's letter commenting on the DEIR). The City hopes the Board will ultimately decided [sic] to deny, or, at the very least, fully mitigate the environmental impacts of this Project.*

Response 5-5: General introductory comment not raising any substantive environmental issues. No response warranted. See Response to Comment 5-31 below pertaining to hearing notices.

Comment 5-6: *The Friant Ranch Project Is Inconsistent With The Fresno County General Plan ("CGP"): In section 3.9.1 of the Draft Environmental Impact Report ("DEIR"), entitled -"Regulatory Setting, related to Land Use and Planning," the County acknowledges that State law requires that all land use actions be consistent with the locally adopted general plans and that such land use actions include the adoption of specific plans, approval of rezoning applications, subdivision maps and other discretionary actions such as conditional use permits. For a project to be legally consistent with an operative general plan it will further the objectives and policies of the general plan and not obstruct their attainment considering all its aspects. (See Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors of El Dorado County (1998) 62 Cal.App.4th 1332, 1336.) Furthermore, the question is not whether there is a direct conflict between some mandatory provision of a general plan and some aspect of a project, but whether the project is compatible with, and does not frustrate, the general plan's goals and policies. (Napa Citizens for Honest Government v. County of Napa (2001) 91 Cal.App.4th 342, 378.) In determining whether there is substantial evidence to support the finding that the project is consistent with the General Plan, a court will reverse a local governing body's determination of consistency with a general plan if the court concludes that a reasonable person examining the same evidence that was before the local governing body could not have reached the same conclusion, (See No Oil, Inc. v. City of Los Angeles (1987) 196 Cal.App.3d 223, 243.)*

With regard to compliance with the California Environmental Quality Act, the DEIR acknowledges that a project causes a significant impact on the environment when it:

Conflicts with an applicable land use plan, policy or regulation of an agency with jurisdiction over the 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.

For the reasons set forth below, the evidence before the Fresno County Board of Supervisors does not support a conclusion that this Project is consistent with the County's General Plan. As such, this Project cannot be approved unless the County's General Plan is amended to accommodate this type of project. Furthermore, this Project's fundamental inconsistency with the County's General Plan results in a fatally flawed Final ER for this Project.

Response 5-6: The comment states, without any rationale or evidentiary support, that the Project is inconsistent with the County General Plan. Instead of providing any factual basis for this assertion, the

comment recites legal authority regarding policy consistency to support its assertion. Consistent with the legal authority cited within Comment 5-6, substantial factual evidence before the County and within the EIR supports the finding that the Project "is consistent with the overall intent of the General Plan and other applicable planning documents." (See DEIR, p. 3-234; see also, e.g., FEIR, Responses to Comments 18.3, 19.16, 19.17, 19.150, 32.9, 32.10, 32.11, and 32.12.) In sum, the EIR unequivocally determines that the Project is consistent with County goals and policies relating to the timing and location of growth, preservation of agricultural resources, recreational uses, and public facilities and services.

The legal authority pertaining to General Plan consistency provides considerable deference to the County in interpreting its own General Plan. Courts defer to an agency's decision on consistency with its own plans unless, based on the evidence before the decision making body, a "reasonable person" could not have found the project to be consistent. (See *No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal.App.3d 223, 242 (consistency of zoning ordinance with general plan).) "The specific plan must comport with the general plan but that requirement does not modify the standard of review." (*Mitchell v. County of Orange* (1985) 165 Cal.App.3d 1185, 1191-1192.) The judgment decision rests with the Board and will not be set aside unless the Board acted arbitrarily, capriciously or without any evidentiary basis. (*Id.*) Strict consistency with all aspects of a plan is not usually required. For example, a proposed project is consistent with the local general plan if it furthers one or more policies and does not obstruct other policies. (Office of Planning and Research, State of California General Plan Guidelines, p. 258 (2003).) Generally, given that land use plans reflect a range of competing interests, a project must be consistent with the plan overall. (*Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.Appl.4th 807, 815 (upholding overall consistency finding even though project deviated from some particular planning provisions).) Under the Subdivision Map Act (Gov. Code §§ 66410 – 664699.37), subdivisions need be only in overall agreement or harmony with the local general plan. (*Greenebaum v. City of Los Angeles* (1984) 153 Cal.App.3d 391, 406.)

Comment 5-7: *The Project Is Not Consistent With The County General Plan's Fundamental Policy Directive For Urban Development Patterns: The County's General Plan in Chapter 2, Section F (p. 2-55) states, "The fundamental policy directive of this General Plan is to direct intensive development to cities, unincorporated communities, and other areas where public facilities and infrastructure are available." The County has acknowledged that this fundamental policy directive, which is repeated in CGP Policy LU-A.1, applies to this Project when it states, in its response to the City's Comment 19.16 (FEIR, p. 3-72.), "Consistent with Policy LU-A.1, the Friant Ranch Specific Plan proposes growth immediately adjacent to the unincorporated community of Friant where public facilities and infrastructure are available." However, as set forth below, this conclusion that public infrastructure and facilities are available to accommodate this Project is contrary to the substantial evidence contained in the FEIR, including the DEIR, for this Project. The City makes specific reference to the Appendix N to the DEIR, entitled "Friant Ranch Infrastructure Master Plan," which sets forth the significant amount of off-site infrastructure improvements that will be required to accommodate this Project.*

As detailed in the DEIR, the unincorporated community of Friant does not have the necessary transportation, public utility, public safety, water or sewer infrastructure currently available for this Project. Furthermore, Friant does not have the other public services necessary to support such a large scale development. For instance, the nearest hospitals are in the City of Fresno, the nearest significant shopping facilities are in the Cities of Fresno and Clovis and the businesses that provide the services required by such a population are all located within the Cities of Clovis and Fresno. All of this infrastructure will have to be constructed or provided to support this exponential population growth in Friant. As such, this Project is completely inconsistent with the General Plans fundamental policy directive to direct intensive development areas where public facilities and infrastructure are available, and therefore, is inconsistent with the CGP itself.

Response 5-7: The Fresno County General Plan provides that "the fundamental policy directive ... is to direct intensive development to cities, unincorporated communities, and other areas where public facilities and infrastructure are available." (General Plan. p. 2-33, emphasis added.) The intent of the cited General Plan policy directing new development to areas with existing infrastructure is to avoid a situation where new development is not adequately served by infrastructure. Nothing in the policy prohibits development like Friant Ranch that provides sufficient infrastructure to meet Project needs. As discussed in the EIR, the Friant Ranch Specific Plan development will provide sufficient public services and infrastructure – including water, wastewater, roads, parks, etc.—to fully meet community needs. As such, the development is consistent with the General Plan's policy directive.

Moreover, Friant Ranch is immediately adjacent to the unincorporated community of Friant with portions of the proposed Project within the 1983 Community Plan Area. The Friant Community is one of the oldest communities in Fresno County and has long been considered a legitimate growth area by the County, as evidenced by the objectives of the existing Friant Community Plan and the Friant Redevelopment Plan as well as the General Plan. There is no General Plan policy to limit growth in the Friant Community Plan Area.

The entire Specific Plan area will be within the Friant Community Plan Area boundary pursuant to the plan update proposed as part of the Project. The County has acknowledged potential growth in the Friant area since the adoption of the Friant Community Plan in 1964. The existing Friant Community Plan, Section 3.01a, provides:

> The plan assumes growth, but any significant change will be contingent upon the provision of additional urban services and the presence of one or more of the following conditions:
> 1. A large increase in area employment opportunities;
> 2. Successful promotion of the community as a desirable place in which to live for retirees or commuters; and
> 3. A large increase in the use of recreational facilities in the Friant area.

Consistent with this policy, Friant Ranch will provide for necessary public services in connection with the expansion of the Friant Community Plan. (See e.g., DEIR p. 3-256.) Friant Ranch will also bring employment opportunities, promotion of the community as a desirable place for retirees, and enhanced connectivity of the recreational opportunities within Friant area.

Moreover, as the DEIR notes on p. 1-1, the Project will further implementation of the Friant Redevelopment Plan, adopted by the County in 1992. Approximately 80 acres of the Friant Ranch property is currently included within the boundaries of the Friant Redevelopment Plan. (See DEIR, Figure 2-5, p. 2-7.) Friant Ranch has proposed the development of the Village Center on this property, which contains a regional shopping center and mixed use housing.

The objectives of the 1992 Friant Redevelopment Plan are set forth as follows:

1. Eliminate or mitigate conditions which impede economic development.
2. Eliminate or mitigate blighting conditions through redevelopment.
3. Create jobs, increase business opportunities, and promote economic development.

4. Raise the County's sales and property tax base, and offset property tax increment invested in redevelopment activities with increases in sales tax revenue.
5. Revitalize the commercial core and improve its image to better serve Friant residents and the traveling public all seasons of the year.
6. Create a village atmosphere in the commercial core on a pedestrian scale reflective of a small town, an inviting, pleasant, friendly, relaxing place.
7. Build on the natural amenities of the river, parks, and lakes by requiring landscaping that links the commercial core with the natural surroundings, connects parking areas and buildings, and creates shade for pedestrians and vehicles.
8. Provide for commercial development which balances the needs of the residents and the recreational public.
9. Enhance Friant's potential as a commercial and service center for recreational activities.
10. Fully utilize undeveloped or underdeveloped resources such as the railroad right-of-way and federal land to improve the community.
11. Provide for sufficient diversified housing to meet the needs of all socioeconomic segments of the community.
12. Provide funding sources for public and private projects to eliminate slums and blighted areas.
13. Allow and provide for equestrian, biking and hiking trails within the community, linking residential, service, commercial, and recreation areas.
14. Enhance the community by the construction of an efficient trial system within the community which provides a link to the County's multipurpose trails and recreation centers.
15. Develop a system of local roads which will allow vehicle and nonmotorized circulation without undue conflict with the function of Friant Road as a carrier of through traffic.
16. Promote safe and convenient access within the residential portions of the community.
17. Develop safe and convenient access to commercial development along Friant Road without undue conflict with the function of Friant Road as a carrier of through traffic.

Friant Ranch furthers the implementation of each of these objectives. With the Friant area's numerous recreational attributes and physical beauty, growth in Friant would have occurred long ago but for the lack of water and the lack of a community sewage system. Friant Ranch addresses both of these constraints by providing necessary public services in connection with the expansion of the Friant Community Plan and creates a community that will be a very desirable place for the proposed active adult (55+) community to live.

Comment 5-8: *The County Has Proceeded With Pursuing The Approval Of This Project Without Complying With LU-H.9: CGP Policy LU-H.9 states, "The County shall coordinate with cities and adjacent counties to address regional planning and growth issues."*

In this case, the County is considering approval of a project that will facilitate significant urbanized growth in Friant, resulting in expansion of the Friant Community Plan Area by twofold, and the potential to increase the number of dwelling units within the Friant Community Plan Area by 10 times and to conservatively increase the residential population within the Plan Area from approximately 500

residents to in excess of 6,000 residents. As set forth in the DEIR, this proposed massive population expansion will have significant impacts on numerous City of Fresno streets and intersections, in addition to other impacts to its infrastructure. Yet, the County has failed to make any efforts to consult or coordinate with the City of Fresno to address the growth issues associated with this significant expansion in the Friant Community Plan Area. This is in direct conflict with the mandates of this policy.

Response 5-8: Policy LU-H.9 refers to regional planning issues. Nothing in CGP Policy LU-H.9 requires Fresno County to coordinate with cities and adjacent counties on project-specific approvals. Further, a failure to coordinate with cities and adjacent counties according to CGP Policy LU-H.9 does not preclude independent planning efforts, and does not demonstrate inconsistency between the Project and the General Plan.

Nonetheless, Fresno County has consulted with the cities and adjacent counties on the Project. During the CEQA process, the City of Fresno has been noticed as follows:

a. October 3, 2007 – County distributed a Notice of Preparation (NOP) for public review and comment. The City submitted a comment letter requesting consideration of various intersections and roadway segments.

b. October 30, 2009 – Notice of Availability of the Draft EIR was published and the 45-day public review comment period ended on December 15, 2009. The City of Fresno submitted a comment letter on December 15, 2009.

c. On or about August 24, 2010 copies of the Final EIR were duly sent by mail to the commenting public agencies. The City of Fresno submitted a comment letter in response, and the County responded to that letter in the FEIR.

d. Prior to the Planning Commission meeting on October 7, 2010, the County provided the City with notices of the proposed Planning Commission and Board of Supervisors hearing dates. The City of Fresno submitted comment letters on October 6, 2010 and December 7, 2010, and the City Manager testified at the December 7, 2010 hearing.

The City has also been asked to attend and/or involved with various meetings with the County staff and/or the applicant during the CEQA process showing participation by/coordination with the City.

Comment 5-9: *This Project Is Inconsistent With CGP Policy LU-A.1: CGP Policy LU-A.1 states, "The County shall: (1) maintain agriculturally-designated areas for agriculture use; and (2) shall direct urban growth away from valuable agricultural lands to cities, unincorporated communities, and other areas planned for such development where public facilities and infrastructure are available."*

In this case, this Project proposes to change the land use designation of approximately 670 acres, currently designated for agriculture use and currently used as grazing land, to urban residential and commercial uses, Furthermore, despite the County's claims to the contrary, the land to be redesignated has proven to be valuable grazing land. In fact, in its comment letter, the State Department of Conservation stated, "If property is being used for agricultural purposes (grazing), then it still has agricultural value." (FEIR, Comment 18.3, p. 3-63) As such, this Project is inconsistent with both parts of this mandatory policy.

In the County's responses to comments, it contends that the use of the term "valuable agricultural lands" implies "productive or potential productive agricultural lands" as that term is defined in Appendix B of the CGP. However, had the drafters of the CGP meant "valuable agricultural lands" was limited to "productive or potentially productive agricultural lands" they would certainly have just referred to those terms in CGP Policy LU-A.1. However, that was not done. As such, the term "valuable agricultural lands" was intended to have a meaning broader than just "productive or potentially productive agricultural lands" that would include the grazing land the Project will be converting to urban uses.

Furthermore, in concluding that the agricultural land this Project will convert to urbanized uses does not qualify as "Productive (Prime) Agricultural Land," the County relies strictly on the statement within the definition of that term, "Soils which are suitable for the production of most climatically adapted irrigated crops." The County then, in summary fashion, concludes that the converted land does not meet that standard. However, the County ignores the rest of the definition which states that "Such land includes the following soils . . . (2) Land which qualifies for rating with a Storie index rating of 80 through 100." When confronted by the City of Fresno with its failure to use the Storie index rating (FEIR, Comment No. 19.17), the County responded by stating, "Further, even if the County applied alternative threshold, such as use of the Static index, the soils of the subject property are not of sufficient quality to warrant special consideration." (FEIR, Response to Comment No. 19.17.) This response indicates that the County failed to comply with its CGP by failing to calculate the Storie index rating for this property before determining that it did not qualify as either "Productive (Prime) Agricultural Land" or "Potentially Productive Agricultural Land." It is easy to present a post-hoc rationalization for failing to comply with the CGP. However, it does not change the fact that the CGP was not complied with when evaluating the agricultural land the Project will convert to urban uses.

Response 5-9: Comment 5-9 challenges the County's use of the General Plan definitions, suggesting that the County should interpret its General Plan contrary to its stated definitions in light of a comment received by the State Department of Conservation. The County properly used its own General Plan definitions in interpreting its General Plan.

Comment 5-9 further suggests that the County General Plan requires the County to calculate the Storie index of each property subject to a development proposal in order to confirm General Plan consistency. Nothing in the County General Plan suggests such a requirement. Thus, the fact that the County relied on prior determinations that the Project property did not constitute prime agricultural land (without first calculating the property's Storie index rating) does not, contrary to commenter's suggestion, indicate the County failed to comply with its General Plan. In fact, the County General Plan itself identifies the Project site as non-productive agricultural land in County General Plan Policy LU-H.8 and Figure LU-5.

The EIR provides extensive additional evidence and analysis explaining why the County does not consider the Project site to be valuable or productive agricultural land within the intent and meaning of the General Plan policies and justifying its determination that the Project is consistent with Policy LU-A.1. (See FEIR Responses to Comments 18.3, 19.16, 19.17, 19.73, 19.150; see also Draft Friant Ranch Specific Plan (May 2010), pp. 113-114.) The General Plan policies directed toward maintenance of valuable agricultural lands do not preclude the County from ever approving development on land previously designated for agricultural use. Moreover, contrary to assertions within Comment 5-9, the Project (with the incorporation of Alternative 3) will only convert approximately 460 acres of rangeland to residential or commercial uses. As required by DEIR mitigation and the USFWS Biological Opinion for the Project, the Project will conserve over three times that amount of similarly situated rangeland through permanent conservation easements. As such, the Project will maintain agriculturally designated areas for agricultural use within the intent of the General Plan.

Comment 5-10: *This Project Is Inconsistent With CGP Policy LU-A.19: COP Policy LU-A.19 states, "The County shall adopt and support policies and programs that seek to protect and enhance, surface water and groundwater resources critical to agriculture." However, the County's promotion of this Project runs contrary to this mandatory policy. This Project, to be viable, requires an agreement with the Lower Tule River Irrigation District that, if approved by the necessary agencies, would indefinitely divert up to 2,000 acre-feet of its Central Valley Project water allocation, on an annual basis, to supply what is essentially a residential/commercial urban development. As such, if the County approves this Project and the agreement with the LTRID goes into effect, the County will have effectively supported a policy that indefinitely takes from agricultural use a significant amount of surface water resources. It should be noted that on its website, the LTRID states, "As one of the largest irrigation districts in the State of California, the lower Tule River Irrigation District (LTRID) supplies supplemental water for district-wide crop irrigation to 104,000 acres in the Valley – 30,000 being permanent plantings." Nowhere, on its website does the LTRID state it currently provides any water to support urban residential or commercial development.*

Response 5-10: The commenter's assertion that the Project's water supply agreement with LTRID conflicts with Policy LU-A.19 misconstrues that policy, and ignores the substantial evidence described in the EIR which supports the conclusion that the proposed water supply agreement is consistent with the County General Plan.

General Plan Policy LU-A.19 merely directs the County to "support policies and programs that seek to protect and enhance surface water and groundwater resources critical to agriculture." That policy says nothing about approving specific plans that will utilize surface water for municipal use. Further, aside from its unsupported assertion that somehow approving the Project contradicts Policy LU-A.19, the commenter offers no evidence whatever that the Project will negatively impact "surface water and groundwater resources critical to agriculture." As explained in Responses to Comments 19.134 and 19.136, the proposed transfer will not result in any negative impacts to LTRID growers or their underlying groundwater basins. Rather, LTRID's participation in the water transfer agreement for the Project is part of its larger strategy to increase overall water supply reliability for its growers. Proceeds from the water transfer agreement will be used to operate additional water distribution systems and additional groundwater recharge facilities, as well as to possibly purchase short-term water from other Friant Division contractors on a year-to-year basis (at significantly lower per acre-foot prices). These additional facilities and potential short-term water purchase opportunities allow the District to take in more surface water in big water years and at flood times for groundwater recharge. The Water Supply Assessment prepared for the EIR extensively analyzed this issue and determined that the "overall result is that the sale of LTRID's water for municipal use does not reduce but in fact enhances the water supplies available to LTRID's agricultural users." (FEIR, Response to Comment 19.134, p 3-161.)

Comment 5-11: *In summary, this Project is not consistent with key directives, goals and policies set forth in the CGP. A project is consistent with the general plan if; considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment. (Napa Citizens for Honest Government v. Napa County Board of Supervisors (2001) 91 Cal.App.4th 342, 378.) In this case, the adoption of the amendment to the Friant Community Plan and the adoption of the Friant Ranch Specific Plan will obstruct the fundamental policy directive of the CGP to direct intensive development to cities, unincorporated communities, and other areas where public facilities and infrastructure are available, not to mention the other numerous CGP policies with which these plans will conflict. The County acknowledges that this Project has inconsistencies with the applicable land use plans, policies and regulations adopted for the purpose of avoiding or mitigating an environmental effect, and noted that*

such inconsistencies are potentially significant. (DEIR, p. 3-234). However, the County then concludes, without explanation, "[H]owever, the impact will be reduced to a less than significant level if the Project is approved. It is unclear how the approval of a project that is inconsistent with the CGP and other regulatory plans, when proposed, will somehow be transformed into one that is consistent with the CGP once adopted. This approach to analysis is inconsistent with State planning law CEQA and the jurisprudence interpreting these provisions. (Ibid., at 378, Corona-Norco Unified School Dist. v. City of Corona (1993) 17 Cal.App.4th 985, 994.) The County is legally required to approve only projects that are consistent with its CGP. As such, it is legally compelled to deny this Project because of its inconsistency with its CGP.

Response 5-11: See Responses to Comments 6 through 10 above. The reference to page 2-324 mischaracterizes the DEIR statement. Page 3-234 of the DEIR explains that the Project is inconsistent with the existing General Plan designations within the Project Area and, for that reason, included with the Project is the General Plan Amendment to redesignate certain lands consistent with the proposed Project land uses. The DEIR does not find policy inconsistencies as suggested by the comment.

Comment 5-12: *The City also continues to have serious concerns about the validity of the traffic impact analysis in the EIR.*

The City's traffic experts, Scott Mozier and Bryan Jones, have carefully reviewed the DEIR and FEIR for this Project. Mr. Mozier serves as City Engineer and Assistant Public Works Director for the City of Fresno, Mr. Mozier is licensed in the State of California as a civil engineer and traffic engineer, with over 17 years of experience in transportation project design, management and planning for numerous jurisdictions throughout the State including Caltrans, the County of Los Angeles, the City of Los Angeles, the County of Fresno, the City of Clovis, the City of Fresno, the Valley Transportation Authority of Santa Clara County, the City of Fremont and the City of San Jose. Mr. Mozier has overseen the City of Fresno's development impact fee programs for the past five years and has reviewed numerous traffic impact studies for new development as well as traffic operation studies for capital improvement projects. Bryan Jones is the City Traffic Engineer and Traffic Engineering Division Manager for the City of Fresno. His many responsibilities include overseeing the roadways, signs, traffic signals, roundabouts, traffic circles, street lights, transportation planning, traffic control plan review, street design plan checks, special permits, service requests, bicycle/pedestrian transportation, safe route to schools program, and the Intelligent Transportation System (ITS signal synchronization). Bryan has extensive experience in both public and private engineering and planning. He is a graduate of the University of California, Davis in Civil Engineering with an emphasis in Transportation and a minor in Communications. Bryan is currently the President of the Institute of Transportation Engineers (ITE) Central Valley Section, the Staff Director for the Bicycle and Pedestrian Advisory Committee (BPAC), and holds a professional engineering license in Traffic Engineering (TB), a Professional Transportation Planning (PTP) certificate, and American Institute of Certified Planners (AICP) membership. Both possess expert knowledge, both of traffic impact analysis under CEQA and of traffic and roadway conditions in the City of Fresno.

Response 5-12: Discussion of City's traffic personnel's credentials is noted but warrants no response.

Notably, the Traffic Impact Study utilized in the EIR was prepared by Peters Engineering Group. John Rowland served as Project Manager and David Peters was the Principal Engineer providing oversight.

Mr. Rowland is licensed in the State of California as a Civil Engineer and as a Traffic Engineer. He is a member of the Institute of Transportation Engineers and the American Society of Civil Engineers. He has 20 years of experience and has performed hundreds of traffic impact studies in numerous jurisdictions

throughout California, including many traffic impact studies in the City of Fresno. Mr. Rowland currently manages the traffic engineering department of Peters Engineering Group.

Mr. Peters is licensed in the State of California as a Civil Engineer and as a Traffic Engineer, and he is recognized by the Institute of Transportation Engineers as a Professional Traffic Operations Engineer (PTOE). Mr. Peters is a member of the Institute of Transportation Engineers and the American Society of Civil Engineers. Mr. Peters has over 20 years of experience in the transportation engineering field throughout California, including vast experience and the design and operation of roadways, intersections, traffic signals, roundabouts, and interchanges. Mr. Peters' skills have been utilized as an expert witness in legal disputes. Mr. Peters has served for 10 years as the Kingsburg City Engineer and has substantial knowledge of the oversight of roadways, capital improvement programs, plan checking, traffic handling, permitting, safe routes to school, and intelligent transportation systems.

Peters Engineering Group has performed a substantial number of traffic impact studies for projects that have been approved in the City of Fresno and possesses the technical expertise to analyze traffic conditions and to develop technical opinions pertaining to traffic engineering.

Comment 5-13: *These City traffic experts strongly disagree with the EIR's characterization of existing conditions on the City streets that will be most used by Project traffic, The Project is expected to generate 22,343 Average Daily Trips, some 80% of which will use City streets. As the EIR recognizes, the Project would exacerbate traffic levels on City streets. Yet the EIR grossly understates the Project's impacts based on a baseline description that inaccurately characterizes Friant Road, Herndon Avenue, and Willow Avenue as operating at LOS A or B, when in fact most, if not all, of those roads are operating at LOS F (unacceptable) based upon the basic definition of LOS F in the Highway Capacity Manual and field observation by City's Traffic Engineer, Bryan Jones. The reason the analysis in the TIS for this Project related to these intersections is defective is that it focused on traffic being served by the intersection not the actual traffic demand at the intersection. When it takes 7-12 minutes of stop and go traffic to drive on Friant from Shepherd to SR41 in the AM peak hour the intersections and roadway are not operating at LOS A and B.*

Response 5-13: The commenter states that the baseline conditions within the City of Fresno are understated on Friant Road, Herndon Avenue, and Willow Avenue. The commenter asserts that the study focused only on traffic being served by the intersections but did not consider unmet demand. This consideration would be valid only at locations where the queue at an intersection did not eventually clear during the peak hour, and only if a substantial amount of additional vehicles remained uncounted at the completion of the peak hour counts. At a majority of the study locations this is not the case, and the comment does not apply. Commenter incorrectly states the trip counts expected with the Project. The commenter failed to account for the trip-capture reduction as shown in Table 9.5 and for the fact that Alternative 3 is proposed for approval with a reduced housing unit count. Additionally, the commenter overstated the percentage of trips using City of Fresno streets by using an incorrect distribution amount; the correct distribution at 2030 is 69% per Figure 13 of the TIS. The commenter's combined misrepresentation overstates the 2030 Project (under Alternative 3) trips using City of Fresno streets by approximately 6,963 trips or 64%.

The comment fails to acknowledge that the locations at which this comment does apply were discussed in detail in the Response to Comment 19.98 of the FEIR. The FEIR updated the description of the existing conditions at the intersection of Herndon and Blackstone Avenues (FEIR, Response 19.98 – Item 7). The FEIR also presented a thorough discussion of the existing conditions along Friant Road, including a description that the delays on Friant Road during the a.m. peak hour occur primarily in the Number 3

lane, originate at the State Route 41 metered on ramps, and are not a result of congestion or gridlock at specific intersections (FEIR, Response 19.98). The intersections on Friant Road are capable of handling the demand, but the queue at the on ramp meters extends through the intersections in the right lane, causing the "7-12 minutes of stop and go traffic" mentioned in the comment (FEIR, Response 19.98 – Items 4 & 5). As mentioned in the FEIR, a motorist in the Number 1 and Number 2 lanes of Friant Road will not experience this type of delay, as the "stop and go" conditions are a direct result of the on ramp metering and do not cause gridlock in other lanes of the intersections.

The allegations set forth in Comment 5-13 are without effect to the environmental analysis for the Project as the Traffic Impact Study concluded that the Project resulted in significant impacts to the identified roadways and the County proposes to adopt mitigation measures (M.M.) at the following Friant Road, Herndon Avenue, and Willow Avenue locations:

Friant Road / Shepherd Avenue intersection (M.M. 3.13-6a)
Friant Road / Audubon Drive intersection (M.M. 3.13-6b)
Friant Road / SR 41 NB off ramp intersection (M.M. 3.13-3d)
Friant Road / SR 41 SB off ramp intersection (M.M. 3.13-3e)
Friant Road segment Shepherd Avenue to Audubon Drive (M.M. 3.13-6f)
Friant Road segment Audubon Drive to Fresno Street (M.M. 3.13-6f)
Friant Road segment Fresno Street to SR 41 (M.M. 3.13-6f)
Willow Avenue / Nees Avenue intersection (M.M. 3.13-7a)
Willow Avenue / Herndon Avenue intersection (M.M. 3.13-7b)
Willow Avenue / Sierra Avenue intersection (M.M. 3.13-7c)
Willow Avenue / Bullard Avenue intersection (M.M. 3.13-7d)
Willow Avenue / Barstow Avenue intersection (M.M. 3.13-7e)
Willow Avenue segment Alluvial Avenue to Herndon Avenue (M.M. 3.13-7f)
Willow Avenue segment Herndon Avenue to Sierra Avenue (M.M. 3.13-7f)
Willow Avenue segment Sierra Avenue to Bullard Avenue (M.M. 3.13-7f)
Willow Avenue segment Bullard Avenue to Barstow Avenue (M.M. 3.13-7f)

In each case fair share percentages were considered and in others where no feasible mitigation was available, the EIR discloses significant and unavoidable traffic impacts, despite the required mitigation.

Comment 5-14: *In addition, the trip generation assumptions used in the E1R's traffic analysis are not reasonable or supported with adequate evidence. The EIR assumes that peak hour trip generation for Project residences would only be approximately 25% of a typical single family home. The EIR bases this assumption on the Institute of Transportation Engineers Trip Generation Manual Code, which recommends a lower trip/dwelling unit assumption for "senior adult housing" than for more standard residential uses. However, this assumption is not reasonably applied to this Project. While the Friant Ranch Specific Plan indicates that the Project is primarily intended to house persons aged 55 or older, it further indicates that only 80% of occupied units will be required to house persons of that age, and even those units need contain only one person aged 55 or older. The City's opinion is that it is foreseeable that a considerable portion of the future population of the Project will be persons younger than 55, perhaps residing with an elderly relative. Such households would foreseeably include commuters (particularly in light of the Project's remoteness from places of employment) and parents with school-age children: In addition, as previously noted in this letter, persons older than 55 increasingly remain part of the workforce, In light of these Considerations, it is unreasonable for the EIR to assume the low trip/dwelling unit number than is used in the EIR's traffic analysis.*

Response 5-14: See Response to Comment 5-2 above. The DEIR and FEIR both contain exhaustive substantiation of the applicability of the trip generation data utilized in the analysis (DEIR Appendix D – Traffic Impact Study, Section 9.1 – Project Trip Generation); FEIR Responses to Comments 9.6, 9.11, 19.91, 19.92, 19.93, 28.1, 28.2, 28.3, and 28.4). The traffic analysis accounted for apartments without age restrictions and for a substantial amount of traffic that will be generated by the age-restricted portions of the project. It is standard practice to compare the description of the Project to the descriptions of the data in the Institute of Transportation Engineers (ITE) *Trip Generation* and to utilize the ITE data set with the description that most closely resembles the proposed Project, and this is the procedure that was used in the DEIR. Additional substantiation was provided in the Traffic Impact Study (Appendix D of the DEIR) by means of a verification count of the nearest similar facility (Traffic Impact Study – Appendix E, letter dated April 6, 2007 by Fehr & Peers Transportation Consultants) . It was found that the nearest similar facility (Sun City, Roseville) generates even fewer trips per unit (3.29 daily trips compared to 3.71 daily trips for ITE Code 251) than that studied in the DEIR, thereby providing additional substantiation that the ITE data utilized is applicable. It is not standard practice to speculate that the proposed Project will have trip generation characteristics similar to different ITE data sets not matching the Project description when such supporting data exists.

Comment 5-15: *The EIR's overly optimistic baseline description and assumptions about Project trip generation result in a gross understatement of the Project's impacts to traffic congestion in the City, and also understate the contribution of the Project to air quality impacts from vehicle emissions. Due to the remote location of this Project from jobs, schools and commercial retain, this Project will have more vehicle miles traveled (VMT) per trip than is assumed in the Fresno COG model. The increase in VMT has a direct correlation with poor air quality in the San Joaquin Valley Air Pollution Control District Central Valley who currently has the fifth worst non-attainment status in the nation. Standard modeling assumptions and procedures do not adequately reflect the air quality impacts of this project due to its remote location.*

Response 5-15: See Response to Comment 5-14 immediately above regarding trip generation assumptions. The EIR has analyzed vehicle emissions in both DEIR Impact 3.3.2 – Operational Emissions and Section 3.15.3 —Estimated Emissions of Greenhouse Gases from the Project. The letter does not offer any evidence that would contradict the County's evidence and EIR analysis of the Project's impact to air quality from vehicle emissions. As discussed in Response to Comment 19.128 in the FEIR, "Overall vehicle miles traveled (VMT) per person may actually be less given the reduced non-discretionary trips due to the active-adult component of the Project." Also, per Response to Comment 28.2 of the FEIR, several factors are noted that would reduce the potential VMT by residents of an active adult community:

a. In active adult communities, far fewer school-aged children are expected, thereby reducing trips (and miles) due to number of drivers and vehicles in the household, children's activities, and other parenting obligations.
b. It is expected and reasonably intuitive that active adult residents living in the Friant Ranch community will consolidate trips to the "City."
c. For those who will be working, the logistics of the longer commute at times will necessitate consolidation of trips.

As such, the EIR's analysis of emission impacts was based on reasonable assumptions.

Comment 5-16: *Furthermore, even aside from the problems with its basic assumptions, the EIR's traffic analysis does not properly take into account all types of movement on affected roadways in the City. The EIR's analysis of impacts to intersections along Friant Road and Willow Avenue is flawed, in that it only accounts for the traffic volumes served by the intersections during the peak hour and does not account for the demand, freeway ramp metering, associated queues or lane utilization that will have a negative impact on intersection operations. The southbound loop on-ramp to SR 41 only allows for 1,200-1,500 vehicles per hour, so the two southbound lanes on Friant that serve the on-ramp movement cannot accommodate the 1,900 passenger cars per lane per hour assumption in the Synchro analysis. The EIR assumes these on-ramps will be able to accommodate 1,900 passenger cars per hour per lane of southbound Friant Road traffic. Traffic from this Project will displace existing traffic onto Nees Avenue, which will make an eastbound right-turn onto Friant to access SR 41. Furthermore, the existing southbound SR 41 loop on-ramp does not have adequate acceleration and merge area to allow merging of SR 41 southbound through traffic with the adjacent downstream SR 41 slip ramp on-ramp traffic. Both ramps are metered, which causes queues northbound and southbound on Friant. Those queues can cause gridlock on Friant Road intersections. Currently, queues on Friant are often backed up to the intersection with Shepherd Avenue; with this Project, the queues could back up past Shepherd.*

Response 5-16: See Response to Comment 5-13. The FEIR contained a discussion of the conditions mentioned (FEIR, Response to Comment 19.98), including the freeway ramp metering, queues, and lane utilization. The cumulative conditions analyzed and the Fresno County travel model utilized in the analyses contain such extensive congestion on Friant Road that displacement of traffic to Nees Avenue has already been considered based on utilization of the Fresno County travel model, which contains feedback loops to balance traffic volumes in congested areas. Therefore, the issues raised in this comment have already been disclosed and discussed in the DEIR and FEIR (See FEIR, Response to Comment 19.102).

Comment 5-17: *In the opinion of the City's traffic experts, the EIR consultant team needs to perform travel time runs along the Friant corridor during the peak hours and measure queues at intersections. This consultant should also perform lane utilization calculations, ramp metering calculations, and saturation flow rate analysis for each lane on Friant Road during the peak hours. This consultant should also measure the number of vehicles that make it through an intersection versus those that want to get through the intersection but cannot due to downstream congestion and queues. Without such supplemental study, and without revisions to the EIR' s erroneous baseline description and assumptions, the traffic analysis in the EIR is hopelessly flawed in violation of CEQA.*

Response 5-17: The additional analyses suggested by commenter is unnecessary. Travel time runs were discussed in detail in the Response to Comment 19.98 of the FEIR. The City of Fresno General Plan indicates, and the EIR acknowledges, that the City of Fresno has accepted LOS F on Friant Road between Nees Avenue and Shepherd Avenue. The Fresno General Plan indicates that Friant Road would need to be widened to as many as 12 lanes in order to operate at an acceptable LOS in the year 2025. The EIR discloses that the Project will create significant traffic impacts that will remain significant and unavoidable at these locations.

Comment 5-18: *Furthermore, the City believes that many of the mitigation measures for the Project's significant impacts to City streets are inadequate under CEQA. In particular, as discussed below, the City feels that the County should require payment of the Project's fair share contribution to needed improvements to City streets to go directly to the City's existing capital improvement programs.*

Response 5-18: General introductory comment. See Responses to Comments 5-19 - 5-22 below.

Comment 5-19: *The EIR Improperly Fails To Require Mitigation For Impacts 3.13-7a, 3.13-7b, And 3.13-7d: The EIR improperly concludes that there is no feasible mitigation for the Project's significant traffic impacts to the intersections of Willow Avenue and Nees Avenue (Impact 3.137a), Willow Avenue and Herndon Avenue (Impact 3,13-7b), and Willow Avenue and Bullard Avenue (Impact 3.13-7d). On the basis of this finding of mitigation infeasibility, the EIR declines to require the applicant to provide any contribution to reducing or avoiding the Project's significant impacts to these intersections. This failure violates CEQA.*

CEQA requires feasible mitigation of all significant impacts, including significant cumulative impacts. Feasible mitigation measures for a project's impacts to intersections or roadways that are outside the jurisdiction of the lead agency may include a fair share payment to the agency with jurisdiction over the affected intersections/roadways, provided that the agency with jurisdiction over those intersections/roadways has in place an enforceable plan to make the needed improvements and is committed to implementing the plan. (See City of Marina v. Board of Trustees (2006) 39 Cal.App.4th 341.) The City of Fresno has established a Traffic Signal Mitigation Impact Fee ("TSMI") program and a Fresno Major Street Impact ("FMSI") fee program, each of which require projects with adverse impacts on City roadways to contribute their fair share toward implementing needed infrastructure improvements to reduce or avoid those impacts. As is acknowledged in the Traffic Impact Study ("TIS") for the Project, the City's TSMI program provides for developers to pay fair share fees to improve the Willow/Nees, Willow/Herndon, and Willow/Bullard intersections. ("Traffic Impact Study, Proposed Friant Ranch Project, prepared for Quad Knopf, Inc., dated October 28, 2009, page 23.) Thus, under City of Marina, a fair share payment to the City of Fresno's TSMI program is a feasible mitigation measure that the County must impose upon the Project, to mitigate its significant impacts to the Willow/Nees, Willow/Herndon, and Willow/Bullard intersections. Failure to impose such mitigation would violate CEQA.

Response 5-19: The County's traffic experts have concluded that there is no feasible mitigation to improve the expected unacceptable 2030 conditions at these intersections. Commenter references the City of Fresno Traffic Signal Impact Fee ("TSMI") program and the Fresno Major Street Impact ("FMSI") fee program as potential mitigation. Both of these programs have been reviewed and analyzed along with other funding programs (see DEIR, pages 3-305 to 3-311). Under these funding programs, certain improvements are reasonably foreseeable to be constructed by 2025 and included in the 2030 No Project and 2030 With Project analysis. As explained in the EIR, it is reasonably foreseeable that those improvements would be in place prior to the addition of the Project's traffic to such 2030 condition. However, the County's traffic experts have concluded that the Project will contribute to cumulative impacts that contribute to unacceptable conditions on these roadways after completion of the proposed City of Fresno 2025 improvements. Nothing in the comment suggests otherwise as no additional improvements have been identified to mitigate the condition. As explained in Response to Comment 19.115 of the FEIR, no additional mitigation is available for any significant impacts resulting at intersections already planned to be constructed to the largest reasonable configuration, hence the "none feasible" mitigation determination and statement that the impact is ***significant and unavoidable***.

Comment 5-20: *The EIR Improperly Fails To Require Fair Share Mitigation For Impacts 3.13-6a, 3,13-6d And 3.13-6e To Be Paid Directly To The City: The EIR also provides inadequate mitigation for the Project's significant impacts to the intersections of Friant Road and Shepherd Avenue (Impact 3.13-6a) and Nees Avenue and Audubon Drive (Impact 3.13-6d), and to the segment of Friant Road between Champlain Avenue and Ft. Washington Road (Impact 3,13-6e). The EIR requires the Project applicant to pay a fair share of needed improvements to those intersections and that road segment. However, the EIR provides for mitigation funds to be paid to the County, and for the City to receive reimbursement only*

upon presentation of receipts for construction of the needed improvements. This arrangement is contrary to CEQA.

The City's TSMI program provides for collection of fees to construct improvements to the Friant/Shepherd and Nees/Audubon intersections. (See "City-Wide Traffic Signal Mitigation Impact Fee Nexus Analysis for Proposed Fee Update," prepared by City of Fresno, Public Works Department, dated August 29, 2008: Attachment A to this letter.) The City's FMSI program likewise provides for collection of fees to construct improvements to the segment of Friant Road between Champlain Avenue and Ft. Washington Road. (See "Draft Final Report, Major Street Impact Fee Program Nexus Study," prepared for the City of Fresno by Economic & Planning Systems, Inc., dated March 15, 2007, Appendix A: Attachment B to this letter.) Because the City has existing programs to which the Project applicant can directly contribute its fair share of funding needed improvements to those intersections and that road segment, the EIR's requirement that the Project applicant pay fair share mitigation to the County, rather than directly to the City, is inconsistent with City of Marina. That case held that CEQA may require a project proponent to enter into an agreement with the agency having jurisdiction over significantly affected roadways outside the lead agency's jurisdiction, if the affected agency has in place a capital improvement program and has committed to make the needed roadway improvements. Although City of Marina concerned a project undertaken by a public entity, the court noted that both public and private project applicants may be required to pay fair share mitigation directly to the agency with jurisdiction over impacted roadways. (See City of Marina, supra, 39 Ca1.4th at 364, n. 15.)

Furthermore, the Anderson First case holds that a measure that requires fair share funding for roadway improvements may be inadequate if the measure does not "make [payment of the] fees part of a reasonable, enforceable plan or program that is sufficiently tied to the actual mitigation of the traffic impacts at issue." (Anderson First Coalition v. City of Anderson (2005) 130 Cal.App.4th 1173.) The County, unlike the City, has no enforceable plan to improve roadways in the City's jurisdiction. The EIR's mitigation measures which require payment into a County holding fund rather than directly to the City, therefore, do not satisfy the requirement that mitigation payments go into an enforceable "plan or program" sufficiently tied to needed roadway improvements. The EIR should therefore replace its mitigation measures for Impacts 3.13-6d and 3.13-6e with measures requiring the applicant to enter into an agreement to pay its fair share contribution directly into the City's enforceable program to actually implement the needed improvements.

Additionally, Anderson First held inadequate mitigation that failed to require the project applicant to pay both an initial, lump-sum fair share payment for the first phase of construction, and also supplemental payments based on the ultimate cost of the finished improvements. (Anderson First, supra, 130 Cal.App.4th at 1189.) The EIR's mitigation measures for Impacts 3.13-6d and 3.13-6e would withhold from the City all of the Project's entire fair share contribution until after the City completes the needed improvements. The mitigation measures at issue should therefore be revised to provide the City with the Project applicant's fair share of needed "start-up" funding to implement the needed improvements.

Response 5-20: As acknowledged by commenter, there is currently no program or agreement in place to provide the County assurance that the applicant will be able to mitigate its impacts to City of Fresno roadways. As such, the mitigation measure does not preclude a future agreement between the applicant and City of Fresno, but imposes reasonable mitigation to ensure that the applicant pays its fair share of the needed improvements. Further, nothing in the mitigation measure precludes the City of Fresno from collecting the mandated fair share fees from the County prior to final completion of the ultimate improvement. (See FEIR Errata to DEIR, p. 3-326.) The EIR acknowledges that the County cannot ensure the improvement will actually be built because the improvement is not within the County's

jurisdiction. As such, the EIR properly imposes fair share mitigation and concludes the impact will remain significant and unavoidable until the City of Fresno improvements are built.

Comment 5-21: *The EIR Should Require Fair Share Mitigation For Impacts 3.13-7c, 3.13-7e, And 3.13-7f To Be Paid Directly To The City: The EIR also identifies significant impacts to the intersections of Willow Avenue and Sierra Avenue (Impact 3.13-7e), and Willow Avenue and Barstow Avenue (Impact 3,13-7e), and to Willow Avenue between Alluvial and Barstow Avenues (Impact 3,13-7f). The EIR declares mitigation to these intersections and road segments to be infeasible, even though the EIR recognizes that needed improvements have been planned or identified as needed by the City. The City does not currently have in place fee programs to fund the needed improvements at these locations, although it certainly could have so arranged had the County properly consulted with the City in preparing this EIR. The City is nevertheless willing to extend its capital improvement programs to cover these improvements, and requests the County to require the applicant to enter into an agreement with the City to provide its fair share of funding these improvements.*

Response 5-21: The County's traffic experts have concluded that there is no feasible mitigation to improve the conditions at these intersections. Nothing in the comment suggests otherwise as no improvements have been identified to mitigate the condition. There is no evidence to suggest that the requested mitigation of fair share fees paid to a yet to be established City of Fresno capital improvement fund for these intersections will actually reduce the impact. As such, the EIR properly concluded that the impacts to these intersections are significant and unavoidable.

Comment 5-22: *The EIR Fails To Adequately Support Its Conclusion That Mitigation For Impacts 3.13-6b, 3.13-6e, And 3.13-6f Is Infeasible: The EIR fails to provide adequate evidence to support its conclusion that no mitigation is feasible for significant impacts to the Friant Road and Audubon Drive intersection (Impact 3.13-6b), the Friant Road and Fresno Street intersection (Impact 3.13-6c) and the segment of Friant Road between Shepherd Avenue and SR 41 (Impact 3.13-6f). The EIR merely concludes that these intersections and segment have been constructed to the largest reasonable configuration and that no further improvements are feasible. These statements are not correct. The City has recently imposed mitigation measures on development projects to fund additional traffic lanes at both the Friant/Audubon and Friant/Fresno intersections [See Mitigation Measures Imposed on "Fresno 40" Project Attachment C to this letter]. The City's General Plan identifies the need for a third westbound left turn lane and a third southbound through lane — although the EIR for the Friant Ranch now indicates that a second northbound right turn lane also needs to be constructed. Thus, the City has in place plans to improve the Friant/Audubon and Friant/Fresno intersections, and the segment of Friant Road between Shepherd Avenue and SR 41. The segment of Friant Road between Shepherd Avenue and SR 41 is also covered by the City's FMSI Program. (See "Draft Final Report, Major Street Impact Fee Program Nexus Study," prepared for the City of Fresno by Economic & Planning Systems, Inc., dated March 15, 2007, Appendix A.) The City requests the County to require the applicant to enter into an agreement with the City to provide its fair share of funding these improvements.*

Response 5-22: The commenter references mitigation measures required of the recently approved "Fresno 40" project to suggest that additional improvements to these intersections are possible. The lane additions required of the "Fresno 40" project at the intersection of Audubon Drive and Friant Road (MM Trans-2d of the "Fresno 40" EIR, widening of the northbound approach to two left turn lanes, three through lanes, and one right-turn lane) are already in place. Though Fresno 40 was required to add a fourth northbound turn lane as a "driveway" to the Fresno 40 project (MM Trans-3a of the "Fresno 40"), it does not appear that the "Fresno 40" was required to modify the number of lanes approaching and passing through the intersection of Friant Road and Fresno Street.

Intersections with approaches having more than two left-turn lanes, three through lanes, and one right-turn lane should be avoided because the required pedestrian walk times become so large that the operation of the intersection is negatively affected. Published authority presents analyses indicating that the effectiveness of additional lanes at intersections decreases as the size of the intersection increases. (Mucsi, Kornel and Khan, Ata A., "Effectiveness of Additional Lanes at Signalized Intersections," ITE Journal January 2003: 26-30 (copies available with the County).) Therefore, widening certain intersections along Friant Road and Willow Avenue that the County's traffic experts have identified as already being developed to the maximum feasible configuration was not recommended as a mitigation measure. As such, impacts resulting in intersections/roadway segments already planned to be constructed to the largest reasonable configuration are correct in making the "none feasible" mitigation determination and stating that the impact is ***significant and unavoidable***.

Comment 5-23: *The EIR's Mitigation Measures For Impacts To Roadways Under The Jurisdiction Of The County, The County Of Madera, And Caltrans Are Inadequate Under CEQA: The EIR's mitigation measures requiring fair share payments to mitigate the Project's traffic impacts to roadways under the jurisdiction of the County of Fresno, the County of Madera, and Caltrans are inadequate under City of Marina, Anderson First and Tracy First v. City of Tracy (2009) 177 Cal.App.4th 912. Under those cases, mitigation requiring fair share payments for roadway improvements is not adequate unless it requires payment into a reasonable program which the applicable agency commits itself to implementing.*

The EIR provides no evidence that the improvements it identifies as needed for Project impacts to roadways under the jurisdiction of the County, the County of Madera, or Caltrans will be improved under a reasonable program which the applicable agencies have committed themselves to implement. The EIR fails to show that the County has established any capital improvement program for funding or implementing the improvements which the EIR identifies as needed for roadways in the County. Although Caltrans collects a per trip fee to fund improvements to the interchange of SR 41 and Friant Road, the EIR fails to show that Caltrans has developed a plan to implement those improvements. And while the County of Madera has established a Road Impact Fee for improvements along SR 41 and at the intersection of Road 145 and Road 206, the EIR fails to show an existing capital improvement plan to fund and implement those improvements. Because these jurisdictions have not included the improvements identified as needed in the EIR in a capital improvement plan which they have committed to implementing, the EIR's requirement of fair share payments to these jurisdictions is inadequate as mitigation under CEQA.

Response 5-23: The County recognizes that the collection of fair share payments from the applicant for roadway improvements under the jurisdiction of Fresno County, Caltrans or Madera County cannot guarantee actual construction of the designated improvements prior to the completion of Project construction, particularly not for roadways beyond the jurisdiction of Fresno County. For that reason, the DEIR identifies significant and unavoidable impacts to roadways under the jurisdiction of Fresno County, Caltrans and Madera County. Despite the inability to ensure no significant impacts to these roadways and in accordance with CEQA, the County still requires payment of fair share fees as mitigation. (See e.g., DEIR pp. 3-315, 3-316-317, 3-323.) The County will ensure that the Project's fair share fees are made available to these agencies.

Comment 5-24: *Mitigation Measure 3.14.1 Fails To Provide Adequate Assurance Of Available Water Supply: The FEIR's response to City comment 19.132 mischaracterizes Mitigation Measure 3.14.1 and its effect to preclude development until an adequate water transfer agreement is executed and approved by WWI8, LTRID, and the U.S. Bureau of Reclamation. Contrary to the statement in Response 19.32, the text of Mitigation Measure 3.14.1 does not require an approved agreement prior to approval of any tentative Map. Instead, that measure does not require that the agreement be in place until prior to recordation of the final subdivision map. Although language has been added to Mitigation Measure 3.14.1 in the Mitigation*

Monitoring and Reporting Program to state, "[a]pproval and execution of the water transfer agreement for the full project water amount shall be required prior to approval of any land use entitlements," the time for implementation is indicated as "[p]rior to recordation of a final subdivision map."

Therefore, before it approves the water transfer agreement, the County could approve tentative maps, including vesting tentative maps, and could also enter into a development agreement, that might afford the developer entitlement to development approvals. Mitigation Measure 3.14.1 therefore fails to ensure that no project entitlements will be granted until a final and fully approved water transfer agreement is in place.

Such a mitigation measure fails to meet the requirements of Vineyard Area Citizens for Responsible Growth, et al., v. City of Rancho Cordova (2007) 40 Ca1.4th 412, which holds that the local agency be able to provide "firm assurances" of supply at the tentative subdivision map stage for a project with more than 500 residential units and be able to curtail development if sufficient water is not available for each phase of a project. Government Code Section 66473.7 provides a further basis for the requirement to identify sufficient water for the Project.

Response 5-24: Comment 5-24 suggests that FEIR Response to Comment 19.132 has confused the timing of when Mitigation Measure 3.14.1 applies. The County will implement Mitigation Measure 3.14.1 by making execution and approval of the water transfer agreement a condition of approval of any tentative map such that no final subdivision map will be provided unless and until the water transfer agreement is in effect. In this way, Response to Comment 19.132 correctly states that "Mitigation Measure 3.14.1 insures that the Specific Plan development cannot proceed until final approval of the Water Supply Agreement by WWD 18, LTRID, and the U.S. Bureau of Reclamation." As noted by commenter, WWD 18 will also have to verify the water supply reliability for the Project, pursuant to Government Code section 66473.7, prior to issuance of a tentative map for the Project.

Comment 5-25: *The EIR's Discussion Of The Water Transfer Agreement And Expansion Of WW18 Is Inadequate. In order to support adequate assessment of the likelihood of approval of the transfer agreement and availability of the additional CVP water for Project-specific water supply, the EIR must provide additional evaluation of U.S. Bureau of Reclamation (USBR) regulations and contractual requirements for approval of the proposed out-of-district water transfer by LTRID, and facts to establish whether the proposed transfer of CVP water meets those requirements.*

As part of any approval of a future water transfer agreement by the USBR, the LTRID contract with USBR requires environmental evaluation of the proposed water transfer, including, "...as appropriate, an analysis of groundwater impacts and economic and social effects, including environmental justice, of the proposed water transfer on both transferor and transferee." (See DEIR Appendix B, Water Supply Assessment, Appendix C, p. 33.) The EIR suggests that the future environmental review of a WW18 and LTRID water transfer agreement will rely on the EIR for this Project. The EIR is inadequate to support such review, however, as it fails to provide adequate groundwater analysis and is devoid of analysis of economic and social impacts of the water transfer and/or the Project.

LAFCO approval will also be required for the large expansion of the boundaries of WW18. To facilitate LAFCO's review, the EIR should provide a discussion of LAFCO standards and how the Project conforms or does not conform with them, to permit LAFCO to assess the likelihood of the proposed water supply program being implemented.

Because the EIR claims to be sufficiently detailed to preclude the need for further project-specific environmental study for development within the Specific Plan Area and consistent with the Specific Plan, CEQA and the principles enunciated in Vineyard require more certainty that a sufficient water supply is available to serve all development envisioned in the Friant Ranch Specific Plan.

Response 5-25: As acknowledged by commenter, the EIR and Water Supply Assessment outlined the steps needed prior to the proposed Water Transfer Agreement taking place. The comments about future LAFCO and USBR processes are noted. Extensive discussion of federal regulations is not warranted in a CEQA document for broad land use entitlements such as those at issue. Further, as discussed in Response to Comment 5-24 immediately above, if the requisite LAFCO and USBR approvals related to the proposed water supply and water supply purveyor (WWD 18) for the Project are not secured pursuant to their regulations, then no development will occur as set forth in Mitigation Measure 3.14.1.

Comment 5-26: *The FEIR's Responses To City Comments 19.138, 19.139, And 19.1.62 – 164 Are Inadequate: The DEIR relies on LTRID's pre-1914 water rights for water from the Tule River as a supplemental water source in critical dry and multiple dry years. The City noted in its comment 19.139 on the DEIR that California Department of Water Resources (CDWR) water use surveys had not yet obtained the detailed surface water user data now required to be reported pursuant to SB7X8, to verify the legitimacy of LTRID's pre-1914 water rights. The response to Comment 19.138 notes that the pre-1914 water rights were recognized and quantified in a 1916 court ease, Poplar v. Howard. However in a much more recent case, Pleasant Valley Canal Co. v. Borror (1998) 61 Cal.App.4th 742, the court noted that the intended scope of Poplar was obscure and difficult to determine. Thus, the assertion in the County's response that the Poplar decision is determinative is not accurate and leaves unchanged the need for further quantification based on current users. Because current Tule River users include those possessing riparian and/or appropriative rights, the rights can and have changed over time, depending on how use has changed. Thus, the Poplar decision is not conclusive as to LTRID's rights. The EIR must be revised to disclose additional information regarding CDWR's review and confirmation of those rights.*

The fact that "No Tule River water supplies will be used within the Project Area [because] [t]he Project will receive CVP Friant Division Class 1 supplies stored in Millerton Lake in all years" (Response to City's Comment 19.139) does not mean that the Project's use of Tule River water to offset CVP Class 1 water contracted to other users is irrelevant, because Tule River water is needed to meet the South Valley commitments that would normally be met with the CVP Class 1 supplies transferred to WW18 for the Project. CDWR's confirmation of the continuing right to the pre-1914 water is essential to evaluation of alternative supply for Friant Ranch under Vineyard.

The response to Comment 19.139 also fails to adequately discuss recent water reform legislation, particularly SB7X 7, which requires a 20% state-wide reduction in urban per capita water use by the year 2020, with the interim goal of a 10% reduction by 2015. The response merely states that "the measure would affect the infrastructure and building details of the Project, not the interagency water agreement." Provisions of the LTRID contract with USBR require that in order to renew its USBR contract for CVP water beyond February, 2026, LTRID must have prepared and implemented a water conservation plan which meets federal criteria. (See DEIR, Appendix B, Water Supply Assessment, Appendix C, §2(b)(2).) Compliance with SB7X 7 is certainly relevant to this determination, The FEIR should more fully explain how its infrastructure and building details affect the amount of water required from WW18 and LTRID, in order to support its conclusion that an adequate water conservation program is in place and renewal of the LTRID contract for CVP Water is warranted.

With respect to SB7X 8, the response to Comment 19.139 correctly notes that the legislation imposes heightened reporting requirements on diverters. What the response does not do is analyze what current reporting requirements are and how those might change under the new legislation. In addition, SB7X 1 does more than just create the Delta Stewardship Council as noted in the response. The response states that the Project is not covered by this legislation because the Tule River is not a tributary to the Sacramento/San Joaquin Delta system. But the Tule River is only part of the water supply source for the Project; the San Joaquin River is part of the CVP, so the response needs to address whether the CVP Friant Division is impacted by SB7X 1.

In responding to the City's Comments 19.162 — 164, the FEIR should have provided more detailed discussion of the untitled environmental document which the EIR apparently relies on to support its conclusion that LTRID's increased extraction of water from the Tule River would not cause significant cumulative impacts. (See DEIR, p. 5-17.) Vineyard restates and reinforces existing CEQA law which requires an EIR to clearly identify any outside sources the EIR relies upon as evidence, and to discuss the analysis and conclusions in those sources in a way that makes clear to the public and to decision makers what portions of the sources are used, and why they are important to the EIR's conclusions, The EIR's vague discussion of the unnamed document cited on DEIR page 5-17 does not satisfy these requirements. Particularly, given LRTID's policy of requiring use of groundwater to supplement the needs of its customers during dry years, the FEIR should have provided additional discussion of whether the District's supply of water to the Project may cause significant impacts on the District's groundwater basin.

Response 5-26: Comment 5-26 alleges that the County's responses to comments 19.138, 19.139, 19.162, 19.163, and 19.164 concerning Lower Tule River Irrigation District's water rights are inadequate. Each paragraph of Comment 5-26 is addressed in turn below.

Response to Paragraphs 1 and 2 of Comment 5-26: Comment 5-26 requests that the County revise the EIR to "disclose additional information regarding California Department of Water Resources' (DWR) review and confirmation" of LTRID's rights. CEQA and CEQA case law do not require that the Project obtain DWR "confirmation" of pre-1914 rights that a willing seller may use to meet other non-Project commitments in future critically dry users. There is no evidence to suggest that such "confirmation " is within the authority of DWR. Further, there is no evidence to suggest that DWR objects to such diversions nor have they ever found such diversions to be illegal.

As explained in Response to Comment 19.138 of the FEIR, the Tule River Water Master annually files a report of diversions for the diversions under his jurisdiction with the State Water Resources Control Board (SWRCB) for the major recognized diverters of water on the Tule River. A report is also prepared for the Tule River Association, an association of historic diverters and recognized owners of rights to the Tule River. The diversion history of Lower Tule River Irrigation District is well documented within these documents and has been for many years. Although the SWRCB and DWR have no jurisdiction over pre-1914 appropriative rights, the SWRCB is regularly notified of these diversions, amounts and locations, including the diversions of LTRID. Additionally, the similarly prepared report of diversions prepared for the Tule River Association annually describes the diversions of users of Tule River water along with annual activities of the Tule River Authority in protection of the diversion rights of the Tule River Authority and its members. The diversions of LTRID's water claimed under their pre-1914 appropriative rights are documented here and the records made available to other known users of Tule River water supplies. Thus, the conclusiveness of LTRID's pre-1914 appropriative rights is justified and supported by a long, documented history of continuous use.

The FEIR, in response to the City's earlier question regarding LTRID's pre-1914 water rights (FEIR page 3-162, Response to Comment 19.139), details the 95-year history of LTRID's Tule River rights, which were established prior to State Water Resources Control Board jurisdiction and were affirmed by the Court in the cited *Poplar* decision. As noted in the FEIR, the level of analysis requested by the City rises well above the CEQA requirement.

While new state reporting requirements on diversion of pre-1914 water are in place (SB 7X 8), the legislation does not provide for any reallocation of already-appropriated supplies, and does not affect pre-1914 water rights, over which SWRCB has no jurisdiction. Any assumption by the commenter that such a reallocation is forthcoming is speculative and cannot be evaluated in the EIR.

Response to Paragraph 3 of Comment 5-26: With regard to contract renewal, in late 2010, LTRID completed conversion of its USBR supply contract to a 9d repayment contract, which removes the need for contract renewal in 2026 and makes LTRID's right to available CVP Class 1 supplies perpetual so long as LTRID does not breach the agreement. While LTRID already has in place a water conservation plan for its agricultural users, it is not subject to urban water conservation requirements as a result of the proposed agreement. Any requirement to implement an urban water conservation plan (or Urban Water Master Plan) will fall upon WWD 18 when it becomes large enough to be subject to the law. This is fully discussed in the Water Supply Assessment. In any case, an increased level of urban water conservation will only have the effect of reducing water required to meet Project demands and increasing the factor of safety already provided by the contemplated supply.

To explain further, the consumptive demands considered in the Water Supply Assessment for Friant Ranch, based upon the land plan in the recommended Specific Plan, are very conservative. Being based upon historic use in local cities like Clovis, these demands do not fully reflect the impact of water conserving plumbing, small yards, or other contemporary water saving measures contemplated by the Specific Plan. In fact, the intent in using the larger demand numbers was to assure that the water supply secured is safely large enough to meet planned demands. Both the WSA and the EIR note that the water supply is adequate even discounting use of the Project's recycled water for landscape irrigation of public open spaces and streetscapes, which will be necessary to implement the Project's wastewater disposal plan. Implementation of current and future water saving regulations within the development will only reduce the demand below planned quantities, again making it easier for LTRID to meet its contractual obligations.

Response to Paragraph 4 of Comment 5-26: The commenter asks for analysis of how reporting requirements will change under SB 7X. There is nothing in the SB 7X 8 reporting requirement that affects supplies or allocations; it is a monitoring and reporting requirement only. This issue is an operational question for LTRID, involving possible installation of metering equipment. It is not an environmental issue and needs no further discussion. An earlier version of the legislation (not the final version passed) contemplated SWRCB review of rights once updated reporting data becomes available, but that possibility was removed from the final legislation and would have to be separately enacted. No such requirements are pending.

Each of the SB 7X components' impacts is discussed in the FEIR (Response to Comment 19.139). The SB 7X 7 call for a 20% reduction in urban water use by 2020 may affect future building and development regulations. The Project has been evaluated for environmental impact based upon the regulations currently in place. Should new water use regulations be implemented during build-out, the portion of the Project yet unbuilt could be subject to those rules. The same would be true for every other project

considered in the cumulative scenario. However, since the impact would be to reduce urban water consumption, the environmental impact of such regulations would be positive.

The commenter further requests speculation of how SB7X 1 will impact the CVP Friant Division. As discussed in FEIR Response to Comment 19.139, SB 7X 1 mandates the formation of the Delta Stewardship Council and adoption of a comprehensive management plan for the Delta by the end of 2011. It would be pure speculation for the EIR to analyze the affect of implementing such statutory mandate on the CVP Friant Division since at this time there is no such management plan in place and the County does not know what the future requirements may be.

Response to Paragraph 5 of Comment 5-26: No additional groundwater pumping is expected as a result of the Project. As explained in Response to Comment 19.1 in the FEIR, the source of water for the Project is surface water stored behind Friant Dam, which LTRID is transferring to WWD 18 for use within the Project. As explained in Responses to Comments 19.134 and 19.136, the proposed transfer will not result in any negative impacts to LTRID growers or their underlying groundwater basins. Rather, the LTRID proceeds from the transfer will be used to operate additional water distribution systems and additional groundwater recharge facilities, as well as to purchase short-term water from other Friant Division contractors on a year-to-year basis when needed. These additional facilities and potential short-term water purchases allow the District to take in more surface water in big water years and at flood times for groundwater recharge. The EIR does not rely on LTRID's past environmental documentation to support its findings about impacts from the Water Transfer Agreement; rather the DEIR explains that the construction of facilities within LTRID that may be used to offset the water transferred to WWD 18 for the Project is a separate action of LTRID that was previously analyzed under CEQA.

Comment 5-27: *CEQA requires that an EIR discuss feasible mitigation measures to avoid or substantially reduce a project's significant environmental impacts. (Guidelines 15126.4(a).) The DEIR and FEIR conclude that the project will have significant environmental impacts from rezoning over 900 acres of Agricultural land to urban uses, but contains no mitigation measures or any discussion of possible mitigation measures. Instead, the document simply concludes with no explanation that "no mitigation measures are available." In its December 15, 2009 comment letter, the City described several feasible mitigation measures that are commonly used to mitigate reduction and conversion of agricultural lands (conservation easements and/or Williamson Act contracts to protect lands currently used for agriculture). (Dec. 15, 2009 letter from Andrew Souza, City Manager, City of Fresno, p. 3.) If feasible mitigation measures are available, CEQA requires the lead agency to consider and implement them to reduce or eliminate significant environmental impacts. (Guidelines 15126.4(a).)*

The County's response to this comment suggests that over 1,000 acres of agricultural lands (actually grazing lands) will be preserved via a conservation easement through implementation of Mitigation Measure Nos. 3.4.1d, 3.4.1e, 3.4,3a(1), 3.4.3a(2)(a) and 3.4,5. However, these mitigation measures do not in fact preserve a single acre of agricultural lands. These mitigation measures are mitigating impacts to biological resources, As such they are designed to minimize or avoid impacts on species protected under the state and/or federal Endangered Species Acts and require acres of vernal pool, wetland and other habitat for the California tiger salamander and the western spadefoot be protected from development. These acres are not agricultural land to be used for agricultural purposes or even agricultural land to be used for grazing. It is wholly disingenuous for the County to suggest that these mitigation measures in any way mitigate the impacts on the significant loss of agriculturally zoned land because they do not.

Response 5-27: The commenter suggests that agricultural lands be conserved through conservation easement to offset the agriculturally zoned lands rezoned to inconsistent uses by the Project. As discussed in Response to Comment 18.3 of the FEIR, pursuant to Mitigation Measures 3.4.1b through 3.4.1e, and 3.4.3a(1), 3.4.3a(2)(a) and 3.4.5 and the USFWS Biological Opinion for the Project, the applicant must conserve through a permanent conservation easement (and pursuant to approved grazing management plans) the on- and off-site rangeland properties identified in Tables 3.4.2 and 3.4.3 and Figure 3.4-7 of the EIR. Approximately 482 acres of such conservation property is located within the Specific Plan Area and approximately 208 acres is located immediately east of the Specific Plan site. As such, these 482 acres of agricultural grazing lands (which will be rezoned to open space uses) are immediately adjacent to the approximately 443 acres of agriculturally zoned lands that will be rezoned to residential and commercial uses under Alternative 3. The uses mandated by the USFWS Biological Opinion (which will be memorialized in the conservation easements and grazing management plans) for these 690 acres in the immediate Project vicinity will be consistent with agricultural uses since ongoing grazing is required to manage the properties. Moreover, pursuant to Mitigation Measures 3.4.1b through 3.4.1e, and 3.4.3a(1), 3.4.3a(2)(a) and 3.4.5 and the USFWS Biological Opinion, the applicant must also preserve through permanent conservation easements and subject to grazing management plans approximately 830 acres of lands west of the Project Area. As such, the mitigation proposed by commenter is unnecessary duplication.

However, contrary to commenter's assertion and as indicated at page 3-24 and 4-29 of the DEIR, the County has determined that conservation of over 1,500 acres of similarly-situated grazing land does not mitigate to less than significant the inconsistency with existing zoning on the approximately 443 acres (pursuant to Alternative 3) that are currently zoned for agriculture but will be put to residential and commercial uses.

Comment 5-28: *The City also commented in its December 15, 2009 letter that the County ignored the significance of grazing land as farmland worthy of conservation. The City explained in detail the significant economic value of this land to the County and the Central Valley as a whole, which indisputably establishes that grazing land is "Farmland of Local Importance." The County improperly split the City's comments on grazing into individual statements to enable it to dismiss several comments (such as the economic value of grazing to the area) summarily by concluding that they did not address environmental issues. The County is wrong. Collectively, these comments present a significant environmental concern – the DEIR and FEIR fail to address the significant impacts on a grazing lands in the project area, which are Farmlands of Local Importance. CEQA requires the County to analyze these impacts. The County's failure to do so renders the document inadequate under CEQA.*

In its December 15, 2009 comment letter, the City stated:

"The EIR incorrectly concludes that the Project's conversion of agricultural land is consistent with the County General Plan. However, this agricultural land conversion violates central goals and policies of the General Plan to protect agricultural land, including Goal LU-A (promote long term conservation of productive and potentially productive agricultural land) and Policy LU-A.1 (County shall maintain agriculturally designated land for agricultural use and direct urban growth away from this land). The inconsistency with these policies is a significant environmental impact which requires mitigation."

The County's response to this comment ignores the letter and spirit of the General Plan which repeatedly reinforces the importance of agriculture to the County's future. The General Plan does not simply seek to minimize the loss of agricultural land, it seeks to improve and increase agricultural lands. For example, the General Plan requires the County to implement General Plan land use policies and programs to

conserve agricultural land and to promote improved soil productivity. (General Plan ED-A.14.) It also calls for the County to maintain agriculturally-designated areas for agriculture use and to promote the long-term conservation of potentially productive agricultural land, which is land that is not currently useful for agricultural production but could be if the soil were improved or it was otherwise rehabilitated. (General Plan, LU-A.1, LU-A.) The General Plan also recognizes the County's goals to create jobs and regional prosperity by focusing on growing and improving its primary industry, agriculture. (General Plan, Chapter 2, Goals and Policies for Economic Development.) The courts have repeatedly acknowledged that the general plan is the "constitution for all future developments" and decisions affecting land use must be consistent with the general plan. (See California Native Plant Society v. City of Rancho Cordova, 172 Cal.App.4th 603, 636.)

The City's original comment is correct – the proposed project is inconsistent with the General Plan. This inconsistency must be accurately presented and analyzed in the document, and mitigation measures must be implemented, to bring the EIR into compliance with CEQA on this issue.

Response 5-28: As explained at page 3-15 of the DEIR, "Farmland of Local Importance" is defined by the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) as follows: "important to the local agricultural economy *as determined by the county.*" (Emphasis added.) Figure 3.2-2 of the DEIR identifies the lands so designated by the County. Commenter's attempt to justify its own designation of certain lands as valuable to the economy does not override the County's determinations of Farmland of Local Importance on a Countywide basis. See Response to Comment 5-9 above related to consistency with the County's agricultural General Plan policies.

Comment 5-29: *Furthermore, the goals and policies in the General Plan which seek to increase the influence and importance of the County in the agricultural industry require the County to do more than the minimum of checking the designation of a particular area on the statewide farming maps to determine if the lands at issue have agricultural significance or potential value. As discussed in the City's December 15, 2009 comment letter, soils evaluation criteria such as the Stogie index should have been utilized to evaluate the significance of impacts on agricultural lands. The County's response did not adequately address this issue. It concludes that the project area includes hilly terrain and sandy soils which generally receive low scores under the Stogie index; therefore, use of such tools would have simply reinforced the conclusion that the site contains only unproductive agricultural lands. A conclusory statement which assumes the outcome of an analysis that was never undertaken is not sufficient under CEQA, which requires conclusions to be supported by substantial evidence in the record. (Guidelines 15093.)*

Response 5-29: See Responses to Comments 5-9 and 5-28 above.

Comment 5-30: *The County Provided Inadequate Time For Public Review Of The DEIR: The County appears to have provided an inadequate public review period for the DEIR. According to the Notice of Preparation dated October 3, 2007, the period of public review period began on October 3, 2007 and ended on November 1, 2007. This was a period of 29 days. CEQA requires public review for a minimum of 30 days. (CEQA Guidelines Section 15082). The County's improperly short public review period appears to have violated CEQA.*

Response 5-30: The Notice of Preparation for the DEIR provided for public comment on the scope of the proposed EIR. Section 15082 of the CEQA Guidelines does not define the term of any public comment period nor require the County to accept public comments on the scope. Rather, the purpose of the Notice of Preparation is to solicit guidance from other agencies on the scope and content of the environmental

information to be included in the EIR. The County voluntarily allowed public comment on the Notice of Preparation. Though the Notice of Preparation stated that comments on the proposed scope of the DEIR were due prior to November 1, 2007, the County has continued to accept comments throughout the CEQA process. As noted in Response to Comment 5-8 immediately above, the City of Fresno has submitted several comments on the EIR throughout the CEQA process for the Project.

Comment 5-31: *Noticing Defects Preclude Approval Of The Project On December 7, 2010: In Environmental Defense Project of Sierra County v. County of Sierra (2008) 158 Cal.App.4th 877, the court held that rezoning actions heard by a Planning Commission or other recommending body must be separately noticed for subsequent action by the deciding body because Government Code §65094 requires as part of the necessary notice contents, "a general explanation of the matter to be heard." The court said this explanation must include the Planning Commission's recommendation, and that cannot be done until after the Planning Commission recommendation is made.*

In this case, the County noticed the Planning Commission hearing on this Project (for October 7, 2010) and the Board of Supervisors hearing (for December 7, 2010) in a single notice. (Notice of Public Hearing, Attachment D to this letter.) The City, in inquiries to the County Department of Public Works and Planning, has ascertained that the County failed to separately notice the Board of Supervisors hearing, with an explanation of the Planning Commission's recommendation, after the Planning Commission took action on the Project. Therefore, the Board may not grant final approval to the Project at its December 7, 2010 hearing.

Response 5-31: Comment noted. As evidenced by their ongoing participation in the CEQA and land use process for the Project, City of Fresno has had adequate notice of all the hearings concerning the Project. No action was taken at the December 7, 2010 hearing. Regardless, the County has provided a separate public hearing notice for the February 1, 2011 Board of Supervisors hearing.

Comment 5-32: *The Proposed Resolution Purporting To Approve The Two Zoning Amendments Violates State Law: The draft resolution purporting to amend the zoning map (Application 3751) and the Zoning Ordinance text (Application 363) clearly states that both amendments are "approved" by the resolution. A separate draft ordinance adopting the zoning map changes (Application 3751) is included in the packet, but it does not include Application 363, which adds 8 subsections of detailed zoning regulations to the Ordinance Code of the County of Fresno. This attempt to amend a zoning ordinance by resolution would violate the procedural requirements for zoning amendments set out in Government Code Sections 65853-65856. Without the required ordinance for Application 363, the proposed rezoning is invalid.*

Response 5-32: Comment noted. This comment raises no environmental concerns related to CEQA. No response warranted. It should be noted that a separate Ordinance regarding Amendment to Text has been prepared and is included in the Board packet.

Comment 5-33: *In light of these procedural failings, the defects in the EIR identified in this letter and the City's comments on the DEIR, and the glaring inconsistency of this Project with the most fundamental directive of the County's own General Plan, the City respectfully requests this Board to deny this unwise Project.*

Response 5-33: This comment merely summarizes prior comments and warrants no response. See Responses to Comments 5-1 – 5-32 immediately above.

STRATEGIC PLAN
FOR WATERWORKS DISTRICT NO. 18
FRIANT, CA

July 2010

Prepared for:

Friant Ranch

Prepared by:

Provost & Pritchard Consulting Group
Fresno, California

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TABLE OF CONTENTS

1 Introduction 1
2 Managerial Capacity 2
2.1 Ownership 2
2.1.1 Type of System Ownership 2
2.1.2 Systems Owned by Applicant 2
2.1.3 Items that May Affect Owner's Control of Systems 3
2.2 Organization 3
2.2.1 Organizational Structure 4
2.2.2 Future Organizational Structure 4
2.2.3 Responsibilities of Key Personnel 4
2.2.4 Future Responsibilities of Key Personnel 5
2.2.5 Frequency of Board Meetings 6
2.2.6 Relative Training and Experience 6
2.2.7 Legal, Engineering, and Other Professional Services 6
2.3 Water Rights 6
2.3.1 Permits, Licenses, or Other Agreements 6
2.4 Planning 8
2.4.1 Water System Compliance with Local Land and Water Use Plans 8
2.4.2 Wastewater System Compliance with Local Land and Water Use Plans 8
2.5 Emergency / Disaster Response Plan 8
2.5.1 Potential Emergencies in Water/Wastewater System Service Area 8
2.5.2 Responsible Personnel – Chain of Command 10
2.5.3 Inventory of System Resources 10
2.5.4 Communication Network 11
2.5.5 Emergency Procedures 11
2.5.6 Steps to Resume Normal Operations 11
3 Techncial Capacity 11
3.1 System Description 11
3.1.1 Current Service Area 11
3.1.2 Proposed Service Area 11
3.1.3 Location of Existing and Proposed Facilities 12
3.1.4 Water Treatment System 12
3.1.5 Wastewater Collection and Treatment Systems 13
3.1.6 Other Systems 14
3.2 Source Capacity Assessment and Evaluation 14
3.2.1 Growth Projection (Service Area) 14
3.2.2 Ten-Year Growth Projection of Water Demand 15
3.2.3 Twenty-Year Growth Projection of Water Demand 16
3.2.4 Capacity and Reliability of Water Source(s) 16
3.2.5 Quality of Drinking Water Source 16
3.2.6 Projection of Wastewater Generation 16
3.3 Technical Evaluation 16
3.3.1 Water System Compliance with Distribution Regulations 17
3.3.2 Regulatory Compliance of Proposed Water Treatment Facilities 17

3.3.3 Water Distribution System Design Capacity and Operational Ability 17
3.3.4 Water System Flow Monitoring 18
3.3.5 Critical Water Facilities 19
3.3.6 Regulatory Compliance of Proposed Wastewater Treatment Facilities ... 19
3.3.7 Wastewater Collection, Treatment, and Disposal System Design Capacity 20
3.3.8 Identify Critical Wastewater Facilities 21
3.4 Operations Plans 22
3.4.1 Water System Operations Plan 22
3.4.2 Wastewater System Operations Plan 22
3.4.3 Consumer Confidence Reports 22
3.4.4 Document Appropriately Certified Operator(s) for Water System 22
3.4.5 Relevant Training and Experience; Required Certification for Wastewater System Operation 22
3.5 Training 23
4 Financial Capacity 23
4.1 Budget Projection 23
4.1.1 Fifteen-Year Projection of Anticipated Revenues and Expenditures 23
4.1.2 Consolidated Financial Statement 23
4.1.3 Proposed Rate Structure 23
4.2 Capital Improvement / Equipment Replacement Plan 24
4.2.1 Prioritized Capital Improvement / Equipment Replacement Plan 24
4.2.2 Method to Develop Necessary Funds 24
4.2.3 System Deficiencies Identified in the Technical Evaluation Section 25
4.3 Reserves 25
4.4 Budget Control 25
4.4.1 Discussion of Existing rates 25
4.4.2 Description of Budget Control and Reporting Procedures 26
4.4.3 Procedures Established to Prevent Commingling of Revenue Sources .. 26

LIST OF FIGURES

Figure 1 - District Map
Figure 2 - WWD 18 District Officers and Organizational Chart, Water Treatment Plant
Figure 3 - Conceptual Water System Map
Figure 4 - Conceptual Wastewater System Map

LIST OF TABLES

Table 1 - 10 Year Growth Projection & Phases
Table 2 - Projected Friant Ranch average daily demand for water by residence type and lot size
Table 3 - Projected Friant Ranch Average Daily Demand (ADD) for Non-Residential Water
Table 4 - Projected Existing Community of Friant Average Daily Demand (ADD) for Water (All Land Uses)
Table 5 - Peaking Factors to be Applied to Average Day Demand
Table 6 - Friant Ranch Water System Demand
Table 7 – Existing Community of Friant Water System Demand
Table 8 - Minimum Required Fire Flow by Land Use
Table 9 - Friant Ranch portion of WWD18 Anticipated Revenues and Expenditures

LIST OF APPENDICES

Appendix A - WWD 18 Consumer Confidence Report
Appendix B - WWD 18 Emergency Notification Plan
Appendix C - WWD 18 Water Treatment Plant Operations Plan
Appendix D - WWD 18 Budgets

1 INTRODUCTION

Established on August 17, 1956, Fresno County Waterworks District #18 (WWD 18 or District) today services approximately 234 residential, commercial and industrial connections in the rural community of Friant in Fresno County, California, with an additional 180 potential connections annexed and in the completion process. WWD 18 is currently working with a new proposed development (Friant Ranch) which, if approved, will ultimately add approximately 2,700 additional connections to the District. WWD 18 proposes to incorporate the proposed Friant Ranch development into its service area as a separate zone of benefit, providing both water and sewer services. The 942-acre Friant Ranch project area is situated east of Friant Road, west of the Friant-Kern Canal. Friant Ranch occupies portions of Sections 7, 8, 17, and 18, Township 11 South, Range 21 East (see **Figure 1**).

Water supplies for WWD 18 are presently obtained from Millerton Lake via a contract with the United States Bureau of Reclamation (USBR). The nominal water allotment is currently 150 acre-feet per year, although actual deliveries are limited in drier water years. The treated water is pumped into the clearwell tank and then pumped into the 325,000-gallon storage tank. The system has several pumps, which feed connections to the Bureau of Reclamation facilities, Millerton Lake State Park and the California Department of Forestry Fire Station.

The District financed the water system through the California Department of Water Resources and with careful planning and diligence on the parts of the Board of Directors and the citizens of Friant, that loan has been paid. The ownership of the District belongs to the Community of Friant. There continues to be a small assessment to each property owner for the Operations and Maintenance fund, which is invested in the Local Agency Investment Fund (LAIF) with the State of California and continues to grow and draw interest.

The proposed Friant Ranch Specific Plan (Project or Development) is planned to be a mixed-use, primarily age-restricted development. It will consist of approximately 2,500 dwelling units, of which 2,270 will be age-qualified units (*i.e.*, for active adults 55 years and older) and 230 will be non-age-qualified units, and will include 250,000 square feet of commercial space. The Project site comprises a total of 942 acres, with 482 acres proposed for development and 460 acres proposed for dedicated on-site open space.

The District will expand the present Water Treatment Plant to accommodate the needs of the Project. A new wastewater treatment system is proposed as part of the Project, to be owned, operated and maintained by WWD 18. The new facility will utilize Membrane Bioreactor technology and will be designed to be compatible with surrounding land uses. Treated effluent from the Wastewater Treatment System will be used for irrigation of landscaped areas and open spaces in or near the Project.

A storm drainage system designed according to Low Impact Development principles will be constructed and implemented by the Project. Runoff will be managed so that peak flows do not exceed pre-development rates.

The design parameters and guidelines for the water, wastewater and storm drainage systems are discussed in much greater detail in the Friant Ranch Infrastructure Master Plan (IMP), which is an appendix to the Friant Ranch Specific Plan. The IMP will govern design and development of infrastructure systems throughout the Project.

2 MANAGERIAL CAPACITY

2.1 Ownership

2.1.1 Type of System Ownership

WWD#18 is a public waterworks district organized under the California Water Code Section 64400, which provides the operating authority for water treatment plants; a five-member Board of Directors oversees the District's operations. The Fresno County Board of Supervisors appoints the members of the Board of Directors. The Board appoints the Manager, and currently employs several part-time treatment plant operators for the water treatment plant. The District currently contracts with Management Services, a local administrative services firm, for billing and accounting services, and with local professionals who provide engineering and legal services.

2.1.2 Systems Owned by Applicant

Water System

WWD 18 owns, maintains, and operates the water treatment plant and water supply system located in the Community of Friant, as described in the Introduction of this Report.

The District does not currently provide any direct water services outside its boundaries. **Figure 1** is a map of the District showing the existing service areas. The District does contract with Table Mountain Rancheria (TMR) to provide water treatment for the Rancheria's casino, which is located several miles east of the District service area on Millerton Road. Water for TMR is delivered from Millerton Lake through the District's raw water line, treated using excess capacity in the treatment plant, and delivered to TMR in water trucks contracted by TMR. No District facilities extend to TMR.

No District services overlap with any other agency; at the present, the District's buildings and offices are not shared with any other agency.

Wastewater System

Fresno County Service Area 44 (CSA 44A) owns and operates the Millerton Lake Village Wastewater Treatment Plant, which serves only the Millerton Lake Village Mobile Home Park. The remainder of existing Friant users have no access to wastewater treatment services and are served by individual septic systems.

With the proposed annexation of the Project area, a new wastewater treatment system would be constructed to serve the Project and the current users from CSA 44A. The new wastewater treatment system would be constructed by the Project, owned and operated by WWD 18. The present customers in Millerton Lake Village MHP would be connected to the new facility, and the current CSA 44A treatment plant would then be abandoned. A point of connection would be provided for a future wastewater collection system serving the Friant Community. However, the Project is not committed to construct such a system; the decision to do so would rest with the citizens of the Friant community.

2.1.3 Items that May Affect Owner's Control of Systems

Water System

WWD 18 has full and complete authority to maintain their systems. The District is recognized by the Community of Friant, the County of Fresno and the State of California Department of Health Services. There are no organizational or political obstructions to continuing with this arrangement.

Wastewater System

While WWD 18 does not currently own or operate wastewater treatment facilities, the authority to do so is inherent in its charter as a California waterworks district. Conditions of approval on Project developments would require construction of the new WWTP in phases as described in the IMP, and delivery of title to WWD 18 after acceptance of construction by WWD 18 and other applicable authorities. Taking over responsibility for wastewater treatment for the Project and for the CSA 44A service area will require approval of several actions by LAFCo, These actions will necessitate the District showing its plans and capacity to expand both its services and service area in a satisfactory manner. Consolidation of special districts in a responsible manner is a goal of LAFCo.

2.2 Organization

The existing water system is owned and maintained by WWD 18. The existing wastewater system is owned and maintained by CSA 44A. Both systems have staff to operate their respective plants; neither agency employs full-time operating staff. WWD 18's staff are part-time, while the Fresno County staff who operate the CSA 44A plant also have other Fresno County plants under their operation.

Construction of the new WWTP and transfer of the CSA 44A accounts to WWD 18 will focus both management and operating responsibilities into a single agency, allowing a greater focus of effort and leading to improved operational and managerial efficiencies.

2.2.1 Organizational Structure

WWD 18

There are five members on the Board of Directors. Their terms are for life. The Board currently meets at 6:00 p.m. on the last Tuesday of each month at Friant Depot Shell. The meeting agenda is posted outside the District office, at the Friant Depot, at the Friant Trading Post, and at the Friant Post Office.

The District staff includes one full-time employee, with credentials to operate a wastewater treatment plant, three part-time employees, all plant operators who have a mix of State-issued treatment and distribution certificates appropriate to the water treatment plant.

The District Manager is compensated through the contract between the District and Management Services, which also provides billing and accounting services. This limited staff is adequate to perform all services required at the present time.

See **Figure 2** for the current WWD 18 Board of Directors and organizational chart.

CSA 44A

The existing CSA 44A wastewater plant is currently staffed by operators employed by Fresno County, who also operate numerous other County facilities. County staff have the credentials necessary to operate the existing WWTP in compliance with the Waste Discharge Permit issues by the Regional Water Quality Control Board.

2.2.2 Future Organizational Structure

When the proposed wastewater system comes online, the organizational structure is planned to remain essentially the same as shown in **Figure 2**. The new plant will require more highly-trained staff with higher operator grades than the present CSA 44A facility due to the nature of the Membrane Bioreactor process. WWD 18 already has one staff member with the necessary license to operate the new facility. He will be supplemented by additional qualified staff and/or a contracted WWTP operations firm as needed. The pro-forma budget assumes that the District will choose to retain a contract operator over the planning horizon.

2.2.3 Responsibilities of Key Personnel

The General Manager is responsible for planning, organizing, directing and coordinating all activities and functions of the District and carrying out related Board policies. This responsibility includes, but is not limited to:

- Planning, organizing and directing the field, plant, business and financial affairs of the District under policy direction from the Board
- Attending all meetings of the Board of Directors
- Advising the Board on administrative practice
- Understanding, administering and enforcing all laws applicable to the District's operations
- Developing and presenting the Board with a recommended District budget and overseeing the implementation of the budget as adopted by the Board
- Negotiating and administering water contracts and other legal agreements on behalf of the District, pursuant to policy direction from the Board
- Representing the District in the community and in coordinating District interests with other government agencies, regulatory agencies, professional associations, and technical consultants.
- Providing timely advice and consultation on the development of programs and policies to the Board of Directors
- Reviewing legislation and related information and preparing summary analysis for the Board
- Handling all District human resources and employee relations matters, under policy direction from the Board
- Coordinating the preparation of the Board's meeting agendas and minutes of the previous meeting(s).
- Outlining daily operations for District employees, scheduling and coordinating all employee activities.

Management Services is responsible for the daily operations of the District's billing and accounting. Their services are carried out under direct supervision of the General Manager.

The District maintains a savings account with the State of California LAIF and various accounts with the Bank of America. Two Board member signatures are required on checks over $200.00 and bills must be approved prior to the checks being submitted. LAIF funds are bank transferred via the telephone by Board designees.

2.2.4 Future Responsibilities of Key Personnel

The future responsibilities of key personnel are not anticipated to change with the addition of the WWTP and its operation and maintenance, although the span of responsibility will grow with the expansion of the District's services, and additional support and technical staff will be required. These needs are reflected in the pro-forma budget, though specific staff positions and job descriptions are deferred to the future. The District Manager will continue in his/her tasks as well and will assure that all

operators have and maintain appropriate licenses and qualifications. This position will become full-time in the future, and the Board may choose to directly employ the General Manager and other staff as its needs expand.

2.2.5 Frequency of Board Meetings

The District Board holds public meetings once per month on the last Tuesday of the month. Meeting agendas are posted at the Post Office and throughout the community. The meeting minutes are kept in the district office at 17836 N. Friant Road and are made available to the public.

2.2.6 Relative Training and Experience

The WWD 18 staff includes three certified water treatment plant operators, one full-time and two part-time, and one support staff. As the Project develops, additional staff will be required to manage the growing operational and administrative tasks. Some of the added staffing will be accomplished by converting part-time labor to full-time labor. Alternatively, contract staff may be added. The actual number and qualifications of added staff will be determined as the proposed plant comes online and customers are added. Budget for necessary staff additions will be provided out of increasing operational revenues from new connections, and is modeled In the pro-forma budget.

2.2.7 Legal, Engineering, and Other Professional Services

The District's legal services are contracted with the law firm of Costanzo and Associates. The District employs the Borchardt, Corona and Faeth Accountancy Corporation to audit the financial records annually. Monthly reports are given to the Board of Directors and made available to the auditors from Management Services' full charge bookkeeper. The District contracts with Giersch and Associates, Inc. as the District Engineer, responsible for all engineering consulting and design. Giersch and Associates advises the District in all manners concerning water treatment, and also recommends necessary changes and updates to the water system facilities. They assist the District in agency reporting and grant applications.

2.3 Water Rights

2.3.1 Permits, Licenses, or Other Agreements

Water Supply and Delivery

The District has a water contract with the USBR Friant Division Central Valley Project (CVP) through 2025 which provides for a full allocation of 150 AF of Class 1 water. This amount is not fully delivered in drier water years. In such years, the District has entered into temporary contracts with other long-term Bureau contractors (primarily Fresno Irrigation District) for additional water supplies. The District is responsible for implementing and administering guidelines put into place by the Bureau.

The District currently has two water permits. The first is for the community of Friant, also known as the District's Western Service Area, for a surface water treatment plant. The second is for a well water for the Mira Bella subdivision, which is known as the Eastern Service Area of the District.

The Water Supply Assessment prepared for the Project analyzes the water demand of the Project, and the District's ability to meet those demands over a 20-year planning horizon, in normal, dry and multiple-dry years. In order to meet the demand, the District has entered into a Letter of Intent to secure a long-term reliable water supply by water rights transfer with Lower Tule River Irrigation District. No final agreement has been executed, since CEQA has not yet been completed on the Proejct. The Letter of Intent identifies fundamental deal points of the future agreement. The WSA analysed this proposed agreement and concluded it will provide an adequate and reliable water supply as defined in the California Water Code. Once CEQA for the Project is complete, a final agreement can be considered by the two boards of directors.

Wastewater Collection and Treatment

The District has long acknowledged the desirability of a wastewater treatment plant to accommodate growth in the community and reduce potential for degradation of the San Joaquin River. As discussed in the IMP, the Project will construct a WWTP with an ultimate capacity adequate to treat wastewater generated by the Project as well as in the Western Service Area of the District, at full planned development. However, no wastewater treatment service will be provided to the Western Service Area until such time as a collection system is constructed. Doing so would be the responsibility of the ratepayers of the Western Service Area and is not part of the Project.

The District will be submitting a Report of Waste Discharge for the Project's wastewater treatment plant, and will submit an application for an NPDES permit for storm water disposal to accommodate the Friant Ranch project. These applications will be made subsequent to the approval of Project entitlements and annexation of the Project into the District. That annexation must be approved by LAFCo, which will be pursued following certification of the Project EIR.

When the required permits, annexation and facilities are in place to allow for the closure of the CSA 44A wastewater treatment facility, WWD 18 will follow the required steps with LAFCO to dissolve the CSA 44A district. Along with a District Dissolution Application and other requirements, a resolution adopted by the Fresno County Board of Supervisors per Section 56800 of State Government Code is required with the LAFCO application.

All proposed infrastructure systems will be designed for compliance with applicable local, state and Federal regulations.

2.4 Planning

2.4.1 Water System Compliance with Local Land and Water Use Plans

WWD 18 was formed to provide limited utility service to residents in its defined service area. It has no jurisdiction in matters of land use, planning, zoning, or development. All such matters remain the responsibility of Fresno County.

The District is in the process of creating and implementing a District Master Plan for the portion of the water system serving the present community. This effort is sponsored by the developer of the Friant Ranch Project. With new development anticipated and the other development within the District's boundaries, such a plan is a necessity. The District Master Plan makes every effort to implement improvements recommended by the District Engineer and District Board to accommodate future needs.

The District publishes an annual Consumer Confidence Report (see **Appendix A**) and along with that, a survey is conducted and encouraged by word of mouth for comments concerning the District and its services to the small community.

2.4.2 Wastewater System Compliance with Local Land and Water Use Plans

At present, WWD 18 has no wastewater collection or treatment responsibilities, and has no associated master plans for these utilities. The District has no plan to begin a wastewater collection master plan for the current Western Service Area. Any work on this subject would be pending a formal expression of interest from the community.

The Project IMP serves as a wastewater master plan for the Project area, and will guide the District and County staff in setting appropriate conditions of approval on individual developments within the Project area.

2.5 Emergency / Disaster Response Plan

2.5.1 Potential Emergencies in Water/Wastewater System Service Area

Within the scope of services provided by and proposed by the District, the most serious emergency would be the catastrophic failure of some portion of the raw water delivery or water treatment system. This is so because the limited treated-water storage within the District would mean all customers would quickly be out of treated water, and the already-limited fire flow capabilities within the Western Service Area would be reduced to whatever water is available within the CalFire trucks in the nearby fire station.
Potential failure modes, however unlikely, could include the following:

- Failure or rupture of the steel pipeline that carries the raw water supply from the manifold at the bottom of Friant Dam to the Water Treatment Plant.
- Major equipment failure in the water treatment plant resulting in no way to make potable water.

- Failure of the distribution pumps.
- Failure of Friant Dam, resulting in inundation of the water treatment plant and loss of raw water supply for the District
- Failure of the District's chlorine containment, subjecting portions of the community to contamination by chlorine gas.
- A change in the character of the raw water resulting in inability of the water treatment plant to make potable water.

To minimize the risk of extended downtime, WWD 18 will consider implementation of several contingency policies including:

- Entering into mutual aid agreements with the City of Fresno and/or the City of Clovis, to allow the District to call upon these larger agencies for service personnel, equipment and parts in the event of an emergency.
- Stocking a minimum set of critical parts and materials necessary to repair the raw water line, to avoid wait time for materials.
- Stocking critical water treatment plant parts.

The District is located immediately downstream of Friant Dam and directly east of the San Joaquin River. In the event of a heavy rain season the San Joaquin River levels could raise to potentially threatening levels. 100-year flood plain levels are closely mapped within the district boundaries. The District is within the area affected by the State's 2007 Flood Control legislation mandating flood protection to the 200-year level. The 200-year flood plain line has not yet been mapped, but the elevation can be expected to be three to five feet above the 100-year flood plan. As soon as the new data is available, the District will begin mapping the new lines, and making plans to secure any affected District facilities against this increased threat risk.

The water treatment plant itself, as well as a portion of the current Western Service Area, is within the potential inundation area resulting from a catastrophic breach of Friant Dam. Should such a failure occur, the water treatment plant would likely be lost and have to be rebuilt. At the same time, many of the District's customers would suffer severe damage. However, the likelihood of such a failure is considered very remote, given the nature of Friant Dam's mass-concrete construction, which relies only upon the weight of the concrete in the dam, rather than on its structural integrity, to assure that the dam remains in place and intact. No specific planning for this possibility is considered necessary.

The District uses sodium hypochlorite rather than gaseous chlorine as a disinfectant in its water treatment operation. This chemical is stored at the water treatment plant in its stable form, in drums, making, a chlorine system failure at the water plant unlikely to create impairment hazard for the general public. Both staff at the plant and CalFire staff at the nearby station are trained and equipped to repair a chlorine system leak if it should occur.

Neither the water treatment plant expansion nor the new wastewater treatment plant will require storage of large quantities of chemicals that could cause a concern for public health risk.

2.5.2 Responsible Personnel – Chain of Command

The District has a Water Quality Emergency Notification Plan on file, indicating appropriate District contacts as well as contacts for the California Department of Public Health (DPH). The Emergency Notification Plan is attached as **Appendix B**.

2.5.3 Inventory of System Resources

- Interagency Support Agreements – At present, the District has no formal interagency support agreements with other governmental agencies in the area. Nevertheless, the District has and maintains good relations with the neighboring and overlapping agencies, and has the ability to support them in emergencies as appropriate.

- Flooding – A flood event during early 1997 (greater than the 100–year flood as defined at that time, but now equivalent to approximately an 87-year flood) showed that residences and other customers in the community were unaffected by the flooding, with the exception of the State Fish Hatchery, which was flooded.

- Fire Protection – This service is provided by the CDF, from a station located on Friant Road near the Water Treatment Plant.

- Fire – Water Storage/Fire Hydrants – The District replaced all old water mains within the Western Service Area within the last year. A part of that project included replacement or refurbishment of existing fire hydrants. All the hydrants within the District boundary are now rated for 1,500 gallons per minute. New facilities in the Friant Ranch community will be designed to maintain this upgraded capacity for fire protection.

- Chemical Spill – CDF response – in the event of a chemical spill, the CDF and County Fire & Sheriffs will be able to help with cleanup and event control.

- Vendor Set Up When Needed for Bypass – All existing and proposed water treatment systems have redundancy built into the systems to provide continued service in the event of loss of a key piece of equipment. A short term loss of power at the Water Treatment Plant should not cause supply shortages due to the storage volume available in existing ground-level tanks. Water to the treatment plant is gravity-fed from the dam, and no pumping is needed during the treatment process. The WTP is located in an area secured by the Department Homeland Security due to its proximity to the Friant Dam and its related diversion structures and pump systems. A backup generator for the treatment plant is being installed in Spring, 2010, along with an additional water filter.

2.5.4 Communication Network

In the event of an emergency affecting water quality or healthiness, District personnel would immediately notify customers door to door. In the event that no one was home, a flyer would be left on the front door and a contact number left for more information, and water service would be shut off. The District would continue to attempt to make contact, and service will be restored after the District makes a positive communication of the emergency notice.

The Neighborhood Watch organization would be notified and could also aide in notifying customers. Flyers will also be made available at public locations for further information dissemination. Due to the limited size of the Western Service Area, this can be accomplished within hours of beginning the process.

2.5.5 Emergency Procedures

In addition to District staff and equipment for utility related emergencies, the District actively maintains relations with other local agencies, all of whom are available to assist in emergencies:

- Fresno County Sheriff's Department
- California Division of Forestry (Local station in Friant)
- California Highway Patrol
- United States Bureau of Reclamation and Friant Water Users Authority staff at Friant Dam (adjacent to the water treatment plant)
- Local Ambulance service (available through the 911 system)

2.5.6 Steps to Resume Normal Operations

These steps are detailed in the WWD 18 WTP Operations Plan in **Appendix C**.

3 TECHNCIAL CAPACITY

3.1 System Description

3.1.1 Current Service Area

WWD 18 currently serves approximately 234 residential, commercial and industrial accounts in the rural community of Friant in Fresno County, California, with an additional 180 residential parcels (in the Eastern Service Area) annexed and awaiting completion as the market demands (see **Figure 1** for a map).

3.1.2 Proposed Service Area

The proposed service area will add substantial area to the District's Western Service Area, including the Friant Ranch master planned community, consisting of

approximately 2,500 residential units, of which 2,270 will be age-qualified units (*i.e.*, for active adults 55 years and older) and 230 will be non-age-qualified units.

The proposed Friant Ranch project is located adjacent to the existing community of Friant in the north-central unincorporated portion of Fresno County. **Figure 1** shows the general vicinity of the proposed project. The area is an access point to many recreational opportunities, particularly aquatic activities, with Lost Lake Recreation Area southwest of the Project site, and Millerton Lake State Recreation Area to the north.

The Friant Ranch project encompasses 942 acres, in which 2,270 active adult units and 230 non-active adult multifamily units are proposed, along with a 250,000 square foot Village Center providing retail goods and services to new and existing residents in Friant. In addition, a 42,000 square foot recreation facility is proposed to support the needs of the active adult population in the community.

3.1.3 Location of Existing and Proposed Facilities

The existing water treatment facility is located at near the base of Friant Dam. See **Figure 3** for the location of the existing water treatment facility.

An existing wastewater facility serving only the Millerton Lake Village Mobile Home Park is located at the south property boundary of the Mobile Home Park. The existing plant is to be abandoned upon completion of the proposed new WWTP. See **Figure 4** for the location of the existing and proposed wastewater treatment facilities.

3.1.4 Water Treatment System

Existing Water System

The existing WWD 18 water treatment facility uses a clarification and filtration process designed to treat the water from Millerton Lake, currently serving the Community of Friant, the Bureau of Reclamation – Friant Dam, the California State Park – Millerton Lake, and the California Department of Forestry. The design treatment capacity was initially 400 gpm, or 0.55 mgd, but has been lowered by the State Department of Health to 269 gpm. Presently the plant normally runs at approximately 250 gpm. See **Appendix C** for the WWD 18 operations plan which contains further operational information.

The water treatment plant will be expanded in phases to meet the demands of Friant Ranch. By doing so the community will benefit from the expansion and will gain a renewed water treatment plant.

The District, through Community Development Block Grants (CDBG), has replaced all of the water lines and fire hydrants within the current Western Service Area.

Proposed Water System

Water Supply Agreement
An agreement in principle has been approved by Lower Tule River Irrigation District (LTRID), subject to environmental review and approval by the US Bureau of Reclamation, securing a water supply of up to 2,000 AF per year, to be supplied to WWD 18 for Friant Ranch on an every-year basis, without interruptions or reductions. The water is to be delivered from US Bureau of Reclamation storage behind Friant Dam, through facilities planned and constructed by Friant Ranch or WWD 18, owned by WWD 18 and managed by USBR. The details of the water supply and an evaluation of its reliability are contained in the Water Supply Assessment for the Friant Ranch Specific Plan, adopted by the WWD 18 Board of Directors.

The water system for the Project will be designed to provide a reliable and adequate volume of potable water, meeting all applicable regulations, for use by residential and commercial customers within Friant Ranch and the rest of the Friant community. Municipal water for the project will be treated at the existing WWD 18 plant site. The Friant Ranch Development will work with the District to expand the plant in phases to provide adequate water to the community and to the Project as it develops. The sizes of the incremental expansions will be at the discretion of the District's engineer.

The IMP for the Project requires that the surface water treatment plant be designed to include multiple operating units, so as to limit the total production capacity taken off line when service or repair of any single unit is needed. In addition to expansion of the treatment plant, Friant Ranch will also participate with WWD 18 to construct the pipelines, connections, tanks and pumps required to deliver sufficient capacity from Friant Dam to the treatment plant, and to the Project. These facilities will include coagulation, flocculation, settling, filtration, and disinfection, all in accordance with the Surface Water Treatment rule. **Figure 3** shows a conceptual plan of the proposed water supply system.

3.1.5 Wastewater Collection and Treatment Systems

Existing Sewer Collection and Treatment System

The Millerton Lake Village Mobile Home Park (MHP), located on the bluff at the southern edge of the community (adjacent to the north edge of the Friant Ranch Development) owns a community wastewater collection system, a small packaged wastewater treatment facility, and several percolation ponds for effluent disposal. The MHP maintains its own sewers, and County Service Area (CSA) 44 operates the wastewater treatment facility.

Friant Ranch has committed to replacing the function of the present CSA 44A treatment facility by providing treatment and disposal facilities of sufficient size to serve both the Friant Ranch Development and the present CSA 44A service area. In order to do so, CSA 44A would need to be reorganized, subject to LAFCo approval, and the

boundaries of its sewer service area incorporated into the service area boundary of WWD 18. Fresno County officials have indicated willingness for this to happen.

Proposed Sewer and Treatment System

Because of the lack of wastewater treatment in the existing community, there is only a limited opportunity for new developments within the Western Service Area. Single-family residences can be accommodated by septic tanks, but more-intensive commercial developments are problematic.

The Friant Ranch Specific Plan contemplates a population of approximately 5,765 at build-out, and a total wastewater production of approximately 460,000 gallons per day not including commercial uses. In addition, the Friant Ranch Development is committed to providing treatment capacity for the existing and planned future uses of the Friant Community Plan area, which has a projected peak flow of 165,000 gallons per day. Including estimated commercial and industrial flows, total wastewater production is expected to be between 700,000 and 800,000 gallons per day (gpd), at buildout, or as much as 900 AF per year.

The design proposes use of recycled water (treated, filtered, disinfected effluent) for irrigation of landscaped open space areas such as trails, road medians and landscape easements to the maximum extent practical. In addition, recycled water will be used to irrigate other agricultural areas near the Specific Plan. This use of recycled water will be carried out progressively, as effluent volume increases with build-out.

3.1.6 Other Systems

Proposed Storm Drainage Facilities

The present community of Friant has no storm drainage network and very limited infrastructure. There are two locations where surface drainage passes under Friant Road, and continues to the River using natural watercourses; both installations are now being upgraded as a part of the widening project for Friant Road.

Construction of the Friant Ranch Development will include a number of facilities to collect, treat, and dispose the storm drainage, and are described more fully in the Infrastructure Master Plan.

3.2 Source Capacity Assessment and Evaluation

3.2.1 Growth Projection (Service Area)

The Friant Ranch Development is proposed to be constructed in four phases over a period of approximately 10 years, depending upon market demand. See **Table 1** for a estimated per-year and phase breakdown.

Phases may occur in any sequence and concurrently with one another provided, however, that the necessary infrastructure and utilities needed to support each phase

are in place prior to issuance of any certificate of occupancy for that phase. The following phase descriptions are taken from the Friant Ranch Specific Plan.

Phase 1. Phase 1 initiates the development of approximately 664 residential units located near the northern boundary of the Specific Plan Area, the residential and commercial infrastructure within the 32.6-acre Village Center, and the larger active adult recreation center. The advantage of initiating the project implementation from this area is that it ensures planned growth that starts adjacent to existing communities and also ensures completion or near completion of necessities and residential amenities prior to residential occupancy. Also, developing the infrastructure adjacent to the commercial component will allow for implementation of various commercial services as quickly as demand allows.

Phase 2. Shortly after Phase 1 commences, construction will begin on the residential areas located near the western boundary of the Specific Plan area. Development will consist of up to 618 residential homes anchored by pocket parks and surrounded by undisturbed open space. An initial 50,000 sq ft of commercial development within the Village Center is anticipated to be constructed as residential demand occurs at sustainable levels.

Phase 3. Phase 3 starts the construction of residential areas located in the northeastern portion of the main Specific Plan Area. Development will consist of up to 753 single-family residential homes and park land. The next 100,000 sq ft of commercial development within the Village Center is anticipated to be completed at this time.

Phase 4. The final phase (Phase 4) will occur in the southeastern portion of the Specific Plan Area with up to 465 residential homes and park land. The remaining 100,000 sq ft of commercial development within the Village Center is anticipated to be completed at this time.

3.2.2 Ten-Year Growth Projection of Water Demand

Expected Water Supply Requirements

Expected water demand for the Friant Ranch community will be a composite of the specific water demands for the various types of land uses proposed. These demands are summarized in **Table 2** and **Table 3**.

Overall water use patterns for proposed land uses and densities are expected to be similar to those of other Valley communities which have implemented water metering together with tiered water rates. Estimated demands are presented in **Tables 2 and 3**. Total annual consumptive water demand for all land uses will be 1,070 AF.

The Maximum Day Demand and the Peak Hour Demand were estimated based upon peak factor ratios applied to the Average Day Demand. Peaking factors used in the

Max Day and Peak Hour demand estimates were derived from water use records for similar developments in the City of Clovis and are shown in **Table 5**.

The unit water use and peaking factors were applied to the land use types for the system to develop water use for separate project phases. Water demands for the system are presented on **Table 6** in units of gallons per day (gpd) and gallons per minute (gpm).

3.2.3 Twenty-Year Growth Projection of Water Demand

The Friant Ranch development is projected to build out to its maximum population in ten years, as shown in **Table 1**. The Community of Friant is not planned to grow beyond the land uses currently shown in the Friant Community Plan and included in the Friant Ranch Specific Plan IMP. Twenty-year growth projections for WWD 18 are therefore the same as the ten-year projections.

3.2.4 Capacity and Reliability of Water Source(s)

The adequacy of the proposed water source was analyzed in the Water Supply Assessment for the Friant Ranch Specific Plan, and was found to be adequate and reliable over a 20-year planning horizon in accordance with the requirements of the California Water Code.

3.2.5 Quality of Drinking Water Source

The physical source of surface water will be Millerton Lake. Water in the lake is of high quality surface water. Low in turbidity and chemical content, it is feasible to treat to drinking water standards with standard technologies without unusual expense, based upon the experience of the WWD 18, Brighton Crest, and Hidden Lakes treatment plants, all of which use the same surface water supply. Treatment processes will comply with the Department of Public Health Surface Treatment Water rules, and will include coagulation, flocculation, filtration and disinfection.

A watershed sanitary survey of the source water entering Millerton Lake has been completed and submitted to the California Department of Public Health for other potable water supply systems presently treating water from this acceptable source.

3.2.6 Projection of Wastewater Generation

See Section 3.1.5.

3.3 Technical Evaluation

Content of this section is intended to summarize the proposed construction of water and wastewater systems provided by WWD 18 to serve the existing community and the proposed Friant Ranch Development. Details can be found in the IMP.

3.3.1 Water System Compliance with Distribution Regulations

WWD has a lengthy history of delivering safe water to its customers; consumer confidence surveys, as required by the Department of Public Health and USEPA, are published annually and distributed to customers, illustrating this compliance. Several specific programs have been established to confirm this compliance, as follows:

- Lead and Copper Rule Compliance. The District conducts periodic sampling programs throughout the distribution system to measure levels of these two metallic products in the system. Oftentimes the chemical content of the water causes these metals to leach from piping and plumbing systems into the water. Repeated monitoring of the system shows that corrosion control is adequate, and the water reliably complies with lead and copper rule requirements.

- Backflow Prevention. In larger communities the presence of industrial users causes a concern that water is used in locations where a backward flow from the user (an irrigation system or chemical process, for example) could cause contamination of the community system. In those locations, a backflow prevention device is required. The devices must be tested periodically to assure they perform as designed. The Town of Friant has five (5) BFP installations at present. The WWD's current BFP program uses a specialized testing company to inspect and certify each backflow prevention device every year. When the Friant Ranch community begins to develop additional commercial businesses, the need to update the BFP program will be reevaluated.

- Disinfection and Turbidity monitoring, sampling, and reporting in accordance with DPH requirements.

These topics represent the heart of the drinking water treatment process, and are closely regulated by the California Department of Public Health (DPH). WWD 18 complies fully with DPH requirements for operations, monitoring, testing, and reporting. These operating records also serve as the basis for Consumer Confidence Reports, described above.

3.3.2 Regulatory Compliance of Proposed Water Treatment Facilities

The potable water treatment capability of WWD 18 will be expanded in multiple phases during development of Friant Ranch. As set forth in the IMP, the expansions will be designed to comply fully with DPH requirements. Design drawings and the resulting construction will be reviewed by DPH prior to startup of treatment operations.

3.3.3 Water Distribution System Design Capacity and Operational Ability

Friant Ranch would provide the following:

- Pay, on behalf of WWD 18, the cost to secure an assured supply of surface water sufficient for the needs of the development. (Ongoing expenses related to water purchase will be borne by the system's customers.)
- Provide and/or pay the cost of expansion to the present water treatment plant, distribution facilities and storage facilitiesin accordance with the IMP.

Water Production, Storage, and Distribution Standards

Municipal water treatment capacity will be kept adequate to meet consecutive Maximum Day Demands for the developed project area as the various phases are brought on line. Water distribution pumping capacity and redundancy will be adequate to meet Peak Hour flow demand (or Max Day plus fire flow, whichever is greater) with any single booster pump out of service. Water storage capacity will be sufficient to satisfy the equalizing requirements on the maximum day, plus the capacity required for fire protection. Due to the location of the treatment plant adjacent to Friant dam, it is apparent that storage of raw water prior to treatment is not necessary at this site.

Each of these subjects is discussed in detail in the IMP.

Water Distribution System

The distribution system now serving developed parts of the town of Friant will be mostly unaffected by the new construction required to serve Friant Ranch. At present, the piping network is divided into two mostly independent systems (pressure zones A and B) which operate at different pressures. This allows the both low-lying residences near the river and higher elevation residences in the Mobile Home Park to receive service at pressures between 40 and 60 psi (See **Appendix E** for existing Water System Basemap).

Figure 3 shows a conceptual plan of facilities needed to convey water from the WWD 18 water treatment plant to the development and the major water distribution system components within Friant Ranch. More operational detail is in the IMP. Construction of these improvements will be phased along with build-out of the project. Construction will be designed and funded by the Project subject to review and approval by WWD 18 and DPH.

3.3.4 Water System Flow Monitoring

Both existing and proposed treatment facilities for the District will be metered to monitor and record raw water supplied, finished water treated and delivered to onsite storage, and water pumped to the community. Storage tanks will also be equipped with level sensing devices and remote readouts. Stored water inventory will also be continuously tracked and recorded, all to allow costs to be correctly allocated between the current Western Service Area and the Project, which will be operated as a separate Zone of Benefit.

3.3.5 Critical Water Facilities

Several parts of the water distribution system will be critical to continued operation of the potable water delivery system. Each is described below, along with a discussion of reliability and protection features provided.

Raw Water Supply Pipeline - A new pipeline will be constructed on USBR property at Friant Dam, to deliver water from the lake to the Water Treatment Plant (also located within the fenced area of the Friant Dam complex). Loss or failure of this pipeline for any reason will cause the immediate shutdown of treatment operations and failure of customer deliveries soon thereafter. Due to the location of this pipeline within the confines of the Friant Dam complex it is subject to scrutiny by Department of Homeland Security (DHS), and the added attention to security entailed.

Treatment Plant Process Components – The present and expanded treatment facility will include redundant equipment and process for all units susceptible to failures which could jeopardize treatment capacity, or quality of finished water. In addition, the location of this site is also within the confines and protections afforded by Friant Dam, as described above.

Finished Water and Booster Pumping Stations – Transmission pipelines from the treatment plant to the distribution system will be buried with normal precaution against pipe damage. However, the booster pumping station used to feed the distribution systems will be located above grade, in areas less secure than the Water Treatment Plant. Each such site will be secured in a fenced area (often on the same site as a storage tank) and will monitor for security breaches by intrusion alarms, CCTV, or similar means. Remote stationareas are also subject to disruption from loss of power due to any reason. Where critical, booster stations will be provided with standby power generators, so that loss of power can be accommodated without a loss of water pumping capacity. As with the treatment plant, all critical units at booster stations will be provided with redundant equipment, to allow full design capacity even during equipment failures.

Storage Tanks – Although critical to the normal operation of the system, storage tanks are normally not thought of as sensitive to loss or failure, due to their robust construction. Each tank site will, however, be fenced and monitored with intrusion alarms. Access points into the tank- hatches will be locked.

3.3.6 Regulatory Compliance of Proposed Wastewater Treatment Facilities

Wastewater treatment and disposal facilities will be regulated by the California Water Quality Control Board, Central San Joaquin Region (RWQCB). Permitting, design, treatment, sampling and testing, and reporting standards for the facility will be set by RWQCB.

3.3.7 Wastewater Collection, Treatment, and Disposal System Design Capacity

General

Wastewater collection, treatment and disposal systems for the Project are described in the IMP. Major elements are mentioned below. All design and construction will be accomplished and funded by the Project, under the review of WWD 18 and subject to the discharge permit received from RWQCB.

Wastewater from the Friant Ranch development will be collected and treated at a new wastewater treatment facility to be constructed at a site shown on **Figure 4**. Treated effluent is planned to be used for irrigation of landscaped open spaces within and outside of the development, including agricultural areas near the Specific Plan.

Future Connection of the Friant Community

Friant Ranch will not construct or fund the collector sewers required to implement service to the community beyond the boundaries of Friant Ranch itself. However, capacity will be provided in the wastewater treatment plant and effluent disposal pipeline to accommodate future provision of service to the existing and planned future uses within the Friant Community Plan boundary, as shown in the current Community Plan update. The final phase of the WWTP will include sufficient treatment capacity for full build out of this Friant Community Plan area.

Once treatment and disposal capacity becomes available, it is possible that the existing community, working with WWD 18, might seek financing to pay for construction of a collection system for the existing community. Pumping stations and one or more pipe crossings of Friant Road would be needed to convey the flow to the new treatment facility. None of these facilities are proposed for construction by the Friant Ranch.

Treatment Plant Phasing

Wastewater treatment facilities will be constructed in multiple phases, as the Project is built out. Phase A facilities will be designed to handle 0.25 MGD. At the design rate of 80 gpcd and assuming 1.9 persons per household, 0.25 MGD will support about 1,600 Equivalent Dwelling Units (EDUs).

Phase B (an additional 0.25 MGD capacity) will be constructed as demand warrants; the resulting capacity of 0.50 MGD will be sufficient to serve the entire Friant Ranch development, including an allowance for commercial flows.

Phase C (an additional 0.30 MGD capacity) would be constructed if wastewater demand exceeds 0.50 MGD. The WWTP site shown on **Figure 4** is large enough to accommodate facilities to treat approximately 0.80 MGD. This capacity would be adequate to serve all of Friant Ranch, as well as all existing and planned future uses within the Friant Community Plan area.

3.3.8 Identify Critical Wastewater Facilities

Several features of the wastewater collection and treatment systems are considered critical in that their loss would cause a need to shut down the system. All are designed with redundancy, standby power, and/or protection to allow them to continue service during the loss of a key component.

Pumping stations in the collection system – Pumping stations will be located below grade, and covers and access points will be flush with the surface. This arrangement not only minimizes graffiti and similar problems, it makes the installation less noticeable in the community, and protects the station from vehicle damage. Pumping equipment in each station will be redundant. Materials will be selected for severe corrosion resistance. Stations will be provided with either standby power or provisions for rapid hookup of portable generators. In either case, wetwell levels will be monitored and transmitted to a central monitoring location, so that abnormal changes in wetwell level can be detected and handled promptly.

Treatment plant unit processes and key equipment. -- The treatment plant will be provided with several features to assure full compliance with the requirements of Title 22 for effluent reclamation. Although not all-inclusive, the features required for compliance are provided to assure consistent, reliable delivery of water of the expected quality. Plant features to provide this assurance will include, but not be limited to, the following:

- Standby power generation facilities sufficient to operate necessary process units.
- Redundant machinery and/or components, as needed to allow uninterrupted operation during loss of any device.
- Automated control, monitoring, and alarm systems. These shall be of open architecture so the operating staff is not bound to a single vendor for maintenance.
- Process ability to remove nitrogen to levels less than 10 mg/l, measured as Nitrogen. This is the allowable nitrate level for potable water.
- Compliance with requirements for monitoring of turbidity, effluent BOD, and other constituents as specified in the Waste Discharge Requirements.
- Temporary storage facilities for “off-spec” water, sufficient to contain one day’s production. Water not meeting the necessary quality would be stored and re-treated as capacity is available.
- Staff training, particularly in the application of reclaimed water in public spaces.

The intent is to provide a facility adequate to treat and reclaim water from the Project, reliably and in full compliance with applicable rules and regulations.

3.4 Operations Plans

3.4.1 Water System Operations Plan

See **Appendix C** for the WWD 18 Water Treatment Plant Operations Plan, dated March 25, 2009. The WWD 18 Operation Plans are reviewed and updated every five (5) years.

3.4.2 Wastewater System Operations Plan

An operations plan for the WWTP will be developed as a part of the construction process. The Plan will cover routine operations and maintenance activities of the treatment plant, and will include information on operations and service of the pumping stations. A copy of the Waste Discharge Permit and associated monitoring and reporting plan will be included.

3.4.3 Consumer Confidence Reports

Included in **Appendix A** is the WWD 18 Consumer Confidence Report dated September 2009. This mandatory annual report is prepared by every public water system and distributed to its customer base. WWD 18 complies with these requirements.

3.4.4 Document Appropriately Certified Operator(s) for Water System

Three operators currently operate the WWD 18 Water Treatment Plant. The current operators have the following certifications:

- Jack L. Wagner – Grade D-2, Grade T-2, Grade W-3 (wastewater)
- Stephanie Pickens – Grade D-1, Grade T-1
- Bill Borough – Grade D-1, Grade T-1

As noted, Mr. Wagner is licensed to operate a wastewater facility, though the District does not currently require such licensure.

3.4.5 Relevant Training and Experience; Required Certification for Wastewater System Operation

Both the water treatment plant and the wastewater treatment plant will require, as a part of the regulatory permitting process, retention of operators experienced in the type of treatment provided, and with the appropriate state license to operate the facility. The Membrane Bioreactor plant proposed in the IMP will require a Grade 3 operator from its initial startup.

WWD 18 will be responsible to hire or contract with appropriately-licensed operators when that plant comes on line. Both options remain open and a final decision will be made when the actual economics of the situation can be evaluated.

3.5 Training

WWD 18 is committed to providing the necessary training for operation staff to allow them to maintain necessary accreditations, to work safely under OSHA and similar labor laws, and to stay current with changes in regulations, permits, and equipment, and processes.

4 FINANCIAL CAPACITY

4.1 Budget Projection

4.1.1 Fifteen-Year Projection of Anticipated Revenues and Expenditures

It is anticipated that the Western Service Area will continue to be operated in a manner consistent with its current practices of handling revenues and expenditures. The District currently has four improvement projects either funded or applying for funding to benefit and serve the current users.

Future capital improvement projects from Section 3.1.5 and 3.2 for the Water and Wastewater systems needed for Friant Ranch have been analyzed in a financing strategy report prepared by Economic & Planning Systems, Inc.; November 3, 2008. **Table 9** provides an anticipated revenue and expenditures breakdown of improvements needed to serve the Friant Ranch area. This projection is by phase and will most likely occur over a ten to fifteen year period. This financing strategy recommends the following funding sources necessary for development of the infrastructure and includes developer funding, a public debt-financing mechanism, and fee program. It is proposed that a Mello-Roos Community Facilities District (CFD) be formed by Fresno County Water Works District 18 (WWD 18) for debt financing of major public infrastructure improvements serving Friant Ranch. The fee program would apply per unit fees to each residential unit and to commercial space and reimburse the developer funding as fees are collected similar to other programs in surrounding communities. The financial strategy report also includes a cost burden feasibility test to analyze what percentage of the finished home price is represented by the fees required to cover the cost of building the required infrastructure. The units according to this report fall within the feasibility range.

4.1.2 Consolidated Financial Statement

Included in Appendix D are 5 years of budgets from 2005 – 2009.

4.1.3 Proposed Rate Structure

The proposed rate structure for the Friant Ranch Specific Plan area would be similar to the structure the District uses for the original Community of Friant benefit area and the newly formed Mira Bella benefit area, although the rates are expected to be different

due to the higher capital cost to be recovered within the Project area. The existing rate structure includes an initial flat rate for a set amount of water. Additional water usage is tiered so the more used, the higher the unit rate charged. Water rates for the project will be established following this model once true capital and operating costs are known.

The District also charges a fee per parcel through the taxation process.

A rate study report will be prepared and adopted prior to the District providing a Will Serve letter to new development areas.

4.2 Capital Improvement / Equipment Replacement Plan

4.2.1 Prioritized Capital Improvement / Equipment Replacement Plan

At present the District is working on or toward four capital improvement projects.

- Friant Road water line replacement – Funded by grant from Table Mountain Rancheria. This project is currently under construction and will be completed in 2009.
- Filter Addition to Water Treatment Plant – Funded by Indian Gaming money.
- Water line removal and replacement with PVC.
- Replace water line from treatment plant to CDF facilities – to be funded by State of California Forestry.

Future capital improvements anticipated at this time are all related to the development of Friant Ranch. The improvements expansion is planned to occur in stages, the timing of which will be determined by the pace of development at Friant Ranch, and which is generally set forth in the IMP. Some or most facilities will become conditions of approval of various Final Maps put forward by the Project over its development. Design and construction will be by the Project, under review by WWD 18 and appropriate regulatory authorities.

4.2.2 Method to Develop Necessary Funds

All Project-related capital facilities will be funded by the Project either directly or through Capital Facilities District financing driven by and paid for by the Project. No project-related capital facilities costs will be pushed back to the District or the customers in the current Western Service Area.

Annual operations, maintenance, and other costs associated with the wastewater system will be paid for through regular customer sewer service fees, set up as a separate zone of benefit for the Friant Ranch users to not cause the existing users to pay for facilities improvements they did not trigger.

4.2.3 System Deficiencies Identified in the Technical Evaluation Section

No water system deficiencies have been identified that will cause a demand of capital funds for the next few years. Since WWD 18 does not currently operate a wastewater utility, there are no deficiencies to be identified.

4.3 Reserves

The District currently has reserves put aside in the LAIF (Local Agency Investment Fund) account to provide for any breakdown of equipment, water lines and emergencies. With the implementation of the Friant Road project and the 10" water line and a new filter to be added to the plant, the District is in position to accommodate existing and future growth within the District and has adequate financial reserves.

> Note: The Local Agency Investment Fund (LAIF), is a voluntary program created by statute; began in 1977 as an investment alternative for California's local governments and special districts and it continues today under Treasurer Bill Lockyer's administration. The enabling legislation for the LAIF is Section 16429.1 et seq. of the California Government Code.
>
> This program offers local agencies the opportunity to participate in a major portfolio, which invests hundreds of millions of dollars, using the investment expertise of the Treasurer's Office investment staff at no additional cost to the taxpayer. This in-house management team is comprised of civil servants who have each worked for the State Treasurer's Office for an average of 20 years.
>
> The LAIF has grown from 293 participants and $468 million in 1977 to more than 2,746 participants and $25.2 billion at the end of June 2009.

4.4 Budget Control

4.4.1 Discussion of Existing rates

The Board of Directors raised the minimum residential and commercial water rates in 2005. The District currently charges $31.00 per month for residential and $45.00 per month for commercial entities for the first 22,000 gallons of monthly water usage. Additional water usage is charged on an escalating tiered structure so that the more used, the more charged per gallon.

The Board of Directors voted to not increase the water rate in 2009, and will analyze the rate and expenses in an effort to increase reserves for the next fiscal year.

The District currently receives $15.00 to $60.00 per parcel through the taxation process, which is applied to general operating expenses and miscellaneous non-water-related services provided to the customers. The remainder of District operating funds comes directly through monthly billing of the residents of Friant for the water used. These combined funds have been sufficient to cover the costs of providing services to Friant, but have not been enough to cover future development or upgrades.

The capital improvement fund balance is approximately $200,000.

The District has no outstanding debts.

4.4.2 Description of Budget Control and Reporting Procedures

The District's fiscal year ends on June 30th. The District engages each year in a contract with Borchardt, Corona and Faeth Accountancy Corporation who does an annual audit and reports to the District and the State of California. The auditors, within 180 days of the close of the fiscal year, prepare and deliver an annual written report to the Board with respect to the fees collected, allocated, expended and refunded, or otherwise advanced or transferred between accounts referred to herein for public facilities to be constructed or acquired for such district fiscal year and the Board then makes the annual report available to the public as required under California Government Code 66000. The audit for the last fiscal year was just finished and the District is waiting on the results. The Board of Directors at its regular meeting after the audit approves the audit and all the information is made available to the public.

4.4.3 Procedures Established to Prevent Commingling of Revenue Sources

The District bookkeeper deposits and accounts for all fees received by the District to the extent required and pursuant to California Government Code, sections 66006 and 66008. Investments by the District include deposits into the Local Agency Investment Fund with the State of California. This is accomplished via bank wire transfers between L.A.I.F. and the District. There are two authorized people within the District to complete the transfers – the board president and the general manager. There are restricted bank accounts that receive the deposits, each controlled by PIN number.

The District has capital facilities accounts corresponding to the respective categories of the types of public facilities set forth in the impact fee report. The funds received for each project are segregated by the District into separate capital facilities accounts in the general ledger to avoid any possibility of commingling project monies with general operation funds. The District maintains and modifies as necessary a full computerized ledger accounting system from fiscal year to fiscal year. The District bookkeeper allocates and deposits all collected fees into the accounts corresponding to the respective categories of the types of District facilities identified in the relevant impact fee report. The fees in such accounts are credited to and deposited in such accounts and are used only for the purposes specified.

FIGURES

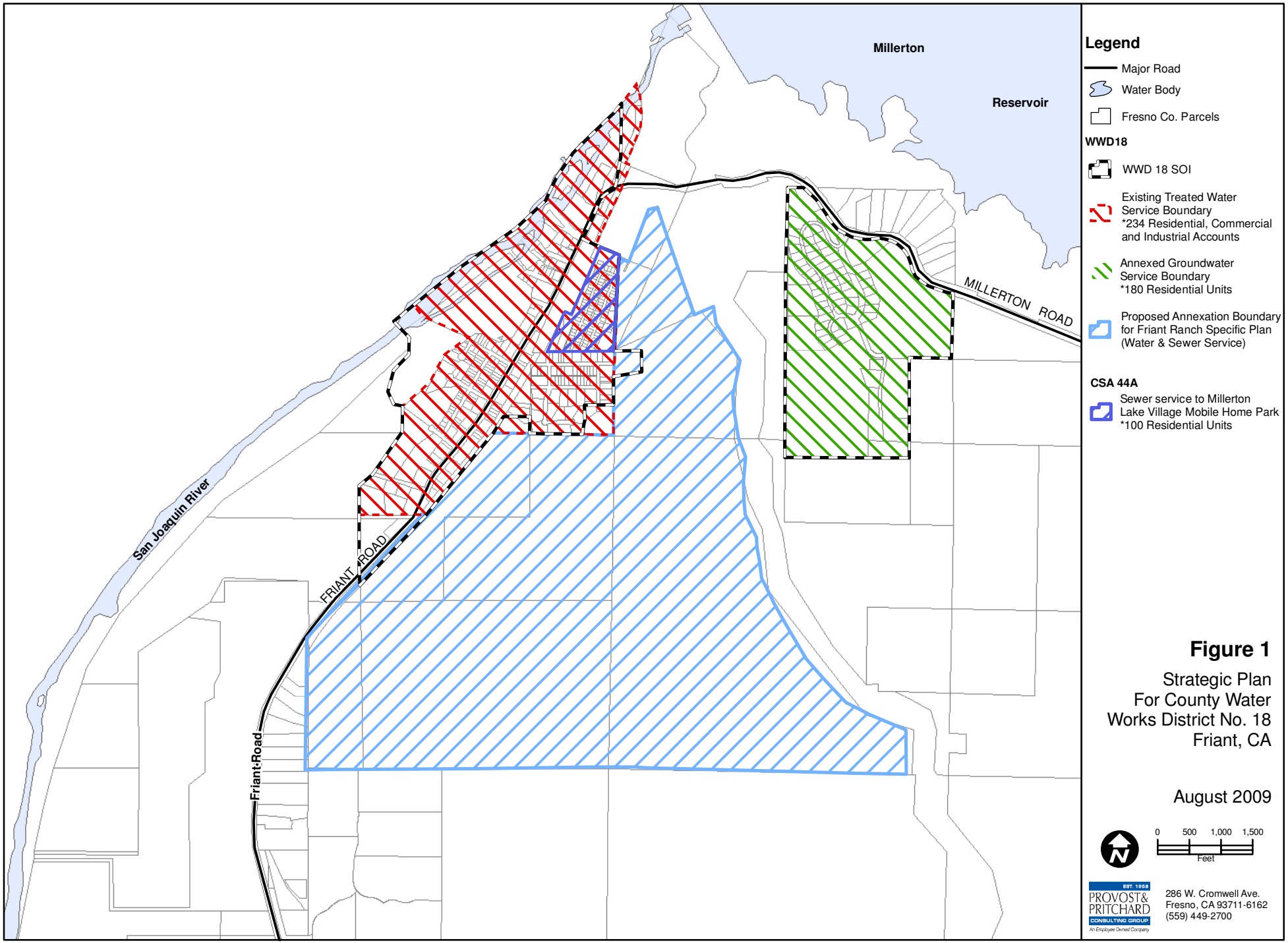


Figure 1

Strategic Plan
For County Water
Works District No. 18
Friant, CA

August 2009

0 500 1,000 1,500
Feet

PROVOST & PRITCHARD CONSULTING GROUP
EST. 1968
An Employee Owned Company
286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

8/17/2009 \\pineflat\dwg_dgn\Clients\Friant Ranch - 1328\13280401 - WATER SUPPLY\GIS\Map\Figure1_WWD18_Service_Area.mxd

Figure 2 - WWD 18 District Officers and Organizational Chart, Water Treatment Plant

President:
Mark Sharer
P.O. Box 335
Friant, CA 93626
559-325-2986
Cell: 289-5133
calstripe@yahoo.com

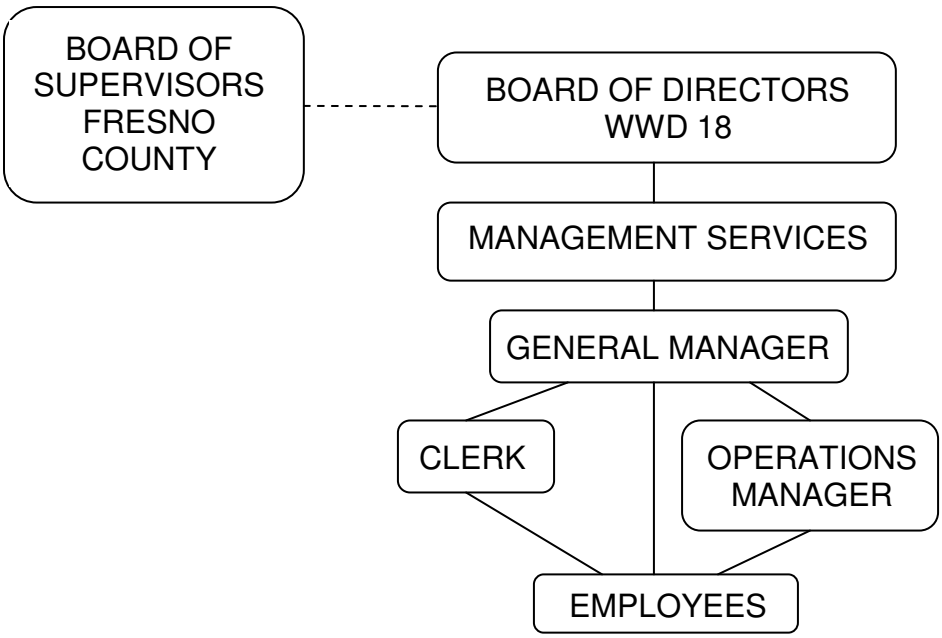
Vice President:
Jim Carlton
P.O. Box 718
Friant, CA 93626
559-822-2219

Manager:
Dan Pearce
P.O. Box 825
Friant, CA 93626
559-822-3566
Cell: 696-8260
dpearce@netptc.net

Member:
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P.O. Box 220
Friant, CA 93626
559-822-2743
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Member:
Bert Tipton
P.O. Box 2
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559-822-2346

Member
Billy Newman
P.O. Box 732
Friant, CA 93626
559-822-6488



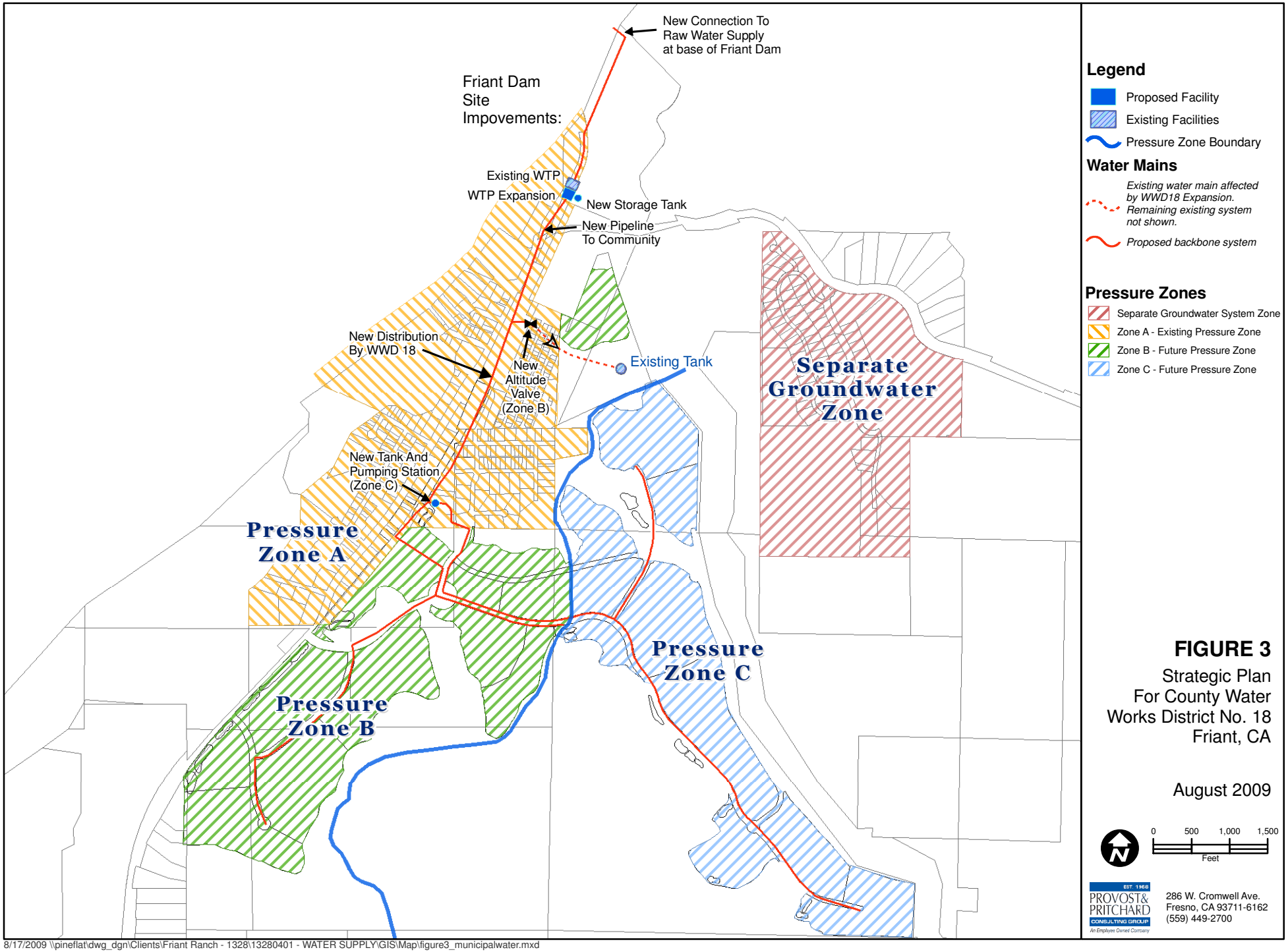


FIGURE 3

Strategic Plan
For County Water
Works District No. 18
Friant, CA

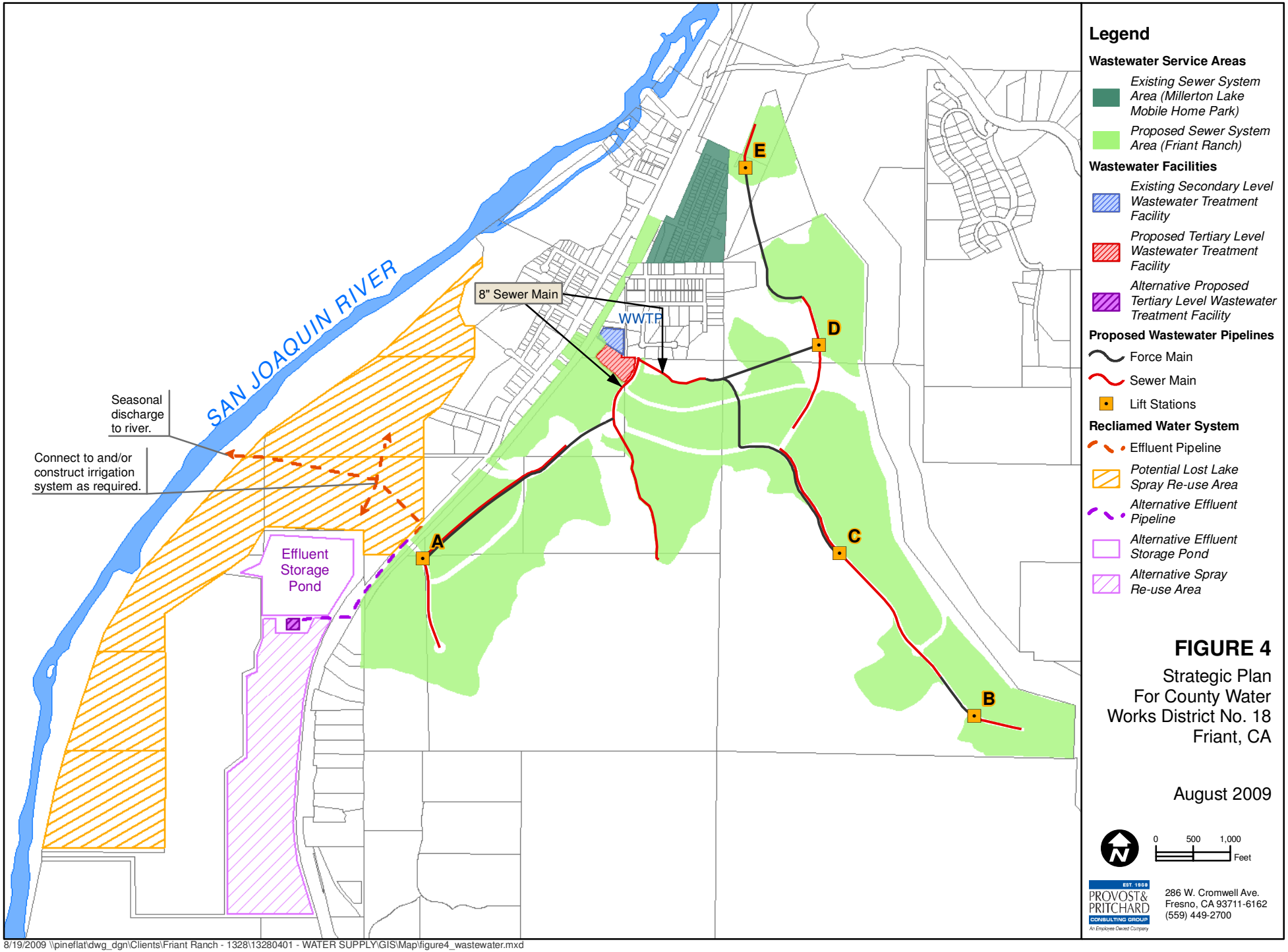
August 2009

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Feet

PROVOST& PRITCHARD CONSULTING GROUP
EST. 1968
An Employee Owned Company

286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

8/17/2009 \\pineflat\dwg_dgn\Clients\Friant Ranch - 1328\13280401 - WATER SUPPLY\GIS\Map\figure3_municipalwater.mxd


SAN JOAQUIN RIVER
8" Sewer Main
WWTP
Seasonal discharge to river.
Connect to and/or construct irrigation system as required.
Effluent Storage Pond
A
B
C
D
E
Legend
Wastewater Service Areas
Existing Sewer System Area (Millerton Lake Mobile Home Park)
Proposed Sewer System Area (Friant Ranch)
Wastewater Facilities
Existing Secondary Level Wastewater Treatment Facility
Proposed Tertiary Level Wastewater Treatment Facility
Alternative Proposed Tertiary Level Wastewater Treatment Facility
Proposed Wastewater Pipelines
Force Main
Sewer Main
Lift Stations
Recliamed Water System
Effluent Pipeline
Potential Lost Lake Spray Re-use Area
Alternative Effluent Pipeline
Alternative Effluent Storage Pond
Alternative Spray Re-use Area
FIGURE 4
Strategic Plan For County Water Works District No. 18 Friant, CA
August 2009
0
500
1,000
Feet
PROVOST & PRITCHARD CONSULTING GROUP
286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700
8/19/2009 \\pineflat\dwg_dgn\Clients\Friant Ranch - 1328\13280401 - WATER SUPPLY\GIS\Map\figure4_wastewater.mxd

TABLES

Table 1 - 10 Year Growth Projection & Phases for Friant Ranch

Phase	Acres	Dwelling Units	Comm. Center Sq. Ft.	Rec. Center (acres)	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15
Phase 1	108.3	664[1]			150	150	155	109	100										
				16.1	16.1														
Phase 2	117.7	618						51	55	155	155	102	100						
			50,000					50,000											
Phase 3	98.9	753										50	55	155	155	155	158	25	
			100,000									75,000				25,000			
Phase 4	87.2	465																220	245
			100,000													75,000			25,000
SubTotal	**412.1**[2]	**2,500**			**150**	**150**	**155**	**160**	**155**	**155**	**155**	**152**	**155**	**155**	**155**	**155**	**158**	**245**	**245**
			250,000	**16.1**															
Annual Cumulative Units				**(Residential)**	**150**	**300**	**455**	**615**	**770**	**925**	**1,080**	**1,232**	**1,387**	**1,542**	**1,697**	**1,852**	**2,010**	**2,255**	**2,500**
				(Commercial & Recreation Center)	**16.1**			**50,000**				**125,000**				**225,000**			**250,000**

[1] Includes 50 dwelling units allocated to the Village Center.
[2] Active adult recreation center acreage included in total acres.

Table 2 - Projected Friant Ranch average daily demand for water by residence type and lot size

By Land Use at Build-Out – Residential Only
(Information from WWD 18 Water Supply Assessment for Friant Ranch, January 2008)

Friant Ranch Land Use	No. Of Units	ADD (gpd/ac)	Acres	Demand (gpd)	Demand (AF/Day)	Demand (AF/yr)
SFD-1 Single-Family (6,000–7,200 SF)	290	1,875	63.0	118,125	0.363	133
SFD-2 Single-Family (3,500-5,000 SF)	745	1,875	100.0	187,500	0.575	210
SFD-3 Single-Family Cluster & Alley-load (8.0-12.0 du/ac)	1,069	3,035	108.8	330,210	1.01	369
MFD Apartments, Condos, Triplexes (12.0-18.0 du/ac)	166	3,035	13.3	40,365	0.124	45
MFD Non-Age Qualified Apartments (12.0-18.0 du/ac)	180	3,035	14.3	43,400	0.133	49
Village Center (Live/Work)	50	200 (gpd/unit)	-	10,000	0.031	11
Total	**2,500**		**299.4**	**729,600**	**2.24**	**817**

Table 3 - Projected Friant Ranch Average Daily Demand (ADD) for Non-Residential Water

By Land Use at Build-Out – Non-Residential
(Information from WWD No. 18 Water Supply Assessment for Friant Ranch, January 2008)

Land Use	ADD (gpd/ac)	Acres	Total Demand (gpd)	Total Demand (AF/Day)	Total Demand (AF/yr)
Village Center	1,965	32.6	64,060	0.20	73
Active-Adult Recreational Center (CC)	1,965	16.1	31,635	0.10	37
Parks and Parkways (P)	2,500	20	50,000	0.15	55
Landscaped Slopes	1,965	40	78,600	0.24	88
	Total		**224,295**	**0.69**	**253**

Table 4 - Projected Existing Community of Friant Average Daily Demand (ADD) for Water (All Land Uses)

By Land Use at Build-Out
(Information from WWD No. 18 Water Supply Assessment for Friant Ranch, January 2008)

Land Use	ADD (gpd/ac)	Acres	Total Demand (gpd)	Total Demand (AF/Day)	Total Demand (AF/yr)
Existing Demand	-	-	**133,910**	**0.41**	**150**
Projected Future Demand					
Low Density Residential	1,875	18.0	33,750	0.10	38.0
Medium Density Residential	1,875	5.0	9,375	0.03	10.5
Med-High Density Residential	3,035	9.0	27,315	0.08	30.5
Highway Commercial	1,975	31.0	61,225	0.19	68.5
Special Commercial	1,975	17.0	33,575	0.10	37.5
		Future Total	**165,240**	**0.50**	**185**
PROJECTED DEMAND AT BUILD-OUT			**299,150**		**335**

Table 5 - Peaking Factors to be Applied to Average Day Demand

Land Use	MDD:ADD	PHD:ADD
Medium Density Residential (MDR)	2.3	3.2
Medium-High Density Residential (MHDR)	2.3	3.2
Village Centers	2	2.5
Parks	3	3

Table 6 - Friant Ranch Water System Demand

Phase	Million Gallons Per Day			Gallons Per Minute		
	ADD	MDD	PHD	ADD	MDD	PHD
1	0.200	0.461	0.641	139	320	445
2	0.297	0.679	0.941	206	471	653
3	0.267	0.607	0.837	185	421	581
4	0.189	0.427	0.587	131	297	408
Total at Build-Out	**0.95**	**2.17**	**-**	**661**	**1,509**	**2,087**

Table 7 – Existing Community of Friant Water System Demand

Phase	Million Gallons Per Day			Gallons Per Minute		
	ADD	MDD	PHD	ADD	MDD	PHD
Existing	0.134	0.31	0.43	93	214	298
Future	0.165	0.38	0.53	115	264	367
Total at Build-Out	**0.300**	**0.690**	**-**	**208**	**478**	**665**

Table 8 - Minimum Required Fire Flow by Land Use[1]

Area Plan Land Use	Required Fire Flow (GPM)
Single Family / Duplex	1,000, 1,500[2]
Neighborhood Shopping / 3 Story Stacked Flats	2,500

[1] These fire flows are minimums. Greater flows may be required at the time of plan approval if the characteristics of a particular plan or phase so warrant, as determined by the requirements of the California Fire Code in effect at the time of phase approval.

[2] Applies to Residential zone if developed at 12 units/acre or greater, and to all attached housing developments.

Table 9 - Friant Ranch portion of WWD18 Anticipated Revenues and Expenditures

Constructed Infrastructure Cash Flow (2008 $s)

Facility	Total	Phase 1 (2011-2014)	Phase 2 (2014-2018)	Phase 3 (2018-2022)	Phase 4 (2022 – 2025)
Number of residential units	2,500	614	618	778	490
Cumulative residential units		614	1,232	2,010	2,500
Beginning Balance		**$0**	**$0**	**$0**	**$0**
Revenues					
Mello-Roos CFD Debt Financing [1]					
Water Supply	$9,415,800	$4,234,600	$2,731,600	$2,028,800	$420,800
Sanitary Sewer	$6,539,800	$0	$511,300	$3,145,100	$2,883,400
Reclaimed Water	$3,097,300	$0	$203,900	$1,494,200	$1,399,200
Subtotal Debt Financing [1]	**$19,052,900**	**$4,234,600**	**$3,446,800**	**$6,668,100**	**$4,703,400**
Private Financing/Other	**$11,953,600**	**$11,953,600**	**$0**	**$0**	**$0**
Total Estimated Revenue	**$31,006,500**	**$16,188,200**	**$3,446,800**	**$6,668,100**	**$4,703,400**
Expenses					
Project Constructed Backbone Infrastructure					
Water Supply	$14,909,600	$9,728,400	$2,731,600	$2,028,800	$420,800
Sanitary Sewer	$9,882,000	$3,342,200	$511,300	$3,145,100	$2,883,400
Reclaimed Water	$6,214,900	$3,117,600	$203,900	$1,494,200	$1,399,200
Subtotal Backbone Infrastructure Expenses	**$31,006,500**	**$16,188,200**	**$3,446,800**	**$6,668,100**	**$4,703,400**
Ending Balance – 2008 $'s		**$0**	**$0**	**$0**	**$0**

Source: EPS (Economic & Planning Systems, Inc.) Nov. 3, 2008

[1] Depending on the timing of the bond issuance(s), proceeds may be used to either acquire facilities built by the developer or to construct facilities by the developers and/or WWD 18

APPENDIX

Appendix A - WWD 18 Consumer Confidence Report

dated September 2009

FRESNO COUNTY WATERWORKS #18
"Serving the Friant Community"
P.O. Box 92 3726 Fleming St.
FRIANT, CALIFORNIA 93626
(209) 822-2533

CONSUMER CONFIDENCE REPORT 2008-2009

Fresno County Waterworks District #18 (Friant)

Este informe contiene informacion muy importante sobre su agua potable. Traduzcalo o hable con alguien que lo entienda bien.

Water System Information.

Contact persons for Waterworks District are Dan Pearce, Jack Wagner, Stephanie Pickens or Bill Borough. The primary telephone numbers are (559) 822-2533 or (559) 822-3575. The facsimile number is (559) 822-3577. The email address is waterworksdistrict18@yahoo.com.

District #18's members of the Board of Directors are: Mark Sharer, President, Jim Carlton, Vice-President, Bert Tipton, Debra Hiner and Brian Stotts. The Board of Directors meets on a regular basis, the last Tuesday of every month at 6:00 p.m. at Friant Depot Shell. There are special meetings called when necessary. During the meetings, there is an opportunity for members of the public to participate by addressing the Board on any subject concerning the District and its policies. Water board agendas are posted on bulletin boards throughout Friant

Source of Water.

Surface water from Millerton Lake is the District's supply of water processed at this time. A watershed survey was completed by Keller and Wegley Consulting Engineers and Boyle Engineering and accepted in 1998 by the Department of Health. This survey considered all water sources entering Millerton Lake. A copy of the most recent survey is available in the District Office for review. The District entered into a contract on June 2, 2008 to do a Watershed Sanitary Survey this year to

follow the requirement by California Department of Public Health (CDPH) every five (5) years.

A source water assessment was conducted for the Millerton Lake – raw water of the Fresno County Waterworks District #18 water system in January 2003. The source is considered most vulnerable to the following activities not associated with any detected contaminants:

Recreational area – surface water source
Automobile – Gas stations

These constituents were found after running the trigger report from the Water Quality Inquire (WQI) and from the CDPH system files:

TEST RESULTS – RAW SURFACE WATER – MILLERTON LAKE 2006

Contaminant	Unit Measure	MCL	PHG/MCLG	Units Detected	Typical Source Contaminant
Aluminum	ug/L	1000 ug/L	N/A	58 ug/L	Erosion of Natural Deposits
Arsenic	ug/L	50 ug/L	N/A	2.2 ug/L	Erosion of Natural Deposits
Iron	ug/	300 ug/L	N/A	187 ug/L	Erosion of Natural Deposits
Manganese	ug/L	50 ug/L	N/A	48 ug/L	Erosion of Natural Deposits
Color	ug/L	15 Units	N/A	25 Units	Natural Sources
S.E.C.	ug/L	28 Umho/cm	N/A	28 ug/L	Ions formed when in water
Turbidity	NTU	5 NTU	N/A	1.6 NTU	Soil Runoff
Chloride	mg/L	250 mg/L	N/A	2.9 mg/L	Runoff from natural deposits
Sulfate	mg/L	250 mg/L	N/A	2.4 mg/L	Natural deposits
TDS	mg/L	500 mg/L	N/A	340 mg/l	Natural Runoff

A copy of the complete assessments may be reviewed at:
Fresno County Waterworks District #18
17110 N. Friant Road
Friant, CA 93626

You may request a summary of the assessment be sent to you by contacting:

Fresno County Waterworks District #18
P.O. Box 92
Friant, CA 93626

The District's source water is not affected by any man made pollutants found near urban and farming areas, such as pesticides and herbicides. The water supply is routinely tested for over 100 organic and inorganic compounds, microbial and radiological constituents that are currently regulated by the Environmental Protection Agency and California Department Public Health. A copy of the annual report is attached to this report. As you can see, of these many compounds all have a "ND" (non-detected) to the right of the compound name.

The turbidity or soil runoff levels of the raw water (water entering the filtration plant before being filtered is measured and the results determine how much polymer (coagulant – Sweetwater 8809) is necessary to be mixed with the raw water and filtered to obtain a finished water product at a turbidity meeting or exceeding USEPA standards. The raw water turbidity entering the plant normally ranges from 1 to 8 NTU's, but may exceed these amounts when Millerton Lake "rolls over". This occurs when colder water enters the lake and replaces the warmer water. Turbidity has no health effects; however, high levels of turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing symptoms such as nausea, cramps, diarrhea and associated headaches. **The injection of chlorine into the District's water supply insures that there are no contaminants in our drinking water and that the water produced meets the Primary Drinking Water Standard.**

The District received a citation from California Department of Public Health for excessive Trihalomethanes in the water. The District hand delivered to each of the residents of the Friant Community, the information contained in the Citation and what efforts the District took to correct the problem. There have been no other incidents with the water. The cause has since been corrected.

The sources of drinking water (**both tap and bottled water**) include rivers, lakes, streams, ponds, reservoirs, springs and wells. As water travels over the surface of the land and through the ground, it dissolves naturally occurring minerals and in some cases, radioactive material and can pick up substances resulting from the presence of animals or from human activity.

Contaminants that may be present in source water include:

a. Microbial contaminants, such as viruses and bacteria that may come from sewage treatment plants, septic systems, agricultural livestock operations and wildlife.
b. Inorganic contaminants, such as salts and metals that can be naturally occurring or result from urban storm water runoff, industrial or domestic wastewater discharges, oil and gas production, mining or farming.

c. Pesticides and herbicides that may come from a variety of sources such as agriculture, urban storm water runoff and residential uses.
d. Organic chemical contaminants, including synthetic and volatile organic chemicals that are by-products of industrial processes and petroleum production and can also come from gas stations, urban storm water runoff, agricultural application and septic systems.
e. Radioactive contaminants that can be naturally occurring or be the result of oil and gas production and mining activities.

In order to insure that tap water is safe to drink, USEPA and California Department of Public Health prescribe regulations that limit the amount of certain contaminants in water provided by public water systems. Department regulations also establish limits for contaminants in bottle water that provide the same protection for public health. Monthly, Waterworks District #18 submits water samples for testing of contaminants. These tests are also performed for coliform or E.coli. Fresno County Public Health Laboratory and BSK Analytical Laboratories submit the results directly to CDPH electronically for their review. Fortunately for the District, we have not detected any evidence of coliform or E.Coli in any of the samples.

Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the USEPA's Safe Drinking Water Hotline (800-426-4791).

Some people may be more vulnerable to contaminants in drinking water than the general population. Immune-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. USEPA Centers for Disease Control (CDC) guidelines on appropriate means to lessen the risk of infection by *Cryptosporidium* and other microbial contaminants are available from the Safe Drinking Water Hotline at (800-426—4791.

USEPA is reviewing the drinking water standards for arsenic in water. Nitrates in drinking water above 45 mg/L are a health risk for infants of less than six months of age.

Treated Water

The raw water from Millerton Lake enters the water plant through a 6" pipe and then is pre-chlorinated and enters the flocculator where it mixes with Sweetwater 8809 (a cationic polymer), which causes particles in the raw water to flocculate and make larger particles that are filtered out of the water. Chlorine is then added after filtration to disinfect any other contaminants that might be present and to also maintain chlorine residual throughout the distribution system to insure bacteria free water. This processed water goes into the clear well tank for storage prior to pumping to the distribution system storage tank. From the storage tank the water

enters the distribution system and through the water meters to your hook-up. There is a monitoring system installed to insure that nothing at the plant goes wrong. If a problem should occur, our operators are notified immediately and the plant will automatically shut itself off. Other measures have been implemented since September 11, 2001 to better secure your delivered water.

Test Results – Distribution System

Sampling results showing detection of Coliform Bacteria

Contaminant	Violation	Months with Detections	MCL	MCLG	Typical Source of Contaminant
Total Coliform	None	No Detections	More than 1 sample in a month with a detection	0	Naturally present in the environment
E. coli and/or fecal coliform	None	No Detections	More than 1 sample in a month with a detection	0	Human and Animal Waste

Fresno County Waterworks District #18 is required by Title 22 Section 64423 in regards to routine sampling to complete 2 Total Coliform samples per month. In 2006 there were no Total Coliform positive samples.

Sample Results of Treated Surface Water

Treatment Technique* (Type of approved filtration technology used)	Pre-treatment of coagulation and chlorination before dual media pressure filtration
Turbidity Performance Standards** (that must be met through the water treatment process)	Turbidity of the filtered water must: 1. Be less than or equal to 0.3 NTU in 95% of measurements in a month. 2. Not exceed 1.0 NTU for more than two consecutive measurements 15 minutes apart. 3. Not exceed 5.0 NTU at any time.
Lowest monthly percentage of samples that met Turbidity Performance Standard Number 1	95.9%
Highest single Turbidity measurement during the year	0.950
The number of violations of any surface water treatment requirements	0

* A required process intended to reduce the level of a contaminant in drinking water.
** Turbidity (measured in NTU) is a measurement of the cloudiness of water and is a good indicator of water quality and filtration performance. Turbidity results which meet performance standards are considered to be in compliance with filtration requirements.

Conservation

The District has been told by the State of California: "Without expanded conservation efforts and more storage projects, there won't be enough water for the 15 million more people expected to live in the state by 2020". The state report also predicts that the Central Valley could fall far behind in its water needs if new water isn't found. Experts agree that conservation is the least expensive source of a water supply for the Central Valley. The economic benefits of water conservation go far beyond supply. Saving water means saving money on future water rates and fees. Our conservation program promotes practices to "slow the flow". Please do your part in conserving water. The District has adopted "Conservation Rules" and has distributed them throughout the Community.

In addition to the above information, the District has been told by the Bureau of Reclamation that as of March 1, 2009 there will only be 25% of water available to the District from Millerton Lake. A notification was delivered to each home and business in the District on March 7, 2009 informing the public of the cutback on water. The District is pursuing additional water sources to insure adequate supply to Friant citizens. The Community will be advised by hand flyer of any update in water supplies.

Lead and Copper

In September 2006, Waterworks District #18 tested twenty homes for lead and copper. Three out of twenty homes sampled had lead in the water; however, none was in excess of the MCL. All our samples were below the U.S. Environmental Protection Agency 90-percentile Action Level of 15 ug/L for lead. The highest individual sample result was 6.1 and the 90 percentile level was 5.9.

Out of the twenty homes tested for copper. Five out of twenty had copper in the water. All samples were below the U.S. Environmental Protection Agency 90 percentile Action Level of 1.3 mg/L. The highest individual copper sample result was 1.19 and the 90 percentile level was .141.

Lead in Drinking Water: "If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. Waterworks District #18 is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is

available from the Safe Drinking Water Hotline at (800-426-4791 or at http://www.epa.gov.safewater/lead."

Additional Facts on Lead.

- Lead is a naturally-occurring metal that for most of the 20th century was used regularly as a component of paint, piping (including water service lines), solder, brass and until the 1980's, as a gasoline additive. We no longer use lead in many of these products, but older products – such as points and plumbing fixtures in older houses – that contain lead remain. EPA and the U.S. Centers for Disease Control (CDC) report that lead paint (and the contaminated dust and soil it generates) is the leading source of lead exposure in older housing.
- While lead is rarely present in water coming from a treatment plant, it can enter tap water through corrosion of some plumbing materials.
- A number of aggressive and successful steps have been taken in recent years to reduce the occurrence of lead in drinking water.
    - In 1986, Congress amended the national Safe Drinking Water Act to prohibit the use of pipe, solder or flux containing high lead levels.
    - The Lead Contamination Control Act of 1988 led schools and day-care centers to repair or remove water coolers with lead-lined tanks. EPA provided guidance to inform and facilitate their action.
- Since the implementation of the Lead and Copper Rule (1991), many community drinking water systems are required to actively manage the corrosivity of water distributed to customers. In addition, community water systems conduct routine monitoring at selected houses where lead service lines and lead solder. If more than 10 of the homes tested have elevated lead levels (defined as more than 15 parts per billion), water providers must notify their consumers via several means. They must also take steps to reduce the problem, including improving corrosion control and possibly replacing lead service lines that contribute to lead contamination. (http://www.epa.gov/OGWDW/lcrmr/pdfs/fqrg_lcmr_2004.pdf)
- You can't see, smell or taste lead in your water. **Testing at the tap is the only way to measure the lead levels in your home or workplace.** If you choose to have your tap water tested, be sure to use a properly certified laboratory. Testing usually costs between $20 and $100. Waterworks District #18 does these tests for you.

Acknowledgement

The District would like to acknowledge Table Mountain Rancheria for supplementing employee salaries through a one-time Indian Gaming Grant in the amount of $57,600 for 2007. Without the Grant, the District would not have been able to monitor the additional running time required of the water treatment plant, the maintenance of distribution lines throughout the Community, mapping of valves and lines within

Friant and the increasing demands of everyday upkeep necessary to insure proper quality and quantity of water for its citizens.

Summary

The Board of Directors, operators and staff at Fresno County Waterworks District #18 do there very best to assure the highest quality and ample quantity of water to the residents of Friant as economically as possible. All operations are conducted professionally to safeguard the source water and the treated water, the water that enters your home. If you have any questions about the treatment plant, distribution system or other concerns, please feel free to contact the District office with your questions.

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DEFINITIONS

Regulatory Action Level: The concentration of a contaminant, which if exceeded, triggers treatment or others requirements that a water system must follow.

Maximum Contaminant Level or MCL: The highest level of a contaminant that is allowed in drinking water. Primary MCLs are set as close to the PHGs (or MCLGs) as is economically and technologically feasible. Secondary MCLs are set to protect the odor, taste and appearance of drinking water.

Maximum Contaminant Level Goal or MCLG: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs are set by the U.S. Environmental Protection Agency (USEPA).

Nephelometric Turbidity Unit (NTU): is a measure of the clarity of water. Turbidity in excess of 5 NTU is just noticeable to the average person.

None Detected or ND: The contaminant was not found in the drinking water.

Parts per Million (ppm): one part per million corresponds to one minute in two years or a single penny in $10,000.

Parts per Billion (ppb): one part per billion corresponds to one minute in 2,000 years or a single penny in $10,000,000.

Primary Drinking Water Standard or PDWS: MCLs for contaminants that affect health along with their monitoring and reporting requirements and surface water treatments requirements.

Treatment Technique: A required process intended to reduce the level of a contaminant in drinking water.

Public Health Goal or PHG: The level of a contaminant in drinking water below which there is no known or expected risk to health. PHGs are set by the California Environmental Protection Agency.

Total Coliform: Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other potentially harmful bacteria may be present.

Fecal Coliform / E.Coli: Fecal coliforms and E.Coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects such as diarrhea, cramps, nausea, headaches or other symptoms. They may pose a special health risk for infants, young children and people with severely compromised immune systems.

Flocculate: To cause to aggregate into a flocculent mass, a number of fine suspended particles.

Appendix B - WWD 18 Emergency Notification Plan

Fresno County

State of California—Health and Human Services Agency
California Department of Public Health

MARK B. HORTON, M.D., M.S.P.H.
Director

ARNOLD SCHWARZENEGGER
Governor

System No. **1010051**

WATER QUALITY EMERGENCY NOTIFICATION PLAN

Name of Utility: **FRESNO COUNTY WATERWORKS DISTRICT #18**

Physical Location Address: **18015 N. Friant Road Friant, CA 93626**

The following persons have been designated to implement the plan upon notification by the California Department of Public Health that an imminent danger to the health of the water users exists:

Water Utility: Contact Name & Title	Email Address	Telephone Day	Evening	Cell
1. Dan Pearce, Mgr	danpearce@netptc.net	559-822-3575	559-696-8260	559-696-8260
2. Jack Wagner, Operations	wgnr_jck@yahoo.com	559-916-9185	559-822-4810	559-916-9185
3. Bill Borough		559-577-3789	559-822-4120	559-577-3789

The implementation of the plan will be carried out with the following California Dept. of Public Health and County Health personnel:

State Department of Public Health: Contact Name & Title	Telephone Day	Evening
1. Carl L. Carlucci, District Engineer California Department of Public Health	(559) 447-3300	(559) 280-6363 (cell)
2. Fresno County Human Services System	(559) 445-3357	(559) 445-3357

3. If the above personnel cannot be reached, contact:

Office of Emergency Services (24 Hrs.) **Ask for "*Drinking Water Program, CDPH Duty Officer*"**	(800) 852-7550 or (916) 845-8911

NOTIFICATION PLAN

Attach a written description of the method or combination of methods to be used (radio, television, door-to-door, sound truck, etc.) **to notify customers in an emergency.** For each section of your plan give an estimate of the time required, necessary personnel, estimated coverage, etc. Consideration must be given to special organizations (such as schools), non-English speaking groups, and outlying water users. Ensure that the notification procedures you describe are practical and that you will be able to actually implement them in the event of an emergency. *Guidance and an example* of a notification plan are attached.

Report prepared by:

Signature and Title

August 11, 2009
Date

Flex your POWER

Do your part to help California save energy. To learn more about saving energy, visit the following web site:
http://www.fypower.org

Southern California Drinking Water Field Operations Branch
265 W. Bullard Avenue, Suite 101, Fresno, CA 93704
(559) 447-3300; Fax (559) 447-3304
Internet Address: http://www.cdph.ca.gov/programs/Pages/DDWEM.aspx

IN ADDITION TO THE DISTRICT PERSONNEL MENTIONED ABOVE THE FRIANT NEIGHBORHOOD WATCH GROUP PERSON COULD BE CONTACTED. HER NAME IS PAULETTE BIANCHI AND PHONE NUMBER IS: 559-822-2328.

THE DISTRICT WILL POST NOTICES AT THE POST OFFICE, FRIANT TRADING POST AND FRIANT DEPOT SHELL.

THE DISTRICT'S METHOD FOR NOTIFYING THE RESIDENTS OF FRIANT IS DOOR TO DOOR. THIS WOULD REQUIRE TWO DISTRICT PERSONNEL AND WOULD TAKE ABOUT 1 HOUR. THE DISTRICT MANAGER OR OPERATIONS MANAGER WOULD COORDINATE THE DELIVERY OF NOTIFICATIONS, ASSURING THAT EACH CUSTOMER RECEIVES A NOTICE. IF THE RESIDENTS ARE NOT AT HOME, THE NOTICE WOULD BE PLACED ON THE FRONT DOOR AND THE WATER SHUT OFF, THUS ASSURING THAT THE RESIDENTS WOULD NOT HAVE ACCESS TO CONTAMINATED WATER. THE RESIDENTS WOULD BE LEFT A TELEPHONE NUMBER TO CALL TO HAVE WATER SERVICE TURNED BACK ON AND WOULD BE PERSONALLY NOTIFIED OF THE EMERGENCY. FRIANT IS A SMALL COMMUNITY AND DOOR TO DOOR IS THE BEST AND PROBABLY THE ONLY MEANS BY WHICH TO NOTIFY OUR CUSTOMERS. OUR STAFF WOULD NOTIFY THE COORDINATOR OF CUSTOMERS WHO WERE NOT AT HOME.

NOTICES TO TABLE MOUNTAIN RANCHERIA, MILLERTON STATE PARK, FRESNO COUNTY FIRE PROTECTION (CDF) AND BUREAU OF RECLAMATION WOULD ALSO BE HAND DELIVERED BY DISTRICT STAFFAND WATER SHUT OFF FOR THOSE

ENTITIES UNTIL EMERGENCY WAS OVER. THE DISTRICT WOULD THEN SEND PERSONNEL TO NOTIFY THE VARIOUS AGENCIES.

THERE ARE NO SPECIAL REQUIREMENTS SUCH AS NON-ENGLISH SPEAKING GROUPS OR OUTLYING WATER USERS.

AFTER THE EMERGENCY IS OVER THE COORDINATOR WILL NOTIFY STAFF TO HAND DELIVER NOTICES TO DISTRICT CUSTOMERS AND ALL PARTIES INVOLVED THAT THE WATER IS AGAIN SAFE TO DRINK OR THAT THE ADVISORY HAS BEEN LIFTED.

BOARD OF DIRECTORS
FRESNO COUNTY WATERWORKS DISTRICT 18

Appendix C - WWD 18 Water Treatment Plant Operations Plan

dated March 25, 2009

FRESNO COUNTY WATERWORKS #18

"Serving the Friant Community"

P.O. Box 92 3726 Fleming St.

FRIANT, CALIFORNIA 93626

(209) 822-2533

PLANT OPERATIONS PLAN

Revised March 25, 2009

* **Please Note:** **The Daily Plant Operations Plan should accompany this Plant Operations Plan.**

ELEMENT 1:

Personnel

Jack L. Wagner — Grade T 2 — Operator No. 24211
Grade D 2 — Operator No. 25810

District operator. Supervises and monitors all treatment process and all work within the District, including water mains, water lines, cross-connect monitoring, etc.

Phone No. Work: (559) 822-2533
Home: (559) 822-4810
Cell: (559) 706-4975

Stephanie Pickens — Grade: D – 1 — No. 28497
Grade: T – 1 — No. 26871 03/01/2008

Stephanie works from 5 to 30 hours per week for the District on a need basis. She is studying to take her Grade II operators test. She is familiar with operations and also reads District water meters.

Phone No. Work: (559) 822-2533
Home: (559) 822-7440
Cell: (559) 908-2420

Bill Borough — Grade: D-1 — No. 32478 4/1/2010
Grade: T-1 — No. 29148 1/1/2011

Bill works from 5 to 30 hours per week for the District. He is studying to take his Grade II operators test. He is familiar with operations and also reads District water meters.

Phone No. Work: (559) 822-2533
Cell: (559) 577-3789

The Water Filtration and Treatment Plant is manned from 5 to 12 hours daily, while monitoring and daily testing is done. The Plant runs on an average of 1 ½ to 7 hours in the winter months and 13 to 23 hours during the hotter months.

ELEMENT 2:

The District Water Treatment Facility is a three-stage total filtration process designed to treat the water from Millerton Lake, serving the Community of Friant, the Bureau of Reclamation – Friant Dam, the California State Park – Millerton Lake and the California Department of Forestry. The design capacity is 400 G.P.M or .55 M.G.D., but has been lowered by the State Department of Health to 269 G.P.M. Presently the plant is running at approximately 250 g.p.m. creating a longer running time for plant monitoring.

The United States Bureau of Reclamation's 6" pipeline at the base of Friant Dam transports water from Millerton Lake to the plant headwork's piping. The inflow to the facility is controlled and regulated by a modulating flow control valve, operated by a float pilot. The valve varies the rate of incoming flow to match the flow withdrawn from the solids separator with the use of a float pilot located in the solids separator. The valve maintains a consistent level in the separator and stops the flow after plant shutdown when the float pilot reaches its upper limit. The valve also operates as a pressure-reducing valve when the emergency by-pass line is used to by-pass the pretreatment equipment. This results in direct filtration operation. The control valve pilot system uses a three-way valve to select pressure reducing or modulating flow operation of the valve. The valve must be switched to the pressure-reducing mode when the plant is in direct filtration to avoid over pressurizing the filter vessels.

Chemical injection points are located downstream from this modulating valve. Currently a polymer, Sweetwater 8809, is being injected downstream of the valve. Chlorine pre-treatment is injected below the valve to provide disinfection of raw water and protect the system from algae growth.

The chemical feed equipment consists of two (2) 100-gallon mixing tanks with a ¼ horsepower mixer motor in each tank. The number one (1) tank is being used currently to inject the polymer as described above and the number two (2) tank is being used for the injection of soda ash to boost alkalinity and maintain correct pH levels. A Neptune/Classon pump is used to inject the polymer and a Stenner 85 series perastalic pump is used to inject the soda ash.

The inflow enters a flash mixer with a detention time of 45 seconds at 265 gallons per minute. The mixer is equipped with a 1 ½ horsepower motor that is not used at this time, due to the sensitivity of the polymer over mixing.

From the flash mixer, flow is carried into the flocculator where it is stirred by a 1 horsepower motor with a 3-15 RPM range. This motor is currently set at 20%, providing a slow gentle stirring action. Detention time is approximately 33 minutes at 265 G.P.M. Flow from the flocculator enters the solids separator below the tube settler modules and moves upward through the modules to the effluent weir troughs. The tubes, set at a plate angle of 60 degrees from horizontal, provide laminar flow enhancing the environment in

which the suspended floc particles settle. Sludge collected in the lower portion of the separator is discharged to sludge beds by automatic valves. The valves open at the start of each plant run cycle and by adjustable timer, during plant run. An adjustable timer controls valve open time.

The filter pumps receive the flow from the effluent troughs in the separator and provide a design flow and pressure to the filters. The pumps are rated at 15 horsepower each with a TDH (FT) at 140 with flow at 240 G.P.M. The plant is designed to operate with one pump running and the second as an emergency backup. The float witch installed in the solids separator stops the filter pumps when the water level is too low to provide sufficient water to the pumps. If the water level is not restored within two (2) minutes, an automatic plant shutdown and alarm is activated. The filter pumps may also receive water through the emergency by-pass line. In this mode, the pressure reducing modulating float control valve must be set to the pressure-reducing mode to prevent over pressuring of the filter vessels.

The filters are two (2) multi-media pressure types with a total surface area of 80 square feet. They are designed to filter at the rate of 3 GPM/SF to 5 GPM/SF. With current regulations, the flow is kept at 3 GPM/SF. The filters are bedded with 12 inches of anthracite, 18 inches of silica sand and the balance in larger graded sand/gravel. The filter media was inspected and completely replaced in April of 1998 with the following:

5" of ¾ - 1 ½ Gravel
4" of 3/8 – ¾ Gravel
3" of 1/8 – ¼ Gravel
3" of #6 X 12 Mesh Sand
15" of 0.45 – 0-55 of Filter Sand
12" of 1.0 – 1.1 Anthracite Coal

Rate of flow valves are installed at the outlet of each filter to control the plant flow rate. Automatic valves on each filter control the operating modes of filtration, backwash, rinse and standby. Currently the operating pilot for these flow control valves is operated from the pilot on Number 1 filter using pressure tubing to Number 2 filter. This insures the flow from each filter is equal, preventing the overloading of one or the other due to faulty adjustments.

The injection of the anti-corrosion chemical occurs at the outlet manifold of the flow control valve. The turbulence from this valve insures adequate mixing of the zinc-ortho-phosphate with the treated filter effluent prior to entering the clearwell tank.

A chlorine injection point occurs after the filters also to provide for post-filtration disinfection of the treated water. The chlorine system consists of the use of a Flex Flo blue and white perastalic pump with a maximum of 100 psi and a maximum feed of 16 gpd. The pump, pumps directly out of the 30-gallon sodium hypochlorite containers. The pump injects 12.5% Sodium Hypochlorite solution into the discharge of the Gould injection pump. The feed is adjusted by manually increasing the feed rate of the blue and white pump.

Controlled chlorine may then be directed to pre-treat and/or post-treatment by adjustment of ball valves located at the injection points.

The flow meter at the point of inflow to the clearwell tank provides rate of flow and totalizer readings. A separate meter located between the backwash pumps and the filters provides the rate of flow of the backwash. Daily flow is also calculated using the total time of filter run and total gallons measured.

The plant storage tank (clearwell tank) has a capacity of 66,000 gallons and provides water as needed to the supply pumps. A tank level transducer mounted at the tank furnishes a signal to the plant control panel in feet, controlling the startup of the plant in automatic mode. The following are the operating levels:

Operation	**Tank level (ft.)**
Low water alarm/inhibit backwash	6.0
Stop supply pumps	9.0
Reset supply pumps	12.0
Start plant	16.0
Stop plant	23.5
High water alarm	23.5

The community's supply pumps and pumps providing water to Millerton State Park, California Department of Forestry and U.S. Bureau of Reclamation are located just behind the plant storage tank (clearwell tank). The community supply pumps consist of 3 horizontal centrifugal pumps rate at 20,30 and 40 horsepower. These pumps are automatically started in succession when water levels in the main community storage tank drop to these specific levels:

Pump No.	**HP**	**Flow (GPM)**	**Tank level start**
Pump 5	20	275	16 ft.
Pump 6	30	380	13 ft.
Pump 7	40	485	12 ft.

Once the freshly treated water reaches the District storage tank, it is gravity fed into the system distribution lines and on to District customers. There is a pressure-reducing device located on Parker Street to maintain a set pressure for the customers on both sides of Friant Road. The District operators will calculate the CT ratio daily and adjust chlorine dosage as needed. Operators will maintain a CT ratio above 1.0. If this level cannot be maintained, the operator will notify California Department of Public Health within 24 hours.

The water system consists of two pressure zones in the system. Friant Road splits the two zones. There is a pressure-reducing device located on Parker just east of Friant Road. The District now collects two bacteriological distribution samples per month, one from each pressure zone. The chlorine residual is to be included in the laboratories bacteriological reports from Fresno County Health Services Laboratory.

The general mineral, general physical and inorganic chemicals are collected and the results by BSK or Fresno County Labs are forwarded by EDT to the WQI database. The volatile organic chemicals and synthetic organic chemicals are collected and sent EDT to the WQI database now. This is a requirement every five years. By December 31,

2007 each water system shall monitor for radium 226, radium 228, gross alpha particle activity and uranium for four consecutive quarters. If during the first two quarters the results are below their respective DLR's, CDPH may waive the final two quarters of monitoring.

Lead and Copper samples were done in 2007 and none of the sites exceeded the action level for lead or copper. The District will sample again in September 2009.

There is now available for the operators, a laptop computer to send in test results, communicate with CDPH and use for correspondence, keep dates current, etc.

FRESNO COUNTY WATERWORKS #18
"Serving the Friant Community"
P.O. Box 92 3726 Fleming St.
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(209) 822-2533

The

Fresno County Waterworks

District #18

THE DISTRICT

Established on August 17, 1956, Fresno County Waterworks District #18 today services approximately 134 residential, commercial and industrial customers in the rural community of Friant in Fresno County. Water is obtained from Millerton Lake via a contract with the United States Bureau of Reclamation. The water allotment is 150 acre-feet. The water is pre-chlorinated, a polymer (Sweetwater 8809) is added, pressure filtered, post-chlorinated and distributed to the community via a closed pipe system. The treated water is pumped into the clearwell tank and then pumped into the 325,000-gallon storage tank. The system has several pumps of different velocities, which feed the Bureau of Reclamation, Millerton State Park and California Department of Forestry Fire Station. There is one pressure-reducing device located on Parker Avenue near Friant Road, so that water pressure in all Friant locations is equal.

The District financed the system through the California Department of Water Resources and with careful planning, diligence on the parts of the Board of Directors and the citizens of Friant, that loan has been paid. There continues to be a small assessment to each property owner for the Operations and Maintenance fund.

The District holds regular meetings (opened to the public) once a month on the last Tuesday of the month. The District currently enjoys a positive reputation in the viewpoint of its customers. At present there are no approved capital improvement projects, however, the District is on a list with the State of California for grants to build a wastewater treatment plant. The Environmental Impact Report has been done and certified for the treatment plant and the District is waiting for funding.

THE BOARD OF DIRECTORS

A five-member Board of Directors runs the District. The Fresno County Board of Supervisors appoints the members of the Board of Directors. The Board appoints the Manager and contracts with Management Services for the billing and financials of the District. The District's legal services are contracted with the law firm of Hargrove and Costanzo. The District employs Borchardt, Corona and Faeth Accountancy Corporation to audit the books annually. Monthly reports are given to the auditors from Management Services. The District contracts with Giersch and Associates, Inc. to do the engineering and they advise the District in all manners concerning water treatment and they also recommend changes, updates and assist the District in applications to the State of California and the Federal Government for grants and loans.

THE COMMUNITY

Friant, the first county seat of Fresno County, is situated at the base of Friant Dam and Millerton Lake. A small community of approximately 600 people, Friant offers a wide range of housing, Clovis Unified Schools, close to shopping centers and excellent health care facilities located in Fresno. Institutions of higher education offering two and four year degrees are Fresno City College and California State University at Fresno. Recreational opportunities are abundant in the area. Water sports of all types can be found at Millerton Lake. Fishing for trout and bass are available in the San Joaquin River. Shaver Lake, Huntington Lake, Sierra Summit and the scenic mountains of the Sierra Mountain Range are all within a one-hour drive.

MANAGING THE WATER DISTRICT

The General Manager is responsible for planning, organizing, directing and coordinating all activities and functions of the District and carrying out related Board policies. This responsibility includes, but is not limited to:

- Planning, organizing and directing the field, plant, business and financial affairs of the District under policy direction from the Board
- attending all meetings of the Board of Directors
- advising the Board on administrative practice
- understanding, administering and enforcing all laws applicable to the District's operations
- developing and presenting the Board with a recommended District Budget and overseeing the implementation of the version adopted by the Board
- negotiating and administering water contracts and other legal agreements on behalf of the District, pursuant to policy direction from the Board
- representing the District in the community and in coordinating District interests with other government agencies, regulatory agencies, professional associations, and technical consultants.
- providing timely advice and consultation on the development of programs and policies to the Board of Directors
- reviewing legislation and related information and preparing summary analysis for the Board
- handling all District human resources and employee relations matters, under policy direction from the Board
- coordinating the preparation of the Board's meeting agendas and minutes of the previous meeting(s).

Management Services is responsible for the daily operations of the District's billing and accounting and is under direct supervision of the General Manager.

The District maintains a savings account with the State of California Local Agency Investment Fund (L.A.I.F.) and various accounts with the Bank of America. There are two Board member signatures required on checks of over $200.00 and bills must be approved prior to the checks being submitted. L.A.I.F. funds are bank transferred via the telephone.

CURRENT ISSUES AND PRIORITIES

Bureau Contract – The District has recently approved a 25-year water contract with the Bureau of Reclamation through 2025. The District will be responsible for implementing and administering the new guidelines that are being placed by the Bureau.

Meeting Future Water Needs – To accommodate the water needs of the District's anticipated growth in the long term and to provide adequate quantities in the event of an extended drought period, the District will need to continue exploring alternatives to increasing its water supply. The Manager will direct related efforts, explore means of financing viable projects and eventually help the Board with the selection and implementation of related decisions.

Storage Facilities – The District must address additional water storage capacity by developing new storage facilities to improve system reliability and predictability. The Manager should evaluate the designs and methods of financing the projects and make related recommendations to the Board.

Other Improvements – In addition to the District's current plant changes and upgrades to the chlorine storage supply building, new technology must be implemented into the District's facilities and operations.

Recommendations – The District must create and implement a District Master Plan. With new development anticipated and the development within the District's boundaries, this is an absolute necessity. The Master Plan should utilize ever effort to implement the changes recommended by the District Engineer to accommodate future needs. There are grants available to upgrade the water system, the delivery system and the storage system. The District should be diligent in its search for these grants and anticipate the needs of the District. The Manager will provide guidance and direction to these related efforts.

The District must realize the need for full time personnel and provide for: Retirement, Medical, Dental and Visual Insurance; Holidays, Sick, Vacation and Administrative Leave; Disability Insurance; Life Insurance; Vehicles; and a Deferred Compensation Plan. Although all personnel at the present time are part-time employees, the District must in its Master Plan, provide for these benefits in order to attract a work force willing and able to accomplish goals set by the Board of Directors.

FRESNO COUNTY WATERWORKS #18
"Serving the Friant Community"
P.O. Box 92 3726 Fleming St.
FRIANT, CALIFORNIA 93626
(209) 822-2533

Fresno County Water works District #18

Daily Plant Operations Plan - 4-25-2009

Daily operations:

1. Unlock the gate and enter the plant.
2. Inspect the plant and storage facilities for security and vandalism.
3. Open the control room door and turn on the light. Reset the alarm by entering the security code on the panel on northwest corner of room
4. Ensure sensaphone is on and grab clipboard that has the daily checklist on it.
5. Check the electric panel in the southwest corner. Insure that all breakers are in the on position, except for #2. It is only to be on for 10-minute periods for mixing Sweetwater 8809. Check off circuit breaker in the daily log.
6. Check air pressure gauge in southwest corner of the room. It should read between 85 and 100 psi then check off in the daily log.
7. Check the filter time hours on the control panel. It will be the number the red arrow is on. Record this number in the log.
8. On the control panel look at what pumps are set as primary pumps. Record the pump numbers under duty pump in the log.
9. On the control panel, check clearwell and main storage tank levels and record the levels in the daily log.
10. Check the level in the chemical tanks in the control room. Both soda ash and Sweetwater 8809. Soda ash is in the barrel nearest the electrical panels and the 8809 barrel is under the hot water heater in the corner. Record these levels in the log. (If soda ash is below 50 gallons add a 50 lb bag of soda ash from storage building and add water until water level is 50 gallons above original reading). (If 8809 is below 40 gallons, add 1.5 gallons of 8809 from the storage building and then add 48.5 gallons of water, which will raise the level to 50 gallons. Turn on circuit breaker number 2 and leave it on for ten minutes and shut it down. This will allow the solution to mix.)
11. Next using the clear tube record the pump settings. Open the valve below the tube and allow it to fill. When the solution level gets to the top notch on tube, close valve. Next close ball valve on bottom of tank and immediately open valve below tube. Time for one minute how far the level goes down. Record this number as your pump setting in your daily log. Remove tube and check on other solution barrel using the same procedures.
12. Record pump set as 100/90 in daily log.
13. Ensure all pumps and the plant controls are in the automatic position.
14. On the control panel, turn control power off for ten seconds and then turn it back on. This will start the plant and top off the clearwell and storage tanks.

15. Allow the plant to operate for **15** minutes before taking readings.
16. The Surface Water Treatment Regulation requires readings at 4-hour intervals, exactly or very close to 4-hour increments. Thus, 15 minutes after startup is the initial 4-hour reading. The next reading is 4 hours later and so on.
17. Ensure Honeywell charts are changed on west wall these charts need to be changed and dated daily. Charts are stored below operator table on shelf below it.
18. Walk outside of plant room and go to the park service pump control panel. Panel is located on east side of clearwell. Open panel and record number from the 2 digital readouts on the log located inside the panel. Subtract that number from the previous day's readout. Add up the total and annotate it on the log. Next return to control room and open the spiral binder and date it with today's date and record the total number of hours the park service pumps ran.
19. Go to the north side of the clearwell tank and record the meter reading on the influent line and annotate it on the spiral binder. Next subtract that number from the previous days reading and annotate that in the daily log as your total gallons produced.
20. Record the hours on the pump currently operating (meter is on the right of the operator table on electrical panel. The green light will be lit for the panel currently operating). Record the reading on the spiral binder. Subtract this number from the previous days reading in the spiral binder. This will give you the total hours run. Record this number in the daily log.
21. Multiply the hours run by 60 and then divide that by the gallons produced this will give you the g.p.m. Record this number in the daily log.
22. Go to the back of the chlorine building and record level in Z.O.P tank and annotate it on log. If level is below 15 gal add 9.5 gal water and .5 Gal Z.O.P from the storage shed.
23. Go back to the control room and grab 4 turbidity sample jars from the operator table. Take a sample from the effluent of each filter (the spigot for sampling will be on the inside of both filters on the blue line. When taking all turbidity samples ensure you flush line for 1 minute then bring to slow steady stream and take samples. Fill the jars past the white line then screw the cap on. Next take a sample from the clearwell influent (finish). Spigot is on the north side of the clearwell across from the chlorine room. Next go behind the operator building and take a sample of the raw water. The spigot is just the above sump pit on the building side of the line.
24. Next, keeping track of where all samples came from, dry each bottle with a shop wipe. Put silicone oil on each bottle and smear it gently and evenly around the bottles until the exterior is perfectly clear.
25. Place each bottle in 2100n ntu tester located below the electrical panel in the building. Allow each sample two minutes in the tester before taking reading to allow time for accurate reading. If reading seems high or inaccurate, retake the sample to ensure its accuracy. After getting all accurate readings record them in daily log.
26. Take the samples used for finished and raw water turbidity and perform a ph test using the water from each sample. Use the ph testing kit on the same table as the 2100n. Fill the test tubes with the water being tested to their fill lines. Add 5 drops phenol red to outer tube and then swirl tube. Turn on x-ray light above 2100n table and use wheel to compare and test what the current ph level is. Do this with both finished and raw water and record the readings in daily log.
27. Next go to the chlorine building and top off the chlorine barrel then note the pump setting and chlorine level in daily log.
28. Next you will need to take 3 chlorine residual samples. One will be at the flash mixer. It is the small tank attached to the flocculator. The sample spigot is at the bottom of the small tank. The next one will be at the clearwell effluent at the hose bib. And the last will be at filter number 1. This can be taken at the same place the ntu for filter number one

was taken. Flush each line for at least one minute before taking samples. Use the sample kit on the 2100n table to take the sample. Fill each tube to the fill line. Empty the dpd sample pack into the water and shake the tube and turn the wheel and compare color until you find a match, then record readings in appropriate place in the daily log.

29. Next you will need to calculate the contact time. You will do this using attachment number #1 of this plan and then record in the daily log and enter all calculations on the spiral binder.
30. Next ensure g.p.m. is below 260 g.p.m. on west wall in control room. If it is above, adjust pilot valve on effluent of filter number one to appropriate setting.
31. Inspect the level of foaming and chlorine buffer on CL17 and add, if necessary, using the kit from the storage building.
32. You should ensure that a proper CL2 residual is maintained at .5 – 1.2. Adjust rotameter in the chlorine room if necessary.
33. Before leaving the plant, ensure that all pump switches in the plant are in auto position and that the sensaphone is on.
34. Before leaving the plant, reset the alarm, turn off lights and lock door.
35. Exit the plant and lock the gate.
36. The plant should be inspected 4 times daily while operating.

Monthly CT Report

Month/Year _____

Fresno Co Waterworks District 18 - System No. 1010051

Completed by: WAGNER/WAGNER

Date	*Flow Rates*		*Raw H_2O*		*Filter Effluent*		*Clearwell Tank Effluent*					
	(Q, gpm)	(Q_{boost}, gpm)	pH	Temp. (^oF)	Cl_2 (mg/L)	pH	Cl_2 (mg/L)	Tank Level (ft)	Required CT_1	RequiredCT_2	Actual CT	CT Ratio
1									-	-	-	-
2									-	-	-	-
3									-	-	-	-
4									-	-	-	-
5									-	-	-	-
6									-	-	-	-
7									-	-	-	-
8									-	-	-	-
9									-	-	-	-
10									-	-	-	-
11									-	-	-	-
12									-	-	-	-
13									-	-	-	-
14									-	-	-	-
15									-	-	-	-
16									-	-	-	-
17									-	-	-	-
18									-	-	-	-
19									-	-	-	-
20									-	-	-	-
21									-	-	-	-
22									-	-	-	-
23									-	-	-	-
24									-	-	-	-
25									-	-	-	-
26									-	-	-	-
27									-	-	-	-
28									-	-	-	-
29									-	-	-	-
30									-	-	-	-
31									-	-	-	-

FRESNO COUNTY WATERWORKS #18
"Serving the Friant Community"
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Cell: 696-8260

Appendix D - WWD 18 Budgets

(2005-2009)

Period: 10 05
Title: Budget Adoption - Fund

Waterworks District #18

Date: 05/05/2006
Page: 1

P2Y Actual	PY Actual	CY Adopted		FY Proposed	FY Approved	FY Adopted
			Revenue			
0.00	0.00	$89,700.00	4001 Residential Water Revenue	$89,700.00	$89,700.00	$89,700.00
0.00	0.00	$26,244.00	4002 Commercial Water Revenue	$30,000.00	$26,244.00	$26,244.00
0.00	0.00	$16,000.00	4003 Industrial Water Revenue	$19,000.00	$16,000.00	$16,000.00
0.00	0.00	$1,500.00	4004 Late Charges	$1,500.00	$1,700.00	$1,700.00
0.00	0.00	0.00	4005 Restoration Fees	0.00	$100.00	$100.00
0.00	0.00	$10,000.00	4006 Tax Assessments	$16,000.00	$8,060.00	$8,060.00
0.00	0.00	$100.00	4007 NSF/Bank Charges	$100.00	$250.00	$250.00
0.00	0.00	$100.00	4009 NSF CHECKS/REVENUE	$100.00	$100.00	$100.00
$0.00	$0.00	$143,644.00	Total Revenue	$156,400.00	$142,154.00	$142,154.00
			Other Income			
0.00	0.00	$2,000.00	4035 Interest Income	$2,500.00	$1,200.00	$1,200.00
$0.00	$0.00	$2,000.00	Total Other Income	$2,500.00	$1,200.00	$1,200.00
$0.00	$0.00	$145,644.00	Total Income	$158,900.00	$143,354.00	$143,354.00
			Operating Expense			
0.00	0.00	$40,000.00	5010 Salaries - Other	$38,000.00	$40,000.00	$40,000.00
0.00	0.00	$576.00	5012 SWS Annual Fee	$576.00	$576.00	$576.00
0.00	0.00	$4,000.00	5020 Water Purchases	$4,000.00	$4,500.00	$4,500.00
0.00	0.00	$4,700.00	5060 Repairs & Maintenance	$4,700.00	$5,000.00	$5,000.00
0.00	0.00	$10,000.00	5065 Restricted Income	$10,000.00	$8,060.00	$8,060.00
0.00	0.00	$900.00	5069 Postage & Mailing	$900.00	$900.00	$900.00
0.00	0.00	$3,500.00	5150 Payroll Taxes	$3,500.00	$3,500.00	$3,500.00
0.00	0.00	$4,200.00	5155 Workers Comp Insurance	$7,000.00	$5,500.00	$5,500.00
0.00	0.00	$2,500.00	5360 Legal Expense	$2,500.00	$1,000.00	$1,000.00
0.00	0.00	$4,500.00	5361 Accounting	$4,750.00	$4,500.00	$4,500.00
0.00	0.00	$28,000.00	5363 Professional Fees	$32,800.00	$25,000.00	$25,000.00
0.00	0.00	0.00	5369 Enforcement Fees	$1,500.00	$600.00	$600.00
0.00	0.00	$3,000.00	5370 Engineering Services	$3,000.00	$3,000.00	$3,000.00
0.00	0.00	0.00	5375 Advertising	0.00	$200.00	$200.00
0.00	0.00	$2,500.00	5380 Other Services	$2,500.00	$3,500.00	$3,500.00
0.00	0.00	$1,700.00	5385 Insurance Expense	$1,700.00	$3,000.00	$3,000.00
0.00	0.00	$1,800.00	5390 Telephone Expense	$1,800.00	$1,900.00	$1,900.00
0.00	0.00	$375.00	5395 Waste Service	$375.00	$375.00	$375.00
0.00	0.00	$20,500.00	5400 P.G.& E.	$20,500.00	$18,000.00	$18,000.00
0.00	0.00	$265.00	5410 Dues & Memberships	$375.00	$265.00	$265.00
0.00	0.00	$432.00	5411 Security	$432.00	$432.00	$432.00
0.00	0.00	0.00	5415 Continuing Education	$300.00	0.00	0.00
0.00	0.00	$6,500.00	5440 Water Treatment Supplies	$11,000.00	$6,500.00	$6,500.00
0.00	0.00	$1,000.00	5445 Equipment Rental - Plant	$1,000.00	$1,000.00	$1,000.00
0.00	0.00	$800.00	5460 Office Expense	$800.00	$800.00	$800.00
0.00	0.00	$800.00	5465 Office Supplies	$800.00	$500.00	$500.00
0.00	0.00	$145.00	5550 Bank Charges	$145.00	$145.00	$145.00
0.00	0.00	0.00	5570 Plant Supplies - General	0.00	$300.00	$300.00
0.00	0.00	$2,400.00	5585 Truck Expense	$2,400.00	$2,400.00	$2,400.00
$0.00	$0.00	$145,093.00	Total Expense and Reserve	$157,353.00	$141,453.00	$141,453.00
$0.00	$0.00	$551.00	Net Income	$1,547.00	$1,901.00	$1,901.00

Period: 12 05
Title: Budget - Fund

Waterworks District #18

Date: 06/30/2006
Page: 1

P2Y Actual	PY Actual	CY Adopted		FY Proposed	FY Approved	FY Adopted
			Revenue			
0.00	0.00	$89,700.00	4001 Residential Water Revenue	$89,700.00	$89,700.00	$89,700.00
0.00	0.00	$26,244.00	4002 Commercial Water Revenue	$30,000.00	$30,000.00	$30,000.00
0.00	0.00	$16,000.00	4003 Industrial Water Revenue	$19,000.00	$19,000.00	$19,000.00
0.00	0.00	$1,500.00	4004 Late Charges	$1,500.00	$1,500.00	$1,500.00
0.00	0.00	$10,000.00	4006 Tax Assessments	$16,000.00	$16,000.00	$16,000.00
0.00	0.00	$100.00	4007 NSF/Bank Charges	$100.00	$100.00	$100.00
0.00	0.00	$100.00	4009 NSF CHECKS/REVENUE	$100.00	$100.00	$100.00
$0.00	$0.00	$143,644.00	Total Revenue	$156,400.00	$156,400.00	$156,400.00
			Other Income			
0.00	0.00	$2,000.00	4035 Interest Income	$2,500.00	$2,500.00	$2,500.00
$0.00	$0.00	$2,000.00	Total Other Income	$2,500.00	$2,500.00	$2,500.00
$0.00	$0.00	$145,644.00	Total Income	$158,900.00	$158,900.00	$158,900.00
			Operating Expense			
0.00	0.00	$40,000.00	5010 Salaries - Other	$38,000.00	$38,000.00	$38,000.00
0.00	0.00	$576.00	5012 SWS Annual Fee	$576.00	$576.00	$576.00
0.00	0.00	$4,000.00	5020 Water Purchases	$4,000.00	$4,000.00	$4,000.00
0.00	0.00	$4,700.00	5060 Repairs & Maintenance	$4,700.00	$4,700.00	$4,700.00
0.00	0.00	$10,000.00	5065 Restricted Income	$10,000.00	$10,000.00	$10,000.00
0.00	0.00	$900.00	5069 Postage & Mailing	$900.00	$900.00	$900.00
0.00	0.00	$3,500.00	5150 Payroll Taxes	$3,500.00	$3,500.00	$3,500.00
0.00	0.00	$4,200.00	5155 Workers Comp Insurance	$7,000.00	$7,000.00	$7,000.00
0.00	0.00	$2,500.00	5360 Legal Expense	$2,500.00	$2,500.00	$2,500.00
0.00	0.00	$4,500.00	5361 Accounting	$4,750.00	$4,750.00	$4,750.00
0.00	0.00	$28,000.00	5363 Professional Fees	$32,800.00	$32,800.00	$32,800.00
0.00	0.00	0.00	5369 Enforcement Fees	$1,500.00	$1,500.00	$1,500.00
0.00	0.00	$3,000.00	5370 Engineering Services	$3,000.00	$3,000.00	$3,000.00
0.00	0.00	$2,500.00	5380 Other Services	$2,500.00	$2,500.00	$2,500.00
0.00	0.00	$1,700.00	5385 Insurance Expense	$1,700.00	$1,700.00	$1,700.00
0.00	0.00	$1,800.00	5390 Telephone Expense	$1,800.00	$1,800.00	$1,800.00
0.00	0.00	$375.00	5395 Waste Service	$375.00	$375.00	$375.00
0.00	0.00	$20,500.00	5400 P.G.& E.	$20,500.00	$20,500.00	$20,500.00
0.00	0.00	$265.00	5410 Dues & Memberships	$375.00	$375.00	$375.00
0.00	0.00	$432.00	5411 Security	$432.00	$432.00	$432.00
0.00	0.00	0.00	5415 Continuing Education	$300.00	$300.00	$300.00
0.00	0.00	$6,500.00	5440 Water Treatment Supplies	$11,000.00	$11,000.00	$11,000.00
0.00	0.00	$1,000.00	5445 Equipment Rental - Plant	$1,000.00	$1,000.00	$1,000.00
0.00	0.00	$800.00	5460 Office Expense	$800.00	$800.00	$800.00
0.00	0.00	$800.00	5465 Office Supplies	$800.00	$800.00	$800.00
0.00	0.00	$145.00	5550 Bank Charges	$145.00	$145.00	$145.00
0.00	0.00	$2,400.00	5585 Truck Expense	$2,400.00	$2,400.00	$2,400.00
$0.00	$0.00	$145,093.00	Total Expense and Reserve	$157,353.00	$157,353.00	$157,353.00
$0.00	$0.00	$551.00	Net Income	$1,547.00	$1,547.00	$1,547.00

Period: 12 06
Title: Budget - Fund

Waterworks District #18

Date: 06/27/2007
Page: 1

P2Y Actual	PY Actual	CY Adopted		FY Proposed	FY Approved	FY Adopted
			Revenue			
0.00	0.00	$89,700.00	4001 Residential Water Revenue	$95,000.00	$95,000.00	$95,000.00
0.00	0.00	$26,244.00	4002 Commercial Water Revenue	$30,000.00	$30,000.00	$30,000.00
0.00	0.00	$16,000.00	4003 Industrial Water Revenue	$20,000.00	$20,000.00	$20,000.00
0.00	0.00	$1,500.00	4004 Late Charges	$1,718.00	$1,718.00	$1,718.00
0.00	0.00	$10,000.00	4006 Tax Assessments	$10,000.00	$10,000.00	$10,000.00
0.00	0.00	$100.00	4007 NSF/Bank Charges	$100.00	$100.00	$100.00
0.00	0.00	$100.00	4009 NSF CHECKS/REVENUE	$100.00	$100.00	$100.00
$0.00	$0.00	$143,644.00	Total Revenue	$156,918.00	$156,918.00	$156,918.00
			Other Income			
0.00	0.00	$2,000.00	4035 Interest Income	$4,000.00	$4,000.00	$4,000.00
0.00	0.00	0.00	4039 Credit-Other	$600.00	$600.00	$600.00
$0.00	$0.00	$2,000.00	Total Other Income	$4,600.00	$4,600.00	$4,600.00
$0.00	$0.00	$145,644.00	Total Income	$161,518.00	$161,518.00	$161,518.00
			Operating Expense			
0.00	0.00	$40,000.00	5010 Salaries - Other	$22,000.00	$22,000.00	$22,000.00
0.00	0.00	$576.00	5012 SWS Annual Fee	$576.00	$576.00	$576.00
0.00	0.00	$4,000.00	5020 Water Purchases	$8,000.00	$8,000.00	$8,000.00
0.00	0.00	$4,700.00	5060 Repairs & Maintenance	$8,000.00	$8,000.00	$8,000.00
0.00	0.00	$10,000.00	5065 Restricted Income	$10,000.00	$10,000.00	$10,000.00
0.00	0.00	$900.00	5069 Postage & Mailing	$700.00	$700.00	$700.00
0.00	0.00	$3,500.00	5150 Payroll Taxes	$12,000.00	$12,000.00	$12,000.00
0.00	0.00	$4,200.00	5155 Workers Comp Insurance	$5,000.00	$5,000.00	$5,000.00
0.00	0.00	0.00	5160 Bad Debt	$500.00	$500.00	$500.00
0.00	0.00	$2,500.00	5360 Legal Expense	$4,000.00	$4,000.00	$4,000.00
0.00	0.00	$4,500.00	5361 Accounting	$6,000.00	$6,000.00	$6,000.00
0.00	0.00	$28,000.00	5363 Professional Fees	$36,000.00	$36,000.00	$36,000.00
0.00	0.00	0.00	5369 Enforcement Fees	$1,000.00	$1,000.00	$1,000.00
0.00	0.00	$3,000.00	5370 Engineering Services	$6,000.00	$6,000.00	$6,000.00
0.00	0.00	0.00	5375 Advertising	$50.00	$50.00	$50.00
0.00	0.00	$2,500.00	5380 Other Services	$3,000.00	$3,000.00	$3,000.00
0.00	0.00	$1,700.00	5385 Insurance Expense	$1,700.00	$1,700.00	$1,700.00
0.00	0.00	$1,800.00	5390 Telephone Expense	$650.00	$650.00	$650.00
0.00	0.00	$375.00	5395 Waste Service	$500.00	$500.00	$500.00
0.00	0.00	$20,500.00	5400 P.G.& E.	$20,000.00	$20,000.00	$20,000.00
0.00	0.00	$265.00	5410 Dues & Memberships	$265.00	$265.00	$265.00
0.00	0.00	$432.00	5411 Security	$432.00	$432.00	$432.00
0.00	0.00	$6,500.00	5440 Water Treatment Supplies	$10,000.00	$10,000.00	$10,000.00
0.00	0.00	$1,000.00	5445 Equipment Rental - Plant	$1,000.00	$1,000.00	$1,000.00
0.00	0.00	$800.00	5460 Office Expense	$800.00	$800.00	$800.00
0.00	0.00	$800.00	5465 Office Supplies	$800.00	$800.00	$800.00
0.00	0.00	$145.00	5550 Bank Charges	$145.00	$145.00	$145.00
0.00	0.00	$2,400.00	5585 Truck Expense	$2,400.00	$2,400.00	$2,400.00
$0.00	$0.00	$145,093.00	Total Expense and Reserve	$161,518.00	$161,518.00	$161,518.00
$0.00	$0.00	$551.00	Net Income	$0.00	$0.00	$0.00

Period: 12 07
Title: Budget - Fund

Waterworks District #18

Date: 07/25/2008
Page: 1

P2YActual	FYActual	CY Adopted		FY Proposed	FY Approved	FY Adopted
			Revenue			
0.00	0.00	$95,000.00	4001 Residential Water	$100,000.00	0.00	0.00
0.00	0.00	$30,000.00	4002 Commercial Water	$30,000.00	0.00	0.00
0.00	0.00	$20,000.00	4003 industrial Water	$60,000.00	0.00	0.00
0.00	0.00	$1,718.00	4004 Late Charges	$2,000.00	0.00	0.00
0.00	0.00	$10,000.00	4006 Tax Assessments	$9,960.00	0.00	0.00
0.00	0.00	$100.00	4007 NSF/Bank Charges	$100.00	0.00	0.00
0.00	0.00	$100.00	4009 NSF CHECKS/REVENUE	$100.00	0.00	0.00
$0.00	$0.00	$156,918.00	Total Revenue	$202,160.00	$0.00	$0.00
			Other Income			
0.00	0.00	$57,600.00	4030 Miscellaneous Income	0.00	0.00	0.00
0.00	0.00	$4,000,00	4035 Interest Income	$10,000.00	0.00	0.00
0.00	0.00	$600.00	4039 Credit-Other	$600.00	0.00	0.00
$0.00	$0.00	$62,200.00	Total Other Income	$10,600.00	$0.00	$0.00
$0.00	$0.00	$219,118.00	Total Income	$212,760.00	$0.00	$0.00
			Operating Expense			
0.00	0.00	$22,000.00	5010 Salaries - Other	$30,000.00	0.00	0.00
0.00	0.00	$576.00	5012 SWS Annual Fee	$576.00	0.00	0.00
0.00	0.00	$8,000.00	5020 Water Purchases	$10,000.00	0.00	0.00
0.00	0.00	$8,000.00	5060 Repairs & Maintenance	$9,000.00	0.00	0.00
0.00	0.00	$10,000.00	5065 Restricted Income	$9,960.00	0.00	0.00
0.00	0.00	$700.00	5069 Postage & Mailing	$1,500.00	0.00	0.00
0.00	0.00	$12,000.00	5150 Payroll Taxes	$20,000.00	0.00	0.00
0.00	0.00	$5,000.00	5155 Workers Comp Insurance	$5,000.00	0.00	0.00
0.00	0.00	$500.00	5160 Bad Debt	$500.00	0.00	0.00
0.00	0.00	0.00	5170 Taxes & Licenses	$150.00	0.00	0.00
0.00	0.00	$4,000.00	5360 Legal Expense	$6,000.00	0.00	0.00
0.00	0.00	$6,000.00	5361 Accounting	$7,000.00	0.00	0.00
0.00	0.00	$36,000.00	5363 Professional Fees	$42,000.00	0.00	0.00
0.00	0.00	$1,000.00	5369 Enforcement Fees	$1,000.00	0.00	0.00
0.00	0.00	$6,000.00	**5370** Engineering Services	$15,000.00	0.00	0.00
0.00	0.00	$50.00	5375 Advertising	$200.00	0.00	0.00
0.00	0.00	$3,000.00	5380 Other Services	$3,500.00	0.00	0.00
0.00	0.00	$1,700.00	5385 Insurance Expense	$2,000.00	0.00	0.00
0.00	0.00	$650.00	5390 Telephone Expense	$650.00	0.00	0.00
0.00	0.00	$500.00	5395 Waste Service	$600.00	0.00	0.00
0.00	0.00	$20,000.00	5400 P.G.& E.	$24,429.00	0.00	0.00
0.00	0.00	$265.00	5410 Dues & Memberships	$300.00	0.00	0.00
0.00	0.00	$432.00	5411 Security	$450.00	0.00	0.00
0.00	0.00	$10,000.00	5440 Water Treatment	$12,000.00	0.00	0.00
0.00	0.00	$1,000.00	5445 Equipment Rental - Plant	$2,000.00	0.00	0.00
0.00	0.00	$800.00	5460 Office Expense	$3,000.00	0.00	0.00
0.00	0.00	$800.00	5465 Office Supplies	$2,800.00	0.00	0.00
0.00	0.00	$145.00	5550 Bank Charges	$145.00	0.00	0.00
0.00	0.00	$2,400.00	5585 Truck Expense	$3,000.00	0.00	0.00
$0.00	$0.00	$161,518.00	Total Expense and Reserve	$212,760.00	$0.00	$0.00

Waterworks District #18

P2Y Actual	PY Actual	CY Adopted		FY Proposed	FY Approved	FY Adopted
			Revenue			
0.00	0.00	0.00	4001 Residential Water Revenue	$100,000.00	$100,000.00	$100,000.00
0.00	0.00	0.00	4002 Commercial Water Revenue	$70,000.00	$70,000.00	$70,000.00
0.00	0.00	0.00	4003 Industrial Water Revenue	$20,000.00	$20,000.00	$20,000.00
0.00	0.00	0.00	4004 Late Charges	$3,000.00	$3,000.00	$3,000.00
0.00	0.00	0.00	4005 Restoration Fees	$5,000.00	$5,000.00	$5,000.00
0.00	0.00	0.00	4006 Tax Assessments	$5,000.00	$5,000.00	$5,000.00
0.00	0.00	0.00	4007 NSF/Bank Charges	$50.00	$50.00	$50.00
0.00	0.00	0.00	4009 NSF CHECKS/REVENUE	$75.00	$75.00	$75.00
$0.00	$0.00	$0.00	Total Revenue	$203,125.00	$203,125.00	$203,125.00
			Other Income			
0.00	0.00	0.00	4035 Interest Income	$10,000.00	$10,000.00	$10,000.00
0.00	0.00	0.00	4039 Credit-Other	$600.00	$600.00	$600.00
$0.00	$0.00	$0.00	Total Other Income	$10,600.00	$10,600.00	$10,600.00
$0.00	$0.00	$0.00	Total Income	$213,725.00	$213,725.00	$213,725.00
			Operating Expense			
0.00	0.00	0.00	5010 Salaries - Employees	$30,000.00	$30,000.00	$30,000.00
0.00	0.00	0.00	5012 SWS Annual Fee	$576.00	$576.00	$576.00
0.00	0.00	0.00	5020 Water Purchases	$5,000.00	$5,000.00	$5,000.00
0.00	0.00	0.00	5060 Repairs & Maintenance	$10,000.00	$10,000.00	$10,000.00
0.00	0.00	0.00	5065 Restricted Income	$5,000.00	$5,000.00	$5,000.00
0.00	0.00	0.00	5069 Postage & Mailing	$2,000.00	$2,000.00	$2,000.00
0.00	0.00	0.00	5150 Payroll Taxes	$26,000.00	$26,000.00	$26,000.00
0.00	0.00	0.00	5155 Workers Comp Insurance	$2,500.00	$2,500.00	$2,500.00
0.00	0.00	0.00	5160 Bad Debt	$500.00	$500.00	$500.00
0.00	0.00	0.00	5170 Taxes & Licenses	$150.00	$150.00	$150.00
0.00	0.00	0.00	5360 Legal Expense	$7,500.00	$7,500.00	$7,500.00
0.00	0.00	0.00	5361 Accounting	$8,000.00	$8,000.00	$8,000.00
0.00	0.00	0.00	5363 Professional Fees	$42,000.00	$42,000.00	$42,000.00
0.00	0.00	0.00	5369 Enforcement Fees	$1,000.00	$1,000.00	$1,000.00
0.00	0.00	0.00	5370 Engineering Services	$15,000.00	$15,000.00	$15,000.00
0.00	0.00	0.00	5375 Advertising	$200.00	$200.00	$200.00
0.00	0.00	0.00	5380 Other Services	$8,000.00	$8,000.00	$8,000.00
0.00	0.00	0.00	5385 Insurance Expense	$2,000.00	$2,000.00	$2,000.00
0.00	0.00	0.00	5390 Telephone Expense	$650.00	$650.00	$650.00
0.00	0.00	0.00	5395 Waste Service	$600.00	$600.00	$600.00
0.00	0.00	0.00	5400 P.G.& E.	$18,000.00	$18,000.00	$18,000.00
0.00	0.00	0.00	5410 Dues & Memberships	$300.00	$300.00	$300.00
0.00	0.00	0.00	5411 Security	$450.00	$450.00	$450.00
0.00	0.00	0.00	5440 Water Treatment Supplies	$7,500.00	$7,500.00	$7,500.00
0.00	0.00	0.00	5445 Equipment Rental - Plant	$2,000.00	$2,000.00	$2,000.00
0.00	0.00	0.00	5460 Office Expense	$2,000.00	$2,000.00	$2,000.00
0.00	0.00	0.00	5465 Office Supplies	$2,800.00	$2,800.00	$2,800.00
0.00	0.00	0.00	5550 Bank Charges	$100.00	$100.00	$100.00
0.00	0.00	0.00	5585 Truck Expense	$3,000.00	$3,000.00	$3,000.00
$0.00	$0.00	$0.00	Total Expense and Reserve	$202,826.00	$202,826.00	$202,826.00

Appendix E – Proforma Budget for WWD 18 With Friant Ranch

Fresno County Waterworks District No. 18
Western Service Area
Projection of Water & Sewer Revenues and Expenses
Prepared: August 24, 2010

			Est		Est FY 2011				Est FY 2012				Est FY 2013				Est FY 2014				Est FY 2015			
Category	**FY 2008**	**FY 2009**	**FY 2010**	**West SA**	**FR Water**	**FR Sewer**	**FR Total**	**West SA**	**FR Water**	**FR Sewer**	**FR Total**	**West SA**	**FR Water**	**FR Sewer**	**FR Total**	**West SA**	**FR Water**	**FR Sewer**	**FR Total**	**West SA**	**FR Water**	**FR Sewer**	**FR Total**	**West SA**
Revenues:																								
Residential Users	100,000	100,000	102,000	104,040				106,121	162,000	144,000	306,000	108,243	246,929	219,492	466,421	110,408	335,429	298,159	633,589	112,616	422,068	375,172	797,240	114,869
Commercial & CC Users	30,000	70,000	71,400	72,828				74,285	2,700	2,400	5,100	75,770	2,714	2,412	5,126	77,286	24,544	21,817	46,360	78,831	24,666	21,926	46,592	80,408
Industrial Users	60,000	20,000	20,400	20,808				21,224			-	21,649			-	22,082			-	22,523			-	22,974
CFD Proceeds					1,211,200	-	1,211,200				-				-		2,290,800		2,290,800				-	
FR Developer Capital					4,846,800	2,000,000	6,846,800		2,150,000	2,360,000	4,510,000		400,000		400,000				-				-	
Loan from ACF									60,000		60,000		105,000		105,000			200,000	200,000		150,000		150,000	
Other Income	20,500	23,500	23,970	24,449				24,938				25,437				25,946				26,465				26,994
Water/Sewer DIFs					116,250	116,250	232,500		112,500	112,500	225,000		116,250	116,250	232,500		150,000	150,000	300,000		116,250	116,250	232,500	
Total Revenues:	210,500	213,500	217,770	222,125	6,174,250	2,116,250	8,290,500	226,568	2,487,200	2,618,900	5,106,100	231,099	870,892	338,154	1,209,046	235,721	2,800,773	669,976	3,470,749	240,436	712,985	513,347	1,226,332	245,244
Operating Expense																								
Salaries - Other	30,000	30,000	30,600	31,212				21,212	5,000	5,000	10,000	21,636	10,000	10,000	20,000	22,069	15,000	15,000	30,000	22,510	20,000	20,000	40,000	22,961
LTRID Water Purchases	10,000	5,000	5,100	5,202				5,202	199,519		199,519	5,306	201,495		201,495	5,412	610,708		610,708	5,520	617,244		617,244	5,631
Capital Const and LTRID Agmt Cost					6,058,000	2,000,000	8,058,000		2,131,892	2,374,045	4,505,937		504,000		504,000		799,036	427,923	1,226,960		200,000	100,000	300,000	
FR Developer DIF Reimb							-				-				-				-				-	
ACF Loan Repayment													-		-		165,000		165,000			40,000	40,000	
ACF Transfers (DIF)					63,938	116,250	180,188		61,875	112,500	174,375		63,938	116,250	180,188		82,500	150,000	232,500		63,938	116,250	180,188	
WCF Transfers (DIF)					52,313		52,313		50,625		50,625		52,313		52,313		67,500		67,500		52,313		52,313	
Repairs & Maintenance	17,100	15,000	15,300	15,606				15,606	-	-	-	15,918	-	-		16,236	-	-		16,561	-	-		16,892
Postage & Mailing	1,500	2,000	2,040	2,100				2,100	500	500	1,000	2,142	1,000	1,000	2,000	2,185	1,500	1,500	3,000	2,229	2,000	2,000	4,000	2,273
Payroll Taxes	20,000	26,000	26,520	27,050				25,550	750	750	1,500	26,061	1,131	1,131	2,262	26,583	1,623	1,623	3,246	27,114	2,004	2,004	4,008	27,657
Worker's Comp	5,000	2,500	2,550	2,601				2,600	750	750	1,500	2,652	1,131	1,131	2,262	2,705	1,623	1,623	3,246	2,759	2,004	2,004	4,008	2,814
Legal Expense	6,500	7,500	7,650	7,803				6,000	1,750	1,750	3,500	6,120	2,639	2,639	5,279	6,242	3,787	3,787	7,574	6,367	4,676	4,676	9,352	6,495
Accounting	7,000	8,000	8,160	8,323				4,500	2,000	2,000	4,000	4,590	3,016	3,016	6,033	4,682	4,328	4,328	8,656	4,775	5,344	5,344	10,689	4,871
Professional Fees	43,000	43,000	43,860	44,737				44,000	5,000	5,000	10,000	44,880	7,541	7,541	15,082	45,778	10,820	10,820	21,639	46,693	13,361	13,361	26,721	47,627
Engineering Services	15,000	15,000	15,300	15,606				15,000	3,000	3,000	6,000	15,300	4,525	4,525	9,049	15,606	6,492	6,492	12,984	15,918	8,016	8,016	16,033	16,236
Contract WW Operator										50,000	50,000			75,410	75,410			108,197	108,197			133,607	133,607	
Other Services	3,700	8,000	8,160	8,323				8,400	2,500	2,500	5,000	8,568	3,770	3,770	7,541	8,739	5,410	5,410	10,820	8,914	6,680	6,680	13,361	9,092
Insurance	2,000	2,000	2,040	2,081				1,500	750	750	1,500	1,530	1,131	1,131	2,262	1,561	1,623	1,623	3,246	1,592	2,004	2,004	4,008	1,624
Utilities	25,700	20,500	20,910	21,328				21,000	4,000	16,000	20,000	21,420	6,033	24,131	30,164	21,848	8,656	34,623	43,279	22,285	10,689	42,754	53,443	22,731
Water Treatment	12,000	7,500	7,650	7,803				7,800	6,000		6,000	7,956	9,049		9,049	8,115	12,984		12,984	8,277	16,033		16,033	8,443
Equipment Rental	2,000	2,000	2,040	2,081				2,100	500	500	1,000	2,142	754	754	1,508	2,185	1,082	1,082	2,164	2,229	1,336	1,336	2,672	2,273
Office Supplies & Expense	7,000	5,000	5,100	5,202				4,200	1,500	1,500	3,000	4,284	2,262	2,262	4,525	4,370	3,246	3,246	6,492	4,457	4,008	4,008	8,016	4,546
Vehicles	3,000	3,000	3,060	3,121				3,100	750	750	1,500	3,162	1,131	1,131	2,262	3,225	1,623	1,623	3,246	3,290	2,004	2,004	4,008	3,356
Total Expenses:	210,500	202,000	206,040	210,180	6,174,250	2,116,250	8,290,500	189,870	2,478,661	2,577,295	5,055,956	193,668	876,859	255,824	1,132,683	197,541	1,804,540	778,899	2,583,439	201,492	1,033,654	506,049	1,539,703	205,522
Surplus / (Deficit)				11,945	-	-	-	36,698	8,539	41,605	50,144	37,431	(5,967)	82,330	76,363	38,180	996,233	(108,923)	887,310	38,944	(320,669)	7,298	(313,371)	39,723
Cumulative Surplus / (Deficit)				11,945	-	-	-	48,643	8,539	41,605	50,144	86,074	2,572	123,936	126,507	124,254	998,805	15,013	1,013,817	163,198	678,136	22,311	700,447	202,921
Cumulative FR Res Customers											300				455				615				770	
Cum FR Comm'l & CC Customers											5				5				45				45	
Monthly Rate:									$ 45.00	$ 40.00	$ 85.00		$ 45.23	$ 40.20	$ 85.43		$ 45.45	$ 40.40	$ 85.85		$ 45.68	$ 40.60	$ 86.28	
Accumulated Capital Fund:					$ 63,938	$ 116,250	$ 180,188		$ 65,813	$ 228,750	$ 294,563		$ 24,750	$ 345,000	$ 369,750		$ 272,250	$ 295,000	$ 567,250		$ 186,188	$ 451,250	$ 637,438	
Accumulated Water Fund					$ 52,313		$ 79,050		$ 102,938		$ 102,938		$ 155,250		$ 155,250		$ 222,750		$ 222,750		$ 275,063		$ 275,063	

Fresno County Waterworks District No. 18
Western Service Area
Projection of Water & Sewer Revenues and Expense
Prepared: August 24, 2010

	Est FY 2016				Est FY 2017				Est FY 2018				Est FY 2019				Est FY 2020				Est FY 2021				Est FY 2022			
Category	**FR Water**	**FR Sewer**	**FR Total**	**West SA**	**FR Water**	**FR Sewer**	**FR Total**	**West SA**	**FR Water**	**FR Sewer**	**FR Total**	**West SA**	**FR Water**	**FR Sewer**	**FR Total**	**West SA**	**FR Water**	**FR Sewer**	**FR Total**	**West SA**	**FR Water**	**FR Sewer**	**FR Total**	**West SA**	**FR Water**	**FR Sewer**	**FR Total**	**West SA**
Revenues:																												
Residential Users	509,565	452,947	962,512	117,166	597,927	531,490	1,129,417	119,509	685,490	609,324	1,294,814	121,899	775,591	689,414	1,465,005	124,337	866,576	770,290	1,636,866	126,824	958,452	851,957	1,810,408	129,361	1,051,224	934,422	1,985,646	131,948
Commercial & CC Users	24,790	22,035	46,825	82,016	24,914	22,145	47,059	83,656	61,204	54,404	115,608	85,330	61,510	54,676	116,186	87,036	61,818	54,949	116,767	88,777	62,127	55,224	117,351	90,552	107,847	95,864	203,711	92,364
Industrial Users				23,433				23,902				24,380				24,867				25,365				25,872				26,390
CFD Proceeds			-				-		2,028,800	716,600	2,745,400				-				-				-		420,800	1,829,500	2,250,300	
FR Developer Capital			-		250,000		250,000			1,430,000	1,430,000		-	-	-				-		400,000	-	400,000			550,000	550,000	
Loan from ACF			-		300,000		300,000			550,000	550,000				-				-				-				-	
Other Income				27,534				28,085				28,646				29,219				29,804				30,400				31,008
Water/Sewer DIFs	116,250	116,250	232,500		116,250	116,250	232,500		162,750	162,750	325,500		116,250	116,250	232,500		116,250	116,250	232,500		116,250	116,250	232,500		176,250	176,250	352,500	
Total Revenues:	650,605	591,232	1,241,837	250,149	1,289,090	669,886	1,958,976	255,152	2,938,244	3,523,078	6,461,322	260,255	953,351	860,340	1,813,691	265,460	1,044,644	941,489	1,986,133	270,770	1,536,829	1,023,431	2,560,260	276,185	1,756,121	3,586,036	5,342,157	281,709
Operating Expense																												
Salaries - Other	25,000	25,000	50,000	23,420	26,250	26,250	52,500	23,888	27,563	27,563	55,125	24,366	28,941	28,941	57,881	24,853	30,388	30,388	60,775	25,350	31,907	31,907	63,814	25,857	33,502	33,502	67,005	26,374
LTRID Water Purchases	624,106		624,106	5,743	841,748		841,748	5,858	851,836		851,836	5,975	862,428		862,428	6,095	873,549		873,549	6,217	885,226		885,226	6,341	897,488		897,488	6,468
Capital Const and LTRID Agmt Cost	450,000	100,000	550,000		200,000	100,000	300,000		1,085,044	3,104,859	4,189,903				-		200,000	200,000	400,000		350,000	200,000	550,000		326,027	2,748,048	3,074,075	
FR Developer DIF Reimb			-				-				-				-				-				-				-	
ACF Loan Repayment		40,000	40,000				-		60,000		60,000		60,000		60,000			300,000	300,000		-	250,000	250,000		100,000	120,000	220,000	
ACF Transfers (DIF)	63,938	116,250	180,188		63,938	116,250	180,188		89,513	162,750	252,263		63,938	116,250	180,188		63,938	116,250	180,188		63,938	116,250	180,188		96,938	176,250	273,188	
WCF Transfers (DIF)	52,313		52,313		52,313		52,313		73,238		73,238		52,313		52,313		52,313		52,313		52,313		52,313		79,313		79,313	
Repairs & Maintenance	-	-		17,230	-	-		17,575	-	-		17,926	-	-		18,285	-	-		18,651	5,000	5,000	10000	19,024	5,650	5,650	11,300	19,404
Postage & Mailing	2,500	2,500	5,000	2,319	2,625	2,625	5,250	2,365	2,756	2,756	5,513	2,412	2,894	2,894	5,788	2,460	3,039	3,039	6,078	2,510	3,191	3,191	6,381	2,560	3,350	3,350	6,700	2,611
Payroll Taxes	2,500	2,500	5,000	28,210	3,000	3,000	6,000	28,774	3,579	3,579	7,157	29,349	3,992	3,992	7,984	29,936	4,405	4,405	8,811	30,535	4,819	4,819	9,637	31,146	5,445	5,445	10,891	31,769
Worker's Comp	2,385	2,385	4,770	2,871	2,766	2,766	5,533	2,928	3,300	3,300	6,600	2,987	3,681	3,681	7,362	3,046	4,062	4,062	8,125	3,107	4,443	4,443	8,887	3,169	5,021	5,021	10,043	3,233
Legal Expense	5,566	5,566	11,131	6,624	6,455	6,455	12,910	6,757	7,700	7,700	15,400	6,892	8,589	8,589	17,179	7,030	9,479	9,479	18,957	7,171	10,368	10,368	20,736	7,314	11,716	11,716	23,433	7,460
Accounting	6,361	6,361	12,721	4,968	7,377	7,377	14,754	5,068	8,800	8,800	17,600	5,169	9,816	9,816	19,633	5,272	10,833	10,833	21,666	5,378	11,849	11,849	23,698	5,485	13,390	13,390	26,780	5,595
Professional Fees	15,902	15,902	31,803	48,580	18,443	18,443	36,885	49,551	22,000	22,000	44,000	50,542	24,541	24,541	49,082	51,553	27,082	27,082	54,164	52,584	29,623	29,623	59,246	53,636	33,475	33,475	66,951	54,708
Engineering Services	9,541	9,541	19,082	16,561	11,066	11,066	22,131	16,892	13,200	13,200	26,400	17,230	14,725	14,725	29,449	17,575	16,249	16,249	32,498	17,926	17,774	17,774	35,548	18,285	20,085	20,085	40,170	18,651
Contract WW Operator		159,016	159,016			184,426	184,426			220,000	220,000			245,410	245,410			270,820	270,820			296,230	296,230			334,754	334,754	
Other Services	7,951	7,951	15,902	9,274	9,221	9,221	18,443	9,460	11,000	11,000	22,000	9,649	12,270	12,270	24,541	9,842	13,541	13,541	27,082	10,039	14,811	14,811	29,623	10,240	16,738	16,738	33,475	10,444
Insurance	2,385	2,385	4,770	1,656	2,766	2,766	5,533	1,689	3,300	3,300	6,600	1,723	3,681	3,681	7,362	1,757	4,062	4,062	8,125	1,793	4,443	4,443	8,887	1,828	5,021	5,021	10,043	1,865
Utilities	12,721	50,885	63,607	23,186	14,754	59,016	73,770	23,649	17,600	70,400	88,000	24,122	19,633	78,531	98,164	24,605	21,666	86,662	108,328	25,097	23,698	94,793	118,492	25,599	26,780	107,121	133,902	26,111
Water Treatment	19,082		19,082	8,612	22,131		22,131	8,784	26,400		26,400	8,960	29,449		29,449	9,139	32,498		32,498	9,322	35,548		35,548	9,508	40,170		40,170	9,698
Equipment Rental	1,590	1,590	3,180	2,319	1,844	1,844	3,689	2,365	2,200	2,200	4,400	2,412	2,454	2,454	4,908	2,460	2,708	2,708	5,416	2,510	2,962	2,962	5,925	2,560	3,348	3,348	6,695	2,611
Office Supplies & Expense	4,770	4,770	9,541	4,637	5,533	5,533	11,066	4,730	6,600	6,600	13,200	4,824	7,362	7,362	14,725	4,921	8,125	8,125	16,249	5,019	8,887	8,887	17,774	5,120	10,043	10,043	20,085	5,222
Vehicles	2,385	2,385	4,770	3,423	2,766	2,766	5,533	3,491	3,300	3,300	6,600	3,561	3,681	3,681	7,362	3,632	4,062	4,062	8,125	3,705	4,443	4,443	8,887	3,779	5,021	5,021	10,043	3,854
Total Expenses:	1,310,995	554,988	1,865,983	209,632	1,294,996	559,805	1,854,802	213,825	2,318,928	3,673,306	5,992,234	218,101	1,214,388	566,819	1,781,207	222,463	1,381,998	1,111,767	2,493,765	226,913	1,565,243	1,111,794	2,677,038	231,451	1,738,523	3,657,981	5,396,504	236,080
Surplus / (Deficit)	(660,391)	36,244	(624,146)	40,517	(5,906)	110,080	104,174	41,327	619,316	(150,228)	469,088	42,154	(261,037)	293,521	32,484	42,997	(337,354)	(170,278)	(507,632)	43,857	(28,415)	(88,363)	(116,778)	44,734	17,598	(71,945)	(54,347)	45,629
Cumulative Surplus / (Deficit)	17,745	58,555	76,300	243,438	11,839	168,636	180,475	284,765	631,156	18,407	649,563	326,919	370,119	311,928	682,047	369,916	32,765	141,650	174,415	413,773	4,350	53,287	57,637	458,507	21,948	(18,658)	3,290	504,136
Cumulative FR Res Customers			925				1080				1232				1387				1542				1697				1,852	
Cum FR Comm'l & CC Customers			45				45				110				110				110				110				190	
Monthly Rate:	$ 45.91	$ 40.81	$ 86.71		$ 46.14	$ 41.01	$ 87.15		$ 46.37	$ 41.22	$ 87.58		$ 46.60	$ 41.42	$ 88.02		$ 46.83	$ 41.63	$ 88.46		$ 47.07	$ 41.84	$ 88.90		$ 47.30	$ 42.05	$ 89.35	
Accumulated Capital Fund:	$ 250,125	$ 607,500	$ 857,625		$ 14,063	$ 723,750	$ 737,813		$ 163,575	$ 336,500	$ 500,075		$ 287,513	$ 452,750	$ 740,263		$ 351,450	$ 869,000	$ 1,220,450		$ 415,388	$ 1,235,250	$ 1,650,638		$ 612,325	$ 1,531,500	$ 2,143,825	
Accumulated Water Fund	$ 327,375		$ 327,375		$ 379,688		$ 379,688		$ 452,925		$ 452,925		$ 505,238		$ 505,238		$ 557,550		$ 557,550		$ 609,863		$ 609,863		$ 689,175		$ 689,175	

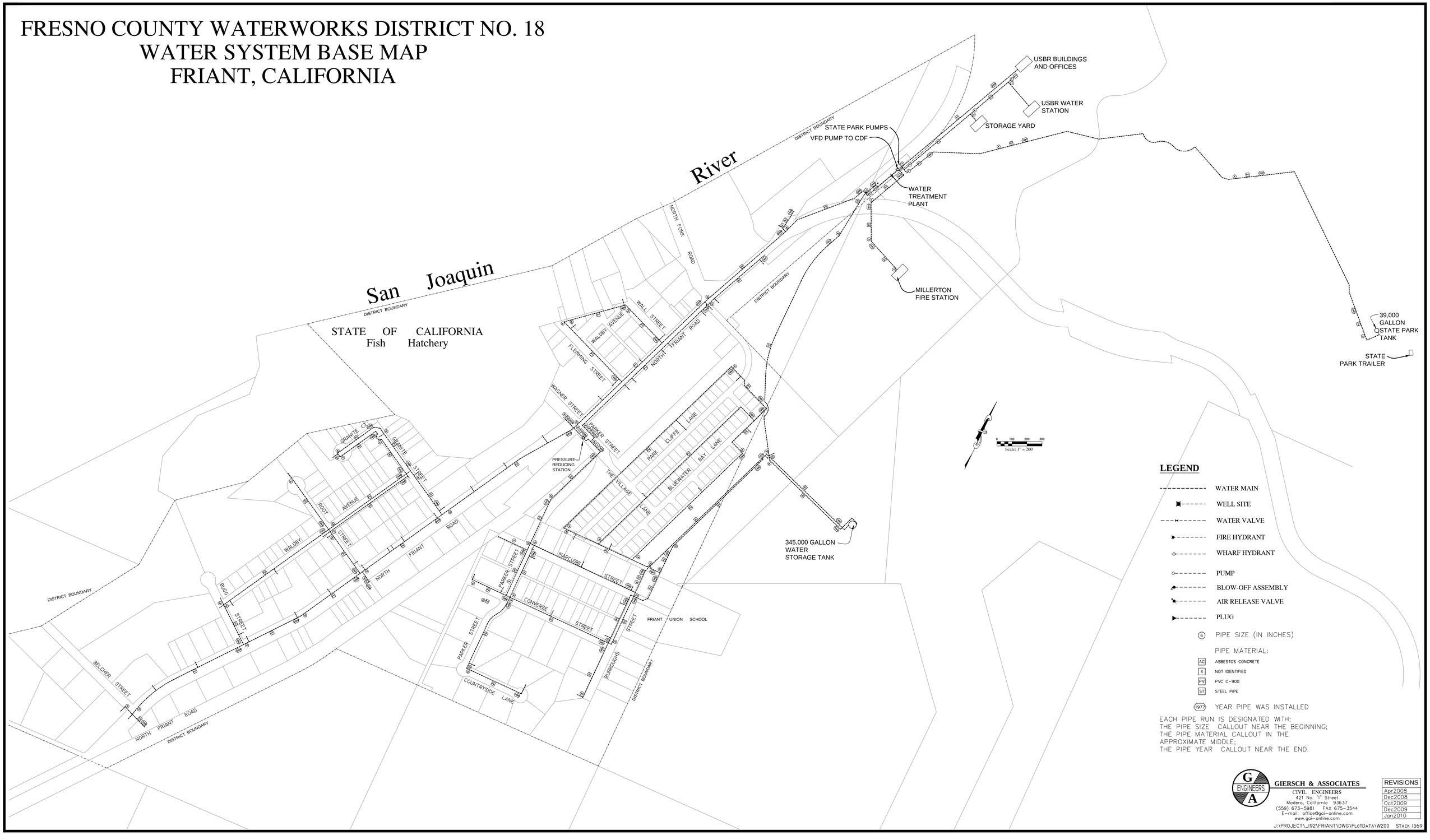
Fresno County Waterworks District No. 18
Western Service Area
Projection of Water & Sewer Revenues and Expense
Prepared: August 24, 2010

	Est FY 2023				Est FY 2024				Est FY 2025			
Category	**FR Water**	**FR Sewer**	**FR Total**	**West SA**	**FR Water**	**FR Sewer**	**FR Total**	**West SA**	**FR Water**	**FR Sewer**	**FR Total**	
Revenues:												
Residential Users	1,146,612	1,019,211	2,165,823	134,587	1,292,805	1,149,160	2,441,965	137,279	1,440,431	1,280,383	2,720,815	
Commercial & CC Users	108,386	96,343	204,730	94,211	108,928	96,825	205,753	96,095	120,996	107,552	228,548	
Industrial Users				26,917				27,456				
CFD Proceeds			-				-				-	
FR Developer Capital	-	-	-		-	-	-		-	-	-	
Loan from ACF			-				-				-	
Other Income				31,628				32,260				
Water/Sewer DIFs	118,500	118,500	237,000		183,750	183,750	367,500		198,750	198,750	397,500	
Total Revenues:	1,373,498	1,234,054	2,607,552	287,343	1,585,483	1,429,735	3,015,218	293,090	1,760,178	1,586,686	3,346,863	
Operating Expense												
Salaries - Other	35,178	35,178	70,355	26,902	36,936	36,936	73,873	27,440	38,783	38,783	77,566	
LTRID Water Purchases	910,362		910,362	6,597	923,880		923,880	6,729	938,074		938,074	
Capital Const and LTRID Agmt Cost	100,000	200,000	300,000		100,000	200,000	300,000		100,000	200,000	300,000	
FR Developer DIF Reimb			-				-				-	
ACF Loan Repayment			-		100,000		100,000		130,000		130,000	
ACF Transfers (DIF)	65,175	118,500	183,675		101,063	183,750	284,813		109,313	198,750	308,063	
WCF Transfers (DIF)	53,325		53,325		82,688		82,688		89,438		89,438	
Repairs & Maintenance	6,087	6,087	12,175	19,792	6,765	6,765	13,531	20,188	7,499	7,499	14,997	
Postage & Mailing	3,518	3,518	7,036	2,663	3,694	3,694	7,387	2,717	4,094	4,094	8,188	
Payroll Taxes	5,867	5,867	11,733	32,404	6,520	6,520	13,040	33,052	7,227	7,227	14,453	
Worker's Comp	5,410	5,410	10,820	3,297	6,012	6,012	12,025	3,363	6,664	6,664	13,328	
Legal Expense	12,623	12,623	25,246	7,609	14,029	14,029	28,057	7,762	15,549	15,549	31,098	
Accounting	14,426	14,426	28,852	5,707	16,033	16,033	32,066	5,821	17,770	17,770	35,541	
Professional Fees	36,066	36,066	72,131	55,803	40,082	40,082	80,164	56,919	44,426	44,426	88,852	
Engineering Services	21,639	21,639	43,279	19,024	24,049	24,049	48,098	19,404	26,656	26,656	53,311	
Contract WW Operator		360,656	360,656			400,820	400,820			444,262	444,262	
Other Services	18,033	18,033	36,066	10,653	20,041	20,041	40,082	10,866	22,213	22,213	44,426	
Insurance	5,410	5,410	10,820	1,902	6,012	6,012	12,025	1,940	6,664	6,664	13,328	
Utilities	28,852	115,410	144,262	26,633	32,066	128,262	160,328	27,166	35,541	142,164	177,705	
Water Treatment	43,279		43,279	9,892	48,098		48,098	10,090	53,311		53,311	
Equipment Rental	3,607	3,607	7,213	2,663	4,008	4,008	8,016	2,717	4,443	4,443	8,885	
Office Supplies & Expense	10,820	10,820	21,639	5,327	12,025	12,025	24,049	5,433	13,328	13,328	26,656	
Vehicles	5,410	5,410	10,820	3,932	6,012	6,012	12,025	4,010	6,664	6,664	13,328	
Total Expenses:	1,385,085	978,658	2,363,743	240,802	1,590,013	1,115,051	2,705,063	245,618	1,677,656	1,207,156	2,884,812	
Surplus / (Deficit)	(11,587)	255,396	243,809	46,541	(4,529)	314,684	310,155	47,472	82,522	379,530	462,051	
Cumulative Surplus / (Deficit)	10,361	236,738	247,099	550,677	5,832	551,422	557,254	598,149	88,353	930,952	1,019,305	
Cumulative FR Res Customers			2,010				2,255				2,500	
Cum FR Comm'l & CC Customers			190				190				210	
Monthly Rate:	$ 47.54	$ 42.26	$ 89.79		$ 47.78	$ 42.47	$ 90.24		$ 48.01	$ 42.68	$ 90.69	
Accumulated Capital Fund:	$ 677,500	$ 1,650,000	$ 2,327,500		$ 878,563	$ 1,833,750	$ 2,712,313		$ 1,117,875	$ 2,032,500	$ 3,150,375	
Accumulated Water Fund	$ 742,500		$ 742,500		$ 825,188		$ 825,188		$ 914,625		$ 914,625	

Appendix F - WWD 18 Water System Basemap

(Jan. 2010)

FRESNO COUNTY WATERWORKS DISTRICT NO. 18
WATER SYSTEM BASE MAP
FRIANT, CALIFORNIA



LEGEND

- WATER MAIN
- WELL SITE
- WATER VALVE
- FIRE HYDRANT
- WHARF HYDRANT
- PUMP
- BLOW-OFF ASSEMBLY
- AIR RELEASE VALVE
- PLUG
- (6) PIPE SIZE (IN INCHES)

PIPE MATERIAL:

- [AC] ASBESTOS CONCRETE
- [X] NOT IDENTIFIED
- [PV] PVC C-900
- [ST] STEEL PIPE

- (1977) YEAR PIPE WAS INSTALLED

EACH PIPE RUN IS DESIGNATED WITH:
THE PIPE SIZE CALLOUT NEAR THE BEGINNING;
THE PIPE MATERIAL CALLOUT IN THE APPROXIMATE MIDDLE;
THE PIPE YEAR CALLOUT NEAR THE END.

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REVISIONS
Apr2008
Dec2008
Oct2009
Dec2009
Jan2010

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Final Report

Friant Ranch Economic Impact Analysis

The Economics of Land Use

Prepared for:

Friant Ranch, L.P.

Prepared by:

Economic & Planning Systems, Inc.

June 11, 2010

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Table of Contents

1. INTRODUCTION 1

Project Description 1

Summary Findings 1

Organization of this Report 7

2. METHODOLOGY 8

Analytical Framework 8

Analytical and Data Assumptions 9

3. DETAILED ECONOMIC IMPACTS OF THE PROJECT 13

One-Time Construction Economic Impacts 13

Ongoing Economic Impacts 15

New Supportable Retail Space 17

Appendix A: Study Assumptions and Calculations

List of Map and Tables

Map 1 Project Regional Location 2

Table 1 Summary of Land Uses 3

Table 2 Summary of Economic Impacts at Buildout 5

Table 3 Potential New Supportable Retail Space in Friant Trade Area 6

Table 4 Cumulative Impacts of Project Construction at Buildout 14

Table 5 Net New Household Spending by HH Income Level 15

Table 6 Annual Impact of New Residents' Household Spending 16

Table 7 Estimated Employment at Village Center and Rec. Center at Buildout 18

Table 8 Potential Supportable New Retail Space 20

1. INTRODUCTION

Economic & Planning Systems, Inc., (EPS) prepared an Economic Impact Analysis (Economic Analysis) of the proposed Friant Ranch development project (Project), a master-planned retirement community for active adults (persons aged 55 and older) near the existing community of Friant in unincorporated Fresno County (County). The Project envisions a wide range of housing products, from detached and clustered homes to small-lot condominiums, townhomes, and apartments. The Project also proposes complementary nonresidential uses, including a Village Center and recreation amenities.

The primary objective of this Economic Analysis is to estimate the quantifiable economic impacts of construction and ongoing economic activities of the proposed land uses on the local economy (the County) with respect to jobs, income, and total output.[1] The Economic Analysis also estimates potential new retail space in the Friant area that can be supported by retail expenditures of Project residents at buildout. EPS has prepared a separate companion analysis to this Economic Analysis, a fiscal impact analysis, which estimates the Project's fiscal impact on the County's operating budget.

This chapter presents a brief description of the Project and summary findings of the Economic Analysis.

Project Description

The proposed Project is located adjacent to the existing community of Friant in the north-central unincorporated portion of the County. **Map 1** shows the general vicinity of the Project. The area is an access point to many recreational opportunities, particularly aquatic activities, with Lost Lake Park Recreation Area southwest of the Project site and Millerton Lake State Recreation Area to the north.

The Project encompasses 942 acres, in which 2,270 active adult units and 230 non-active adult multifamily units are proposed, along with a 250,000–square-foot Village Center providing retail goods and services to new and existing residents in Friant. In addition, a 42,000-square-foot recreation facility is proposed to support the needs of the active adult population in the community. **Table 1** provides a summary of the proposed land uses at buildout.

Summary Findings

This section presents summary results from the Economic Analysis based on buildout of the Project's proposed land uses summarized in the previous section. It provides overall estimates of the economic impact in the County stemming from Project development and occupancy. The

[1] Total output measures the level of economic activity generated in the County by the Project as a result of construction spending and buildout operations (business spending and resident household spending).

Map 1
Project Regional Location

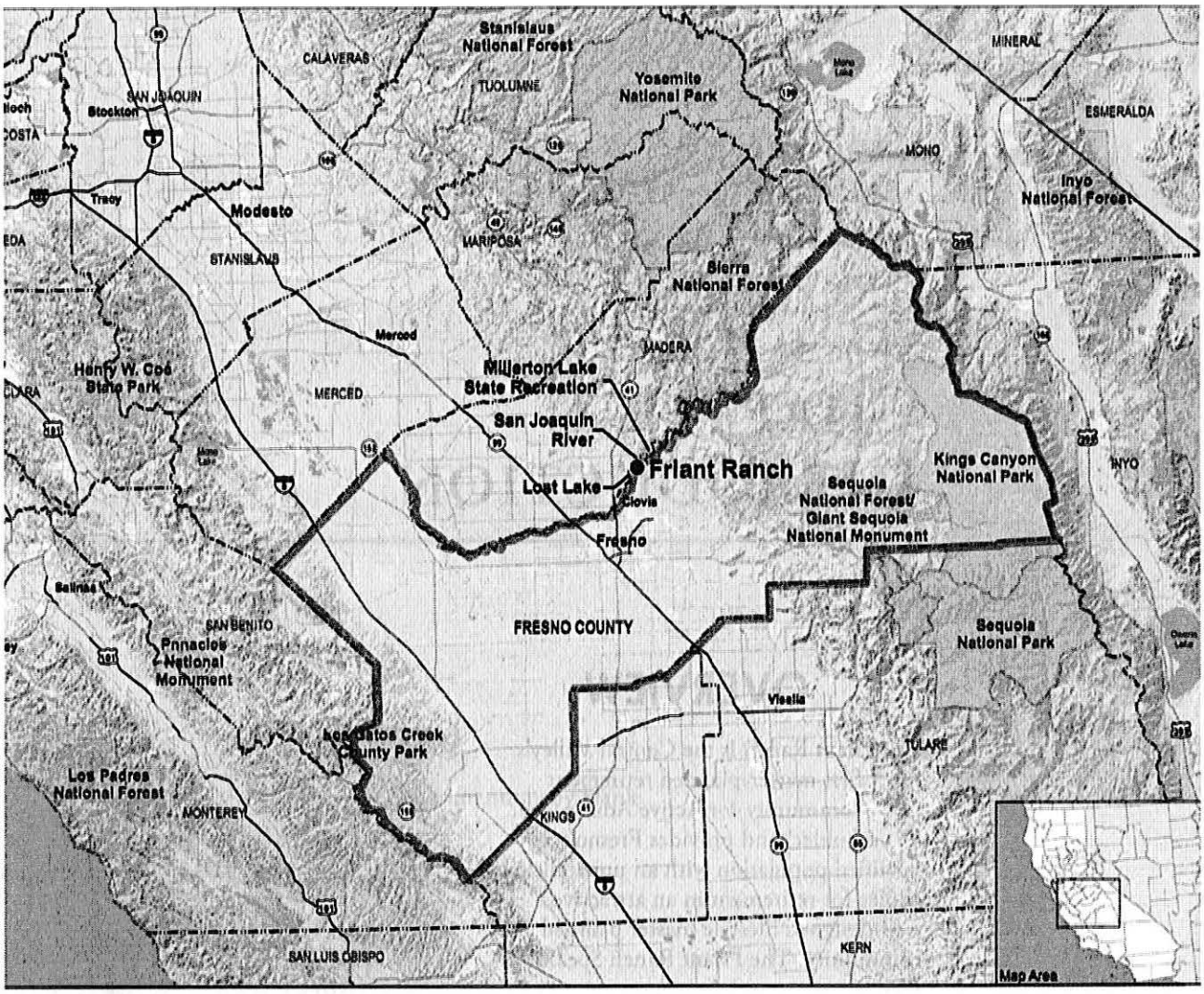


Table 1
Friant Ranch Economic Impact Analysis
Summary of Land Uses

Land Use Category	Gross Acreage	Average Density	Housing Units	Building Sq. Ft.
Residential [1]				
Single Family (SFD-1)	69.4	4.2	290	-
Single Family (SFD-2)	131.5	5.7	745	-
Single Family (SFD-3)	130.9	8.2	1,069	-
Multi-Family	13.3	12.5	166	-
Non-Age-Qualified Multi-Family	14.3	12.6	180	-
Mixed Use Multi-Family [2]	-	-	50	-
Total Residential	**359.4**	**-**	**2,500**	-
Non-Residential				
Village Center [3]				
Retail	-	-	-	125,000
Restaurant	-	-	-	10,000
Fast Food with Drive Thru	-	-	-	5,000
Office	-	-	-	100,000
Medical	-	-	-	10,000
Subtotal Village Center	**32.6**	-	-	**250,000**
Active Adult Recreation Center	16.1	-	-	42,000
Total Non-Residential	**48.7**			**292,000**
Total Developable	**408.1**	-	**2,500**	**292,000**
Other Land Uses				
Undisturbed Open Space	460.0	-	-	-
Re-vegetated Open Space Slopes	22.4	-	-	-
Wastewater Treatment System	4.0	-	-	-
Roads	47.7	-	-	-
Total Other Land Uses	**534.1**	-	-	-
TOTAL	**942.2**	-	**2,500**	**292,000**

"LU_sum"

Source: Friant Ranch LP.

[1] Single-family residential descriptions:
SFD-1: Densities ranging from 2.0 du/ac to 5.0 du/ac (minimum lot size of 6,000 sq ft).
SFD-2: Densities ranging from 5.0 du/ac to 8.0 du/ac.
SFD-3: Densities ranging from 8.0 du/ac to 12.0 du/ac.

[2] Units will be constructed within the Village Center. Acreage is included in Village Center acres.

[3] Tenant uses based on assumptions in the Friant Ranch Traffic Impact Report.

impacts on the County's economy were examined using the Impact Analysis for Planning (IMPLAN) model based on 2006 data. Note that estimated economic impacts are presented in constant 2008 dollars.

The results are considered to be conservative based on the following assumptions used in the analysis:

- Village Center multifamily product was assumed to be for-rent product rather than for-sale product, which reduces the total potential household spending and in turn reduces total economic output of the Project.
- Retail spending was based on estimated current Friant area household spending; however, Friant Ranch household income is estimated to be 37 percent greater than the existing Friant area household income.

Economic Impacts at Project Buildout

The Economic Analysis estimated economic impacts generated in the entire County during the construction phase and during the occupancy phase. **Table 2** summarizes the one-time economic impacts generated by Project construction and the recurring annual impacts generated by household spending of Project residents at buildout.

One-Time Construction Economic Impacts

Construction of the Project, including infrastructure, commercial, and residential buildings, will occur over a 10-year period and is estimated to cost approximately $687 million dollars in total. This level of construction spending will generate additional economic output of $918 million in the County's economy, an average of $92 million annually over a 10-year period. Based on the 2006 annual County economic output of $54.6 billion (2008$), estimated Project construction output would represent an addition of 1.7 percent to the County's total economic output.[2]

Construction of the Project is estimated to create employment for approximately 660 workers annually over the 10-year period, earning a total of $264 million in employee income or an average of $40,000 annually per worker.[3] In addition to employee income, the Project will generate additional capital income of approximately $139 million, including proprietary income, interest payments, rent, royalties from contracts, dividends, and corporate profits.[4] Note that income is part of the Project's total economic output mentioned above.

---

[2] From 2006 IMPLAN data for the County, escalated to 2008 dollars using a 5-year (2002–2007) average annual change in the GDP price deflator published by the U.S. Bureau of Economic Analysis.

[3] Average income estimate includes wage and salary payments, as well as benefits, including health and life insurance, retirement payments, and any other non-cash compensation. It includes all income to workers paid by employers (MIG, Inc, 2006).

[4] Capital income includes income earned by individual or joint business entrepreneurs, as well as corporations. Also includes other income earned by capital such as rent (U.S. Bureau of Economic Analysis). Capital income is defined as Proprietary Income and Other Property Type Income in the IMPLAN model.

Table 2
Summary of Economic Impacts at Buildout [1]

Impact Type	One-Time Construction Impacts		Ongoing Household Spending Impacts
	Cumulative	Annual [2]	Annual
Employment [3]	6,640 job yrs	664 jobs	760 jobs
Employee Income [4]	$264,200,000	$26,420,000	$23,085,000
Capital Income [5]	$138,600,000	$13,860,000	$23,712,000
Output (excl. Income) [6]	$515,300,000	$51,530,000	$63,659,000
Total Economic Output	**$918,100,000**	**$91,810,000**	**$110,456,000**

"table 2"

Source: EPS.

[1] Impacts are countywide. See Table 4 and Table 6 for additional details.
[2] Assumes a 10-year construction period.
[3] Job years measures cumulative annual employment over the course of the construction period. Annual jobs is the average number of jobs supported annually in the County.
[4] Employee income is a part of total output and includes employee salaries and benefits.
[5] Includes proprietary income, interest, rents, royalties, dividends, and corporate profits.
[6] Output measures the level of economic activity generated by the Project as a result of project construction spending and residents household spending at buildout.

Because economic output from construction is limited to the 10-year period, construction impacts are referred to as one-time economic impacts.

Ongoing Annual Economic Impacts

When households spend their income, the new dollars are captured by local businesses and recirculated in the local economy, thus stimulating economic activity and in turn increasing the County's economic output. This analysis estimates households in the Project would earn an average of $67,000 annually per household, and approximately 67 percent of total household spending on a variety of goods and services, such as food, clothes, healthcare, utilities, and insurance, would be captured in the County.

At buildout, total household spending from the Project would stimulate an estimated $110 million in additional economic output in the County. Compared to the County's 2006 annual economic output of $54.6 billion (2008$), this new household spending would stimulate an expansion of approximately 0.2 percent in the County's economic output.

The additional output stimulated by household spending would support approximately 760 new jobs (part-time and full-time) in the County, earning a total of $23 million in employee income annually, an average of $31,000 annual income per worker.[5] In addition to employee income, the increase in economic activity would generate additional capital income of approximately $24 million annually. Note that income is part of the Project's total economic output mentioned above.

New Supportable Retail Space

The Economic Analysis also estimated the amount of new retail space in the Friant Trade Area that could be supported by retail expenditures of Project residents.[6] As shown in **Table 3**, Project residents are projected to spend approximately $65.2 million annually at buildout on retail goods and services. Assuming no leakage of retail expenditures, this amount of spending would support approximately 273,000 square feet of new retail space in the Friant Trade Area.

Table 3
Potential New Supportable Retail Space in Friant Trade Area [1]

Item	Net New Annual Residents' Retail Expenditures [2]	Avg Annual Retail Sales per Sq. Ft.	New Supportable Retail Sq. Ft.
Formula	*A*	*B*	*C = A / B*
All Retail Categories	$65,175,000	$239	**273,000**

"new_retail"

Source: Table 8.

[1] The Friant Trade Area includes the area within a 7-mile radius of Friant.
[2] Total retail expenditures by Project residents within the Friant Trade Area in excess of existing retail sales surpluses.

[5] While the estimated new jobs would be created in the County, the IMPLAN model does not provide an estimate of the percentage of employees who will reside in the County. It is reasonable to assume that some of these jobs will be filled by Project residents themselves (age-qualified and non-age qualified units). See **Table A-6** for County jobs/housing balance and 55+ persons in employment).

[6] The Friant Trade Area includes areas within a 7-mile radius of Friant.

Organization of this Report

This report is organized into three chapters and an appendix. In addition to the introduction and summary contained in this chapter, the report contains these chapters:

- **Chapter 2** describes the methodology used to estimate the economic impacts of the Project on the County.
- **Chapter 3** discusses the total construction impacts of the Project and the ongoing annual economic impacts generated by household spending of Project residents.
- **Appendix A** contains tables with detailed assumptions and calculations of the Project's construction costs and residents' household spending at buildout.

2. METHODOLOGY

This chapter details the methodology used to estimate the economic impacts of the proposed Project. While the Project would likely generate economic impacts beyond the County, this analysis focuses on the economic impacts generated in the County. Impacts accruing to neighboring counties are outside the scope of this study.

This study employed the 2006 County database and input-output software (IMPLAN) from Minnesota IMPLAN Group, Inc., to calculate economic multipliers for the County. The most recent year for which IMPLAN data is available is 2006; as such the results are adjusted to reflect 2008 dollars. The smallest economic entity for which IMPLAN data are available is the county; therefore, this analysis represents the potential impacts in the entire County, including all the cities located in the County.

IMPLAN software and model data is used by economists and planners to generate economic multipliers for hundreds of specific industries in counties and states or combinations of counties and states throughout the nation. The IMPLAN software generates a model of the industrial structure and household profile for the County (local) economy, which in turn determines the extent to which spending by households and businesses is captured and recirculated in the local economy, rather than being allowed to "leak" outside the County. In general, a more structurally diverse economy will capture and recirculate spending more effectively and will generate a larger economic multiplier.

Analytical Framework

For the purpose of this analysis, EPS analyzed three major economic impacts resulting from proposed Project development:

- **Output—**Measures the value of goods and services produced in the County as a result of the Project's construction activities and buildout operations. Construction cost estimates were used to estimate total output from construction, and household spending was used to estimate the ongoing impact of Project operations at buildout.
- **Employment—**Estimates the total number of jobs, both full-time and part-time, created as a result of the Project. The duration of each job reported is 12 months. The number of estimated jobs does not account for job losses that may occur at other job centers in the County because of competition from the Project; as such, these estimates do not represent net new jobs.
- **Income**—Total compensation (wages and benefits) received by employees and proprietors and other income earned, i.e., profits, rents, and royalties. Income represents a portion of

the Project's value added[7] and is one component of the Project's total output described above.

The total economic impact of the Project in each of the three areas above is the sum of its direct, indirect, and induced effects:

- **Direct Effects—**Changes in the specific industries (such as retail trade or hospitality) being analyzed.
- **Indirect Effects—**Changes in inter-industry purchases as other industries respond to the new demands of the directly affected industries, e.g., increased output from manufacturing firms as a result of new retail expenditures by Project households.
- **Induced Effects—**Changes in spending by employees' households because of new income earned directly and indirectly from the Project.

The Project's economic impacts were analyzed with respect to one-time impacts and ongoing impacts to the County:

1. **One-Time Construction Economic Impacts**—One-time impacts include the value of new construction, employment created, and income earned during Project construction; as such the duration of one-time impacts is limited to the development period of the Project. Induced impacts from Project construction were not estimated in this analysis; see "Project Construction" in the next section of this chapter.
2. **Ongoing Annual Impacts**—Ongoing impacts occur annually throughout the life of a project and are based primarily on expenditures on goods and services by project residents. Ongoing impacts are measured at buildout on an annual basis. EPS analyzed the annual impacts of the Project at buildout assuming full occupancy of housing units.

Analytical and Data Assumptions

Below are the key assumptions used to estimate the economic impacts of the Project.

Constant Dollars

All monetary amounts shown in this analysis are constant 2008 dollars.

Economy

Economic impact estimates are derived based on the most recent available economic modeling data (IMPLAN 2006) describing input-output relations in and between various sectors of the

[7] Value added includes income (employee compensation, proprietary income, other property-type income) and indirect business taxes (excise taxes, property taxes, fees, licenses, and sales taxes paid by businesses).

economy and current technology employed in the production of goods and services. Significant changes in production technology or the relations between various sectors will significantly alter the estimated economic impacts of the Project.

Project Construction

Because construction activities associated with specific components of the Project are expected to last for relatively short periods of time, resulting in only temporary increases to economic activity, Project construction is not anticipated to create new resident employees and therefore no new (induced) household expenditures in the local economy. Thus, total estimated impacts do not include induced impacts to avoid overestimation of economic impacts associated with temporary increases to economic activity.[8] Exclusion of the induced impacts prevents overestimation of economic impacts associated with temporary increases in economic activity [Minnesota IMPLAN Group, Inc., (MIG), 2004].

Impacts of project construction spending were estimated based on estimated construction costs of proposed land uses and associated public facilities and backbone infrastructure (**Tables A-1** and **A-2**). Estimated building construction costs for proposed land uses were based on RSMeans Square Foot Costs (Reed Construction Data, 2007), while construction cost estimates for public facilities and infrastructure were prepared by Provost & Pritchard Engineering Group, Inc.

Residents' Household Expenditures

Residents' spending was used to estimate the Project's total ongoing annual economic impacts based on the IMPLAN model.[9]

The majority of the Project's residents will be active adults (55 years and older). These residents may be employed or retired with income from both wages and external sources, such as transfer payments, investments, and so forth. Data from the current population survey, performed by the Bureau of Labor Statistics (BLS), indicates that employed persons aged 55-plus constitute approximately 17 percent of the total U.S. population. Although this analysis does not estimate the number of jobs held by residents of the Project, the BLS data indicates that active adults will work in the Village Center at Friant Ranch, other employment centers in the County, and for enterprises outside the County.

Total residents' household spending was estimated using assumed household incomes, the percentage of income spent, and the share of total spending captured in the County (IMPLAN, 2006).[10] The following steps were used to determine estimated residents' household spending that would be captured in the County at buildout:

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[8] MIG, Inc., 2004. IMPLAN Professional Version 2.0 Analysis Guide.

[9] This analysis does not estimate additional economic impacts based on Village Center business activity to avoid double-counting impacts. See additional discussion under "Village Center Uses" in this section.

[10] Household income estimates were based on data from the BLS and Del Webb.

1. Based on the home price estimates, annual household income for each for-sale-unit (all active adult units) was estimated assuming that income per household averaged 22 percent of the home price (Del Webb, 2004). This yielded an overall average income of $70,000 per active adult household, which was consistent with the national average household income of approximately $70,000 for households headed by persons aged 55 to 64 years old (BLS, 2006). For the Non-Active Adult rental units, household income is based on the average income for households in rental units in the U.S., which averages $37,000 annually (BLS, 2006). For the Project, this yields an overall average income of $67,000 per household. See **Table A-3**.

2. The percentage of income spent per household was derived using BLS data on household spending by income category (**Table A-4**).[11] Total household spending at buildout is estimated to total approximately $135 million annually.

3. The share of total household spending captured in the County was estimated based on IMPLAN data on household demand and local purchase co-efficients for the County. About 67 percent of total household spending (which includes spending on shelter and utilities) is captured in the County, which would result in approximately $90 million annually in new spending in the County by Project residents (**Table A-5**).

Village Center Uses

The Village Center is proposed to contain a mix of commercial, retail, and office uses, as well as some mixed use development. The timing for construction of the Village Center will be driven by the rate of residential development in Friant Ranch and surrounding areas.

Because the Village Center is positioned primarily to serve residential development in Friant Ranch, this Economic Analysis is based on the assumption that the bulk of business activity generated at the Village Center will be supported by household spending of Friant Ranch residents. The portion of business activity at the Village Center that would be generated by demand outside Friant Ranch is expected to be minimal, and much of it is likely being met by existing businesses elsewhere in the County. As shown in **Tables 3** and **7**, total retail spending by Project residents would support more retail square feet than is proposed at the Village Center.

Because business activity at the Village Center would largely be supported by expenditures of Project residents, economic impacts of Village Center businesses are not estimated separately to avoid double-counting. In essence, the Economic Analysis is based on the assumption that total estimated economic impacts generated by Project resident spending, as shown in **Table 6**, also account for impacts associated with Village Center businesses.

New Supportable Retail Space

Supportable retail space estimates the potential amount of new retail space that can be supported by retail expenditures of Project residents. The Economic Analysis was based on the Friant Trade Area (an area within a 7-mile radius of Friant) and used existing retail supply and

[11] The percentage of income spent includes spending on housing/shelter and utilities as is required for input to the IMPLAN model.

consumer demand data from Claritas MarketPlace 2007. Project annual household retail expenditures (retail demand) by retail category were estimated using existing average retail expenditures per household in the Friant Trade Area.[12] Estimated retail demand was adjusted in retail categories that have surplus retail supply in the area. The net demand was divided by average annual sales per square foot to obtain the corresponding amount of new retail space that would be required to match net new retail demand. See **Table A-7**.

[12] Although average incomes in the Project are expected to be higher than existing average household incomes in the area (see **Table A-8**), existing average retail expenditures are assumed to obtain more conservative retail demand estimates.

3. DETAILED ECONOMIC IMPACTS OF THE PROJECT

This chapter presents detailed results of the total estimated economic impacts of the proposed Project at buildout.

Economic activity is initially stimulated by direct expenditures of households and businesses. Construction spending and purchases of goods and services by future residents in the Project will stimulate production and employment at businesses that supply the goods and services. The other businesses, in turn, would spend their income and stimulate additional impacts (indirect effects). Furthermore, when employees spend their income on household needs, such as groceries, retail purchases, health care, or mortgage or rent payments, their spending induces additional economic activity (induced effects) in each of these industries. These indirect and induced effects multiply and, when added to the direct impact, yield the total economic impact of the proposed land uses.[13]

One-Time Construction Economic Impacts

EPS estimated the economic impacts generated in the County as a result of Project construction. Because impacts are limited to the construction period, they are referred to as one-time impacts. **Table A-1** in **Appendix A** shows the construction cost estimates used to estimate the economic impact of Project construction. Construction of the Project's residential and nonresidential products, including backbone infrastructure, utilities, and amenities, is estimated to total approximately $686.7 million (2008$) at buildout.

Table 4 presents the detailed cumulative output, employment, and income impacts generated by Project construction at buildout. Please note that actual economic impacts generated in any given year will be proportional to the percentage of total construction that occurs. Induced impacts were not estimated because any increase in economic activity relating to Project construction is expected to be temporary and therefore unlikely to generate significant new employee household expenditures in the County.[14]

Construction Output

Over the entire period of Project construction, EPS estimates the Project will generate a total of $918.1 million (2008$) in economic output, including direct and indirect impacts. Total output includes income discussed below. Note that the estimated increase in economic output from construction would be limited to the construction phase of the Project.

[13] Indirect and induced effects are sometimes collectively referred to as multiplier effects.

[14] See "Project Construction" in **Chapter 2** for a detailed explanation.

Table 4
Friant Ranch Economic Impact Analysis
Cumulative Impacts of Project Construction at Buildout (2008$)

Type of Impact	Indirect Effect Multiplier	Countywide Impacts			Total Cumulative Impact
		Direct	Indirect	Induced [1]	
Output [2]					
Industry Output (excl. Income)	0.29	$399,300,000	$116,000,000	-	$515,300,000
Income	0.40	$287,400,000	$115,400,000	-	$402,800,000
Total Output	**0.34**	**$686,700,000**	**$231,400,000**	-	**$918,100,000**
Employment (Job years) [3]	0.46	4,550	2,090	-	**6,640**
Annual Average Employment [4]		455	209	-	664
Income					
Employee Income	0.37	$193,400,000	$70,800,000	-	$264,200,000
Capital Income:					
Proprietary Income	0.28	$59,300,000	$16,700,000	-	$76,000,000
Other Income [5]	0.80	$34,700,000	$27,900,000	-	$62,600,000
Total Income	**0.40**	**$287,400,000**	**$115,400,000**	-	**$402,800,000**

"constr_impacts"

Source: MIG, Inc. *IMPLAN 2006*; and EPS.

[1] Induced impacts were not estimated because construction activities have a limited duration and are not anticipated to generate net new household expenditures in the local economy.
[2] Output measures the level of economic activity generated by construction in the County's economy.
[3] Employment includes both full-time and part-time workers. Job years is a measure of cumulative annual employment over the course of the construction period.
[4] Assumes a 10-year construction period.
[5] Includes interest, rents, royalties, dividends, and corporate profits.

Construction Employment

Direct and indirect employment generated by construction of the Project is estimated to total approximately 6,640 job years, the cumulative annual employment over the course of the construction period. Assuming a 10-year construction period, construction employment would average 660 jobs annually.

Construction Income

Economic activity relating to construction of the Project is expected to generate a total of $264.2 million in new employee income, an average of $39,800 per worker. An additional $138.6 million in capital income, including proprietary income, interest, rents, royalties, dividends, and corporate profits, would be earned. Note that income is a subset of total economic output discussed above.

Ongoing Economic Impacts

EPS estimated the ongoing impacts generated by economic activity initiated by household spending of Project residents. **Table 5** shows that Project households are expected to generate approximately $90.2 million annually in new household spending in the County at buildout. Total spending is categorized by household income level.

Table 5
Net New Household Spending by HH Income Level

Household/Unit Type	Household Income Level	Net Spending by Income Level	
		% of Total	Amount [1]
		a	*b = a * b Total*
Active Adult			
Single-Family (SFD-1)	$75K - $100K	13%	$12,020,175
Single-Family (SFD-2)	$75K - $100K	31%	$27,702,825
Single-Family (SFD-3)	$50K - $75K	45%	$40,180,503
Age-Qualified Multifamily	$50K - $75K	6%	$5,010,461
Non-Active Adult			
Non-Age-Qualified Multifamily	$35K - $50K	5%	$4,132,852
Village Center Multifamily	$35K - $50K	1%	$1,148,015
New Annual Household Spending in County		**100%**	**$90,194,831**
			"income_level"

Source: Table A-5 and Table A-4 in Appendix A.

[1] Calculated by multiplying the net new Project spending of $90,194,831 as calculated in Table A-5 by the percent of total spending (column a) from Table A-4.

EPS analyzed the economic impacts generated by new household spending at full buildout on an annual basis. **Table 6** presents the detailed impacts.

Table 6
Friant Ranch Economic Impact Analysis
Annual Impact of New Residents' Household Spending (2008 $)

Type of Impact	Multiplier		Countywide Impacts			Total
	Indirect	Induced	Direct	Indirect	Induced	**Annual Impact**
Output [1]						
Industry Output (excl. Income)	0.15	0.15	$48,835,528	$7,470,545	$7,353,327	$63,659,400
Income	0.24	0.27	$30,970,743	$7,371,000	$8,455,000	$46,796,743
Total Annual Output	**0.19**	**0.20**	**$79,806,272**	**$14,841,545**	**$15,808,327**	**$110,456,143**
Annual Employment [2]	0.24	0.28	496	120	140	**756**
Income [3]						
Employee Income	0.28	0.30	$14,682,532	$4,044,000	$4,358,000	$23,084,532
Capital Income:						
Proprietary Income	0.39	0.32	$2,534,404	$980,000	$810,000	$4,324,404
Other Income [4]	0.17	0.24	$13,753,807	$2,347,000	$3,287,000	$19,387,807
Total Annual Income	**0.24**	**0.27**	**$30,970,743**	**$7,371,000**	**$8,455,000**	**$46,796,743**

"exp_impacts"

Source: MIG, Inc. *IMPLAN 2006*; and EPS.

[1] Output measures the level of economic activity generated by household expenditures in the County's economy.
[2] Employment includes both full-time and part-time workers. Annual average employment represents the average number of jobs that would be supported annually by ongoing household spending at buildout.
[3] Income is a component of total output.
[4] Includes interest, rents, royalties, dividends, and corporate profits.

Annual Economic Output

Project residents' household spending is expected to generate a total of $110.5 million (2008$) annually in direct, indirect, and induced output countywide. Total output includes income impacts discussed below. Compared to the County's total economic output of $54.6 billion (2008$) in 2006, additional output generated by the Project would represent a 0.2-percent increase over the County's 2006 annual economic output.

Annual Employment

Direct, indirect, and induced employment impacts generated by Project household spending are expected to create approximately 760 jobs annually, including both full- and part-time workers. The IMPLAN model does not provide an estimate of how many of these jobs will be filled by workers residing in the County. In addition, it is reasonable to assume that a portion of these jobs may be filled by the new residents of the Project.

Table 7 shows estimated buildout employment at the Project, including the Village Center and Recreation Center. Because businesses at the Village Center will largely be supported by the Project's household spending, this Economic Analysis is based on the assumption that on-site employment is part of the total countywide employment supported by the Project's household spending as shown in **Table 6**.

Annual Income

Economic activity relating to household spending of the Project's residents is expected to generate a total of $23.1 million in new employee income, an average of $30,400 annually per worker and an additional $23.7 million in capital income, including proprietary income, interest, rents, royalties, dividends, and corporate profits. Note that income is a subset of total economic output discussed above.

New Supportable Retail Space

Development of the Project will help create a critical mass of demand for goods and services and help to attract new retailers to Friant. EPS estimated the amount of new retail space, above the existing retail space, in the Friant Trade Area (an area within a 7-mile radius of Friant) that could be supported by retail expenditures of Project residents. **Table A-7** in **Appendix A** shows the calculation of supportable retail space in detail.

Table 7
Friant Ranch Economic Impact Analysis
Estimated Employment at Village Center and Rec. Center at Buildout

Land Use/ Tenant Uses [1]	Building Sq. Ft.	Sq. Ft. per Employee [2]	Estimated Employees
Retail Commercial			
Retail	125,000	800	160
Restaurant	10,000	500	20
Fast Food w/ Drive Thru	5,000	500	10
Subtotal Retail Commercial	**140,000**		**190**
Office			
Business/ Professional	100,000	400	250
Medical	10,000	500	20
Subtotal Office	**110,000**		**270**
Recreation Center	42,000	1,050	40
Total	**292,000**		**500**

"center_empl"

Source: 2003 Commercial Buildings Energy Consumption Survey (EIA, 2006).

[1] Tenant uses based on assumptions in the Friant Ranch Traffic Impact Report.
[2] Mean square feet per worker in non-mall buildings from the 2003 Commercial Buildings Energy Consumption Survey, published by the Energy Information Administration.

Based on the average retail spending per household of $33,610 for existing residents in Friant, the Economic Analysis estimates that Project residents will spend a total of $82.9 million annually on retail goods and services.[15] After adjusting for existing retail categories with sales in excess of existing local demand, Project residents are projected to support approximately $65.2 million in new retail sales. Based on an average of $239 per square foot in annual retail sales, this level of new retail spending would support approximately 273,000 square feet in new retail space in the Trade Area. Note that this supportable space would include proposed retail space at the Project's Village Center. See **Table 8** for a summary of estimated supportable space by retail category.

The estimated potential supportable retail space assumes no leakage of resident spending. It is unlikely that retail would develop to its maximum potential in Friant because an undeterminable amount of leakage will continue to occur for new and existing retail expenditures. However, a larger population base is expected to attract new retail outlets to the area, a portion of which are likely to locate in the proposed Village Center.

[15] This amount of spending per household of $33,610 is a conservative assumption based on 2007 consumer expenditure data from Claritas. The estimated median household income in Friant is $48,800, based on Census data adjusted for growth through 2008 (see **Table A-8**). In comparison, Friant Ranch median household income is estimated at $67,000; therefore, it is likely that new spending per household in the Project will be higher than existing spending estimates used in **Table A-7**.

Table 8
Friant Ranch Economic Impact Analysis
Potential Supportable New Retail Space

Retail Category	Residents Retail Expenditures less Existing Sales Surplus	Estimated Annual Sales per Sq. Ft.	Estimated Supportable New Retail Sq. Ft. [5]
Automotive Parts / Accessories, Tire Stores	$1,929,357	$531	3,600
Furniture and Home Furnishings Stores	$3,335,845	$184	18,200
Electronics and Appliance Stores	$3,153,639	$270	11,700
Building Material and Garden Equipment Stores	($1,524,199)	$315	0
Food and Beverage Stores	$14,248,141	$339	42,100
Pharmacy, Drug, and Optical Goods Stores	$5,062,352	$454	11,100
Cosmetics, Beauty Supplies and Other Personal Care	$556,713	$314	1,800
Clothing and Accessories	$6,058,069	$272	22,300
Sporting Goods, Hobby, Music, Book Stores	$2,487,614	$207	12,000
General Merchandise (Department and Super Stores)	$15,082,969	$163	92,400
Miscellaneous Stores (Florists, Stationery, Novelties)	$3,496,658	$146	23,900
Food Service and Drinking Places	$11,287,540	$333	33,900
TOTAL/ AVERAGE	**$65,174,698**	**$239**	**273,000**

"new_retail_2"

Source: Table A-7.

APPENDIX A:

Study Assumptions and Calculations

Table A-1	Estimated Project Construction Costs
Table A-2	Residential and Commercial Building Construction Cost Factors
Table A-3	Estimation of Household Income for Active Adult Units
Table A-4	Estimated Residents Household Expenditures
Table A-5	Estimation of Net New Household Spending
Table A-6	Percentage of Population Aged Over 55 that is Employed and Fresno County Jobs/Housing Balance
Table A-7	Potential Retail Space Supported by Project Households Retail Expenditures
Table A-8	Median Household Income Data

Table A-1
Friant Ranch Economic Impact Analysis
Estimated Project Construction Costs (2008$)

Cost Items	No. of Units	Building Sq. Ft.	Construction Cost per Unit [1]	Estimated Construction Cost	Assumed IMPLAN Sector Description	Code
Residential		*Per Unit*				
Single-Family (SFD-1)	290	2,030	$251,720	$72,999,000	New residential 1-unit structures	33
Single-Family (SFD-2)	745	1,750	$217,000	$161,665,000	New residential 1-unit structures	33
Single-Family (SFD-3)	1,069	1,570	$208,810	$223,218,000	New residential 1-unit structures	33
Active Adult Multifamily	166	1,150	$212,750	$35,317,000	New multifamily hsg. structures	34
Non-Age-Qualified Multifamily	180	1,150	$212,750	$38,295,000	New multifamily hsg. structures	34
Village Center Multifamily	50	1,000	$185,000	$9,250,000	New multifamily hsg. structures	34
Total Residential	**2,500**	-		**$540,744,000**		
Nonresidential			*Per Sq. Ft.*			
Retail	-	125,000	$100	$12,500,000	Commercial & institutional bldgs.	38
Restaurant	-	10,000	$169	$1,690,000	Commercial & institutional bldgs.	38
Fast Food with Drive Thru	-	5,000	$172	$860,000	Commercial & institutional bldgs.	38
Office	-	100,000	$142	$14,200,000	Commercial & institutional bldgs.	38
Medical Office	-	10,000	$165	$1,650,000	Commercial & institutional bldgs.	38
Active Adult Recreation Center	-	42,000	$127	$5,334,000	Commercial & institutional bldgs.	38
Total Nonresidential		**292,000**		**$36,234,000**		
Infrastructure and Amenities [2]						
Site Preparation & Grading	-	-	-	$16,044,000	Other new construction	41
Sanitary Sewers	-	-	-	$16,853,000	Water, sewer, & pipeline constr.	40
Water Distribution	-	-	-	$16,983,000	Water, sewer, & pipeline constr.	40
Storm Drainage	-	-	-	$1,955,000	Hwy, street, bridge, & tunnel constr.	39
Roadway/ Street Improvements	-	-	-	$11,300,000	Hwy, street, bridge, & tunnel constr.	39
Dry Utilities	-	-	-	$18,963,000	Other new construction	41
Amenities & Special Construction	-	-	-	$27,650,000	Other new construction	41
Total Infrastructure				**$109,748,000**		
Total Construction Costs	**2,500**	**292,000**		**$686,726,000**		

"constr_costs"

Source: Reed Construction Data, *RSMeans Square Foot Costs 2008* , 29th Annual Ed.; Provost & Pritchard Engineering Group, Inc.; and EPS

[1] Based on RSMeans Square Foot Costs. See Table A-2 for cost assumptions per sq. ft.
[2] Cost estimates from Provost & Pritchard Engineering Group. Cost items include 10% contingency per engineer's cost estimates. Note that soft costs are not included.

Table A-2
Friant Ranch Economic Impact Analysis
Residential & Commercial Building Construction Cost Factors (2008$)

Assumption	Residential Units			Retail	Restaurant	Fast Food w/ Drive Thru	Office	Medical Office	Recreation Center
	SFD 1 & 2	SFD 3	Attached [1]						
Assumed Building Type	Average 1 Story	Average 1 Story	M. 010 Apartment, 1-3 Story	M.630 Store, Retail 1 Story	M.530 Restaurant	M.540 Restaurant, Fast Food	M.460 Office, 2-4 Story	M.400 Medical Office, 1 Story	M.110 Club, Social
Reference Building Size	2,000 sq.ft.	1,600 sq.ft.	8,000 sq.ft.	20,000 sq.ft.	8,000 sq.ft.	5,000 sq.ft.	50,000 sq.ft.	10,000 sq.ft.	42,000 sq.ft.
Exterior Wall	Brick Veneer - Wood Frame	Brick Veneer - Wood Frame	Brick Veneer - Wood Frame	Face Brick on Concrete Block	Face Brick w/ Concrete Block Back-up	Face Brick w/ Concrete Block Back-up	Face Brick w/ Concrete Block Back-up	Face Brick w/ Concrete Block Back-up	Face Brick on Concrete Block
Base Cost per Sq. Ft.	$100.55	$105.70	$169.65	$92.95	$156.65	$156.45	$131.65	$152.85	$117.60
Common Additives	$26,596	$26,596	-	-	-	$11,800	-	-	-
Adjusted Cost per Sq. Ft.	$113.85	$122.32	$169.65	$92.95	$156.65	$158.81	$131.65	$152.85	$117.60
Location Factor (Zip code 936-938-)	1.09	1.09	1.09	1.08	1.08	1.08	1.08	1.08	1.08
Location Adjusted Cost per Sq. Ft.	$124.09	$133.33	$184.92	$100.39	$169.18	$171.51	$142.18	$165.08	$127.01
Inflation Adjustment	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000
Estimated Construction Cost									
Per Sq. Ft. (rounded)	$124.00	$133.00	$185.00	$100.00	$169.00	$172.00	$142.00	$165.00	$127.00
Per Unit	$248,000	$213,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A

"rsmeans"

Source: Reed Construction Data, 2008 RSMeans Square Foot Costs, 29th Annual Ed.; and EPS.

[1] Assumes 8-unit apartment building with average floor area of 1,000 sq. ft. per unit.

Table A-3
Friant Ranch Fiscal Impact Study
Estimation of Household Income for Active-Adult Units (2008$)

Active Adult	Households (Units)	Estimated Unit Sales Price [1]	Ratio of Income to Home Price	Estimated Annual Income Per Household
		Del Webb Survey [2]		
Single-Family (SFD-1)	290	$380,000	22%	$83,600
Single-Family (SFD-2)	745	$341,000	22%	$75,000
Single-Family (SFD-3)	1,069	$300,000	22%	$66,000
Age-Qualified Multifamily	166	$241,000	22%	$53,000
Total/ Weighted Average [3]	**2,270**	**$319,000**		**$70,000**
		BLS Consumer Expenditure Survey [4]		
Median Household Income				**Age 55-64 [5]**
2006	-	-	-	$64,425
2008 [3] [6]	-	-	-	**$70,000**

"hh_income"

Sources: Friant Ranch LP; Del Webb; BLS; and EPS.

[1] Provided by Project applicant.
[2] Based on 2004 buyer surveys at Sun City Lincoln Hills by Del Webb, household income levels averaged 22% of home price.
[3] Dollar amounts rounded to the nearest $1,000.
[4] Based on 2006 BLS data, households headed by persons aged 55 to 64 years had average income of $64,425, which is approximately $70,000 in 2008 dollars.
[5] Age of reference person in unit.
[6] Escalated at 3.1% annually based on the average annual change in the CPI for the San Francisco-Oakland-San Jose Metro Area.

Table A-4
Friant Ranch Fiscal Impact Study
Estimated Residents Household Expenditures (2008$)

Residential Unit Type	Households (Units)	Estimated Annual Income Per Household [2]	Total Spending as a Percent of Income [3]	Total Annual Spending Per Household	Total Annual Household Spending	Percent of Total Household Spending	Percent of Total Annual Spending on Housing	Total Annual Household Spending on Housing Costs
		Per Unit					[6]	
Active Adult Units								
Single-Family (SFD-1)	290	$83,600	74%	$61,864	$17,940,560	13%	19%	$4,548,464
Single-Family (SFD-2)	745	$75,000	74%	$55,500	$41,347,500	31%	19%	$10,482,818
Single-Family (SFD-3)	1,069	$66,000	85%	$56,100	$59,970,900	45%	23%	$16,018,817
Age-Qualified Multifamily	166	$53,000	85%	$45,050	$7,478,300	6%	23%	$1,997,527
Subtotal/ Weighted Average	**2,270**	**$70,000**	**80%**	**$55,831**	**$126,737,260**	**94%**		**$33,047,627**
Non-Active Adult Units [4]								
Non-Age-Qualified Multifamily [5]	180	$37,000	93%	$34,269	$6,168,436	5%	29%	$1,930,706
Village Center Multifamily [5]	50	$37,000	93%	$34,269	$1,713,455	1%	29%	$536,307
Subtotal/ Weighted Average	**230**	**$37,000**	**93%**	**$34,269**	**$7,881,891**	**6%**		**$2,467,014**
Total/ Weighted Average	**2,500**	**$67,000**		**$53,848**	**$134,619,151**	**100%**		**$35,514,640**

"hh_expd"

Sources: Friant Ranch LP; Del Webb; BLS; and EPS.

[1] Provided by Project applicant.
[2] Based on data from Del Webb and BLS, EPS estimates that incomes in Active-Adult units will average $70,000 (2008$) in the Project. See Table A-3 for details of the income calculations.
[3] Average annual household spending as a percent of pretax income, based on Consumer Expenditure Survey (BLS, 2006).
[4] Only Active Adult units are assumed for-sale. Non-Active Adult units are assumed to be rental units.
[5] The 2006 BLS Consumer Expenditure Survey shows average income of $34,847 per renter household in the US. This figure has been inflated to 2008 dollars using the CPI for the San Francisco-Oakland-San Jose Metro Area.
[6] Housing includes shelter (mortgage, property taxes, repairs and insurance), and utilities.

Table A-5
Friant Ranch Economic Impact Analysis
Estimation of Net New Household Spending (2008$)

Item Description	Formula	Source	Estimated Amount
Total Household (HH) Spending	*a*	Table A-4	$134,619,151
Total Estimated Spending on Housing and Utilities	*b*	Table A-4	$35,514,640
Net Household Spending on Goods and Services	*c = a-b*		**$99,104,511**
Percent Total HH Spending in County [1]	*d*		67%
New HH Spending in Fresno County	*e = a*d*		**$90,194,831**

"net_hh_expd"

Source: MIG, *IMPLAN 2006* ; and EPS.

[1] Weighted average based on 2006 IMPLAN data on household demand and local purchase coefficients for Fresno County.

Table A-6
Friant Ranch Fiscal Impact Study
Percentage of Population Aged Over 55 that is Employed and Fresno County Jobs/Housing Balance

Item		2007	2008	2009	2010
Persons Aged 55+ Employed			*As of July 1*		
U.S. Population *(in thousands)*	a	301,580	304,375	307,007	n.a.
Total Employed Aged 55+ *(in thousands)*	b	51,444	53,583	54,266	n.a.
Percent of Population Aged 55+ Employed	**c = b / a**	**17.1%**	**17.6%**	**17.7%**	
Current Jobs / Housing Balance Fresno County			*As of January 1*		
Total Fresno County Housing Units	d	303,969	308,046	312,559	314,758
Civilian Employment (Residents of Fresno County employed)	e	379,700	385,200	386,900	372,500
Total Industry Employment (annual average)	f	349,100	354,500	351,900	333,800
Jobs / Housing Balance in Fresno County	**g = f / d**	**1.15**	**1.15**	**1.13**	**1.06**

"age emp"

Source: California EDD, California Department of Finance, and the Current Population Survey, BLS.

Table A-7
Friant Ranch Economic Impact Analysis
Potential Retail Space Supported by Project Households Retail Expenditures

Retail Category [1]	Existing Household Retail Expenditures in Trade Area [2]	Estimated Existing Retail Sales in Trade Area [3]	Existing Retail Sales Surplus/ (Shortfall)	Average Retail Expenditures Per Household in Trade Area [4]	Estimated Retail Expenditures By Project Households in Trade Area	Project HHs Retail Expenditures in Trade Area less Existing Retail Sales Surplus	Estimated Annual Sales per Sq. Ft.	Estimated Supportable New Retail Sq. Ft. [5]
Formula	*A*	*B*	*C = A-B*	*D = A / 1,556*	*E = D * 2,500*	*F = E [or E-C, if C>0]*	*G*	*H = F / G*
Automotive Parts / Accessories, Tire Stores [6]	$1,200,832	$211,756	($989,076)	$772	$1,929,357	$1,929,357	$531	3,600
Furniture and Home Furnishings Stores	$2,316,314	$2,702,053	$385,739	$1,489	$3,721,584	$3,335,845	$184	18,200
Electronics and Appliance Stores	$1,962,825	$224,157	($1,738,668)	$1,261	$3,153,639	$3,153,639	$270	11,700
Building Material and Garden Equipment Stores	$9,805,137	$27,083,091	$17,277,954	$6,302	$15,753,755	($1,524,199)	$315	0
Food and Beverage Stores	$8,868,043	$2,972,303	($5,895,740)	$5,699	$14,248,141	$14,248,141	$339	42,100
Pharmacy, Drug, and Optical Goods Stores	$3,150,808	$1,735,707	($1,415,101)	$2,025	$5,062,352	$5,062,352	$454	11,100
Cosmetics, Beauty Supplies and Other Personal Care	$346,498	$18,996	($327,502)	$223	$556,713	$556,713	$314	1,800
Clothing and Accessories	$3,770,542	$301,824	($3,468,718)	$2,423	$6,058,069	$6,058,069	$272	22,300
Sporting Goods, Hobby, Music, Book Stores	$1,585,883	$1,646,282	$60,399	$1,019	$2,548,013	$2,487,614	$207	12,000
General Merchandise (Department and Super Stores)	$9,387,640	$249,292	($9,138,348)	$6,033	$15,082,969	$15,082,969	$163	92,400
Miscellaneous Stores (Florists, Stationery, Novelties)	$2,176,320	$363,843	($1,812,477)	$1,399	$3,496,658	$3,496,658	$146	23,900
Food Service and Drinking Places	$7,025,365	$3,331,076	($3,694,289)	$4,515	$11,287,540	$11,287,540	$333	33,900
TOTAL/ AVERAGE	**$51,596,207**	**$40,840,380**	**($10,755,827)**	**$33,160**	**$82,898,790**	**$65,174,698**	**$239**	**273,000**

"support_retail"

Sources: U.S. Census 2000; Claritas MarketPlace 2007; Urban Land Institute, "Dollars & Cents of Shopping Centers: 2006"; and EPS.

[1] Excludes non-store retail purchases.
[2] Existing annual demand (consumer expenditures) estimate from Claritas MarketPlace within a 7 mile radius of Friant.
[3] Existing annual sales estimate from Claritas MarketPlace within a 7 mile radius of Friant.
[4] Conservative assumption based on retail spending of existing households. Average retail spending per household in the trade area is likely to be higher for future Project residents than shown here.

Existing households in Trade Area per Claritas MarketPlace	1,556
New households in Friant Ranch. See Table 1	2,500
Total Number of Households in Trade Area with Friant Ranch	**4,056**

[5] Represents total retail square feet that would satisfy all consumer demand for these retail categories.
[6] Excludes vehicle purchases, other motor vehicle purchases, and gasoline.

Table A-8
Friant Ranch Fiscal Impact Study
Median Household Income Data

Census Area	Median Household Income 2000	2008
Fresno County [1]	$34,725	$45,805
Zip Code 936	$36,165	$47,704
Zip Code 93626	$40,170	$52,987
Average (Estimate for Existing Friant Area Median Household Income)	**$37,020**	**$48,832**
Estimated Friant Ranch *(from Table A-4)*		$67,000
Friant Ranch as Percentage of Estimate for Existing Friant Area		**137%**

"mhi"

Source: Economic and Planning Systems and American FactFinder

[1] Data from American FactFinder.
[2] Estimate for 2008 based on increase between 2000 and 2008 for Fresno County.

Final Report

Friant Ranch Fiscal Impact Study

The Economics of Land Use

Prepared for:

Friant Ranch, L.P.

Prepared by:

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Table of Contents

1. INTRODUCTION AND SUMMARY OF FINDINGS 1

Introduction 1

Project Description 1

Summary of Findings 3

2. METHODOLOGY 7

Methodology 7

Project Land Use 7

Major Assumptions 8

3. COUNTY REVENUE IMPACTS 10

Summary Revenue Estimates 10

Case Study Revenue Estimates 10

Multiplier Method Revenue Estimates 13

4. COUNTY EXPENDITURE IMPACTS 15

Summary Expenditure Estimates 15

Reduced Cost Scenario 16

Municipal Costs 17

Regional Costs 17

Projected County Costs 18

5. COUNTY FIRE DISTRICT IMPACTS 19

Appendices:

Appendix A: Fiscal Impact Summary and Assumption Tables

Appendix B: Revenue-Estimating Tables

Appendix C: Expenditure-Estimating Tables

Appendix D: Fiscal Model Support Tables

Appendix E: Reduced Cost Scenario Tables

Appendix F: Fresno County Fire District Fiscal Impact Tables

List of Map and Tables

Map 1 Project Regional Location 2

Table 1 Fiscal Impact Summary: Comparison by Scenario 4
Table 2 Buildout Fiscal Results: Expenditures by Scenario 4
Table 3 Buildout Fiscal Results: County Road Fund Impacts 5
Table 4 Buildout Fiscal Results: Friant Redevelopment Agency Tax Increment 5
Table 5 Buildout Fiscal Results: Potential CFD Funding for Sheriff Protection 6
Table 6 Buildout Fiscal Results: Fire Protection 19

1. INTRODUCTION AND SUMMARY OF FINDINGS

Introduction

The following analysis evaluates the fiscal impact of the Friant Ranch development project (Project) on Fresno County (County)'s operating budget. The primary objective of the analysis is to estimate whether the Project will generate adequate annual revenues to meet the costs of providing services to the Project. Specifically, the fiscal impact analysis seeks to identify whether the Project's development would have a positive or negative effect on the fiscal well being of the County. A separate chapter provides a preliminary analysis of the impact of the Project on the operating budget of the County Fire District.

EPS also prepared a separate companion document to this fiscal impact study, an economic impact analysis, which estimates direct and indirect economic impacts from the Project on the local economy, particularly on job creation and spending on goods and services.

This study does not evaluate the capital facilities needed to serve the new development or the funding of those facilities. A separate Public Facilities Financing Plan will describe the public facilities needed to serve the Project, the proposed funding sources, and financing strategy for the improvements.

Project Description

Friant Ranch is a master-planned retirement community for active adults (persons aged 55 and older). The proposed Project is located adjacent to the existing community of Friant in the north-central unincorporated portion of the County. **Map 1** shows the general vicinity of the Project. The area is an access point to many recreational opportunities, particularly aquatic activities, with Lost Lake Park Recreation Area southwest of the Project site and Millerton Lake State Recreation Area to the north.

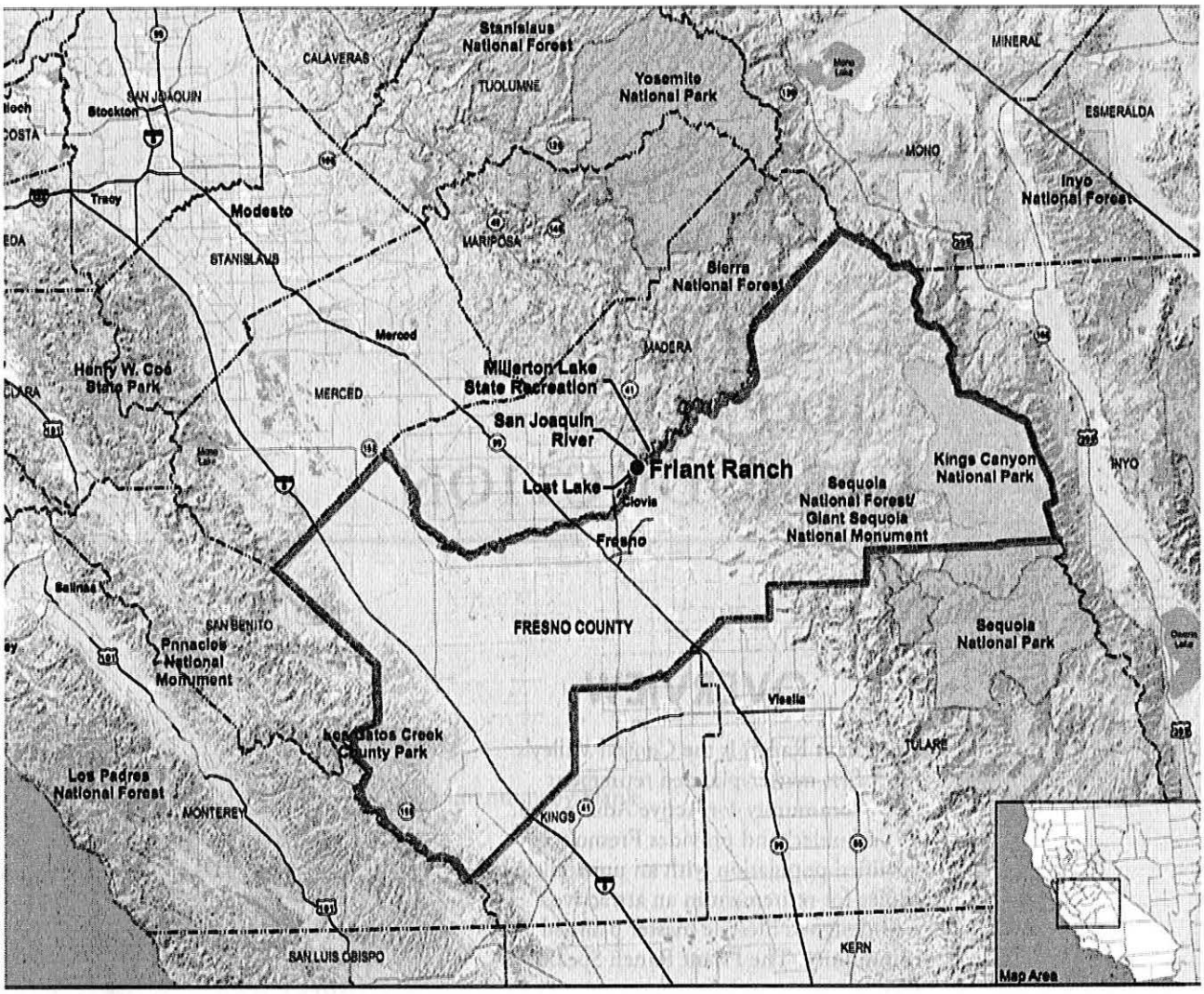
The Project encompasses 942 acres, in which 2,270 active adult units and 230 non-active adult multifamily units are proposed, along with 250,000 square feet of commercial space providing goods and services to new and existing residents in Friant. In addition, a 42,000-square-foot recreation facility is proposed to support the needs of the active adult portion of the community.

Fiscal Model Scenarios

Because the Project will primarily be an active adult community, EPS analyzed the fiscal analysis under two scenarios. Persons aged 55 and older typically require a lower level of public safety services than the general population. The difference in the fiscal results of the two scenarios is attributable to different public safety cost factors used to forecast Project expenditures.[1]

[1] Public safety does not include fire protection, which is provided by the County Fire Protection District and therefore not a part of the County budget.

Map 1
Project Regional Location



- The **Base Scenario** assumes active adult residential units have the same service-cost factors per resident as non-active adult units.
- The **Reduced Cost Scenario** assumes active adult residential units have lower service-cost factors per resident for public safety expenditures than non-age qualified units. Specifically, courts, district attorney, grand jury, public defender, and probation public protection cost multiplier were reduced by 50 percent. The sheriff cost multiplier was reduced by 25 percent compared to the Base Case Scenario. These cost reductions are based on an analysis of statewide and County statistics available from the California Department of Justice through 2005.

Summary of Findings

Key Assumptions

The fiscal impact of the Project on the County's operating budget is based on several key assumptions described here and more fully in **Chapter 2**.

Fiscal impacts are shown in phases as provided by the Project applicant. Although a phasing plan has been prepared that identifies the sequential order of construction, a precise development timeline is not available at this time. The results of the fiscal impact analysis shown in this summary section are therefore presented at Project buildout.

The baseline financial data is from the County's final adopted 2007–08 fiscal year (FY) budget and supplemental data provided by the Auditor Controller. The analysis is based on tax regulations and statutes through July 2008 and other general assumptions detailed in the study.

The actual fiscal impacts of the Project may vary from those presented in this study. The largest sources of revenue (property tax, real property transfer tax, and property tax in lieu of vehicle license fees together account for 79 percent of County revenues from development of the Project at buildout) are based on property values. Because these sources of revenue are based on actual sales prices of units, variation of unit prices directly affects the amount of property tax revenues generated by the Project. In addition, the number of homeowners that will request assessed value transfers from former residences and the value of these potential transfers allowed based on Proposition 60 are unknown.

Findings

The fiscal impact analysis finds that the Project will generate positive fiscal impacts to the County's operating funds at buildout under both the Base and Reduced Cost Scenarios. A summary of revenues and expenditures by phase under the Base Scenario is shown in **Table A-1**. Reduced Cost Scenario results are summarized in **Table E-1**.

As shown in **Table 1**, development of the Project is estimated to generate an annual fiscal operating surplus of $2.6 million under the Base Scenario and $2.9 million under the Reduced Cost Scenario.

Table 1
Fiscal Impact Summary: Comparison by Scenario (2008$)

	Buildout Fiscal Results		
County Operating Funds	Base Scenario	Reduced Cost Scenario	Difference
Revenues	$5,328,000	$5,328,000	$0
Expenditures	$2,731,000	$2,421,000	$310,000
Operating Surplus (Deficit)	**$2,597,000**	**$2,907,000**	**($310,000)**
Surplus (Deficit) per Unit	$1,039	$1,163	($124)

The difference of $310,000 between the two scenarios is attributable to the difference in public safety cost factors. Under the Base Scenario public protection accounts for 66 percent of total projected County expenditures. Under the Reduced Cost Scenario public protection accounts for 62 percent of total projected County expenditures. The breakdown of expenditures by function under each scenario is shown in **Table 2**.

Table 2
Buildout Fiscal Results: Expenditures by Scenario (2008$s)

	Buildout Fiscal Results			
County Expenditures	Base Scenario		Reduced Cost Scenario	
Expenditures				
General Government	$242,200	**9%**	$242,200	**10%**
Public Protection	$1,799,200	**66%**	$1,489,200	**62%**
Public Ways and Facilities (not roads)	$6,800	**0%**	$6,800	**0%**
Unincorporated Area Roads	$45,700	**2%**	$45,700	**2%**
Health Services	$357,300	**13%**	$357,300	**15%**
Public Assistance	$77,600	**3%**	$77,600	**3%**
Education	$187,700	**7%**	$187,700	**8%**
Recreation and Cultural Services	$14,900	**1%**	$14,900	**1%**
Total Estimated Expenditures	**$2,731,000**	**100%**	**$2,421,000**	**100%**

County Road Fund

The projected fiscal impact to the County's Road Fund (which is included in the summary tables above and **Table A-1**) is positive, with a projected surplus of approximately $119,900 per year at buildout of the Project. Estimated Road Fund maintenance costs for Friant Ranch public roads and estimated revenues supported by the Project are summarized in **Table 3** below and are shown by phase in **Table A-2**.

Table 3
Buildout Fiscal Results: County Road Fund Impacts (2008$s)

Item	Estimated Costs / Revenues at Buildout
Estimated Annual Maintenance Costs - rounded [1]	$45,700
Estimated Annual Revenues for Roads Maintenance - rounded	$165,600
Operating Surplus (Deficit)	**$119,900**
Surplus (Deficit) per Unit	$48

[1] Based on FY 2007-08 Net County costs per unincorporated road mile.

Friant Redevelopment Agency

The Project is estimated to generate tax increment revenues of $847,000 annually at buildout as shown in **Table 4** below. The County reports Friant Redevelopment Agency tax increment revenue of $177,000 in FY 2007–08; therefore, the Project is estimated to increase tax increment revenues almost five-fold assuming no other development within the Friant Redevelopment boundary.

Table 4
Buildout Fiscal Results: Friant Redevelopment Agency Tax Increment (2008$s)

Estimated Annual Tax Increment Revenues from Friant Ranch at Buildout (2008 $'s) - rounded	$847,000
FY 2007-08 Friant Redevelopment Agency Tax Increment Revenues - rounded [1]	$177,000
Ratio of Existing to Potential Redevelopment Agency Revenues from Friant Ranch	**4.8**

[1] Redevelopment agency tax increment revenue provided by the Fresno County Auditor.

Potential Public Protection Community Facilities District

The County may require a new Community Facilities District (CFD) be formed to provide the funding necessary to cover the difference in cost generated by meeting the General Plan goal of 2.0 deputies per 1,000 population and the current service level of 1.5 deputies per 1,000 population.

Using the County's methodology developed for the Millerton Specific Plan, the estimated CFD maximum special tax rate would be $150 per Project unit. In contrast, the draft fiscal impact study estimates that the CFD maximum special tax rate should be between $51 and $84, where the lower rate reflects cost of service under the Reduced Cost Scenario and the higher rate reflects cost of service under the Base Scenario. The estimated maximum special tax rate calculations are shown in **Table 5**.

Findings of fiscal impacts to the County Fire District are presented in **Chapter 5**.

Table 5
Buildout Fiscal Results: Potential CFD Funding for Sheriff Protection (2008$s)

Methodology	Formula	Cost
County Cost @ 2 Deputies per 1,000 Population	*a = Table C-4*	*$857,000*
Total Friant Ranch Units	*b*	*2,500*
Cost per Unit	*c = a/b*	*$343*
A. County Methodology [1]		
Estimated County Property Taxes generated by Friant Ranch	*d = Table B-3*	$2,298,000
Share of County Property Taxes to Sheriff	*e = d*21%*	$483,000
Net Cost of Deputies for Friant Ranch	***f = a-e***	**$374,000**
Estimated CFD tax per Friant Ranch Unit	***g = f/b***	**$150**
B. BASE SCENARIO Net County Cost (existing standards)		
Net County Cost for Sheriff Patrol	*h = Table C-4*	$647,000
Estimated Additional Cost to Increase Service Level	*i = a-h*	$210,000
Estimated CFD tax per Friant Ranch Unit - BASE SCENARIO [2]	***j = i/b***	**$84**
C. REDUCED-COST Net County Cost (existing standards)		
Net County Cost for Sheriff Patrol	*k = Table C-4*	$515,000
Estimated Additional Cost to Increase Service Level	*l = (a*.75)-k*	$127,750
Estimated CFD tax per Friant Ranch Unit - REDUCED-COST SCENARIO [3]	***m = l/b***	**$51**

Source: Fresno County September 14, 2004 Memo "Law Enforcement Level of Service - Millerton Specific Plan Area" and EPS.

[1] Applies same methodology employed by the Sheriff's office in determining the appropriate level of CFD funding per unit for the Millerton Specific Plan. Analysis conducted by the Sheriff's office in 2004.

[2] The fiscal model estimated CFD tax rate assumes no discretionary revenues are applied to the Sheriff's budget unit 3111.

[3] As with [2], except patrol costs to Friant Ranch are reduced 25% to account for lower crime rates in active adult communities.

The technical tables are located in the following appendices:

- **Appendix A** presents assumptions used in the study.
- **Appendix B** shows projected revenue impacts.
- **Appendix C** shows cost projections.
- **Appendix D** provides additional backup calculations.
- **Appendix E** identifies Reduced Cost Scenario assumptions.
- **Appendix F** provides fiscal impact tables for the County Fire District.

2. METHODOLOGY

Methodology

This fiscal impact analysis is based on the County's budgeted revenues and expenditures for FY 2007–08, current tax regulations and statutes through July 2008, and general assumptions detailed in **Appendix A** tables of the fiscal impact analysis.

The goal of this analysis is to estimate the County's incremental costs and revenues associated with serving the Project. This fiscal model uses an average cost approach to estimate County expenditures. For revenues, a case study approach was used and augmented by average revenue estimates. The case study approach was used for items such as property taxes and sales tax revenues when actual revenue generation plans could be simulated. Otherwise, an average revenue approach was used to project County revenues resulting from development of the Project.

Revenue and cost estimates were derived from data provided by the County. Each revenue item is estimated based on State legislation through July 2008 and current County resolution or ordinance. Future changes by either State legislation or the County can affect the revenues and costs estimated in this study. This fiscal impact study assumes current levels of revenue generation and service delivery. To the extent revenues are increased or decreased in the future on a countywide basis, the proposed Project will experience corresponding service level changes as in the remainder of the County.

Project Land Use

A summary of the Project's land use plan is shown in **Table A-3**.

Residential Product Mix

Housing in the Project will be for both active adult and non-active adult community members; however, the Project's residential development is primarily for persons aged 55 and older. Of the total 2,500 residential units proposed, 2,270 units will be designated active adult with restrictions requiring the primary homeowner to be aged 55 and older. Non-active adult units include multifamily product types, of which 50 units will be mixed use in the village commercial area and 180 units located in the northern-most portion of the Project area.

Commercial Product Mix

The Project will include a Village Center, which will serve as a hub for community commercial activities in the northwest portion of the Project just off Friant Ranch Road. The Village Center is anticipated to primarily serve the needs of Friant Ranch residents. It will, however, also provide goods and services to existing residents of the Friant community, as well as visitors to the Lost Lake and Millerton Lake recreation areas.

In total, the Village Center will include 250,000 square feet of commercial space. Of this space, approximately 125,000 square feet is anticipated to be reserved for a shopping center, 100,000 square feet for office, 15,000 square feet for a restaurant, and 10,000 square feet for medical use.

Phasing

The Project is anticipated to be developed in four phases with full buildout taking at least 10 years depending on market conditions. For purposes of this analysis, no development timeline has been modeled. Approximately 25 percent of total planned residential units may be developed in Phase 1, 25 percent in Phase 2, 31 percent in Phase 3, and 20 percent in Phase 4. The Village Center will likely be developed over several phases. Phasing of development is shown in **Table A-4**.

A total of 4.6 miles of public roads (primary and collector roadways) will be improved. Public roads will be maintained by the County; the costs associated with these roads and revenues generated by the Project to support these costs are estimated in the fiscal study. Private roadways for residential streets and alleys will be maintained by a new Friant Ranch Homeowners' Association; therefore, the costs associated with these roadways are not included in the fiscal study. Total public and private roadway development by phase is shown in **Table D-1**.

Major Assumptions

The results of the fiscal impact study are dependent on several major assumptions as described in the subsequent sections of this report.

General Assumptions

Table A-5 shows general County demographic assumptions used in the fiscal study. County population and employment data is based on 2007 State Department of Finance data and Employment Development Department (EDD) employment data for the incorporated and unincorporated areas of the County. In this fiscal analysis, some revenues and expenditures are affected by both residents and employees. The service population for these items is based on the Project's persons served population.[2]

Land Use Assumptions

Table A-6 presents the land use assumptions used in the fiscal study for each of the different land use categories. Residential unit pricing (market value per unit) was provided by the Project

[2] A *per capita* basis of estimating expenditures is based on the assumption that only residents have an impact on services. A *per person served* basis of estimating service-related expenditures is used to take into account the assumption that businesses (and their employees) have an impact on many services but at a lower level than residential development's impact. On the average, nonresidential employees are assumed to have half the impact of residents. Thus, as an industry standard, the persons served population is equal to residents plus 50 percent of employees.

applicant and is based on data from comparable active adult communities in California, such as those built by Del Webb. Nonresidential values per square foot for the Village Center and active adult recreation center are based on research conducted by EPS on current sales prices for commercial space in and around the Friant area. This research is presented in **Table D-2**.

EPS has reduced the assessed value of 10 percent of the age-qualified residential units and 5 percent of the non-age-qualified multifamily housing to account for potential reductions in assessed value because of new property homeowners filing Proposition 60 assessed value transfers from former residences. Proposition 60 allows these homeowners to transfer the current assessed value of the home they sell to the home they purchase if both homes are in the same county and the new home does not cost more than the sales price of the old home. Because there are too many variables to estimate the number of new homes in the Project that may file for this benefit, EPS applied assessed value reduction factors based on similar studies for active adult communities by EPS in Northern California.

The number of persons per residential unit is 1.90 for single-family active adult units, 1.70 for multifamily active adult units, and 3.15 for all other multifamily housing. The persons per unit factors for active adult units are based on findings of surveys and research conducted by two national sources:

- The National Association of Home Builders in association with the Seniors Housing Council.
- The Bureau of Labor Statistics 2005 consumer expenditure survey.

Persons per unit factors for all other multifamily housing (e.g., non-active adult housing) is based on 2007 California Department of Finance data for average persons per unit in the County.

Square feet per employee for the Village Center commercial space is based on EPS's experience and the anticipated land uses as previously described. A weighted average calculation of the commercial land uses results in space needs of approximately 540 square feet per employee.

Development Phasing

The estimated incremental and cumulative phasing schedule is shown in **Table A-7**. It is assumed that the active adult recreation center is built in the first phase of development. Additional Project population and employees are also shown cumulatively. At the end of Phase 4 (buildout of the Project), it is estimated there will be 5,030 people residing in Friant Ranch and an additional 500 jobs will be created. Of the total new population, it is estimated that 4,310 (86 percent) will reside in the active adult portion of the Project.

Assessed Valuation

Table A-8 shows the estimated cumulative assessed valuation generated by development of the Project by land use by phase. The assessed valuation is used to calculate property tax revenues in **Table B-3** and tax increment revenue to the Friant Redevelopment Agency in **Table B-4**.

3. COUNTY REVENUE IMPACTS

Summary Revenue Estimates

County Budget 2007–08

This fiscal impact analysis models only those revenues affected by development of the Project. These revenues include both discretionary revenues (such as property taxes and sales taxes) and other revenues (such as business licenses and burial permits) anticipated to be affected by the Project.

Projected Friant Ranch Revenues

Table B-1 shows the revenues that are used to fund adjusted net County costs. Adjusted net County costs are defined as costs not funded directly by department fees, licenses and permits, service charges, and State and Federal program funding sources. These are discussed in more detail in **Chapter 4**.

The estimating procedure for each revenue source and the estimated revenue multipliers, when applicable, are also presented in **Table B-1**. Property taxes and sales taxes, which together represent approximately 50 percent of adjusted net County revenues, were projected using a case study (marginal revenue) approach. Property tax in lieu of vehicle license fees and property tax in lieu of sales tax are also included in the case study estimates. All other revenues were estimated either on a per capita or per person basis with the exception of business licenses, which were estimated on a per employee basis.

Table B-2 shows the annual revenue estimate for each of the revenue sources for the Project. Property tax revenue is the greatest revenue source to the County from the Project, accounting for approximately 45 percent of estimated revenues by buildout. The next greatest sources of revenue are from property taxes in lieu of vehicle license fees (20 percent of revenues) and real property transfer tax revenues (17 percent of revenues). The County is projected to receive $5.3 million in constant FY 2008 dollars annually following Project buildout. Revenue estimates for case study and multiplier method revenues are detailed on the following pages.

Case Study Revenue Estimates

Property Tax

New property tax revenue generated by development of the Project will provide additional funding for services funded through the General Fund, Community Redevelopment Fund, and Library Fund at the County, as well as other agencies, such as the Clovis Unified School District, certain County Service Areas, and the State Center Community College. The amount of property taxes received by the affected jurisdictions from development of the Project is derived from the assessed value of the Project and each agency's property tax allocation share of the 1-percent base property tax, less each agency's property tax shift to the Educational Revenue Augmentation Fund (ERAF). The total assessed valuation for Friant Ranch is projected to be approximately $776.9 million in constant 2008 dollars at buildout as shown in **Table B-3**.

The property tax allocation percentage for each taxing entity forecasted in the fiscal impact analysis is based on the weighted average allocation for the tax rate areas (TRA) that fall within the Project's boundaries. Property tax allocation for each TRA was provided by the County and is shown in **Table D-3**. Weighting for each TRA was based on the Project's acreage in each TRA.

The County General Fund weighted property tax allocation factor is approximately 38 percent of the base 1-percent property tax rate, and the County Library Fund is approximately 2 percent. A deduction of 23 percent is applied to reflect the re-allocation of property taxes to ERAF from both funds. The Project is forecasted to generate an additional $2.3 million in net property taxes to the County General Fund and $121,000 to the County Library Fund.

Property Tax In Lieu of Vehicle License Fees

In 2004, the State of California adjusted the method for sharing vehicle license fees with local jurisdictions. While the actual amount of vehicle license fees decreased for each jurisdiction, the State back-filled those losses by sharing more of the property taxes with local jurisdictions than previously. The property tax backfill was based on the lost revenues in the initial year and since then has been adjusted based on the proportionate increase in assessed values every year. The Project is estimated to add an additional 1.2 percent to the County's current assessed value (assuming no other assessed value growth elsewhere in the County) and will generate the same increased percentage in property tax in lieu of vehicle license fee revenues. By buildout it is estimated the Project will generate an additional $1.1 million annually in in-lieu vehicle license fee revenues as shown in the bottom portion of **Table B-3**.

Friant Redevelopment Agency Tax Increment

A portion of the Project lies within the boundary of the Friant Redevelopment Agency (Agency). Approximately $140.9 million of the $776.9 million of new assessed value created by the Project is estimated to generate additional tax increment revenue to the Agency. All the commercial buildings and mixed use units in the Village Center, all the non-age qualified multifamily units located in the northern-most portion of the Project, and about 100 single-family units will be located within the Agency's boundary. After deducting for the County's ERAF shift, the net Friant Ranch tax increment is estimated at just more than $1.0 million, as shown in **Table B-4**.

Of the total tax increment, the Agency retains 78 percent, approximately $847,000, and 22 percent of the revenue is redistributed or "passed through" to other agencies. Receiving entities of pass-through revenues are shown in **Table D-4**.

Real Property Transfer Tax

The County receives real property transfer tax at a rate of $1.10 per $1,000 of transferred value levied on the sale of real property. **Table B-5** estimates the real property transfer tax to the County from the Project in constant 2008 dollars. Approximately $933,000 will be generated in annual real property transfer tax revenues at buildout of the Project.

Sales Tax

The County receives sales tax revenues from several sources. The following sales taxes are estimated using a case study approach:

- Bradley-Burns Sales Tax (1.0-percent tax)—Based on unincorporated area taxable sales only.
- Public Safety Sales Tax (0.5-percent tax)—Also known as Proposition 172 funding. The County receives 98 percent of this tax, making the effective tax rate 0.491 percent.
- Measure B Sales Tax (0.125-percent tax)—Approved by voters for library funding.
- Measure C Sales Tax (0.5-percent tax)—Approved by voters for road maintenance. Funding is collected by the County and administered by the County Transportation Authority. Approximately 9 percent of total funds are allocated to the County for unincorporated area local transportation programs.

In addition, the County Zoo Authority has a sales tax rate of 0.1 percent, the revenues for which are not estimated in this fiscal impact study because the Zoo Authority is a separate legal entity receiving the sales tax revenue directly from the Board of Equalization. Bradley-Burns and Proposition 172 sales tax rates are included in the statewide base sales tax rate of 7.25 percent. The addition of Measure B, Measure C, and the County Zoo Authority sales tax rates brings the total sales tax rate in the unincorporated portion of the County to 7.975 percent.

Total annual sales tax revenues are summarized in **Table B-6**. At buildout, the Project is estimated to generate $285,100 in sales tax revenues from the unincorporated portion of the County, $303,200 in Public Safety sales taxes, $77,200 in Measure B sales taxes, and $27,700 in Measure C sales taxes from countywide sales.

Of the $285,000 shown generated in sales tax revenues from the unincorporated portion of the County, 75 percent is "local" sales tax and 25 percent is property tax in lieu of sales tax. Since July 2004, the State has collected this latter share of sales tax and allocated an equal dollar value back to local jurisdictions from ERAF property tax revenues.

Sales Tax Revenue from New Project Residents and Employees

The Project is located in a rural part of the County, approximately 20 miles from the City of Fresno and 14 miles from the City of Clovis. More than 570,000 people representing 62 percent of the County population reside in these cities. Given the Project's location and proximity to regional shopping centers, EPS estimates 85 percent of total taxable spending by Project residents and employees will be captured in the County, and 25 percent of that taxable spending will be in the unincorporated portion of the County.[3]

The weighted average annual household income for active adult units is $70,000, and the weighted average annual household income for all Project units is estimated at $67,000 as shown in **Table D-5**. Active adult residential unit income is based on home sales price estimates and survey data provided by Del Webb, which indicates that active adults' income is approximately 22 percent of home prices. Supporting calculations are shown in **Table D-6**. Using the Del Webb survey data is consistent with the national average household income of

[3] Neighboring Madera County may also benefit from new economic activity generated by the Project because the county line is close to the Project (north bank of the San Joaquin River), and Madera City is approximately 22 miles from the Project site.

approximately $70,000 for households headed by persons aged 55 to 64 years old (Bureau of Labor Statistics, 2006). EPS used Bureau of Labor Statistics Consumer Expenditure Survey data to determine the household income of rental units.

In addition to resident spending, taxable sales from new employees working on-site are estimated. It is assumed that each employee spends $7 per day on taxable goods. The number of workdays in a year is reduced to 240 to account for employee days off because of holidays, vacation, and sick time.

Taxable sales by Project residents and employees countywide is shown in **Table B-6A** and is estimated to be $10.8 million in Phase 1, $21.8 million in Phase 2, $35.6 million in Phase 3, and $44.3 million by Project buildout. Spending in the unincorporated portion of the County is estimated to be only $2.7 million in Phase 1, $5.4 million in Phase 2, $8.9 million in Phase 3, and $11.1 million by Project buildout.

Sales Tax from Project New Businesses

Additional taxable sales will be generated in the County as a result of the Project's retail and other non-retail commercial space. New retail space increases the potential of capturing an additional share of purchases that would have otherwise occurred outside the County. It can, however, also shift some spending from existing shopping centers.

Retail sales-generating space in the Village Center is estimated to generate approximately $322 in total sales volume per square foot. The amount of annual sales generated by the Project's retail uses was estimated by calculating an "annual sales per square foot" factor published in the Urban Land Institute (ULI)'s *Dollars and Cents of Shopping Centers/The Score 2006*. Of the total sales volume, only about 60 percent will generate sales taxes, based on EPS's interpretation of ULI data (see **Table D-7**).

Non-retail commercial uses will generate business-to-business sales taxes, as well as some point-of-sales taxes. EPS has conservatively estimated these transactions to generate $5 per square foot based on experience with other commercial developments in California. Total sales tax revenues are estimated at $27.7 million annually at buildout, as shown in **Table B-6B**.

Taxable sales generated from the Project's new retail space are discounted by the taxable sales generated by new residents and employees (shown in **Table B-6A**) to avoid double-counting. In addition, it is estimated that 5 percent of total sales reflect sales that occurred elsewhere in the unincorporated County and were shifted to the Project area. These sales are discounted to estimate net new spending in the County.

Multiplier Method Revenue Estimates

Highway User Tax

Highway user tax is estimated to be the largest source of revenue generated by the Project using the multiplier method, accounting for $119,000, or 2.2 percent of projected revenues. A per capita multiplier was developed to calculate Project-related revenues from the Highway User Tax. The entire County population, including the population of incorporated cities, was used in this calculation.

All Other Revenues

These are other revenue sources estimated by multiplier method:

- Motor Vehicle in Lieu.
- Franchises and Weapons Permits.
- Fines, Forfeitures, and Penalties.
- Local Transportation Sales Tax.
- Business Licenses.
- Animal and Marriage Licenses and Burial Permits.

Combined, these revenue sources are estimated to account for 1.7 percent of Project-generated revenue to the County.

4. COUNTY EXPENDITURE IMPACTS

Summary Expenditure Estimates

This section of the report describes the County's budgeted FY 2007–08 expenditures and the impact on expenditures resulting from phased development of the Project. No capital expenditures are evaluated in this cost of service analysis. The fiscal impact analysis is based on the County's FY 2007–08 budget and as such reflects existing levels of service. Costs to service the Project will be greater than estimated in this study if higher levels of service are required.

The County will provide both countywide services, such as judicial, detention, probation, health and sanitation, and public assistance services, and unincorporated area services, such as sheriff patrol, planning, and building services. The former types of services are considered regional costs because they are incurred in both the incorporated and unincorporated parts of the County. The latter services are considered municipal costs.

County Budget 2007–08

Table C-1 shows the FY 2007–08 budgeted costs by budget unit. Total County costs are $1.56 billion.

The net costs provided in this study were calculated by taking the County's net budgeted costs and adjusting for discretionary and non-discretionary revenues that may be affected by development of the Project. The calculations of adjusted net County costs are shown in **Tables C-5** through **C-11**.

Revenue offsets (revenues that can be charged to a specific department to offset costs associated with that department) total $1.52 billion, and remaining budgeted net County costs are $46.2 million. Adjustments for revenues that may be affected by development of the Project include discretionary revenues, totaling $335.3 million, and other revenues considered non-discretionary by the County but which are projected to be impacted by Project construction. These non-discretionary revenues total $52.6 million. Total adjustments to revenue offsets for purposes of this study are therefore $387.9 million. Combined with net County costs of $46.2 million, the total adjusted net cost is $434.1 million.

Appropriations for contingencies and provisions for reserves are shown but are not modeled as recurring costs generated by development of the Project; therefore, the adjusted net County costs anticipated to be affected by Project development total $431.9 million.

Projected Friant Ranch Costs

Expenditures are estimated using an average cost approach based on adjusted net County costs. To derive cost multipliers, existing County services were determined to be affected either on a per-resident or per-persons-served basis (defined as population plus 50 percent of employees) for all expense functions except road maintenance, which was determined on a per-mile basis. A per-resident basis was used to estimate average costs for services, including health services,

public assistance, education, recreation, and cultural services. A per-persons-served basis was used to estimate general government, public protection, and public works costs (the latter with the exception of roads maintenance costs, which was estimated on a per-mile basis).

The estimating procedure and cost multipliers per resident, per employee, and per mile are shown in **Table C-2**. Costs for the County library system are on a per-resident basis excluding residents of Coalinga and Huron, who receive service from the Coalinga Huron Library District. Regional costs for countywide functions are divided by the total County population. Municipal costs for unincorporated area functions are divided by the unincorporated County population and road miles only.

Reduced Cost Scenario

It is documented that active adult housing projects have less demand and therefore lower cost impacts for certain services.[4] This fiscal impact model includes two cost scenarios:

- **Base Case**, under which all persons generate the same demand for services.
- **Reduced Cost Scenario**, under which residents aged 55 and older generate lower demands on services. Under the **Reduced Cost Scenario**, the age-qualified units are anticipated to have lower costs associated with provision of Sheriff Patrol and Public Protection justice system services.

The criminal justice system is a major cost to the County, especially relative to adjusted net County costs. The adjusted net County cost of the criminal justice system was approximately $86.2 million in FY 2007–08.

Persons aged 55 and older have a significantly lower criminal rate on average than the general population. The California Department of Justice Division of Law Enforcement provides crime statistics by age for each county. In the County, persons aged 50 and older are 28 percent as likely to commit a crime as the average person in the County. Persons aged 60 and older are 10 percent as likely to commit a crime. These statistics are similar to the statewide averages, which are 32 percent for persons aged 50 and older and 11 percent for persons aged 60 and older. These statistics are shown in **Table E-3**.

In addition, violent crimes and elder abuse statistics are available from the California Department of Justice. Senior citizens (persons aged 60 and older) in the County are 33 percent as likely as the average population to have a violent crime committed against them, which is slightly higher than the statewide average of 28 percent. Elder abuse arrests total less than 1 percent of total arrests in both the County and the State. These statistics are shown in **Table E-4**.

These crime statistics suggest that the elderly generate reduced services costs when compared to the average resident in the County for these: Sheriff Department expenses for patrol and investigations, and County court expenses, including the Grand Jury, District Attorney, Public Defender, and Probation. These cost multipliers are adjusted downward in the Reduced Cost Scenario to 50 percent for age-qualified residential units with the exception of Sheriff, which is

[4] Approving Seniors Housing: Facts that Matter, the Seniors Housing Council, 2004.

reduced 25 percent to account for continued patrol activities. These reduced cost multipliers are shown in **Table E-2** under the Reduced Cost Scenario and are applicable only to the population estimated to be housed in active adult units.

Municipal Costs

Municipal costs total $70.3 million of $431.9 million, which is 16 percent of adjusted net County costs. These municipal costs are for sheriff and public works and planning functions.

Sheriff functions account for the majority of adjusted net County municipal costs at $119.3 million. The County Sheriff's department is responsible for patrol in the unincorporated portions of the County, which are divided into four areas. Friant is located in Area 2 of the Sheriff's patrol areas. More specialized patrol services include a dive team, boating enforcement unit, K-9 unit, search and rescue, forensics, mounted horse unit, and other programs, including drug prevention programs. In addition to patrol operations, the Sheriff's department runs a detective unit and is responsible for operation of the County jail.

The Sheriff's department spent $25.7 million on patrol functions in the four patrol areas in FY 2007–08. These costs are considered municipal costs that will be directly affected by development of the Project and are spread among unincorporated County residents and employees only. All other Sheriff costs are spread among County population and employees.

Public works and planning functions are primarily for roads operations and maintenance and also include planning, building inspections, and code enforcement.

Regional Costs

Regional costs for countywide functions total $361.6 million of $431.9 million, which is 84 percent of adjusted net County costs. Public protection costs are the greatest of the department costs at $196.8 million, or 54 percent of total regional costs. Health services are the next greatest cost comprising 18 percent of regional adjusted net County costs. General government comprises 14 percent of adjusted net County costs, and education, public assistance, and recreation and culture services total the remaining 14 percent of costs modeled in the fiscal impact study.

Health Services

Health Services are a countywide or regional cost function, and they are primarily funded through Federal and State funding sources. Of the total $455 million FY 2007-08 County budget for Health Services, $390 million is offsetting revenue; leaving adjusted net County costs of $64 million to be funded by discretionary revenue sources.

Senior citizen demands on Health Services are not anticipated to be greater than the average population; therefore, the per-resident cost multiplier is not adjusted for the age of the Project residents.[5]

Emergency medical services to the Project area will be provided by the County Fire District (CAL-Fire) and American Ambulance, under contract to the County (American Ambulance is the sole paramedic provider in the County). Emergency medical services may be used more by older citizens; however, with fewer persons per unit, total call volume is unlikely to be significantly higher to the Project than to other new non-active adult developments.

Projected County Costs

The projected impact of Project development on the County's budgeted costs is estimated by multiplying the per-resident, per-employee, and per-road-mile cost multipliers developed in **Table C-2** by the cumulative population and number of employees shown in **Table A-7**.

A summary of projected costs by function is shown in **Table C-3**. Under the Base Scenario annual recurring total costs (the incremental cost to provide services to the new residents and employees of Friant Ranch) are projected at $2.7 million.

Under the Reduced Cost Scenario, annual recurring total costs are projected at $2.4 million, as shown in **Table E-1**. The reduced cost multipliers are shown in **Table E-2**.

Sheriff Protection Costs at 2.0 Deputies per 1,000 Population

As previously discussed, this fiscal impact study models the current County levels of service. The current County service level for public protection is 1.5 deputy sheriffs per 1,000 population. The General Plan goal is to increase this service to 2.0 deputy sheriffs per 1,000 population. It is likely that the County will require the Project to provide funding for the General Plan goal level of public protection. **Table C-4** was developed to show the difference in cost to increase the level of public protection for the Project.

The total cost to provide 2.0 deputies per 1,000 population is $857,000 at buildout compared with $647,000 under the Base Scenario. Under the Reduced Cost Scenario, adjusted net County costs are estimated at $515,000. The estimated costs to provide the General Plan goal for public protection is based on the average cost of a deputy determined by the Sheriff's office in 2004 increased to 2008 dollars based on the increase in salary for deputy officers over this time period, as documented in **Table D-8**.

[5] Project residents are anticipated to be 55 to 75 years old, compared to the County's population median age of 30, according to the U.S. Census.

5. COUNTY FIRE DISTRICT IMPACTS

The County Fire Protection District (FCFPD) will provide fire protection services to the Project. The two nearest fire stations to the Project are Friant Station and Millerton New Town Station. The FCFPD provides a full range of emergency responses services. All FCFPD personnel are Emergency Medical Technicians (EMTDs) and provide Basic Life Support (BLS). Administrative and suppression personnel are provided through a contract with the California Department of Forestry and Fire Protection (CAL Fire). The FCFPD reports that 68 percent of incidents they respond to are medical in nature. Advanced Life Support is provided by American Ambulance under contract to the County (American Ambulance is the sole paramedic provider in the County).

A preliminary analysis of potential fiscal impacts to the FCFPD as a result of Project development is presented in this chapter. The fiscal impact analysis is conducted under two major assumptions:

1. The current urban level of service continues.
2. Existing revenue sources only are available to the FCFPD.

Cost and revenue projections are detailed below and are supported by calculations shown in **Tables F-1** through **F-3** in **Appendix F**. **Table 6** below shows the Project is estimated to be fiscally neutral to the FCFPD. This conclusion is based on preliminary estimates of annual operating costs impacted by Project development and does not reflect costs specific to upgrading services at Friant Station. Actual cost impacts estimated by the FCFPD may differ significantly from those used in this fiscal impact study.

Table 6
Buildout Fiscal Results: Fire Protection (2008$s)

Item	Estimated Costs / Revenues at Buildout
Estimated Annual Operations Costs - rounded [1]	$546,200
Estimated Annual Revenues - rounded [2]	$548,400
Operating Surplus (Deficit)	**$2,200**
Surplus (Deficit) per Unit	$1

[1] Based on FY 2007-08 budget per capita.
[2] Based on existing revenue sources only.

Table F-1 provides the estimated annual operating costs and revenues by development phase and shows potential negative fiscal impacts in the early stages of development; however, as described in greater detail below, the revenue estimates in this analysis are likely conservative.

Estimated Operating Revenues

The FCFPD receives operating revenues primarily from property taxes (about 70 percent of FY 2007-08 revenues). The remaining revenue sources are Proposition 172 allocations from the County (about 4 percent of revenues), other intergovernmental revenues, and interest and other miscellaneous revenues.

Using the assessed value estimates developed in **Table A-8** and the share of property tax allocated to FCFPD, shown in **Table D-3**, the Project is estimated to generate $707,000 per year additional revenue to the FCFPD at buildout. None of this property tax revenue will be retained by the Agency. The FCFPD loses a portion of property tax revenue to ERAF. As a placeholder, the County's rate of 23 percent is used. Typically, fire districts are not subject to all the ERAF adjustments, and their rate is about half that of counties. The ERAF adjustment of $162,000 is conservative, leaving net estimated property tax revenues at $544,000 to the FCFPD per year at buildout. These calculations are shown in **Table F-2**.

The County allocates two-thirds of Proposition 172 (Public Safety Sales Tax) revenue growth to the FCFPD. The Project is anticipated to positively impact Proposition 172 revenue, as shown in **Table B-6**. Using the approximate share of Proposition 172 revenue allocated to FCFPD, the Project is estimated to augment this revenue source by approximately $4,000 per year at buildout.

A potential source of revenue not estimated in this preliminary analysis includes Millerton New Town Fire Suppression Assessment District revenue from assessments on development property of approximately $160 per unit, if the Project annexes into this assessment district.

Estimated Operating Expenses

EPS estimated the incremental cost of providing fire protection services to the Project using the FCFPD's amended final budget for FY 2007-08. The total estimated cost of $19.7 million is budgeted to serve a population of 182,000, which equates to just more than $108 per capita per year. Using this multiplier and number of Project residents estimated by phase, shown in **Table A-7**, the estimated annual costs increase from $151,000 in Phase 1 to $546,000 in Phase 4. Estimated expenses by budget line item are shown in **Table F-3**.

APPENDICES:

Appendix A: Fiscal Impact Summary and Assumption Tables

Appendix B: Revenue-Estimating Tables

Appendix C: Expenditure-Estimating Tables

Appendix D: Fiscal Model Support Tables

Appendix E: Reduced Cost Scenario Tables

Appendix F: Fresno County Fire District Fiscal Impact Tables

APPENDIX A:

Fiscal Impact Summary and Assumption Tables

Table A-1	Summary Estimated Fiscal Impact of Friant Ranch	A-1
Table A-2	Estimated Costs and Revenues to Maintain Friant Ranch Public Roads	A-2
Table A-3	Land Use Plan	A-3
Table A-4	Land Use Phasing	A-4
Table A-5	General Assumptions	A-5
Table A-6	Land Use Assumptions	A-6
Table A-7	Cumulative Development Schedule	A-7
Table A-8	Estimated New Assessed Valuation at Friant Ranch	A-8

Table A-1
Friant Ranch Fiscal Impact Study
Summary Estimated Fiscal Impact of Friant Ranch (2008$)

Base Scenario

Revenues and Expenditures	Phase 1	Phase 2	Phase 3	Phase 4	Phase 4 Percent of Total
Revenues					
Property Tax [1]	$512,040	$1,115,171	$1,871,650	$2,418,340	45%
Property Tax In Lieu of VLF	$227,762	$496,041	$832,532	$1,075,706	20%
Real Property Transfer Tax	$196,192	$429,948	$722,345	$933,194	18%
Sales and Use Tax	$20,311	$73,736	$153,043	$213,857	4%
Property Tax in Lieu of Sales Tax	$6,770	$24,579	$51,014	$71,286	1%
Public Safety (Prop 172) Sales Tax	$53,175	$128,414	$231,221	$303,240	6%
Measure B (Library) Sales Tax	$13,541	$32,700	$58,880	$77,219	1%
Measure C (Transportation) Sales Tax	$4,850	$11,713	$21,091	$27,660	1%
Local Transportation - 0.25% Sales Tax	$5,327	$9,849	$15,635	$19,276	0%
Business Licenses	$73	$238	$586	$916	0%
Animal, Marriage Licenses and Burial Permits	$333	$617	$979	$1,207	0%
Franchises and Weapons Permits	$5,511	$10,299	$16,572	$20,636	0%
Fines, Forfeitures and Penalties	$5,060	$9,457	$15,217	$18,949	0%
Highway Users Tax (Gas Tax)	$32,798	$60,642	$96,272	$118,688	2%
Motor Vehicle in Lieu and Registration	$7,807	$14,435	$22,916	$28,252	1%
Total Estimated Revenues (rounded)	**$1,092,000**	**$2,418,000**	**$4,110,000**	**$5,328,000**	**100%**
Expenditures					
General Government	$64,690	$120,892	$194,528	$242,243	9%
Public Protection	$480,461	$897,882	$1,444,790	$1,799,172	66%
Public Ways and Facilities (not roads)	$1,803	$3,369	$5,421	$6,751	0%
Unincorporated Area Roads	$12,175	$19,023	$32,483	$45,716	2%
Health Services	$98,750	$182,581	$289,856	$357,347	13%
Public Assistance	$21,437	$39,635	$62,922	$77,573	3%
Education	$51,876	$95,914	$152,268	$187,722	7%
Recreation and Cultural Services	$4,124	$7,625	$12,105	$14,924	1%
Total Estimated Expenditures (rounded)	**$735,000**	**$1,367,000**	**$2,194,000**	**$2,731,000**	**100%**
County Operating Surplus (Deficit)	**$357,000**	**$1,051,000**	**$1,916,000**	**$2,597,000**	
Surplus (Deficit) per Friant Ranch Unit	$581	$853	$953	$1,039	

"tot_sum"

Source: EPS.

[1] Includes estimates of secured taxes, no estimate of unsecured or supplemental property taxes.

Table A-2
Friant Ranch Fiscal Impact Study
Estimated Costs and Revenues to Maintain Friant Ranch Public Roads (2008$)

Road Cost and Revenue		Phase 1	Phase 2	Phase 3	Phase 4
Estimated Expenditure					
Expenditures (Gross) [1]		$22,369	$34,950	$59,678	$83,991
Less Offsetting Revenues		($10,193)	($15,927)	($27,195)	($38,275)
Estimated Costs to Maintain Friant Ranch Roads		**$12,175**	**$19,023**	**$32,483**	**$45,716**
Adjusted Net County Costs per Road Mile		$9,974	$9,974	$9,974	$9,974
Estimated Revenues [2]					
Measure C (Transportation) Sales Tax	Table B-2	$4,850	$11,713	$21,091	$27,660
Local Transportation - 0.25% Sales Tax	Table B-2	$5,327	$9,849	$15,635	$19,276
Highway Users Tax (Gas Tax)	Table B-2	$32,798	$60,642	$96,272	$118,688
Estimated Revenues from Friant Ranch		**$42,976**	**$82,204**	**$132,998**	**$165,624**
Revenue per Road Mile		$35,207	$119,734	$98,558	$124,839
Road Maintenance Surplus (Deficit)		**$30,800**	**$63,181**	**$100,515**	**$119,908**

"road_bal"

Source: Fresno County Transportation Authority, Fresno County FY 2007-08 Budget, and Friant Ranch L.P.

[1] Miles of public road multiplied by gross expenditures per unincorporated area mile:

Fresno County FY 2008-07 Expenditures for Public Works & Planning Roads	$67,381,887
Fresno County Unincorporated Area Miles 2008	3,677
Gross Expenditures per Mile	**$18,325**

[2] Approximately 50% of County Road Fund revenues will be affected by Friant Ranch development:

Fresno County Road Fund Total Budgeted Revenues FY 2007-08	$67,381,887
Revenues Not Affected by Friant Ranch	$35,575,887
Measure C, Local Transportation and Highway Users Tax Revenues	**$31,806,000**

Table A-3
Friant Ranch Fiscal Impact Study
Land Use Plan

Land Use Category	Acres	Average Density	Total Units	Maximum Square Feet
Developable Land Uses				
Residential [1]				
Active Adult				
Single-Family (SFD-1)	69.4	4.6	290	
Single-Family (SFD-2)	131.5	7.1	745	
Single-Family (SFD-3)	130.9	9.6	1,069	
Age-Qualified Multifamily	13.3	14.1	166	
Subtotal Active Adult	**345.1**		**2,270**	
Non-Active Adult				
Non-Age-Qualified Multifamily	14.3	12.6	180	
Village Center Residential Multifamily [2]	--		50	
Subtotal Residential	**359.4**		**2,500**	
Non-Residential				
Village Center				
Restaurant / Fast Food	2.0			15,000
Shopping Center	16.3			125,000
Office	13.0			100,000
Medical	1.3			10,000
Subtotal Village Center	**32.6**			**250,000**
Active Adult Recreation Center	16.1			42,000
Subtotal Non-Residential	**16.1**			**292,000**
Total Developable	**408.1**			**292,000**
Other Land Uses				
Undisturbed Open Space	460.0			
Re-vegetated Open Space Slopes	22.4			
Wastewater Treatment System	4.0			
Roads	47.7			
Subtotal Other	**534.1**			
TOTAL	**942.2**		**2,500**	**292,000**

"land_sum"

Source: Friant Ranch LP, June 2008.

[1] Single-family residential descriptions:
SFD-1: Densities range from 2.0 du/ac to 5.0 du/ac (minimum lot size of 6,000 sq ft).
SFD-2: Densities range from 5.0 du/ac to 8.0 du/ac.
SFD-3: Densities range from 8.0 du/ac to 12.0 du/ac.

[2] Acreage included in Village Center under Non-Residential.

Table A-4
Friant Ranch Fiscal Impact Study
Land Use Phasing

Land Use Category	Total	Phase 1	Phase 2	Phase 3	Phase 4
Residential Units					
Active Adult					
Single-Family (SFD-1)	**290**	0	100	110	80
Single-Family (SFD-2)	**745**	0	195	165	385
Single-Family (SFD-3)	**1,069**	351	323	395	0
Age-Qualified Multifamily	**166**	83	0	83	0
Subtotal Active Adult	**2,270**	**434**	**618**	**753**	**465**
Non-Active Adult					
Non-Age-Qualified Multifamily	**180**	180	0	0	0
Village Center Residential Multifamily	**50**	0	0	25	25
Subtotal Non-Active Adult	**230**	**180**	**0**	**25**	**25**
Total Annual Residential Units	**2,500**	**614**	**618**	**778**	**490**
Percentage of Total Units		25%	25%	31%	20%
Non-Residential					
Non-Residential Square Feet					
Village Center	**250,000**	0	50,000	100,000	100,000
Subtotal Non-Residential Sq.Ft.	**250,000**	**0**	**50,000**	**100,000**	**100,000**
Recreation Amenity Center Square Feet					
Active Adult Recreation Center	**42,000**	42,000	0	0	0
Subtotal Recreation Amenity Sq. Ft.	**42,000**	**42,000**	**0**	**0**	**0**
Road Miles	**4.6**	**1.2**	**0.7**	**1.3**	**1.3**

"phasing"

Source: Friant Ranch LP and EPS.

Table A-5
Friant Ranch Fiscal Impact Study
General Assumptions

General	
Base Fiscal Year	**2007-08**
Residential Property Turnover Rate	10.0%
Non-residential Property Turnover Rate	5.0%
Demographic Data (estimates)	**January, 2007**
Fresno County	*All Figures Rounded*
Residents	914,900
Employees	338,100
Persons Served [1]	1,084,000
Unincorporated Area	
Road Miles	3,677
Residents	172,700
Employees [2]	73,400
Persons Served [1]	209,400
Cities (Incorporated Area)	
Residents	742,200
Employees	264,700
Persons Served [1]	874,600
Coalinga Huron Library District Residents [3]	25,500

"gen_assumps"

Source: US Census 2002 Economic Census, California Department of Finance, and the California Employment Development Department.

[1] Persons served is defined as population plus 50% of employees.

[2] Employees estimated as 12% of non-farm employees (see below), plus 100% of farm employees. Employees excludes self-employed individuals.

2002 Economic Census data (excludes government employees and some other sectors)	
Year 2002 Fresno County Non-farm employment	146,415
Year 2002 Fresno County Non-farm employment (uninc. Area only)	16,947
Percent Employment in Unincorporated Area	12%

[3] City populations of Coalinga and Huron deducted from Fresno County population to estimate residents served by the Fresno County Library system.

Table A-6
Friant Ranch Fiscal Impact Study
Land Use Assumptions (2008$)

Land Use	Descriptive Units	Market Value per Unit [1]	Assessed Value as % of Market Value [2]	Assessed Value per Unit [2]	Residents per Unit / Sq.Ft. per Employee [3]
Residential					*Residents per Unit*
Single-Family (SFD-1)	Residence	$380,000	90%	$342,000	1.90
Single-Family (SFD-2)	Residence	$341,000	90%	$306,900	1.90
Single-Family (SFD-3)	Residence	$300,000	90%	$270,000	1.90
Age-Qualified Multifamily	Residence	$241,000	90%	$216,900	1.70
Non-Age-Qualified Multifamily	Residence	$241,000	95%	$229,000	3.15
Village Center Residential Multi-Family	Residence	$215,000	95%	$204,300	3.15
Non-Residential					*Sq.Ft. per Employee*
Village Center	Square Feet	$250	100%	$250	540.00
Active Adult Recreation Center	Square Feet	$250	100%	$250	1,050.00

"lu_assumps"

Source: LoopNet Commercial listings, Friant Ranch LP, National Association of Home Builders, Bureau of Labor Statistics, California Department of Finance, and EPS.

[1] Market values for residential units provided by Friant Ranch LP. Market value for non-residential properties based on research of listed commercial properties sales prices within the area (see Table D-2).

[2] Assessed value has been reduced for residential properties to allow for potential transfers of Proposition 13 base year values of former residences by purchasers of new property pursuant to Proposition 60. This benefit is available to homeowners who are at least 55 years old and meet certain requirements.

[3] Active adult persons per unit based on two data sources: the National Association of Home Builders (NAHB) in association with the Seniors Housing Council and the Bureau of Labor Statistics household expenditure survey, both of which sources document average number of persons in units with the head of household age 55 and older. Non-active adult persons per unit is the Fresno County 2007 average persons per household, per the CA Department of Finance. Employees per square foot is the average for all uses as shown below:

Commercial Use	Square Feet	Sq.Ft. per Employee	Employees
Restaurant / Fast Food	15,000	500	30
Shopping Center	125,000	800	156
Office	100,000	400	250
Medical	10,000	500	20
Subtotal Village Center	**250,000**	**540**	**460**

Table A-7
Friant Ranch Fiscal Impact Study
Cumulative Development Schedule

Land Use Category	Phase 1	Phase 2	Phase 3	Phase 4
Residential Units				
Active Adult				
Single-Family (SFD-1)	0	100	210	290
Single-Family (SFD-2)	0	195	360	745
Single-Family (SFD-3)	351	674	1,069	1,069
Age-Qualified Multifamily	83	83	166	166
Subtotal Active Adult	**434**	**1,052**	**1,805**	**2,270**
Active Adult Population	**820**	**2,000**	**3,430**	**4,310**
Non-Active Adult Population				
Non-Age-Qualified Multifamily	180	180	180	180
Village Center Residential Multifamily	0	0	25	50
Subtotal Non-Active Adult	**180**	**180**	**205**	**230**
Non-Active Adult Population	**570**	**570**	**650**	**720**
Total Residential Units	**614**	**1,232**	**2,010**	**2,500**
Total Friant Ranch Population	**1,390**	**2,570**	**4,080**	**5,030**
Non-Residential				
Non-Residential Square Feet				
Village Center	0	50,000	150,000	250,000
Subtotal Non-Residential Sq.Ft.	**0**	**50,000**	**150,000**	**250,000**
Village Center Employees	**0**	**90**	**280**	**460**
Recreation Amenity Center Square Feet				
Active Adult Recreation Center	42,000	42,000	42,000	42,000
Subtotal Recreation Amenity Sq. Ft.	**42,000**	**42,000**	**42,000**	**42,000**
Recreation Center Employees	**40**	**40**	**40**	**40**
Total Employees	**40**	**130**	**320**	**500**
Persons Served Population [1]	**1,410**	**2,640**	**4,240**	**5,280**
Road Miles	**1.2**	**1.9**	**3.3**	**4.6**

"cum_dev"

Source: Friant Ranch LP.

[1] Defined as 100% residents plus 50% employees.

Table A-8
Friant Ranch Fiscal Impact Study
Estimated New Assessed Valuation at Friant Ranch (2008$)

Land Use Category	Assumption per Unit / Sq.Ft.	Phase 1	Phase 2	Phase 3	Phase 4
Residential	*per unit*				
Active Adult					
Single-Family (SFD-1)	$342,000	$0	$34,200,000	$71,820,000	$99,180,000
Single-Family (SFD-2)	$306,900	$0	$59,845,500	$110,484,000	$228,640,500
Single-Family (SFD-3)	$270,000	$94,770,000	$181,980,000	$288,630,000	$288,630,000
Age-Qualified Multifamily	$216,900	$18,002,700	$18,002,700	$36,005,400	$36,005,400
Subtotal Active Adult		**$112,772,700**	**$294,028,200**	**$506,939,400**	**$652,455,900**
Non-Active Adult					
Non-Age-Qualified Multifamily	$229,000	$41,220,000	$41,220,000	$41,220,000	$41,220,000
Village Center Residential Multifamily	$204,300	$0	$0	$5,107,500	$10,215,000
Total Residential		**$153,992,700**	**$335,248,200**	**$553,266,900**	**$703,890,900**
Non-Residential	*per Sq.Ft.*				
Village Center	$250	$0	$12,500,000	$37,500,000	$62,500,000
Active Adult Recreation Center	$250	$10,500,000	$10,500,000	$10,500,000	$10,500,000
Total Non-Residential		**$10,500,000**	**$23,000,000**	**$48,000,000**	**$73,000,000**
Total Estimated Assessed Value		**$164,492,700**	**$358,248,200**	**$601,266,900**	**$776,890,900**

"cum_value"

Source: Friant Ranch LP and EPS.

APPENDIX B:

Revenue-Estimating Tables

Table B-1	Revenue-Estimating Procedures	B-1
Table B-2	Estimated Annual Revenues by Development Phase	B-2
Table B-3	Estimated Property Tax and Property Tax in-Lieu of VLF	B-3
Table B-4	Estimated Friant Ranch Redevelopment Area Assessed Valuation and Tax Increment Projections	B-4
Table B-5	Real Property Transfer Tax	B-5
Table B-6	Estimated Sales Tax Revenue from Net New Spending	B-6
Table B-6a	Estimated Taxable Sales from Friant Ranch New Household and Employee Population	B-7
Table B-6b	Estimated Taxable Sales Generated by Friant Ranch New Businesses	B-8

Table B-1
Friant Ranch Fiscal Impact Study
Revenue-Estimating Procedures (2008$)

Revenues	Estimating Procedure (Case Study or Multiplier Method)	Fresno County Budget FY 2007-08 Revenues	Less Offsetting Program Revenues [1]	Adjusted Net Revenues	Revenues Estimated by Multiplier Method		
					Population or Persons Served	Revenue Multiplier Per Resident	Revenue Multiplier Per Employee
Taxes							
Property Tax [2]	Case Study	$85,200,994	($8,668,495)	$76,532,499			
Measure B - 1/8 Sales Tax [3]	Case Study	$15,407,618	$0	$15,407,618			
Local Transportation - 1/4 Sales Tax	Per Capita (Countywide)	$3,506,000	$0	$3,506,000	914,900	$3.83	$0.00
Measure C - 1/2 Sales Tax [3]	Case Study	$6,712,000	$0	$6,712,000			
Property Tax In Lieu of VLF	Case Study	$89,300,581	$0	$89,300,581			
Real Property Transfer Tax	Case Study	$3,700,000	$0	$3,700,000			
Sales and Use Tax	Case Study	$16,190,000	($125,000)	$16,065,000			
In Lieu Sales and Use Tax	Case Study	$5,603,220	$0	$5,603,220			
Other Taxes	[6]	$151,142	($462)	$150,680	N/A	N/A	N/A
Total Taxes		**$225,771,555**	**($8,793,957)**	**$216,977,598**		**$3.83**	**$0.00**
Licenses, Permits and Franchises							
Business Licenses	Employees (Countywide)	$619,284	$0	$619,284	338,100	$0.00	$1.83
Animal, Marriage Licenses and Burial Permits	Per Capita (Countywide)	$219,500	$0	$219,500	914,900	$0.24	$0.00
Franchises	Persons Served (Countywide)	$4,236,691	$0	$4,236,691	1,084,000	$3.91	$1.95
Other Permits and Fees	[6]	$5,963,520	($5,710,520)	$253,000	N/A	N/A	N/A
Total Licenses, Permits and Franchises		**$11,038,995**	**($5,710,520)**	**$5,328,475**		**$4.15**	**$3.79**
Fines, Forfeitures and Penalties							
Fines, Forfeitures and Penalties [4]	Persons Served (Countywide)	$3,890,389	$0	$3,890,389	1,084,000	$3.59	$1.79
Other Assessments and Fees [5]	[6]	$6,963,481	($6,963,481)	$0	N/A	N/A	N/A
Total Fines, Forfeitures and Penalties		**$10,853,870**	**($6,963,481)**	**$3,890,389**		**$3.59**	**$1.79**
Intergovernmental Revenue							
Highway Users Tax (Gas Tax)	Per Capita (Countywide)	$21,588,000	$0	$21,588,000	914,900	$23.60	$0.00
Motor Vehicle in Lieu and Registration	Per Capita (Uninc. Area)	$970,000	$0	$970,000	172,700	$5.62	$0.00
Public Safety (Prop 172) Sales Tax	Case Study	$63,525,000	$0	$63,525,000			
Other (State, Federal and Intergovernmental)	[6]	$748,091,459	($689,718,157)	$58,373,302	N/A	N/A	N/A
Total Intergovernmental Revenue		**$834,174,459**	**($689,718,157)**	**$144,456,302**		**$29.21**	**$0.00**
Use of Money and Property	[6]	$13,292,995	($1,715,335)	$11,577,660	N/A	N/A	N/A
Charges for Services	[6]	$138,508,365	($132,872,193)	$5,636,172	N/A	N/A	N/A
Miscellaneous Revenues	[6]	$14,614,797	($14,603,777)	$11,020	N/A	N/A	N/A
Other Financing Sources	[6]	$222,357,648	($216,540,187)	$5,817,461	N/A	N/A	N/A
Intrafund Revenues (includes utilities)	[6]	$56,794,399	($53,803,113)	$2,991,286	N/A	N/A	N/A
Total Revenues		**$1,527,407,083**	**($1,130,720,720)**	**$396,686,363**		**$40.78**	**$5.58**
Fund Balances Unreserved / Undesignated	[6]	$37,381,511	$0	$37,381,511	N/A	N/A	N/A
Grand Total Revenue Sources		**$1,564,788,594**	**($1,130,720,720)**	**$434,067,874**		**$40.78**	**$5.58**

"rev_est_procedures"

Source: Fresno County 2007-08 Adopted Budget, Fresno County Auditor Controller, and EPS.

[1] These revenues are either not expected to be affected by the Project and/or are dedicated to, and directly offset, potential costs of various departments.

[2] Property tax includes secured, unsecured, supplemental, delinquency tax revenues, and redevelopment increment reimbursements (pass-through monies).

[3] Measure B revenues may only be used for Library Fund activities, and Measure C revenues may only be used for Road Fund activities.

[4] Includes vehicle code fines, criminal fines, fish and game fines, forfeitures and penalties.

[5] Includes small claims advisory programs fees, probation assessment, penalty assessments and the adult offender work program assessments.

[6] These revenues are not expected to be affected by the Project.

Table B-2
Friant Ranch Fiscal Impact Study
Estimated Annual Revenues by Development Phase (2008$)

Revenues	Reference	Phase 1	Phase 2	Phase 3	Phase 4	Phase 4 Distribution of Revenues
Estimated by Case Study						
Property Tax [1]	**Table B-3**	$512,040	$1,115,171	$1,871,650	$2,418,340	45.4%
Property Tax In Lieu of VLF	**Table B-3**	$227,762	$496,041	$832,532	$1,075,706	20.2%
Real Property Transfer Tax	**Table B-5**	$196,192	$429,948	$722,345	$933,194	17.5%
Sales and Use Tax	**Table B-6**	$20,311	$73,736	$153,043	$213,857	4.0%
Property Tax in Lieu of Sales Tax	**Table B-6**	$6,770	$24,579	$51,014	$71,286	1.3%
Public Safety (Prop 172) Sales Tax	**Table B-6**	$53,175	$128,414	$231,221	$303,240	5.7%
Measure B (Library) Sales Tax	**Table B-6**	$13,541	$32,700	$58,880	$77,219	1.4%
Measure C (Transportation) Sales Tax	**Table B-6**	$4,850	$11,713	$21,091	$27,660	0.5%
Subtotal Revenues Estimated by Case Study		**$1,034,642**	**$2,312,301**	**$3,941,776**	**$5,120,502**	**96.1%**
Estimated by Multiplier Method						
Local Transportation - 0.25% Sales Tax	**Table B-1**	$5,327	$9,849	$15,635	$19,276	0.4%
Business Licenses	**Table B-1**	$73	$238	$586	$916	0.0%
Animal, Marriage Licenses and Burial Permits	**Table B-1**	$333	$617	$979	$1,207	0.0%
Franchises and Weapons Permits	**Table B-1**	$5,511	$10,299	$16,572	$20,636	0.4%
Fines, Forfeitures and Penalties	**Table B-1**	$5,060	$9,457	$15,217	$18,949	0.4%
Highway Users Tax (Gas Tax)	**Table B-1**	$32,798	$60,642	$96,272	$118,688	2.2%
Motor Vehicle in Lieu and Registration	**Table B-1**	$7,807	$14,435	$22,916	$28,252	0.5%
Subtotal Revenues Estimated by Multiplier Method		**$56,910**	**$105,535**	**$168,176**	**$207,924**	**3.9%**
Total Revenues		**$1,091,552**	**$2,417,837**	**$4,109,952**	**$5,328,426**	**100.0%**

"revenues"

Source: EPS.

[1] Includes estimates of secured taxes (including homeowners property tax relief) to Fresno County General and Library Funds. Excludes estimates of unsecured or supplemental property taxes. Portion of property tax revenue to Friant Redevelopment Agency shown in Table B-4.

Table B-3
Friant Ranch Fiscal Impact Study
Estimated Property Tax and Property Tax in-Lieu of VLF (2008$)

Item	Formula	Source/ Assumption	Phase 1	Phase 2	Phase 3	Phase 4
Total Assessed Value (Constant FY 2008$)	*a*	**Table A-8**	**$164,492,700**	**$358,248,200**	**$601,266,900**	**$776,890,900**
Property Tax (@ 1% of Assessed Value)	*b = a*1%*		$1,644,927	$3,582,482	$6,012,669	$7,768,909
Allocation of Tax to the General Fund		**Table D-3**				
Fresno County General Fund	*c = b*%*	38.41%	$631,794	$1,375,983	$2,309,386	$2,983,934
Less ERAF shift	*d = c*%*	23.00%	($145,313)	($316,476)	($531,159)	($686,305)
Net General Fund Property Taxes [1]	*e = c+d*		**$486,482**	**$1,059,507**	**$1,778,227**	**$2,297,629**
Allocation of Tax to the Library Fund		**Table D-3**				
Fresno County Free Library Fund	*f = b*%*	2.02%	$33,193	$72,290	$121,328	$156,767
Less ERAF shift	*g = f*%*	23.00%	($7,634)	($16,627)	($27,906)	($36,056)
Net Library Fund Property Taxes [2]	*h = f+g*		**$25,558**	**$55,663**	**$93,423**	**$120,711**
Total Property Tax Allocation to Project	*i = e + h*		**$512,040**	**$1,115,171**	**$1,871,650**	**$2,418,340**
Property Tax In Lieu of VLF Revenues						
Project Assessed Value	*j = a*		$164,492,700	$358,248,200	$601,266,900	$776,890,900
County Estimated Gross Assessed Valuation FY 2007-08	*k*	$64,494,189,160				
Percentage Increase in Gross AV [3]	*l =j/k*		**0.26%**	**0.56%**	**0.93%**	**1.20%**
Estimated County FY 2007-08 Property Tax In Lieu of VLF	*m*	$89,300,581				
Increase in Property Tax In Lieu of VLF	*n = l*m*		**$227,762**	**$496,041**	**$832,532**	**$1,075,706**

"prop_tax_sum"

Source: Fresno County Auditor Controller, Fresno County Tax Collector, Fresno County 2007-08 Budget, and EPS.

[1] The property tax revenues generated by assessed value within the redevelopment area that exceeds base year FY 1992-93 assessed value is Friant Redevelopment Agency tax increment revenue. See Table B-4.

[2] None of the library fund property tax revenues are retained by the Friant Redevelopment Agency.

[3] Represents the marginal increase in overall County assessed valuation contributed by the project.

Table B-4
Friant Ranch Fiscal Impact Study
Estimated Friant Ranch Redevelopment Area Assessed Valuation and Tax Increment Projections (2008$)

Item	Phase 1	Phase 2	Phase 3	Phase 4
Assessed Valuation				
Single-Family (SFD-3) [1]	$0	$27,000,000	$27,000,000	$27,000,000
Non-Age-Qualified Multi-Family [2]	$41,220,000	$41,220,000	$41,220,000	$41,220,000
Village Center Residential Multi-Family [2]	$0	$0	$5,107,500	$10,215,000
Village Center [2]	$0	$12,500,000	$37,500,000	$62,500,000
Total Estimated Assessed Valuation in Redevelopment Area (2008 $'s)	**$41,220,000**	**$80,720,000**	**$110,827,500**	**$140,935,000**
Tax Increment				
Estimated Tax Increment generated by Friant Ranch [3]	$412,200	$807,200	$1,108,275	$1,409,350
Less ERAF shift [4]	($94,806)	($185,656)	($254,903)	($324,151)
Net Friant Ranch Tax Increment	**$317,394**	**$621,544**	**$853,372**	**$1,085,200**
Percentage of Tax Increment Retained by the Redevelopment Agency [5]	78%	78%	78%	78%
Estimated Tax Increment Revenues from Friant Ranch (2008 $'s) - rounded	**$248,000**	**$485,000**	**$666,000**	**$847,000**

"redev_av"

Source: Fresno County Auditor's Office and EPS.

[1] EPS estimates that 100 SFD-3 units will be located within the redevelopment area.
[2] Assumes all commercial buildings and residential mixed-use units within the commercial center and all non-age-qualified multi-family units located in the northern most portion of Friant Ranch will be within the redevelopment area.
[3] Tax increment is 1% of the total assessed valuation.
[4] ERAF shift of 23% per the Fresno County Auditor.
[5] See Table D-4. Of the total tax increment, 22% is passed through to other agencies.

Table B-5
Friant Ranch Fiscal Impact Study
Real Property Transfer Tax (2008$)

Description	Assumptions	Phase 1	Phase 2	Phase 3	Phase 4
Rate per $1,000 value	$1.10				
Owner-Occupied Units Turnover Rate [1]	10%				
Non-Residential and Multi-family Turnover Rate	5%				
Assessed Value					
AV from New Owner-Occupied Units		$112,772,700	$294,028,200	$506,939,400	$652,455,900
AV from New Apartments & Commercial Properties		$51,720,000	$64,220,000	$94,327,500	$124,435,000
AV from Turnover of Owner-Occupied Units		$11,277,270	$29,402,820	$50,693,940	$65,245,590
AV from Turnover of Apartments and Commercial		$2,586,000	$3,211,000	$4,716,375	$6,221,750
Transfer Tax					
Tax from Sale of New Owner-Occupied Units		$124,050	$323,431	$557,633	$717,701
Tax from New Apartments & Commercial Properties		$56,892	$70,642	$103,760	$136,879
Tax from Turnover of Residential Units		$12,405	$32,343	$55,763	$71,770
Tax from Turnover of Apartments and Commercial		$2,845	$3,532	$5,188	$6,844
Real Property Transfer Tax (2007 Dollars)		**$196,192**	**$429,948**	**$722,345**	**$933,194**

"prop_transfer_tax"

Source: EPS.

[1] All single-family dwelling units and active adult multi-family units are considered owner-occupied.

Table B-6
Friant Ranch Fiscal Impact Study
Estimated Sales Tax Revenue from Net New Spending (2008$)

Item	Formula	Source/ Assumption	Phase 1	Phase 2	Phase 3	Phase 4
SALES TAXES FROM UNINCORPORATED COUNTY SPENDING						
Taxable Sales from Friant Ranch Residents and Employees in Uninc. Co	*a*	Table B-6a	**$2,708,194**	**$5,442,910**	**$8,899,334**	**$11,087,029**
Taxable Sales from Friant Ranch Village Businesses	*b*	Table B-6b	**$0**	**$5,536,181**	**$16,608,543**	**$27,680,906**
Less sales from residents and employees in Friant Ranch [1]	*c = a*80%*	80%	$0	($870,866)	($4,271,680)	($8,869,623)
Less sales displaced from other unincorporated area businesses [2]	*d = b*5%*	5%	$0	($276,809)	($830,427)	($1,384,045)
Net New Taxable Sales from Friant Ranch Businesses	*e = b+c+d*		**$0**	**$4,388,506**	**$11,506,436**	**$17,427,237**
Net New Taxable Sales from Friant Ranch Development	*f = a+e*		**$2,708,194**	**$9,831,417**	**$20,405,770**	**$28,514,266**
Bradley-Burns Sales Taxes from Friant Ranch Development	*g = f*1%*	1%	**$27,082**	**$98,314**	**$204,058**	**$285,143**
Sales Tax Revenue [3]	*h = g*75%*	75%	**$20,311**	**$73,736**	**$153,043**	**$213,857**
Property Tax In Lieu of Sales Tax [3]	*i= g*25%*	25%	**$6,770**	**$24,579**	**$51,014**	**$71,286**
SALES TAXES FROM COUNTYWIDE SPENDING						
Taxable Sales from Friant Ranch Residents and Employees Countywide	*j*	Table B-6a	$10,832,778	$21,771,642	$35,597,337	$44,348,115
Net New Taxable Sales from Friant Ranch Businesses	*k = e*		$0	$4,388,506	$11,506,436	$17,427,237
Total Countywide Taxable Sales from Friant Ranch Development	*l = j+k*		**$10,832,778**	**$26,160,148**	**$47,103,773**	**$61,775,353**
Public Safety Sales Tax Revenue (Prop. 172) [4]	*m = l*0.5%*98%*	**0.491%**	**$53,175**	**$128,414**	**$231,221**	**$303,240**
Measure B (Library) Sales Tax Revenue	*n = m*0.125%*	**0.125%**	**$13,541**	**$32,700**	**$58,880**	**$77,219**
Measure C (Transportation) Sales Tax Revenue [5]	*o = m*0.5%*9%*	**0.045%**	**$4,850**	**$11,713**	**$21,091**	**$27,660**

"sales_proj"

Source: EPS.

[1] At buildout EPS estimates that residents and employees of Friant Ranch will spend 80% of their taxable unincorporated County spending in Friant Ranch. Spending is graduated in proportion to the amount of square footage built by phase. In Phase 1, no spending is estimated within Friant Ranch because no structures will have been built in the Village Center. In Phase 2, 20% of spending is assumed to be within Friant Ranch Village. In Phases 3 and 4, spending is assumed to be 60% and 100%, respectively.

[2] Reflects sales tax revenues that may shift from existing County shopping centers to Friant Ranch Village.

[3] Effective July 1 2004, one-quarter cent of the one and one-quarter cent local sales tax was shifted to the State for an equal dollar amount of ERAF property tax revenues.

[4] In Fiscal Year 05-06, Fresno County received approximately 98 percent of the half-cent Prop 172 sales tax based on countywide taxable sales data from the California Board of Equalization and State Controller records of public safety sales tax monthly allocations to Fresno County.

[5] Approximately 30% of Measure C funds are allocated to local transportation programs within the County. The cities and the County receive allocations of this program money based on allocation formulas that take into account population and road miles to maintain. In Fiscal Year 2008-09 the Fresno County Transportation Authority estimates Fresno County will receive approximately $5,194,000 for local transportation programs including street maintenance, ADA compliance, trails and bicycle facilities.

Total Estimated Sales Tax Revenues from Measure C FY 2008-09	$58,000,000
County of Fresno Allocation of Revenues for Local Transportation Programs	$5,194,000
Percent of Total Revenues to County of Fresno	9.0%

Table B-6a
Friant Ranch Fiscal Impact Study
Estimated Taxable Sales from Friant Ranch New Household and Employee Population (2008$)

Item	Source / Assumption	Formula	Phase 1	Phase 2	Phase 3	Phase 4
New Resident Spending						
Weighted Average Estimated Household Income (see Table D-5)	$67,000	*a*				
Taxable Retail Expenditures per Household [1]	33%	*b*				
Assumed Fresno Countywide Capture Rate [2]	85%	*c*				
Assumed Unincorporated Capture Rate [3]	25%	*d*				
Cumulative New Households	Table A-7	*e*	574	1152	1879	2338
Total Countywide Taxable Sales to New Residents		*f = a*b*c*e*	**$10,804,218**	**$21,678,822**	**$35,368,857**	**$43,991,115**
New Employee Spending						
Estimated Average Daily Taxable Sales per Employee	$7	*g*				
Capture Rate of Employee Spending [4]	50%	*h*				
Work Days per Year	240	*i*				
Cumulative New Employees	Table A-7	*j*	40	130	320	500
Total Countywide Taxable Sales to New Employees		*k = g*h*c*i*j*	**$28,560**	**$92,820**	**$228,480**	**$357,000**
Total Countywide Taxable Sales		*l = f+k*	**$10,832,778**	**$21,771,642**	**$35,597,337**	**$44,348,115**
Taxable Sales in Unincorporated County		*m = l*d*	**$2,708,194**	**$5,442,910**	**$8,899,334**	**$11,087,029**

"sales_tax"

Source: California Board of Equalization, U.S. Bureau of Labor Statistics, California Controller's Office, Urban Land Institute and EPS.

[1] Annual average taxable spending as a percent of income per consumer unit (BLS Consumer Expenditure Survey, 2005).
[2] The closest major retail areas are located in the cities of Fresno and Clovis (both in Fresno County) therefore it is anticipated that Fresno County will capture the majority of taxable expenditures from Friant Ranch.
[3] Place-based sales tax will be allocated to Fresno County when purchases are made in unincorporated areas of Fresno County. Although there are few taxable retail locations currently found within unincorporated Fresno County in the Friant area, the development of new retail associated with the project will increase spending within the unincorporated county by Friant Ranch new residents.
[4] Taxable sales to new employees discounted by 50% to avoid double counting of household expenditures by employees living and working in Friant Ranch.

Table B-6b
Friant Ranch Fiscal Impact Study
Estimated Taxable Sales Generated by Friant Ranch New Businesses (2008$)

Item	Source / Assumption	Formula	Phase 1	Phase 2	Phase 3	Phase 4
Village Center Development in Square Feet	Table A-7	*a*	0	50,000	150,000	250,000
Retail Taxable Sales [1]						
Estimated Sales-Generating Sq.Ft. [2]	56%	*b = a*%*	0	28,000	84,000	140,000
Village Center Estimated Annual Sales [3]	$322 per sq. ft.	*c = b*$*	$0	$9,012,080	$27,036,240	$45,060,400
Estimated Sales Subject to Sales Tax [4]	**60%**	***d = c*%***	**$0**	**$5,426,181**	**$16,278,543**	**$27,130,906**
Business-to-Business Taxable Sales [5]						
Estimated Sales-Generating Sq.Ft.	44%	***e = a*%***	0	22,000	66,000	110,000
Village Center Business to Business Taxable Sales	**$5 per sq. ft.**	***f = e*$***	**$0**	**$110,000**	**$330,000**	**$550,000**
Total Estimated Taxable Sales		***g = d+f***	**$0**	**$5,536,181**	**$16,608,543**	**$27,680,906**

"sales_tax2"

Source: Urban Land Institute (ULI) and EPS.

[1] Retail includes restaurant and shopping uses.

[2] Restaurant and shopping uses are anticipated to comprise 56% of total Village Center commercial square footage.

[3] Average sales per square foot of community shopping centers in the Western United States, from ULI's *Dollars & Cents of Shopping Centers / The Score 2006.*

[4] Represents the percentage of total sales that is subject to sales tax. Based on EPS interpretation of 2006 ULI data. See Table D-7.

[5] EPS has estimated a nominal amount of sales tax per square foot for non-retail commercial land uses in order to account for business-to-business and point-of-sale taxable transactions generated by these land uses.

APPENDIX C:

Expenditure-Estimating Tables

Table C-1	Fresno County Adopted Expenditures for FY 2007–08 (2 pages)	C-1
Table C-2	Expenditures-Estimating Procedures	C-3
Table C-3	Estimated Annual Expenditures by Development Phase	C-4
Table C-4	Estimates of Potential Friant Ranch Sherriff Protection Costs	C-5
Table C-5	General Government Offsetting Revenues (2 pages)	C-6
Table C-6	Public Protection Offsetting Revenues (3 pages)	C-8
Table C-7	Public Ways and Facilities Offsetting Revenues	C-11
Table C-8	Health and Sanitation Offsetting Revenues (3 pages)	C-12
Table C-9	Public Assistance Offsetting Revenues (2 pages)	C-15
Table C-10	Education Offsetting Revenues	C-17
Table C-11	Recreational and Cultural Services Offsetting Revenues	C-18

Table C-1
Friant Ranch Fiscal Impact Study
Fresno County Adopted Expenditures for FY 2007-08 (2008$)

Category	Reference	Adopted FY 2007-08 Expenditures	Less Revenue Offsets	Adjusted FY 2007-08 Net Cost
General Government	**Table C-5**			
Board of Supervisors		$2,232,985	($26,569)	$2,206,416
County Administrative Office		$2,301,378	($466,728)	$1,834,650
Debt Service		$5,817,461	$0	$5,817,461
General Services / Security		$5,359,279	($4,151,338)	$1,207,941
Facility Services		$21,054,386	($10,064,134)	$10,990,252
Auditor Controller / Tax Collector		$10,908,148	($5,337,746)	$5,570,402
Assessor / Recorder		$14,309,349	($8,052,816)	$6,256,533
Purchasing		$791,112	($204,907)	$586,205
County Counsel		$4,609,540	($2,557,587)	$2,051,953
Personnel Services		$3,062,336	($1,438,105)	$1,624,231
Advertising County Resources		$200,149	$0	$200,149
Interest / Misc. Expenses		$11,516,957	($130,000)	$11,386,957
Subtotal General Government		**$82,163,080**	**($32,429,930)**	**$49,733,150**
Public Protection	**Table C-6**			
Court		$19,048,905	($5,367,018)	$13,681,887
Clerk - Elections		$10,942,269	($7,859,038)	$3,083,231
District Attorney		$37,437,587	($14,228,874)	$23,208,713
Grand Jury		$58,145	$0	$58,145
Indigent Defense		$4,774,149	($450,148)	$4,324,001
Public Defender		$14,406,793	($2,009,578)	$12,397,215
Sheriff		$140,517,945	($21,394,581)	$119,123,364
Sheriff - Court Services		$14,569,261	($14,351,632)	$217,629
Probation		$63,389,704	($23,504,830)	$39,884,874
Agriculture		$10,753,741	($7,230,175)	$3,523,566
Coroner		$4,177,464	($1,374,384)	$2,803,080
Fish and Game		$44,350	($2,805)	$41,545
Public Works and Planning		$28,071,536	($20,421,421)	$7,650,115
LAFCO - support		$613,303	($437,339)	$175,964
Subtotal Public Protection		**$348,805,152**	**($118,631,823)**	**$230,173,329**
Unincorporated Area Public Protection [1]		**$168,589,481**	**($41,816,002)**	**$33,328,306**
Public Ways and Facilities	**Table C-7**			
Public Works and Planning Roads		$67,381,887	($30,703,915)	$36,677,972
Transit Services		$2,871,000	($2,871,000)	$0
Public Works Ops & Maint		$412,880	$0	$412,880
Community Redevelopment		$51,670	($196,800)	($145,130)
Subtotal Public Ways and Facilities		**$70,717,437**	**($33,771,715)**	**$36,945,722**
Unincorporated Area Public Ways and Facilities [2]		**$67,846,437**	**($30,900,715)**	**$36,945,722**
Health Services	**Table C-8**			
County Medical Services		$78,270,929	($19,489,685)	$58,781,244
CA Healthcare for Indigents		$360,216	($360,216)	$0
Health and Welfare Trust		$154,676,319	($151,775,033)	$2,901,286
Emergency Medical Services		$2,008,219	($2,008,219)	$0
Public Works and Planning grants		$11,632,882	($11,632,882)	$0
Human Services Finance		$6,663,420	($6,663,420)	$0
Mental Health Managed Care		$14,917,094	($14,917,094)	$0
Substance Abuse Services		$21,549,649	($21,525,828)	$23,821
Community Health		$80,491,836	($77,852,892)	$2,638,944
Behavioral Health		$48,023,318	($47,371,318)	$652,000
Compliance		$401,084	($401,084)	$0
Children & Family Services		$22,139,990	($22,139,990)	$0
MHSA		$14,107,630	($14,107,630)	$0
Subtotal Health Services		**$455,242,586**	**($390,245,291)**	**$64,997,295**

Table C-1
Friant Ranch Fiscal Impact Study
Fresno County Adopted Expenditures for FY 2007-08 (2008$)

Category	Reference	Adopted FY 2007-08 Expenditures	Less Revenue Offsets	Adjusted FY 2007-08 Net Cost
Public Assistance	**Table C-9**			
Child Support Services		$24,431,548	($24,431,548)	$0
Employment & Temp. Assistance		$184,799,543	($182,874,295)	$1,925,248
IHSS - Public Authority		$1,320,990	($1,320,990)	$0
Children and Family Services		$56,837,430	($56,616,582)	$220,848
Calworks		$162,336,542	($162,336,542)	$0
Dependent Children Foster Care		$49,624,684	($41,751,559)	$7,873,125
Aid to Adoptions		$17,965,848	($17,009,201)	$956,647
In Home Supportive Services		$36,976,472	($36,976,472)	$0
Aid to Refugees		$65,555	($65,555)	$0
General Relief		$4,833,562	($1,866,062)	$2,967,500
Veterans' Service Office		$368,218	($201,966)	$166,252
CDBG		$9,757,502	($9,757,502)	$0
Subtotal Public Assistance		**$549,317,894**	**($535,208,274)**	**$14,109,620**
Education	**Table C-10**			
Fresno County Free Librarian		$12,856,154	($9,912,020)	$2,944,134
Fresno County Free Library Measure B		$17,079,657	($174,975)	$16,904,682
Fresno County Grants		$482,204	($482,204)	$0
San Joaquin Valley Library System		$4,033,922	($3,318,870)	$715,052
Library Measure B Capital Improvements		$17,223,834	($5,377,297)	$11,846,537
Librarian		$366,237	($37,966)	$328,271
Cooperative Extension		$499,230	($32,000)	$467,230
Subtotal Education		**$52,541,238**	**($19,335,332)**	**$33,205,906**
Recreation and Cultural Services	**Table C-11**			
Parks and Grounds		$3,693,309	($1,060,415)	$2,632,894
Off Highway License		$119,500	($37,940)	$81,560
Subtotal Recreation and Cultural		**$3,812,809**	**($1,098,355)**	**$2,714,454**
Subtotal Funds Expenditures		**$1,562,600,196**	**($1,130,720,720)**	**$431,879,476**
Plus Appropriations for Contingencies and Provisions for Reserves [3]		$2,188,398	$0	$2,188,398
Total Funds Expenditures		**$1,564,788,594**	**($1,130,720,720)**	**$434,067,874**

"exps"

Source: Fresno County FY 2007-08 Adopted Final Budget, and EPS.

[1] Includes Sheriff unincorporated area patrol costs (per the Sheriff's department) plus public works and planning costs.
[2] Includes all services except transit, which is provided by transit agencies.
[3] Appropriations for contingencies and provisions for reserves shown to match County budget.

Table C-2
Friant Ranch Fiscal Impact Study
Expenditures-Estimating Procedure (2008$)

Base Scenario

Expense Category	Adjusted FY 2007-08 Net Cost	Estimation Procedure [1]	Residents / Persons Served / Road Miles	Cost Multiplier Per			Active Adults Cost Multipliers	
				Resident	Employee	Road Mile	% of County Avg.	Resident
Countywide Functions (Regional Costs)								
General Government	$49,733,150	Persons Served	1,084,000	$45.88	$22.94	$0.00	100%	$45.88
Public Protection - Courts	$13,899,516	Persons Served	1,084,000	$12.82	$6.41	$0.00	100%	$12.82
Public Protection - District Attorney	$23,208,713	Persons Served	1,084,000	$21.41	$10.71	$0.00	100%	$21.41
Public Protection - Grand Jury	$58,145	Persons Served	1,084,000	$0.05	$0.03	$0.00	100%	$0.05
Public Protection - Public Defender	$12,397,215	Persons Served	1,084,000	$11.44	$5.72	$0.00	100%	$11.44
Public Protection - Probation	$39,884,874	Persons Served	1,084,000	$36.79	$18.40	$0.00	100%	$36.79
Public Protection - Sheriff [2]	$93,445,173	Persons Served	1,084,000	$86.20	$43.10	$0.00	100%	$86.20
Public Protection - All Other	$13,951,387	Persons Served	1,084,000	$12.87	$6.44	$0.00	100%	$12.87
Health Services	$64,997,295	Residents	914,900	$71.04	$0.00	$0.00	100%	$71.04
Public Assistance	$14,109,620	Residents	914,900	$15.42	$0.00	$0.00	100%	$15.42
Education - Library Systems [3]	$32,738,676	Residents	889,400	$36.81	$0.00	$0.00	100%	$36.81
Education - Other	$467,230	Residents	914,900	$0.51	$0.00	$0.00	100%	$0.51
Recreation and Cultural Services	$2,714,454	Residents	914,900	$2.97	$0.00	$0.00	100%	$2.97
Total Countywide Functions	**$361,605,448**			**$354.22**	**$113.74**	**$0.00**		**$354.22**
Unincorporated Area Functions (Municipal Costs)								
Public Protection - Sheriff [2]	$25,678,191	Persons Served	209,400	$122.63	$61.31	$0.00	100%	$122.63
Public Protection - Public Works	$7,650,115	Persons Served	209,400	$36.53	$18.27	$0.00	100%	$36.53
Public Ways and Facilities - Public Works (not roads)	$267,750	Persons Served	209,400	$1.28	$0.64	$0.00	100%	$1.28
Subtotal Unincorporated Area Functions	**$33,596,056**			**$160.44**	**$80.22**	**$0.00**		**$160.44**
Unincorporated Area Roads	$36,677,972	Road Mile	3,677	n.a.	n.a.	$9,974		n.a.
Total Unincorporated Area Functions	**$70,274,028**							
Total Expenditures	**$431,879,476**							

"expenditures"

Source: EPS.

[1] Persons served is defined as 100% of residents plus 50% of employees.
[2] Per the Sheriff's department, approximately $25 million of net County Sheriff costs are associated with patrol of the unincorporated areas including services, supplies, and salaries.
[3] The Fresno County Library system serves the entire County except for the cities of Coalinga and Huron.

Table C-3
Friant Ranch Fiscal Impact Study
Estimated Annual Expenditures by Development Phase (2008$)

Base Scenario

Expense Category	Phase 1	Phase 2	Phase 3	Phase 4	Phase 4 Distribution of Expenditures
General Government	$64,690	$120,892	$194,528	$242,243	9%
Public Protection	$480,461	$897,882	$1,444,790	$1,799,172	66%
Public Ways and Facilities (not roads)	$1,803	$3,369	$5,421	$6,751	0%
Unincorporated Area Roads	$12,175	$19,023	$32,483	$45,716	2%
Health Services	$98,750	$182,581	$289,856	$357,347	13%
Public Assistance	$21,437	$39,635	$62,922	$77,573	3%
Education	$51,876	$95,914	$152,268	$187,722	7%
Recreation and Cultural Services	$4,124	$7,625	$12,105	$14,924	1%
Total Estimated Annual Expenditures	**$735,315**	**$1,366,921**	**$2,194,373**	**$2,731,448**	**100%**

"tot_exps"

Source: EPS.

Table C-4
Friant Ranch Fiscal Impact Study
Estimates of Potential Friant Ranch Sheriff Protection Costs (2008$)

Cost Item	*Formula*	Phase 1	Phase 2	Phase 3	Phase 4
Total Friant Ranch Units	*a*	*614*	*1,232*	*2,010*	*2,500*
Total Estimated Friant Ranch Population	*b*	*1,390*	*2,570*	*4,080*	*5,030*
General Plan Service Goal		*2 Deputy Sheriffs per 1,000 Population*			
Deputies Required @ 2 Deputies per 1,000	*c = (b/1000)*2*	2.78	5.14	8.16	10.06
Average Cost of One Deputy [1]	*d*	$85,175	$85,175	$85,175	$85,175
Estimated Total Cost of Deputies for Friant Ranch	***e = c*d***	**$237,000**	**$438,000**	**$695,000**	**$857,000**
Cost per Friant Ranch Unit	***f = e/a***	**$386**	**$356**	**$346**	**$343**
Current County Service		*1.5 Deputy Sheriffs per 1,000 Population*			
Deputies to Maintain Service Level @ 1.5 Deputies per 1,000	*g = (b/1000)*1.5*	2.09	3.86	6.12	7.55
Sheriff Patrol Net County Costs - BASE SCENARIO	*h*	$173,000	$323,000	$520,000	$647,000
Cost per Friant Ranch Unit - BASE SCENARIO	***i = h/a***	**$282**	**$262**	**$259**	**$259**
Sheriff Patrol Net County Costs - REDUCED COST SCENARIO	*j*	$148,000	$262,000	$415,000	$515,000
Cost per Friant Ranch Unit - REDUCED COST SCENARIO	*k = j/a*	**$241**	**$213**	**$206**	**$206**

"sheriff"

Source: Fresno County September 14, 2004 Memo "Law Enforcement Level of Service - Millerton Specific Plan Area" , Fresno County Auditor and EPS.

[1] See Table D-8. Cost per deputy is based on analysis performed by the Sheriff's office in 2004 and Fresno County salary increases 2004 to 2008.

Table C-5
Friant Ranch Fiscal Impact Study
General Government Offsetting Revenues (2008$)

Account		Offsetting Revenues from FY 2007-08 Budget [1]	Discretionary Revenues and Non-discretionary Revenues	Adjusted Offsetting Revenues
Board of Supervisors				
3171	Development Service Fees	($2,000)		($2,000)
4882	Assessments & Tax Coll Fees#80	($18,569)		($18,569)
5060	Other Charges For Curr Servs	($500)		($500)
5800	Other Miscellaneous	($5,500)		($5,500)
	Subtotal Board of Supervisors	**($26,569)**	**$0**	**($26,569)**
County Administrative Office				
3308	Criminal Just Temp Const	($66,150)		($66,150)
5800	Other Miscellaneous	($35,382)		($35,382)
5990	Intrafund Revenue	($365,196)		($365,196)
	Subtotal County Administrative Office	**($466,728)**	**$0**	**($466,728)**
General Services / Security				
3296	Vehicle Code Fines/Parking [2]	($340,000)	$340,000	$0
3401	County Parking Facilities	($550,000)		($550,000)
3404	Other Rental Of Bldgs & Land	($149,300)		($149,300)
4895	Personnel Services	($400,249)		($400,249)
5040	Other Cty Dpts Services	($280,000)		($280,000)
5990	Intrafund Revenue	($2,771,789)		($2,771,789)
	Subtotal General Services / Security	**($4,491,338)**	**$340,000**	**($4,151,338)**
Facility Services				
3404	Other Rental Of Bldgs & Land	($117,912)		($117,912)
4897	Bldgs & Grounds Maint	($1,999,198)		($1,999,198)
5040	Other Cty Dpts Services	($150,024)		($150,024)
5046	Interfund Utilities Reimb	($1,364,852)		($1,364,852)
5800	Other Miscellaneous	($9,000)		($9,000)
5806	Loss Recovery-Risk Management	($36,000)		($36,000)
5990	Intrafund Revenue	($4,336,861)		($4,336,861)
5991	Intrafund Utilities	($2,050,287)		($2,050,287)
	Subtotal Facility Services	**($10,064,134)**	**$0**	**($10,064,134)**
Auditor Controller / Tax Collector				
3006	Redev Tax Increm Reimb	($3,448,933)	$3,448,933	$0
3009	Suppl-Current Unsecured	($70,340)	$70,340	$0
3010	Property Taxes-Current Secured	($66,563,450)	$66,563,450	$0
3011	Suppl-Current Secured	($1,360,713)	$1,360,713	$0
3013	Supplemental-Curr Unsec Prior	($46,635)	$46,635	$0
3015	Property Taxes-Current Unsecrd	($3,544,083)	$3,544,083	$0
3017	Property Taxes-Curr Unsec Pr	($162,963)	$162,963	$0
3020	Property Taxes-Prior Secured	($1,000)	$1,000	$0
3030	Penalties & Costs-Delinq Taxes	($1,334,382)	$1,334,382	$0
3033	Redemption Fees	($93,043)	$93,043	$0
3036	Deed Fees	($4,238)	$4,238	$0
3045	Bradley-Burns 1% Sales/Use Tx	($16,065,000)	$16,065,000	$0
3047	Timber Yield Taxes	($35,494)	$35,494	$0
3060	In Lieu of Sales & Use Tax Rev	($5,603,220)	$5,603,220	$0
3061	Property Tax In-Lieu of VLF	($89,300,581)	$89,300,581	$0
3075	Property Transfer Taxes	($3,700,000)	$3,700,000	$0
3085	Racehorse Taxes	($17,905)	$17,905	$0
3160	Business Licenses [2]	($7,700)	$7,700	$0
3171	Development Service Fees	($253,000)	$253,000	$0
3183	Franchises	($4,236,691)	$4,236,691	$0
3380	Interest	($9,670,977)	$9,577,602	($93,375)
3402	Commissions - Telephone	($54)	$54	$0
3404	Other Rental Of Bldgs & Land	($2,000,004)	$2,000,004	$0
3455	Mandated Program - State	($1,439,351)	$1,439,351	$0
3465	State-Motor Vehicle In-Lieu Tx	($300,000)	$300,000	$0
3509	Healthcare Veh Lic Fee Revenue	($47,421,492)	$47,421,492	$0
3513	Tobacco Settlement	($2,059,224)	$2,059,224	$0
3565	State-I/L Homeowners Prop Tax	($1,093,956)	$1,093,956	$0
3577	State Aid-Public Safety Pr 172	($63,525,000)	$63,525,000	$0
3590	State-In Lieu-Williamson Act	($5,287,349)	$5,287,349	$0
4370	Federal-In-Lieu Taxes	($1,071,930)	$1,071,930	$0
4880	Assessment & Tax Coll Fees	($163,000)		($163,000)

Table C-5
Friant Ranch Fiscal Impact Study
General Government Offsetting Revenues (2008$)

Account		Offsetting Revenues from FY 2007-08 Budget [1]	Discretionary Revenues and Non-discretionary Revenues	Adjusted Offsetting Revenues
4882	Assessments & Tax Coll Fees#80	($584,900)		($584,900)
4885	Auditing & Accounting Fees	($523,963)		($523,963)
4888	Admin Services Sb-2890	($2,048,578)	$1,800,578	($248,000)
4921	Recovery Of Co Wide Cost Alloc	($1,935,594)	$1,935,594	$0
4923	Gen Co. Overhead Realignment	($1,500,000)	$1,500,000	$0
4928	Collection Charges	($550,000)		($550,000)
4929	Unsecured Collection Charges	($91,800)		($91,800)
4940	Civil Process Services	($4,000)		($4,000)
4942	Aud-Cont Civil Process Service	($6,200)		($6,200)
4980	Recording Fees	($400,000)	$400,000	$0
5060	Other Charges For Curr Servs	($54,759)		($54,759)
5064	Data Processing Fees	($17,000)		($17,000)
5074	Investment Services Fees	($2,086,017)		($2,086,017)
5771	Revenue Recovery-Liens	($3,500)		($3,500)
5800	Other Miscellaneous	($61,800)	$11,020	($50,780)
5831	Refunds And Abatements	($79,500)		($79,500)
5900	Cash Overages	($200)		($200)
5990	Intrafund Revenue	($780,752)		($780,752)
	Subtotal Auditor-Controller / Tax Collector	**($340,610,271)**	**$335,272,525**	**($5,337,746)**
Assessor / Recorder				
3191	Marriage Licenses [2]	($4,000)	$4,000	$0
3568	State-Prop Tax Admin Program	($216,220)		($216,220)
4882	Assessments & Tax Coll Fees#80	($2,330,000)		($2,330,000)
4888	Admin Services Sb-2890	($1,200,000)		($1,200,000)
4980	Recording Fees	($3,040,000)		($3,040,000)
4982	Vital Record Trust Fees	($15,000)		($15,000)
4983	Recorded Document Fees	($831,500)		($831,500)
4984	Micrographics Fees	($243,341)		($243,341)
5791	Miscellaneous Sales-Taxable	($156,005)		($156,005)
5800	Other Miscellaneous	($750)		($750)
5900	Cash Overages	($3,000)		($3,000)
5990	Intrafund Revenue	($17,000)		($17,000)
	Subtotal Assessor / Recorder	**($8,056,816)**	**$4,000**	**($8,052,816)**
Purchasing				
5800	Other Miscellaneous	($65,000)		($65,000)
5990	Intrafund Revenue	($139,907)		($139,907)
	Subtotal Purchasing	**($204,907)**	**$0**	**($204,907)**
County Counsel				
4905	Legal Services	($83,190)		($83,190)
4906	Court Ordered Attorney Fees	($255,000)		($255,000)
5040	Other Cty Dpts Services	($517,209)		($517,209)
5800	Other Miscellaneous	($400)		($400)
5990	Intrafund Revenue	($1,701,788)		($1,701,788)
	Subtotal County Counsel	**($2,557,587)**	**$0**	**($2,557,587)**
Personnel Services				
5040	Other Cty Dpts Services	($361,537)		($361,537)
5990	Intrafund Revenue	($1,076,568)		($1,076,568)
	Subtotal Personnel Services	**($1,438,105)**	**$0**	**($1,438,105)**
Advertising County Resources		**$0**	**$0**	**$0**
Interest / Misc. Expenses				
3045	Bradley-Burns 1% Sales/Use Tx	($125,000)		($125,000)
5800	Other Miscellaneous	($5,000)		($5,000)
	Subtotal Interest / Misc. Expenses	**($130,000)**	**$0**	**($130,000)**
Total General Government		**($368,046,455)**	**$335,616,525**	**($32,429,930)**

"gen_offsets"

Source: Fresno County Auditor-Controller's Office, and EPS.

[1] Revenue offsets per the Fiscal Year 2007-08 Budget.
[2] Non-discretionary revenues anticipated to be affected by Friant Ranch development.

Table C-6
Friant Ranch Fiscal Impact Study
Public Protection Offsetting Revenues (2008$)

Account		Offsetting Revenues from FY 2007-08 Budget [1]	Discretionary Revenues and Non-discretionary Revenues	Adjusted Offsetting Revenues
Court				
3294	Vc 16028 Fines (Actual) [2]	($8,300)	$8,300	$0
3295	Vehicle Code Fines [2]	($3,143,150)	$3,143,150	$0
3296	Vehicle Code Fines/Parking [2]	($189,500)	$189,500	$0
3301	Criminal Fines [2]	($139,710)	$139,710	$0
3306	Small Claims Advisory Prog Fee	($326)		($326)
3310	Forfeitures And Penalties [2]	($7,510)	$7,510	$0
3314	County Penalty Pc 1464 (E) 30%	($1,583,500)		($1,583,500)
3404	Other Rental Of Bldgs & Land	($80,632)		($80,632)
4945	Vc 42007 County 23% T Sch Bail	($3,063,555)		($3,063,555)
4946	Vc 40610 County Trf Cit Ds Fee	($94,400)		($94,400)
4952	Municipal Court Fees & Costs	($1,945)		($1,945)
4953	Justice Court Fees & Costs	($1,300)		($1,300)
4955	Family Reconcil Spec Serv Fees	($28,560)		($28,560)
4980	Recording Fees	($480,000)		($480,000)
5060	Other Charges For Curr Servs	($300)		($300)
5800	Other Miscellaneous	($32,500)		($32,500)
	Subtotal Court	**($8,855,188)**	**$3,488,170**	**($5,367,018)**
Clerk - Elections				
3191	Marriage Licenses [2]	($125,000)	$125,000	$0
3575	State-Other	($1,500,000)		($1,500,000)
4375	Federal Grants	($4,542,914)		($4,542,914)
4892	Elections Services	($227,412)		($227,412)
4958	Clerk Special Service Fees	($455,724)		($455,724)
4960	Clerk Copy/Cert Spec Serv Fees	($15,821)		($15,821)
5790	Other Sales	($909)		($909)
5800	Other Miscellaneous	($2,000)		($2,000)
5990	Intrafund Revenue	($1,114,258)		($1,114,258)
	Subtotal Clerk - Elections	**($7,984,038)**	**$125,000**	**($7,859,038)**
District Attorney				
3308	Criminal Just Temp Const	($410,650)		($410,650)
3575	State-Other	($252,019)		($252,019)
3578	Cops - Ab3229	($296,603)		($296,603)
4375	Federal Grants	($77,000)		($77,000)
4905	Legal Services	($56,000)		($56,000)
4928	Collection Charges	($215,171)		($215,171)
5047	County Court Services	($1,553,951)		($1,553,951)
5060	Other Charges For Curr Servs	($289,370)		($289,370)
5800	Other Miscellaneous	($41,157)		($41,157)
5831	Refunds And Abatements	($70,000)		($70,000)
5990	Intrafund Revenue	($620,418)		($620,418)
3575	State-Other	($3,859,863)		($3,859,863)
4375	Federal Grants	($823,574)		($823,574)
4980	Recording Fees	($604,576)		($604,576)
5069	Judgments Awards	($1,063,553)		($1,063,553)
5990	Intrafund Revenue	($537,374)		($537,374)
	Subtotal District Attorney	**($10,771,279)**	**$0**	**($10,771,279)**
Welfare Fraud / Child Abduction				
3575	State-Other	($4,500)		($4,500)
5060	Other Charges For Curr Servs	($12,000)		($12,000)
5083	Diversion Programs Fees	($1,500)		($1,500)
5990	Intrafund Revenue	($3,439,595)		($3,439,595)
	Subtotal Welfare Fraud / Child Abduction	**($3,457,595)**	**$0**	**($3,457,595)**
Indigent Defense				
3308	Criminal Just Temp Const	($450,148)		($450,148)

Table C-6
Friant Ranch Fiscal Impact Study
Public Protection Offsetting Revenues (2008$)

Account		Offsetting Revenues from FY 2007-08 Budget [1]	Discretionary Revenues and Non-discretionary Revenues	Adjusted Offsetting Revenues
Public Defender				
3308	Criminal Just Temp Const	($377,358)		($377,358)
3575	State-Other	($16,060)		($16,060)
4906	Court Ordered Attorney Fees	($243,154)		($243,154)
5047	County Court Services	($887,396)		($887,396)
5800	Other Miscellaneous	($199,644)		($199,644)
5990	Intrafund Revenue	($285,966)		($285,966)
	Subtotal Public Defender	**($2,009,578)**	**$0**	**($2,009,578)**
Sheriff				
3193	Gun,Explosive,Tear Gas Permits	($7,500)		($7,500)
3308	Criminal Just Temp Const	($231,188)		($231,188)
3575	State-Other	($4,946,995)		($4,946,995)
4380	Federal-Other	($746,483)		($746,483)
4841	Other Governmental Agencies	($114,595)		($114,595)
4896	IWF Salaries Reimbursable	($2,536,473)		($2,536,473)
4941	Sheriffs Civil Process Service	($578,429)		($578,429)
4975	Law Enforcement Services	($2,277,911)		($2,277,911)
4976	Fingerprinting Fees	($80,000)		($80,000)
5031	Jail Farm&Work Furlough	($8,623,063)		($8,623,063)
5800	Other Miscellaneous	($253,000)		($253,000)
5990	Intrafund Revenue	($998,944)		($998,944)
	Subtotal Sheriff	**($21,394,581)**	**$0**	**($21,394,581)**
Sheriff - Court Services				
4975	Law Enforcement Services	($14,351,632)		($14,351,632)
Probation				
3308	Criminal Just Temp Const	($613,974)		($613,974)
3312	Probation-Juvenile Assessments	($98)		($98)
3320	Adult Offender Work Program	($1,050,000)		($1,050,000)
3575	State-Other	($4,027,751)		($4,027,751)
4380	Federal-Other	($2,200,000)		($2,200,000)
4895	Personnel Services	($567,050)		($567,050)
4957	Prob Present Report Fees	($67,000)		($67,000)
5031	Jail Farm&Work Furlough	($8,000)		($8,000)
5081	Restitution Adm Fees	($25,000)		($25,000)
5082	Installment Fees	($38,000)		($38,000)
5083	Diversion Programs Fees	($16,000)		($16,000)
5084	Drug Testing	($906,000)		($906,000)
5085	Adult Probation Supervision	($755,000)		($755,000)
5086	Juvenile Electronic monitoring	($68,000)		($68,000)
5087	Juvenile Admin Screening	($80,000)		($80,000)
5088	Domestic Viol Batterer's Admin	($3,500)		($3,500)
5800	Other Miscellaneous	($1,002,138)		($1,002,138)
5959	Transfer From Trust Fund	($248,258)		($248,258)
5990	Intrafund Revenue	($1,385,611)		($1,385,611)
3575	State-Other	($906,611)		($906,611)
4380	Federal-Other	($496,271)		($496,271)
5800	Other Miscellaneous	($21,000)		($21,000)
5990	Intrafund Revenue	($509,121)		($509,121)
3308	Criminal Just Temp Const	($231,188)		($231,188)
3468	State-Motor Vehicle Regist [2]	($670,000)	$670,000	$0
3575	State-Other	($4,209,282)		($4,209,282)
3586	State-School Lunch And Milk	($563,706)		($563,706)
5035	Juv Hall-Youth Cntr-Priv Fees	($220,000)		($220,000)
5063	Employee Meals & Rents	($1,700)		($1,700)
3308	Criminal Just Temp Const	($578,500)		($578,500)
3575	State-Other	($1,220,149)		($1,220,149)
3586	State-School Lunch And Milk	($248,729)		($248,729)
5035	Juv Hall-Youth Cntr-Priv Fees	($48,000)		($48,000)
5800	Other Miscellaneous	($1,189,193)		($1,189,193)
	Subtotal Probation	**($24,174,830)**	**$670,000**	**($23,504,830)**

Table C-6
Friant Ranch Fiscal Impact Study
Public Protection Offsetting Revenues (2008$)

Account		Offsetting Revenues from FY 2007-08 Budget [1]	Discretionary Revenues and Non-discretionary Revenues	Adjusted Offsetting Revenues
Agriculture				
3160	Business Licenses [2]	($611,584)	$611,584	$0
3301	Criminal Fines [2]	($50,603)	$50,603	$0
3545	State-Aid For Agriculture	($3,641,986)		($3,641,986)
3555	State-Aid-Pesticide Mill Asses	($1,318,106)		($1,318,106)
3575	State-Other	($30,238)		($30,238)
4368	Federal-Grazing Fees	($15,000)		($15,000)
4935	Agricultural Services	($1,909,365)		($1,909,365)
5040	Other Cty Dpts Services	($141,150)		($141,150)
5060	Other Charges For Curr Servs	($13,130)		($13,130)
5064	Data Processing Fees	($6,000)		($6,000)
5793	Rodent Control	($155,000)		($155,000)
5800	Other Miscellaneous	($200)		($200)
	Subtotal Agriculture	**($7,892,362)**	**$662,187**	**($7,230,175)**
Coroner				
3380	Interest	($50,000)		($50,000)
3455	Mandated Program - State	($1,000)		($1,000)
4965	Estate Fees	($475,000)		($475,000)
5032	TCM-Targeted Case Management	($55,000)		($55,000)
5060	Other Charges For Curr Servs	($120,000)		($120,000)
5065	Burial Reimbursements	($27,000)		($27,000)
5990	Intrafund Revenue	($646,384)		($646,384)
	Subtotal Coroner	**($1,374,384)**	**$0**	**($1,374,384)**
Fish and Game Propagation				
3302	Fish And Game Fines [2]	($11,616)	$11,616	$0
3380	Interest	($2,805)		($2,805)
	Subtotal Fish and Game	**($14,421)**	**$11,616**	**($2,805)**
Public Works and Planning				
3170	Construction Permits	($4,110,340)		($4,110,340)
3171	Development Service Fees	($415,000)		($415,000)
3172	Planning Comm Appeals Fees	($1,200)		($1,200)
3180	Zoning Permits	($897,177)		($897,177)
3185	Agricultural Preserve App Fees	($77,303)		($77,303)
3306	Small Claims Advisory Prog Fee	($31,500)		($31,500)
4841	Other Governmental Agencies	($3,780,367)		($3,780,367)
4895	Personnel Services	($13,100)		($13,100)
4910	Plan & Engineering Services	($1,602,195)		($1,602,195)
4911	Env Impact Study Fees-Consult	($1,108,154)		($1,108,154)
4912	Env Impact Study Fees-Other	($350,000)		($350,000)
4916	General Plans/Amendments	($24,075)		($24,075)
4918	Specific Plans/Amendments	($80,000)		($80,000)
5040	Other Cty Dpts Services	($5,566,088)		($5,566,088)
5789	Non-Taxable Sales	($214,600)		($214,600)
5800	Other Miscellaneous	($88,050)		($88,050)
5882	Cty Emp Witness And Jury Fees	($500)		($500)
5990	Intrafund Revenue	($2,061,772)		($2,061,772)
	Subtotal Public Works and Planning	**($20,421,421)**	**$0**	**($20,421,421)**
LAFCO - support				
4914	Lafco Fees	($437,339)		($437,339)
Total Public Protection		**($123,588,796)**	**$4,956,973**	**($118,631,823)**

"prot_offset"

Source: Fresno County Auditor-Controller's Office, and EPS.

[1] Revenue offsets per the Fiscal Year 2007-08 Budget.

[2] Non-discretionary revenues anticipated to be affected by Friant Ranch development.

Table C-7
Friant Ranch Fiscal Impact Study
Public Ways and Facilities Offsetting Revenues (2008$)

Account		Offsetting Revenues from FY 2007-08 Budget [1]	Discretionary Revenues and Non-discretionary Revenues	Adjusted Offsetting Revenues
Transit Services				
4841	Other Governmental Agencies	($2,871,000)		($2,871,000)
Public Works and Planning Roads				
3043	Local Trans. - 1/4% Sales Tax [2]	($3,506,000)	$3,506,000	$0
3044	Measure C - 1/2% Sales Tax [2]	($6,712,000)	$6,712,000	$0
3175	Road Privileges And Permits	($200,000)		($200,000)
3380	Interest	($325,000)		($325,000)
3400	Rents And Concessions	($2,600)		($2,600)
3460	State-Highway Users Tax 2104 [2]	($7,800,000)	$7,800,000	$0
3461	State-Highway Users Tax 2106 [2]	($1,000,000)	$1,000,000	$0
3462	State-Highway Users Tax 2105 [2]	($5,300,000)	$5,300,000	$0
3463	St TCRF-gas sales tax Sec 2182 [2]	($7,488,000)	$7,488,000	$0
3547	State TEA-21 Match & Exchange	($368,000)		($368,000)
4365	Federal-Construction	($5,894,091)		($5,894,091)
4366	Federal-Forest Reserve Revenue	($300,000)		($300,000)
4380	Federal-Other	($6,000)		($6,000)
4898	Personnel Services-Non Road	($500)		($500)
4910	Plan & Engineering Services	($166,500)		($166,500)
4985	Road & Street Services	($15,640,000)		($15,640,000)
5040	Other Cty Dpts Services	($2,991,526)		($2,991,526)
5043	Serv Other County Dept.-P.Y.	($180,000)		($180,000)
5800	Other Miscellaneous	($14,000)		($14,000)
5806	Loss Recovery-Risk Management	($8,000)		($8,000)
5882	Cty Emp Witness And Jury Fees	($75)		($75)
5957	Operating Transfers In	($4,607,623)		($4,607,623)
	Subtotal Public Works	**($62,509,915)**	**$31,806,000**	**($30,703,915)**
Community Redevelopment				
3006	Redev Tax Increm Reimb	($180,000)		($180,000)
3380	Interest	($16,800)		($16,800)
	Subtotal Community Redevelopment	**($196,800)**	**$0**	**($196,800)**
Total Public Ways and Facilities		**($65,577,715)**	**$31,806,000**	**($33,771,715)**

"ways_offset"

Source: Fresno County Auditor-Controller's Office, and EPS.

[1] Revenue offsets per the Fiscal Year 2007-08 Budget.

[2] Non-discretionary revenues anticipated to be affected by Friant Ranch development.

Table C-8
Friant Ranch Fiscal Impact Study
Health and Sanitation Offsetting Revenues (2008$)

Account		Offsetting Revenues from FY 2007-08 Budget [1]	Discretionary Revenues and Non-discretionary Revenues	Adjusted Offsetting Revenues
County Medical Services				
5951	Op Trans In From Special Rev F	($19,489,685)		($19,489,685)
CA Healthcare for Indigents				
3380	Interest	($10,492)		($10,492)
3512	Prop 99 Tobacco Tax Allocation	($349,724)		($349,724)
	Subtotal CA Healthcare for Indigents	**($360,216)**	**$0**	**($360,216)**
Health and Welfare Trust				
3508	Healthcare Sales Tax Revenue	($83,147,906)		($83,147,906)
5950	Op Trans In From General Fund	($58,781,244)		($58,781,244)
5990	Intrafund Revenue	($9,845,883)		($9,845,883)
	Subtotal Health and Welfare Trust	**($151,775,033)**	**$0**	**($151,775,033)**
Emergency Medical Services				
3313	Sb612 Penalty Assessments	($1,338,901)		($1,338,901)
3380	Interest	($39,959)		($39,959)
3521	State-Aid - EMSA	($599,503)		($599,503)
5957	Operating Transfers In	($29,856)		($29,856)
	Subtotal Emergency Medical Services	**($2,008,219)**	**$0**	**($2,008,219)**
Public Works and Planning grants				
3546	State Aid Construction	($1,983,685)		($1,983,685)
3575	State-Other	($1,707,164)		($1,707,164)
4380	Federal-Other	($7,013,893)		($7,013,893)
5040	Other Cty Dpts Services	($28,140)		($28,140)
5885	Home Program Income	($900,000)		($900,000)
	Subtotal Public Works and Planning Grants	**($11,632,882)**	**$0**	**($11,632,882)**
Human Services Finance				
5036	Medi-Cal Fees - Patient	($188,720)		($188,720)
5990	Intrafund Revenue	($6,474,700)		($6,474,700)
	Subtotal Human Services Finance	**($6,663,420)**	**$0**	**($6,663,420)**
Mental Health Managed Care				
3510	Health Administration-State	($233,421)		($233,421)
3523	Managed Care Prog-State	($5,768,560)		($5,768,560)
3539	EPSDT Aid - State	($2,569,400)		($2,569,400)
3574	Quality Improvement	($816,061)		($816,061)
5036	Medi-Cal Fees - Patient	($3,960,000)		($3,960,000)
5058	Cost Settlement-Short Doyle	$500,000		$500,000
5800	Other Miscellaneous	($2,300)		($2,300)
5951	Op Trans In From Special Rev F	($2,000,000)		($2,000,000)
5990	Intrafund Revenue	($67,352)		($67,352)
	Subtotal Mental Health Managed Care	**($14,917,094)**	**$0**	**($14,917,094)**
Substance Abuse Services				
3519	Drug Abuse-State Aid	($9,858,707)		($9,858,707)
4380	Federal-Other	($5,030,202)		($5,030,202)
4383	MAA-Medi-Cal Admin. Activities	($73,502)		($73,502)
4895	Personnel Services	($119,084)		($119,084)
5028	Drug Abuse MCal	($4,682,190)		($4,682,190)
5033	Private Pay - Patient Fees	($10,790)		($10,790)
5800	Other Miscellaneous	($872,599)		($872,599)
5990	Intrafund Revenue	($878,754)		($878,754)
	Subtotal Substance Abuse Services	**($21,525,828)**	**$0**	**($21,525,828)**

Table C-8
Friant Ranch Fiscal Impact Study
Health and Sanitation Offsetting Revenues (2008$)

Account		Offsetting Revenues from FY 2007-08 Budget [1]	Discretionary Revenues and Non-discretionary Revenues	Adjusted Offsetting Revenues
Community Health				
3155	Animal Licenses [2]	($60,000)	$60,000	$0
3192	Burial & Disinterment Permits [2]	($30,500)	$30,500	$0
3455	Mandated Program - State	($139,908)		($139,908)
3503	Emerg Med Svc - State	($807,644)		($807,644)
3504	State-Tobacco,Prevention,Promo	($283,921)		($283,921)
3505	Calif Chldrn Svc State Aid	($2,789,547)		($2,789,547)
3506	AIDS Program - State	($1,081,611)		($1,081,611)
3510	Health Administration-State	($15,512)		($15,512)
3525	Tuberculosis - State Aid	($383,355)		($383,355)
3526	MCAH-State Matrnl Child Health	($300,913)		($300,913)
3527	Refugee-Aid-State	($187,000)		($187,000)
3529	Immunization - State Aid	($592,845)		($592,845)
3530	Other Health - State Aid	($3,218,119)		($3,218,119)
3541	C.H.D.P-Administration	($455,583)		($455,583)
3543	CHDP Screening - State	($74,401)		($74,401)
4380	Federal-Other	($8,505,808)		($8,505,808)
4382	MCAH-Federal Mat Child Health	($4,313,298)		($4,313,298)
4383	MAA-Medi-Cal Admin. Activities	($800,000)		($800,000)
4387	Federal 314-D	($7,935)		($7,935)
4895	Personnel Services	($959,851)		($959,851)
4981	Recording Fees-Health	($261,000)		($261,000)
5007	Lab Water Testing-Environmentl	($568,185)		($568,185)
5010	Environmental Health Fees	($4,580,242)		($4,580,242)
5011	Milk Inspection Fees	($175,000)		($175,000)
5012	Soft Serve Ice Cream	($25,000)		($25,000)
5027	Mgd Care/Mcal Patient Fees	($310,078)		($310,078)
5032	TCM-Targeted Case Management	($280,000)		($280,000)
5033	Private Pay - Patient Fees	($350,340)		($350,340)
5034	Insurance Fees - Patient	($88,000)		($88,000)
5036	Medi-Cal Fees - Patient	($6,388,022)		($6,388,022)
5037	Clinical Lab Tests	($95,000)		($95,000)
5038	Medicare Fees - Patient	($26,000)		($26,000)
5039	Other Agencies Services	($25,316)		($25,316)
5800	Other Miscellaneous	($990,825)		($990,825)
5951	Op Trans In From Special Rev F	($37,059,050)		($37,059,050)
5990	Intrafund Revenue	($1,713,583)		($1,713,583)
	Subtotal Community Health	**($77,943,392)**	**$90,500**	**($77,852,892)**

Table C-8
Friant Ranch Fiscal Impact Study
Health and Sanitation Offsetting Revenues (2008$)

Account		Offsetting Revenues from FY 2007-08 Budget [1]	Discretionary Revenues and Non-discretionary Revenues	Adjusted Offsetting Revenues
Behavioral Health				
3510	Health Administration-State	($1,069,702)		($1,069,702)
3515	Sht Doyle Mtl Health-State	($1,833,600)		($1,833,600)
3520	Rehabilitation - State Aid	($382,151)		($382,151)
3523	Managed Care Prog-State	($3,196,307)		($3,196,307)
3530	Other Health - State Aid	($15,990)		($15,990)
3539	EPSDT Aid - State	($395,044)		($395,044)
3574	Quality Improvement	($147,881)		($147,881)
4380	Federal-Other	($291,844)		($291,844)
4383	MAA-Medi-Cal Admin. Activities	($669,223)		($669,223)
5033	Private Pay - Patient Fees	($381,869)		($381,869)
5034	Insurance Fees - Patient	($258,898)		($258,898)
5036	Medi-Cal Fees - Patient	($9,660,599)		($9,660,599)
5038	Medicare Fees - Patient	($158,539)		($158,539)
5058	Cost Settlement-Short Doyle	$500,000		$500,000
5800	Other Miscellaneous	($642,462)		($642,462)
5951	Op Trans In From Special Rev F	($25,851,166)		($25,851,166)
5990	Intrafund Revenue	($2,916,043)		($2,916,043)
	Subtotal Behavioral Health	**($47,371,318)**	**$0**	**($47,371,318)**
Compliance				
3523	Managed Care Prog-State	($226,897)		($226,897)
3574	Quality Improvement	($38,515)		($38,515)
5951	Op Trans In From Special Rev F	($135,672)		($135,672)
	Subtotal Compliance	**($401,084)**	**$0**	**($401,084)**
Children & Family Services				
3455	Mandated Program - State	($73,122)		($73,122)
3510	Health Administration-State	($778,077)		($778,077)
3523	Managed Care Prog-State	($1,051,423)		($1,051,423)
3530	Other Health - State Aid	($1,118,843)		($1,118,843)
3539	EPSDT Aid - State	($3,824,735)		($3,824,735)
3574	Quality Improvement	($155,394)		($155,394)
4361	Federal-Welfare Administration	($420,000)		($420,000)
4380	Federal-Other	($301,117)		($301,117)
4383	MAA-Medi-Cal Admin. Activities	($454,458)		($454,458)
4895	Personnel Services	($540,714)		($540,714)
5033	Private Pay - Patient Fees	($30,506)		($30,506)
5034	Insurance Fees - Patient	($100,000)		($100,000)
5036	Medi-Cal Fees - Patient	($5,187,188)		($5,187,188)
5951	Op Trans In From Special Rev F	($7,149,949)		($7,149,949)
5990	Intrafund Revenue	($954,464)		($954,464)
	Subtotal Children & Family Services	**($22,139,990)**	**$0**	**($22,139,990)**
MHSA				
3530	Other Health - State Aid	($12,562,138)		($12,562,138)
3539	EPSDT Aid - State	($417,993)		($417,993)
4383	MAA-Medi-Cal Admin. Activities	($76,520)		($76,520)
5036	Medi-Cal Fees - Patient	($943,179)		($943,179)
5033	Private Pay - Patient Fees	($107,800)		($107,800)
	Subtotal MHSA	**($14,107,630)**	**$0**	**($14,107,630)**
Total Health and Sanitation		**($390,335,791)**	**$90,500**	**($390,245,291)**

"health_offset"

Source: Fresno County Auditor-Controller's Office, and EPS.

[1] Revenue offsets per the Fiscal Year 2007-08 Budget.

[2] Non-discretionary revenues anticipated to be affected by Friant Ranch development.

Table C-9
Friant Ranch Fiscal Impact Study
Public Assistance Offsetting Revenues (2008$)

Account		Offsetting Revenues from FY 2007-08 Budget [1]	Discretionary Revenues and Non-discretionary Revenues	Adjusted Offsetting Revenues
Child Support Services				
3494	State-Aid-Supp Enforcement Inc	($8,076,378)		($8,076,378)
4361	Federal-Welfare Administration	($16,071,799)		($16,071,799)
4921	Recovery Of Co Wide Cost Alloc	($157,911)		($157,911)
5990	Intrafund Revenue	($125,460)		($125,460)
	Subtotal Child Support Services	**($24,431,548)**	**$0**	**($24,431,548)**
Employment & Temp. Assistance				
3480	State-Welfare-Administration	($48,518,161)		($48,518,161)
3526	MCAH-State Matrnl Child Health	($454,443)		($454,443)
3575	State-Other	($1,198,579)		($1,198,579)
4361	Federal-Welfare Administration	($121,563,464)		($121,563,464)
4380	Federal-Other	($1,078,646)		($1,078,646)
4382	MCAH-Federal Mat Child Health	($696,045)		($696,045)
5777	Welfare Repayments	($200,000)		($200,000)
5800	Other Miscellaneous	($2,072,866)		($2,072,866)
5951	Op Trans In From Special Rev F	($6,907,033)		($6,907,033)
5990	Intrafund Revenue	($185,058)		($185,058)
	Subtotal Employment & Temp Assistance	**($182,874,295)**	**$0**	**($182,874,295)**
IHSS - Public Authority				
3480	State-Welfare-Administration	($459,369)		($459,369)
4361	Federal-Welfare Administration	($614,260)		($614,260)
5951	Op Trans In From Special Rev F	($247,361)		($247,361)
	Subtotal IHSS Public Authority	**($1,320,990)**	**$0**	**($1,320,990)**
Children and Family Services				
3480	State-Welfare-Administration	($16,028,564)		($16,028,564)
3510	Health Administration-State	($37,210)		($37,210)
3538	EPSDT Prior Year	($178,444)		($178,444)
3539	EPSDT Aid - State	($151,781)		($151,781)
4361	Federal-Welfare Administration	($23,235,101)		($23,235,101)
5036	Medi-Cal Fees - Patient	($442,730)		($442,730)
5360	M-Cal Fees Prior Year	($269,259)		($269,259)
5800	Other Miscellaneous	($1,202,100)		($1,202,100)
5951	Op Trans In From Special Rev F	($9,935,537)		($9,935,537)
5990	Intrafund Revenue	($5,135,856)		($5,135,856)
	Subtotal Children and Family Services	**($56,616,582)**	**$0**	**($56,616,582)**
Calworks				
3491	State-Aid-Family Group	($89,261,632)		($89,261,632)
4362	Federal-Aid-Family Group	($68,473,592)		($68,473,592)
5777	Welfare Repayments	($556,824)		($556,824)
5779	Child Support Collection	($600,000)		($600,000)
5951	Op Trans In From Special Rev F	($3,444,494)		($3,444,494)
	Subtotal Calworks	**($162,336,542)**	**$0**	**($162,336,542)**

Table C-9
Friant Ranch Fiscal Impact Study
Public Assistance Offsetting Revenues (2008$)

Account		Offsetting Revenues from FY 2007-08 Budget [1]	Discretionary Revenues and Non-discretionary Revenues	Adjusted Offsetting Revenues
Dependent Children Foster Care				
3493	State-Aid-Foster Care	($15,518,707)		($15,518,707)
4364	Federal-Aid-Foster Care	($13,246,632)		($13,246,632)
5777	Welfare Repayments	($238,647)		($238,647)
5779	Child Support Collection	($394,634)		($394,634)
5800	Other Miscellaneous	($772,285)		($772,285)
5951	Op Trans In From Special Rev F	($11,580,654)		($11,580,654)
	Subtotal Dependent Children Foster Care	**($41,751,559)**	**$0**	**($41,751,559)**
Aid to Adoptions				
3575	State-Other	($7,552,473)		($7,552,473)
4380	Federal-Other	($7,895,884)		($7,895,884)
5951	Op Trans In From Special Rev F	($1,560,844)		($1,560,844)
	Subtotal Aid to Adoptions	**($17,009,201)**	**$0**	**($17,009,201)**
In Home Supportive Services				
3480	State-Welfare-Administration	($3,679,425)		($3,679,425)
4361	Federal-Welfare Administration	($5,886,846)		($5,886,846)
5951	Op Trans In From Special Rev F	($27,410,201)		($27,410,201)
	Subtotal In Home Supportive Services	**($36,976,472)**	**$0**	**($36,976,472)**
Aid to Refugees				
4380	Federal-Other	($65,555)		($65,555)
General Relief				
3575	State-Other	($1,303,529)		($1,303,529)
4927	Interim Assistance-Welfare	($562,533)		($562,533)
	Subtotal General Relief	**($1,866,062)**	**$0**	**($1,866,062)**
Veterans' Service Office				
3560	State-Aid For Veterans Affairs	($71,063)		($71,063)
5060	Other Charges For Curr Servs	($750)		($750)
5990	Intrafund Revenue	($130,153)		($130,153)
	Subtotal Veterans' Service Office	**($201,966)**	**$0**	**($201,966)**
CDBG				
4390	Federal-Aid-Comm Dev Block Grt	($8,487,936)		($8,487,936)
5800	Other Miscellaneous	($5,000)		($5,000)
5888	Community Develop Repayments	($880,125)		($880,125)
5990	Intrafund Revenue	($384,441)		($384,441)
	Subtotal CDBG	**($9,757,502)**	**$0**	**($9,757,502)**
Total Public Assistance		**($535,208,274)**	**$0**	**($535,208,274)**

"assist_offset"

Source: Fresno County Auditor-Controller's Office, and EPS.

[1] Revenue offsets per the Fiscal Year 2007-08 Budget.

[2] Non-discretionary revenues anticipated to be affected by Friant Ranch development.

Table C-10
Friant Ranch Fiscal Impact Study
Education Offsetting Revenues (2008$)

Account		Offsetting Revenues from FY 2007-08 Budget [1]	Discretionary Revenues and Non-discretionary Revenues	Adjusted Offsetting Revenues
Fresno County Free Librarian				
3006	Redev Tax Increm Reimb	($399,473)		($399,473)
3009	Suppl-Current Unsecured	($500)		($500)
3010	Property Taxes-Current Secured	($7,637,522)		($7,637,522)
3011	Suppl-Current Secured	($121,000)		($121,000)
3015	Property Taxes-Current Unsecrd	($330,000)		($330,000)
3047	Timber Yield Taxes	($462)		($462)
3380	Interest	($7,000)		($7,000)
3565	State-I/L Homeowners Prop Tax	($117,419)		($117,419)
3575	State-Other	($503,524)		($503,524)
4369	Federal In Lieu - Housing	($1,000)		($1,000)
5039	Other Agencies Services	($37,000)		($37,000)
5040	Other Cty Dpts Services	($177,560)		($177,560)
5050	Library Services	($415,000)		($415,000)
5789	Non-Taxable Sales	($46,000)		($46,000)
5791	Miscellaneous Sales-Taxable	($16,000)		($16,000)
5800	Other Miscellaneous	($1,000)		($1,000)
5950	Op Trans In From General Fund	($101,560)		($101,560)
	Subtotal Fresno County Free Librarian	**($9,912,020)**	**$0**	**($9,912,020)**
Library - Measure B				
3042	Measure B 1/8% Sales Tax [2]	($13,759,768)	$13,759,768	$0
3380	Interest	($50,000)		($50,000)
3575	State-Other	($66,905)		($66,905)
5040	Other Cty Dpts Services	($58,070)		($58,070)
	Subtotal Measure B	**($13,934,743)**	**$13,759,768**	**($174,975)**
Fresno County Library Grants				
4380	Federal-Other	($14,077)		($14,077)
5800	Other Miscellaneous	($468,127)		($468,127)
	Subtotal Grants	**($482,204)**	**$0**	**($482,204)**
San Joaquin Library				
3380	Interest	($9,970)		($9,970)
3575	State-Other	($737,845)		($737,845)
4841	Other Governmental Agencies	($1,116,657)		($1,116,657)
5039	Other Agencies Services	($1,396,752)		($1,396,752)
5040	Other Cty Dpts Services	($57,646)		($57,646)
	Subtotal San Joaquin Library	**($3,318,870)**	**$0**	**($3,318,870)**
Measure B Capital Improvements				
3042	Measure B 1/8% Sales Tax [2]	($1,647,850)	$1,647,850	$0
3380	Interest	($150,000)		($150,000)
3575	State-Other	($5,227,297)		($5,227,297)
	Subtotal Measure B Capital Improvements	**($7,025,147)**	**$1,647,850**	**($5,377,297)**
Librarian				
5039	Other Agencies Services	($1,000)		($1,000)
5040	Other Cty Dpts Services	($36,966)		($36,966)
	Subtotal Librarian	**($37,966)**	**$0**	**($37,966)**
Cooperative Extension				
5060	Other Charges For Curr Servs	($32,000)		($32,000)
Total Education		**($34,742,950)**	**$15,407,618**	**($19,335,332)**

"ed_offset"

Source: Fresno County Auditor-Controller's Office, and EPS.

[1] Revenue offsets per the Fiscal Year 2007-08 Budget.
[2] Non-discretionary revenues anticipated to be affected by Friant Ranch development.

Table C-11
Friant Ranch Fiscal Impact Study
Recreational and Cultural Services Offsetting Revenues (2008$)

Account		Offsetting Revenues from FY 2007-08 Budget [1]	Discretionary Revenues and Non-discretionary Revenues	Adjusted Offsetting Revenues
Parks and Grounds				
3400	Rents And Concessions	($44,250)		($44,250)
5040	Other Cty Dpts Services	($475,771)		($475,771)
5055	Park & Rec Fees	($388,619)		($388,619)
5990	Intrafund Revenue	($151,775)		($151,775)
	Subtotal Parks and Grounds	**($1,060,415)**	**$0**	**($1,060,415)**
Off Highway License				
3380	Interest	($15,240)		($15,240)
3575	State-Other	($22,700)		($22,700)
	Subtotal Off Highway License	**($37,940)**	**$0**	**($37,940)**
Total Recreational and Cultural Services		**($1,098,355)**	**$0**	**($1,098,355)**

"rec_offsetts"

Source: Fresno County Auditor-Controller's Office, and EPS.

[1] Revenue offsets per the Fiscal Year 2007-08 Budget.
[2] Non-discretionary revenues anticipated to be affected by Friant Ranch development.

APPENDIX D:

Fiscal Model Support Tables

Table D-1 Friant Ranch Road Development by Phase D-1

Table D-2 Sample Commercial Listings for Sale in Project Area D-2

Table D-3 Property Tax Allocation by Fund D-3

Table D-4 Friant Redevelopment Agency Tax Allocation of Increment Fiscal Year 2007–08 .....D-4

Table D-5 Household Income Assumptions D-5

Table D-6 Estimation of Household Income for Active-Adult Units.....D-6

Table D-7 Estimation of Taxable Sales Percentage of Community Commercial Center Sales.....D-7

Table D-8 Deputy Sherriff Salary Range D-8

Table D-1
Friant Ranch Fiscal Impact Study
Friant Ranch Road Development by Phase

Road Description	Linear Feet / Miles of Roads	Percent of Roadways	Phase 1	Phase 2	Phase 3	Phase 4
Public Roads						
Primary Road	10,700	22%	4,195	1,550	2,515	2,440
Collector	13,500	27%	2,250	2,075	4,610	4,565
Subtotal Public Roads - Linear Feet	**24,200**	**49%**	6,445	3,625	7,125	7,005
Subtotal Public Roads Miles	**4.58**		**1.22**	**0.69**	**1.35**	**1.33**
Private Roads						
Residential	14,000	28%	2,677	3,811	4,644	2,868
Alleys	11,000	22%	2,103	2,995	3,649	2,253
Subtotal Private Roads - Linear Feet	**25,000**	**51%**	**4,780**	**6,806**	**8,293**	**5,121**
Subtotal Private Roads - Miles	**4.73**		**0.91**	**1.29**	**1.57**	**0.97**
Total Roadways in Linear Feet	**49,200**	**100%**	**11,225**	**10,431**	**15,418**	**12,126**
Total Roadways in Miles	**9.32**		**2.13**	**1.98**	**2.92**	**2.30**

"roads"

Source: Friant Ranch L.P.

Table D-2
Friant Ranch Fiscal Impact Study
Sample Commercial Listings for Sale in Project Area (2008$)

Sample Listings / Location	Price	Square Feet	Price per Square Foot
Shopping Centers			
Clovis	$6,450,000	32,613	$198
Kingsburg	$3,000,000	7,552	$397
Clovis	$3,216,159	12,020	$268
Clovis	$1,950,000	12,160	$160
Fresno	$4,250,000	29,570	$144
Fresno	$3,300,000	26,880	$123
Clovis	$2,000,000	8,082	$247
Clovis	$4,650,000	17,696	$263
Shopping Centers Avg. Price per Sq.Ft.			**$225**
Offices			
Coalinga	$2,615,000	23,820	$110
Clovis	$5,244,000	13,800	$380
Fresno	$4,591,581	8,956	$513
Fresno	$2,850,000	18,436	$155
Fresno	$1,392,000	10,311	$135
Fresno	$2,300,000	8,976	$256
Clovis	$350,000	2,000	$175
Office Space Avg. Price per Sq.Ft.			**$246**
Retail			
Clovis	$799,950	2,700	$296
Fresno	$6,960,200	34,822	$200
Fresno	$460,000	2,107	$218
Fresno	$1,421,000	3,000	$474
Fresno	$4,297,000	16,320	$263
Retail Space Avg. Price per Sq.Ft.			**$290**
Average Price per Square Foot All Uses			**$249**

"listings"

Source: www.Loopnet.com search dated May 19, 2008.

Table D-3
Friant Ranch Fiscal Impact Study
Property Tax Allocation by Fund

Fund	Fund Title	Property Tax Distribution Pre-ERAF			
		TRA 076-068	TRA 076-069	TRA 076-086	**Weighted Average**
0001-00	FRESNO COUNTY	38.4300%	36.9450%	38.4300%	**38.4087%**
0033-00	FRESNO CO LIBRARY	2.0190%	1.9410%	2.0190%	**2.0179%**
1975-00	CLOVIS CEMETERY	0.2650%	0.2550%	0.2650%	**0.2649%**
2135-00	CO SERVICE AREA 35	0.0000%	0.0000%	0.0000%	**0.0000%**
2185-01	FRESNO CO FIRE	9.1060%	8.7540%	9.1060%	**9.1009%**
2335-02	CSA 44	0.0000%	3.8650%	0.0000%	**0.0555%**
2415-00	CONSOLIDATED MOSQ	0.9420%	0.9060%	0.9420%	**0.9415%**
2618-00	WW 18 MTCE	0.0000%	0.0000%	0.0000%	**0.0000%**
6255-00	CLOVIS UNIFIED	39.6670%	38.1330%	39.6670%	**39.6450%**
6315-00	STATE CENTER COMM	5.9650%	5.7350%	5.9650%	**5.9617%**
6940-03	SCH EQUALIZATION	3.6060%	3.4660%	3.6060%	**3.6040%**
9525-00	FRIANT REDEV	0.0000%	0.0000%	0.0000%	**0.0000%**
Total Gross Property Tax Rates		**100.0000%**	**100.0000%**	**100.0000%**	**100.0000%**

"prop_alloc"

Source: Fresno County Auditor Controller's Office, and EPS.

Table D-4
Friant Ranch Fiscal Impact Study
Friant Redevelopment Agency Tax Allocation of Increment Fiscal Year 2007-08

DISTRICT CONTRIBUTION	Fiscal Year 2007-08 Total Tax Increment [1]	"Pass through" to Other Districts	Net Tax Increment Revenue
CLOVIS CEMETERY	$586	$586	**$0**
CLOVIS UNIFIED	$87,635	$13,145	**$74,490**
CO SCHOOL SERVICE	$7,966	$1,195	**$6,771**
CONSOLIDATED MOSQ	$2,082	$2,082	**$0**
COUNTY LIBRARY	$4,461	$4,461	**$0**
CSA 44	$6,405	$6,405	**$0**
FRESNO COUNTY	$84,905		**$84,905**
FRESNO COUNTY FIRE	$20,118	$20,118	**$0**
STATE CENTER COLL	$13,179	$1,977	**$11,203**
TOTAL 1% CONTRIBUTION	**$227,336**	**$49,968**	**$177,368**
Percentage of Tax Increment	*100%*	*22%*	*78%*

"redev_share"

Source: Fresno County Auditor's Office.

[1] Total 1% property taxes in Fiscal Year 2007-08 greater than base period 1992-93.

Table D-5
Friant Ranch Fiscal Impact Study
Household Income Assumptions (2008$)

Residential Unit Type	Units	Estimated Household Income
Active Adult		**Table D-6**
Single-Family (SFD-1)	290	$83,600
Single-Family (SFD-2)	745	$75,000
Single-Family (SFD-3)	1,069	$66,000
Age-Qualified Multifamily	166	$53,000
Weighted Average Active Adult Units		**$70,000**
Non-active Adult [1]		
Non-Age-Qualified Multi-Family [2]	180	$37,000
Village Center Residential Multi-Family [2]	50	$37,000
Weighted Average all Project Units		**$67,000**

"income"

Source: Friant Ranch LP and EPS.

[1] Only active adult units are assumed for-sale. Non-active adult units are assumed to be rental units.

[2] The 2006 BLS Consumer Expenditure Survey shows average income of $34,847 per renter household across the US. This figure has been inflated to 2008 dollars using the average annual change in the CPI for the San Francisco-Oakland-San Jose Metro Area.

Table D-6
Friant Ranch Fiscal Impact Study
Estimation of Household Income for Active-Adult Units (2008$)

Active Adult	Households (Units)	Estimated Unit Sales Price [1]	Ratio of Income to Home Price	Estimated Annual Income Per Household
		Del Webb Survey [2]		
Single Family (SFD-1)	290	$380,000	22%	$83,600
Single Family (SFD-2)	745	$341,000	22%	$75,000
Single Family (SFD-3)	1,069	$300,000	22%	$66,000
Age-Qualified Multi-Family	166	$241,000	22%	$53,000
Total/ Weighted Average [3]	**2,270**	**$319,000**		**$70,000**
		BLS Consumer Expenditure Survey [4]		
Median Household Income				**Age 55-64 [5]**
2006	-	-	-	$64,425
2008 [3] [6]	-	-	-	**$70,000**

"hh_income"

Sources: Friant Ranch LP; Del Webb; BLS; and EPS.

[1] Provided by Project applicant.
[2] Based on 2004 buyer surveys at Sun City Lincoln Hills by Del Webb, household income levels averaged 22% of home price.
[3] Dollar amounts rounded to the nearest $1,000.
[4] Based on 2006 BLS data, households headed by persons aged 55 to 64 years had average income of $64,425, which is approximately $70,000 in 2008 dollars.
[5] Age of reference person in unit.
[6] Escalated at 3.1% annually based on the average annual change in the CPI for the San Francisco-Oakland-San Jose Metro Area.

Table D-7
Friant Ranch Fiscal Impact Study
Estimation of Taxable Sales Percentage of Community Commercial Center Sales

Shop Type	Median Sales per Sq. Ft.	Estimated Taxable Percentage [1]	Taxable Sales per Sq. Ft.	Typical Gross Leased Area (GLA) Median GLA (Sq. Ft.)	Average No. of Stores	Weighted GLA	Weighted Percentage	Estimated Typical Center Average Total Floo Space per Center	Total Sales	Taxable Sales	Taxable Sales Percentage [1]
Formula	*A*	*B*	*C = A + B*	*D*	*E*	*F = D x E*	*G*	*H = Center Size x G*	*I = A x H*	*J = H x I*	*K = J / I*
Community Commercial											
Supermarkets	$391.90	40%	$156.76	52,419	0.5	26,210	50%	112,368	$44,037,076	$17,614,830	40%
Restaurant w/o Liquor	$232.83	100%	$232.83	3,861	0.4	1,544	3%	6,621	$1,541,641	$1,541,641	100%
Restaurant w/ Liquor	$355.39	100%	$355.39	4,500	0.8	3,600	7%	15,434	$5,485,196	$5,485,196	100%
Sandwich Shop	$292.69	5%	$14.63	1,440	0.4	576	1%	2,469	$722,795	$36,140	5%
Pizza	$230.74	50%	$115.37	1,758	0.3	527	1%	2,261	$521,732	$260,866	50%
Chinese fast food	$217.02	5%	$10.85	1,800	0.3	540	1%	2,315	$502,433	$25,122	5%
Women's ready-to-wear	$176.25	100%	$176.25	4,200	0.6	2,520	5%	10,804	$1,904,207	$1,904,207	100%
Mixed Apparel	$255.79	100%	$255.79	12,000	0.6	7,200	14%	30,869	$7,895,880	$7,895,880	100%
Family Shoes	$173.51	100%	$173.51	3,388	0.4	1,355	3%	5,810	$1,008,120	$1,008,120	100%
Furniture	$259.43	100%	$259.43	7,927	0.4	3,171	6%	13,594	$3,526,741	$3,526,741	100%
Electronics - general	$294.15	100%	$294.15	2,526	0.3	758	1%	3,249	$955,670	$955,670	100%
Cards and Gifts	$125.48	100%	$125.48	4,422	0.3	1,327	3%	5,688	$713,673	$713,673	100%
Jewelry	$322.26	100%	$322.26	1,450	0.3	435	1%	1,865	$601,008	$601,008	100%
Telephone/Telecom Store	$286.94	100%	$286.94	1,800	0.3	540	1%	2,315	$664,308	$664,308	100%
Beauty Supply	$314.14	100%	$314.14	1,953	0.4	781	1%	3,349	$1,052,131	$1,052,131	100%
Dry Cleaner	$138.37	0%	$0.00	1,608	0.3	482	1%	2,068	$286,176	$0	0%
Unisex Hair Salon	$187.91	5%	$9.40	1,278	0.5	639	1%	2,740	$514,796	$25,740	5%
Nail Salon	$108.11	5%	$5.41	1,200	0.4	480	1%	2,058	N/A	N/A	N/A
Bank	N/A	0%	$0.00	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Offices (other than financial)	N/A	0%	$0.00	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Medical and Dental	N/A	0%	$0.00	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Total Community Commercial Center				**109,530**	**7.5**	**52,685**	**100%**	**225,878**	**$71,933,582**	**$43,311,272**	**60%**

"taxable sales"

Source: "Dollars & Cents of Shopping Centers / The Score 2006," Urban Land Institute.

[1] Represents estimate of overall total sales of which are subject to sales taxation.

Table D-8
Friant Ranch Fiscal Impact Study
Deputy Sheriff Salary Range

Deputy Sheriff Title		Band / Range 2004	Band / Range 2008	Change	2008 Base Salary Monthly Equivalent [1]	2008 Base Salary Annual
Sheriff I	Bailiff / Trainee	n.a.	$1,572		$3,406 / $4,142	**$45,288**
Sheriff II	(Step 2)	$1,746	$1,938	11%	$4,409 / $5,360	**$58,614**
Sheriff III	(Step 2)	$1,903	$2,111	11%	$4,803 / $5,837	**$63,840**
Sheriff IV		$2,066	$2,291	11%	$4,963 / $6,335	**$67,788**
Average Cost per Deputy Sheriff		**$76,783**	**$85,175**	**11%**		

"dep_sheriff"

Source: Fresno County

[1] Monthly equivalent salary as of July 14, 2008.

APPENDIX E:

Reduced Cost Scenario Tables

Table E-1 Summary Estimated Fiscal Impact of Friant Ranch E-1

Table E-2 Expenditures-Estimating Procedures E-2

Table E-3 Reported Arrests by Type of Offense, Year 2005 Data E-3

Table E-4 Violent Crimes and Elder Abuses Against Senior Citizens, 2005 ..... E-4

Table E-1
Friant Ranch Fiscal Impact Study
Summary Estimated Fiscal Impact of Friant Ranch (2008$)

Base Scenario

Revenues and Expenditures	Phase 1	Phase 2	Phase 3	Phase 4	Phase 4 Percent of Total
Revenues					
Property Tax [1]	$512,040	$1,115,171	$1,871,650	$2,418,340	45%
Property Tax In Lieu of VLF	$227,762	$496,041	$832,532	$1,075,706	20%
Real Property Transfer Tax	$196,192	$429,948	$722,345	$933,194	18%
Sales and Use Tax	$20,311	$73,736	$153,043	$213,857	4%
Property Tax in Lieu of Sales Tax	$6,770	$24,579	$51,014	$71,286	1%
Public Safety (Prop 172) Sales Tax	$53,175	$128,414	$231,221	$303,240	6%
Measure B (Library) Sales Tax	$13,541	$32,700	$58,880	$77,219	1%
Measure C (Transportation) Sales Tax	$4,850	$11,713	$21,091	$27,660	1%
Local Transportation - 0.25% Sales Tax	$5,327	$9,849	$15,635	$19,276	0%
Business Licenses	$73	$238	$586	$916	0%
Animal, Marriage Licenses and Burial Permits	$333	$617	$979	$1,207	0%
Franchises and Weapons Permits	$5,511	$10,299	$16,572	$20,636	0%
Fines, Forfeitures and Penalties	$5,060	$9,457	$15,217	$18,949	0%
Highway Users Tax (Gas Tax)	$32,798	$60,642	$96,272	$118,688	2%
Motor Vehicle in Lieu and Registration	$7,807	$14,435	$22,916	$28,252	1%
Total Estimated Revenues (rounded)	**$1,092,000**	**$2,418,000**	**$4,110,000**	**$5,328,000**	**100%**
Expenditures					
General Government	$64,690	$120,892	$194,528	$242,243	9%
Public Protection	$480,461	$897,882	$1,444,790	$1,799,172	66%
Public Ways and Facilities (not roads)	$1,803	$3,369	$5,421	$6,751	0%
Unincorporated Area Roads	$12,175	$19,023	$32,483	$45,716	2%
Health Services	$98,750	$182,581	$289,856	$357,347	13%
Public Assistance	$21,437	$39,635	$62,922	$77,573	3%
Education	$51,876	$95,914	$152,268	$187,722	7%
Recreation and Cultural Services	$4,124	$7,625	$12,105	$14,924	1%
Total Estimated Expenditures (rounded)	**$735,000**	**$1,367,000**	**$2,194,000**	**$2,731,000**	**100%**
County Operating Surplus (Deficit)	**$357,000**	**$1,051,000**	**$1,916,000**	**$2,597,000**	
Surplus (Deficit) per Friant Ranch Unit	$581	$853	$953	$1,039	

"tot_sum"

Source: EPS.

[1] Includes estimates of secured taxes, no estimate of unsecured or supplemental property taxes.

Table E-2
Friant Ranch Fiscal Impact Study
Expenditures-Estimating Procedure (2008$)

Base Scenario

Expense Category	Adjusted FY 2007-08 Net Cost	Estimation Procedure [1]	Residents / Persons Served / Road Miles	Cost Multiplier Per			Active Adults Cost Multipliers	
				Resident	Employee	Road Mile	% of County Avg.	Resident
Countywide Functions (Regional Costs)								
General Government	$49,733,150	Persons Served	1,084,000	$45.88	$22.94	$0.00	100%	$45.88
Public Protection - Courts	$13,899,516	Persons Served	1,084,000	$12.82	$6.41	$0.00	100%	$12.82
Public Protection - District Attorney	$23,208,713	Persons Served	1,084,000	$21.41	$10.71	$0.00	100%	$21.41
Public Protection - Grand Jury	$58,145	Persons Served	1,084,000	$0.05	$0.03	$0.00	100%	$0.05
Public Protection - Public Defender	$12,397,215	Persons Served	1,084,000	$11.44	$5.72	$0.00	100%	$11.44
Public Protection - Probation	$39,884,874	Persons Served	1,084,000	$36.79	$18.40	$0.00	100%	$36.79
Public Protection - Sheriff [2]	$93,445,173	Persons Served	1,084,000	$86.20	$43.10	$0.00	100%	$86.20
Public Protection - All Other	$13,951,387	Persons Served	1,084,000	$12.87	$6.44	$0.00	100%	$12.87
Health Services	$64,997,295	Residents	914,900	$71.04	$0.00	$0.00	100%	$71.04
Public Assistance	$14,109,620	Residents	914,900	$15.42	$0.00	$0.00	100%	$15.42
Education - Library Systems [3]	$32,738,676	Residents	889,400	$36.81	$0.00	$0.00	100%	$36.81
Education - Other	$467,230	Residents	914,900	$0.51	$0.00	$0.00	100%	$0.51
Recreation and Cultural Services	$2,714,454	Residents	914,900	$2.97	$0.00	$0.00	100%	$2.97
Total Countywide Functions	**$361,605,448**			**$354.22**	**$113.74**	**$0.00**		**$354.22**
Unincorporated Area Functions (Municipal Costs)								
Public Protection - Sheriff [2]	$25,678,191	Persons Served	209,400	$122.63	$61.31	$0.00	100%	$122.63
Public Protection - Public Works	$7,650,115	Persons Served	209,400	$36.53	$18.27	$0.00	100%	$36.53
Public Ways and Facilities - Public Works (not roads)	$267,750	Persons Served	209,400	$1.28	$0.64	$0.00	100%	$1.28
Subtotal Unincorporated Area Functions	**$33,596,056**			**$160.44**	**$80.22**	**$0.00**		**$160.44**
Unincorporated Area Roads	$36,677,972	Road Mile	3,677	n.a.	n.a.	$9,974		n.a.
Total Unincorporated Area Functions	**$70,274,028**							
Total Expenditures	**$431,879,476**							

"expenditures"

Source: EPS.

[1] Persons served is defined as 100% of residents plus 50% of employees.
[2] Per the Sheriff's department, approximately $25 million of net County Sheriff costs are associated with patrol of the unincorporated areas including services, supplies, and salaries.
[3] The Fresno County Library system serves the entire County except for the cities of Coalinga and Huron.

Table E-3
Friant Ranch Fiscal Impact Study
Reported Arrests by Type of Offense, Year 2005 Data

Offense	Juveniles	Adults		Seniors	Total	Percent of Total	
	0 - 17	18 - 49	50 - 59	60+	All Ages	50 +	60+
Fresno County							
Felony	1,811	14,990	712	138	17,651	5%	1%
Misdemeanor	5,020	23,031	1,700	484	30,235	7%	2%
Status [1]	388	0	0	0	388	0%	0%
Total Offenses	**7,219**	**38,021**	**2,412**	**622**	**48,274**	**6%**	**1%**
Total Population January 2007	**293,472**	**419,273**	**83,568**	**118,587**	**914,900**		
Percent of Population (per 2000 Census)	32%	46%	9%	13%	100%	22%	13%
Likelihood of committing an Offense - Fresno Residents						**28%**	**10%**
Statewide							
Felony	61,161	445,282	26,688	5,035	538,166	6%	1%
Misdemeanor	126,620	727,334	67,650	17,442	939,046	9%	2%
Status [1]	30,998	0	0	0	30,998	0%	0%
Total Offenses	**218,779**	**1,172,616**	**94,338**	**22,477**	**1,508,210**	**8%**	**1%**
Total Population January 2007	**10,285,053**	**18,249,051**	**3,855,126**	**5,273,271**	**37,662,500**		
Percent of Population (per 2000 Census)	27%	48%	10%	14%	100%	24%	14%
Likelihood of committing an Offense - California Residents						**32%**	**11%**

"arrests"

Source: California Department of Justice, Criminal Justice Statistics Center, California Department of Finance, US Census Bureau; and EPS.

[1] Status offenses are acts that are law violations only for individuals of juvenile status.

Table E-4
Friant Ranch Fiscal Impact Study
Violent Crimes and Elder Abuses Against Senior Citizens, 2005

	Crimes and Abuse Against			
	Senior Citizens (60+)		All Age Groups	
Crime	Fresno County	Statewide	Fresno County	Statewide
Violent Crimes				
Homicide	6	121	77	2,503
Forcible Rape	2	110	255	9,345
Robbery	102	3,798	1,606	63,424
Aggravated Assault	125	3,458	3,636	114,321
Total Violent Crimes	**235**	**7,487**	**5,574**	**189,593**
Percent of Total Violent Crimes Committed Against Seniors	4%	4%		
Population	**118,587**	**5,273,271**	**914,900**	**37,662,500**
Senior Citizens as Percent of Population	13%	14%		
Likelihood of Senior Citizens to be Victims of Crime	**33%**	**28%**		
Adult and Juvenile Arrests for Elder Abuse Offenses				
Felony	16	634		
Misdemeanor	6	149		
Total Arrests for Elder Abuse	**22**	**783**		
Total Arrests (All Reasons)	**48,274**	**1,508,210**		
Elder Abuse Specific Arrests as a % of Total Arrests	**0.05%**	**0.05%**		

"crimes"

Source: California Department of Justice, Criminal Justice Statistics Center, California Department of Finance, US Census Bureau; and EPS.

APPENDIX F:

Fresno County Fire District Fiscal Impact Tables

Table F-1	Fresno County Fire Operating Budget Impacts	F-1
Table F-2	Estimated Fresno County Fire Revenues	F-2
Table F-3	Estimated Fresno County Fire Expenditures	F-3

Table F-1
Friant Ranch Fiscal Impact Study
Fresno County Fire Operating Budget Impacts

Item	Phase 1	Phase 2	Phase 3	Phase 4
Estimated Expenditures	**$150,900**	**$279,100**	**$443,100**	**$546,200**
Estimated Revenues				
Property Taxes	$115,300	$251,100	$421,400	$544,400
Proposition 172	$700	$1,700	$3,000	$3,900
Potential Assessment(s) [1]	$0	$0	$0	$0
Total Estimated Revenues	**$116,000**	**$252,800**	**$424,400**	**$548,300**
Net Surplus (Deficit)	**($34,900)**	**($26,300)**	**($18,700)**	**$2,100**
Surplus (Deficit) per Unit	($56.84)	($21.35)	($9.30)	$0.84

"fire_fund"

Source: Fresno County Fire District and EPS.

[1] Friant Ranch may be required to annex into the Millerton New Town fire assessment district, which assesses approximately $160 per unit annually.

Table F-2
Friant Ranch Fiscal Impact Study
Estimated Fresno County Fire Revenues (2008$)

Item	*Formula*	Source/ Assumption	Phase 1	Phase 2	Phase 3	Phase 4
Estimated Property Taxes						
Total Assessed Value (Constant FY 2008$)	*a*	**Table A-8**	**$164,492,700**	**$358,248,200**	**$601,266,900**	**$776,890,900**
Property Tax (@ 1% of Assessed Value)	*b = a*1%*		$1,644,927	$3,582,482	$6,012,669	$7,768,909
Allocation of Tax to the General Fund		**Table D-3**				
Fresno County Fire	*c = b*%*	9.10%	$149,704	$326,040	$547,210	$707,044
Less ERAF shift [1]	*d = c*%*	23.00%	($34,432)	($74,989)	($125,858)	($162,620)
Net Fresno County Fire Property Taxes [2]	***e = c+d***		**$115,272**	**$251,050**	**$421,351**	**$544,424**
Estimated Proposition 172 Funding						
Total Proposition 172 Revenue Estimate		Table B-6	$53,175	$128,414	$231,221	$303,240
Potential Share to Fresno County Fire		**[3]**	**$691**	**$1,668**	**$3,003**	**$3,938**

"fire_rev"

Source: Fresno County Auditors Office and EPS.

[1] Reflects the Fresno County ERAF shift. The Fresno County Fire District will likely have a lower ERAF shift.

[2] None of the Fresno County Fire District property tax revenues are retained by the Friant Redevelopment Agency.

[3] Portion of Prop 172 growth that may be allocated to the Fresno County Fire District:

FY 2008-09 Prop 172 allocations to Fresno County Fire (two-thirds of Prop 172 growth)	$825,000
FY 2007-08 Total Prop 172 revenue estimate	$63,525,000
Approximate Share of Total Prop 172 revenue	1.3%

Table F-3
Friant Ranch Fiscal Impact Study
Estimated Fresno County Fire Expenditures

Expense Item	FY 2007-08 Final Amended Budget	Service Population	FY 2007-08 Expenditures per Capita	Estimated Cost Impact of Friant Ranch			
				Phase 1	Phase 2	Phase 3	Phase 4
Budgeted Expenses							
Personnel Services	$13,448,169	182,000	$73.89	$102,709	$189,900	$301,475	$371,672
Schedule C Wages	$590,715	182,000	$3.25	$4,512	$8,341	$13,242	$16,326
Operating Expense	$1,843,975	182,000	$10.13	$14,083	$26,039	$41,337	$50,963
Equipment Replacement	$3,655,816	182,000	$20.09	$27,921	$51,623	$81,955	$101,037
Property Tax Administration	$150,135	182,000	$0.82	$1,147	$2,120	$3,366	$4,149
Reserve for Contingencies	$75,000	182,000	$0.41	$573	$1,059	$1,681	$2,073
Total Fiscal Year 2007-08	**$19,763,810**		**$108.59**	**$150,943**	**$279,082**	**$443,057**	**$546,220**

"fire_exp"

Source: Fresno County Fire District Final Amended Budget Fiscal Year 2007-08

CVP CONTRACT WATER DELIVERY INFORMATION

Contractors	Maximum Contract	2009 M&I Historical Use	2009 Agricultural Use	WY 2010 **Allocation by %	WY 2010 Actual Deliveries	WY 2009 Allocation by %	WY 2009 Actual Deliveries	WY 2008 Allocation by %	WY 2008 Actual Deliveries	WY 2007 Allocation by %	WY 2007 Actual Deliveries	WY 2006 Allocation by %	WY 2006 Actual Deliveries	WY 2005 Allocation by %	WY 2005 Actual Deliveries
North of Delta															
American River	313,750	187,841		100%	145,088	100%	156,998	100%	150,191	100%	144,200	100%	152,224	100%	173,798
Sacramento River Water Service	468,990	19,817	443,065												
Agriculture				100%	406,222	40%	265,792	40%	275,854	100%	422,028	100%	436,197	100%	456,855
M&I				100%	26,482	75%	16,528	75%	20,607	100%	18,660	100%	23,537	100%	20,203
Sacramento River Settlement Contractors	2,113,209			100%	1,298,798	100%	1,415,635	100%	1,577,990	100%	1,561,371	100%	1,327,855	100%	1,342,141
South of Delta	2,110,648	139,571	1,964,926												
Agriculture				45%	590,855	10%	203,295	40%	474,964	50%	895,981	100%	1,400,720	85%	1,259,472
M&I				75%	93,667	60%	68,785	75%	122,144	75%	123,327	100%	46,768	100%	95,449
Water Rights / Exchange Contractors	875,023			100%	790,397	100%	761,714	100%	759,782	100%	747,341	100%	805,605	100%	805,313
Contra Costa In Delta	195,000	170,000		100%	73,505	65%	100,520	100%	109,720	100%	108,283	100%	98,832	100%	103,946
New Melones East Side	155,000			100%	71,297	18,000 a/f	18,852	23%	33,945	29%	50,920	100%	58,032	28%	31,125
Tri-Dams Settlement	600,000				504,460		580,924		584,354	na	599,282	na	463,268	na	515,999
Friant															
Class 1	800,000			100%	671,340	100%	549,077	100%	691,874	65%	469,517	100%	575,924	100%	618,359
Class 2	1,401,475			30%	492,413	18%	330,930	5%	68,732	0%	8,801	uncontrolled season	420,877	uncontrolled season	515,628
Buchanan Unit	24,000			n/a	24,000		24,000	na	24,000	na	24,000	na	24,000	na	24,000
Hidden Unit	24,000			n/a	24,000		24,000	na	24,000	na	24,000	na	24,000	na	24,000
Refuges[1]															
North of Delta	151,250			100%	119,126		119,573	100%	134,852	100%	129,557	100%	122,487	100%	122,363
South of Delta	271,001			100%	258,960		264,166	100%	263,158	100%	258,964	100%	257,585	100%	266,440
Grand Total	9,503,346				5,590,610		4,900,789		5,316,167		5,586,232		6,237,911		6,375,091

Delivery data excludes acre-feet deliveries for all types of 215 water, spill water, well water, water rights-storage, and warren act as these categories of water are not considered contracted deliveries.

Data Sources: Allocation amounts - CVO; Contract Max and Refuge deliveries - MP 400; Delivery amounts - BORWorks (MP-3400)

Footnotes

1- Delivery data to refuges are direct deliveries from Reclamation. Refuge deliveries accomplished through transfers or substitutions are included in delivery amounts of contractor that made the transfer.

** Allocations updated as of last update.



Download Map PDF JPG

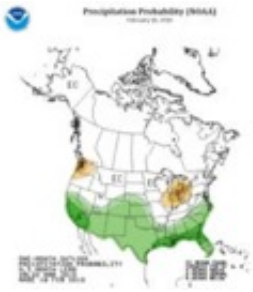
MP Region Water Supply Allocation

~ Interpreting Water Supply Forecasts ~

Up-To-Date
- Reservoir Conditions Map
- CVP Operations
- Daily CVP Reports
- Monthly Delta Operations
- Hydro Cond Exec Summ

Statistical Information
- CVP Contractors
- CVP Historical Water Allocations
- Quantities/Allocation
- Contracts - 2011 Allocation
- Water Delivered 2005 - 2010

Central Valley Project Water Plan 2011



NOAA Precipitation Predictions
1 Month 3 Months

Yearly Delta Operations

2011 2010 2009 2008 2007 2006 2005 2004 2003 2002 2001 2000

Informational Release

April 25, 2011

Reclamation Announces Additional Increase to the Water Supply Allocation for CVP Agricultural Water Users South of the Delta

Today, the Bureau of Reclamation announces an additional increase of 5 percentage points to the allocation for South-of-Delta agricultural water service contractors, from 75 to 80 percent of their contract total of 1.965 million acre-feet. This represents an increase of 30 percentage points from the initial allocation made in February 2011. The allocations for all other Central Valley Project (CVP) contractors remain unchanged at 100 percent of their contract totals as announced on April 8, 2011.

The allocation is based on the April 1, 2011, California Department of Water Resources' (DWR) snow survey (http://www.water.ca.gov/news/) and analysis of unimpaired runoff (http://cdec.water.ca.gov/cgi-progs/iodir/WSI) and assumes that flood flows will continue to be available at Mendota Pool for use by CVP South-of-Delta water users through the end of May.

Reclamation uses the 90-percent exceedence model for official allocation purposes, which means that in 9 out of 10 years, more favorable conditions are expected to occur. A 50-percent exceedence model is also provided for informational and planning purposes. This year, the water supply available to our contractors in the two forecasts is identical. The following table provides the allocations by water user category:

Mid-Pacific Region
Water Year 2011 CVP Water Supply Allocation Update

April 25, 2011									
	Water Year Type and Percentage of Average Runoff	North-of-Delta (Percentages of contracted water supply)				South-of-Delta (Percentages of contracted water supply)			
		AG	M&I	R*	WR**	AG	M&I***	R*	WR**
Conservative Forecast (90%)	Wet - 113% of Average	100	100	100	100	80	100	100	100
Median Forecast (50%)	Wet - 120% of Average	100	100	100	100	80	100	100	100
5-Yr Average Allocation (2006-2010)		76	90	100	100	49	77	100	100

AG = Agriculture M&I = Municipal and industrial R = Refuges WR = Water Rights

*The allocation shown in the table for wildlife refuges applies to Level 2 water supplies only. A full water supply (including both Level 2 and incremental Level 4 water) to the wildlife refuges would be about 555,500 acre-feet. Level 2 is 422,251 acre-feet which accounts for approximately three-fourths of a full refuge supply.
**The allocation for water rights contractors is based upon pre-CVP held water rights, and wildlife refuges contractors are based upon pre-established Shasta inflow criteria.
***Percentage of historic use.

To summarize:

- Increased to 80 percent: Agricultural water service contractors South-of-Delta are allocated 80 percent of their contract supply of 1.965 million acre-feet, an increase of 5 percentage points from the update announced on April 8, 2011, and an increase of 30 percentage points from the initial allocation on February 18, 2011.

- Unchanged at 100 percent: M&I contractors South-of-Delta are allocated 100 percent of their contract supply.

- Unchanged at 100 percent: Agricultural water service contractors North-of-Delta are allocated 100 percent of their contract supply of 443,000 acre-feet.

- Unchanged at 100 percent: M&I water service contractors North-of-Delta are allocated 100 percent of their contract supply of approximately 340,000 acre-feet.

- Unchanged at 100 percent: Sacramento River Settlement Contractors and San Joaquin River Exchange Contractors, who receive their CVP water supply

based on a pre-CVP water right, are allocated 100 percent of their contract supply of 2.2 million acre-feet and 840,000 acre-feet respectively.

- Unchanged at 100 percent: Wildlife refuges (Level 2) North- and South-of-Delta, whose allocations are based on a pre-established inflow trigger to Shasta Reservoir, are allocated 100 percent of their contract supply of 422,000 acre-feet. In addition, Reclamation expects to meet all South-of-Delta Incremental Level 4 refuge water demands for Central Valley Project Improvement Act-designated refuges that can be served by San Luis Unit-Delta facilities.

- Unchanged at 100 percent: Eastside water service contractors (Central San Joaquin Water Conservation District and Stockton East Water District), whose water supplies are delivered from New Melones Reservoir on the Stanislaus River, are allocated their full contract supply of 155,000 acre-feet.

- Unchanged at 100 percent Class 1 and 20 percent Class 2: Friant Division contractors' water supply is delivered from Millerton Reservoir on the upper San Joaquin River. The first 800,000 acre-feet of water supply is considered Class 1*; any remaining water is considered Class 2**. Based upon DWR's April Runoff Forecast, the Friant Division allocation is 100 percent of Class 1 (800,000 acre-feet) and 20 percent of the contracted supply of 1.4 million acre-feet of Class 2 (280,000 acre-feet).

*"Class 1 Water" is that supply of water stored in or flowing through Millerton Reservoir which, subject to the contingencies described in the water service/repayment contracts, will be available for delivery from Millerton Reservoir and the Friant-Kern and Madera Canals as a dependable water supply during each contract year.

** "Class 2 Water" is that supply of water which can be made available subject to the contingencies described in the water service contract for delivery from Millerton Reservoir and the Friant-Kern and Madera Canals in addition to the supply of Class 1 water. Because of its uncertainty as to availability and time of occurrence, such water will be undependable in character and will be furnished only if and when it can be made available as determined by the Contracting Officer.

Changes to hydrology and opportunities to exercise operational flexibility of the CVP are factors and conditions that will influence the water supply and allocations as the water year progresses. Water supply updates will be made as appropriate and will be posted at http://www.usbr.gov/mp/pa/water.

For additional information, please visit http://www.usbr.gov/mp/pa/water or contact the Mid-Pacific Region's Public Affairs Office at 916-978-5100 (TTY 916-978-5608) or e-mail mppublicaffairs@usbr.gov.

News Release

Top

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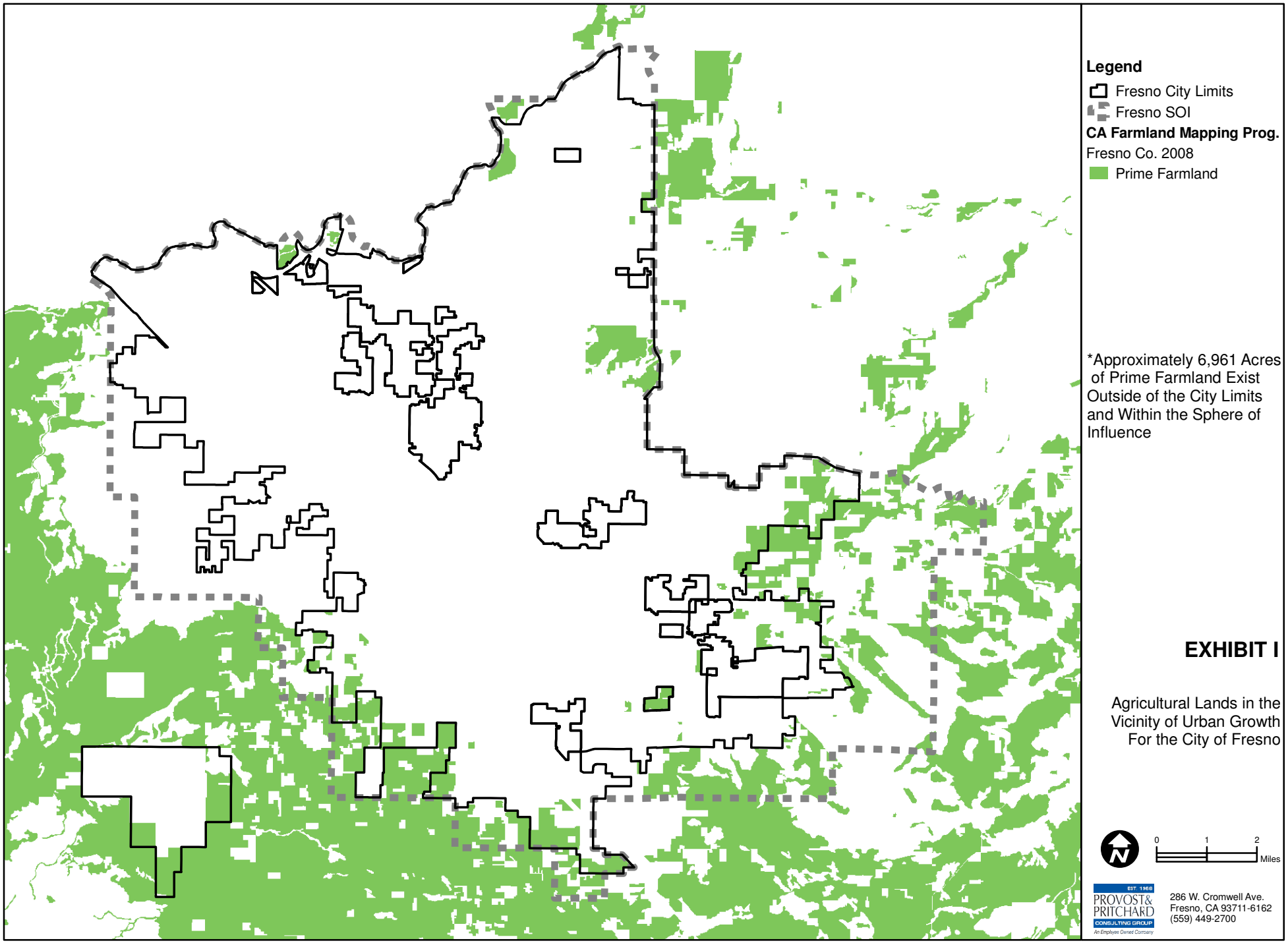
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Bureau of Reclamation, Mid-Pacific Region
2800 Cottage Way, Sacramento CA 95825-1898
Main 916- 978-5100 | FAX 916- 978-5114 | TTY 916- 978-5608
Reclamation Officials' Telephone Numbers

Last update: August 2, 2011

Back

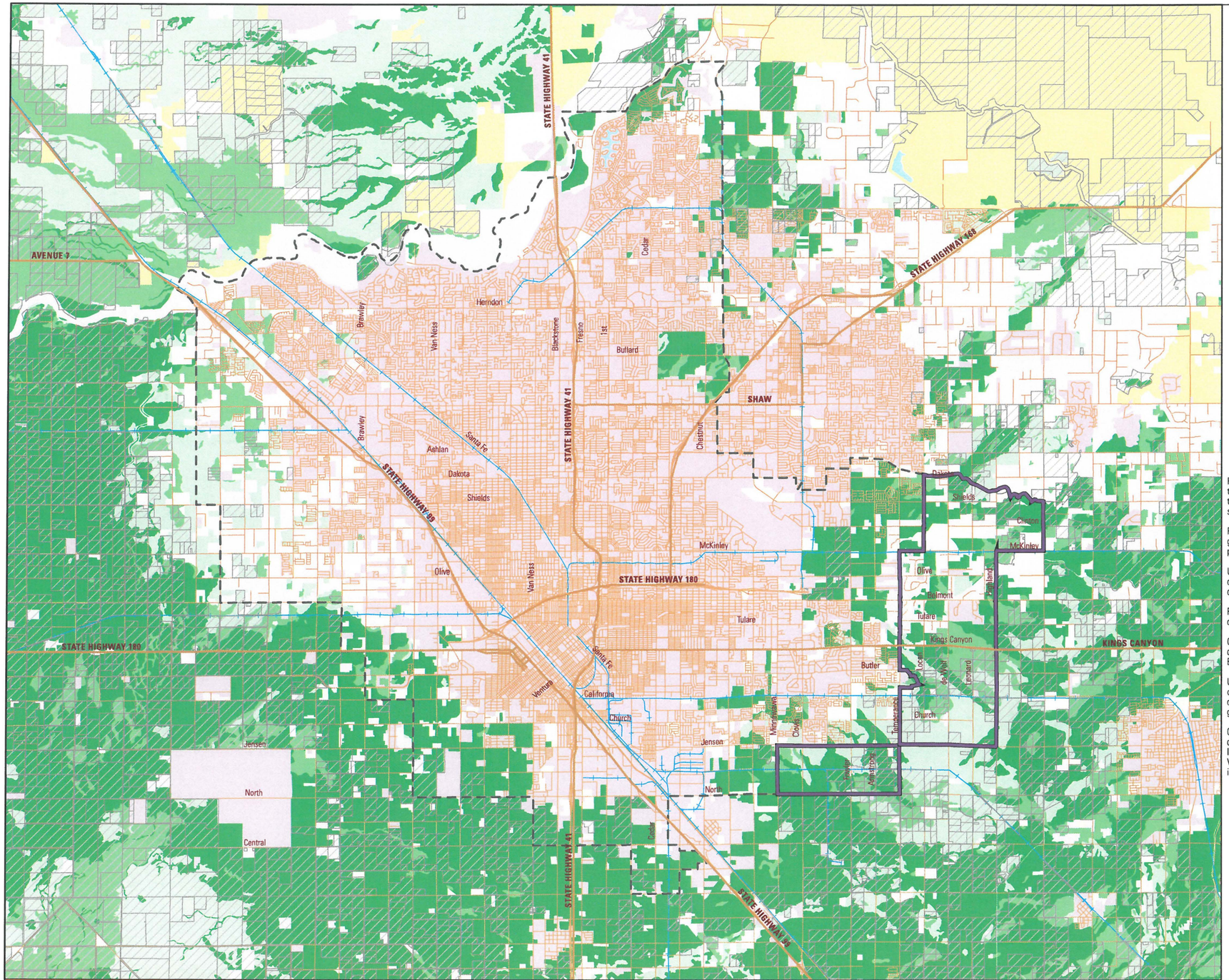


Top



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ADMINISTRATIVE DRAFT – For preliminary public review and discussion
Does not reflect the review and recommendations of various City departments including the City Attorney's Office.



IMPORTANT FARMLANDS

Legend

- Fresno Southeast Growth Area (Calthorpe, 2007)
- Fresno Sphere of Influence (Fresno, 2006)

Transportation Features

- State Highways (TIGER, 2002)
- Local Roads (Fresno County, 2007)
- Railroads (TIGER, 2002)

Important Farmlands (CA Dept. of Conservation, 2004)

- Williamson Act Parcels
- Prime Farmland
- Farmlands of Statewide Importance
- Unique Farmlands
- Farmlands of Local Importance
- Grazing Land
- Other Land
- Urban/Built-up Land
- Water

Prime Farmland: Farmland with the best combination of physical and chemical features able to sustain long term agricultural production. This land has the soil quality, growing season, and moisture supply needed to produce sustained high yields. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.

Farmland of Statewide Importance: Farmland similar to Prime Farmland but with minor shortcomings, such as greater slopes or less ability to store soil moisture. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.

Unique Farmland: Farmland of lesser quality soils used for the production of the state's leading agricultural crops. This land is usually irrigated, but may include nonirrigated orchards or vineyards as found in some climatic zones in California. Land must have been cropped at some time during the four years prior.

Farmland of Local Importance: Land of importance to the local agricultural economy as determined by each county's board of supervisors and a local advisory committee.

Grazing Land: Land on which the existing vegetation is suited to the grazing of livestock. This category was developed in cooperation with the California Cattlemen's Association, University of California Cooperative Extension, and other groups interested in the extent of grazing activities.

Urban and Built-up Land: Land occupied by structures with a building density of at least 1 unit to 1.5 acres, or approximately 6 structures to a 10-acre parcel. This land is used for residential, industrial, commercial, construction, institutional, public administration, railroad and other transportation yards, cemeteries, airports, golf courses, sanitary landfills, sewage treatment, water control structures, and other developed purposes.

Other Land: Land not included in any other mapping category. Common examples include low density rural developments; brush, timber, wetland, and riparian areas not suitable for livestock grazing; confined livestock, poultry or aquaculture facilities; strip mines, borrow pits; and water bodies smaller than forty acres. Vacant and nonagricultural land surrounded on all sides by urban development and greater than 40 acres is mapped as Other Land.

SOUTHEAST GROWTH AREA SPECIFIC PLAN

Fresno, California

August 2007

0 6,000 12,000 Feet

0 1 2 Miles

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510 548-6800 TEL 510 548-6848 FAX WWW.CALTHORPE.COM

CALTHORPE ASSOCIATES
URBAN DESIGNERS, PLANNERS, ARCHITECTS

FRIANT RANCH INFRASTRUCTURE MASTER PLAN

For the
Environmentally-Superior Alternative

February 2011
~~May 2010~~

Adopted by the Board of Supervisors, 2/1/2011

(Board of Supervisors clarifications shown with redlines)

Prepared by

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F. Effluent Disposal and Reclamation 29
G. ~~Effluent Disposal (Alternative Plan)~~ [INTENTIONALLY OMITTED] 33
H. Biosolids Disposal 34
I. Treatment Plant Phasing 34
J. Environmentally-Beneficial Project Features 34

VI. GRADING, DRAINAGE, STORM WATER DETENTION AND DISPOSAL 36
A. Introduction 36
B. Low-Impact Development (LID) 36
C. Grading Design 37
D. Existing Drainages 37
E. Storm Drainage Design and Hydrology 39
F. National Pollution Discharge Elimination System (NPDES) 41
G. Permit Requirements 42
H. Flood Routing Drainage Concept 42
I. Interim Facilities 43
J. Facility Design Criteria 43
K. Environmentally - Beneficial Project Features 45

VII. PROJECT WATER BALANCE 46
A. General 46
B. Consumptive Water Use 46
C. Effluent Reclamation 46

VIII. STREET AND CIRCULATION SYSTEM 47
A. General 47
B. Existing Road System 49
C. Layout and Designation of Proposed Streets 49
D. Roundabouts 50
E. Proposed Street Sections 50
F. Trail System 55
G. Landscaping 55
H. Phasing of Roadway Construction 55
I. Environmentally-Beneficial Project Features 56

IX. OTHER UTILITIES 57
A. Electric Power and Natural Gas/Propane 57
B. Telephone 57

The Project has committed to replacing the function of the present CSA 44 facility by providing treatment and disposal facilities of sufficient size to serve both the Project and the present CSA 44 service area. In order to do so, CSA 44 would need to be reorganized, subject to LAFCo approval, and the boundaries of its sewer service area incorporated into the service area boundary of the district serving the Project. This operating entity is planned to be WWD No. 18.

Proponents of the Project propose to construct the following wastewater service infrastructure as a part of the development process:

- A new wastewater treatment facility, sized to treat and dispose of flows from the Project, the existing uses and planned future uses within the Friant Community Plan area and the existing sewered area of the Millerton Lake Village MHP.

  Though the new facility will have treatment capacity sufficient to serve the Friant Community Plan area, the Friant Ranch Specific Plan only includes a stub connection from the Friant community to the new WWTP; it does not provide a collection system outside the Project. Funding sources and plans for the collector systems necessary to connect the plant to the non-Project areas will need to be identified, and are not included within the Friant Ranch Specific Plan process. Construction of sewer collection systems, pump stations, and other infrastructure for non-Project uses within the Friant Community Plan area would be subject to various factors including voter approval and funding.

  The preferred location for the new WWTP is on a 151-acre parcel on the west side of Friant Road opposite the south end of the Project, known as the Beck property, which was recently acquired by the project proponents. Alternatively, a parcel adequate for the WWTP has been designated within the Project boundary. The Beck location is preferred for several reasons including land use compatibility and topography. It also provides a more convenient future hook-up for the Friant community should the decision be made to construct a sewer collection system.

- Disposal facilities, which will be sized to handle the flows from all of the uses identified above.

  The preferred disposal alternative is by land application to the developed landscape areas within the Project, with the balance of the recycled effluent applied to agricultural crops at the Beck property. This alternative is preferred by both the project proponent, and by the Regional Water Quality Control Board in their letter commenting on the Project DEIR.

  ~~While no insurmountable problems are apparent with this preferred alternative, should an insolvable issue arise the Project may implement~~

~~discharge of treated effluent to the San Joaquin River, subject to all appurtenant permits and regulations.~~

B. Public Safety and Fire Protection

Public safety and fire protections services will be provided through the Fresno County Sheriff's Department and the California Division of Forestry, respectively. These services will be added incrementally as the project grows and demand for additional service appears.

V. WASTEWATER COLLECTION, TREATMENT, AND DISPOSAL

A. General

Project wastewater will be collected and treated at a new wastewater treatment facility to be constructed at a site shown on **Figure 5**. Treated effluent (recycled water) is planned to be used for irrigation of landscaped open spaces within the Project, and for agricultural irrigation on nearby parcels including the Beck property.

Effluent produced during months with limited or no irrigation demand (typically October through April) will be stored in the 600-AF pond that exists at the Beck property. This over-winter effluent will be consumed by irrigation demands during the other months of the year, providing a water balance and a sustainable system for water reuse.

~~An alternative plan for disposal of winter effluent, should it be required, involves discharge of the recycled water to the San Joaquin river during October through April, and is discussed in Section G, below.~~

The Friant Ranch Specific Plan contemplates a population of approximately 4,842 at build-out, and a specific wastewater production of 80 gallons per capita-day[3]. The population is based upon 1.9 persons per unit[4] for 2,270 active-adult units and 2.3 persons per unit for the 230 non-age qualified units. This equates to a total residential flow of 387,400 gallons per day. In addition, the Project is committed to providing treatment capacity for the existing and planned future uses of the Friant Community Plan area, which has a projected peak flow of 165,000 gallons per day.[5] Including estimated commercial and industrial flows; total wastewater production is expected to be between 625,000 and 725,000 gallons per day (gpd), at buildout, or as much as 815 AF per year.

[3] Standard wastewater production for a residence fully equipped with low-flow fixtures.

[4] Based upon the "American Housing Survey", by the US Census Bureau and the Department of Housing & Urban Development, 2001. The value 1.9 persons per dwelling unit is based upon the combined demographic for the 55-64 and 65-74 age categories.

[5] There is a minor Change of Zone application pending for six acres along the east side of Friant Road known as the Depot property. Currently zoned for Low Density Residential, the proposal would change the zoning to Commercial. The associated increase in projected sewer flows would be approximately 6 Equivalent Dwelling Units, or 1,440 gallons per day, which would not change the projections in this section in any meaningful way.

In the early phases of the project, quantities of effluent available for use as recycled water will be quite limited. Only as the number of completed dwelling units increases will the quantity of recycled water become large enough to irrigate major landscape areas. Nothing in this IMP shall be construed as requiring use of recycled water for irrigation of any particular part of the open spaces within the project area, but all wastewater effluent produced during the irrigation season shall to the maximum extent practical be conjunctively reused for landscape irrigation.

The preferred alternative for winter effluent disposal is by storage in the existing pond at the Beck property shown in **Figure 7**. The existing size of the large pond at the north end of the property is more than adequate to provide 100-day storage of over-winter effluent. With a total available capacity of approximately 600 ac-ft, at project build-out, this pond actually provides for over a year of storage of effluent. The water stored in the months with limited to no irrigation demand (typically October through April) will be consumed by irrigation demands during the other months of the year, providing a sustainable water balance.

Water balance calculations have been prepared, demonstrating a balance between effluent production and available reclamation areas, allowing application of all effluent in a manner that does not exceed the agronomic demand of the receiving lands. The calculations take into account the effects of a wet (100-year recurrence interval) rainfall year.

Because the bottom of this pond has been excavated to bedrock, there is no opportunity for water in the pond to migrate downward. As well, the hydraulic gradeline available from the top surface of the pond to the San Joaquin river is not adequate to create lateral groundwater movement, and it is therefore physically impossible for water in this pond to reach the San Joaquin river.

All lands used for effluent reclamation must be permitted by the Regional Water Quality Control Board and the Department of Public Health prior to commencement of reclamation activities. These permits will be applied for concurrently with the filing of the Report of Waste Discharge.

G. ~~Effluent Disposal (Alternative Plan)~~ [INTENTIONALLY OMITTED]

~~If for some reason land application and recycled water reclamation is not feasible or permissible as discussed in the section above, the alternative for winter effluent disposal will be to discharge treated effluent to the San Joaquin River during months when effluent production exceeds the agronomic water demand of the landscaped areas within the Project. River discharge would be generally limited to the months of October through April. A study of the effects of this proposed discharge was prepared by Larry Walker Associates and is presented in a November 28, 2007 technical memorandum entitled *"Mixing Zone and Dilution Study for Proposed Discharge of Treated Effluent to the San Joaquin River,"* which is appended to the Project EIR. An NPDES permit will be required~~

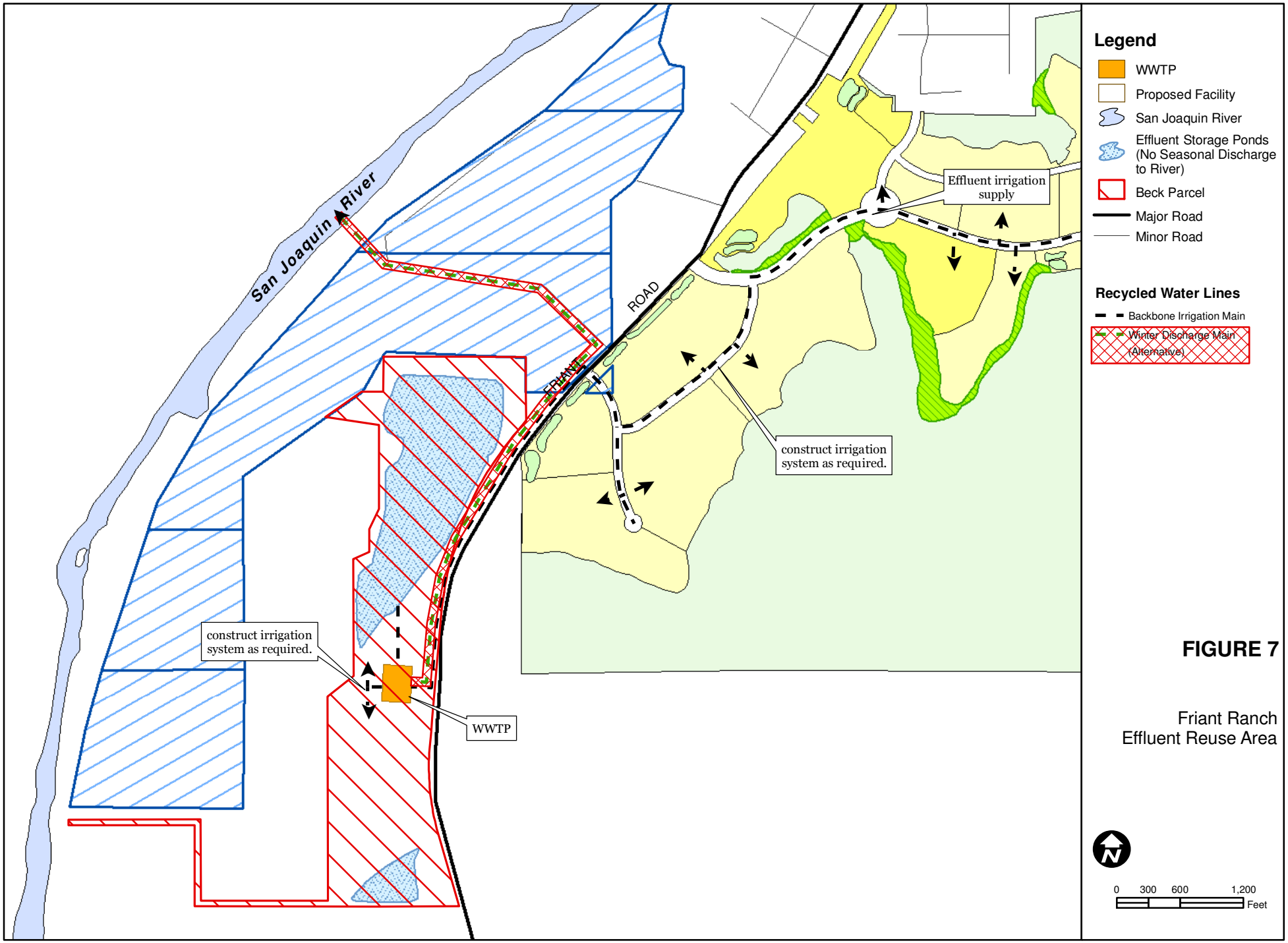


FIGURE 7

Friant Ranch
Effluent Reuse Area

2/16/2011 \\pineflat\dwg_dgn\Clients\Friant Ranch - 1328\13280401 - IMP\GIS\Report Figures Alt6\figure7ALT_effluentreuse.mxd

~~for this release, and would be applied for concurrently with the filing of the Report of Waste Discharge.~~

H. Biosolids Disposal

Disposal of biosolids generated by the Project WWTP will be in accordance with regulations contained in EPA 40 CFR 503, and State Water Resources Control Board Water Quality Order 2000-01-DWQ, "*General Waste Discharge Requirements for the Discharge of Biosolids to Land fur Use as a Soil Amendment in Agricultural, Silvicultural, Horticultural, and Land Reclamation Activities (General Order).*"

All disposal operations will operate under the permitting authority of the Regional Water Quality Control Board (RWQCB) and the Department of Public Health, and shall comply with any future Fresno County ordinance which regulates land application of treated municipal sludge.

I. Treatment Plant Phasing

Wastewater treatment facilities will be constructed in multiple phases, as the Project is built out. WWTP phases are lettered, to differentiate them from the numbered Project phases which are not the same. While the final decision on the capacity of each phase will be made as development proceeds and absorption rates are better known, the Phase A facilities will be designed to handle 0.25 MGD. At the design rate of 80 gpcd and assuming 1.9 persons per household, 0.25 MGD will support about 1,600 Equivalent Dwelling Units (EDUs).

A second phase (Phase B) of approximately 0.25 MGD capacity will be constructed as demand warrants; the resulting capacity of 0.50 MGD will be sufficient to serve the entire Project, including an allowance for commercial flows at the low end of industry standard projection ranges for the expected land uses and acreages.

A third phase (Phase C) would be constructed if Project wastewater demand exceeds 0.50 MGD. The WWTP site shown on **Figure 6** and **Figure 6-ALT** is large enough to accommodate facilities to treat approximately 0.80 MGD. This capacity would be more than sufficient for all of the Project as well as existing and planned future uses within the Friant Community Plan area, so that treatment capacity would be available should the citizens of the community choose to address the need for a collection system to allow for treatment at the WWTP.

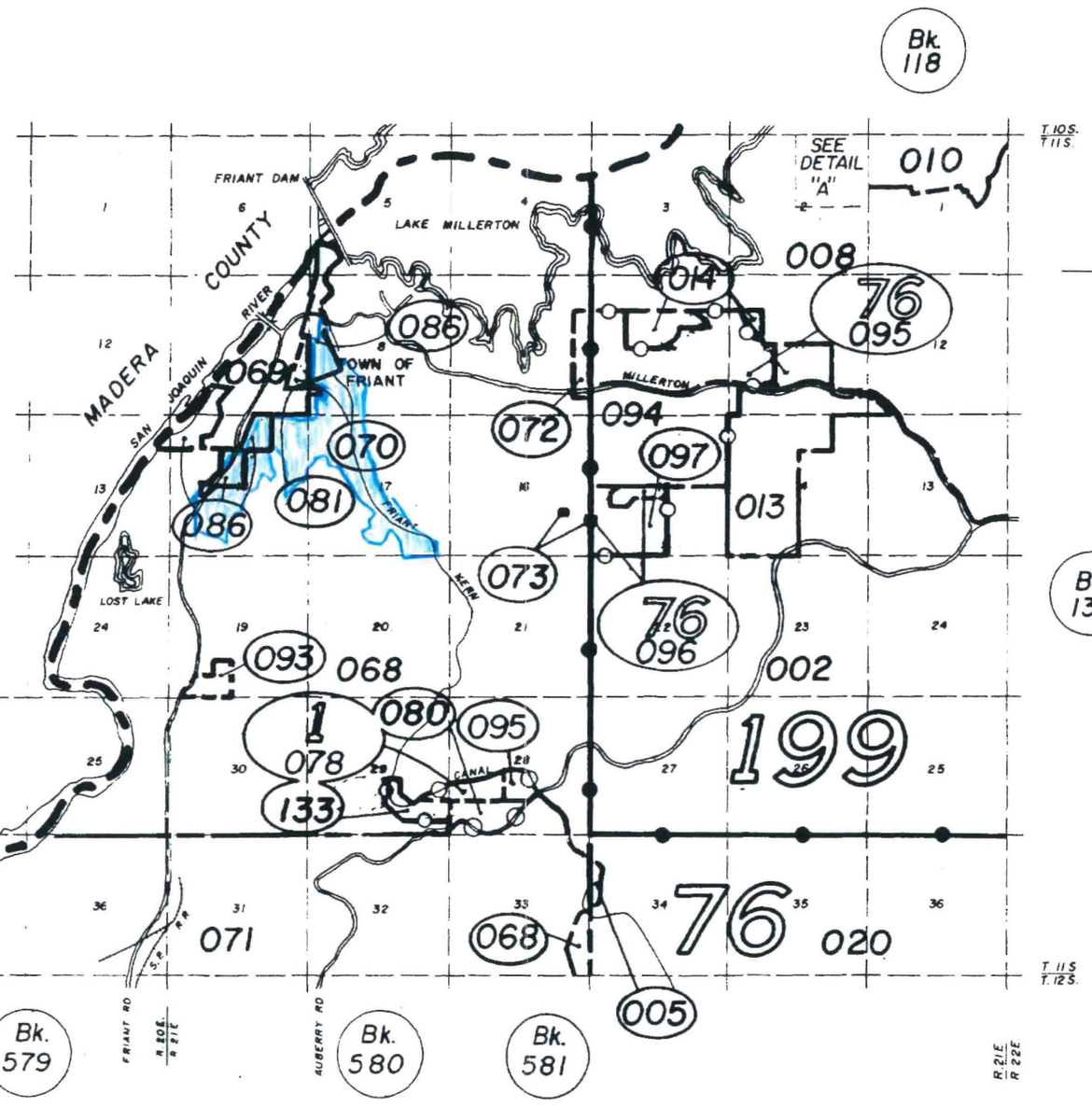
J. Environmentally-Beneficial Project Features

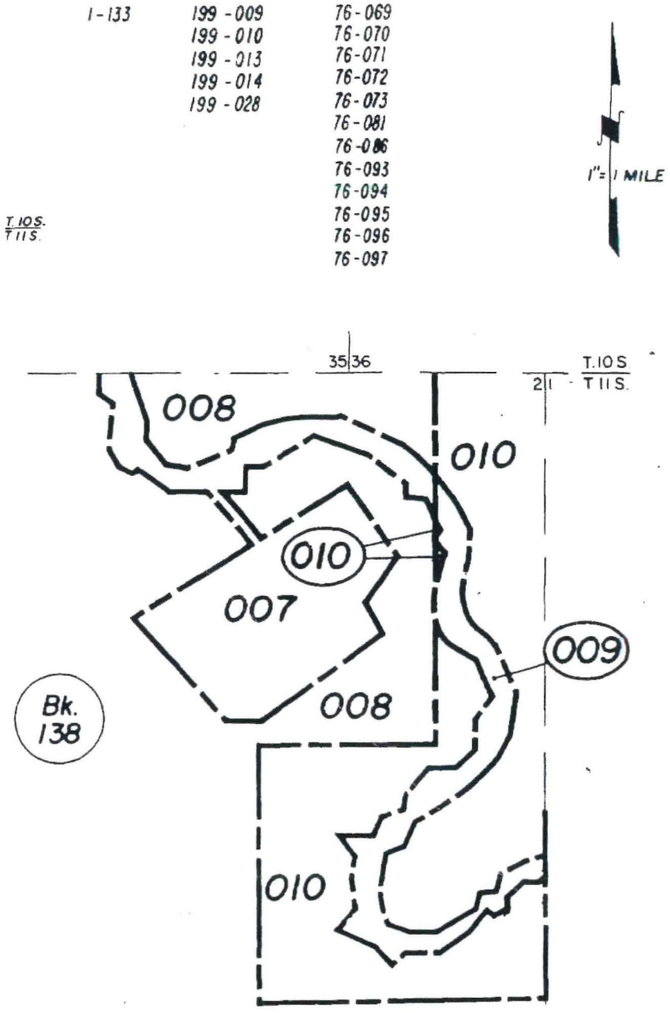
- The design plans for the WWTP will incorporate appropriate and cost-effective odor and noise reduction measures, to the satisfaction of the Fresno County Planning and Public Works Departments.

TWP. 11 S., R. 21 E., TWP. 11 S., R. 20 E., M.D.B. & M.
LYING WITHIN FRESNO COUNTY

Tax Rate Area

1-078	199-002	76-005
1-080	199-007	76-020
1-095	199-008	76-068
1-133	199-009	76-069
	199-010	76-070
	199-013	76-071
	199-014	76-072
	199-028	76-073
		76-081
		76-086
		76-093
		76-094
		76-095
		76-096
		76-097





DETAIL "A"
1" = 800'

1" = 1 MILE

TAX RATE AREA

BOOK 300
Assessor's Maps
County of Fresno, Calif.

1973

--- NOTE ---
This map is for Assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.

SUBDIVIDED LAND IN POR. SEC. 7, T. 11 S., R. 21 E., M.D.B. & M.

Tax Rate Area 76-070

300-39

FRIANT RD.

1"= 100'

PARKER ST. (PINE ST.)

(S.P.R.R.) (MIN. ONLY)

01 20

19

40

COMMON AREA

OUTLOT A (POR) (2.50)

PARKCLIFFE LN.

SUNNYHILL LN.

COMMON AREA

OUTLOT B (1.15)

COMMON AREA

OUTLOT C (POR)

BLUEWATER BAY

CHERRYHILL LN.

KNOBHILL LN.

17650 PARKCLIFFE LN.

COMMON AREA

100 (POR) (5.28)

50 1.02 Ac.

M.L.M.V.

SEC. 7 / SEC. 8

NOTE - Each Parcel Number Shall Constitute A Separately Owned Unit And A Proportionate Interest In The Common Area.

Millerton Lake Mobilehome Village - P.U.D. - Tract No. 3573 - Plat Bk. 41, Pgs. 63-64

Assessor's Map Bk. 300 - Pg. 39
County of Fresno, Calif.

NOTE - Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.

20

08-12-2010 SH

--- NOTE ---

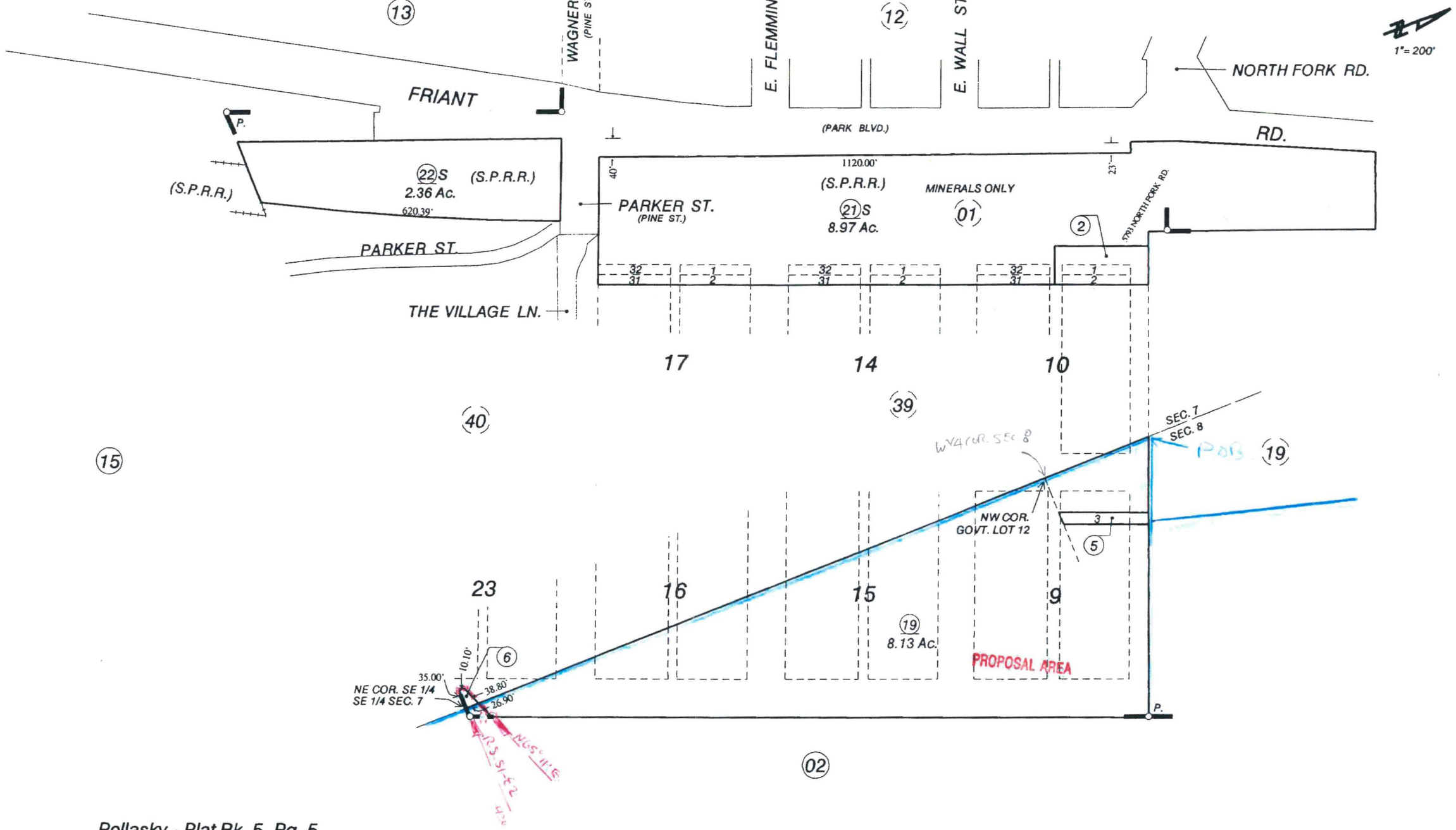
This map is for Assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.

SUBDIVIDED LAND IN POR. SECS. 7 & 8, T. 11 S., R. 21 E., M.D.B. & M.

Tax Rate Area
76-069
76-081
76-086

300-20

1"= 200'



Pollasky - Plat Bk. 5, Pg. 5

Record of Survey - BK. 51, Pgs. 82-88

07-28-2010

NOTE - Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.

Assessor's Map Bk. 300 - Pg. 20
County of Fresno, Calif.

--- NOTE

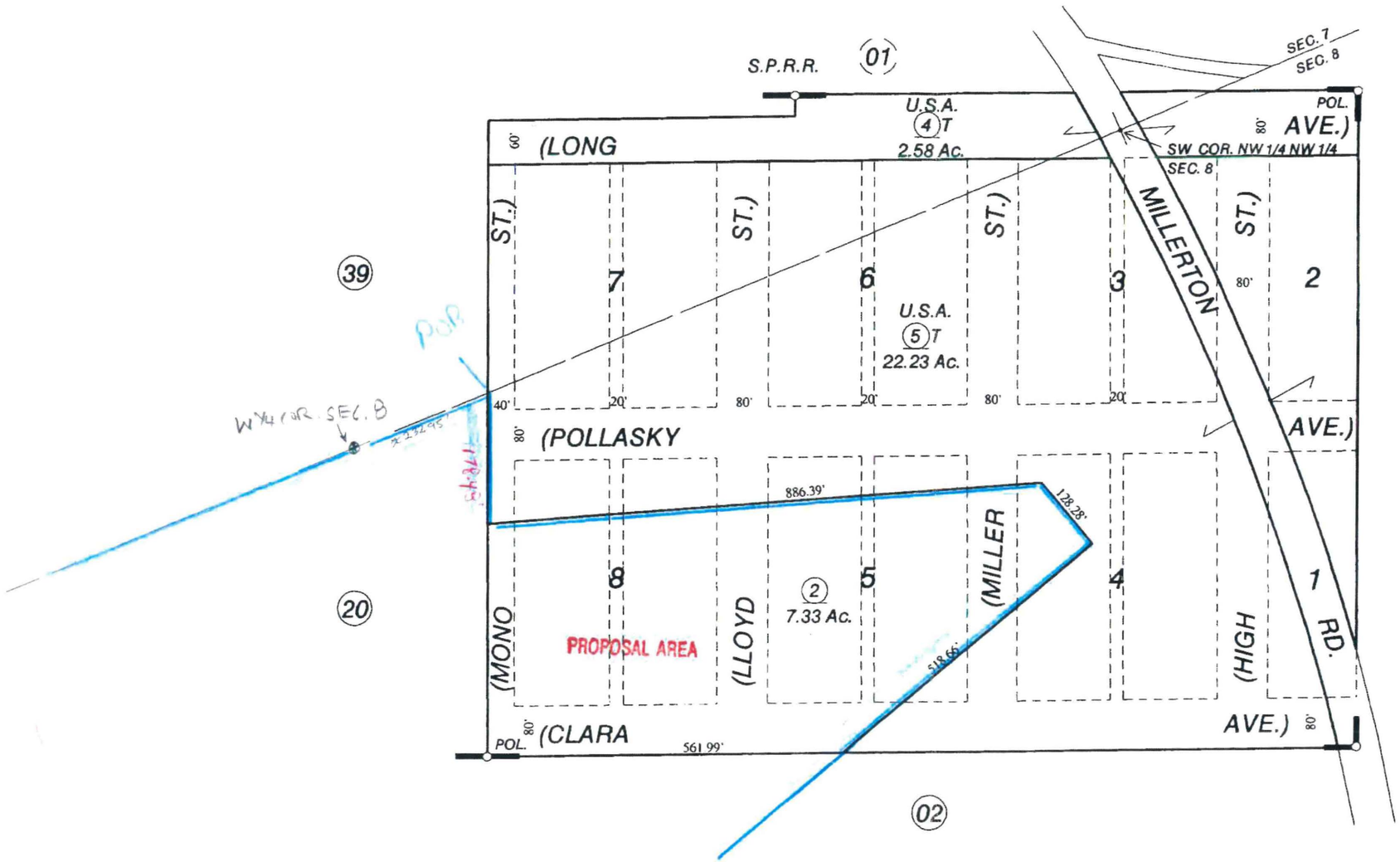
This map is for Assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.

SUBDIVIDED LAND IN POR. SECS. 7 & 8, T. 11 S., R. 21 E., M.D.B. & M.

Tax Rate Area
76-069
76-086

300-19

1"= 200'



Pollasky - Plat Bk. 5, Pg. 5

NOTE - Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.

Assessor's Map Bk. 300 - Pg. 19
County of Fresno, Calif.

07-26-2010

--- NOTE -

This map is for Assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.

SUBDIVIDED LAND & POR. SEC'S 7 & 18, T.11S., R.21E., M.D.B.& M.

Tax Rate Area 76-069

300-18

1"= 400'

NW COR. SE 1/4 SE 1/4 SEC. 7

NE COR SE 1/4 SE 1/4 SEC. 7

E. MARCUS AVE.

E. CONVERSE AVE.

N. BIGELOW RD.

ROOT ST

(35) 7.29Ac. PARCEL 3 (7.29)

(14)U PONDEROSA TELE. CO. 297.04'

(13) 1.62Ac.

(16) 1.82 Ac. SE COR. GOV'T LOT 17

RS51-82

SW COR. SE 1/4 SE COR. SEC 7

PARCEL 2 (8.10)

PARCEL 1 (5.90)

(34) 8.10Ac.

(33) 5.90Ac.

PM37-79

(17) (PARK BLVD.)

(01) MINERALS ONLY

PROPOSAL AREA

(04)

(22) 1.30Ac.

E. BELCHER ST.

(51)S 7.29Ac.

S.P.R.R.

RD.

(25) 2.95Ac.

(23) 2.30Ac.

N. FRIANT

E. LEM ST.

NW COR. SW 1/4 NE 1/4 SEC.18

(49) 7.00Ac. PARCEL 1 (7.00)

PAR. 2 (1.31)

(50) 1.31Ac.

PM62-21

12|7 13|18 R.20 E. R.21 E.

7|8 18|19

Friant Addition - Plat Bk. 11, Pg. 99-100
Parcel Map No. 5508 - Bk. 37, Pg. 79
Parcel Map No. 7846 - Bk. 62, Pg. 21
Record of Survey - Bk. 51, Pgs. 82-88

NOTE - Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.

Assessor's Map Bk.300 - Pg. 18
County of Fresno, Calif.

07-26-2010

SUBDIVIDED LAND & POR. SEC'S 7,13,18,19, & 24, T.11S., R.20E. & 21E., M.D.B.&M.

--- NOTE ---

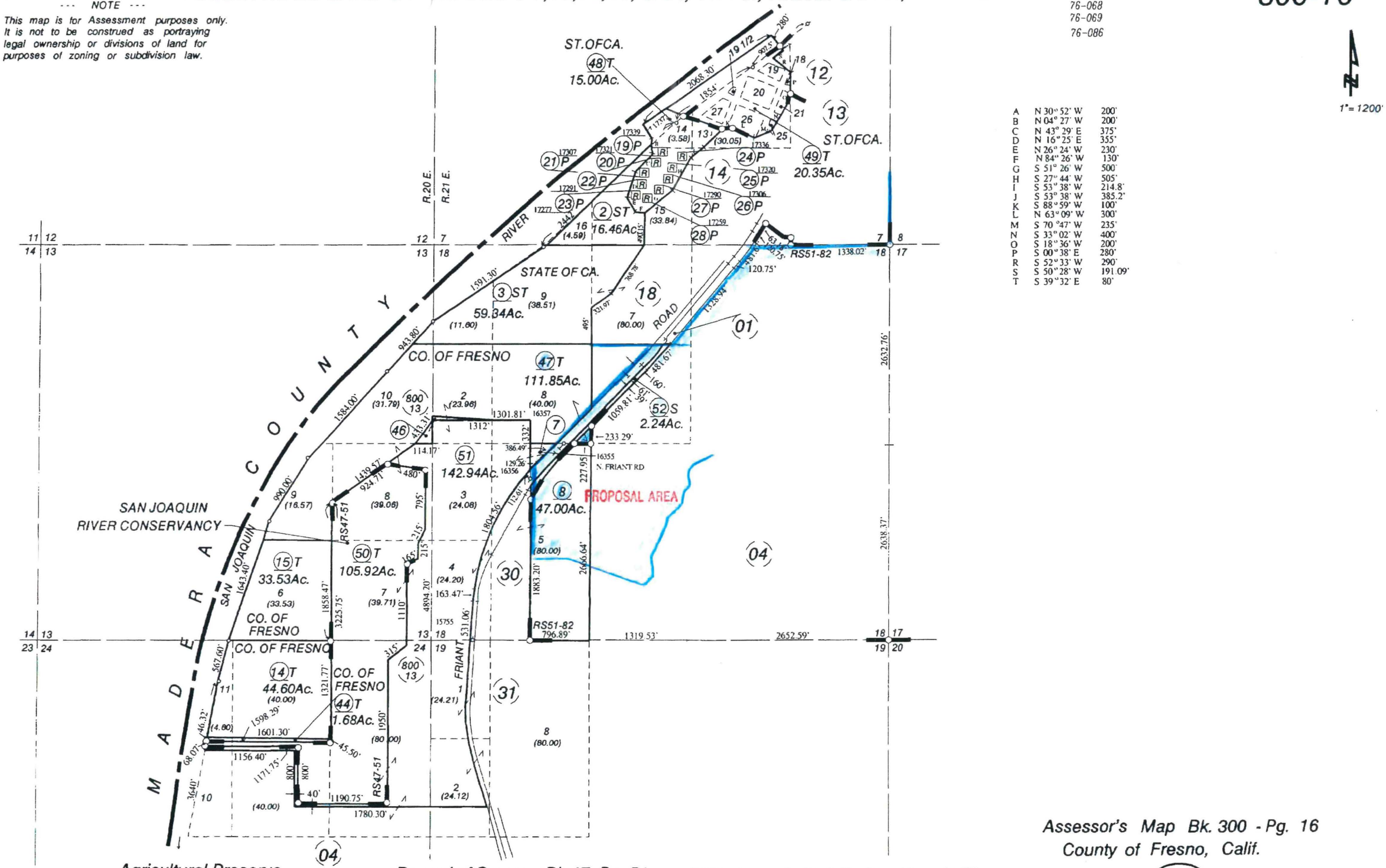
This map is for Assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.

Tax Rate Area
76-068
76-069
76-086

300-16

1"= 1200'

A	N 30° 52' W	200'
B	N 04° 27' W	200'
C	N 43° 29' E	375'
D	N 16° 25' E	355'
E	N 26° 24' W	230'
F	N 84° 26' W	130'
G	S 51° 26' W	500'
H	S 27° 44' W	505'
I	S 53° 38' W	214.8'
J	S 53° 38' W	385.2'
K	S 88° 59' W	100'
L	N 63° 09' W	300'
M	S 70 °47' W	235'
N	S 33° 02' W	400'
O	S 18° 36' W	200'
P	S 00° 38' E	280'
R	S 52° 33' W	290'
S	S 50° 28' W	191.09'
T	S 39° 32' E	80'



Agricultural Preserve
Pollasky - Plat Bk. 5, Pg. 5

Record of Survey - Bk 47, Pg. 51
Record of Survey - Bk.51, Pg.82-88

NOTE - Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.

Assessor's Map Bk. 300 - Pg. 16
County of Fresno, Calif.

03-23-09

--- NO ---

This map is for Assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.

SEC'S. 16, 17, 20, 21, T.11S., R.21E., M.D.B.&M.

Tax Rate Area 76-068

300-05

1"= 1200'

PROPOSAL AREA

(1) 457.79Ac.

(02) (24) 5.00Ac.

AP-64 (25) 45.00Ac.

AP-64 (23) 20.00Ac.

AP-64 (10) 39.54Ac.

RS51-82

(54)

FRIANT

KERN

CANAL

(13) 9.04Ac.

U.S.A. (14)T 120.96Ac.

(8)S 628.55Ac.

(6)S 592.91Ac.

RS51-82

RS55-83

S 1/4 COR. SEC.17

(04)

(06)

(08)

(37)

7 8 / 18 17

8 9 / 17 16

9 10 / 16 15

16 15 / 21 22

18 17 / 19 20

20 21 / 29 28

19 20 / 30 29

368.8' 385.3' 1167.73' 478.47' 411.61' 1427.00' 1182.02' 788.9' 600.7' 312.4' 275' 310' 698.2' 177.5' 350' 780.4' 925.1' 701.01' 80.8' 553' 753.09' 1306.08' 2660.23' 2112.16' 602.02' 599.19' 784.81' 1173.95' 704.30' 1423.49' 884.81' 906.85' 928.34' 77.7' 400' 250' 4691.98' 2661.59' 2662.23' 2703.60' 2703.78' 5293.52' 3407.36' 2610.15' 2609.93'

Agricultural Preserve
Record of Survey - Bk. 51, Pgs. 82-88
Record of Survey - Bk. 55, Pgs. 83-90

NOTE - Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.

Assessor's Map Bk. 300 - Pg. 05
County of Fresno, Calif.

02-26-2010 JDD

--- NC ---

This map is for Assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.

POR. SEC 'S 18, 19, &24, T.11S., R.20 & 21E., M.D.B.&M.

300-04

1"= 1200'

PROPOSAL AREA

(2) S 120.00Ac.

(23) 58.61Ac.

(24) 234.21Ac.

(11) S 319.95Ac.

(20) 169.74Ac.

(19) 111.53Ac.

(39) 21.00Ac.

(38) 20.10Ac.

(40) 20.70Ac.

(37) 20.10Ac.

(41) 21.10Ac.

(42) 22.20Ac.

(47) 23.15Ac.

(43) 20.60Ac.

(46) 19.22Ac.

(44) 21.70Ac.

(33) 20.52Ac.

Tax Rate Area
76-068
76-086

FRIANT ROAD

SPRR

AP-23

RD.

MADERA COUNTY

SAN JOAQUIN RIVER

NE COR. GOVT. LOT 8

NE COR. GOVT LOT 7

NE COR. GOVT LOT 6

SE COR. GOVT LOT 6

RS51-82

RS55-83

R.20E. R.21E.

T. 11 S.

Agricultural Preserve
Record of Survey - Bk. 51, Pgs. 82-88
Record of Survey - Bk. 55, Pgs. 83-90

NOTE - Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.

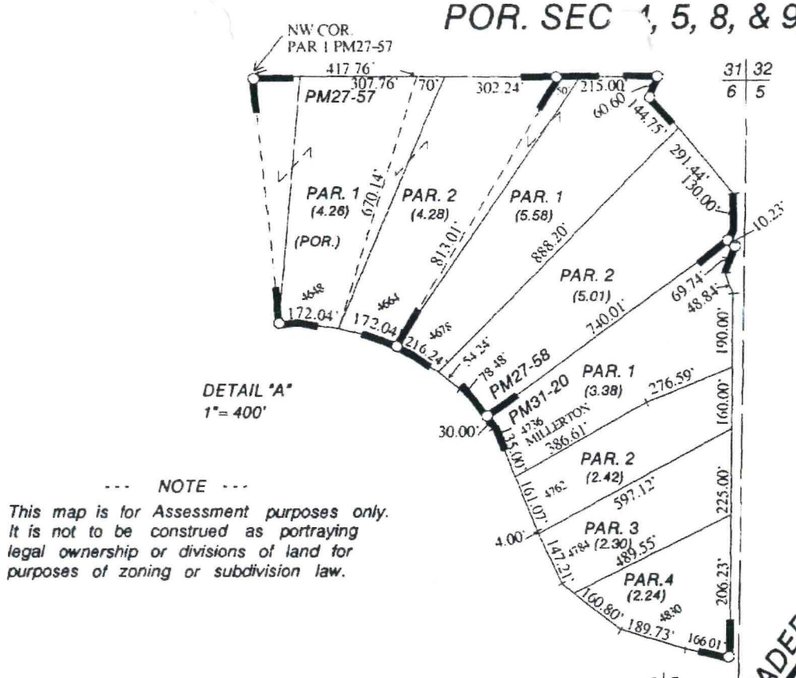
Assessor's Map Bk. 300 - Pg. 04
County of Fresno, Calif.

02-26-2010 JDD

POR. SEC 1, 5, 8, & 9, T.11S, R.21E., M.D.B.&M.

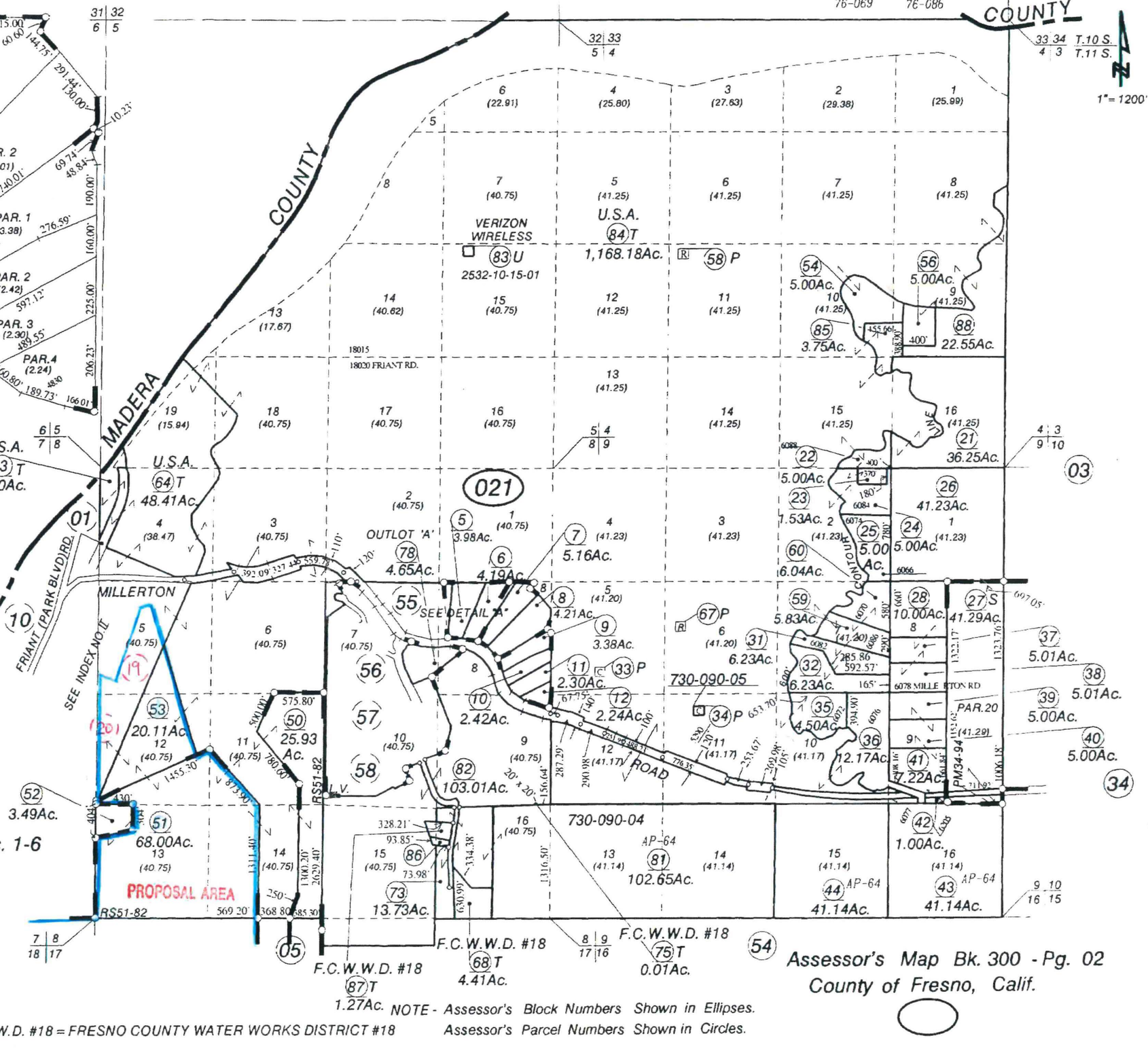
Tax Rate Area
76-068 76-072
76-069 76-086

300-02



--- NOTE ---

This map is for Assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.



Agricultural Preserve

Parcel Map No.4189 - Bk.27, Pg.57
Parcel Map No.4163 - Bk.27, Pg.58
Parcel Map No.4844 - Bk.31, Pg.20
Parcel Map No.3179 - Bk.34, Pg.94
Lake View, Tract No. 4321 - Plat Bk. 67, Pgs. 1-6
Record of Survey - Bk. 51, Pgs. 82-88

Assessor's Map Bk. 300 - Pg. 02
County of Fresno, Calif.

NOTE - Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.

F.C.W.W.D. #18 = FRESNO COUNTY WATER WORKS DISTRICT #18

09-09-2009 JDD

ANNEXATION NO. 2011-___
FRIANT RANCH ANNEXATION TO
FRESNO COUNTY WATERWORKS DISTRICT NO. 18

IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA

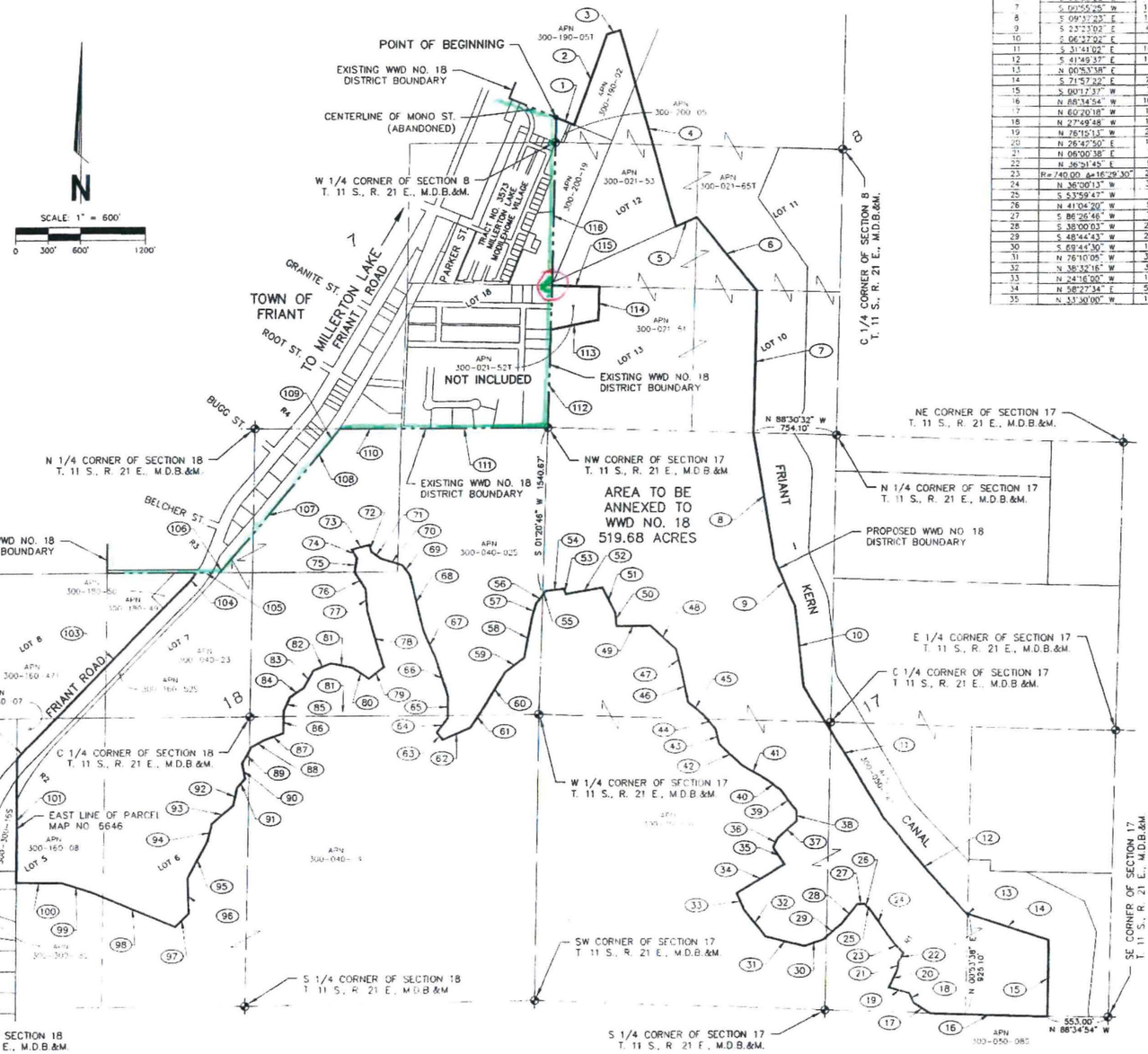
BEING PORTIONS OF SECTIONS 8, 17, & 18,
TOWNSHIP 11 SOUTH, RANGE 21 EAST,
MOUNT DIABLO BASE & MERIDIAN

PORTIONS OF APNS:

300-021-51 300-021-52T 300-021-53
300-040-02s 300-040-23 300-040-24
300-050-01 300-160-08 300-160-52s
300-190-02 300-200-05 300-200-19
300-160-47T

LEGEND

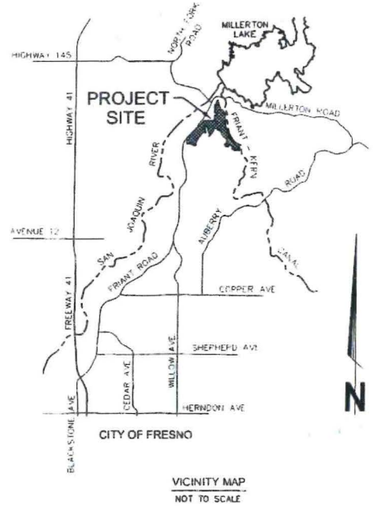
- EXISTING WATERWORKS DISTRICT NO. 18 BOUNDARY
- PROPOSED WATERWORKS DISTRICT NO. 18 BOUNDARY
- EXISTING PROPERTY LINES
- SECTION LINES – NOT DIVISION LINES
- 18 SECTION NUMBER (TYPICAL)



COURSES		
NUMBER	BEARING	LENGTH
1	S 67°34'25" E	178.48
2	N 18°39'00" E	886.39
3	N 71°39'54" E	128.78
4	S 16°33'53" E	1886.36
5	N 85°39'34" E	210.27
6	S 39°35'26" E	873.80
7	S 02°55'25" W	1599.92
8	S 09°37'23" E	1167.73
9	S 23°23'02" E	478.47
10	S 06°27'02" E	741.61
11	S 31°41'02" E	1477.50
12	S 41°49'37" E	1182.02
13	N 00°53'38" E	13.07
14	S 71°57'22" E	780.40
15	S 00°17'37" W	701.91
16	N 88°34'54" W	1062.85
17	N 60°20'18" W	185.00
18	N 27°49'48" W	100.00
19	N 78°15'13" W	207.05
20	N 26°42'50" E	185.00
21	N 06°00'38" E	74.00
22	N 36°21'45" E	96.85
23	R=740.00 Δ=16°29'30"	213.00
24	N 36°00'13" W	333.31
25	S 53°59'47" W	6.00
26	N 41°04'20" W	50.00
27	S 86°26'46" W	70.00
28	S 38°00'03" W	227.00
29	S 48°44'43" W	220.00
30	S 69°44'30" W	190.00
31	N 76°10'05" W	367.00
32	N 38°32'16" W	315.00
33	N 24°16'00" W	166.00
34	N 58°27'34" E	507.00
35	N 33°30'00" W	189.00

COURSES		
NUMBER	BEARING	LENGTH
36	N 27°28'50" E	98.00
37	N 46°38'55" E	227.00
38	N 02°21'49" W	96.00
39	N 36°10'03" W	235.00
40	N 54°08'22" W	180.00
41	N 59°26'31" W	245.00
42	N 46°22'08" W	285.00
43	N 15°18'18" W	138.00
44	N 40°33'15" W	187.00
45	N 56°39'24" W	173.00
46	N 13°01'35" W	296.00
47	N 14°56'52" W	206.00
48	N 48°54'02" W	318.00
49	S 88°31'25" W	310.00
50	N 06°14'30" W	126.00
51	N 27°57'53" W	260.00
52	S 79°46'22" W	338.00
53	N 21°39'07" W	52.00
54	S 83°02'53" W	165.00
55	S 36°10'15" W	45.35
56	S 36°10'15" W	96.65
57	S 15°27'48" W	150.00
58	S 10°12'47" W	358.00
59	S 52°58'56" W	221.00
60	S 50°13'00" W	355.00
61	S 33°41'32" W	240.00
62	S 66°19'13" W	270.00
63	N 37°13'18" W	84.00
64	N 34°43'48" E	165.00
65	N 00°31'20" W	198.00
66	N 17°28'43" W	340.00
67	N 24°11'10" W	305.00
68	N 14°30'46" W	530.00
69	N 36°54'03" W	110.00
70	N 73°47'22" W	199.00
71	N 54°57'08" W	112.00
72	N 16°43'56" W	69.00
73	S 74°38'08" W	165.00
74	S 29°09'07" E	93.00
75	S 08°28'30" W	132.00
76	S 33°06'07" E	180.00
77	S 05°27'56" E	202.00
78	S 16°37'15" E	540.00
79	S 51°22'00" W	170.00
80	N 56°11'21" W	185.00
81	N 78°54'17" W	198.00
82	S 66°52'27" W	171.00
83	S 39°01'47" W	184.00
84	S 55°28'15" W	150.00
85	S 25°21'07" W	142.00
86	S 00°12'02" W	200.00
87	S 70°29'29" W	196.00
88	S 60°57'23" W	128.00
89	S 29°27'45" W	170.00
90	S 10°03'20" E	146.00
91	S 40°36'50" W	108.00
92	S 31°59'56" W	170.00
93	S 49°53'43" W	254.00
94	S 13°36'25" W	173.00
95	S 28°33'45" W	380.00
96	S 02°09'06" E	528.00
97	S 44°56'34" W	170.00
98	N 67°54'41" W	850.00
99	N 73°01'06" W	283.00
100	N 69°57'38" W	415.00
101	N 19°09'44" E	1144.65
102	302.17 R= Δ=27°05'	130.62
103	N 44°44'44" E	2077.88
104	=947.00 Δ=5°53'12"	163.41
105	N 89°41'27" E	218.95
106	=2779.55 Δ=0°13'26"	22.58
107	N 39°32'11" E	1328.94
108	N 32°13'44" E	120.75
109	=214.93 Δ=64°42'43"	239.72
110	N 84°55'01" E	563.07
111	N 89°51'12" E	1338.02
112	N 01°18'37" E	903.81
113	N 78°15'54" E	441.39
114	N 01°18'37" E	304.00
115	N 88°38'55" W	450.00
116	N 00°59'14" E	1549.72

RADIAL BEARINGS	
NUMBER	BEARING
1	S 37°30'17" W
2	N 48°31'16" W
3	S 50°01'43" E
4	S 50°01'43" E



VICINITY MAP
NOT TO SCALE

Disclaimer.
"For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described."

116 N 00°59'34" E 2651'
117 N 00°59'34" E 1,549.72

LAFCO RESOLUTION NO. ___

DATE ___

EST. 1968
PROVOST & PRITCHARD
CONSULTING GROUP
An Employee Owned Company
286 WEST CROMWELL AVENUE
FRESNO, CALIFORNIA 93711-6162
559/449-2700 FAX 559/449-2715
www.ppeng.com

JOB NO. 13_90401
DWG NO. EXH-2M

--- NOTE ---

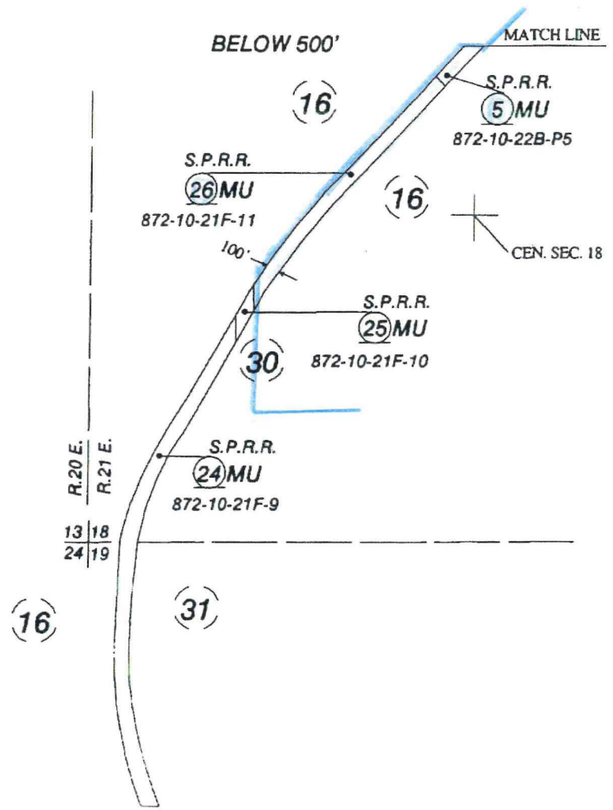
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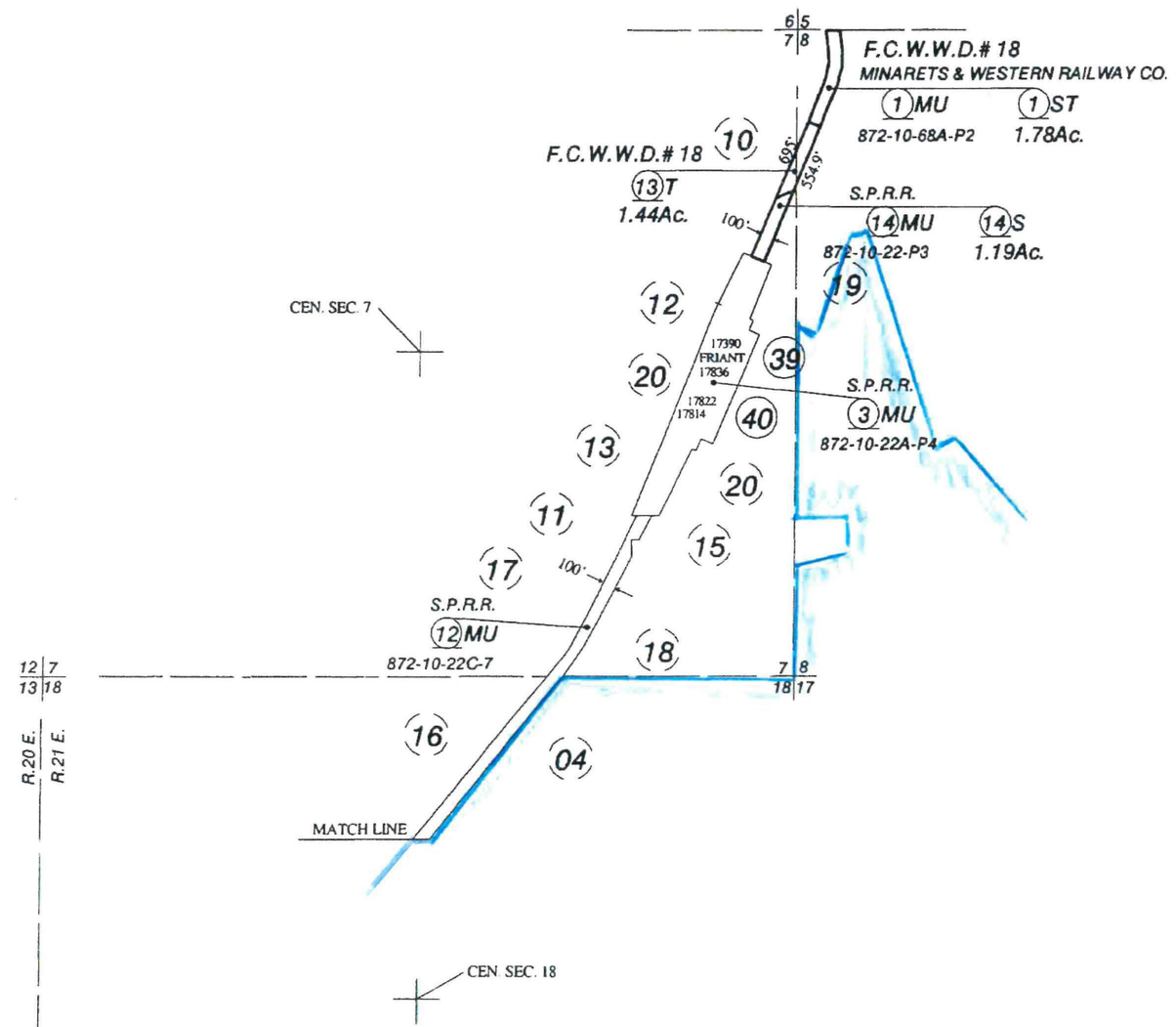
RAILROAD R/W IN SEC'S 7, 8, 18 & 19 T. 11 S., R. 21 E., M.D.B. & M.

Tax Rate Area
76-068
76-069
76-086

300-01

1"= 1200'





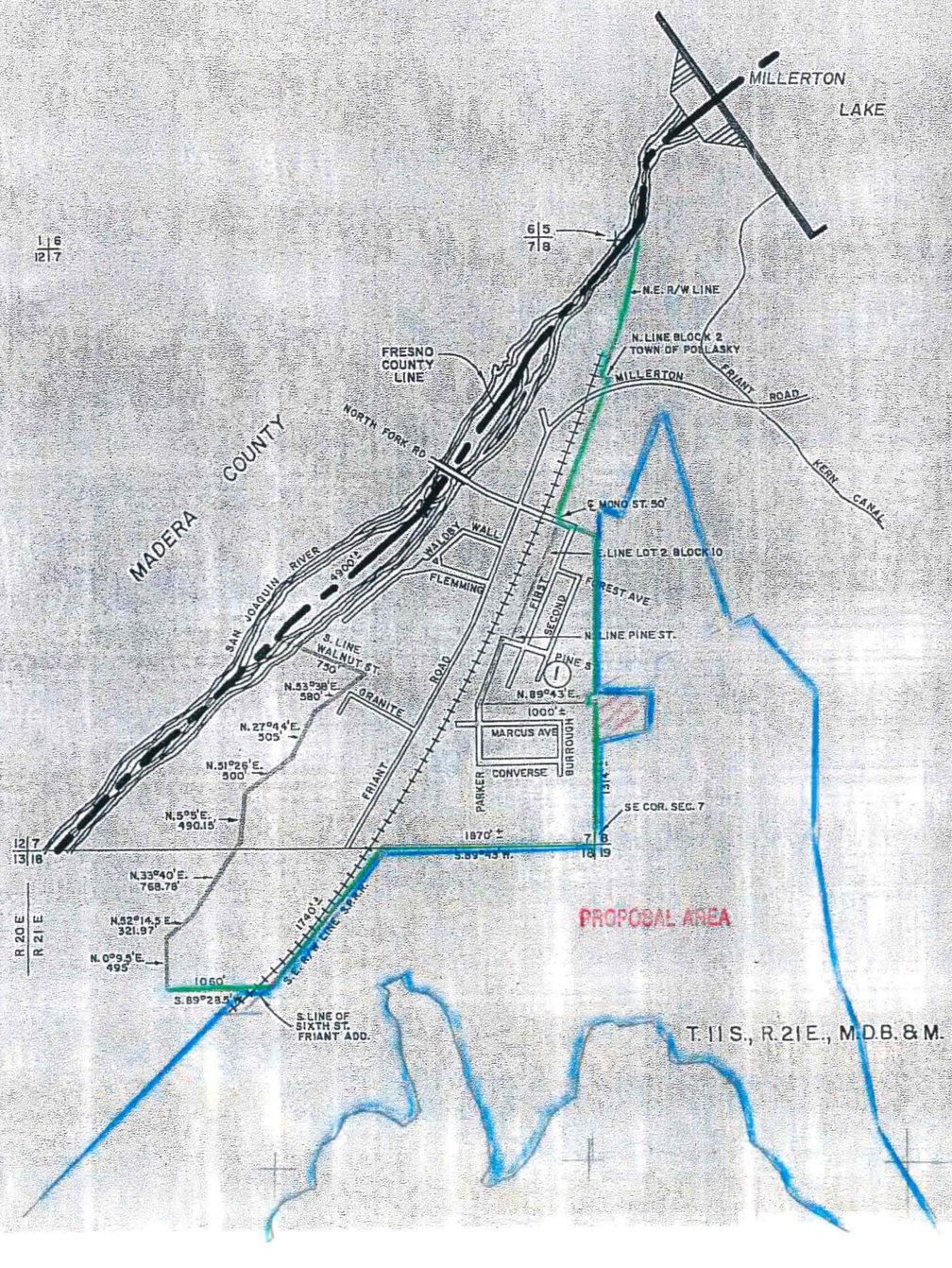
Agricultural Preserve

10-29-2008

NOTE - Assessor's Block Numbers Shown in Ellipses.
Assessor's Parcel Numbers Shown in Circles.

Assessor's Map Bk. 300 - Pg. 01
County of Fresno, Calif.

Fresno County
Waterworks District No. 18



Existing

Proposed

Island not within Dist.

FORMED 10-26-54

REF No.	CHANGE	EFF DATE	REMARKS
1	ANNEX	4-17-64	

N

SCALE
0 660' 1320' 1980' 2640'

FRESNO COUNTY ASSESSOR'S OFFICE

OMB 300

Law Office of

Sara Hedgpeth-Harris

A Professional Law Corporation

♦♦♦♦



August 20, 2014

By U.S. Mail

Fresno County Local Agency Formation Commission
2607 Fresno Street, Suite B
Fresno, CA 93721

Re: *League of Women Voters of Fresno, et al. v. County of Fresno, et al*
Fresno County Superior Court Case No. 14CECG01791

To Whom It May Concern,

This firm represents League of Women Voters of Fresno and Sierra Club. in the above-entitled action. You are receiving this letter because The County of Fresno has identified you as a responsible agency or public agency having jurisdiction over a natural resource affected by the project that is the subject of this challenge. Your agency has not been named in the action.

Pursuant to Public Resources Code Section 21167.6.5(c), this letter provides notice that on July 28, 2014, League of Women Voters of Fresno and Sierra Club., filed a petition for writ of mandate against County of Fresno, Fresno County Board of Supervisors, Fresno County Department of Public Works and Planning, Friant Ranch, LP, SWD Investments, Inc., and Fresno County Water Works District No. 18. The petition alleges violations of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 et seq., and other violations in connection with the approval of a conditional use permit for the construction of the Friant Ranch Wastewater Treatment Plant within the San Joaquin River bottom.

Please call if you have any questions, or if you would like a copy of the petition filed in this matter.

Sincerely,

Sara Hedgpeth-Harris
/mcb

2125 Kern Street, Suite 301 ♦ Fresno CA 93721
Telephone: (559) 233-0907 ♦ Facsimile: (559) 272-6046
sara.hedgpethharris@shh-law.com

Baker Manock
& Jensen PC
ATTORNEYS AT LAW

Kenneth J. Price
Attorney at Law
kprice@bakermanock.com

Fig Garden Financial Center
5260 North Palm Avenue
Fourth Floor
Fresno, California 93704
Tel: 559.432.5400
Fax: 559.432.5620
www.bakermanock.com

June 15, 2012



Via E-Mail and U.S. Mail

Tim Cremin, Esq.
Meyers, Nave, Riback, Silver & Wilson
555 12th Street
Suite 1500
Oakland, California 94607
E-Mail: tcremin@meyersnave.com

Re: Certification of Record
City of Fresno v. Fresno County Local Agency Formation Commission
Fresno County Superior Court, Case No. 11 CE CG 03812

Dear Mr. Cremin:

This letter is intended to respond to your June 13, 2012, letter in which you accuse the Fresno Local Agency Formation Commission ("LAFCo") of "abuse of process" and assert that the City of Fresno will not pay the cost for including documents in the record. Your accusation suggests that somehow, by electing to prepare the record, petitioner can make a *de facto* certification of the record. But CEQA is clear that even if a petitioner elects to prepare the record, the record is subject to "certification for accuracy by the public agency." (Pub. Resources Code, § 21167.6, subd. (b)(2).) In actuality, LAFCo would be committing an abuse of process if it simply certified the City's proposed record without conducting its own thorough review, irrespective of accuracy.

You refer to the "disputed" documents as a "hodge-podge" of files from the County's record. Most, if not all, of the documents were included on the LAFCo website as a hyperlink for the Commissioners and public. As I have previously explained to you, for the sake of convenience of the parties and to reduce costs, we used the PDF version of these documents from the County's record. This avoids the need for staff and consultants to reassemble and recreate these PDF files. Furthermore, we have never heard of any obligation by a respondent to "provide evidence showing that [particular] documents were part of the LAFCo file and made available to the public and decision-makers." The language at the beginning of subdivision (e) of section 21167.6, that a record of proceedings "shall include, but is not limited to, all of the" enumerated items indicates that, in some instances, it might be appropriate to include in such a

record documents that were not in the respondent's files. In short, the respondent has some discretion to go beyond the minimum contents specified in subdivision (e).

We also note that this dispute was not just about the EIR-supporting documents. You insisted that we include other documents that were clearly not in LAFCo's files (your letter to Water Works District No. 18 and the WWD No. 18 staff reports). In an effort to reach a compromise, we tracked down these documents and have included them in the record. However, we will not be including the numerous *post-approval* documents the City inserted into the record without LAFCo's consent. Those documents are clearly not appropriately part of the record as they were not before the decision-makers when they took action.

Finally, you assert that the City will not pay to augment the record with these documents. That is an issue that will be decided after a decision on the merits when a memorandum of costs is filed. LAFCo (and the RPI, Friant Ranch) absolutely reserve the right to seek recovery of staff time and production costs for completing the preparation of the record in light of the City's refusal to do so.

Please be advised that LAFCo has certified the record and, as of today, respondents filed it with Judge Pena. You will receive your copy shortly.

Very truly yours,

DICTATED, BUT NOT READ, FORWARDED IN MY ABSENCE TO AVOID FURTHER DELAY

Kenneth J. Price
BAKER MANOCK & JENSEN, PC

KJP:sdg

cc: Mr. Jeff Witte, Executive Officer
Fresno LAFCo

Tiffany Wright, Esq.
Remy Thomas, Moose and Manley, LLP

Jacqueline McDonald Pucheu, Esq.

Neal Costanzo, Esq.
Costanzo & Associates, PC

Baker Manock
& Jensen PC
ATTORNEYS AT LAW

Kenneth J. Price
Attorney at Law
kprice@bakermanock.com

Fig Garden Financial Center
5260 North Palm Avenue
Fourth Floor
Fresno, California 93704
Tel: 559.432.5400
Fax: 559.432.5620
www.bmj-law.com

May 25, 2012

VIA CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

Mr. Timothy D. Cremin
Meyers, Nave, Riback, Silver & Wilson
555 12th Street, Suite 1500
Oakland, California 94607
E-Mail: tcremin@meyersnave.com



Re: Public Records Act Request –
Waterworks District #18

Dear Mr. Cremin:

Enclosed, please find those documents responsive to your letter to, and received by, LAFCo on May 1, 2012, requesting records pursuant to the California Public Records Act (Government Code §6250 *et seq.*) (the "PRA").

Consistent with our letter to you dated May 10, 2011, as part of the ongoing litigation between City of Fresno and LAFCo concerning Waterworks District #18 (*City of Fresno v. Fresno County Local Agency Commission* (Case No. 11CECG03812)) (the "Litigation"), LAFCo has reviewed the records in its possession and has determined that the records provided to you as part of the administrative record for the litigation are responsive to items one through three and five through eight on your list. We are not aware of any additional disclosable records responsive to these items.

Likewise, with respect to your third request regarding documents and/or communications from any Friant Ranch entity to LAFCo concerning the application, processing, and/or approval of the Waterworks District #18 approvals, all such records in LAFCo's possession dated on or before September 28, 2011, have been provided to you as part of the Litigation. Enclosed herewith are documents dated after September 28, 2011 that are responsive to this request.

Further, with respect to your fourth request regarding all documents and/or communications relating to the indemnification provided to LAFCo for any challenge to the Waterworks District #18 approvals, enclosed herewith are documents dated after September 28, 2011 that are responsive to this request.

Finally, with respect to your ninth request regarding documents and/or communications relating to Waterworks District #18 approvals dated after September 28, 2011, enclosed herewith are documents dated after September 28, 2011 that are responsive to this request.

As previously explained, some of the records you have requested are subject to exemptions contained in Section 6253, *et seq.*, of the Public Records Act including, but not limited to, (i) preliminary drafts, notes, or intra-agency memoranda not retained by LAFCo in the ordinary course of business; (ii) attorney-client privileged communications; and (iii) legal counsel memoranda.

As stated previously, the PRA normally allows for a public agency to charge for copying the disclosable records. LAFCo charges $.010 per page. However, as a courtesy, LAFCo is providing the relevant documents on a DVD and, therefore, there is no charge for copying.

Should you have any questions, please do not hesitate to let me know.

Very truly yours,

Kenneth J. Price
BAKER MANOCK & JENSEN, PC

KJP/AMN:sdg

cc: Mr. Jeff Witte
Executive Director
Fresno Local Agency Formation Commission

County of Fresno

COUNTY CLERK / REGISTRAR OF VOTERS
VICTOR E. SALAZAR

List of Notices that Need to be Removed

File Number	Project Title / Project Applicant Name	Agency File Number	Notice Description	Posted Date
E201110000269	FINDINGS REGARDING FRIANT COMMUNITY PLAN UPDATE AND FRIANT RANCH SPECI FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCO)		NOTICE OF DETERMINATION	10/03/2011
E201110000269	FINDINGS REGARDING FRIANT COMMUNITY PLAN UPDATE AND FRIANT RANCH SPECI FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCO)		ADMINISTRATION FEE	10/03/2011
E201110000270	MUNICIPAL SERVICE REVIEWS AND SPHERE OF INFLUENCE UPDATES PREPARED FOR FRESNO LOCAL AGENCY FORMATION COMMISSION		CATEGORICAL EXEMPTION	10/03/2011
E201110000270	MUNICIPAL SERVICE REVIEWS AND SPHERE OF INFLUENCE UPDATES PREPARED FOR FRESNO LOCAL AGENCY FORMATION COMMISSION		ADMINISTRATION FEE	10/03/2011

REMOVED BY: Victoria M. Segura
ON: 11/02/2011

STATE OF CALIFORNIA - THE RESOURCES AGENCY
DEPARTMENT OF FISH AND GAME

ENVIRONMENTAL FILING FEE CASH RECEIPT

Receipt # E201110000269

Lead Agency: FRESNO LOCAL AGENCY FORMATION COMMISSION Date: 10/03/2011

County Agency of Filing: FRESNO COUNTY CLERK Document No: E201110000269

Project Title: FINDINGS REGARDING FRIANT COMMUNITY PLAN UPDATE AND FRIANT RANCH SPECI

Project Applicant Name: FRESNO LOCAL AGENCY FORMATION COMMISSION Phone Number: (559) 495-0604

Project Applicant Address: 2115 KERN STREET SUITE 310, FRESNO, CA 93721

Project Applicant: LOCAL PUBLIC AGENCY

ADMINISTRATION FEE		$	50.00
NOTICE OF DETERMINATION		$	0.00
	Total Received	**$**	**50.00**

Signature and title of person receiving payment: Victoria M. Lopez

STATE OF CALIFORNIA - THE RESOURCES AGENCY
DEPARTMENT OF FISH AND GAME

ENVIRONMENTAL FILING FEE CASH RECEIPT

Receipt # E201110000269

Lead Agency: FRESNO LOCAL AGENCY FORMATION COMMISSION Date: 10/03/2011

County Agency of Filing: FRESNO COUNTY CLERK Document No: E201110000269

Project Title: FINDINGS REGARDING FRIANT COMMUNITY PLAN UPDATE AND FRIANT RANCH SPECI

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Project Applicant: LOCAL PUBLIC AGENCY

ADMINISTRATION FEE		$	50.00
NOTICE OF DETERMINATION		$	0.00
	Total Received	**$**	**50.00**

Signature and title of person receiving payment: Victoria M. Najera

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
2115 KERN STREET, SUITE 310, FRESNO, CA 93721 – 559-495-0604

NOTICE OF DETERMINATION

To:
Fresno County Clerk
2221 Kern Street
Fresno, CA 93721

FILED
OCT 03 2011
FRESNO COUNTY CLERK
By _____ DEPUTY

From:
Fresno Local Agency Formation Commission
2115 Kern Street, Suite 310
Fresno, CA 93721
559-495-0604

Subject: Filing of Notice of Determination in Compliance with Section 21151.1 of CEQA

Project Title: Findings regarding Friant Community Plan Update and Friant Ranch Specific Plan Environmental Impact Report (SCH # 2007101016); "Sphere of Influence Amendment" RSOI-156 and related "Municipal Service Review MSR-11-6"; "Friant Ranch Annexation" AD-11-1; "Exercise of Latent Powers" EP-11-1

State Clearinghouse Number:

Contact Person: Jeff Witte **Phone No.:** (559) 495-0604 **Lead Agency**: County of Fresno

Project Location: Unincorporated territory located adjacent to the existing community of Friant. See attached map.

Project Description: Amendment to the Sphere of Influence for Waterworks District No. 18 to include the portion of the Friant Ranch Specific Plan approved by the Fresno County Board of Supervisors. The annexation to Waterworks District No. 18 of approximately 520 acres located adjacent to the existing community of Friant. Activate latent wastewater authority of Waterworks District No. 18 to allow provision of sewage collection and disposal services in addition to the water services it is now providing.

This is to advise that LAFCo, the Responsible Agency, has considered the EIR as prepared and certified by the lead agency on February 1, 2011, and has approved the project described above on September 28, 2011, and has made the following determination(s) regarding this project:

1. The project **will have** a significant effect on the environment.
2. An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.

E201110000269

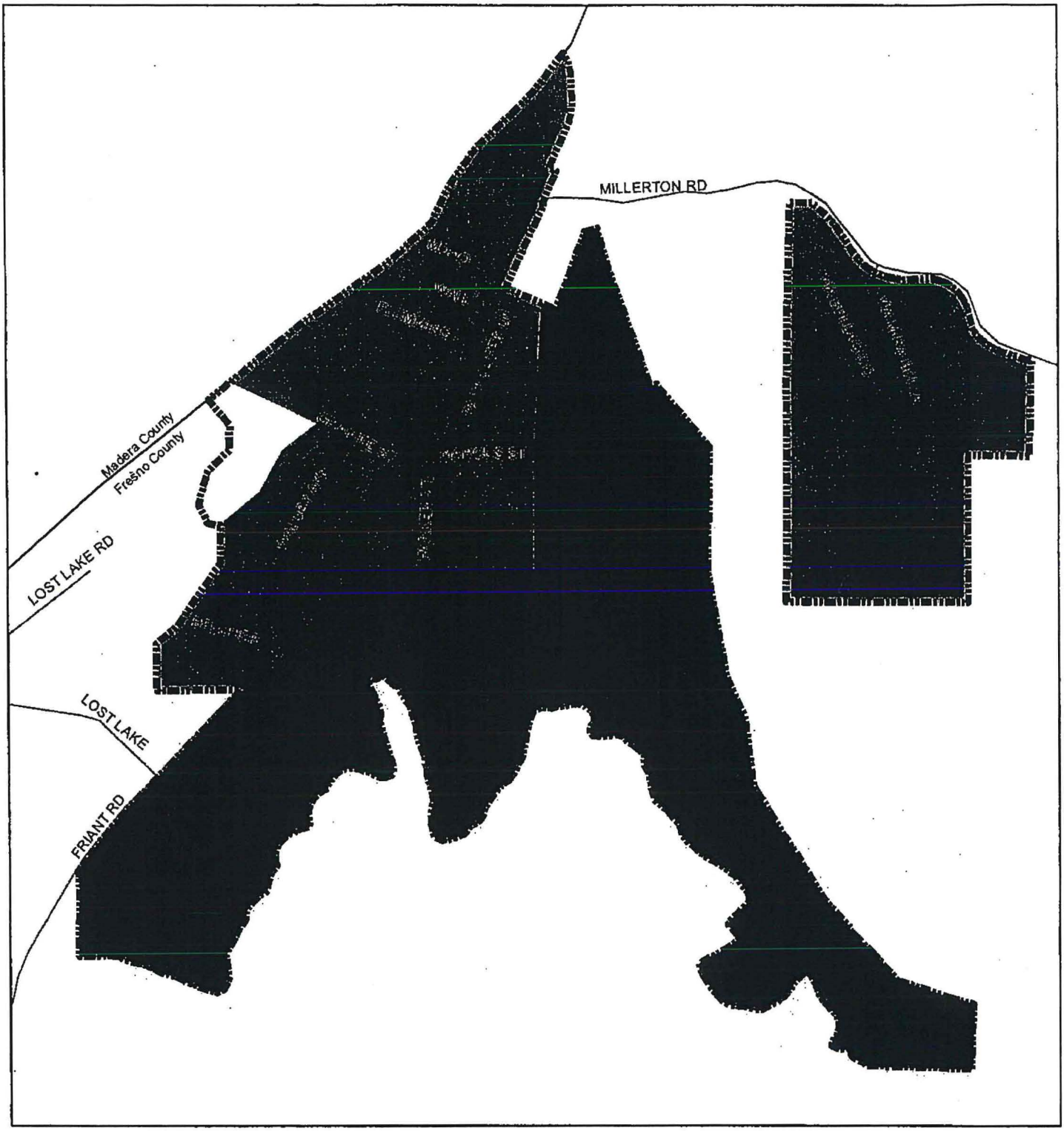
3. Mitigation measures **were made** a condition of the approval of the project.
4. A statement of Overriding Considerations **was adopted** for the project.

This is to certify that the Final EIR and the administrative record for this project are available to the General Public at the Fresno Local Agency Formation Commission 2115 Kern Street, Suite 310, Fresno, CA 93721.

Jeff Witte

Jeff Witte Executive Officer — **Date** OCT 3, 2011

EXHIBIT "A"



Legend

- District SOI
- District Area
- Affected Territory

Waterworks District No. 18 "Sphere of Influence Revision", "Friant Ranch Annexation", and "Extension of Wastewater Services" (LAFCo File Nos. RSOI-156, AD-11-1, and EP-11-1)

N
W E
S

0 0.5 1 Miles

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCO)
2115 KERN STREET, SUITE 310, FRESNO, CA 93721 – 559-495-0604

NOTICE OF DETERMINATION

To:
Fresno County Clerk
2221 Kern Street
Fresno, CA 93721

From:
Fresno Local Agency Formation Commission
2115 Kern Street, Suite 310
Fresno, CA 93721
559-495-0604

Subject: Filing of Notice of Determination in Compliance with Section 21151.1 of CEQA

Project Title: Findings regarding Friant Community Plan Update and Friant Ranch Specific Plan Environmental Impact Report (SCH # 2017101016); "Sphere of Influence Amendment" RSOI-156 and related "Municipal Service Review MSR-11-6"; "Friant Ranch Annexation" AD-11-1; "Exercise of Latent Powers" EP-11-1

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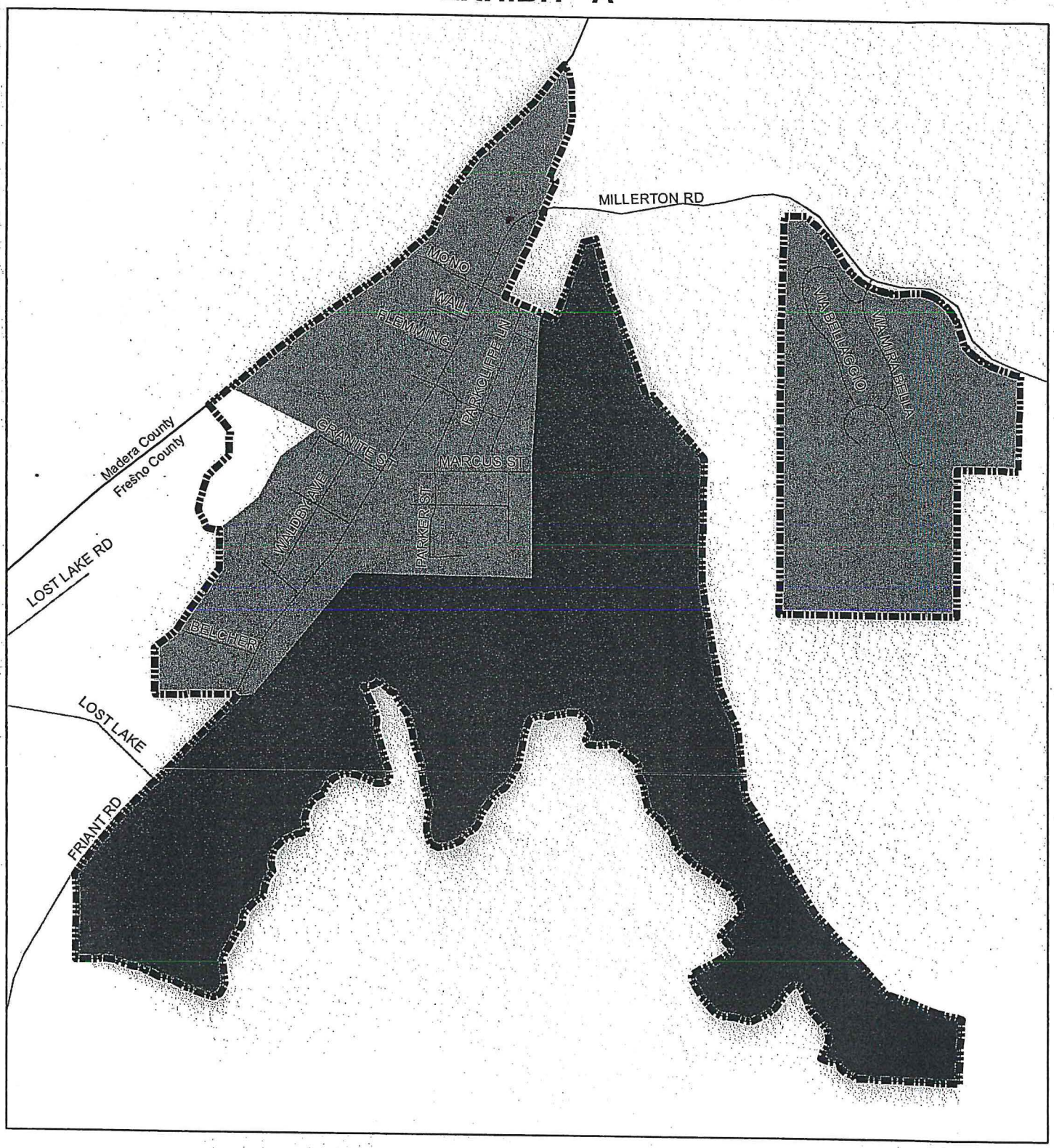
Jeff Witte

Jeff Witte, Executive Officer

Oct 3, 2011

Date

EXHIBIT "A"



Legend

- District SOI
- District Area
- Affected Territory

Waterworks District No. 18 "Sphere of Influence Revision", "Friant Ranch Annexation", and "Extension of Wastewater Services" (LAFCo File Nos. RSOI-156, AD-11-1, and EP-11-1)

0 0.5 1 Miles

N W E S

County of Fresno

Paul Dictos, C.P.A.
Assessor - Recorder

2/29/2012

Local Agency Formation Commission
2607 Fresno Street, Suite B
Fresno, CA 93721

Re: 2012-13 Assessment Roll

Dear Mr. Ballantyne:

This will acknowledge that the below change has been filed with this office pursuant to Section 54,900 et. seq. of the Government Code.

Date Filed: FEBRUARY 27, 2012
City/ District: WATERWORKS DISTRICT NO 18

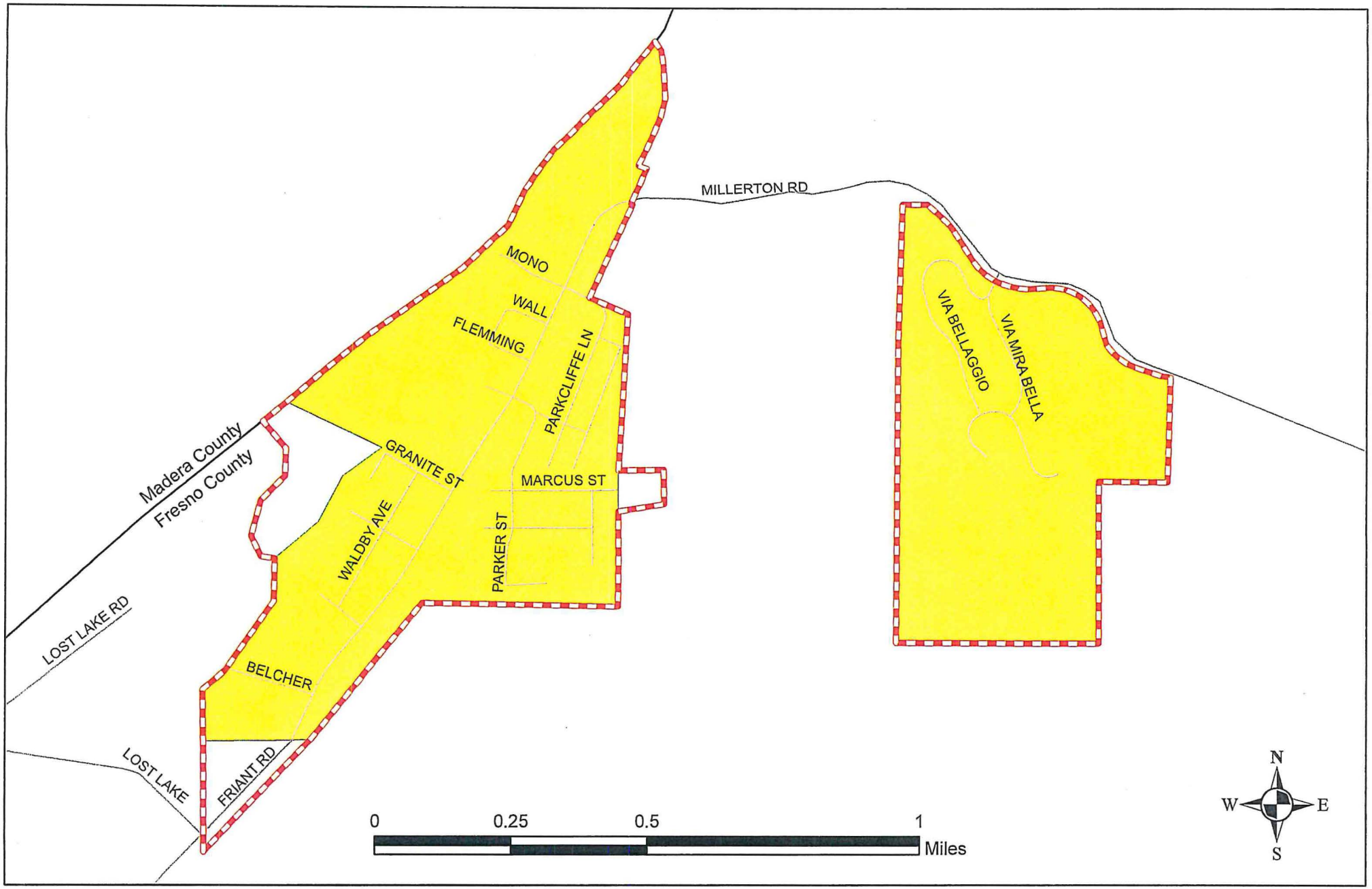
Ord./Resolution #: AD-11-1A

Subject: FRIANT RANCH ANNEXATION.



Yours Truly,
Paul Dictos, C.P.A.
Fresno County Assessor

Virginia Quevedo
Cadastral Technician III



Fresno Local Agency Formation Commission
Waterworks District No. 18 - Friant

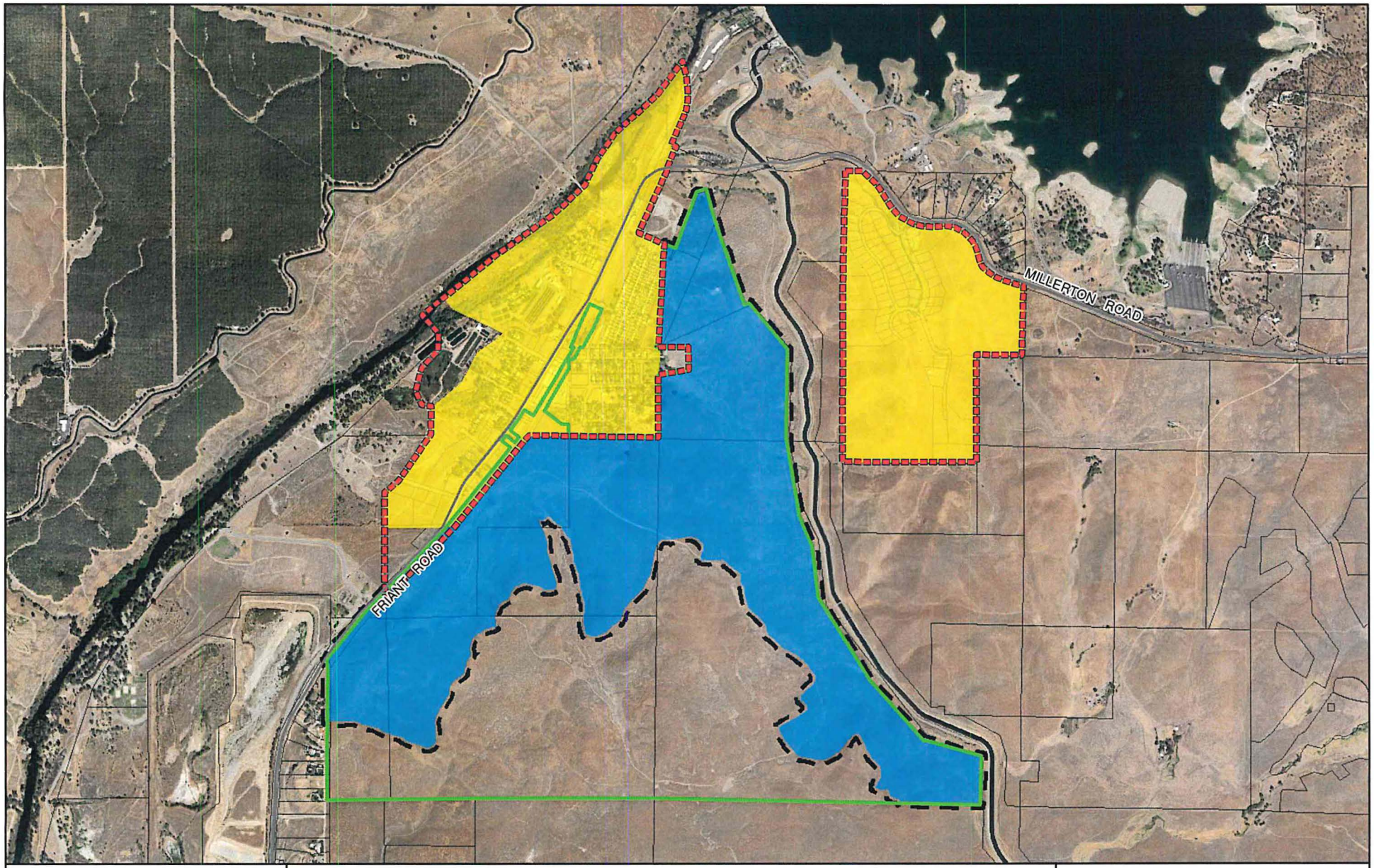
FIGURE 1
(EXISTING)

Legend

- District SOI
- District Area

District Formed: 1954
SOI Adopted: 6/25/1975
SOI Updated: 2/09/2011

Map Date: March 2011
District Area: 444 Acres
Sphere Area: 475 Acres



0 1,000 2,000 Feet

EST. 1868
PROVOST& PRITCHARD
CONSULTING GROUP
An Employee Owned Company

286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

Legend

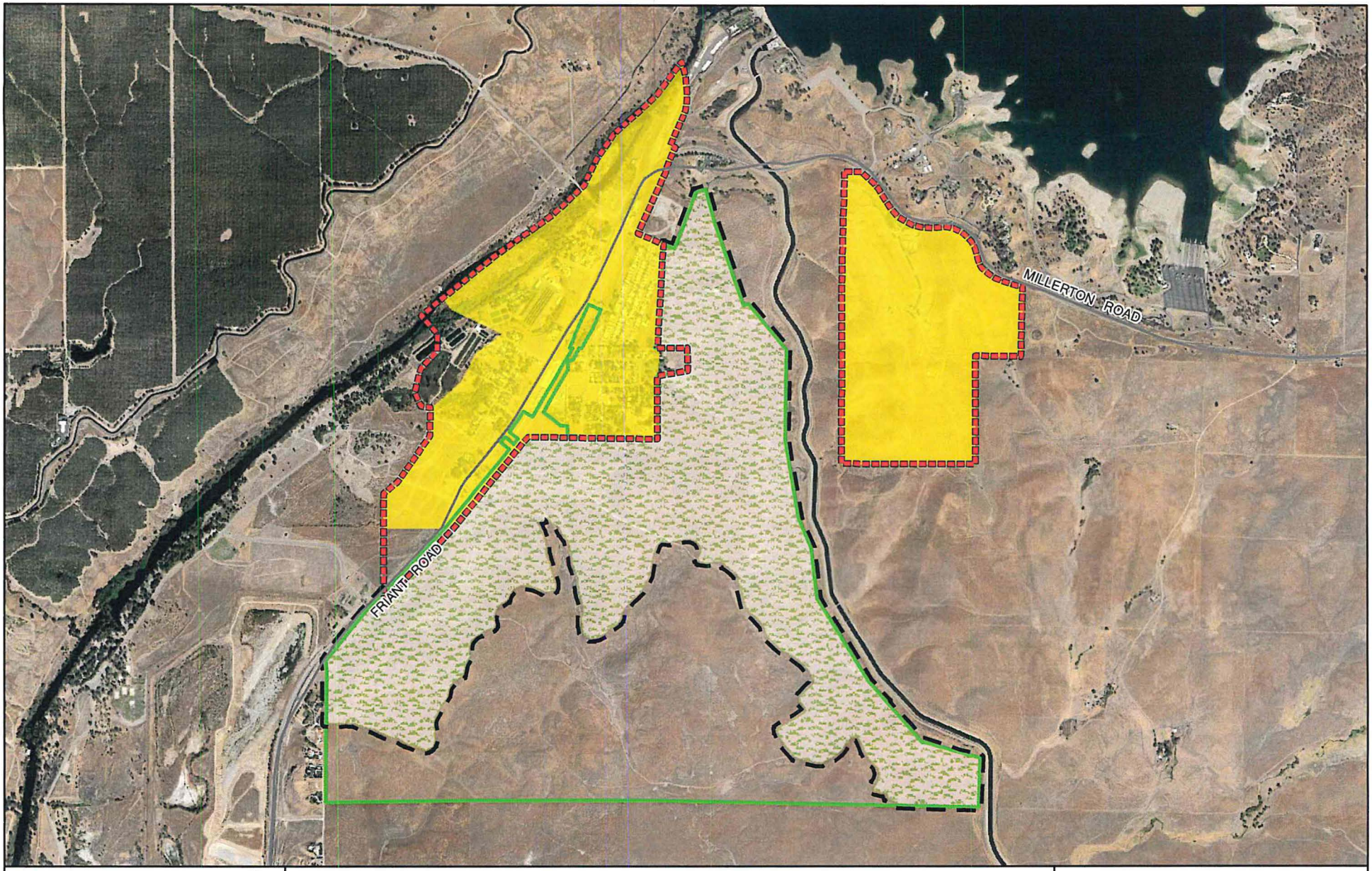
- District SOI
- District Area
- Proposed District Area Expansion
- Friant Ranch Specific Plan Boundary
- Proposed SOI Expansion

Figure 2

Proposed SOI Expansion

Waterworks District No. 18

3/17/2011 \\pineflat\dwg_dgn\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Boundary_Annexation.mxd



0 1,000 2,000 Feet

EST. 1968
PROVOST& PRITCHARD
CONSULTING GROUP
An Employee Owned Company

286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

Legend

- District SOI
- District Area
- DWR 2000 Land Use
- Friant Ranch Specific Plan Boundary
- Proposed SOI Expansion

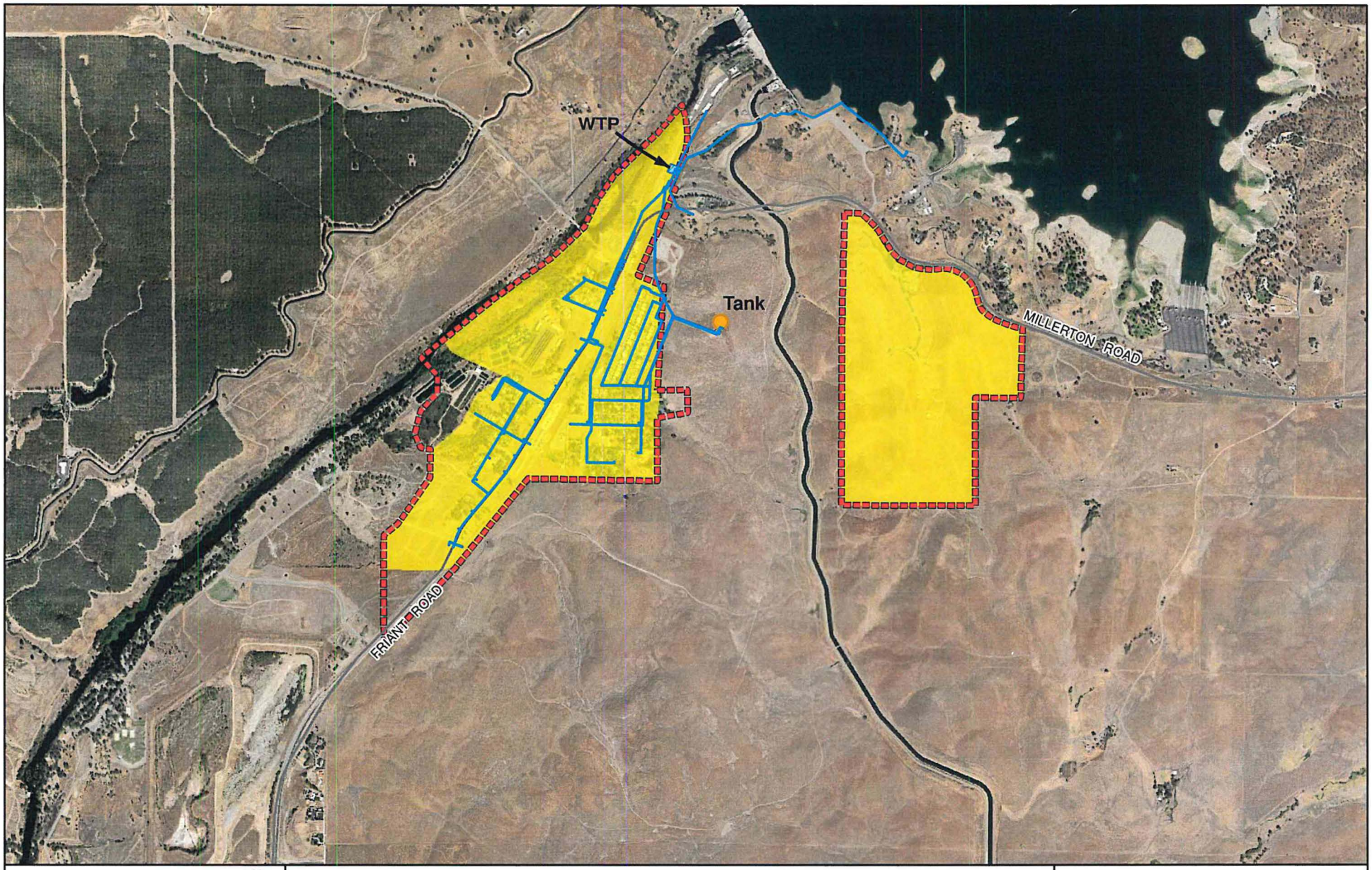
NOTE:
ALL LAND WITHIN THE PROPOSED SOI EXPANSION IS NATIVE VEGETATION ACCORDING TO THE LATEST DWR LAND USE SURVEY (FRESNO COUNTY, 2000)

Figure 3

Existing Land Use Within Proposed SOI Expansion

Waterworks District No. 18

3/17/2011 \\pineflat\dwg_dgn\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Boundary_Annexation_Landuse.mxd



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EST. 1968
PROVOST& PRITCHARD CONSULTING GROUP
An Employee Owned Company
286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

Legend

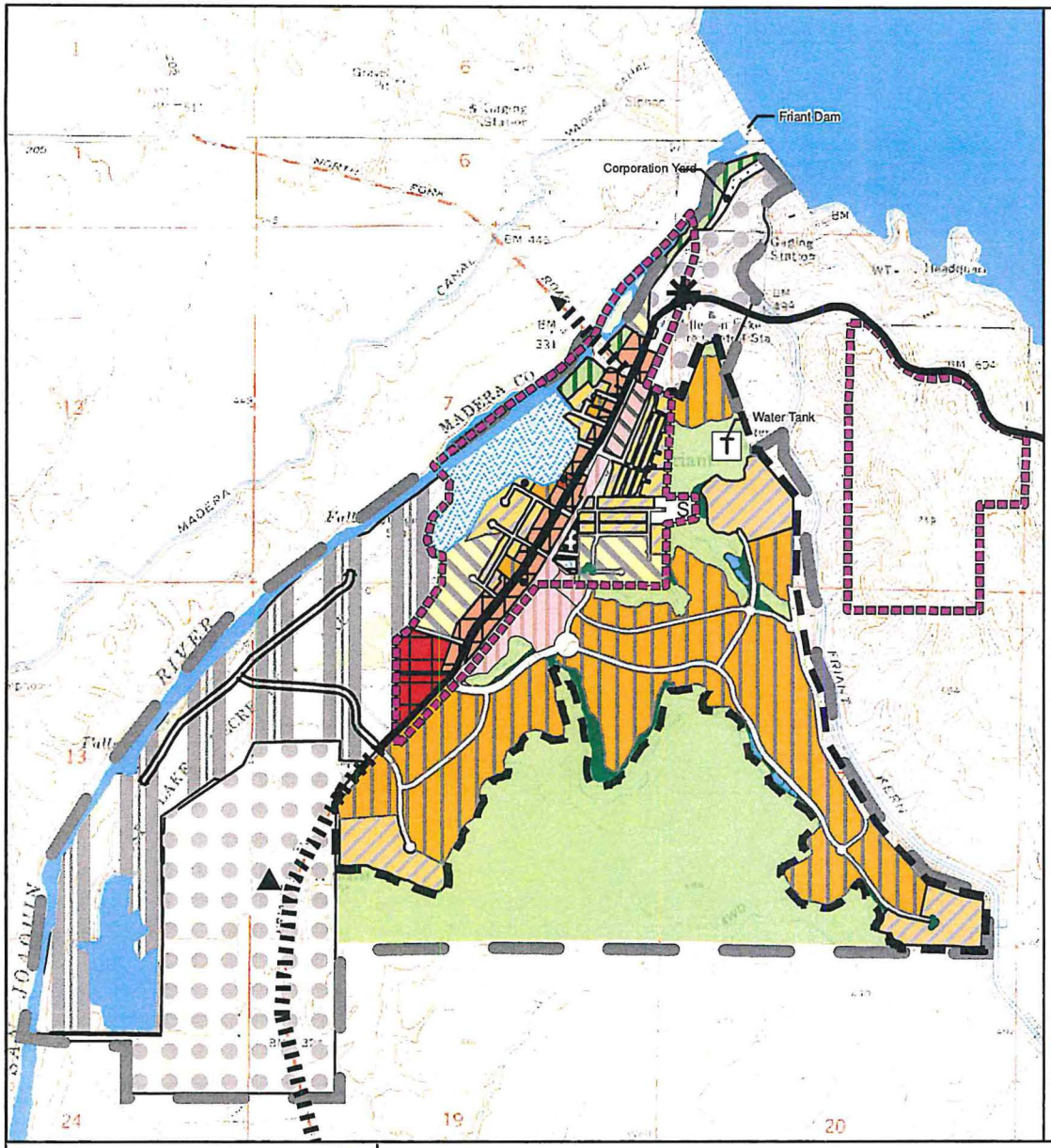
- District SOI
- District Area
- Water Treatment Plant (WTP)
- Existing Water Line
- Tank

Figure 4

Proposed SOI Expansion
Existing Utilities

Waterworks District No. 18

3/17/2011 \\pineflat\dwg_dgn\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Utilities_Exist.mxd



Legend

Land Use

Agriculture

Residential

- Low Density
- Medium Density
- Medium High

Commercial

- Highway
- Special
- Community
- Indicates change from Low Density Residential to Highway Commercial

Open Space

- Lost Lake Regional Park
- Floodplain
- Undisturbed Open Space
- Revegetated Slopes

Circulation

- Expressway
- Park Drive
- Arterial

Friant Community Plan Boundary

WWD 18

- Existing District SOI
- Proposed SOI Expansion

Public Facilities

- Sewage Treatment Plant
- Fish Hatchery
- Telephone Relay Station
- CY — Corporation Yard
- S — School
- P — Post Office
- Water Treatment Plant (WWD #18)
- T — Potable Water Tank (WWD #18)
- Proposed Sewage Treatment Plant

0 1,500 3,000 Feet

N

EST. 1968
PROVOST& PRITCHARD
CONSULTING GROUP
An Employee Owned Company
286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

Figure

Proposed SOI Expansion
Friant Community Plan
Land Use Map (Feb. 2011)

Waterworks District No. 18

3/17/2011 G:\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Comm_LUse.mxd

AGENDA ITEM NO. 14

SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: 415 552-7272 F: 415 552-5816
www.smwlaw.com

TAMARA S. GALANTER
Attorney
galanter@smwlaw.com

September 27, 2011

Via E-Mail and Facsimile

Chairman and Commissioners of the Fresno
County Local Agency Formation
Commission
Fresno Local Agency Formation
Commission
2115 Kern Street, Suite 310
Fresno, CA 93721

Re: Fresno County Waterworks District 18 Approvals

Dear Chairman and Commissioners of the Fresno County Local Agency Formation Commission:

This letter is submitted on behalf of our client, the San Joaquin River Parkway and Conservation Trust, Inc. (the "Trust"). On September 28, 2011, the Commission will consider the application of Fresno County Waterworks District 18 ("District 18") to expand its boundaries and services through a Municipal Service Review (LAFCo File No. MSR-11-6), a Sphere of Influence Revision (LAFCo File No. RSOI-156), the "Friant Ranch Annexation" (LAFCo File No. AD-11-1), and an Extension of Powers to provide wastewater service (LAFCo File No. EP-11-1).

These approvals would allow District 18 to provide water and wastewater services to the Friant Ranch Project ("Project"), a 2,500-unit residential development recently approved by Fresno County and currently the subject of three lawsuits, including a suit by the Trust. Specifically, the approvals would amend District 18's Sphere of Influence to encompass the Friant Ranch Specific Plan area, allow District 18 to annex approximately 520 acres to its service area, and allow District 18, for the first time, to provide wastewater services. These approvals would violate the California Environmental Quality Act ("CEQA") and the Cortese-Knox-Hertzberg Local

Government Reorganization Act ("CKH Act"). Accordingly, the Trust requests that the Commission deny District 18's application for these approvals.

I. Background on the Friant Ranch Project

On February 1, 2011, the County certified the Environmental Impact Report ("EIR"), and approved a series of amendments to its governing land use regulations, for the Project. The County's approval would allow development of a "master-planned active adult lifestyle community" of 2,500 new homes and 250,000 square feet of office and retail space on 942 acres in the rolling foothills of the Sierra Nevada. The Project would cause a host of significant, and allegedly unavoidable, impacts on the area's parks, scenic open space, water supply, water quality, air quality, biological resources, and agricultural resources.

However, the EIR the County prepared for the Project fails to adequately analyze, disclose to the public, and mitigate these impacts. The Trust's Petition and Complaint, which details the inadequacies of the County's EIR, is attached to this letter as Exhibit A and is incorporated by reference. For example:

(1) The EIR fails to adequately analyze, disclose, or mitigate the water quality impacts from the wastewater treatment plant, including impacts from pharmaceuticals, endocrine disruptors, and other contaminants that will not be removed by treatment. In particular, the EIR does not adequately analyze whether water from the plant that is impounded on the Beck Property or is used to irrigate nearby lands will seep into the groundwater or the San Joaquin River. Furthermore, the EIR does not adequately analyze the impacts of the wastewater treatment plant in its alternative riverbottom location on the Beck Property, where it is more likely that untreated sewage would reach the San Joaquin River in the event of an accidental release. Finally, the EIR contains inconsistent statements about whether the wastewater treatment plant will discharge effluent directly into the San Joaquin River.

(2) The EIR fails to adequately analyze and mitigate growth-inducing impacts. The Project will add 2,500 new homes and 250,000 square feet of office and retail space on previously undeveloped land. The Project will also expand public services in this area by, among other things, providing more water than is needed for the Project and constructing a new wastewater treatment plant with capacity in excess of that needed to serve the Project. The EIR acknowledges that the Project provides more water and wastewater treatment capacity than is necessary for the proposed development. However, the EIR fails to adequately analyze the growth-including impacts of

providing this capacity, which will remove two of the most important constraints on further urban development in the area.

(3) The EIR fails to adequately analyze or mitigate the Project's impacts on nearby parks, including Lost Lake Park, Millerton Lake State Recreation Area, and San Joaquin River Parkway, even though the Project is specifically designed to attract users to these parks. Indeed, the Project's main entrance is directly across from the entrance to Lost Lake Park, and the trails in the Specific Plan Area will connect to park trails. A report prepared on behalf of the Trust and attached to this letter as Exhibit B shows that the cost to offset the impacts to the parks will be $1.7 to $2.4 million. Despite the potential for thousands of new users, the EIR fails to adequately describe the existing conditions at the parks, fails to meaningfully analyze the impacts of the Project on the parks, and fails to identify mitigation measures for these impacts.

(4) The EIR also fails to adequately analyze the impacts of the planned transfer of 2,000 acre-feet of water from the Lower Tule River Irrigation District. The EIR does not disclose the source of the water the Irrigation District will use, particularly in dry years, to replace the transferred water so that it can fulfill its commitments to other users. Because it does not identify the source of this water, the EIR fails to adequately analyze or mitigate the water transfer's impacts, including cumulative impacts, on biological resources and water supply.

(5) The EIR fails to identify or analyze feasible mitigation measures to address the significant impact on agricultural land. The Project will re-zone approximately 900 acres of agricultural land to non-agricultural uses. Although the EIR concludes that the Project's impact on agricultural resources will be significant, it states, without explanation, that no mitigation measures are "available." There is no substantial evidence to support this conclusion. Indeed, the Department of Conservation and others proposed specific measures to mitigate the Project's impacts on agricultural resources. The County attempts to conceal this failure to include agricultural mitigation by pointing out that grazing land will be preserved as mitigation for biological impacts. However, this land was analyzed as mitigation for impacts to particular species, not as mitigation for loss of agricultural lands.

(6) The EIR fails to adequately analyze or mitigate air quality impacts. For instance, according to the comments submitted by the San Joaquin Valley Air Pollution Control District, the threshold of significance for particulate matter of 10 micrometers or less ("PM10") is 15 tons per year. The County omitted this threshold when it prepared the Draft EIR and improperly concluded that construction on several phases of the Project

will not have significant impacts on air quality. However, construction of these portions of the Project will still result in PM10 emissions of more than 15 tons per year, a fact that the EIR failed to disclose as significant, and for which it failed to identify or adopt adequate mitigation. Furthermore, the EIR fails to analyze feasible mitigation measures to address the significant air quality impacts that will occur as a result of this new town located miles from urban services in Fresno and Clovis.

(7) The EIR fails to adequately analyze and mitigate impacts to biological resources. For instances, the mitigation measures identified in the EIR for many species, including the California Tiger Salamander, the Vernal Pool Fairy Shrimp, the Western Spadefoot, Swainson's Hawk, and the Burrowing Owl, are inadequate to reduce the impacts to those species to less than significant because they do not require preservation of habitat outside of the Project area.

(8) The EIR fails to adequately disclose, analyze, and mitigate, or consider feasible mitigation measures for, the Project's significant cumulative impacts. Among other things, the EIR improperly concludes that because the project-level impacts are less than significant, the cumulative impacts are also less than significant. The EIR must, and fails to, analyze whether the Project's impacts, even if individually insignificant, are cumulatively considerable.

(9) The EIR fails to adequately analyze and mitigate the aesthetic impacts of the Project. Although the Project will result in construction of a new city on presently undeveloped land alongside a scenic highway, the EIR fails to describe the undeniable visual impacts of the proposed development except to say that there will be "increased urbanization." The EIR fails to produce any illustrations of the Project's likely effect on scenic vistas or its effect on the portion of Friant Road designated a scenic highway. Similarly, the wastewater treatment plant alternative does not evaluate the aesthetic impact of the new treatment buildings in meaningful detail, even though the buildings will be next to Friant Road and Lost Lake Park. Because of its failure to adequately analyze the aesthetic impacts of the Project, the EIR reaches the unwarranted conclusion that the development of 2,500 new homes and 250,000 square feet of commercial space will not have a significant impact on aesthetics.

The County's approval also violates State Planning and Zoning Law by adopting a Project that is fatally inconsistent with Fresno County's General Plan. The General Plan requires the County to maintain agriculturally designated areas for agricultural use and to direct urban growth away from valuable agricultural lands.

However, the Project does just the opposite by directing urban growth toward valuable agricultural lands.

Accordingly, the Trust filed suit against the County and Real Party in Interest Friant Ranch, LP on March 4, 2011, alleging violations of CEQA and State Planning and Zoning Law.

II. The Commission's Approval of District 18's Application Would Violate CEQA.

The CEQA Guidelines require the Commission, as a responsible agency, to comply with CEQA "by considering the EIR or Negative Declaration prepared by the [County] and by reaching its own conclusions on whether and how to approve the project involved." Guidelines § 15096(a). The Commission must "consider the environmental effects of the project as shown in the EIR" and mitigate or avoid the "*direct or indirect* environmental effects of those parts of the project which it decides to carry out, finance, or approve." *Id.* § 15096(f), (g) (emphasis added).

The Commission "shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment." *Id.* § 15096(g). The Commission must also adopt the findings required by Public Resources Code section 21081 and where, as with this Project, there are unmitigated significant impacts, a statement of overriding considerations as required by CEQA Guidelines section 15093. *Id.* § 15096(h). Finally, the Commission must assume the role of lead agency if the lead agency has prepared inadequate environmental review documents. *Id.* § 15052.

The approvals District 18 seeks would allow it to provide water services in an expanded area, including to the Project, and would allow it, for the first time, to provide wastewater services. The direct impact of these approvals would include the construction of a new wastewater treatment facility, expansion of the existing water treatment facility, and construction of pipelines and other infrastructure. These approvals may also lead to a 2,000 acre-foot transfer of water from the Lower Tule River Irrigation District to District 18. Ultimately, however, these approvals would allow for the area to support thousands of new residents.

As an initial matter, the Commission has failed to analyze and mitigate the *indirect* environmental effects of those parts of the Project that it proposes to approve. In

its findings, the Commission considers only direct impacts, in violation of CEQA Guidelines section 15096. Most significantly, by allowing District 18 to provide wastewater service and expanded water service, these approvals would remove two of the most important constraints on urban growth in this undeveloped area that the County has long planned to retain for agriculture. The Commission has failed to evaluate the growth-inducing impacts of providing more water than is needed for the Project and constructing a new wastewater treatment plant with capacity in excess of that needed to serve the Project. Thus, the Commission's approval of District 18's application would violate CEQA because the Commission has not properly considered the indirect environmental impacts of the Project.

The Commission also improperly relies on the Friant Ranch EIR for its CEQA analysis. As described above the EIR fails to adequately analyze many significant impacts of the Project, including the impacts of providing expanded water and wastewater services, construction of infrastructure to provide those services, and the growth-inducing impacts of providing those services. The EIR also fails to adequately analyze the Project's water supply impacts and the biological and other impacts of the water transfer. Because the County's environmental review is inadequate, the Commission must assume the duties of a lead agency in preparing an adequate EIR for the Project.

Furthermore, the Commission must adopt feasible mitigation measures and alternatives within its powers to mitigate the direct and indirect environmental effects of the portions of the Project it is approving. For example, the Commission should require District 18 to complete negotiations for a the Project's water source and provide documentation that an agreement is in place to deliver such water. The Commission should also require District 18 to provide a higher level of wastewater treatment to protect the San Joaquin River from discharges from the new wastewater treatment plant. For instance, the risk of indirect discharge could be mitigated by lining the effluent pond. with a high-density polyethylene to protect the river.

The Commission incorrectly concludes that nearly all alternatives and mitigation measures are outside of its authority. Indeed, the only mitigation measure that the Commission evaluates is requiring District 18 to use the new wastewater treatment plant to supply wastewater service to Millerton Lake Village Mobile Home park. This "mitigation" measure does not actually mitigate any direct or indirect impacts of the approvals themselves and actually will result in additional impacts that have not been analyzed in the EIR.

The Commission's proposed findings and statement of overriding considerations with regard to the Project are also inadequate under CEQA. The proposed findings improperly conclude that nearly all mitigation measures and alternatives that reduce the Project's impacts are outside its authority. The Commission also has not supported its conclusion that economic, social, or other benefits support these approvals regardless of the significant environmental impacts with substantial evidence. Indeed, the Commission cannot conclude that overriding considerations support these approvals because these approvals will violate the CKH Act and the Commission's own policies. Thus, the Commission's approval of the District's application would violate CEQA.

III. The Commission Approval of District 18's Application Would Violate the CKH Act.

The approval of District 18's application would run afoul of the CKH Act's goal of "promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services." Govt. Code § 56001.

In furtherance of the goal of promoting orderly development and discouraging sprawl, the CKH Act requires the Commission to consider certain factors when reviewing District 18's application for an expansion of its sphere of influence and for its proposed annexation. Govt. Code §§ 56425, 56668, 56668.3. The Commission has failed to adequately analyze these factors.

In particular, District 18's proposal to expand the services it provides and its service boundaries would cause growth in unincorporated and unpopulated areas containing valuable agricultural land and open space. It would extend significant public services outside existing urban boundaries, and it would require an additional water supply that District 18 has not shown is available. The Commission must also consider the comments of affected local agencies, such as the City of Fresno, which opposes approval of District 18's proposal. *Id.* § 56668.

This approval would also place the administration of water and wastewater services for a substantial number of people in the hands of an operator of a small water distribution system that currently services roughly 283 connections. The Commission has failed to consider whether District 18 has the expertise and financial resources to provide this level and type of service.

The Commission's own policies and standards, outlined in the Commission Policies, Standards, and Procedures Manual, prohibit approval of District 18's application. In particular section 103.03 provides that:

> Annexation proposals to cities or districts providing urban services to undeveloped or agricultural parcels shall show that urban development is imminent for all or a substantial portion of the proposal area; that urban development will be contiguous with existing or proposed development; and that a planned, orderly, and compact urban development pattern will result. Proposals resulting in a leap frog, non-contiguous urban development patterns shall be discouraged.

Similarly, section 104.01 discourages proposals that "conflict with the goals of maintaining the physical and economic integrity of open space lands, agricultural lands, or agricultural preserve areas in open space uses, as indicated on the City or County general plan," and section 210.05 requires that annexations not encourage urban sprawl.

District 18's proposal, however, does not show that urban development will be contiguous with existing or proposed development or that a compact urban development pattern will result. Instead, the proposal shows that the Project is surrounded by agricultural land and open space on nearly all sides and will result in a giant "leap-frog" type development miles from the City of Fresno.

Finally, District 18's Plan for Services fails to meet the requirements of Government Code section 56653 because it does not contain the information required by subsection (b). The Plan for Services also does not contain the information required by section 56824.12 for a proposal to provide a different class of services.

IV. Conclusion

Approval of District 18's application would result in significant and unmitigated environmental impacts, and would violate CEQA and the CKH Act. Accordingly, the Trust respectfully requests that the Commission disapprove the Municipal Service Review, the Sphere of Influence Revision, the "Friant Ranch Annexation," and the Extension of Powers requested by District 18.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

Tamara S. Galanter
Jaclyn H. Prange

Attachments
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EXHIBIT A

COPY

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FILED
MAR 04 2011
FRESNO COUNTY SUPERIOR COURT
By _____ CSP - DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF FRESNO

SAN JOAQUIN RIVER PARKWAY AND CONSERVATION TRUST, INC.,

Petitioner,

v.

COUNTY OF FRESNO, FRESNO COUNTY BOARD OF SUPERVISORS, and DOES 1-20,

Respondents.

FRIANT RANCH, LP, BIGELOW SILKWOOD FRIANT RANCH LP, MARTIN & ASSOCIATES, LLC, and DOES 21-40,

Real Parties in Interest.

Case No. 11CECG00709

VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

[CCP § 1085 (§ 1094.5); California Environmental Quality Act ("CEQA"); State Planning and Zoning Law; Fresno County General Plan]

BY FAX

INTRODUCTION

1. This action challenges the decision of Fresno County ("the County") and the Fresno County Board of Supervisors (collectively "Respondents") to approve the development of what is essentially a whole new town in an undeveloped and unincorporated area of the County. Specifically, on February 1, 2011, the County certified the Environmental Impact Report ("EIR"), and approved a series of amendments to its governing land use regulations, for the so-called Friant Ranch Project ("the Project"). The County's approval would allow Real Parties in Interest to develop a "master-planned active adult lifestyle community" of 2,500 new homes and 250,000 square feet of office and retail space on 942 acres in the rolling foothills of the Sierra Nevada. The Project would cause a host of significant, and allegedly unavoidable, impacts on the area's parks, scenic open space, water supply, water quality, air quality, biological resources, and agricultural resources.

2. However, the EIR Respondents prepared for the Project fails to adequately analyze, disclose to the public, and mitigate these impacts. For instance, the EIR fails to adequately analyze or disclose, let alone mitigate, the impact of thousands of new residents on the region's parks, including Lost Lake Park and Millerton Lake State Recreation Area, even though the Project is specifically designed to attract users to these parks. The EIR improperly focuses on how the parks will serve the development, rather than how the development may cause deterioration of the parks.

3. The Project also includes a new wastewater treatment plant. The Draft and Final EIRs informed the public that this industrial facility would be constructed as an expansion of the existing wastewater treatment plant in the already developed community of Friant. Shortly before the final hearing at which it approved the Project, the County informed the public for the first time that this treatment plant would be constructed at an allegedly "environmentally superior" alternative location on riverbottom land immediately adjacent to Lost Lake Park. This site is only 1,000 feet away from critical spawning habitat created as part of a multi-million dollar effort to reintroduce native salmon species to the San Joaquin River. However, the impacts of moving the treatment plant to this alternative riverbottom location are insufficiently

analyzed in the EIR. Further compounding this problem, the EIR and the testimony of the County's and the Real Parties' own consultants contained misleading and contradictory statements about whether the effluent from this plant would be discharged into the San Joaquin River. Rather than postponing any decision on the Project until after these discrepancies could be properly investigated and analyzed, the Board of Supervisors approved the Project by a bare majority vote.

4. In a similar vein, the EIR fails entirely to meaningfully analyze the growth-inducing impacts of this new wastewater treatment plant. By providing new sewer capacity this plant would remove one of the most important constraints preventing urban growth in this undeveloped area that the County has long planned to retain for agriculture.

5. As detailed below, these and other inadequacies in the EIR violate the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000 et seq, and the CEQA Guidelines, California Code of Regulations, title 14, section 15000 et seq. ("CEQA Guidelines").

6. Respondents' approval also violates State Planning and Zoning Law by adopting a Project that is fatally inconsistent with Fresno County's General Plan. The General Plan requires the County to maintain agriculturally designated areas for agricultural use and to direct urban growth away from valuable agricultural lands. However, the Project does just the opposite by directing urban growth toward valuable agricultural lands.

PARTIES

7. Petitioner San Joaquin River Parkway and Conservation Trust, Inc. ("the Trust") is a 501(c)(3) non-profit corporation created in 1988 to establish a continuous greenway along 33 miles of the San Joaquin River. The heart of the Trust's mission is to preserve and restore river lands having ecological, scenic, or historic significance. The Trust has a direct and beneficial interest in Respondents' compliance with the requirements of CEQA, the CEQA Guidelines, and State Planning and Zoning Law. These interests will be directly and adversely affected by the Project, which violates provisions of law as set forth in this Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Petition") and which would

cause substantial and irreversible harm to the natural environment. The maintenance and prosecution of this action will confer a substantial benefit on the public by protecting the public from the environmental and other harms alleged herein. The Trust submitted comments to the County objecting to and commenting on the Project and its environmental review.

8. Respondent County of Fresno, a political subdivision of the State of California, is responsible for regulating and controlling land use in the unincorporated territory of the County, including but not limited to implementing and complying with the provisions of CEQA, the CEQA Guidelines, State Planning and Zoning Law, and its own General Plan. Respondent County is the "lead agency" for purposes of Public Resources Code section 21067, with principal responsibility for conducting environmental review for and approving the Project.

9. Respondent Fresno County Board of Supervisors is the duly elected legislative body for Fresno County responsible for compliance with CEQA, the CEQA Guidelines, State Planning and Zoning Law, and the General Plan.

10. The Trust is informed, and on that basis alleges, that Real Party in Interest Friant Ranch, LP is (i) a Project applicant, (ii) a recipient of Project approvals, and/or (iii) an owner of the Project site. The Trust is informed, and on that basis alleges, that Friant Ranch, LP is a corporation conducting business in the State of California.

11. The Trust is also informed, and on that basis alleges, that Real Party in Interest Bigelow Silkwood Friant Ranch LP is (i) a Project applicant, (ii) a recipient of Project approvals, and/or (iii) an owner of the Project site. The Trust is informed, and on that basis alleges, that Bigelow Silkwood Friant Ranch LP is a corporation conducting business in the State of California.

12. The Trust is further informed, and on that basis alleges, that Real Party in Interest Martin & Associates, LLC is (i) a Project applicant, (ii) a recipient of Project approvals, and/or (iii) an owner of the Project site. The Trust is informed, and on that basis alleges, that Martin & Associates, LLC is a corporation conducting business in the State of California.

13. The Trust does not know the true names and capacities, whether individual, corporate, associate or otherwise, of respondents DOE 1 through DOE 20, inclusive, and

therefore sues said respondents under fictitious names. The Trust will amend this Petition to show their true names and capacities when they are known. Each of the DOE respondents is the agent and/or employee of respondent County or the Board of Supervisors for Fresno County, and each performed acts on which this action is based within the course and scope of such respondent's agency and/or employment.

14. The Trust does not know the true names and capacities, whether individual, corporate, associate or otherwise, of real parties in interest DOE 21 through DOE 40, inclusive, and therefore sues said real parties in interest under fictitious names. The Trust will amend this Petition to show their true names and capacities when they are known. Each of the DOE real parties in interest is the agent and/or employee of each other real party in interest, and each performed acts on which this action is based within the course and scope of such real party in interest's agency and/or employment.

JURISDICTION AND VENUE

15. This Court has jurisdiction over the matters alleged in this Petition pursuant to Code of Civil Procedure sections 1085 and 1094.5, and Public Resources Code sections 21168, 21168.5 and 21168.9.

16. Venue is proper in this Court because the causes of action alleged in this Petition arose in Fresno County, where the Project is proposed for development and where the Fresno County Board of Supervisors approved the Project.

17. The Trust has complied with the requirements of Public Resources Code section 21167.5 by serving a written notice of the Trust's intention to commence this action on Respondents on March 4, 2011. A copy of this written notice and proof of service is attached as Exhibit A to this Petition.

18. The Trust has complied with the requirements of Public Resources Code section 21167.6 by concurrently filing a request concerning preparation of the record of administrative proceedings relating to this action.

19. The Trust sent a copy of this Petition to the California Attorney General on March 4, 2011 to comply with the requirements of Public Resources Code section 21167.7. A copy of

the letter transmitting this Petition is attached hereto as Exhibit B.

20. The Trust has performed any and all conditions precedent to filing this instant action and has exhausted any and all available administrative remedies to the extent required by law.

21. The Trust has no plain, speedy or adequate remedy in the course of ordinary law unless this Court grants the requested writ of mandate to require the County to set aside its approval of the Project. In the absence of such remedies, the County's approval will remain in effect in violation of State law.

STATEMENT OF FACTS

I. Description of Project

22. The Project consists of a new town of 2,500 housing units and 250,000 square feet of new office and retail space on 942 acres of agricultural land in the foothills of the Sierra Nevada, approximately nine miles north of the City of Fresno. The Project area is bordered by Lost Lake Park and agricultural land to the west, open space to the south and east, and the small, unincorporated community of Friant to the north. The specific actions challenged by this action include the County's: (1) approval of Resolution No. 11-031, which certified the EIR, adopted the Friant Ranch Specific Plan ("Specific Plan"), and approved the Friant Community Plan Update, which expands the Community Plan's boundary to encompass the 942.2-acre Specific Plan Area; (2) approval of Ordinance No. T-085-363, which added zoning districts for the Specific Plan area to the Ordinance Code; and (3) approval of Ordinance No. R-450-3751, which, among other things, re-zoned approximately 900 acres of agricultural land in the Project area to non-agricultural uses.

23. To accommodate this new urban growth, the Project also includes construction of a new wastewater treatment plant on a property between the Specific Plan Area and Lost Lake Park known as the Beck Property. The treated effluent of the plant would be held in a pool roughly 1,000 feet from the San Joaquin River and used to irrigate the Beck Property and Lost Lake Park. The Draft EIR stated that at times this effluent would be discharged into the San Joaquin River. When approving the Project, the Board orally directed County staff to remove

the references to discharge into the river from the Project approval documents.

24. The Project also includes a proposed water transfer agreement between Lower Tule River Irrigation District and Fresno County Waterworks District No. 18 for 2,000 acre-feet of water per year. The source of the water the Irrigation District will use, particularly in dry years, to replace the transferred water is unclear.

II. Environmental Review

25. The County circulated a Notice of Preparation of a Draft EIR for the Project on or about October 2, 2007, and issued a Notice of Availability of the Draft EIR on or about October 30, 2009. The County circulated the Draft EIR for public review between October 30, 2009 and December 15, 2009.

26. Members of the Trust submitted written and oral comments to the County throughout the CEQA process. They objected to the EIR's improper focus on how the parks will serve the development, rather than on how the development would impact the parks. They pointed out that the Project will bring thousands of new users to the parks, but hardly any new funds because the County has suspended its Public Facilities Impact Fees Ordinance, which required developers to pay impacts fees to the parks. They explained that Lost Lake Park, which is directly across Friant Road from the Project, will be especially hard hit because the Project will bring in thousands of new users, but it will not generate vehicle entrance fees because most residents will walk to the park.

27. Numerous other individuals, organizations, and agencies submitted comments to the County pointing out the inadequacies in its CEQA review. The City of Fresno, for instance, objected to the County's failure to require preservation of sufficient habitat for protected species and failure to disclose the effects of the water transfer, among other things. Similarly, the San Joaquin Valley Air Pollution Control District noted that the EIR fails to disclose the Project's significant air quality impacts from PM10, a known cause of asthma and other respiratory ailments. Likewise, the State Department of Conservation faulted the County for failing to require mitigation measures for the loss of agricultural land caused by the Project.

28. On August 24, 2010, the County released the Final EIR for the Project including

its response to comments received on the Draft EIR. The Final EIR contains more than 364 pages of new information, revisions, modifications to mitigation measures, and analysis. Despite this abundance of new information, the Final EIR fails to meaningfully address many of the most troubling issues raised in comments on the Draft EIR. Among other things, the Final EIR fails to analyze, disclose, and mitigate the Project's impacts on parks, water supply, agricultural resources, air quality, biological resources, aesthetics, and water quality. The Final EIR also fails to adequately analyze the cumulative and growth-inducing impacts of the new town.

29. The County held a hearing on the Project on December 7, 2010. Members of the Trust testified at the hearing and submitted written comments reiterating their concerns about the County's failure to evaluate the Project's impacts. They also objected to the alternative location of the wastewater treatment plant next to Lost Lake Park, where it would ruin the pastoral character of the land. The County delayed its decision on the Project until February 1, 2011, asking staff for clarification on a number of issues.

30. On February 1, 2011, the Board held a final hearing on the Project. At this hearing, members of the Trust and others again spoke in opposition to the Project, reiterating that the environmental review for the Project violated CEQA. Daniel Barber, Supervising Air Quality Specialist for the San Joaquin Valley Air Pollution Control District, informed the County that its mitigation measures for air quality fell far short of what was required, stating, "It's feasible to do much better than what's being proposed here." Similarly, George Nokes, a fishery biologist and the former Regional Manager of the California Department of Fish and Game, testified about the Project's impacts on water quality and fish, noting that, "There are chemicals in tertiary treated water that can be problems for fish life, particularly salmon."

31. Nonetheless, the County approved the Project by adopting the Friant Ranch Specific Plan, the Friant Community Plan Update, and the related zoning changes. Specifically, the County approved the Wastewater Treatment Plant Location Alternative, which places the wastewater treatment plant on the Beck Property, and development Alternative No. 3, which includes 2,500 housing units, rather than the 2,996 units originally proposed.

32. The County filed a Notice of Determination for the Project on or about February 3,

2011.

FIRST CAUSE OF ACTION

(Violations of CEQA: Pub. Res. Code § 21000, et seq.)

(Against All Respondents)

33. The Trust hereby realleges and incorporates paragraphs 1 through 32, inclusive.

34. CEQA requires the lead agency for a project with the potential to cause significant environmental impacts to prepare an EIR that complies with the requirements of the statute, including but not limited to the requirement to analyze the project's potentially significant environmental impacts. The EIR must provide sufficient environmental analysis such that the decisionmakers can intelligently consider environmental consequences when acting on the proposed project. Additionally, the EIR must analyze mitigation measures and an adequate range of alternatives to the project.

35. CEQA also mandates that the lead agency adopt feasible mitigation measures that would reduce or avoid any of a project's significant environmental impacts. If any of the project's significant impacts cannot be mitigated to a less than significant level, CEQA bars the lead agency from approving a project if a feasible alternative is available that would meet the project's objectives while avoiding or reducing its significant environmental impacts.

36. CEQA requires that an agency's findings for the approval of a project be supported by substantial evidence in the administrative record and requires that an agency provide an explanation of how the record evidence supports the conclusions the agency has reached.

37. Respondents violated CEQA by certifying an EIR for the Project that is inadequate and fails to comply with the requirements of CEQA and the CEQA Guidelines. The EIR fails to adequately analyze and disclose, or identify and adopt mitigation measures for, the Project's significant individual and cumulative impacts on the environment, including but not limited to the Project's impacts on parks and other recreation resources, water supply, agricultural resources, air quality, biological resources, aesthetics, and water quality. For example:

a. The EIR fails to adequately analyze or mitigate the Project's impacts on

nearby parks, including Lost Lake Park, Millerton Lake State Recreation Area, and San Joaquin River Parkway, even though the Project is specifically designed to attract users to these parks. Indeed, the Project's main entrance is directly across from the entrance to Lost Lake Park, and the trails in the Specific Plan Area will connect to park trails. Despite the potential for thousands of new users, the EIR fails to adequately describe the existing conditions at the parks, fails to meaningfully analyze the impacts of the Project on the parks, and fails to identify mitigation measures for these impacts.

b. The EIR fails to adequately analyze the impacts of the planned transfer of 2,000 acre-feet of water from the Lower Tule River Irrigation District. The EIR does not disclose the source of the water the Irrigation District will use, particularly in dry years, to replace the transferred water so that it can fulfill its commitments to other users. Because it does not identify the source of this water, the EIR fails to adequately analyze or mitigate the water transfer's impacts, including cumulative impacts, on biological resources and water supply.

c. The EIR fails to identify or analyze feasible mitigation measures to address the significant impact on agricultural land. The Project will re-zone approximately 900 acres of agricultural land to non-agricultural uses. Although the EIR concludes that the Project's impact on agricultural resources will be significant, it states, without explanation, that no mitigation measures are "available." There is no substantial evidence to support this conclusion. Indeed, the Department of Conservation and others proposed specific measures to mitigate the Project's impacts on agricultural resources. The County attempts to conceal this failure to include agricultural mitigation by pointing out that grazing land will be preserved as mitigation for biological impacts. However, this land was analyzed as mitigation for impacts to particular species, not as mitigation for loss of agricultural lands.

d. The EIR fails to adequately analyze or mitigate air quality impacts. For instance, according to the comments submitted by the San Joaquin Valley Air Pollution Control District, the threshold of significance for particulate matter of 10 micrometers or less ("PM10") is 15 tons per year. The County omitted this threshold when it prepared the Draft EIR and improperly concluded that construction on several phases of the Project will not have significant

impacts on air quality. However, construction of these portions of the Project will still result in PM10 emissions of more than 15 tons per year, a fact that the EIR fails to disclose as significant, and for which it fails to identify or adopt adequate mitigation. Furthermore, the EIR fails to analyze feasible mitigation measures to address the significant air quality impacts that will occur as a result of this new town located miles from urban services in Fresno and Clovis.

e. The EIR fails to adequately analyze and mitigate impacts to biological resources. For instances, the mitigation measures identified in the EIR for many species, including the California Tiger Salamander, the Vernal Pool Fairy Shrimp, the Western Spadefoot, Swainson's Hawk, and the Burrowing Owl, are inadequate to reduce the impacts to those species to less than significant because they do not require preservation of habitat outside of the Project area.

f. The EIR fails to adequately disclose, analyze, and mitigate, or consider feasible mitigation measures for, the Project's significant cumulative impacts. Among other things, the EIR improperly concludes that because the project-level impacts are less than significant, the cumulative impacts are also less than significant. The EIR must, and fails to, analyze whether the Project's impacts, even if individually insignificant, are cumulatively considerable.

g. The EIR fails to adequately analyze and mitigate the aesthetic impacts of the Project. Although the Project will result in construction of a new town on presently undeveloped land alongside a scenic highway, the EIR fails to describe the undeniable visual impacts of the proposed development except to say that there will be "increased urbanization." The EIR fails to produce any illustrations of the Project's likely effect on scenic vistas or its effect on the portion of Friant Road designated a scenic highway. Similarly, the wastewater treatment plant alternative does not evaluate the aesthetic impact of the new treatment buildings in meaningful detail, even though the buildings will be next to Friant Road and Lost Lake Park. Because of its failure to adequately analyze the aesthetic impacts of the Project, the EIR reaches the unwarranted conclusion that the development of 2,500 new homes and 250,000 square feet of commercial space will not have a significant impact on aesthetics.

h. The EIR fails to adequately analyze, disclose, or mitigate the water quality impacts, including impacts to salmon and other fish, from the wastewater treatment plant, including impacts from pharmaceuticals, endocrine disruptors, and other contaminants that will not be removed by treatment. Among other things, the EIR does not adequately analyze whether water from the plant that is impounded on the Beck Property or is used to irrigate nearby lands will seep into the groundwater or the San Joaquin River. The EIR also contains inconsistent statements about whether the wastewater treatment plant will discharge effluent directly into the San Joaquin River, which could degrade water quality and increase water temperatures to levels harmful to salmon and other fish. Furthermore, the EIR does not adequately analyze the impacts of the wastewater treatment plant in its alternative riverbottom location on the Beck Property, where it is more likely that untreated sewage would reach the San Joaquin River in the event of an accidental release.

i. The EIR fails to adequately analyze and mitigate growth-inducing impacts. The Project will add 2,500 new homes and 250,000 square feet of office and retail space on previously undeveloped land. The Project will also expand public services in this area by, among other things, providing more water than is needed for the Project and constructing a new wastewater treatment plant with capacity in excess of that needed to serve the Project. The EIR acknowledges that the Project provides more water and wastewater treatment capacity than is necessary for the proposed development. However, the EIR fails to adequately analyze the growth-including impacts of providing this capacity, which will remove two of the most important constraints on further urban development in the area.

38. Respondents also violated CEQA by adopting findings that are not supported by the evidence in the record. For instance, substantial evidence does not support Respondents' determination that the proposed mitigation measures that could have avoided or lessened the significant impacts of the Project on agricultural resources are unavailable or infeasible. Substantial evidence also fails to support the determination that the Project's impacts, including but not limited to impacts on parks and recreation resources, water supply, air quality, biological resources, aesthetics, and water quality, would be less than significant and/or that adopted

mitigation measures would avoid or lessen the Project's significant effects on the environment.

39. CEQA also requires that an EIR be recirculated whenever significant new information is added to the EIR after the close of the public comment period on the Draft EIR. (Pub. Res. Code § 21092.1; *Laurel Heights Improvement Ass'n v. Regents of the Univ. of California* (1993) 6 Cal.4th 1112, 1128-29.) Respondents violated CEQA by failing to recirculate the Final EIR after adding significant new information to the EIR, including new information showing significant air quality impacts, after the close of the public comment period.

40. As a result of the foregoing defects, Respondents prejudicially abused their discretion by certifying an EIR and adopting Findings that do not comply with the requirements of CEQA. As such, Respondents' certification of the EIR and approval of the Project must be set aside.

SECOND CAUSE OF ACTION

(Violations of State Planning and Zoning Law)

(Against All Respondents)

41. The Trust hereby realleges and incorporates the allegations set forth in paragraphs 1 through 40, inclusive.

42. Government Code section 65300 requires the legislative body of each county to adopt a general plan for the physical development of the unincorporated areas of the county. The general plan serves as a charter for future development to which all other land use decisions must conform.

43. Government Code section 65860 requires that zoning be consistent with the general plan. Courts have held that other land use decisions must also be consistent with the general plan. (*Resource Defense Fund v. County of Santa Cruz* (1982) 133 Cal.App.3d 800, 806.)

44. The fundamental policy directive of the Fresno County General Plan "is to direct intensive development to cities, unincorporated communities, and other areas where public facilities and infrastructure are available." (Fresno County General Plan 2-55) ("Anti-Leapfrog Policy"). Similarly, Goal LU-A of the General Plan is "[t]o promote the long-term conservation

of productive and potentially-productive agricultural lands . . . ." Accordingly, under Policy LU-A.1, the "County shall maintain agriculturally designated areas for agriculture use and shall direct urban growth away from valuable agricultural lands to cities, unincorporated communities, and other areas planned for such development where public facilities and infrastructure are planned for and/or available." The Project, however, directs urban growth toward valuable agricultural lands and toward an area without sufficient public facilities and infrastructure, in direct contravention of the County's Anti-Leapfrog Policy.

45. Because the Project is inconsistent with the Fresno County General Plan, Respondents' approval of the Project violated State Planning and Zoning Law and must be set aside.

PRAYER FOR RELIEF

1. For alternative and peremptory writs of mandate directing the County to vacate and set aside its certification of the EIR and approval of the Project;

2. For alternative and peremptory writs of mandate directing the County to comply with CEQA, the CEQA Guidelines, and State Planning and Zoning Law, and to take any other action required by Public Resources Code section 21168.9 or as otherwise required by law;

3. For a stay and preliminary and permanent injunction restraining the County and its agents, employees, officers and representatives from undertaking any activity to implement the Project in any way pending full compliance with the requirements of CEQA, the CEQA Guidelines, and State Planning and Zoning Law;

4. For a stay and preliminary and permanent injunction restraining Real Parties in Interest and their agents, employees, officers and representatives from undertaking any activity to implement the Project in any way pending full compliance with the requirements of CEQA, the CEQA Guidelines, and State Planning and Zoning Law;

5. For a declaration that Respondents' actions in approving the Project violated CEQA and the State Planning and Zoning Law as set forth above.

6. For costs of the suit;

7. For attorneys' fees as authorized by Code of Civil Procedure section 1021.5 and

other provisions of law; and

8. For such other and further relief as the Court deems just and proper.

DATED: March 4, 2011

SHUTE, MIHALY & WEINBERGER LLP

By: Robert A. Perlmutter
ROBERT S. PERLMUTTER

Attorneys for Petitioner
SAN JOAQUIN RIVER PARKWAY AND
CONSERVATION TRUST

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VERIFICATION

I, Dave Koehler, declare as follows:

I am the Executive Director of the San Joaquin River Parkway and Conservation Trust, the Petitioner in this action, and am authorized to execute this verification on Petitioner's behalf. I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Petition") and know the contents thereof. All facts alleged in the above Petition, not otherwise supported by exhibits or other documents, are true of my own knowledge, except as to matters stated on information and belief, and as to those matters I believe them to be true. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed this 3rd day of March, 2011, in San Francisco, California.

Dave Koehler

SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: 415 552-7272 F: 415 552-5816
www.smwlaw.com

ROBERT "PERL" PERLMUTTER
Attorney
perlmutter@smwlaw.com

March 4, 2011

Via Facsimile (559-600-1608) and U.S. Mail

Supervisor Phil Larson, Chairman,
and Members of the Fresno County Board of Supervisors
2281 Tulare Street #301
Fresno, CA 93721-2198

Re: Notice of Commencement of CEQA Litigation Challenging Approval of the Friant Ranch Project

Dear Chairman Larson and Members of the Board of Supervisors:

This letter is to notify you that the San Joaquin River Parkway and Conservation Trust, Inc. (the "Trust") will file suit against Fresno County and your Board of Supervisors for failure to observe the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000 et seq., and State Planning and Zoning Law in the administrative process that culminated in approval of the Friant Ranch Project ("Project") and associated resolutions and ordinances, including: (1) Resolution No. 11-031, which certified the Final Environmental Impact Report, adopted the Friant Ranch Specific Plan ("Specific Plan"), and approved the Friant Community Plan Update; (2) Ordinance No. T-085-363, which added zoning districts for the Specific Plan area to the Ordinance Code; and (3) Ordinance No. R-450-3751, which re-zoned land in the Project area. This notice is given pursuant to Public Resources Code section 21167.5.

Please note that, pursuant to Public Resources Code section 21167.6, the record of proceedings for the County's action includes, among other items, all "internal agency communications, including staff notes and memoranda related to the project or to compliance with [CEQA]." Because all e-mails and other internal communications related to the Project are part of the administrative record for the lawsuit to be filed by the Trust, the County may not destroy or delete them prior to the preparation of the record in this case.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

Robert "Perl" Perlmutter

EXHIBIT A

PROOF OF SERVICE

San Joaquin River Parkway and Conservation Trust, Inc. v. County of Fresno
Fresno County Superior Court

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the City and County of San Francisco, State of California. My business address is 396 Hayes Street, San Francisco, California 94102.

On **March 4, 2011**, I served true copies of the following document(s) described as:

NOTICE OF COMMENCEMENT OF CEQA LITIGATION CHALLENGING APPROVAL OF THE FRIANT RANCH PROJECT

on the parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Shute, Mihaly & Weinberger LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY FAX TRANSMISSION: I faxed a copy of the document(s) to the persons at the fax numbers listed in the Service List. The telephone number of the sending facsimile machine was (415) 552-5816. No error was reported by the fax machine that I used.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **March 4, 2011**, at San Francisco, California.

Cynthia Jawad

SERVICE LIST

Supervisor Phil Larson, Chairman,
and Members of the Fresno County Board of
Supervisors
2281 Tulare Street #301
Fresno, CA 93721-2198
Telephone: 559-600-3529
Facsimile: 559-600-1608

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** Transmit Confirmation Report **

P.1
SHUTE MIHALY WEINBERGE Fax:415-552-5816

Mar 4 2011 10:44am

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SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: 415 552-7272 F: 415 552-5816
www.smwlaw.com

FAX COVER SHEET

Date Sent: March 4, 2011

Client: 378

Number of Pages: 4
(including cover sheet)

Sent By: _____

Original to Follow: Via U.S. Mail

Time Sent: _____

TO:

Supervisor Phil Larson, Chairman, and Members of the Fresno County Board of Supervisors

Fax: 559-600-1608

FROM:

Robert S. Perlmutter

Phone: 415 552-7272 Ext: 248
Fax: 415 552-5816

MESSAGE:

Attached: Notice of Commencement of CEQA Litigation Challenging Approval of the Friant Ranch Project and Proof of Service

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The attached fax may contain confidential information that is intended only for the recipient(s) identified above. Unless you are an individual named herein (or authorized to receive the attached file for such an individual), you may not read, copy, use or distribute it. If you have received this communication in error, please advise Shute, Mihaly & Weinberger LLP immediately by telephone at (415) 552-7272 (collect) or by fax at 415 552-5816 and promptly return it via the U.S. postal service. We will gladly reimburse any costs you incur.

If there are any problems or questions related to this fax, please call our Receptionist at (415) 552-7272

SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
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ROBERT "PERL" PERLMUTTER
Attorney
perlmutter@smwlaw.com

March 4, 2011

Via U.S. Mail

Kamala D. Harris
Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814-2919

Re: Notice of Filing of CEQA Litigation:
San Joaquin River Parkway and Conservation Trust, Inc. v. County of Fresno, et al.

Dear Attorney General Harris:

Enclosed please find a copy of the Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief in the above-captioned action. The petition is provided to you in compliance with Public Resources Code section 21167.7 and Code of Civil Procedure section 388. Please acknowledge receipt.

Thank you.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

Robert "Perl" Perlmutter

Enclosure

P:\SJRPCT\FR\jhp007(AG letter).doc

EXHIBIT B

EXHIBIT B

Seifel
CONSULTING INC.

Memorandum

221 Main Street
Suite 420
San Francisco CA
94105

415.618.0700
fax 415.618.0707
www.seifel.com

VIA (EMAIL)

Date: August 2, 2011

To: Robert "Perl" Perlmutter, SMW

Cc: Jaclyn Prange, SMW

From: Steve Murphy, Seifel

Subject: RE: Analysis of Parks Impacts from the Proposed Friant Ranch Development

The following memorandum summarizes analysis by Seifel Consulting Inc. (Seifel) of expected impacts from the proposed Friant Ranch development ("the Project") on Lost Lake Park, Millerton State Recreation Area ("Millerton SRA"), Friant Cove, and the San Joaquin Hatchery.

This analysis describes 1) current operating costs and existing levels of utilization at existing park facilities; 2) the estimated increase in utilization that would result from usage of park facilities by Friant Ranch residents; 3) an estimate of increased operating costs and increased capital facility needs resulting from the Project; and 4) calculation of a payment that would offset increased operating and capital costs resulting from the Project.

Background

As described in the Project Environmental Impact Report (EIR), Friant Ranch is a proposed mixed-use development that would consist of 2,500 residential units and approximately 250,000 square feet of commercial space. Residential units would include 2,104 single-family age-restricted units, 166 multi-family age-restricted units, 180 non-age-restricted multi-family units, and an additional 50 residential units in the Village Center.

The Project site is approximately 1,800 acres in size, located on the eastern side of the San Joaquin Valley near the unincorporated community of Friant in north-central Fresno County, north of the cities of Fresno and Clovis. Located adjacent to Lost Lake Park and near Millerton SRA, Friant Cove, and the San Joaquin Hatchery, the Project would be expected to impact these facilities through a substantial increase in recreational use.

On behalf of their client, the San Joaquin River Parkway and Conservation Trust ("the Trust"), Shute Mihaly & Weinberger (SMW) hired Seifel to provide an analysis of expected impacts to existing park facilities and services, and estimate a payment that could offset these impacts.

Current Operating Costs / Utilization

Described below are estimates of current operating costs and attendance at existing park facilities.

Lost Lake Park. Fresno County operates Lost Lake Park and estimates a current annual net operating cost for this facility of $330,000, with approximately half of these costs directed toward salaries and benefits and half toward services and supplies, including vehicles, repair materials and utilities.[1] The County estimates the number of vehicle trips into Lost Lake Park is approximately 12,500 per year based on paid entries. Actual utilization is estimated to be substantially higher. For purposes of this analysis, and based on input from the Trust, Seifel has estimated annual entries into Lost Lake to be 25,000 vehicles per year.[2] Based on an average household size for Fresno County of approximately three persons per household, Seifel estimates that 75,000 visitors utilize Lost Lake each year.

Table 1
Analysis of Lost Lake Operating Budget
Friant Ranch Parks Impact Analysis

Expenditures[a]		
Salaries	$	140,696
Benefits	$	71,755
Services and Supplies	$	180,549
Less Fee Revenue	$	(63,000)
Net Cost to County	$	330,000

Staffing[a]	**No. of Positions**	**% of Time**
Admin Assistant	1	10%
Park Grounds Keeper III	2.5	100%
Parks Maintenance Worker	1	50%
Extra Help Parks Groundskeeper (16 Hrs/Wk)	1	40%
Extra Help Parks Groundskeeper (P/T Through Fee Season)	1	50%

Number of Vehicle Trips Per Year to Lost Lake[b]	25,000
Estimated Number of Persons Per Vehicle Trip[c]	3
Estimated Visitor Attendance Per Year to Lost Lake	75,000

a. Expenditures and staffing shown are per the County application for Indian Gaming Fund Distribution (Feb. 8, 2011). The County analysis of cost savings from potential park closures (Feb. 3, 2009) estimates the net cost to county to operate Lost Lake Park at $356,675 (FY08/09).

b. Per the County analysis of cost savings from potential park closures (Feb. 3, 2009) attendance is estimated at 12,409 vehicle trips per year, based on the number of persons that pay the vehicle entrance fee. For purposes of this analysis, actual attendance is estimated to be double this figure at 25,000 vehicle trips per year.

c. Based on the average household size for Fresno County per the 2000 Census.

Source: Fresno County.

[1] The County has made steep cuts to the Recreational and Cultural Services budget in recent years, with total appropriations down from $3.73 million in Fiscal Year 2008/09 to $2.63 million in Fiscal Year 2010/11. Consequently, current estimated annual net operating expenses for Lost Lake Park of $330,000 are conservative compared to prior years.

[2] The usage of this higher figure results in a more conservative (i.e., lower) estimate of the impact of Friant Ranch on the park, because estimated increased utilization resulting from Friant Ranch is calculated as a percentage of current utilization.

Millerton State Recreation Area. The California State Park System operates Millerton SRA out of its Central Valley District office. Current net operating costs for the Central Valley District are approximately $4 million per year. According to data published by the State Park System, Millerton SRA has annual attendance of approximately 373,000 visitors per year, accounting for 27 percent of districtwide visitorship. Based on its relative share of visitorship, this analysis estimates a net operating cost for Millerton SRA of approximately $1 million per year.[3]

Table 2
Analysis of Millerton SRA Operating Budget
Friant Ranch Parks Impact Analysis

Annual Budget for the Central Valley District of the State Park System[a]		
Total Operating Costs	$	7,106,922
Less Fee Revenue	$	(3,097,606)
Net Cost to State	$	4,009,316
Calculation of Estimated Operating Cost for Millerton SRA[b]		
Annual Visitor Attendance to Millerton SRA		372,801
Total Annual Visitor Attendance to Central Valley District State Parks		1,396,522
Millerton Attendance as Percentage of Districtwide Attendance		27%
Estimated Annual Net Operating Cost for Millerton SRA (Based on Share of Districtwide Attendance)	$	1,070,000

a. Per the FY 09/10 California State Park System Statistical Report.
b. Calculated based on the percentage of annual districtwide attendance that is captured by Millerton SRA.

Source: California State Park System.

Other Recreation Facilities. In addition to the larger recreation facilities described above, the Friant Ranch development would increase utilization at other smaller, nearby recreation facilities, particularly Friant Cove and the San Joaquin Hatchery. The San Joaquin River Conservancy owns Friant Cove, a river access point with fishing, picnic tables and restrooms. This facility is maintained and operated by the State Park System under contract for a cost of $40,000 per year.[4] The State Department of Fish and Game operates the San Joaquin Hatchery, which is one of the State's largest fish producing hatcheries and is also open to visitors for education and recreational purposes. For purposes of this analysis, the cost of providing recreational access at the Hatchery has been estimated to be the same as for Friant Cove, approximately $40,000 per year.[5] This estimate focuses only on recreational use of the Hatchery and does not address operating costs related to fish production, which would not be impacted by the Project.

[3] Seifel estimated the net operating cost of the Millerton SRA based on published information regarding the Central District budget. Seifel called the Central District to request the actual operating budget for Millerton SRA, but has not received this information as yet.

[4] Contract amount provided by the San Joaquin River Conservancy (email July 20, 2011).

[5] The State Department of Fish and Game does not publish a budget for the San Joaquin Hatchery online and did not return calls requesting budget information.

Estimated Increase in Operating Costs / Utilization

When completed, Friant Ranch will have 2,500 residential units and a population of approximately 4,750 residents. Presented below are conservative estimates of the increase in utilization of nearby park facilities that would be generated by Project residents. This analysis assumes each resident would visit Lost Lake twice per year, Millerton SRA once per year, and Friant Cove and the San Joaquin Hatchery once every other year, translating into an increase in park utilization of approximately 13 percent for Lost Lake, Friant Cove, and the Hatchery and approximately 1 percent for Millerton SRA. Based on this estimate of increased utilization, Table 3 shows the estimated increase in operating costs for each facility.[6] An increase in operating costs of approximately 13 percent for Lost Lake would result in additional costs of approximately $42,000 per year. Estimated increases in costs for other facilities are listed below. This analysis projects an increase in operating costs for all four facilities of $66,000 per year.

Table 3
Estimated Annual Increase in Net Operating Costs Attributable to Friant Ranch
Friant Ranch Parks Impact Analysis

Facility	Annual Net Operating Cost	Annual Visitor Attendance	Est. Trips Per Project Resident Per Year[a]	Est. Visitor Attendance Per Year by Project Residents[b]	Percent Increase Generated by Project Residents[c]	Annual Increase in Net Operating Cost[d]
Lost Lake	$ 330,000	75,000	2.0	9,500	12.7%	$ 42,000
Millerton SRA	$ 1,070,000	372,801	1.0	4,750	1.3%	$ 14,000
Friant Cove[e]	$ 40,000	NA	0.5	2,375	12.7%	$ 5,000
SJ Hatchery[f]	$ 40,000	NA	0.5	2,375	12.7%	$ 5,000
					Total	$ 66,000

a. Number of trips per resident per year has been estimated based on the relative size of facilities and their proximity to the Project.
b. Per the EIR, the estimated population of Friant Ranch is 4,750 at build out (1.9 person per household x 2,500 housing units).
c. Calculated as the estimated increase in visitorship generated by Friant Ranch residents. The percent increase in attendance for Friant Cove and the Hatcher is based on the percent increase estimated for Lost Lake.
d. Calculated as percentage increase in the net operating cost based on the percent increase in visitorship for each facility.
e. The San Joaquin River Conservancy Fund has contracted with the State Park System to operate Friant Cove at a cost of $40,000 per year.
f. Costs to provide recreation acess to the Hatchery are estimated to be the same as for Friant Cove.

Source: Fresno County, California State Parks System.

[6] This analysis uses an average cost approach, assuming that costs increase in a linear fashion based on the percent increase in park utilization. A marginal cost approach would involve a more detailed analysis of park budgets and interviews with park staff to determine which, if any, costs are fixed and do not increase with increased utilization. In order to avoid overstating the expected increase in operating costs, this analysis uses conservative estimates of the amount of visitorship that will be generated by Project residents. It is quite likely that residents who chose to move to the Friant Ranch area for its recreation amenities would visit Lost Lake and other adjacent parks more than once or twice per year.

Estimated Need for Capital Facility Improvements

The County has described a need for substantial capital facility upgrades to Lost Lake Park to remediate existing deficiencies and to serve an increased population. This analysis provides an estimate of the cost to provide needed upgrades and assigns a portion of these costs to the Friant Ranch development, based on the increased utilization of Lost Lake that the development would generate.

The Lost Lake Master Plan provides a long-range vision for Lost Lake and identifies a need for substantial upgrades to park facilities. The Plan calls for the additional of parking areas, fish cleaning stations, boat access points, group picnic areas, restrooms, irrigated turf areas, and trails, in addition to the development of Friant Community Park (a "park within a park" containing various recreational facilities). Currently cost estimates are not available for implementation of the Master Plan. A prior evaluation of Lost Lake, conducted by the State Park System, identified a need for a similar, but generally less extensive, program of capital improvements.[7] The costs of these upgrades are listed in Table 4 and equal approximately $8.25 million in 2011 dollars.

Based on an estimated 13 percent increase in park utilization that would be generated by Friant Ranch residents, the Project would generate a need for approximately $1 million in capital spending to meet increased demand.

[7] The 2001 San Joaquin River Parkway Proposal provides a cost estimate for various capital improvements to Lost Lake Park. This program of improvements does not include costs for development of the Friant Community Park within Lost Lake Park, which would substantially increase the budget for park upgrades.

Table 4
Estimated Capital Costs for Upgrades to Lost Lake
Friant Ranch Parks Impact Analysis

Item[a]		Cost in 2000$
Additional toilet facilities	$	1,760,000
Parking / road improvements	$	1,320,000
Signs - regulatory and interpretive	$	49,500
Trash receptacles	$	2,640
Picnic areas improvements	$	105,000
Fencing improvements	$	114,000
Park office and shop facilities improvements	$	925,000
Entrance station improvements	$	330,000
Utility improvements (electric, sewer, water, etc.)	$	1,382,500
Swimming improvements	$	27,500
Irrigation, turf improvements	$	250,000
Total	$	6,270,000
CPI Adjustment[b]		1.32
Cost in 2011$[c]	$	8,250,000
Increased Utilization of Park Generated by Friant Ranch Residents		12.7%
Capital Facility Costs Attributable to Friant Ranch[d]	$	1,050,000

a. Lost Lake upgrade costs per San Joaquin River Parkway Proposal, prepared by the California State Parks System, December 2000.
b. Consumer Price Index Adjustment for California from December 2000 to June 2011.
c. Adjusted cost based on CPI.
d. Based on the percent increase in utilization.

Source: San Joaquin River Parkway Proposal prepared by the California State Parks System.

Calculation of Payment to Offset Impacts

The following section describes two types of payment structures that could be used to offset park impacts generated by the Project: 1) annually recurring payments and 2) a one-time upfront payment.

Annual Payments

As discussed, annual operating costs at park facilities would be estimated to increase by $66,000 resulting from development of Friant Ranch. An ongoing annual payment of this amount would be sufficient to offset increased operating cost impacts generated by the Project.

The Lost Lake Park Master Plan anticipates a 20- to 30-year buildout for park improvements. For purposes of this analysis, a 25-year time period has been assumed. An annually recurring

payment equal to one twenty-fifth of the total capital facility cost assigned to the project would be sufficient to offset capital facility impacts. Such a payment would equal $42,000 and would be paid annually for 25 years.[8]

For the first year, the total payment (for operating and capital expenses) would equal $108,000.[9] With 2,500 units planned at Friant ranch, this payment would be approximately $43 per unit per year. This payment would need to be adjusted upward each year based on inflation. Over the long-term, inflation has averaged 3.23 percent.[10] In order to generate annual recurring payments, a developer would typically establish a community facility district. Annual payments would adjust downward once the capital facility portion of the payment was fully paid in year 25.

Upfront Payment

As an alternative to establishing a mechanism to generate annually recurring payments, the developer of Friant Ranch could make an upfront fee payment to offset impacts. Described below is the amount of an upfront "endowment" payment that would be sufficient to offset operating cost impacts. Depending on the expected rate of return for an endowment investment, the developer of Friant Ranch would need to provide an upfront payment of between $660,000 and $1.3 million in order offset operating cost impacts. In addition to operating cost impacts, the developer would need to provide an additional $1 million to offset capital facility impacts. In total, a payment in the range of $1.7 million to $2.4 million would be required to fully offset anticipated impacts of the Project. With 2,500 units planned at Friant ranch, this payment would be in the range of $685 to $950 per unit.

Table 5
Upfront Payment to Offset Impacts
Friant Ranch Parks Impact Analysis

Operating Cost Endowment Payment		
Estimated Increase in Annual Net Operating Costs[a]	$	66,000
Calculation of "Endowment Payment" to Offset Increased Operating Costs[b]		
Based on a 5% rate of return on investment	$	1,320,000
Based on a 7.5% rate of return on investment	$	880,000
Based on a 10% rate of return on investment	$	660,000
Capital Cost Payment		
Estimated Cost of Capital Upgrades at Lost Lake		$8,250,000
Estimated Percent Increase in Utilization		12.7%
Fee to Offset Capital Facility Impact		$1,050,000
Total Operating and Capital Cost Payment to Offset Impacts		$1.7 million to $2.4 million

a. Estimated increase in annual net operating costs at the following facilities: Lost Lake, Millerton SRA, Friant Cove, and the San Joaquin Hatchery.

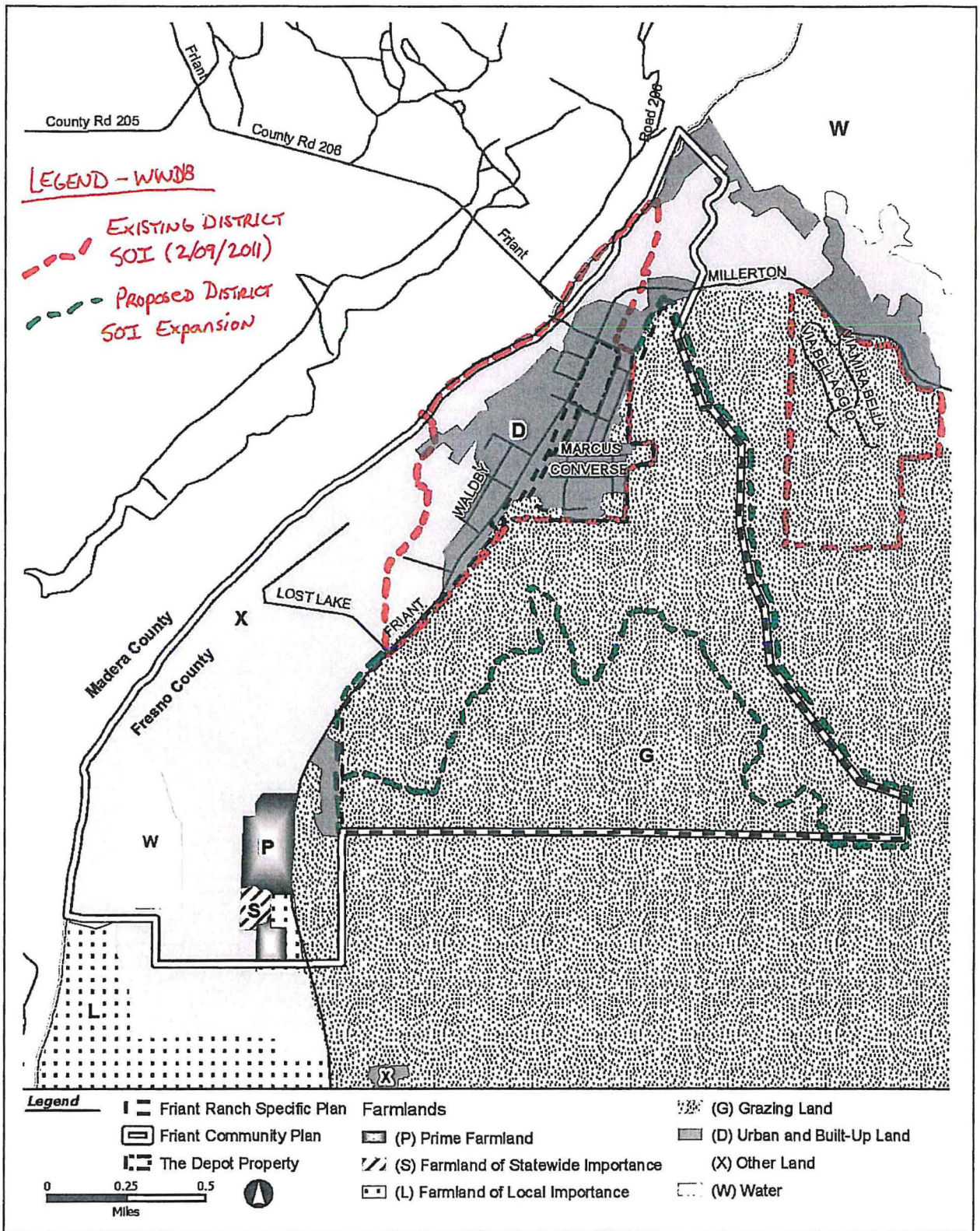
b. Calculated as the size of endowment that could generate sufficient income to offset estimated increases in net operating costs based on different assumptions regarding investment return.

Source: Fresno County, California State Parks System.

[8] This amount is equal to $1,050,000 divided by 25.

[9] This amount is equal to $66,000 for operating expenses plus $42,000 for capital expenses.

[10] Long-term inflation is per the U.S. Bureau of Labor Statistics based on the change in the U.S. Consumer Price Index from 1913 (when data was first collected) through 2011.



Quad Knopf

IMPORTANT FARMLANDS

Figure 3.2 - 2

Baker Manock
& Jensen PC
ATTORNEYS AT LAW

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October 11, 2012

Via E-Mail and U.S. Mail



James Sanchez, Esq.
City Attorney
CITY OF FRESNO
2600 Fresno Street
Second Floor
Fresno, California 93721-3600

Tim Cremin, Esq.
MEYERS, NAVE, RIBACK, SILVER & WILSON
555 12th Street
Suite 1500
Oakland, California 94607

Re: *City of Fresno v. Fresno County Local Agency Formation Commission*
Fresno County Superior Court, Case No. 11 CE CG 03812

Dear Messrs. Sanchez and Cremin:

In the City of Fresno's Opening Brief in the above-entitled case, the City asserts that Fresno LAFCo's resolution approving the exercise of latent powers of Water Works District No. 18 encompassed the entire territory of the District, rather than just the boundaries of the Friant Community Plan Area as updated in February, 2011. The City appears to read the record to suggest that Water Works District No. 18 requested the activation of latent powers to serve wastewater to the entire district, including the Eastern Service Area. However, the City's interpretation of the record is entirely inconsistent with Fresno LAFCo's intent at the time. All documentation in the record refers to the District and Fresno LAFCo's intent to activate the District's latent wastewater authority *to serve the Friant Community Plan Area*, not the Eastern Service Area. Given the length of argument focusing on this point within the City's brief, I believe judicial efficiency and fairness to our respective clients (particularly the City as a public agency) demands that we address this misinterpretation to avoid burdening the court with irrelevant arguments and inflicting unnecessary legal costs on the parties.

Had we known of your concern during the LAFCo proceedings, Executive Officer Jeff Witte or I would have responded by clarifying that the activation of wastewater authority was limited to the Friant Community Plan Area. As you may recall and as apparent from the Administrative Record, Fresno LAFCo circulated its draft staff report to the City and the District for comment before finalizing the report. The Executive Officer considered the written comments from various parties, including the City, before finalizing the staff report, and provided all written comment to the Commission. The City did not inform Fresno LAFCo that the City was concerned that the exercise of latent powers covered the entire District boundary rather than only the Friant Community Plan Area. In your August 23, 2011, letter to the Commission, you assert, "There has been no CEQA environmental review conducted for certain aspects of [all of LAFCo's approvals], such as the provision of wastewater services within the District's existing boundaries . . ." (AR 021164.) Moreover, your September 26, 2011, letter effectively makes the same argument. However, the City never informed Fresno LAFCo that it interpreted LAFCo's actions as applying the exercise of latent powers to any area beyond the existing boundaries within the Friant Community Plan Area. The City's comments were vague and appeared to be generalized comments applicable to all of the approvals.

The Administrative Record contains documents that repeatedly discuss that the proposed wastewater treatment plant would have capacity to serve all of the planned growth within the Friant Community Plan Area, and (upon completion and permitting) would immediately serve the Friant Ranch Specific Plan Area and the Millerton Lake Mobile Home Village. As such, I believe that LAFCo interpreted the City's comment as a complaint regarding the environmental review for activating services within the Friant Community Plan Area. This interpretation is apparent by the responses within the staff report as well as the Friant Ranch's counsel.

The Administrative Record demonstrates that the Fresno LAFCo Commissioners authorized the District to provide wastewater service in the Friant Community Plan Area alone. Further, based on my recollection of the Commission's consideration of the item, I do not believe that the approval was ever intended to apply to the Eastern Service Area. The City, however, appears to interpret the documents differently. In the interest of judicial efficiency, Fresno LAFCo Executive Officer Jeff Witte and I intend to take this matter before Fresno LAFCo during its November 7, 2012, meeting to clarify any ambiguity raised by City and confirm that LAFCo has not authorized the District to provide wastewater service within the Eastern Service Area. Such clarification would address the City's concern that Fresno LAFCo activated services in the Eastern Service Area without environmental review, because it would clarify that LAFCo only activated services in the Friant Ranch Community Plan Area.

In the meantime, please do not hesitate to contact me should you have any questions.

Very truly yours,

Kenneth J. Price
BAKER MANOCK & JENSEN, PC

KJP:sdg

cc: The Honorable Armando Lopez
Chair, Fresno LAFCo

Mr. Jeff Witte, Executive Officer
Fresno LAFCo

Tiffany Wright, Esq.
Remy Thomas, Moose and Manley, LLP

Jacqueline McDonald Pucheu, Esq.
Pucheu Law, A Professional Corporation

Neal Costanzo, Esq.
Costanzo & Associates, PC

CERTIFICATION OF **SECOND** SUPPLEMENTAL ADMINISTRATIVE RECORD OF PROCEEDINGS
(Pub. Resources Code, § 21167.6)

I, Candace Fleming, Clerk to the Fresno County Local Agency Formation Commission (LAFCo) hereby certify that, to the best of my knowledge, this second supplemental administrative record of proceedings to be lodged with the Fresno County Superior Court in the matter of *City of Fresno v. Fresno County Local Agency Formation Commission* (Case No. 11CECG03812) includes documents required by Public Resources Code section 21167.6, subdivision (e), that relate to the causes of action alleged under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000, et seq.) and under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Gov. Code, § Section 56000, et seq.) in these proceedings. These documents were inadvertently omitted from the administrative record filed on June 15, 2012. Copies of documents contained in the second supplemental administrative record of proceedings are true and correct reproductions of various original documents included in LAFCo's administrative record for this matter.

Dated: September 25, 2012

Candace Fleming

Candace Fleming, Clerk to the Commission
Fresno County LAFCo

[On LAFCo Letterhead]

CERTIFICATION OF **SECOND** SUPPLEMENTAL ADMINISTRATIVE RECORD OF PROCEEDINGS
(Pub. Resources Code, § 21167.6)

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Dated: September 25, 2012

Candace Fleming

Candace Fleming, Clerk to the Commission
Fresno County LAFCo

RMM

REMY | MOOSE | MANLEY
LLP

Tiffany K. Wright
twright@rmmenvirolaw.com

September ___, 2012

Via FedEx

The Honorable Rosendo A. Pena
Department 99B
3333 E. American Avenue, Suite A
Fresno, CA 93724-0002

Re: *City of Fresno v. Fresno v. Fresno County Local Agency Formation Commission* (Fresno County Superior Court Case No. 11CECG03812) – Second Supplemental Administrative Record

Dear Judge Pena:

Respondent Fresno County Local Agency Formation Commission (LAFCo) has certified and is lodging a Second Supplemental Administrative Record with the Court in the above referenced matter. The Second Supplemental Administrative Record consists of documents that were included in Waterworks District 18's application to LAFCo for the LAFCo approvals challenged by the City of Fresno in this action. The documents are part of LAFCo's files for the approvals challenged in this action and were included in the draft administrative record prepared by the City of Fresno. Unfortunately, as a result of clerical error, the documents were inadvertently omitted from the final version of the administrative record prepared by LAFCo and Real Party in Interest (Friant Ranch) and certified by LAFCo.

LAFCo and Friant Ranch discovered the accidental omission from the record only after the City of Fresno had filed its Opening Brief in this case. Friant Ranch immediately brought this issue to the City's attention. Friant Ranch, along with LAFCo, has offered to accommodate the City in the event the City wishes to revise its Opening Brief in light of the fact that although the City had previously received these documents, they were inadvertently omitted from the final version of the record. We truly regret any inconvenience the error causes the Court and the City.

Sincerely,

Tiffany K. Wright

CITY OF FRESNO

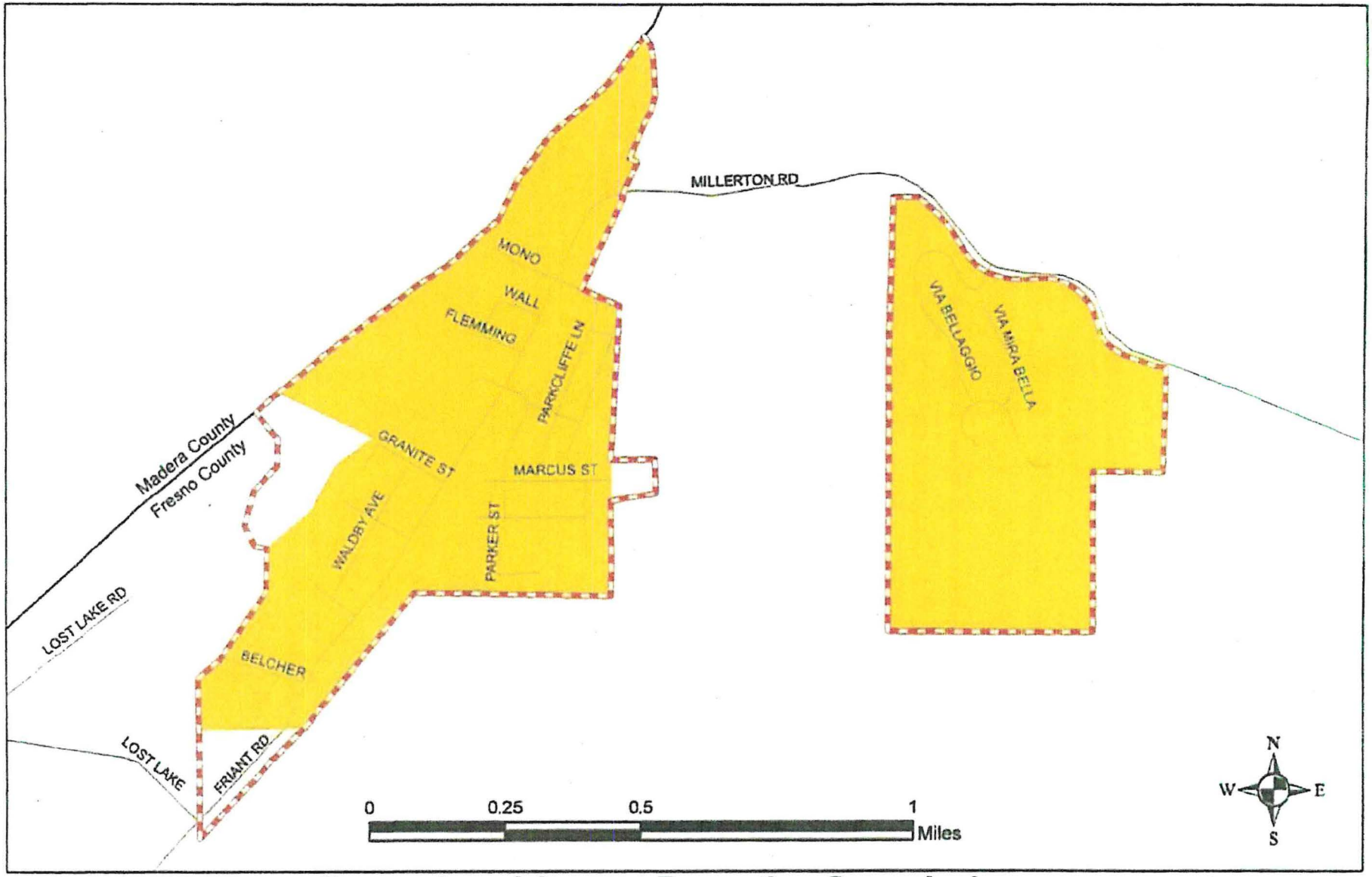
v.

FRESNO COUNTY LOCAL AGENCY FORMATION COMMISSION, et al.

Fresno County Superior Court, Case No.: 11CECG03812

SECOND SUPPLEMENTAL ADMINISTRATIVE RECORD INDEX

DATE	DOCUMENT	PAGES
03/2011	Diagram – Fresno Local Agency Formation Commission, Waterworks District No. 18 – Friant (Figure 1 – Existing)	SSAR001.PDF
03/17/2011	Aerial/Diagram – Figure 2 – Proposed SOI Expansion for Waterworks District No. 18	SSAR002.PDF
03/17/2011	Aerial/Diagram – Figure 3 – Existing Land Use within Proposed SOI Expansion for Waterworks District No. 18	SSAR003.PDF
03/17/2011	Aerial/Diagram – Figure 5 – Proposed SOI Expansion Future Utilities, Waterworks District No. 18	SSAR004.PDF
03/17/2011	02/2011 Figure – Proposed SOI Expansion, Friant Community Plan Land Use Map (with legend and public facilities)	SSAR005.PDF
03/2011	Waterworks District No. 18: Municipal Service Review and Plan for Services for Amendment or Revision of the District' Sphere of Influence and Annexation of Territory to Include the Friant Ranch Development Area and to Provide New or Different Class of Services within Jurisdictional Boundaries, prepared by Provost & Pritchard Consulting Group	SSAR006.PDF



Fresno Local Agency Formation Commission
Waterworks District No. 18 - Friant

FIGURE 1
(EXISTING)

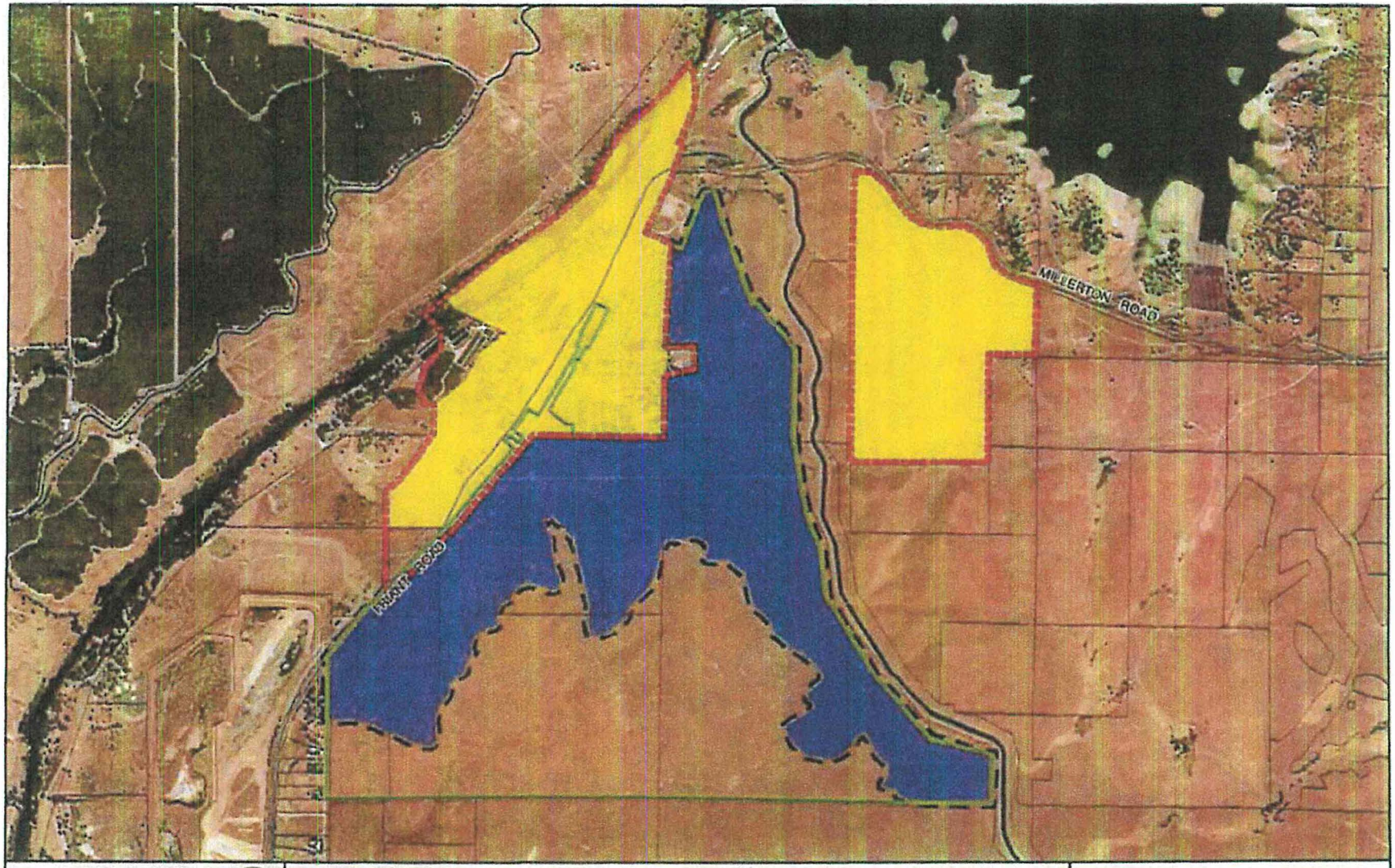
Legend

- District SOI
- District Area

District Formed: 1954
SOI Adopted: 6/25/1975
SOI Updated: 2/09/2011

Map Date: March 2011
District Area: 444 Acres
Sphere Area: 475 Acres

SSAR 001



0 1,000 2,000 Feet

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Fresno, CA 93711-6162
(559) 449-2700

Legend

- District SOI
- District Area
- Proposed District Area Expansion
- Friant Ranch Specific Plan Boundary
- Proposed SOI Expansion

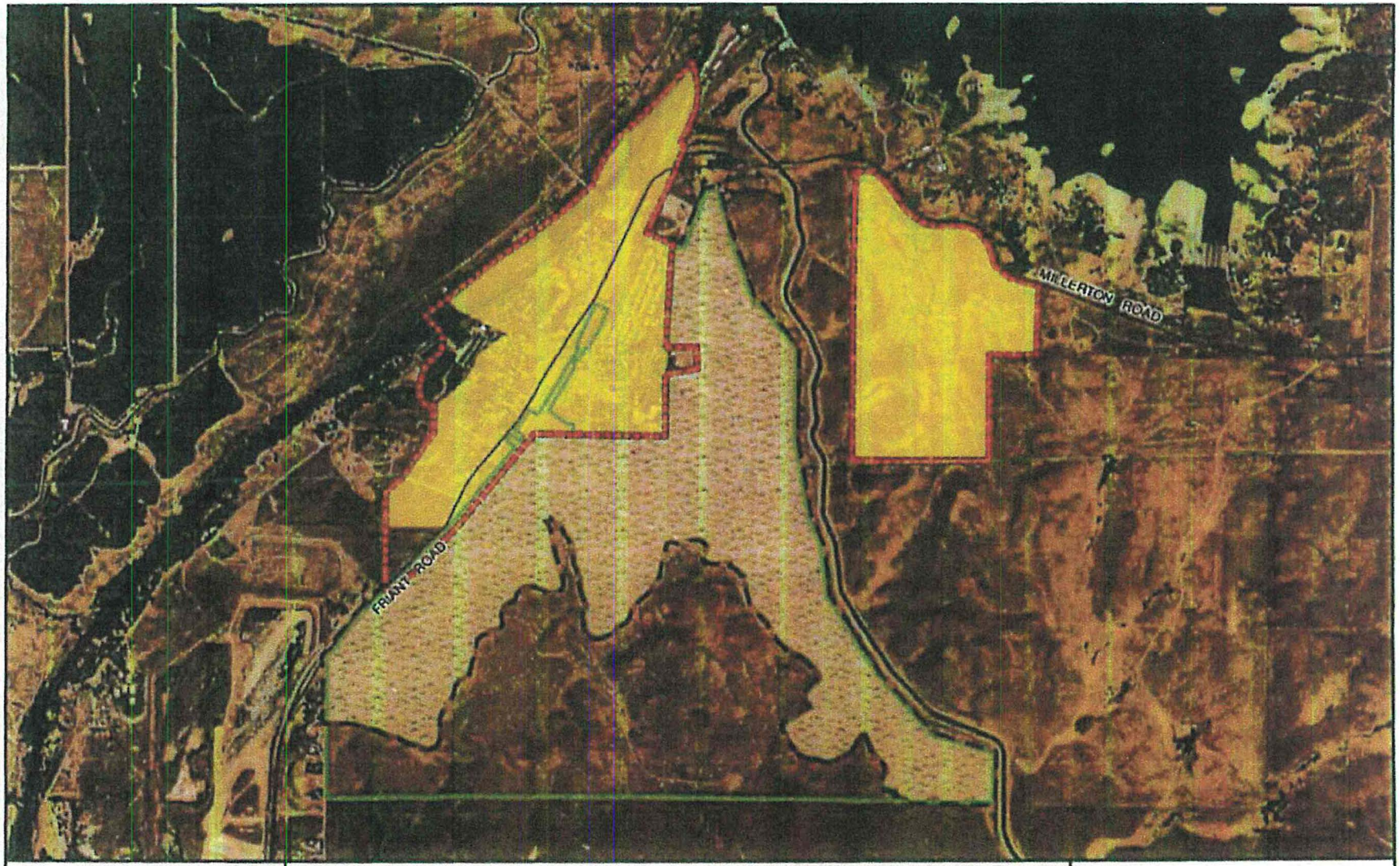
Figure 2

Proposed SOI Expansion

Waterworks District No. 18

3/17/2011 \\pinefs1\dwg_dgn\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Boundary_Annexation.mxd

SSAR 002



0 1,000 2,000 Feet

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Legend

- District SOI
- District Area
- DWR 2000 Land Use
- Friant Ranch Specific Plan Boundary
- Proposed SOI Expansion

NOTE:
ALL LAND WITHIN THE PROPOSED SOI EXPANSION IS NATIVE VEGETATION ACCORDING TO THE LATEST DWR LAND USE SURVEY (FRESNO COUNTY, 2000)

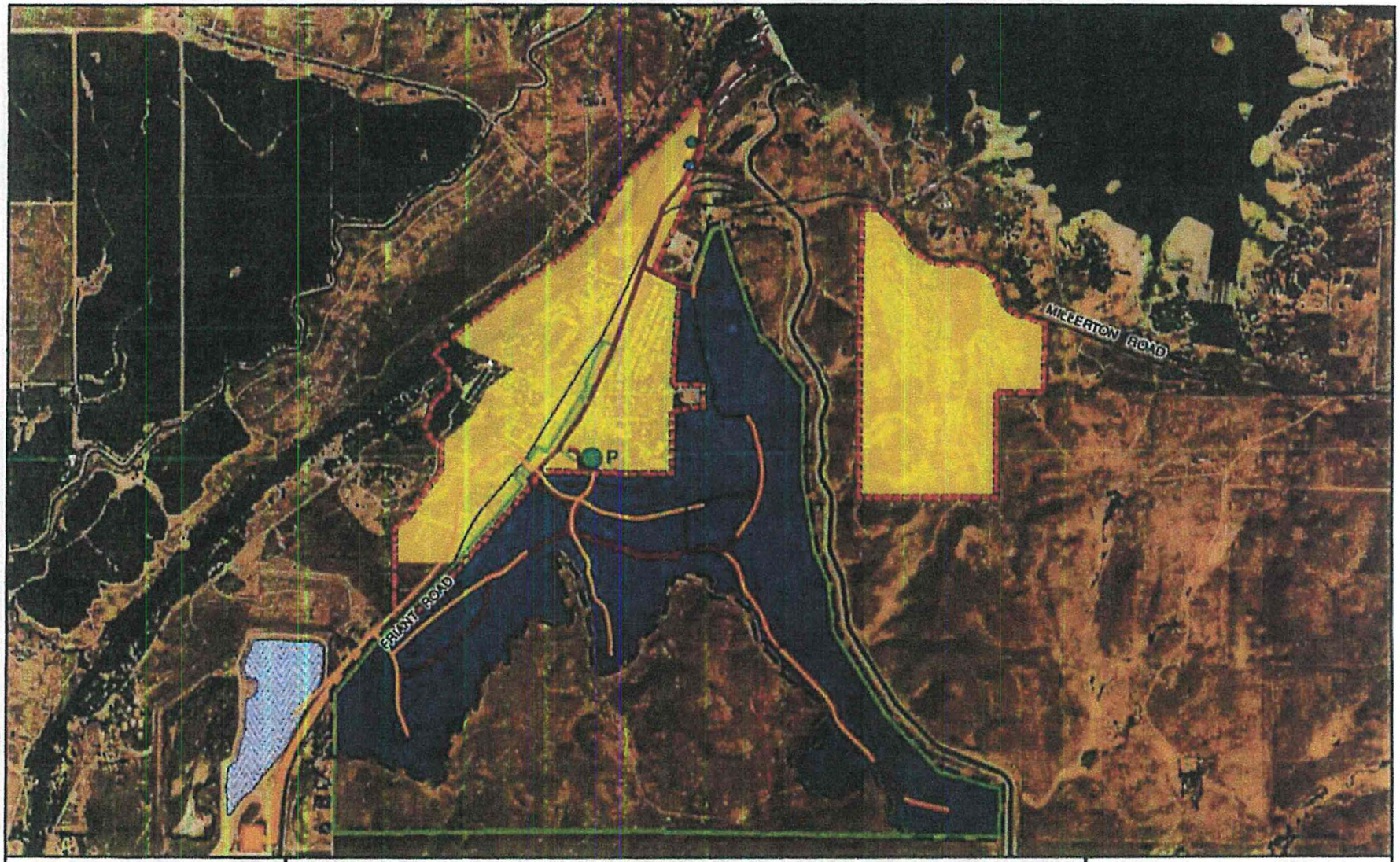
Figure 3

Existing Land Use Within Proposed SOI Expansion

Waterworks District No. 18

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SSAR 003



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District SOI
District Area
Specific Plan Boundary
P Proposed Booster Pump
Proposed SOI Expansion
Proposed District Area Expansion
Proposed WWTP
Proposed Tank
Proposed Water Line
Proposed Sewer Force Main
Proposed Sewer Main
Water Treatment Plant (WTP)

Figure 5

Proposed SOI Expansion
Future Utilities

Waterworks District No. 18

3/17/2011 \\pinellat\dwg_dgn\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Utilities_Proposed.mxd

SSAR 004

WATERWORKS DISTRICT NO. 18

MUNICIPAL SERVICES REVIEW
AND
PLAN FOR SERVICES

FOR

AMENDMENT OR REVISION OF THE DISTRICT'S SPHERE OF INFLUENCE AND THE ANNEXATION OF TERRITORY TO INCLUDE THE FRIANT RANCH DEVELOPMENT AREA AND TO PROVIDE NEW OR DIFFERENT CLASS OF SERVICES WITHIN JURISDICTIONAL BOUNDARIES

Report to the

Fresno Local Agency Formation Commission

Prepared by:

Provost & Pritchard Consulting Group
286 West Cromwell
Fresno, California 93711

March 2011

SSAR 006

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TABLE OF CONTENTS

1 MUNICIPAL SERVICE REVIEW 1

1.1 District Information 1

1.2 Existing Facilities and Infrastructure 1

1.3 District Finances 2

2 MUNICIPAL SERVICE REVIEW DETERMINATIONS 5

2.1 Infrastructure Needs 5

2.2 Growth and Population 6

2.3 Financing Constraints 7

2.4 Cost Avoidance Opportunities 7

2.5 Rate Restructuring Opportunities 8

2.6 Opportunities for Shared Facilities 9

2.7 Government Structure and Management Efficiencies 9

2.8 Local Accountability 11

3 SPHERE OF INFLUENCE REVIEW 13

3.1 Existing Sphere of Influence 13

3.2 Proposed Sphere of Influence 13

3.3 Sphere of Influence Determinations 13

4 ACKNOWLEDGEMENTS AND REFERENCES 15

5 RECOMMENDATIONS 16

LIST OF FIGURES

Page

Figure 1-1: District Map – Proposed SOI Expansion 4

Figure 2-1: Government Structure 10

LIST OF TABLES

Page

Table 1-1: Budgeted Revenues and Expenditures (FY 2010-11)[1] 3

ABBREVIATIONS

WWD 18 .....Fresno County Waterworks District No. 18

MSR.....Municipal Service Review

SOI.....Sphere of Influence

1 MUNICIPAL SERVICE REVIEW

1.1 District Information

Friant, a small community of approximately 500 people, is situated at the base of Friant Dam and Millerton Lake in Fresno County, California. Established on August 17, 1956, Fresno County Waterworks District No. 18 (WWD 18 or District) today services approximately 234 residential, commercial and industrial connections in Friant with an additional 180 potential connections annexed but not yet developed.

WWD 18 proposes to incorporate the area included within the proposed development footprint of the Friant Ranch Specific Plan, recently approved by Fresno County for residential and commercial uses equating to approximately 2,700 additional connections to the District (Project), into its service area as a separate zone of benefit, providing both water and sewer services. The 460-acre Friant Ranch development area is situated east of Friant Road, west of the Friant-Kern Canal. Friant Ranch occupies portions of Sections 7, 8, 17, and 18, Township 11 South, Range 21 East (see **Figure 1-1: District Map**) (Project Area).

To accommodate this action, the District proposes to activate its latent powers respecting wastewater collection, treatment and disposal. In addition, the District proposes to assume the responsibility for wastewater service for those customers currently served by Fresno County Service Area 44A, the Millerton Village Mobile Home Park, which is located directly north of the Project Area within the District's existing service area. The District currently provides water service to the mobile home park.

1.2 Existing Facilities and Infrastructure

Water supplies for WWD 18 are presently obtained from Millerton Lake via a contract with the United States Bureau of Reclamation (USBR). The nominal water allotment is 150 acre-feet per year, although actual deliveries are limited in drier water years.

WWD 18 owns, maintains, and operates the water treatment plant and water supply system located in the Community of Friant. The existing WWD 18 water treatment facility uses a clarification and filtration process designed to treat the water from Millerton Lake, currently serving the Community of Friant, the Bureau of Reclamation –

Friant Dam, the California State Park – Millerton Lake, and the California Department of Forestry.

The treatment capacity was recently increased and has been rated at 396 gpm or 0.55 mgd by the State Department of Health. Presently the plant normally runs at approximately 250 gpm. The treated water is pumped into a clearwell tank and then pumped into a 325,000-gallon storage tank. The system has several pumps, which feed connections to the Bureau of Reclamation facilities, Millerton Lake State Park and the California Department of Forestry Fire Station.

The District does not provide any direct water services outside its boundaries. **Figure 1-1** is a map of the District showing the existing service areas. The District does contract with Table Mountain Rancheria (TMR) to treat water for the Rancheria's casino, which is located several miles east of the District service area on Millerton Road. Water for TMR is delivered, pursuant to TMR's separate entitlements, from Millerton Lake through the District's raw water line, treated using excess capacity in the treatment plant, and picked up by TMR contractors for delivery to TMR in water trucks. No District facilities extend to TMR.

No existing District services overlap with any other agency; at present, the District's buildings and offices are not shared with any other agency.

Fresno County Service Area 44A (CSA 44A) owns and operates the Millerton Lake Village Wastewater Treatment Plant, which serves only the Millerton Lake Village Mobile Home Park. No other existing Friant users have access to wastewater treatment services. All are served by individual septic systems.

1.3 District Finances

The District financed the water system through the California Department of Water Resources and with careful planning and diligence on the parts of the Board of Directors and the citizens of Friant, that loan has been paid. The ownership of the District belongs to the Community of Friant. There continues to be a small assessment to each property owner for the Operations and Maintenance fund, which is invested in the Local Agency Investment Fund (LAIF) with the State of California and continues to grow and draw interest.

The FY 2010-11 operating budget states that major revenues are expected from residential water charges, commercial water charges, industrial water charges, tax

assessments, interest income and various other revenue sources for a total of $294,700. Expenditures are expected in the form of salaries and payroll expenses, water purchases, repairs and maintenance, professional and engineering fees, Pacific Gas and Electric, water treatment supplies and various other expenditures for a total of $253,121. The budget is expected to be balanced with this accounting of revenues and expenditures. There will be a net income of $41,579.

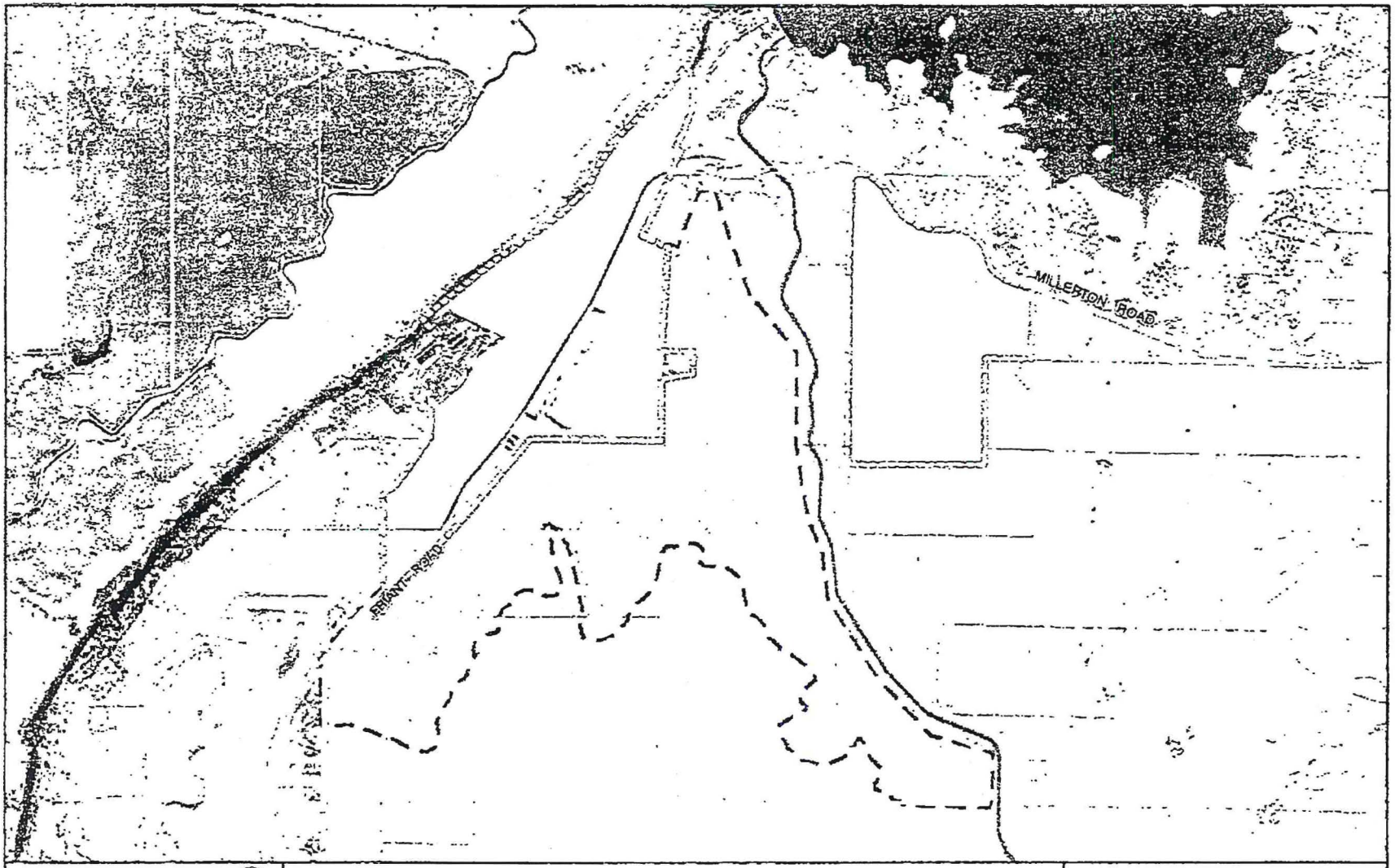
Table 1-1: Budgeted Revenues and Expenditures (FY 2010-11)[1]

Revenues		Expenditures	
Residential Water Charges	$100,000	Salaries	$45,000
Commercial Water Charges	$150,000	LTRID Water Purchases	$10,000
Industrial Water Charges	$25,000	Repairs/Maintenance	$12,000
Other Income	$19,700	Professional & Engineering Fees	$58,500
		Utilities	$25,000
		Water Treatment Supplies	$12,000
		Other Expenditures	$90,621
Total Revenues	$294,700	Total Expenditures	$253,121

[1] Table data from WWD #18 "Budget Adoption - Fund" dated 6/30/10.

At present the District is working on a capital improvement project to replace the current water line from the treatment plant to the California Department of Forestry and Fire Protection (CDF) facilities. This project will be funded by the CDF.

Future capital improvements anticipated at this time are all related to the development of Friant Ranch. The expansion of water service facilities and development of new wastewater facilities is planned to occur in stages, the timing of which will be determined by the pace of development at Friant Ranch. These facilities are described in the Friant Ranch Specific Plan's infrastructure master plan, and will become conditions of approval of the various tentative maps and site plans considered by Fresno County for the Project over its development life. Design and construction will be by the Project, subject to approval by WWD 18 and appropriate regulatory authorities.


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FRIANT ROAD
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Legend
District SOI
Proposed District Area Expansion
Friant Ranch Specific Plan Boundary
District Area
Proposed SOI Expansion
Figure 1-1
Proposed SOI Expansion
Waterworks District No. 18
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SSAR 0013

2 MUNICIPAL SERVICE REVIEW DETERMINATIONS

The proposed Friant Ranch Specific Plan (Project or Development) is planned to be a mixed-use, primarily age-restricted development. It will consist of approximately 2,500 dwelling units, of which 2,270 will be age-qualified units (*i.e.*, for active adults 55 years and older) and 230 will be non-age-qualified units, and will include 250,000 square feet of commercial space.

The Project site comprises a total of 942 acres, with 460 acres proposed for development and 482 acres proposed for dedicated on-site open space. Portions of the open space necessary to provide a contiguous service area are included in the annexation application, bringing the total area of the application to approximately 520 acres. The remainder of the open space area is not proposed for annexation into the District as no services will be required or provided.

2.1 Infrastructure Needs

To serve the Project area, a new wastewater treatment system would be constructed. The new plant would also replace the Millerton Lake Village Wastewater Treatment Plant and would provide service to the current CSA 44A customers. The new wastewater treatment system would be constructed by the Friant Ranch Specific Plan developers, owned and operated by WWD 18, with no capital cost to the District. The present customers in Millerton Lake Village MHP would be connected to the new facility, and the current CSA 44A treatment plant would then be abandoned. A point of connection would be provided for a future wastewater collection system serving the Friant Community. However, the Friant Ranch Specific Plan development is not committed to construct a collection system for the community; the decision to do so and the funding obligation of any such collector system would rest with the citizens of the Friant community.

A complete description of the proposed infrastructure systems for the Friant Ranch development area is included in the Friant Ranch Specific Plan's Infrastructure Master Plan, and is analyzed in the Friant Ranch Specific Plan EIR.

A new wastewater treatment plant (WWTP) is proposed as part of the Project, to be owned, operated and maintained by WWD 18. The new facility will utilize Membrane Bioreactor technology and will be designed to be compatible with surrounding land uses. Treated effluent from the Wastewater Treatment System will be used for irrigation of local agricultural areas as well as landscaped areas and irrigated open spaces in or near the Project.

The WWTP, which will produce tertiary level, Title 22 effluent, will be constructed in three or four phases, each phase adding treatment and disposal capacity as discussed in the Project EIR. The initial phase will be rated at approximately 0.250 million gallons per day (mgd); the ultimate WWTP will be rated at between 0.625 and 0.725 mgd, depending upon the actual commercial demand the project experiences as it builds out. Wastewater effluent will be disposed to lands in and near the Friant Ranch development. Prior to operation, both Waste Discharge Requirements and Reclamation permits will be secured from the Regional Water Quality Control Board.

Water for initial development at Friant Ranch can be produced by the existing water system operated by the District. As discussed in Section 1.2 above, the WTP has a capacity of 396 gpm, and a current peak demand of approximately 250 gpm. No increase in the demand within the current Service Area is anticipated, as no development projects are pending. The District's engineer, Michael Giersch, estimates that this increment of capacity will allow construction of up to 100 units in Friant Ranch before additional treatment capacity will be required.

The District will condition the Project to expand the present Water Treatment Plant (WTP) in phases to accommodate the needs of the Project. The WTP is designed including multiple operating units. These facilities include coagulation, flocculation, settling, filtration, and disinfection, all in accordance with the United States Environmental Protection Agency Surface Water Treatment Rule.

The expansions will add additional operating units for all processes as they are required, assuring operational flexibility and limiting the production capacity taken off line when service or repair of any single unit is needed. In addition to expansion of the treatment plant, the Project will also construct the pipelines, connections, tanks and pumps required to deliver sufficient capacity from Friant Dam to the WTP and to the Project.

The expansions required of Friant Ranch will fully supply the water needs of the Project, and at full build-out of the Project the District will be left with the same amount of capacity to serve non-Friant Ranch customers as it has today. Again, the entire capital cost of the planned expansions will be borne by the developers of the Friant Ranch project; the District will not make any financial contribution to the facilities.

2.2 Growth and Population

The District's current service population is estimated to be approximately 500 residents with 234 service accounts. The Project is proposed to be constructed in four phases over a period of approximately 10 years, depending upon market demand. The Project

anticipates a building-out population of 5,765 with 2,500 service connections. The Project will be responsible for all costs in relation to increased service requirements due to the addition of service connections from Friant Ranch.

2.3 Financing Constraints

In 2005, District increased water service charges to $31 per month for residential accounts and $45 per month for commercial. A tiered billing system is in place for users of over 22,000 gallons per month. The District receives approximately $15 to $60 per parcel through land taxation. These funds are used in addition to the water service charges to maintain service to the District's users. Surplus funds are directed to Local Agency Investment Fund (LAIF) for use on future maintenance needs. This fund balance is approximately $200,000. The District has no outstanding debts.

These funds are sufficient for running the District and do not provide for future development or upgrade beyond the current Friant community.

The Project financing strategy identifies two funding sources necessary for development of the infrastructure needed for the proposed expansion: direct developer funding and a public debt-financing mechanism. It is proposed that a Mello-Roos Community Facilities District (CFD) be formed by Fresno County Water Works District 18 (WWD 18) for debt financing of infrastructure portion of the wastewater improvements which will serve the Project.

The CFD funds would be limited to those which could be paid back by the imposition of 0.5 percent additional levee on the property tax roles, or about $10 million in four separate bond issues throughout the development life of the Project. The expense above such threshold will be borne by the developer as a direct development expense, without reimbursement. No project-related capital facilities costs will be borne by the District or the customers in the current Western Service Area.

Annual operations, maintenance, and other costs associated with water and wastewater service within the Project area will be paid for through regular customer sewer service fees, set up as a separate zone of benefit for Project users.

2.4 Cost Avoidance Opportunities

In recent years, the District has been able to replace nearly all of their old asbestos-cement water lines through use of Community Development Block Grant (CDBG) funds.

As a result of the replacement of these lines, the District has avoided significant maintenance costs associated with older lines.

A major expense was avoided in 2008, when a $1 million grant from TMR paid the cost of relocating the District's major distribution line in Friant Road, which had to be moved to accommodate Fresno County's reconstruction and widening of that regional arterial. The need for relocation had not been anticipated until detailed planning for the road project revealed an elevation conflict. Under the terms of its encroachment permit with the County, the District was obliged to move its facilities at its own expense. TMR made it possible for the District to meet the County's demand and timeline without incurring what would have been onerous debt.

2.5 Rate Restructuring Opportunities

All of the current customers of the District west of the Friant Kern Canal, except the customers of CSA 44A (the residents of the Millerton Village Mobile Home Park), will become a distinct zone of benefit, separate from the two discussed below. This Zone will not be responsible for any expenses related to wastewater unless and until a collection system allowing connection of these users to the new WWTP is constructed. There are no current plans to construct that collection system. This Zone receives only water service from the District. The District last adjusted rates in 2005 and will periodically review the rates in future years. The Board of Directors voted to not increase the water rate for the 2010-2011 budget year and will reevaluate the issue again for the 2011-2012 budget .

The Project Area will be a second Zone of Benefit, providing for both water and sewer service. Preliminary budgets indicate a combined monthly for water and sewer service rate of less than $100 per unit will be sufficient initially, with increases generally following increases in the cost of living. The rate structure for the Project Area will be finalized when final operations and maintenance budgets are known. Final budgets are still subject to design of the actual facilities, knowledge of monitoring and testing requirements (which will come from the Central Valley Regional Water Quality Control Board in future Waste Discharge Requirements) and to choices of the method for staffing of the wastewater treatment plant.

Current customers of CSA 44A (the residents of the Millerton Village Mobile Home Park) also currently receive water service from the District, but will be treated as a third Zone of Benefit within WWD 18. Throughout the entitlement process, the Project's developers have committed to bearing the cost of developing the new WWTP and offering a portion of its capacity to benefit the current residents of Friant including the

customers of CSA 44A. Accordingly, sewer rates for the CSA 44A customers will be reduced by any capital facility components used to calculate the rates in the Project Area; they will pay only their share of the operations and maintenance expenses of the new WWTP. Based upon the same preliminary budgets used to estimate the rates for the second Zone of Benefit above, the monthly sewer rate for the third Zone of Benefit is expected to be less than $50 per month

Water rates for the current CSA 44A customers will be treated just as they are currently, and will be held equal to the rates charged to the existing Friant community water users in the first Zone of Benefit (currently set at $31 per unit per month).

2.6 Opportunities for Shared Facilities

The District does not share facilities with any other agencies. At this time, there are no opportunities for shared facilities in the area. The only other nearby service agency, County Service Area 44, does not overlap services with WWD 18. It currently provides only wastewater treatment and street lighting, not water treatment.

When the Friant Ranch wastewater treatment plant is constructed and begins serving the Friant Ranch Specific Plan Area, CSA 44A's wastewater treatment responsibilities will be taken up by WWD 18, and the existing CSA 44A wastewater plant, which is old and in general disrepair, will be decommissioned.

Current discussions between Fresno County and WWD 18 anticipate that CSA 44 may cease to exist after that transfer of responsibilities and would no longer be a potential partnering agency.

2.7 Government Structure and Management Efficiencies

WWD 18 is a public waterworks district organized under the California Water Code Section 64400, which provides the operating authority for water treatment plants; a five-member Board of Directors oversees the District's operations. The Fresno County Board of Supervisors appoints the members of the Board of Directors. The Board appoints the Manager, and the District employs several part-time treatment plant operators for the water treatment plant. The District contracts with Management Services, a local administrative services firm, for billing and accounting services, and with local professionals who provide engineering and legal services.

The District staff includes one full-time employee, with credentials to operate a water treatment plant and a wastewater treatment plant, and three part-time employees. All

plant operators have a mix of State-issued water treatment and distribution certificates appropriate to the water treatment plant.

The District Manager is compensated through the contract between the District and Management Services, which also provides billing and accounting services. This limited staff is adequate to perform all services required at the present time.

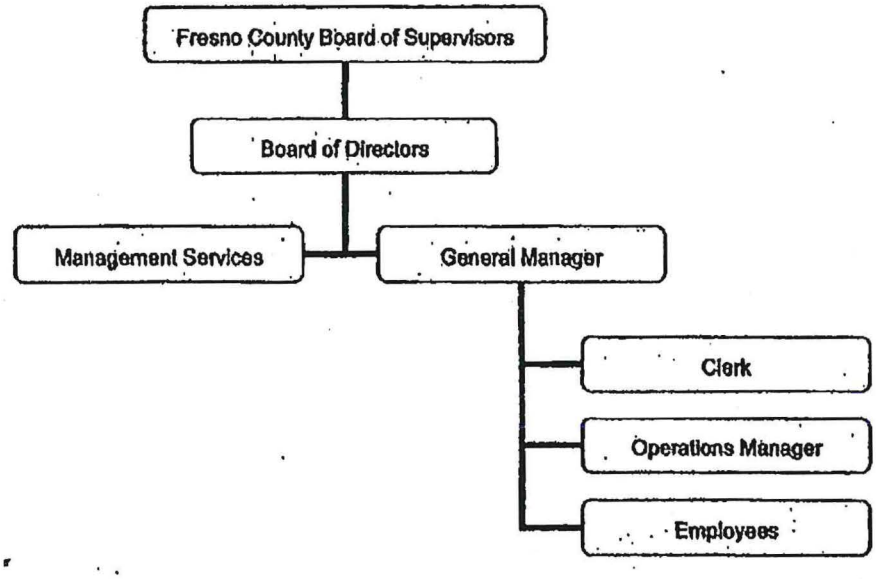


Figure 2-1: Government Structure

WWD 18 has full and complete authority to maintain their systems. The District is recognized by the Community of Friant, the County of Fresno and the State of California Department of Health Services. While WWD 18 does not currently own or operate wastewater treatment facilities, the authority to do so is within its latent powers as a California Waterworks District.

The District anticipates that design, construction and operation of the WWTP will be contracted out to a private-sector firm specializing in such services. Doing so would allow the District to take advantage of a large body of experience and the special skills necessary to run a technologically-sophisticated Membrane Bioreactor plant without having to directly employ such a variety of staff. An example of a plant run in this manner would be the City of Clovis' treatment facility, which was designed, built and is operated and maintained by a single firm.

2.8 Local Accountability

The General Manager is responsible for planning, organizing, directing and coordinating all activities and functions of the District and carrying out related Board policies. This responsibility includes, but is not limited to:

- Planning, organizing and directing the field, plant, business and financial affairs of the District under policy direction from the Board
- Attending all meetings of the Board of Directors
- Advising the Board on administrative practice
- Understanding, administering and enforcing all laws applicable to the District's operations
- Developing and presenting the Board with a recommended District budget and overseeing the implementation of the budget as adopted by the Board
- Negotiating and administering water contracts and other legal agreements on behalf of the District, pursuant to policy direction from the Board
- Representing the District in the community and in coordinating District interests with other government agencies, regulatory agencies, professional associations, and technical consultants.
- Providing timely advice and consultation on the development of programs and policies to the Board of Directors
- Reviewing legislation and related information and preparing summary analysis for the Board
- Handling all District human resources and employee relations matters, under policy direction from the Board
- Coordinating the preparation of the Board's meeting agendas and minutes of the previous meeting(s).
- Outlining daily operations for District employees, scheduling and coordinating all employee activities.

Management Services is responsible for the daily operations of the District's billing and accounting. Their services are carried out under direct supervision of the General Manager.

The District maintains a savings account with the State of California LAIF and various accounts with Bank of America. Two Board member signatures are required on checks

over $200.00 and payments must be approved by the Board prior to release of checks. Transfer of funds to and from the LAIF is handled via telephone by Board designees.

3 SPHERE OF INFLUENCE REVIEW

3.1 Existing Sphere of Influence

The District's boundaries and sphere of influence (SOI) are not coterminous. The SOI extends beyond the District boundary in two areas in the southern part of the District. **See Figure 1-1**, illustrating the District's boundary and SOI. The District is entirely within the County of Fresno, partially bordering the County of Madera on the west side, along the San Joaquin River.

3.2 Proposed Sphere of Influence

To accommodate development of the Project, the District desires to expand its SOI. The District proposes that the SOI be extended to the south and east to encompass the development area within the Friant Ranch Specific Plan, along with the portion of the open space areas within the Project Area necessary to complete a logical annexation boundary. The majority of the open space area within the Specific Plan is not included in the annexation proposal as no services will be delivered to those undeveloped acres. No other lands are proposed for annexation at this time.

The District is submitting the required application for SOI expansion and Friant Ranch annexation concurrently with the MSR. The District has met with LAFCo staff to discuss the proposed SOI boundary alterations.

3.3 Sphere of Influence Determinations

The proposed development and related infrastructure within the entire proposed annexation area was analyzed in the recently-certified EIR for the Project. Annexation to the District will give the Project certainty as to its utility service provider, and will allow the Project to proceed with the next phases of infrastructure design and regulatory agency permitting.

The northerly extent of the City of Fresno's Sphere of Influence is approximately 5 ¼ miles to the south of the proposed WWD 18 SOI. No other districts or agencies able to provide the desired municipal services exist near the project area.

The proposed SOI line takes in only the development area of the Friant Ranch Specific Plan, all of which is included in the certified Friant Ranch Specific Plan EIR. No other new lands are included in the District's proposed annexations and SOI update. With

this annexation and update, the District will include nearly all of the developed and yet-to-develop parcels in the Friant Community Plan area.

4 ACKNOWLEDGEMENTS AND REFERENCES

This Municipal Service Review was prepared by Provost & Pritchard Consulting Group, at the request of the Friant Ranch developers and in cooperation with WWD 18 staff. Information for this evaluation was provided by WWD 18 staff, the Friant Ranch Specific Plan developers, and the Project's design team.

5 RECOMMENDATIONS

In consideration of the information presented and evaluated herein, it is recommended the Commission:

1. Accept public testimony regarding the proposed Municipal Services Review and Plan for Services.
2. Approve the proposed Municipal Service Review determinations, together with any changes deemed appropriate.
3. Approve the proposed Plan for Services for wastewater collection, treatment and disposal.
4. Approve the activation of Waterworks District No. 18's latent powers respecting wastewater collection, treatment and disposal.
5. Affirm the current Sphere of Influence and accept the amended Sphere in connection with the submitted application.
6. Accept the annexation of the Project Area in connection with the submitted application.

Fresno Local Agency Formation Commission

February 27, 2012

NOTICE OF COMPLETION OF BOUNDARY CHANGE

To: Dan Pearce, Manager, Waterworks District No. 18

From: Jeff Witte, Executive Officer JW

Subject: "Friant Ranch Annexation"

All filings for the above annexation has been made, as required by Government Code Section 57200 et seq. The subject change is now complete and effective.

The annexation of territory was recorded and effective February 22, 2011.

A certified copy of the Certificate of Completion is enclosed along with the maps and legal descriptions indicating the recording numbers affixed by the County Recorder. A Statement of Boundary Change was sent to the Fresno County Assessor and Fresno County Auditor. No filing with the State Board of Equalization was required and there are no property taxes collected for Waterworks District No. 18.

The maps showing the change of boundaries were also sent to those agencies listed on the attached letter of transmittal.

JW:cf

Attachments

LAFCo Office: 2607 Fresno Street, Suite B, Fresno, CA 93721
Phone: (559) 600-0604 • Fax: (559) 495-0695 • E-mail: cfleming@co.fresno.ca.us

Fresno Local Agency Formation Commission

DATE: February 27, 2012

TO: Dan Pearce, Manager, Waterworks District No. 18
County Elections, Precinct Activities
Glenn Allen, Environmental Health
Janet Garner, Environmental Health
Will Kettler, Planning Department
Development Engineering
Robin Quinn, Road Maintenance
Pat Guerrero, EMIS
Bernard Jimenez, Development Services

FROM: Jeff Witte, Executive Officer JW

SUBJECT: "Friant Ranch Annexation"

All required filings for the subject change have been made and the change was recorded and effective February 27, 2012.

Maps of the change are attached.

Attachment

LAFCo Office: 2607 Fresno Street, Suite B, Fresno, CA 93721
Phone: (559) 600-0604 • Fax: (559) 495-0695 • E-mail: cfleming@co.fresno.ca.us

Fresno Local Agency Formation Commission

CERTIFICATION OF SUPPLEMENTAL ADMINISTRATIVE RECORD OF PROCEEDINGS
(Pub. Resources Code, § 21167.6)

I, Candace Fleming, Clerk to the Fresno County Local Agency Formation Commission (LAFCo) hereby certify that, to the best of my knowledge, this supplemental administrative record of proceedings to be lodged with the Fresno County Superior Court in the matter of *City of Fresno v. Fresno County Local Agency Formation Commission* (Case No. 11CECG03812) includes all documents required by Public Resources Code section 21167.6, subdivision (e), that relate to the causes of action alleged under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000, et seq.) and under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Gov. Code, § Section 56000, et seq.) in these proceedings. Copies of documents contained in the administrative record of proceedings are true and correct reproductions of various original documents included in LAFCo's administrative record for this matter.

Dated: August 13, 2012

Candace Fleming

Candace Fleming, Clerk to the Commission
Fresno County LAFCo

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September 27, 2011

Via E-Mail and Facsimile

Chairman and Commissioners of the Fresno
County Local Agency Formation
Commission
Fresno Local Agency Formation
Commission
2115 Kern Street, Suite 310
Fresno, CA 93721

Re: Fresno County Waterworks District 18 Approvals

Dear Chairman and Commissioners of the Fresno County Local Agency Formation Commission:

This letter is submitted on behalf of our client, the San Joaquin River Parkway and Conservation Trust, Inc. (the "Trust"). On September 28, 2011, the Commission will consider the application of Fresno County Waterworks District 18 ("District 18") to expand its boundaries and services through a Municipal Service Review (LAFCo File No. MSR-11-6), a Sphere of Influence Revision (LAFCo File No. RSOI-156), the "Friant Ranch Annexation" (LAFCo File No. AD-11-1), and an Extension of Powers to provide wastewater service (LAFCo File No. EP-11-1).

These approvals would allow District 18 to provide water and wastewater services to the Friant Ranch Project ("Project"), a 2,500-unit residential development recently approved by Fresno County and currently the subject of three lawsuits, including a suit by the Trust. Specifically, the approvals would amend District 18's Sphere of Influence to encompass the Friant Ranch Specific Plan area, allow District 18 to annex approximately 520 acres to its service area, and allow District 18, for the first time, to provide wastewater services. These approvals would violate the California Environmental Quality Act ("CEQA") and the Cortese-Knox-Hertzberg Local

Government Reorganization Act ("CKH Act"). Accordingly, the Trust requests that the Commission deny District 18's application for these approvals.

I. Background on the Friant Ranch Project

On February 1, 2011, the County certified the Environmental Impact Report ("EIR"), and approved a series of amendments to its governing land use regulations, for the Project. The County's approval would allow development of a "master-planned active adult lifestyle community" of 2,500 new homes and 250,000 square feet of office and retail space on 942 acres in the rolling foothills of the Sierra Nevada. The Project would cause a host of significant, and allegedly unavoidable, impacts on the area's parks, scenic open space, water supply, water quality, air quality, biological resources, and agricultural resources.

However, the EIR the County prepared for the Project fails to adequately analyze, disclose to the public, and mitigate these impacts. The Trust's Petition and Complaint, which details the inadequacies of the County's EIR, is attached to this letter as Exhibit A and is incorporated by reference. For example:

(1) The EIR fails to adequately analyze, disclose, or mitigate the water quality impacts from the wastewater treatment plant, including impacts from pharmaceuticals, endocrine disruptors, and other contaminants that will not be removed by treatment. In particular, the EIR does not adequately analyze whether water from the plant that is impounded on the Beck Property or is used to irrigate nearby lands will seep into the groundwater or the San Joaquin River. Furthermore, the EIR does not adequately analyze the impacts of the wastewater treatment plant in its alternative riverbottom location on the Beck Property, where it is more likely that untreated sewage would reach the San Joaquin River in the event of an accidental release. Finally, the EIR contains inconsistent statements about whether the wastewater treatment plant will discharge effluent directly into the San Joaquin River.

(2) The EIR fails to adequately analyze and mitigate growth-inducing impacts. The Project will add 2,500 new homes and 250,000 square feet of office and retail space on previously undeveloped land. The Project will also expand public services in this area by, among other things, providing more water than is needed for the Project and constructing a new wastewater treatment plant with capacity in excess of that needed to serve the Project. The EIR acknowledges that the Project provides more water and wastewater treatment capacity than is necessary for the proposed development. However, the EIR fails to adequately analyze the growth-including impacts of

providing this capacity, which will remove two of the most important constraints on further urban development in the area.

(3) The EIR fails to adequately analyze or mitigate the Project's impacts on nearby parks, including Lost Lake Park, Millerton Lake State Recreation Area, and San Joaquin River Parkway, even though the Project is specifically designed to attract users to these parks. Indeed, the Project's main entrance is directly across from the entrance to Lost Lake Park, and the trails in the Specific Plan Area will connect to park trails. A report prepared on behalf of the Trust and attached to this letter as Exhibit B shows that the cost to offset the impacts to the parks will be $1.7 to $2.4 million. Despite the potential for thousands of new users, the EIR fails to adequately describe the existing conditions at the parks, fails to meaningfully analyze the impacts of the Project on the parks, and fails to identify mitigation measures for these impacts.

(4) The EIR also fails to adequately analyze the impacts of the planned transfer of 2,000 acre-feet of water from the Lower Tule River Irrigation District. The EIR does not disclose the source of the water the Irrigation District will use, particularly in dry years, to replace the transferred water so that it can fulfill its commitments to other users. Because it does not identify the source of this water, the EIR fails to adequately analyze or mitigate the water transfer's impacts, including cumulative impacts, on biological resources and water supply.

(5) The EIR fails to identify or analyze feasible mitigation measures to address the significant impact on agricultural land. The Project will re-zone approximately 900 acres of agricultural land to non-agricultural uses. Although the EIR concludes that the Project's impact on agricultural resources will be significant, it states, without explanation, that no mitigation measures are "available." There is no substantial evidence to support this conclusion. Indeed, the Department of Conservation and others proposed specific measures to mitigate the Project's impacts on agricultural resources. The County attempts to conceal this failure to include agricultural mitigation by pointing out that grazing land will be preserved as mitigation for biological impacts. However, this land was analyzed as mitigation for impacts to particular species, not as mitigation for loss of agricultural lands.

(6) The EIR fails to adequately analyze or mitigate air quality impacts. For instance, according to the comments submitted by the San Joaquin Valley Air Pollution Control District, the threshold of significance for particulate matter of 10 micrometers or less ("PM10") is 15 tons per year. The County omitted this threshold when it prepared the Draft EIR and improperly concluded that construction on several phases of the Project

will not have significant impacts on air quality. However, construction of these portions of the Project will still result in PM10 emissions of more than 15 tons per year, a fact that the EIR failed to disclose as significant, and for which it failed to identify or adopt adequate mitigation. Furthermore, the EIR fails to analyze feasible mitigation measures to address the significant air quality impacts that will occur as a result of this new town located miles from urban services in Fresno and Clovis.

(7) The EIR fails to adequately analyze and mitigate impacts to biological resources. For instances, the mitigation measures identified in the EIR for many species, including the California Tiger Salamander, the Vernal Pool Fairy Shrimp, the Western Spadefoot, Swainson's Hawk, and the Burrowing Owl, are inadequate to reduce the impacts to those species to less than significant because they do not require preservation of habitat outside of the Project area.

(8) The EIR fails to adequately disclose, analyze, and mitigate, or consider feasible mitigation measures for, the Project's significant cumulative impacts. Among other things, the EIR improperly concludes that because the project-level impacts are less than significant, the cumulative impacts are also less than significant. The EIR must, and fails to, analyze whether the Project's impacts, even if individually insignificant, are cumulatively considerable.

(9) The EIR fails to adequately analyze and mitigate the aesthetic impacts of the Project. Although the Project will result in construction of a new city on presently undeveloped land alongside a scenic highway, the EIR fails to describe the undeniable visual impacts of the proposed development except to say that there will be "increased urbanization." The EIR fails to produce any illustrations of the Project's likely effect on scenic vistas or its effect on the portion of Friant Road designated a scenic highway. Similarly, the wastewater treatment plant alternative does not evaluate the aesthetic impact of the new treatment buildings in meaningful detail, even though the buildings will be next to Friant Road and Lost Lake Park. Because of its failure to adequately analyze the aesthetic impacts of the Project, the EIR reaches the unwarranted conclusion that the development of 2,500 new homes and 250,000 square feet of commercial space will not have a significant impact on aesthetics.

The County's approval also violates State Planning and Zoning Law by adopting a Project that is fatally inconsistent with Fresno County's General Plan. The General Plan requires the County to maintain agriculturally designated areas for agricultural use and to direct urban growth away from valuable agricultural lands.

However, the Project does just the opposite by directing urban growth toward valuable agricultural lands.

Accordingly, the Trust filed suit against the County and Real Party in Interest Friant Ranch, LP on March 4, 2011, alleging violations of CEQA and State Planning and Zoning Law.

II. The Commission's Approval of District 18's Application Would Violate CEQA.

The CEQA Guidelines require the Commission, as a responsible agency, to comply with CEQA "by considering the EIR or Negative Declaration prepared by the [County] and by reaching its own conclusions on whether and how to approve the project involved." Guidelines § 15096(a). The Commission must "consider the environmental effects of the project as shown in the EIR" and mitigate or avoid the "*direct or indirect* environmental effects of those parts of the project which it decides to carry out, finance, or approve." *Id.* § 15096(f), (g) (emphasis added).

The Commission "shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment." *Id.* § 15096(g). The Commission must also adopt the findings required by Public Resources Code section 21081 and where, as with this Project, there are unmitigated significant impacts, a statement of overriding considerations as required by CEQA Guidelines section 15093. *Id.* § 15096(h). Finally, the Commission must assume the role of lead agency if the lead agency has prepared inadequate environmental review documents. *Id.* § 15052.

The approvals District 18 seeks would allow it to provide water services in an expanded area, including to the Project, and would allow it, for the first time, to provide wastewater services. The direct impact of these approvals would include the construction of a new wastewater treatment facility, expansion of the existing water treatment facility, and construction of pipelines and other infrastructure. These approvals may also lead to a 2,000 acre-foot transfer of water from the Lower Tule River Irrigation District to District 18. Ultimately, however, these approvals would allow for the area to support thousands of new residents.

As an initial matter, the Commission has failed to analyze and mitigate the *indirect* environmental effects of those parts of the Project that it proposes to approve. In

its findings, the Commission considers only direct impacts, in violation of CEQA Guidelines section 15096. Most significantly, by allowing District 18 to provide wastewater service and expanded water service, these approvals would remove two of the most important constraints on urban growth in this undeveloped area that the County has long planned to retain for agriculture. The Commission has failed to evaluate the growth-inducing impacts of providing more water than is needed for the Project and constructing a new wastewater treatment plant with capacity in excess of that needed to serve the Project. Thus, the Commission's approval of District 18's application would violate CEQA because the Commission has not properly considered the indirect environmental impacts of the Project.

The Commission also improperly relies on the Friant Ranch EIR for its CEQA analysis. As described above the EIR fails to adequately analyze many significant impacts of the Project, including the impacts of providing expanded water and wastewater services, construction of infrastructure to provide those services, and the growth-inducing impacts of providing those services. The EIR also fails to adequately analyze the Project's water supply impacts and the biological and other impacts of the water transfer. Because the County's environmental review is inadequate, the Commission must assume the duties of a lead agency in preparing an adequate EIR for the Project.

Furthermore, the Commission must adopt feasible mitigation measures and alternatives within its powers to mitigate the direct and indirect environmental effects of the portions of the Project it is approving. For example, the Commission should require District 18 to complete negotiations for a the Project's water source and provide documentation that an agreement is in place to deliver such water. The Commission should also require District 18 to provide a higher level of wastewater treatment to protect the San Joaquin River from discharges from the new wastewater treatment plant. For instance, the risk of indirect discharge could be mitigated by lining the effluent pond. with a high-density polyethylene to protect the river.

The Commission incorrectly concludes that nearly all alternatives and mitigation measures are outside of its authority. Indeed, the only mitigation measure that the Commission evaluates is requiring District 18 to use the new wastewater treatment plant to supply wastewater service to Millerton Lake Village Mobile Home park. This "mitigation" measure does not actually mitigate any direct or indirect impacts of the approvals themselves and actually will result in additional impacts that have not been analyzed in the EIR.

The Commission's proposed findings and statement of overriding considerations with regard to the Project are also inadequate under CEQA. The proposed findings improperly conclude that nearly all mitigation measures and alternatives that reduce the Project's impacts are outside its authority. The Commission also has not supported its conclusion that economic, social, or other benefits support these approvals regardless of the significant environmental impacts with substantial evidence. Indeed, the Commission cannot conclude that overriding considerations support these approvals because these approvals will violate the CKH Act and the Commission's own policies. Thus, the Commission's approval of the District's application would violate CEQA.

III. The Commission Approval of District 18's Application Would Violate the CKH Act.

The approval of District 18's application would run afoul of the CKH Act's goal of "promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services." Govt. Code § 56001.

In furtherance of the goal of promoting orderly development and discouraging sprawl, the CKH Act requires the Commission to consider certain factors when reviewing District 18's application for an expansion of its sphere of influence and for its proposed annexation. Govt. Code §§ 56425, 56668, 56668.3. The Commission has failed to adequately analyze these factors.

In particular, District 18's proposal to expand the services it provides and its service boundaries would cause growth in unincorporated and unpopulated areas containing valuable agricultural land and open space. It would extend significant public services outside existing urban boundaries, and it would require an additional water supply that District 18 has not shown is available. The Commission must also consider the comments of affected local agencies, such as the City of Fresno, which opposes approval of District 18's proposal. *Id.* § 56668.

This approval would also place the administration of water and wastewater services for a substantial number of people in the hands of an operator of a small water distribution system that currently services roughly 283 connections. The Commission has failed to consider whether District 18 has the expertise and financial resources to provide this level and type of service.

The Commission's own policies and standards, outlined in the Commission Policies, Standards, and Procedures Manual, prohibit approval of District 18's application. In particular section 103.03 provides that:

> Annexation proposals to cities or districts providing urban services to undeveloped or agricultural parcels shall show that urban development is imminent for all or a substantial portion of the proposal area; that urban development will be contiguous with existing or proposed development; and that a planned, orderly, and compact urban development pattern will result. Proposals resulting in a leap frog, non-contiguous urban development patterns shall be discouraged.

Similarly, section 104.01 discourages proposals that "conflict with the goals of maintaining the physical and economic integrity of open space lands, agricultural lands, or agricultural preserve areas in open space uses, as indicated on the City or County general plan," and section 210.05 requires that annexations not encourage urban sprawl.

District 18's proposal, however, does not show that urban development will be contiguous with existing or proposed development or that a compact urban development pattern will result. Instead, the proposal shows that the Project is surrounded by agricultural land and open space on nearly all sides and will result in a giant "leap-frog" type development miles from the City of Fresno.

Finally, District 18's Plan for Services fails to meet the requirements of Government Code section 56653 because it does not contain the information required by subsection (b). The Plan for Services also does not contain the information required by section 56824.12 for a proposal to provide a different class of services.

IV. Conclusion

Approval of District 18's application would result in significant and unmitigated environmental impacts, and would violate CEQA and the CKH Act. Accordingly, the Trust respectfully requests that the Commission disapprove the Municipal Service Review, the Sphere of Influence Revision, the "Friant Ranch Annexation," and the Extension of Powers requested by District 18.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

Tamara S. Galanter
Jaclyn H. Prange

Attachments
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EXHIBIT A

COPY

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FILED
MAR 04 2011
FRESNO COUNTY SUPERIOR COURT
By _____
CSP - DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF FRESNO

SAN JOAQUIN RIVER PARKWAY AND CONSERVATION TRUST, INC.,

Petitioner,

v.

COUNTY OF FRESNO, FRESNO COUNTY BOARD OF SUPERVISORS, and DOES 1-20,

Respondents.

FRIANT RANCH, LP, BIGELOW SILKWOOD FRIANT RANCH LP, MARTIN & ASSOCIATES, LLC, and DOES 21-40,

Real Parties in Interest.

Case No. 11CECG00709

VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

[CCP § 1085 (§ 1094.5); California Environmental Quality Act ("CEQA"); State Planning and Zoning Law; Fresno County General Plan]

BY FAX

INTRODUCTION

1. This action challenges the decision of Fresno County ("the County") and the Fresno County Board of Supervisors (collectively "Respondents") to approve the development of what is essentially a whole new town in an undeveloped and unincorporated area of the County. Specifically, on February 1, 2011, the County certified the Environmental Impact Report ("EIR"), and approved a series of amendments to its governing land use regulations, for the so-called Friant Ranch Project ("the Project"). The County's approval would allow Real Parties in Interest to develop a "master-planned active adult lifestyle community" of 2,500 new homes and 250,000 square feet of office and retail space on 942 acres in the rolling foothills of the Sierra Nevada. The Project would cause a host of significant, and allegedly unavoidable, impacts on the area's parks, scenic open space, water supply, water quality, air quality, biological resources, and agricultural resources.

2. However, the EIR Respondents prepared for the Project fails to adequately analyze, disclose to the public, and mitigate these impacts. For instance, the EIR fails to adequately analyze or disclose, let alone mitigate, the impact of thousands of new residents on the region's parks, including Lost Lake Park and Millerton Lake State Recreation Area, even though the Project is specifically designed to attract users to these parks. The EIR improperly focuses on how the parks will serve the development, rather than how the development may cause deterioration of the parks.

3. The Project also includes a new wastewater treatment plant. The Draft and Final EIRs informed the public that this industrial facility would be constructed as an expansion of the existing wastewater treatment plant in the already developed community of Friant. Shortly before the final hearing at which it approved the Project, the County informed the public for the first time that this treatment plant would be constructed at an allegedly "environmentally superior" alternative location on riverbottom land immediately adjacent to Lost Lake Park. This site is only 1,000 feet away from critical spawning habitat created as part of a multi-million dollar effort to reintroduce native salmon species to the San Joaquin River. However, the impacts of moving the treatment plant to this alternative riverbottom location are insufficiently

analyzed in the EIR. Further compounding this problem, the EIR and the testimony of the County's and the Real Parties' own consultants contained misleading and contradictory statements about whether the effluent from this plant would be discharged into the San Joaquin River. Rather than postponing any decision on the Project until after these discrepancies could be properly investigated and analyzed, the Board of Supervisors approved the Project by a bare majority vote.

4. In a similar vein, the EIR fails entirely to meaningfully analyze the growth-inducing impacts of this new wastewater treatment plant. By providing new sewer capacity this plant would remove one of the most important constraints preventing urban growth in this undeveloped area that the County has long planned to retain for agriculture.

5. As detailed below, these and other inadequacies in the EIR violate the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000 et seq, and the CEQA Guidelines, California Code of Regulations, title 14, section 15000 et seq. ("CEQA Guidelines").

6. Respondents' approval also violates State Planning and Zoning Law by adopting a Project that is fatally inconsistent with Fresno County's General Plan. The General Plan requires the County to maintain agriculturally designated areas for agricultural use and to direct urban growth away from valuable agricultural lands. However, the Project does just the opposite by directing urban growth toward valuable agricultural lands.

PARTIES

7. Petitioner San Joaquin River Parkway and Conservation Trust, Inc. ("the Trust") is a 501(c)(3) non-profit corporation created in 1988 to establish a continuous greenway along 33 miles of the San Joaquin River. The heart of the Trust's mission is to preserve and restore river lands having ecological, scenic, or historic significance. The Trust has a direct and beneficial interest in Respondents' compliance with the requirements of CEQA, the CEQA Guidelines, and State Planning and Zoning Law. These interests will be directly and adversely affected by the Project, which violates provisions of law as set forth in this Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Petition") and which would

cause substantial and irreversible harm to the natural environment. The maintenance and prosecution of this action will confer a substantial benefit on the public by protecting the public from the environmental and other harms alleged herein. The Trust submitted comments to the County objecting to and commenting on the Project and its environmental review.

8. Respondent County of Fresno, a political subdivision of the State of California, is responsible for regulating and controlling land use in the unincorporated territory of the County, including but not limited to implementing and complying with the provisions of CEQA, the CEQA Guidelines, State Planning and Zoning Law, and its own General Plan. Respondent County is the "lead agency" for purposes of Public Resources Code section 21067, with principal responsibility for conducting environmental review for and approving the Project.

9. Respondent Fresno County Board of Supervisors is the duly elected legislative body for Fresno County responsible for compliance with CEQA, the CEQA Guidelines, State Planning and Zoning Law, and the General Plan.

10. The Trust is informed, and on that basis alleges, that Real Party in Interest Friant Ranch, LP is (i) a Project applicant, (ii) a recipient of Project approvals, and/or (iii) an owner of the Project site. The Trust is informed, and on that basis alleges, that Friant Ranch, LP is a corporation conducting business in the State of California.

11. The Trust is also informed, and on that basis alleges, that Real Party in Interest Bigelow Silkwood Friant Ranch LP is (i) a Project applicant, (ii) a recipient of Project approvals, and/or (iii) an owner of the Project site. The Trust is informed, and on that basis alleges, that Bigelow Silkwood Friant Ranch LP is a corporation conducting business in the State of California.

12. The Trust is further informed, and on that basis alleges, that Real Party in Interest Martin & Associates, LLC is (i) a Project applicant, (ii) a recipient of Project approvals, and/or (iii) an owner of the Project site. The Trust is informed, and on that basis alleges, that Martin & Associates, LLC is a corporation conducting business in the State of California.

13. The Trust does not know the true names and capacities, whether individual, corporate, associate or otherwise, of respondents DOE 1 through DOE 20, inclusive, and

therefore sues said respondents under fictitious names. The Trust will amend this Petition to show their true names and capacities when they are known. Each of the DOE respondents is the agent and/or employee of respondent County or the Board of Supervisors for Fresno County, and each performed acts on which this action is based within the course and scope of such respondent's agency and/or employment.

14. The Trust does not know the true names and capacities, whether individual, corporate, associate or otherwise, of real parties in interest DOE 21 through DOE 40, inclusive, and therefore sues said real parties in interest under fictitious names. The Trust will amend this Petition to show their true names and capacities when they are known. Each of the DOE real parties in interest is the agent and/or employee of each other real party in interest, and each performed acts on which this action is based within the course and scope of such real party in interest's agency and/or employment.

JURISDICTION AND VENUE

15. This Court has jurisdiction over the matters alleged in this Petition pursuant to Code of Civil Procedure sections 1085 and 1094.5, and Public Resources Code sections 21168, 21168.5 and 21168.9.

16. Venue is proper in this Court because the causes of action alleged in this Petition arose in Fresno County, where the Project is proposed for development and where the Fresno County Board of Supervisors approved the Project.

17. The Trust has complied with the requirements of Public Resources Code section 21167.5 by serving a written notice of the Trust's intention to commence this action on Respondents on March 4, 2011. A copy of this written notice and proof of service is attached as Exhibit A to this Petition.

18. The Trust has complied with the requirements of Public Resources Code section 21167.6 by concurrently filing a request concerning preparation of the record of administrative proceedings relating to this action.

19. The Trust sent a copy of this Petition to the California Attorney General on March 4, 2011 to comply with the requirements of Public Resources Code section 21167.7. A copy of

the letter transmitting this Petition is attached hereto as Exhibit B.

20. The Trust has performed any and all conditions precedent to filing this instant action and has exhausted any and all available administrative remedies to the extent required by law.

21. The Trust has no plain, speedy or adequate remedy in the course of ordinary law unless this Court grants the requested writ of mandate to require the County to set aside its approval of the Project. In the absence of such remedies, the County's approval will remain in effect in violation of State law.

STATEMENT OF FACTS

I. Description of Project

22. The Project consists of a new town of 2,500 housing units and 250,000 square feet of new office and retail space on 942 acres of agricultural land in the foothills of the Sierra Nevada, approximately nine miles north of the City of Fresno. The Project area is bordered by Lost Lake Park and agricultural land to the west, open space to the south and east, and the small, unincorporated community of Friant to the north. The specific actions challenged by this action include the County's: (1) approval of Resolution No. 11-031, which certified the EIR, adopted the Friant Ranch Specific Plan ("Specific Plan"), and approved the Friant Community Plan Update, which expands the Community Plan's boundary to encompass the 942.2-acre Specific Plan Area; (2) approval of Ordinance No. T-085-363, which added zoning districts for the Specific Plan area to the Ordinance Code; and (3) approval of Ordinance No. R-450-3751, which, among other things, re-zoned approximately 900 acres of agricultural land in the Project area to non-agricultural uses.

23. To accommodate this new urban growth, the Project also includes construction of a new wastewater treatment plant on a property between the Specific Plan Area and Lost Lake Park known as the Beck Property. The treated effluent of the plant would be held in a pool roughly 1,000 feet from the San Joaquin River and used to irrigate the Beck Property and Lost Lake Park. The Draft EIR stated that at times this effluent would be discharged into the San Joaquin River. When approving the Project, the Board orally directed County staff to remove

the references to discharge into the river from the Project approval documents.

24. The Project also includes a proposed water transfer agreement between Lower Tule River Irrigation District and Fresno County Waterworks District No. 18 for 2,000 acre-feet of water per year. The source of the water the Irrigation District will use, particularly in dry years, to replace the transferred water is unclear.

II. Environmental Review

25. The County circulated a Notice of Preparation of a Draft EIR for the Project on or about October 2, 2007, and issued a Notice of Availability of the Draft EIR on or about October 30, 2009. The County circulated the Draft EIR for public review between October 30, 2009 and December 15, 2009.

26. Members of the Trust submitted written and oral comments to the County throughout the CEQA process. They objected to the EIR's improper focus on how the parks will serve the development, rather than on how the development would impact the parks. They pointed out that the Project will bring thousands of new users to the parks, but hardly any new funds because the County has suspended its Public Facilities Impact Fees Ordinance, which required developers to pay impacts fees to the parks. They explained that Lost Lake Park, which is directly across Friant Road from the Project, will be especially hard hit because the Project will bring in thousands of new users, but it will not generate vehicle entrance fees because most residents will walk to the park.

27. Numerous other individuals, organizations, and agencies submitted comments to the County pointing out the inadequacies in its CEQA review. The City of Fresno, for instance, objected to the County's failure to require preservation of sufficient habitat for protected species and failure to disclose the effects of the water transfer, among other things. Similarly, the San Joaquin Valley Air Pollution Control District noted that the EIR fails to disclose the Project's significant air quality impacts from PM10, a known cause of asthma and other respiratory ailments. Likewise, the State Department of Conservation faulted the County for failing to require mitigation measures for the loss of agricultural land caused by the Project.

28. On August 24, 2010, the County released the Final EIR for the Project including

its response to comments received on the Draft EIR. The Final EIR contains more than 364 pages of new information, revisions, modifications to mitigation measures, and analysis. Despite this abundance of new information, the Final EIR fails to meaningfully address many of the most troubling issues raised in comments on the Draft EIR. Among other things, the Final EIR fails to analyze, disclose, and mitigate the Project's impacts on parks, water supply, agricultural resources, air quality, biological resources, aesthetics, and water quality. The Final EIR also fails to adequately analyze the cumulative and growth-inducing impacts of the new town.

29. The County held a hearing on the Project on December 7, 2010. Members of the Trust testified at the hearing and submitted written comments reiterating their concerns about the County's failure to evaluate the Project's impacts. They also objected to the alternative location of the wastewater treatment plant next to Lost Lake Park, where it would ruin the pastoral character of the land. The County delayed its decision on the Project until February 1, 2011, asking staff for clarification on a number of issues.

30. On February 1, 2011, the Board held a final hearing on the Project. At this hearing, members of the Trust and others again spoke in opposition to the Project, reiterating that the environmental review for the Project violated CEQA. Daniel Barber, Supervising Air Quality Specialist for the San Joaquin Valley Air Pollution Control District, informed the County that its mitigation measures for air quality fell far short of what was required, stating, "It's feasible to do much better than what's being proposed here." Similarly, George Nokes, a fishery biologist and the former Regional Manager of the California Department of Fish and Game, testified about the Project's impacts on water quality and fish, noting that, "There are chemicals in tertiary treated water that can be problems for fish life, particularly salmon."

31. Nonetheless, the County approved the Project by adopting the Friant Ranch Specific Plan, the Friant Community Plan Update, and the related zoning changes. Specifically, the County approved the Wastewater Treatment Plant Location Alternative, which places the wastewater treatment plant on the Beck Property, and development Alternative No. 3, which includes 2,500 housing units, rather than the 2,996 units originally proposed.

32. The County filed a Notice of Determination for the Project on or about February 3,

2011.

FIRST CAUSE OF ACTION

(Violations of CEQA: Pub. Res. Code § 21000, et seq.)

(Against All Respondents)

33. The Trust hereby realleges and incorporates paragraphs 1 through 32, inclusive.

34. CEQA requires the lead agency for a project with the potential to cause significant environmental impacts to prepare an EIR that complies with the requirements of the statute, including but not limited to the requirement to analyze the project's potentially significant environmental impacts. The EIR must provide sufficient environmental analysis such that the decisionmakers can intelligently consider environmental consequences when acting on the proposed project. Additionally, the EIR must analyze mitigation measures and an adequate range of alternatives to the project.

35. CEQA also mandates that the lead agency adopt feasible mitigation measures that would reduce or avoid any of a project's significant environmental impacts. If any of the project's significant impacts cannot be mitigated to a less than significant level, CEQA bars the lead agency from approving a project if a feasible alternative is available that would meet the project's objectives while avoiding or reducing its significant environmental impacts.

36. CEQA requires that an agency's findings for the approval of a project be supported by substantial evidence in the administrative record and requires that an agency provide an explanation of how the record evidence supports the conclusions the agency has reached.

37. Respondents violated CEQA by certifying an EIR for the Project that is inadequate and fails to comply with the requirements of CEQA and the CEQA Guidelines. The EIR fails to adequately analyze and disclose, or identify and adopt mitigation measures for, the Project's significant individual and cumulative impacts on the environment, including but not limited to the Project's impacts on parks and other recreation resources, water supply, agricultural resources, air quality, biological resources, aesthetics, and water quality. For example:

a. The EIR fails to adequately analyze or mitigate the Project's impacts on

nearby parks, including Lost Lake Park, Millerton Lake State Recreation Area, and San Joaquin River Parkway, even though the Project is specifically designed to attract users to these parks. Indeed, the Project's main entrance is directly across from the entrance to Lost Lake Park, and the trails in the Specific Plan Area will connect to park trails. Despite the potential for thousands of new users, the EIR fails to adequately describe the existing conditions at the parks, fails to meaningfully analyze the impacts of the Project on the parks, and fails to identify mitigation measures for these impacts.

b. The EIR fails to adequately analyze the impacts of the planned transfer of 2,000 acre-feet of water from the Lower Tule River Irrigation District. The EIR does not disclose the source of the water the Irrigation District will use, particularly in dry years, to replace the transferred water so that it can fulfill its commitments to other users. Because it does not identify the source of this water, the EIR fails to adequately analyze or mitigate the water transfer's impacts, including cumulative impacts, on biological resources and water supply.

c. The EIR fails to identify or analyze feasible mitigation measures to address the significant impact on agricultural land. The Project will re-zone approximately 900 acres of agricultural land to non-agricultural uses. Although the EIR concludes that the Project's impact on agricultural resources will be significant, it states, without explanation, that no mitigation measures are "available." There is no substantial evidence to support this conclusion. Indeed, the Department of Conservation and others proposed specific measures to mitigate the Project's impacts on agricultural resources. The County attempts to conceal this failure to include agricultural mitigation by pointing out that grazing land will be preserved as mitigation for biological impacts. However, this land was analyzed as mitigation for impacts to particular species, not as mitigation for loss of agricultural lands.

d. The EIR fails to adequately analyze or mitigate air quality impacts. For instance, according to the comments submitted by the San Joaquin Valley Air Pollution Control District, the threshold of significance for particulate matter of 10 micrometers or less ("PM10") is 15 tons per year. The County omitted this threshold when it prepared the Draft EIR and improperly concluded that construction on several phases of the Project will not have significant

impacts on air quality. However, construction of these portions of the Project will still result in PM10 emissions of more than 15 tons per year, a fact that the EIR fails to disclose as significant, and for which it fails to identify or adopt adequate mitigation. Furthermore, the EIR fails to analyze feasible mitigation measures to address the significant air quality impacts that will occur as a result of this new town located miles from urban services in Fresno and Clovis.

e. The EIR fails to adequately analyze and mitigate impacts to biological resources. For instances, the mitigation measures identified in the EIR for many species, including the California Tiger Salamander, the Vernal Pool Fairy Shrimp, the Western Spadefoot, Swainson's Hawk, and the Burrowing Owl, are inadequate to reduce the impacts to those species to less than significant because they do not require preservation of habitat outside of the Project area.

f. The EIR fails to adequately disclose, analyze, and mitigate, or consider feasible mitigation measures for, the Project's significant cumulative impacts. Among other things, the EIR improperly concludes that because the project-level impacts are less than significant, the cumulative impacts are also less than significant. The EIR must, and fails to, analyze whether the Project's impacts, even if individually insignificant, are cumulatively considerable.

g. The EIR fails to adequately analyze and mitigate the aesthetic impacts of the Project. Although the Project will result in construction of a new town on presently undeveloped land alongside a scenic highway, the EIR fails to describe the undeniable visual impacts of the proposed development except to say that there will be "increased urbanization." The EIR fails to produce any illustrations of the Project's likely effect on scenic vistas or its effect on the portion of Friant Road designated a scenic highway. Similarly, the wastewater treatment plant alternative does not evaluate the aesthetic impact of the new treatment buildings in meaningful detail, even though the buildings will be next to Friant Road and Lost Lake Park. Because of its failure to adequately analyze the aesthetic impacts of the Project, the EIR reaches the unwarranted conclusion that the development of 2,500 new homes and 250,000 square feet of commercial space will not have a significant impact on aesthetics.

h. The EIR fails to adequately analyze, disclose, or mitigate the water quality impacts, including impacts to salmon and other fish, from the wastewater treatment plant, including impacts from pharmaceuticals, endocrine disruptors, and other contaminants that will not be removed by treatment. Among other things, the EIR does not adequately analyze whether water from the plant that is impounded on the Beck Property or is used to irrigate nearby lands will seep into the groundwater or the San Joaquin River. The EIR also contains inconsistent statements about whether the wastewater treatment plant will discharge effluent directly into the San Joaquin River, which could degrade water quality and increase water temperatures to levels harmful to salmon and other fish. Furthermore, the EIR does not adequately analyze the impacts of the wastewater treatment plant in its alternative riverbottom location on the Beck Property, where it is more likely that untreated sewage would reach the San Joaquin River in the event of an accidental release.

i. The EIR fails to adequately analyze and mitigate growth-inducing impacts. The Project will add 2,500 new homes and 250,000 square feet of office and retail space on previously undeveloped land. The Project will also expand public services in this area by, among other things, providing more water than is needed for the Project and constructing a new wastewater treatment plant with capacity in excess of that needed to serve the Project. The EIR acknowledges that the Project provides more water and wastewater treatment capacity than is necessary for the proposed development. However, the EIR fails to adequately analyze the growth-including impacts of providing this capacity, which will remove two of the most important constraints on further urban development in the area.

38. Respondents also violated CEQA by adopting findings that are not supported by the evidence in the record. For instance, substantial evidence does not support Respondents' determination that the proposed mitigation measures that could have avoided or lessened the significant impacts of the Project on agricultural resources are unavailable or infeasible. Substantial evidence also fails to support the determination that the Project's impacts, including but not limited to impacts on parks and recreation resources, water supply, air quality, biological resources, aesthetics, and water quality, would be less than significant and/or that adopted

mitigation measures would avoid or lessen the Project's significant effects on the environment.

39. CEQA also requires that an EIR be recirculated whenever significant new information is added to the EIR after the close of the public comment period on the Draft EIR. (Pub. Res. Code § 21092.1; *Laurel Heights Improvement Ass'n v. Regents of the Univ. of California* (1993) 6 Cal.4th 1112, 1128-29.) Respondents violated CEQA by failing to recirculate the Final EIR after adding significant new information to the EIR, including new information showing significant air quality impacts, after the close of the public comment period.

40. As a result of the foregoing defects, Respondents prejudicially abused their discretion by certifying an EIR and adopting Findings that do not comply with the requirements of CEQA. As such, Respondents' certification of the EIR and approval of the Project must be set aside.

SECOND CAUSE OF ACTION

(Violations of State Planning and Zoning Law)

(Against All Respondents)

41. The Trust hereby realleges and incorporates the allegations set forth in paragraphs 1 through 40, inclusive.

42. Government Code section 65300 requires the legislative body of each county to adopt a general plan for the physical development of the unincorporated areas of the county. The general plan serves as a charter for future development to which all other land use decisions must conform.

43. Government Code section 65860 requires that zoning be consistent with the general plan. Courts have held that other land use decisions must also be consistent with the general plan. (*Resource Defense Fund v. County of Santa Cruz* (1982) 133 Cal.App.3d 800, 806.)

44. The fundamental policy directive of the Fresno County General Plan "is to direct intensive development to cities, unincorporated communities, and other areas where public facilities and infrastructure are available." (Fresno County General Plan 2-55) ("Anti-Leapfrog Policy"). Similarly, Goal LU-A of the General Plan is "[t]o promote the long-term conservation

of productive and potentially-productive agricultural lands . . . ." Accordingly, under Policy LU-A.1, the "County shall maintain agriculturally designated areas for agriculture use and shall direct urban growth away from valuable agricultural lands to cities, unincorporated communities, and other areas planned for such development where public facilities and infrastructure are planned for and/or available." The Project, however, directs urban growth toward valuable agricultural lands and toward an area without sufficient public facilities and infrastructure, in direct contravention of the County's Anti-Leapfrog Policy.

45. Because the Project is inconsistent with the Fresno County General Plan, Respondents' approval of the Project violated State Planning and Zoning Law and must be set aside.

PRAYER FOR RELIEF

1. For alternative and peremptory writs of mandate directing the County to vacate and set aside its certification of the EIR and approval of the Project;

2. For alternative and peremptory writs of mandate directing the County to comply with CEQA, the CEQA Guidelines, and State Planning and Zoning Law, and to take any other action required by Public Resources Code section 21168.9 or as otherwise required by law;

3. For a stay and preliminary and permanent injunction restraining the County and its agents, employees, officers and representatives from undertaking any activity to implement the Project in any way pending full compliance with the requirements of CEQA, the CEQA Guidelines, and State Planning and Zoning Law;

4. For a stay and preliminary and permanent injunction restraining Real Parties in Interest and their agents, employees, officers and representatives from undertaking any activity to implement the Project in any way pending full compliance with the requirements of CEQA, the CEQA Guidelines, and State Planning and Zoning Law;

5. For a declaration that Respondents' actions in approving the Project violated CEQA and the State Planning and Zoning Law as set forth above.

6. For costs of the suit;

7. For attorneys' fees as authorized by Code of Civil Procedure section 1021.5 and

other provisions of law; and

8. For such other and further relief as the Court deems just and proper.

DATED: March 4, 2011

SHUTE, MIHALY & WEINBERGER LLP

By: Robert S. Perlmutter
ROBERT S. PERLMUTTER

Attorneys for Petitioner
SAN JOAQUIN RIVER PARKWAY AND
CONSERVATION TRUST

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VERIFICATION

I, Dave Koehler, declare as follows:

I am the Executive Director of the San Joaquin River Parkway and Conservation Trust, the Petitioner in this action, and am authorized to execute this verification on Petitioner's behalf. I have read the foregoing Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Petition") and know the contents thereof. All facts alleged in the above Petition, not otherwise supported by exhibits or other documents, are true of my own knowledge, except as to matters stated on information and belief, and as to those matters I believe them to be true. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed this 3rd day of March, 2011, in San Francisco, California.

Dave Koehler

SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: 415 552-7272 F: 415 552-5816
www.smwlaw.com

ROBERT "PERL" PERLMUTTER
Attorney
perlmutter@smwlaw.com

March 4, 2011

Via Facsimile (559-600-1608) and U.S. Mail

Supervisor Phil Larson, Chairman,
and Members of the Fresno County Board of Supervisors
2281 Tulare Street #301
Fresno, CA 93721-2198

Re: Notice of Commencement of CEQA Litigation Challenging Approval of the Friant Ranch Project

Dear Chairman Larson and Members of the Board of Supervisors:

This letter is to notify you that the San Joaquin River Parkway and Conservation Trust, Inc. (the "Trust") will file suit against Fresno County and your Board of Supervisors for failure to observe the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000 et seq., and State Planning and Zoning Law in the administrative process that culminated in approval of the Friant Ranch Project ("Project") and associated resolutions and ordinances, including: (1) Resolution No. 11-031, which certified the Final Environmental Impact Report, adopted the Friant Ranch Specific Plan ("Specific Plan"), and approved the Friant Community Plan Update; (2) Ordinance No. T-085-363, which added zoning districts for the Specific Plan area to the Ordinance Code; and (3) Ordinance No. R-450-3751, which re-zoned land in the Project area. This notice is given pursuant to Public Resources Code section 21167.5.

Please note that, pursuant to Public Resources Code section 21167.6, the record of proceedings for the County's action includes, among other items, all "internal agency communications, including staff notes and memoranda related to the project or to compliance with [CEQA]." Because all e-mails and other internal communications related to the Project are part of the administrative record for the lawsuit to be filed by the Trust, the County may not destroy or delete them prior to the preparation of the record in this case.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

Robert "Perl" Perlmutter

EXHIBIT A

PROOF OF SERVICE

San Joaquin River Parkway and Conservation Trust, Inc. v. County of Fresno
Fresno County Superior Court

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the City and County of San Francisco, State of California. My business address is 396 Hayes Street, San Francisco, California 94102.

On **March 4, 2011**, I served true copies of the following document(s) described as:

NOTICE OF COMMENCEMENT OF CEQA LITIGATION CHALLENGING APPROVAL OF THE FRIANT RANCH PROJECT

on the parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Shute, Mihaly & Weinberger LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY FAX TRANSMISSION: I faxed a copy of the document(s) to the persons at the fax numbers listed in the Service List. The telephone number of the sending facsimile machine was (415) 552-5816. No error was reported by the fax machine that I used.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **March 4, 2011**, at San Francisco, California.

Cynthia Jawad

SERVICE LIST

Supervisor Phil Larson, Chairman,
and Members of the Fresno County Board of
Supervisors
2281 Tulare Street #301
Fresno, CA 93721-2198
Telephone: 559-600-3529
Facsimile: 559-600-1608

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** Transmit Confirmation Report **

P.1 Mar 4 2011 10:44am
SHUTE MIHALY WEINBERGE Fax:415-552-5816

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SHUTE, MIHALY & WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: 415 552-7272 . Fi 415 552-5816
www.smwlaw.com

FAX COVER SHEET

Date Sent: March 4, 2011 Client: 378

Number of Pages: 4 (including cover sheet) Sent By: _____

Original to Follow: Via U.S. Mail Time Sent: _____

TO:

Supervisor Phil Larson, Chairman, and Members of the Fresno County Board of Supervisors Fax: 559-600-1608

FROM:

Robert S. Perlmutter Phone: 415 552-7272 Ext: 248
Fax: 415 552-5816

MESSAGE:

Attached: Notice of Commencement of CEQA Litigation Challenging Approval of the Friant Ranch Project and Proof of Service

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The attached fax may contain confidential information that is intended only for the recipient(s) identified above. Unless you are an individual named hereon (or authorized to receive the attached file for such an individual), you may not read, copy, use or distribute it. If you have received this communication in error, please advise Shute, Mihaly & Weinberger LLP immediately by telephone at (415) 552-7272 (collect) or by fax at 415 552-5816 and promptly return it via the U.S. postal service. We will gladly reimburse any costs you incur.

If there are any problems or questions related to this fax, please call our Receptionist at (415) 552-7272

SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: 415 552-7272 F: 415 552-5816
www.smwlaw.com

ROBERT "PERL" PERLMUTTER
Attorney
perlmutter@smwlaw.com

March 4, 2011

Via U.S. Mail

Kamala D. Harris
Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814-2919

Re: Notice of Filing of CEQA Litigation:
San Joaquin River Parkway and Conservation Trust, Inc. v. County of Fresno, et al.

Dear Attorney General Harris:

Enclosed please find a copy of the Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief in the above-captioned action. The petition is provided to you in compliance with Public Resources Code section 21167.7 and Code of Civil Procedure section 388. Please acknowledge receipt..

Thank you.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

Robert "Perl" Perlmutter

Enclosure

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EXHIBIT B

EXHIBIT B

Seifel
CONSULTING INC.

Memorandum

221 Main Street
Suite 420
San Francisco CA
94105

415.618.0700
fax 415.618.0707
www.seifel.com

VIA (EMAIL)

Date: August 2, 2011

To: Robert "Perl" Perlmutter, SMW

Cc: Jaclyn Prange, SMW

From: Steve Murphy, Seifel

Subject: RE: Analysis of Parks Impacts from the Proposed Friant Ranch Development

The following memorandum summarizes analysis by Seifel Consulting Inc. (Seifel) of expected impacts from the proposed Friant Ranch development ("the Project") on Lost Lake Park, Millerton State Recreation Area ("Millerton SRA"), Friant Cove, and the San Joaquin Hatchery.

This analysis describes 1) current operating costs and existing levels of utilization at existing park facilities; 2) the estimated increase in utilization that would result from usage of park facilities by Friant Ranch residents; 3) an estimate of increased operating costs and increased capital facility needs resulting from the Project; and 4) calculation of a payment that would offset increased operating and capital costs resulting from the Project.

Background

As described in the Project Environmental Impact Report (EIR), Friant Ranch is a proposed mixed-use development that would consist of 2,500 residential units and approximately 250,000 square feet of commercial space. Residential units would include 2,104 single-family age-restricted units, 166 multi-family age-restricted units, 180 non-age-restricted multi-family units, and an additional 50 residential units in the Village Center.

The Project site is approximately 1,800 acres in size, located on the eastern side of the San Joaquin Valley near the unincorporated community of Friant in north-central Fresno County, north of the cities of Fresno and Clovis. Located adjacent to Lost Lake Park and near Millerton SRA, Friant Cove, and the San Joaquin Hatchery, the Project would be expected to impact these facilities through a substantial increase in recreational use.

On behalf of their client, the San Joaquin River Parkway and Conservation Trust ("the Trust"), Shute Mihaly & Weinberger (SMW) hired Seifel to provide an analysis of expected impacts to existing park facilities and services, and estimate a payment that could offset these impacts.

Exhibit B

Current Operating Costs / Utilization

Described below are estimates of current operating costs and attendance at existing park facilities.

Lost Lake Park. Fresno County operates Lost Lake Park and estimates a current annual net operating cost for this facility of $330,000, with approximately half of these costs directed toward salaries and benefits and half toward services and supplies, including vehicles, repair materials and utilities.[1] The County estimates the number of vehicle trips into Lost Lake Park is approximately 12,500 per year based on paid entries. Actual utilization is estimated to be substantially higher. For purposes of this analysis, and based on input from the Trust, Seifel has estimated annual entries into Lost Lake to be 25,000 vehicles per year.[2] Based on an average household size for Fresno County of approximately three persons per household, Seifel estimates that 75,000 visitors utilize Lost Lake each year.

Table 1
Analysis of Lost Lake Operating Budget
Friant Ranch Parks Impact Analysis

Expenditures[a]		
Salaries	$	140,696
Benefits	$	71,755
Services and Supplies	$	180,549
Less Fee Revenue	$	(63,000)
Net Cost to County	$	330,000

Staffing[a]	**No. of Positions**	**% of Time**
Admin Assistant	1	10%
Park Grounds Keeper III	2.5	100%
Parks Maintenance Worker	1	50%
Extra Help Parks Groundskeeper (16 Hrs/Wk)	1	40%
Extra Help Parks Groundskeeper (P/T Through Fee Season)	1	50%

Number of Vehicle Trips Per Year to Lost Lake[b]	25,000
Estimated Number of Persons Per Vehicle Trip[c]	3
Estimated Visitor Attendance Per Year to Lost Lake	75,000

a. Expenditures and staffing shown are per the County application for Indian Gaming Fund Distribution (Feb. 8, 2011). The County analysis of cost savings from potential park closures (Feb. 3, 2009) estimates the net cost to county to operate Lost Lake Park at $356,675 (FY08/09).

b. Per the County analysis of cost savings from potential park closures (Feb. 3, 2009) attendance is estimated at 12,409 vehicle trips per year, based on the number of persons that pay the vehicle entrance fee. For purposes of this analysis, actual attendance is estimated to be double this figure at 25,000 vehicle trips per year.

c. Based on the average household size for Fresno County per the 2000 Census.

Source: Fresno County.

[1] The County has made steep cuts to the Recreational and Cultural Services budget in recent years, with total appropriations down from $3.73 million in Fiscal Year 2008/09 to $2.63 million in Fiscal Year 2010/11. Consequently, current estimated annual net operating expenses for Lost Lake Park of $330,000 are conservative compared to prior years.

[2] The usage of this higher figure results in a more conservative (i.e., lower) estimate of the impact of Friant Ranch on the park, because estimated increased utilization resulting from Friant Ranch is calculated as a percentage of current utilization.

Millerton State Recreation Area. The California State Park System operates Millerton SRA out of its Central Valley District office. Current net operating costs for the Central Valley District are approximately $4 million per year. According to data published by the State Park System, Millerton SRA has annual attendance of approximately 373,000 visitors per year, accounting for 27 percent of districtwide visitorship. Based on its relative share of visitorship, this analysis estimates a net operating cost for Millerton SRA of approximately $1 million per year.[3]

Table 2
Analysis of Millerton SRA Operating Budget
Friant Ranch Parks Impact Analysis

Annual Budget for the Central Valley District of the State Park System[a]		
Total Operating Costs	$	7,106,922
Less Fee Revenue	$	(3,097,606)
Net Cost to State	$	4,009,316
Calculation of Estimated Operating Cost for Millerton SRA[b]		
Annual Visitor Attendance to Millerton SRA		372,801
Total Annual Visitor Attendance to Central Valley District State Parks		1,396,522
Millerton Attendance as Percentage of Districtwide Attendance		27%
Estimated Annual Net Operating Cost for Millerton SRA (Based on Share of Districtwide Attendance)	$	1,070,000

a. Per the FY 09/10 California State Park System Statistical Report.
b. Calculated based on the percentage of annual districtwide attendance that is captured by Millerton SRA.

Source: California State Park System.

Other Recreation Facilities. In addition to the larger recreation facilities described above, the Friant Ranch development would increase utilization at other smaller, nearby recreation facilities, particularly Friant Cove and the San Joaquin Hatchery. The San Joaquin River Conservancy owns Friant Cove, a river access point with fishing, picnic tables and restrooms. This facility is maintained and operated by the State Park System under contract for a cost of $40,000 per year.[4] The State Department of Fish and Game operates the San Joaquin Hatchery, which is one of the State's largest fish producing hatcheries and is also open to visitors for education and recreational purposes. For purposes of this analysis, the cost of providing recreational access at the Hatchery has been estimated to be the same as for Friant Cove, approximately $40,000 per year.[5] This estimate focuses only on recreational use of the Hatchery and does not address operating costs related to fish production, which would not be impacted by the Project.

[3] Seifel estimated the net operating cost of the Millerton SRA based on published information regarding the Central District budget. Seifel called the Central District to request the actual operating budget for Millerton SRA, but has not received this information as yet.
[4] Contract amount provided by the San Joaquin River Conservancy (email July 20, 2011).
[5] The State Department of Fish and Game does not publish a budget for the San Joaquin Hatchery online and did not return calls requesting budget information.

Estimated Increase in Operating Costs / Utilization

When completed, Friant Ranch will have 2,500 residential units and a population of approximately 4,750 residents. Presented below are conservative estimates of the increase in utilization of nearby park facilities that would be generated by Project residents. This analysis assumes each resident would visit Lost Lake twice per year, Millerton SRA once per year, and Friant Cove and the San Joaquin Hatchery once every other year, translating into an increase in park utilization of approximately 13 percent for Lost Lake, Friant Cove, and the Hatchery and approximately 1 percent for Millerton SRA. Based on this estimate of increased utilization, Table 3 shows the estimated increase in operating costs for each facility.[6] An increase in operating costs of approximately 13 percent for Lost Lake would result in additional costs of approximately $42,000 per year. Estimated increases in costs for other facilities are listed below. This analysis projects an increase in operating costs for all four facilities of $66,000 per year.

Table 3
Estimated Annual Increase in Net Operating Costs Attributable to Friant Ranch
Friant Ranch Parks Impact Analysis

Facility	Annual Net Operating Cost	Annual Visitor Attendance	Est. Trips Per Project Resident Per Year[a]	Est. Visitor Attendance Per Year by Project Residents[b]	Percent Increase Generated by Project Residents[c]	Annual Increase in Net Operating Cost[d]
Lost Lake	$ 330,000	75,000	2.0	9,500	12.7%	$ 42,000
Millerton SRA	$ 1,070,000	372,801	1.0	4,750	1.3%	$ 14,000
Friant Cove[e]	$ 40,000	NA	0.5	2,375	12.7%	$ 5,000
SJ Hatchery[f]	$ 40,000	NA	0.5	2,375	12.7%	$ 5,000
					Total	$ 66,000

a. Number of trips per resident per year has been estimated based on the relative size of facilities and their proximity to the Project.
b. Per the EIR, the estimated population of Friant Ranch is 4,750 at build out (1.9 person per household x 2,500 housing units).
c. Calculated as the estimated increase in visitorship generated by Friant Ranch residents. The percent increase in attendance for Friant Cove and the Hatcher is based on the percent increase estimated for Lost Lake.
d. Calculated as percentage increase in the net operating cost based on the percent increase in visitorship for each facility.
e. The San Joaquin River Conservancy Fund has contracted with the State Park System to operate Friant Cove at a cost of $40,000 per year.
f. Costs to provide recreation acess to the Hatchery are estimated to be the same as for Friant Cove.

Source: Fresno County, California State Parks System.

[6] This analysis uses an average cost approach, assuming that costs increase in a linear fashion based on the percent increase in park utilization. A marginal cost approach would involve a more detailed analysis of park budgets and interviews with park staff to determine which, if any, costs are fixed and do not increase with increased utilization. In order to avoid overstating the expected increase in operating costs, this analysis uses conservative estimates of the amount of visitorship that will be generated by Project residents. It is quite likely that residents who chose to move to the Friant Ranch area for its recreation amenities would visit Lost Lake and other adjacent parks more than once or twice per year.

Estimated Need for Capital Facility Improvements

The County has described a need for substantial capital facility upgrades to Lost Lake Park to remediate existing deficiencies and to serve an increased population. This analysis provides an estimate of the cost to provide needed upgrades and assigns a portion of these costs to the Friant Ranch development, based on the increased utilization of Lost Lake that the development would generate.

The Lost Lake Master Plan provides a long-range vision for Lost Lake and identifies a need for substantial upgrades to park facilities. The Plan calls for the additional of parking areas, fish cleaning stations, boat access points, group picnic areas, restrooms, irrigated turf areas, and trails, in addition to the development of Friant Community Park (a "park within a park" containing various recreational facilities). Currently cost estimates are not available for implementation of the Master Plan. A prior evaluation of Lost Lake, conducted by the State Park System, identified a need for a similar, but generally less extensive, program of capital improvements.[7] The costs of these upgrades are listed in Table 4 and equal approximately $8.25 million in 2011 dollars.

Based on an estimated 13 percent increase in park utilization that would be generated by Friant Ranch residents, the Project would generate a need for approximately $1 million in capital spending to meet increased demand.

[7] The 2001 San Joaquin River Parkway Proposal provides a cost estimate for various capital improvements to Lost Lake Park. This program of improvements does not include costs for development of the Friant Community Park within Lost Lake Park, which would substantially increase the budget for park upgrades.

Table 4
Estimated Capital Costs for Upgrades to Lost Lake
Friant Ranch Parks Impact Analysis

Item[a]		Cost in 2000$
Additional toilet facilities	$	1,760,000
Parking / road improvements	$	1,320,000
Signs - regulatory and interpretive	$	49,500
Trash receptacles	$	2,640
Picnic areas improvements	$	105,000
Fencing improvements	$	114,000
Park office and shop facilities improvements	$	925,000
Entrance station improvements	$	330,000
Utility improvements (electric, sewer, water, etc.)	$	1,382,500
Swimming improvements	$	27,500
Irrigation, turf improvements	$	250,000
Total	$	6,270,000
CPI Adjustment[b]		1.32
Cost in 2011$[c]	$	8,250,000
Increased Utilization of Park Generated by Friant Ranch Residents		12.7%
Capital Facility Costs Attributable to Friant Ranch[d]	$	1,050,000

a. Lost Lake upgrade costs per San Joaquin River Parkway Proposal, prepared by the California State Parks System, December 2000.
b. Consumer Price Index Adjustment for California from December 2000 to June 2011.
c. Adjusted cost based on CPI.
d. Based on the percent increase in utilization.

Source: San Joaquin River Parkway Proposal prepared by the California State Parks System.

Calculation of Payment to Offset Impacts

The following section describes two types of payment structures that could be used to offset park impacts generated by the Project: 1) annually recurring payments and 2) a one-time upfront payment.

Annual Payments

As discussed, annual operating costs at park facilities would be estimated to increase by $66,000 resulting from development of Friant Ranch. An ongoing annual payment of this amount would be sufficient to offset increased operating cost impacts generated by the Project.

The Lost Lake Park Master Plan anticipates a 20- to 30-year buildout for park improvements. For purposes of this analysis, a 25-year time period has been assumed. An annually recurring

payment equal to one twenty-fifth of the total capital facility cost assigned to the project would be sufficient to offset capital facility impacts. Such a payment would equal $42,000 and would be paid annually for 25 years.[8]

For the first year, the total payment (for operating and capital expenses) would equal $108,000.[9] With 2,500 units planned at Friant ranch, this payment would be approximately $43 per unit per year. This payment would need to be adjusted upward each year based on inflation. Over the long-term, inflation has averaged 3.23 percent.[10] In order to generate annual recurring payments, a developer would typically establish a community facility district. Annual payments would adjust downward once the capital facility portion of the payment was fully paid in year 25.

Upfront Payment

As an alternative to establishing a mechanism to generate annually recurring payments, the developer of Friant Ranch could make an upfront fee payment to offset impacts. Described below is the amount of an upfront "endowment" payment that would be sufficient to offset operating cost impacts. Depending on the expected rate of return for an endowment investment, the developer of Friant Ranch would need to provide an upfront payment of between $660,000 and $1.3 million in order offset operating cost impacts. In addition to operating cost impacts, the developer would need to provide an additional $1 million to offset capital facility impacts. In total, a payment in the range of $1.7 million to $2.4 million would be required to fully offset anticipated impacts of the Project. With 2,500 units planned at Friant ranch, this payment would be in the range of $685 to $950 per unit.

Table 5
Upfront Payment to Offset Impacts
Friant Ranch Parks Impact Analysis

Operating Cost Endowment Payment		
Estimated Increase in Annual Net Operating Costs[a]	$	66,000
Calculation of "Endowment Payment" to Offset Increased Operating Costs[b]		
Based on a 5% rate of return on investment	$	1,320,000
Based on a 7.5% rate of return on investment	$	880,000
Based on a 10% rate of return on investment	$	660,000
Capital Cost Payment		
Estimated Cost of Capital Upgrades at Lost Lake		$8,250,000
Estimated Percent Increase in Utilization		12.7%
Fee to Offset Capital Facility Impact		$1,050,000
Total Operating and Capital Cost Payment to Offset Impacts		$1.7 million to $2.4 million

a. Estimated increase in annual net operating costs at the following facilities: Lost Lake, Millerton SRA, Friant Cove, and the San Joaquin Hatchery.

b. Calculated as the size of endowment that could generate sufficient income to offset estimated increases in net operating costs based on different assumptions regarding investment return.

Source: Fresno County, California State Parks System.

[8] This amount is equal to $1,050,000 divided by 25.

[9] This amount is equal to $66,000 for operating expenses plus $42,000 for capital expenses.

[10] Long-term inflation is per the U.S. Bureau of Labor Statistics based on the change in the U.S. Consumer Price Index from 1913 (when data was first collected) through 2011.

Fresno Local Agency Formation Commission

TO: Paul Dictos, Fresno County Assessor
Vicki Crow, CPA, Fresno County Auditor

SUBJECT: "Friant Ranch Annexation"

In accordance with the requirements of the State Government Code (Section 54900 et seq.) and in accordance with Section 99(b) of the State Revenue and Taxation Code, the attached Statement of Boundary Change is prepared and forwarded to you for filing.

A certificate of completion was executed by the Executive Officer on February 27, 2012.

The annexation of territory located in Fresno County is recorded and effective February 27, 2012.

JEFF WITTE
EXECUTIVE OFFICER

Date: February 27, 2012

Please acknowledge the filing of this statement by sending a receipt to our office.

LAFCo Office: 2607 Fresno Street, Suite B, Fresno, CA 93721
Phone: (559) 600-0604 • Fax: (559) 495-0695 • E-mail: cfleming@co.fresno.ca.us

Fresno Local Agency Formation Commission

DATE: February 27, 2012

TO: Fresno County Recorder

FROM: Jeff Witte, Executive Officer JW

SUBJECT: "Friant Ranch Annexation"

In order to complete the filing of the above, we are sending you for recordation a counterpart original of the Certificate of Completion.

Please assist the completion of this filing by making the required filing of the boundary description with the County Assessor's Office and provide the information below for verification purposes. Thank you for your assistance.

Recorded at 9:55 (Time) on 02/27/2012 (Date)

Document Number 20120028024

Signed Jack Griffith

cc: David King, Assessor's Office

LAFCo Office: 2607 Fresno Street, Suite B, Fresno, CA 93721
Phone: (559) 600-0604 • Fax: (559) 495-0695 • E-mail: cfleming@co.fresno.ca.us

EVIDENCE OF COMPLIANCE WITH LAFCO CONDITIONS
Fresno Local Agency Formation Commission
2115 Kern Street, Suite 310, Fresno, CA 93721
Phone: (559) 495-0604 FAX: (559) 495-0655

PROPOSAL: "FRIANT RANCH ANNEXATION"

A. Applicant shall execute an indemnification agreement with the Commission, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter.

B. Waterworks District No. 18 and the County of Fresno shall each provide LAFCo with assurances, sufficient to the Executive Officer, that: (1) Waterworks District No. 18 shall provide wastewater services to the Millerton Lake Village Mobile Home Park currently served by CSA 44A; and (2) the new wastewater treatment plant, once fully permitted and operational, shall be used to provide such service.

C. The territory is liable for existing or authorized taxes, charges, fees or assessments comparable to properties presently in the District.

DISTRICT VERIFICATION

I hereby certify that all of the above actions have been taken by the District in compliance with the terms and conditions of the Commission's approval of the above proposal (to be completed by authorized District representative).

Dan L. Pearce	General Manager
NAME (PLEASE PRINT OR TYPE)	(TITLE)
SIGNATURE	February 27, 2012 DATE

Fresno County Waterworks District 18
P.O. Box 846
Friant, California 93626-0846
(559) 822-3575 (559) 822-2533

Received
FEB 2012
LAFCo

February 17, 2012

Mr. Jeff Witte, Executive Director

Fresno Local Agency Formation Commission

2607 Fresno Street, STE B

Fresno, CA 93721

Re: Annexation of County Service Area 44A Wastewater Service Area (CSA 44A) to Waterworks District No. 18

Dear Mr. Witte:

Following up on this morning's conference telephone conversation, Waterworks District 18 hereby provides the following in response to condition B of Fresno Local Agency Formation Commission (LAFCo) Resolution No AD-11-1A approving Waterworks District No 18's petition to expand its service area to include approximately 520 acres immediately adjacent to the existing service area:

> Waterworks District 18 commits to receive anticipated flows from the Friant Ranch Specific Plan Area and Millerton Lake Village Mobile Home Park at the new wastewater treatment plant, once fully permitted and operational according to the mitigation measures adopted by the County of Fresno, specifically, mitigation measure 3.14.3d.

Millerton Lake Village Mobile Home Park currently receives wastewater service from and comprises the entirety of County Service Area 44, zone of benefit (CSA 44A). The Board of Supervisors in February 2011 adopted the Friant Community Plan Update and anticipates the immediate connection of the Millerton Mobile Home Park to the proposed Waterworks District 18 wastewater treatment plant upon completion of construction and regulatory approvals to include:

- Seeking and receiving all necessary entitlements and permits to construct and operate a wastewater treatment plant, including a conditional use permit application and related California Environmental Quality Act clearance from the County and waste discharge requirements from the Regional Water Quality Control Board.
- The dissolution of CSA 44A by the County of Fresno after assuring that facilities to serve CSA 44A customers are adequately provided for.
- Landowners formally approve the transition and accompanying wastewater service rates, the fully permitted and operational Waterworks District 18 treatment plant will provide wastewater services to the Millerton Lake Village Mobile Home Park.

Sincerely,

Dan Pearce, General Manager

Fresno Local Agency Formation Commission

February 13, 2012

Mr. Dan Spears, Manager
Waterworks District No. 18
P.O. Box 92
Friant, CA 93626

Dear Mr. Spears:

Subject: Legal Fees for the Friant Ranch
Annexation to Waterworks District No. 18

Attached is an invoice for legal fees associated with the lawsuit with the City of Fresno and Waterworks District No. 18. This invoice covers legal services provided by Baker, Manock and Jensen for the period December, 2011 and January, 2012.

We would appreciate receiving a check in the amount of $16,914.52 made payable to LAFCo as soon as possible so that we may submit payment to Baker, Manock and Jensen.

Please note our new address is:

LAFCo
2607 Fresno Street, Suite B
Fresno, CA 93721

Truly yours,

Jeff Witte
Executive Officer

JW:cf

Cc: Dennis Bacopulos, Operating Manager, Friant Ranch LP

Attachment: Invoice No. 00027

G:\LAFCO WORKING FILES\MISC LETTERS&MEMOS\Legal Billing for Friant.docx

INVOICE: 00027

FEBRUARY 13, 2012

Fresno Local Agency Formation Commission
2607 Fresno Street, Suite B, Fresno, CA 93721
Phone: 559.600.0604 | Fax: 559.495.0655
www.fresnolafco.org

TO:

Dan Pearce, Manager
Waterworks District No. 18
P.O. Box 92
Friant, CA 93626

Quantity	Description	Unit Price	Total
1	**LAFCo Legal Fees Associatd with the City of Fresno's Lawsuit Regarding Approval of the Friant Ranch Annexation.**		**$16, 914.52**
	Statement for Period Through 12/31/11		**$11,958.61**
	Statement for Period Through 1/31/12		**$4,955.91**
	Total Amount Due		**$16,914.52**

Make all checks payable to **Fresno LAFCo**

THANK YOU FOR YOUR BUSINESS!

County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER, DIRECTOR



January 31, 2012

Mr. Jeff Witte, Executive Director
Fresno Local Agency Formation Commission
2115 Kern Street, Suite 310
Fresno, CA 93721

Re: Annexation of County Service Area 44A Wastewater Service Area (CSA 44A) to Waterworks District No. 18

Dear Mr. Witte:

Following up on our meeting of December 7, 2011, Fresno County (County) hereby provides the following in response to condition B of Fresno Local Agency Formation Commission (LAFCo) Resolution No. AD-11-1A approving Waterworks District No. 18's (WWD 18 or District) petition to expand its service area to include approximately 520 acres immediately adjacent to the existing service area. This annexation was anticipated by, and consistent with, the County's recently adopted Friant Community Plan Update and Friant Ranch Specific Plan.

Condition B of LAFCo Resolution No. AD-11-1A states:

> Water Works District No. 18 and the County of Fresno shall each provide LAFCo with assurances, sufficient to the Executive Officer, that: (1) Waterworks District No. 18 shall provide wastewater services to the Millerton Lake Village Mobile Home Park currently served by CSA 44A; and (2) the new wastewater treatment plant, once fully permitted and operational, shall be used to provide such service. (Fresno LAFCo Resolution AD-11-1A at p. 2.)

Mitigation measures adopted by the County and analyzed within the Friant Community Plan Update and Friant Ranch Specific Plan Environmental Impact Report (EIR) require immediate connection of the Millerton Lake Village Mobile Home Park to the completed WWD 18 wastewater treatment facilities. (See Fresno County Board of Supervisors Resolution No. 11-031, Exhibit A, Mitigation Monitoring Program.) Specifically, mitigation measure 3.14.3d requires:

> Commitments from the wastewater treatment provider to receive anticipated flows from the Friant Ranch Specific Plan Area and Millerton Lake Village Mobile Home Park at the WWTP shall be secured by Fresno County prior to County approval of improvement plans for wastewater collection and transmission infrastructure. (*Id.* at p. 102.)

The Millerton Lake Village Mobile Home Park currently receives wastewater service from and comprises the entirety of County Service Area 44, zone of benefit A (CSA 44A). (See Friant Community Plan Update, pp. UCP 4-45.) All other residences and businesses within Friant rely on septic systems. (*Id.*) The tertiary treatment process proposed for the WWD 18 wastewater treatment facility will increase the level of treatment provided by the current wastewater facilities utilized by CSA 44A, and may ultimately allow for transition away from septic systems within the Friant community. While the WWD 18 wastewater treatment plant will have the capacity to serve the entire planned buildout of the Friant Community Plan area, the Friant Community Plan Update adopted by the Board of Supervisors in February 2011 anticipates the immediate connection of the Millerton Lake Village Mobile Home Park to the proposed WWD 18 wastewater treatment plant upon completion of construction and regulatory approvals. (See Friant Ranch Specific Plan, p. 92.) County staff will assure that Millerton Lake Village Mobile Home Park is connected to the new WWD 18 wastewater treatment facilities, once available and appropriate approvals are received from the property owners.

The process to connect the Millerton Lake Village Mobile Home Park will follow this general outline:

- Upon receipt of the assurances set forth herein, LAFCo will record the certificate of completion memorializing the annexation of the Friant Ranch Specific Plan area into the District.
- The District will seek and receive all necessary entitlements and permits to construct and operate a wastewater treatment plant, including but not limited to a conditional use permit application and related California Environmental Quality Act clearance from the County and waste discharge requirements from the Regional Water Quality Control Board.
- Fresno County will consider one or more Tentative Tract Maps in conformance with the Friant Ranch Specific Plan.
- Fresno County will consider one or more Final Maps in accordance with the approved Tentative Tract Maps. These Final Maps will include improvement drawings for necessary backbone infrastructure, including the Phase 1 wastewater treatment plant and collection system capable of immediately servicing the Friant Ranch area and the Mobile Home Park upon completion.
- As part of the Final Map and improvement drawing approval process, the County will work with the Friant Ranch developer's engineer to assure that facilities to serve CSA 44A customers are adequately provided per mitigation measure 3.14.3d discussed above. At that time, steps to dissolve CSA 44A will commence.
- Several steps are involved in dissolution of CSA 44A, many of which are subject to approval by the voting landowners within CSA 44A. The County will diligently pursue the dissolution process in favor of having wastewater service responsibility transferred to WWD 18. WWD 18 would conduct the appropriate Proposition 218 rate hearing for the annexed properties.
- Should the dissolution process fail for reasons beyond the County's control, the County will work directly with WWD 18 to secure a contract for wastewater service, allowing the same transfer of operations to the new WWD 18 WWTP without actually dissolving CSA 44A. If necessary, a Proposition 218 rate hearing would be conducted to sufficiently fund the contract. We recognize the need for such a backup plan, but note that the CSA

44A landowners expressed strong support for the transition to the new WWD 18 treatment plant during the Friant Ranch entitlement process.

- Once CSA 44A landowners formally approve the transition and accompanying wastewater service rates, the fully permitted and operational WWD 18 treatment plant will provide wastewater services to the Millerton Lake Village Mobile Home Park.

Thank you for your timely recordation of the certificate of completion of the annexation of the Friant Ranch Specific Plan area into WWD 18, which is a necessary step towards fulfilling the County planning objectives set forth in the Friant Community Plan Update and Friant Ranch Specific Plan.

Sincerely,

Alan Weaver, Director
Department of Public Works and Planning

c: Kenneth Price, Esq.
Dan Pearce
Dennis Bacopulos

LAW OFFICES
COSTANZO & ASSOCIATES
A PROFESSIONAL CORPORATION
575 E. LOCUST AVENUE
SUITE 115
FRESNO, CALIFORNIA 93720-2928
(559) 261-0163

NEAL E. COSTANZO
MICHAEL G. SLATER

FAX (559) 261-0706

OUR FILE NO. 01236-503



February 23, 2012

Jeff Witte, Executive Officer
Fresno Local Agency Formation
Commission (LAFCO)
2607 Fresno Street, Suite B
Fresno, CA 93721
jewitte@co.fresno.ca.us

Bryan Wagner, Esq.
Friant Ranch L.P.
Wagner & Wagner
7110 N. Fresno Street, Suite 340
Fresno, CA 93720

Re: Indemnity Agreement Among Fresno LAFCO, Waterworks District #18 and Friant Ranch, L.P.

Dear Gentlemen:

Enclosed with the letter directed to Brian Wagner is the original Indemnity Agreement relating to the sphere of influence/annexation proceedings conducted by LAFCO with respect to the proposed development by Friant Ranch, L.P. The District and I have executed the document and I am providing it to Mr. Wagner for his signature on behalf of Friant Ranch, L.P. A copy of the Indemnity Agreement being providing to Mr. Wanger is enclosed with the letter to Mr. Witte.

I would ask that Bryan Wagner sign the Indemnity Agreement, and provide the original document to Ken Price or Jeff Witte for their execution. Please provide me with a fully executed copy of the Indemnity Agreement once it is available.

If you have any questions concerning the foregoing, please do not hesitate to contact me.

Sincerely,

COSTANZO & ASSOCIATES

Neal Costanzo

NEC/tm
Enc.
cc: Ken Price (via email - kprice@bakermanock.com)
Jacqueline McDonald Pucheu (via email - jmp@waterlandlaw.com)
Dan Pearce (via email - danpearce@netptc.net)

INDEMNITY AGREEMENT

(FRESNO LOCAL AGENCY FORMATION COMMISSION –

WATERWORKS DISTRICT NO. 18)

THIS INDEMNITY AGREEMENT (this "Agreement") is made and entered into this ___ day of _____, 2011 (the "Effective Date"), by and between the LOCAL AGENCY FORMATION COMMISSION OF FRESNO COUNTY, a California local agency formed pursuant to Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (hereinafter "LAFCo"), FRIANT RANCH, a Limited Partnership (hereinafter "Friant Ranch"), and the WATERWORKS DISTRICT NO. 18, a California special district formed pursuant to the County Waterworks District law (hereinafter "Applicant"). LAFCo, Friant Ranch, and Applicant may be collectively referred to as the "Parties" and singularly by their individual names or as a "Party."

RECITALS

A. On September 28, 2011, LAFCo considered and approved Applicant's applications for (i) revision to its Sphere of Influence; (ii) annexation of approximately 520 acres of territory to its corporate boundaries (the "Territory"); and (iii) activation of latent powers to provide wastewater collection, treatment, and disposal services within its corporate boundaries (collectively, the "Applications"). In addition to the Applications, LAFCo made determinations and adopted a Municipal Service Review (the "MSR") for the Applicant as required pursuant to Government Code section 56430 prior to or concurrently with the revision of a Sphere of Influence.

B. The County of Fresno served as Lead Agency for the Applications under the California Environmental Quality Act ("CEQA") (Public Resources Code Section 21000, *et seq.*). As Lead Agency, the County of Fresno caused the preparation of an Environmental Impact Report ("EIR") for the Applications, made necessary findings, certified the EIR, and adopted a Statement of Overriding Considerations.

C. LAFCo served as the Responsible Agency under CEQA with respect to the Applications. Prior to reaching a decision on the Applications, LAFCo independently reviewed and considered the environmental effects of the Applications as presented in the EIR and made certain findings under CEQA.

D. Following public hearings and after consideration of all evidence, LAFCo made certain findings, determinations, and approvals reflected in LAFCo resolution numbers AD-11-1A, RSOI-156, EP-11-1, MSR 11-10 (hereinafter the "LAFCo Resolutions"). Attached hereto as Exhibit "A" and incorporated herein by this reference are copies of the LAFCo Resolutions.

E. LAFCo's approval of the Applications and the MSR were conditioned on Applicant entering into this Agreement.

F. Applicant acknowledges that there are frequent challenges to governmental approvals, which may expose LAFCo to liability for damages, costs, and

attorney's fees. As evidence of such challenges, in March 2011, the City of Fresno filed a Petition for Writ of Mandate against the County of Fresno challenging the County's certification of the EIR and approval of land use entitlements for the Friant Community Plan Update and Friant Ranch Specific Plan (Case No. 11CECG00706). That case was consolidated with two other Writ of Mandate Petitions filed by the Sierra Club and League of Women Voters, and the San Joaquin River Parkway & Conservation Trust against the County of Fresno regarding the EIR (Case Nos. 11CECG00726 and 11CECG00709, respectively).

G. LAFCo would incur great expense in the active defense of litigation challenging the Applications and/or the MSR and, if unsuccessful, conceivably could also be required to pay the prevailing Party's attorney's fees and costs.

H. LAFCo is an objective decision-making body and, therefore, has no special interest, other than the those interests conferred on it by statute, in the approval or denial of the Applications, or the outcome of litigation arising from the granting or denial of the Applications.

I. The public's interest under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and sound fiscal policy require that the person or entity receiving the benefits of such governmental approvals bear the burden of the liability for potential injuries and expense of such litigation.

L. The Parties mutually desire to enter into this Agreement, by which Friant Ranch shall indemnify, defend, save and hold LAFCo harmless, as provided herein, to ensure that LAFCo bears no fiscal or financial burden whatsoever resulting from any challenge to the Applications and the MSR.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties hereby agree as follows:

1. DEFINITIONS. As used in this Agreement the following terms shall have the following definitions:

(a) "APPLICANT" is the Water Works District No. 18, and its heirs, assigns or successors in interest;

(b) "LAFCo Approval" shall include any act or omission or benefit arising from or in connection with LAFCo's consideration and approval of the Applications and the MSR; and

(c) FRIANT RANCH is Friant Ranch, L.P. and its heirs, assigns or successors in interest.

2. INDEMNIFY, DEFEND, AND HOLD HARMLESS.

(a) Friant Ranch hereby agrees to save, indemnify, hold harmless and, at LAFCo's request, defend LAFCo, and LAFCo's officers, agents, employees, contractors, legal counsel, commissioners and alternate commissioners, from and against

any and all expenses, demands, liabilities, judgments, claims, and costs (including, but not limited to, court costs and attorney's fees), or damages made against or incurred by LAFCo, including, but not limited to, an award of attorney's fees and costs to the person, organization, or entity bringing the cause of action, or their officers, agents, employees, and legal counsel arising from, resulting from, or in connection with the LAFCo Approval.

(b) Friant Ranch shall pay all attorneys' fees and costs related to the representation of LAFCo in any action brought against LAFCo, and/or Applicant arising from, resulting from, or in connection with LAFCo's Approval.

(c) For the purposes of this Agreement, attorney's fees, and related costs and expenses, shall be construed as administrative costs.

3. NOTIFICATIONS AND COOPERATION. Within ten (10) business days of its receipt of any demand, claim, action, proceeding, or litigation related to LAFCo's Approval, LAFCo shall notify Friant Ranch that it requests to be indemnified, defended, and held harmless by Friant Ranch pursuant to this Agreement. Such notice shall include a copy of any complaint, filing, or other documentation received by LAFCo directly relating to such demand, claim, action, proceeding or litigation. For the purposes of this Section, such documentation shall not include LAFCo's file or materials related to the LAFCo Approval. Within ten (10) days of receipt of such a request, Friant Ranch shall notify LAFCo of its intent to indemnify, defend, and hold LAFCo harmless, and shall, if necessary, immediately reply, on behalf of LAFCo, to any pleading or correspondence related to such demand, claim, action, proceeding, or litigation. LAFCo hereby agrees to reasonably cooperate with Friant Ranch to the extent such cooperation may be necessary for Friant Ranch to carry out its responsibilities under this Agreement; provided, such cooperation shall not result in any fiscal or financial burden whatsoever to LAFCo. Conversely, Friant Ranch agrees to cooperate with LAFCo and to engage competent and qualified legal counsel to carry out its responsibilities under this Agreement and to keep LAFCo, through its executive officer and general counsel, informed about all aspects of litigation.

4. LAFCO'S RIGHTS TO HIRE ITS OWN LEGAL COUNSEL. The Parties agree that LAFCo's general counsel will be involved in the litigation on behalf of LAFCo and will coordinate with counsel for Friant Ranch as needed. At this time, the law firm of Baker, Manock, and Jensen serves as LAFCo general counsel. Friant Ranch shall timely reimburse LAFCo for all attorney fees and costs related to LAFCo general counsel's monitoring, review, coordination and involvement in any litigation subject to this Agreement. However, LAFCo agrees that its general counsel shall avoid duplicating efforts of Friant Ranch. To that end, LAFCo counsel shall coordinate with Friant Ranch counsel throughout any litigation subject to this Agreement, including without limitation preparation of the administrative record, litigation strategy, briefing, and oral argument. As set forth hereinabove, LAFCo acknowledges that it has no special interest in the outcome of any litigation arising from the Approval. LAFCo shall not file separate briefs in any such litigation without prior written consent from Friant Ranch. Nothing contained herein shall prohibit LAFCo, in its sole discretion, from participating in the defense of any demand, claim, action, proceeding, or litigation over and above representation by outside counsel provided by Applicant or from participating in the defense of any demand, claim,

action, proceeding or litigation. If LAFCo elects to participate in the defense and hire its own legal counsel, it shall do so in good faith. However, Friant Ranch shall not be required to reimburse LAFCo for attorney fees and costs incurred from any such additional counsel (other than general counsel), unless Friant Ranch provides written consent to the additional legal counsel prior to the performance of any work by such counsel the consent to which may be reasonably withheld in Friant Ranch's discretion. In no event shall LAFCo's participation in the defense of any demand, claim, action, proceeding, or litigation affect the obligations imposed upon Applicant in Sections 2 and 4 of this Agreement.

5. FAILURE OF APPLICANT TO REIMBURSE LAFCO. If at any time Friant Ranch discontinues to reimburse LAFCo for all its actual costs incurred, including, but not limited to, LAFCo staff and legal counsel time expended, LAFCo reserves the right to not challenge any judgments obtained by an adverse party against Friant Ranch or LAFCo.

6. JOINT DEFENSE AND CONFIDENTIALITY.

(a) In coordinating efforts and transmitting information concerning any action invoking Friant Ranch's obligations hereunder, the Parties agree to:

i. Produce and share documents and communications, among and between themselves, protected by the attorney-client privilege as provided in Evidence Code section 954, and attorney work product documents and communications protected by Code of Civil Procedure sections 2018.010-2018.080, which pertain to any action invoking Friant Ranch's obligations hereunder, including documents and communications shared for the purpose of assisting the Parties' counsel in asserting common claims or defenses (collectively "Join Interest Information"). For purposes of this Agreement, Joint Interest Information includes information or documents, if any, that have already been shared or exchanged between the Parties. The Parties shall share Joint Interest Information for use as appropriate in formulating legal strategy and defending the Approval.

ii. Not disclose to any unauthorized third party any portion of any Joint Interest Information that pertains to any action invoking Friant Ranch's obligations hereunder. Each Party shall take all necessary and appropriate measures to assure that any person who is granted access to any Joint Interest Information or who participates in work on joint projects or who otherwise assists any Party or its counsel in connection with the action invoking Friant Ranch's obligations hereunder is: (1) familiar with the terms of this section 6; (2) agrees to comply with the terms set forth in this section 6; (3) agrees that the confidentiality obligations set forth herein will continue to remain in effect in the event that such person terminates his relationship with the respective Party; and (4) signs a confidentiality agreement.

(b) Nothing herein proposes to create a privilege for Joint Interest Information that would be subject to discovery in the absence of its exchange between the parties. The intent of the Parties is to preserve any and all existing privileges or

protections to the Joint Interest Information while pursuing the Parties' common interests and to keep all Joint Interest Information confidential to the maximum extent allowed by law.

(c) Nothing herein shall be construed to affect the separate and independent representation of each Party by its respective counsel according to what its counsel believes to be the respective Party's best interest, or to infer any attorney-client relationships not otherwise agreed to in writing. While counsel are obligated to preserve the confidentiality of information exchanged pursuant to this Joint Defense Agreement and the Parties could potentially prepare joint briefs prepared by Friant Ranch's counsel on behalf of all Parties, counsel are not acting, and will not act, for any Party other than their own respective client(s).

(d) Improper or unauthorized disclosure by one Party of materials or information exchanged hereunder shall not be deemed a waiver by any other Party of its right to assert a claim of attorney-client privilege, other applicable privileges, or work product protection with respect to that material or information.

7. TERMINATION OF AGREEMENT. This Agreement may be terminated only upon the following conditions:

(a) The Parties, by their express, mutual, written consent, agree to terminate this Agreement; or

(b) Friant Ranch petitions LAFCo to terminate this Agreement by providing to LAFCo a written opinion of Friant Ranch's legal counsel, in form and substance acceptable to LAFCo and its general legal counsel, and LAFCo, in its sole reasonable discretion, determines that termination of this Agreement is in the best interest of the public and LAFCo. It is understood and agreed that LAFCo, in making the determination of whether or not to terminate this Agreement, may reasonably rely upon said opinion of Friant Ranch's legal counsel.

(c) Friant Ranch provides LAFCo with a final judgment or settlement of any demand, claim, action, proceeding, or litigation that is brought by anyone that gives rise to Friant Ranch's obligations herein.

8. SEVERABILITY. If any provision of this Agreement is determined to be invalid in a final judgment by a court of competent jurisdiction, each and every other provision hereof shall remain in full force and effect.

9. EFFECT OF HEADINGS. The titles of the articles, paragraphs, subparagraphs, sections, and other parts of this Agreement are for the convenience of the reader only, and no presumption or implication of the intent of the Parties as to the construction of this Agreement shall be drawn therefrom.

10. COUNTERPARTS. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, all of which together shall constitute one and the same instrument.

11. ASSIGNMENT. No Party to this Agreement may assign all or any part of this Agreement, or any interest therein, or delegate all or any part of its obligations under this Agreement without the prior written consent of the other Party to this Agreement.

12. BINDING EFFECT. Subject to the provisions of Paragraph 11 of this Agreement, the provisions of this Agreement, and the covenants and conditions contained in this Agreement, shall be continuous and shall be binding upon and inure to the benefit of the heirs, successors, and assigns of the Parties to this Agreement.

13. NOTICES. Except as otherwise expressly provided in this Agreement, all notices, requests, demands, and other communications required under this Agreement shall be in writing and shall be deemed to have been given (i) on the date of service, if served personally on the person to whom notice is to be given, (ii) on the date of receipt, if sent by telecopier to the person to whom notice is to be given at the telecopier number set forth below, or (iii) on the third day after mailing, if mailed to the person to whom notice is to be given, by first class mail, postage prepaid, and properly addressed as follows:

To LAFCo at:	Fresno LAFCo 2115 Kern Street, Suite 310 Fresno, California 93721 Facsimile Number: (559) 495-0655 Attn: Jeff Witte, Executive Officer
With a copy to:	Kenneth J. Price, Esq. BAKER, MANOCK & JENSEN 5260 N. Palm Avenue, Suite 421 Fresno, California 93704-2209 Facsimile Number: (559) 432-5620
To APPLICANT at:	Water Works District No. 18 P.O. Box 846 Friant, CA 93626-0846 Facsimile Number: (559) 822-3577 Attn: Dan Pearce
With a copy to:	Neal E. Costanzo, Esq. Costanzo & Associates 575 E. Locust Avenue Fresno, CA 93720 Facsimile Number: (559) 261-0163
To FRIANT RANCH:	Friant Ranch, L.P. Bryan Wagner, Esq. Wagner & Wagner, a Professional Corporation 7110 N. Fresno Street, Suite 340 Fresno, CA 93720 Facsimile Number: (559) 307-0563

With a copy to: James G. Moose
Remy, Thomas, Moose & Manley, LLP
455 Capitol Mall, Suite 210
Sacramento, CA 95814
Facsimile: (916) 443-9017

Any Party or designated recipient may change his address for purposes of this Paragraph 13 by giving written notice of such change to the other Party and/or designated recipients in the manner provided for in this Paragraph 13.

14. GOVERNING LAW AND VENUE. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California. The Parties to this Agreement agree that venue for any litigation arising under this Agreement shall be in the County of Fresno, State of California.

15. CONSTRUCTION. All words used in this Agreement shall be construed to include the plural as well as the singular number and vice versa, all words used in this Agreement in the present tense shall include the future as well as the present, and all words used in this Agreement in masculine gender shall include the feminine and neuter genders, whenever the context so indicates.

16. ENTIRE AGREEMENT. This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the Parties relating to the Applications and supersedes all prior and contemporaneous agreements, representations, and understandings of the Parties with regard thereto. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all of the Parties to this Agreement.

17. FURTHER ACTION. The Parties to this Agreement shall execute such other documents, and shall take such other actions, as may be necessary or appropriate to carry out the foregoing.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

APPLICANT: WATER WORKS DISTRICT NO. 18

By: _____

Title: General Manager

APPROVED AS TO LEGAL FORM:

By: _____
Neal Costanzo
Costanzo & Associates

LAFCo: LOCAL AGENCY FORMATION COMMISSION OF FRESNO COUNTY

By: _____
Name

Title: Executive Officer

APPROVED AS TO LEGAL FORM:

By: _____
Kenneth J. Price
BAKER MANOCK & JENSEN, PC
Legal Counsel for LAFCo

FRIANT RANCH, a Limited Partnership

By: SWD Investments – Friant Ranch, Inc., General Partner

By:_____
Bryan N. Wagner, Secretary

NOTIFICATION OF COMMISSION ACTION, AND CHECKLIST FOR COMPLETION OF LAFCO PROCEEDINGS

Fresno Local Agency Formation Commission (LAFCo)
2115 Kern Street, Suite 310, Fresno, CA 93721
Phone: (559) 495-0604 FAX: (559)495-0655

PROPOSAL: "FRIANT RANCH ANNEXATION" TO WATERWORKS DISTRICT #18

The above proposal has been approved by the Commission and the Conducting Authority Proceedings have been waived.

Following a 30-day period during which any person may request the Commission to reconsider its action approving a proposal, the Commission may record this annexation once we receive the following items:

- [ ] Evidence of compliance with all conditions of approval, if applicable. (See attached EVIDENCE OF COMPLIANCE WITH LAFCO CONDITIONS form.)

(Please attach a copy of this form when submitting the documents above for completion.)

SUBMITTED BY:_____

AGENCY:_____

PHONE NUMBER:_____

Jeff Witte

Jeff Witte, LAFCo Executive Officer

EVIDENCE OF COMPLIANCE WITH LAFCO CONDITIONS
Fresno Local Agency Formation Commission
2100 Tulare Street, Suite 502, Fresno, CA 93721
Phone: (559) 495-0604 FAX: (559) 495-0655

PROPOSAL: "FRIANT RANCH ANNEXATION" TO WATERWORKS DISTRICT #18

A. Applicant shall execute an indemnification agreement with the Commission, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter.

B. Waterworks District No. 18 and the County of Fresno shall each provide LAFCo with assurances, sufficient to the Executive Officer, that: (1) Waterworks District No. 18 shall provide wastewater services to the Millerton Lake Village Mobile Home Park currently served by CSA 44A; and (2) the new wastewater treatment plant, once fully permitted and operational, shall be used to provide such service.

C. The territory is liable for existing or authorized taxes, charges, fees or assessments comparable to properties presently in the District.

I hereby certify that all of the above actions have been taken by the Waterworks District No. 18 in compliance with the terms and conditions of the Commission's approval of the above proposal.

NAME (PLEASE PRINT OR TYPE)	(TITLE
SIGNATURE	DATE

September 28, 2011

Chairman and Commissioners
Fresno County LAFCo
2115 Kern Street, Suite 310
Fresno, CA 93721

I wish to address Agenda Item #14 on the Agenda for today:

> ***14. Consider Adoption and Approval: Waterworks District #18***
> ***Prior to considering Items A through D, LAFCo will consider the Friant Ranch Environmental Impact Report (EIR).***
>
> ***A. Consider Adoption: "Municipal Service Review".*** *A request to Update the Municipal Service Review for Waterworks District No. 18. (**LAFCo File No. MSR-11-6).***
>
> ***B. Consider Approval. "Sphere of Influence Revision".*** *A request to revise Waterworks District No. 18's sphere of influence by adding approximately 520 acres of territory located adjacent to the Community of Friant **(LAFCo File No. RSOI-156).***
>
> ***C. Consider Approval: "Friant Ranch Annexation".*** *A proposed annexation that would add approximately 520 acres of territory located adjacent to the Community of Friant **(LAFCo File No. AD-11-1).***
>
> ***D. Consider Approval: "Extension of Powers".*** *A request by Waterworks District No. 18 to activate their latent powers to enable them to provide sewer service to the Friant Ranch Annexation area located adjacent to the Community of Friant **(LAFCo File No. EP-11-1).***
>
> ***Recommendation: Find the Municipal Service Reviews and Sphere of Influence Update to be Categorically Exempt from CEQA and is Complete and Satisfactory; Make Findings and Determinations and Adopt Municipal Service Review; Make Determinations and Update the Sphere of Influence for the Waterworks District #18; Make Determinations and CEQA Findings and Approve Friant Ranch Annexation with Condition(s); and Approve Extension of Powers.***

I have 2 objections to the action being considered: (1) the shape of the proposed Sphere of Influence (SOI) boundary for Waterworks District 18 (District) and (2) the timing of the action.

There are 3 problems with the shape of the proposed boundary.

First of all, the proposed boundary does not include the property on the west side of Friant Road that will serve as the site for the new wastewater treatment plant. I can't imagine how the District will be able to operate a plant that is not located within its SOI. If the District plans to file for annexation of this area at some later date, then I would like to hear now the reason for the delay.

Secondly, it appears that the District is currently operating outside of its SOI. I attended the LAFCo hearing for the previous District SOI review on February 9, 2011. I asked whether the District was providing services to Table Mountain Rancheria and was told that it was not. Attached to my letter today are citations from 2 District 18 letters (February 2009 and February 2011) indicating otherwise.* Shouldn't a review of the District SOI acknowledge this information, and shouldn't the proposed boundary change include the entire area that the District serves?

And lastly, in two recent LAFCo staff reports regarding the District, there was recognition of the fact that Fresno County wants to consolidate all water and sewer service special districts in the Friant area and to fold them into District 18. Wouldn't this be an appropriate time to at least address this issue and state for the record the need for consolidation, what consolidation would entail and when it might be accomplished?

Now, as to the timing of this action, Friant Ranch was approved by the County in 2010. The last District 18 boundary update by this Commission was in February of 2011. For reasons unknown to me, the District and/or the Commission chose not to include the Friant Ranch property in the District's SOI at that time. I understand that LAFCo needs only to update the District's SOI every five years or when necessary. Since the last update was done this year, I am wondering, then, what makes the annexation necessary at this time, especially in light of the fact that there are 3 lawsuits challenging the County approval of the project. I think you need to make a finding as to necessity.

This concludes my comments to the Commission other than to say that back in February of this year when I read through the staff report for the last SOI update for District 18, I learned that the District had completed engineering designs for the new wastewater facilities that are to serve Friant Ranch. I asked to see those plans, as they were not available to the public during the environmental review of the Friant Ranch project, but I was told by the Commission that I would have to contact the District to see a copy. Today you are considering the District's authority to operate a wastewater treatment plant; therefore, I ask once again for LAFCo to produce those designs and to make findings that they are environmentally sound, especially since your action today is supposed to satisfy mitigation measures #3.14.3a, c, d and e of the Friant Ranch EIR.

Sincerely,

Radley Reep

Radley Reep
557 W. Escalon #101
Clovis, CA 93612

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* In a 02-11-11 letter from Waterworks District 18 to the County of Fresno, the District wrote "*The District is also in need of a looping waterline that would alleviate the strain on the current lines in certain portions of Friant. The waterlines are directly impacted by Table Mountain Casino that retrieves water from a connection on this line.*" In another document submitted by the District to the County on or about 02-01-09, the District wrote "*Table Mountain has a water loading area at the waterworks plant and trucks the water to the Rancheria. The Waterworks District currently processes 4 acre feet of water per month for Table Mountain Rancheria and wishes to increase production while allowing the Rancheria to decrease the water truck trips from Table Mountain into Clovis and Fresno.*"

** A LAFCo staff report dated 02-09-11, contained this text: *"Present and planned capacity: Due to the anticipated growth, the District has stated that it will need to expand the water treatment system, construct a wastewater treatment plant, lay in sewer trunk lines and laterals and install a pumping station and related facilities. The District currently has engineering designs for the proposed new facilities. The planned facilities are expected to accommodate the proposed new development. The proposed new development is dependent on these new facilities to be constructed. The proposed development, if approved, is required to help finance additional infrastructure and facilities.*" [My underlining]

SIERRA CLUB
FOUNDED 1892

Tehipite Chapter ● Sierra Club
To explore, enjoy and preserve the nation's forests, waters, wildlife and wilderness.

September 28, 2011

Chairman and Commissioners of the
Fresno County Local Agency Formation Commission
2115 Kern Street, Suite 310
Fresno, CA 93721

Re: Fresno County Waterworks District 18 Approvals

Dear Chairman and Commissioners of the
Fresno County Local Agency Formation Commission:

I represent the Sierra Club Tehipite Chapter, representing over 2,000 dues-paying members in a five-county region, including Fresno County. I serve as Vice Chair of the chapter and an Executive Committee member. I will comment on the item on today's LAFCO agenda pertaining to the application of Fresno County Waterworks District 18 to expand its boundaries and services through a Municipal Service Review (LAFCO File No. MSR-11-6), a Sphere of Influence Revision (LAFCO File No. RSOI-156), the Friant Ranch Annexation (LAFO File No. AD-11-1), and an Extension of Powers to provide wastewater service (LAFCO File No. EP-11-1).

My comments are as follows:

1. Staff report fails to advise that there are currently three pending lawsuits challenging the validity of the EIR and the County's certification thereof.

2. It is not prudent to approve the project now as the continued viability of the project is not assured.

3. As per the BLM comment, the long-term availability of water for the project is not ensured because there is no evidence that the Lower Tulare Irrigation District will approve a long-term transfer.

4. Contrary to the Staff Report, where, as here, the lead agency-prepared EIR is subject to judicial challenge at the Responsible Agency (i.e. LAFCO) considers approving a project (annexation, SOI) in reliance thereof, the Responsible Agency must assume the validity of the EIR:

Pub Res Code §21167.3(b), which in relevant part provides that "[i]n the event that an action or proceeding is commenced as described in subdivision (a) but no injunction or similar relief is sought and granted, responsible agencies **shall assume** that the environmental impact report or negative declaration for the project does comply with the provisions of this division . . ."

PO Box 5396, Fresno, CA 93755
559-229-4031

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5. The staff report claims that "The District represents that the expansion required of Friant Ranch will fully supply the water needs of the Project, and at full build-out, the District will be left with the same amount of capacity to serve the their current customers." I cannot verify the veracity of this claim. What is the evidence that the District's current and future customers (without the annexation) would not be affected by the annexation and the District's agreement to supply water to Friant Ranch?

6. The staff report states that "The proposal does not conflict with the goals and policies of the Commission to oversee and promote logical formations, planned, well ordered, efficient development patterns and service areas, and orderly urban development."

The project is not a logical or orderly extension of the tiny community of Friant, it is a massive project that initially will only serve those over 55. It will not provide worker housing, which the General Plan previously noted would be needed if the area is to serve as a recreational hub. So this development is neither logical nor orderly.

7. According to the staff report, the State Health Department raised the following concern:

> The State Department of Health Services expressed their concern that Waterworks District No. 18 did not have an adequate water source and treatment capacity to serve the proposed development and said the District must significantly increase its water source and treatment capacity before expanding its service area.

Staff's response to this concern is as follows:

> "Staff **feels** [italics for emphasis] that with approval of the sphere of influence revision, annexation and extension of powers, the District will be able to provide the services for the project."

This response by staff is completely inadequate, as it is not based on any evidence or analysis. What staff "feels" is irrelevant—what matters is what staff can prove.

Gary Lasky

Vice Chair,
Sierra Club Tehipite Chapter
data.nations@gmail.com
559-790-3495

FRESNO LOCAL AGENCY FORMATION COMMISSION
EXECUTIVE OFFICER'S REPORT

September 28, 2011
Agenda Item No. 14

TO:	Fresno Local Agency Formation Commission;
FROM:	Jeff Witte, Executive Officer.
APPLICANT:	Fresno County Waterworks District No. 18
APPLICATIONS:	LAFCo Nos. MSR-11-6, RSOI-156 AD-11-1, EP-11-1
ACREAGE & LOCATION	Approximately 520 acres located adjacent to the existing community of Friant. See enclosed map.
PURPOSES:	To allow Waterworks District No. 18 to annex the developable portion of the Friant Ranch Specific Plan approved by the Board of Supervisors and allow the District to provide sewage collection and disposal services in addition to the water services it is now providing.

GENERAL ANALYSIS:

Continued Public Hearing

The initial public hearing on these matters was held August 24. At that time, based on the staff's recommendation, the Commission continued the hearing to the next regular LAFCO meeting scheduled for September 28.

The following report is presented and takes the place of the Executive Officer report considered by the Commission on August 24.

Description of Proposal

There are four components to this overall "proposal" that are presented to the Commission.

- Update the Municipal Service Review for Waterworks District No. 18 (hereafter "District") that was approved by the Commission in February 2010.
- Amend the District Sphere of Influence as approved by the Commission in February 2010 to encompass the Friant Ranch Specific Plan.
- Authorize the District to provide wastewater collection, treatment and disposal services.
- Approve the Friant Ranch Annexation to the District with specific terms and conditions.

These components require the Commission to review and consider the Environmental Impact Report prepared and certified by the Board of Supervisors and related documents for the Friant Ranch development and adopt findings in its role as a responsible agency.

Each of these four components and compliance with CEQA are discussed in subsequent sections of this staff report.

In modifying spheres of influence or local agency boundaries, or allowing districts to provide additional types of services, the Commission is not approving land use permits previously granted or which may be granted in the future. Section 56886 states specifically that none of the terms and conditions imposed by the Commission shall directly regulate land use, property development, or subdivision requirements.

History and Background

Waterworks District No. 18 was formed in 1956. It operates pursuant to the County Waterworks District Law (California Water Code Section 55000 et seq.)

The District currently provides water service for 234 residential, commercial and industrial connections. An additional 180 potential connections are within the existing District boundary.

District water supplies are obtained from Millerton Lake via a contract with the U.S. Bureau of Reclamation. The existing water treatment plant and water supply system uses a clarification and filtration process to treat the water from Millerton Lake and serve the Community of Friant. The District also contracts with Table Mountain Rancheria to treat water for the Rancheria casino; this supply of treated water is trucked to the casino.

The District is governed by a five-member board of directors who must be residents of the area within the District. The board members are appointed by, and serve at the pleasure of, the Board of Supervisors. The District has its own staff including a general manager, bookkeeper, operations manager, and water operators.

Friant Ranch Specific Plan

The County Board of Supervisors, following public hearings and compliance with CEQA, updated the Friant Community Plan, which is a component of the Fresno County General Plan, and authorized the Friant Ranch Specific Plan (collectively, the "Project").

The Project expands the Friant Community Plan area by approximately 942 acres, however approximately 422 acres will remain in open space uses, as required by the Friant Ranch Specific

Plan, and will not be annexed to the District. The remaining acreage within the Community Plan area has been re-designated from Agriculture to various Commercial, Residential, Public Facility, and Open Space Designations and specific policies have been adopted to address development in these designations.

The Project also includes creating an implementing zone district with associated development standards to rezone the Friant Ranch project site. The Community Plan Update includes new policies to address the needs of the community in areas of land use, economic development, public safety and recreation.

Originally it was proposed to allow 2,996 residential units with 2,683 age-restricted single-family units, (55 years of age and older) 83 age-restricted multi-family units (55 years of age and older), and 180 non-age restricted multi-family units. As finally approved by the County, the Project will allow 2,500 new residential units.

The project also includes a Village Center on about 21.3 acres that would encompass 250,000 square feet of retail and commercial uses, along with 50 non-age restricted residential units.

To implement the approved Project, specific approvals must be obtained from LAFCo including updating the Municipal Service Review and amending the District Sphere of Influence, authorizing the District to provide wastewater collection, treatment and disposal services and annexing approximately 520 acres of territory to the District.

District Municipal Service Review Update

Government Code Section 56430 states that in order to prepare and update Spheres of Influence LAFCO must review municipal services in the area designated by the Commission. In so doing the Commission must prepare a written statement of its determinations with respect to each of the following:

- Growth and population projections for the affected area.
- Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.
- Financial ability of agencies to provide services.
- Status of, and opportunities for, shared facilities.
- Accountability for community service needs, including governmental structure and operational efficiencies.

- Any other matter related to effective or efficient service delivery, as required by commission policy.

The statutory requirement is that the Commission conduct a service review not later than the time it is considering an update to a sphere of influence.

The existing Municipal Service Review adopted in February 2011 is attached as Exhibit A. An updated Municipal Service Review with recommended determinations is attached as Exhibit B.

District Sphere of Influence Amendment

A sphere of influence is defined as "a plan for the probable physical boundaries and service area of a local agency, as determined by the commission." Since 1971, LAFCOs have been required to adopt a sphere of influence of each city and special district in the County

Developing spheres is central to the Commission's purposes for "planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities." (Government Code Section 56425.)

The law requires LAFCOs to review and update spheres of influence at least every five years. Moreover, any person or local agency may request an amendment to a Sphere of Influence, which is the case here because the District requested the modification to its sphere. The request must state the nature of the proposed amendment, state the reasons for the request, include a map of the proposed amendment, and contain any additional data and information required by the Executive Officer.

The application submitted by Waterworks District No. 18 includes all required components. The law states that after complying with CEQA the staff must place the sphere request on the Commission agenda and provide proper notice, which has occurred in this case. In addition the Executive Officer must review the request and prepare a report and recommendation.

The statute directs LAFCO in determining a Sphere of Influence to consider and prepare a written statement of its determinations with respect to each of the following:

- Present and planned land uses in the area, including agricultural and open-space lands.
- Present and probable need for public facilities and services in the area.
- The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

- The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

The proposed sphere of influence amendment is consistent with LAFCo's adopted Policies, Standards and Procedures (section 100 *et seq.* and section 330).

The proposal does not conflict with the Commission goals and policies to oversee and promote logical formations, planned, well-ordered, efficient development patterns and service areas, and orderly urban development.

The City of Fresno has concerns about the proposal, including that the proposal facilitates development far from other populated areas where significant growth is not likely in the coming decade. However, a reference to the County General Plan document for Fresno-Clovis Area Community Plans would seem to be pertinent and appropriate to the issue before the Commission. The documents states:

> The plan seeks to protect the productive agricultural land as a the county's most valuable natural resource and the historical basis of its economy through directing new urban growth to cities and existing unincorporated communities and by limiting the encroachment of incompatible development upon agricultural areas. (Emphasis added)

The County General Plan for 2000 sets forth a similar policy:

> The goals and policies under the third heading, Urban Development, direct intensive urban development into cities, unincorporated communities and other areas planning for such development where public facilities and infrastructure are planned for and/or available. (Emphasis added)

The Friant Ranch project is in immediate proximity to, and an expansion of, the unincorporated Friant Community. It is a rare opportunity for this existing urban community of more than 200 homes has to obtain community sewer service.

The City has also voiced the opinion that the proposed Friant Ranch development is in conflict with LAFCOs adopted "Policies, Standards and Procedures" which discourage "leap frog, non-contiguous urban development patterns." In response, it should be noted that the proposed project is in not leap frog development in that it is adjacent to and will be part of the Friant Community.

The Commission is a quasi-legislative body with broad latitude and discretion to decide such matters even without the need to adopt written findings. In such matters, LAFCO is exercising a direct grant of legislative authority and therefore the determination of whether the project is consistent with its policies is a matter for the Commission to decide.

The Sphere of Influence adopted in February 2011 is attached as Exhibit A. An amended Sphere of Influence with recommended determinations is attached as Exhibit C.

Annexation of Friant Ranch to Waterworks District No. 18

As mentioned, the Friant Ranch Project site comprises 942 acres, with 460 acres proposed for development and 482 acres proposed for dedicated on-site open space. Portions of the open space necessary to provide a contiguous service area are included in the proposed annexation, bringing the total area to approximately 520 acres. The remainder of the open space area is not proposed for annexation to the District as no services will be required or provided.

The proposed annexation is consistent with LAFCo Policies, Standards and Procedures section 100 *et seq.* The proposal does not conflict with the goals and policies of the Commission to oversee and promote logical formations, planned, well-ordered, efficient development patterns and service areas, and orderly urban development.

Authorize the District to Provide Wastewater Services

Government Code Section 56245 states that when amending or updating a Special District Sphere of Influence, the Commission must (1) require existing districts to provide statements specifying the functions or classes of services they provide and (2) establish the nature, location, and extent of functions or classes of services provided by the district.

The Commission did so when it adopted the Municipal Service Review for the District by stating water services provided by the District are within its authorized powers. The staff at that time noted that the District had expressed interest in activating latent powers, specifically wastewater and storm drainage service.

A special district may initiate proceedings to exercise new or different functions or classes of services within all or part of the District. The District has requested LAFCO approval to provide wastewater service.

A special district request to provide a new or different function or class of services must include a "plan for services" prepared pursuant to Government Code Section 56653. Such a plan must describe (1) the services to be extended, (2) the level and range of those services (3) when services can feasibly be extended, (4) any improvement or upgrading of structures, roads, sewer

or water facilities, or other conditions the agency would impose or require if the change is completed and (5) data with respect to how those services will be financed.

Government Code Section 56824.12 requires the services plan to include (1) total estimated cost to provide the new or different service, (2) estimated cost of the new or different services to customers within the district, (3) existing providers, if any, of the new or different services proposed to be provided and the fiscal impact to customers of those existing providers, (4) summary of whether the new or different services will involve the activation of the power to provide a particular class of service, (5) financing plan to establish the new or different services and (6) alternatives to the establishment of new or different services.

Such a plan to provide wastewater services was prepared by the Provost & Pritchard Consulting Group and submitted by the District. It has been considered by the staff in preparing this report. It concludes it is feasible from both engineering and fiscal perspectives for the District to provide the wastewater service for the uses anticipated by the Friant Ranch Specific Plan.

Staff has also reviewed the Friant Ranch Infrastructure Master Plan prepared by Provost & Pritchard Engineering Group, submitted by the District and adopted by the Board of Supervisors in February 2011.

While it is not part of the proposal before the Commission, the developers of the Friant Ranch Specific Plan intend to construct a wastewater treatment system that, after being built, will be transferred to, owned, operated and maintained by the District. The District would have no up-front capital costs since these expenses would be borne by the developers. The ongoing costs to operate the system would be borne by ratepayers.

Information submitted by the District to the County in support of the general plan amendment and to the Commission in its application, included the "Municipal Services Review and Plan for Services" prepared by the Provost & Pritchard Consulting Group.

Government Code Section 56824.12 requires that the plan submitted by a district to provide new services must provide specific information. These informational needs and our comments are shown here:

- Estimate the cost to provide the new or different services within its boundaries.

  The cost to provide wastewater services within the existing District will be determined at such time as the existing property owners wish to connect to the sewer system. It is planned to size the wastewater treatment plant to accommodate these uses if requested.

- Estimate the cost of the new or different services to customers within its boundaries.

  The capital costs to construct the wastewater collection, treatment and disposal system will be "fronted" by the Friant Ranch developer. The costs for the capital improvements are included in the Plan for Services, Friant Ranch Infrastructure Master Plan approved by the Board of Supervisors in February 2011 and the Strategic Plan for Waterworks District No. 18 prepared by Provost & Pritchard Consulting Group. Ongoing service will be paid by monthly service charges to those who are benefiting from the service.

- Identify the existing providers, if any, of the new or different services be provided and the potential fiscal impact to the customers of those existing providers.

  There are no existing providers of wastewater services, except for CSA No 44A which serves the Millerton Lake Mobile Home Park. It is proposed to require Waterworks District No. 18 and the County of Fresno to each provide LAFCo with assurances, sufficient to the Executive Officer, that: (1) Waterworks District No. 18 shall provide wastewater services to the Millerton Lake Village Mobile Home Park currently served by CSA 44A; and (2) the new wastewater treatment plant, once fully permitted and operational, shall be used to provide such service.

- Summarize whether the new or different services will involve the activation of the power to provide a particular service, function or class of service.

  The authorization to provide wastewater services involves activation of the power to provide this class of service, which has not been provided by this agency in the past.

- Present a plan to finance the establishment of the new of services within the district.

  The Friant Ranch Infrastructure Master Plan and Strategic Plan for Waterworks District No. 18 prepared by Provost & Pritchard Consulting Group describes that capital costs will be borne by the developer of Friant Ranch. Ongoing costs to operate the wastewater system will be borne by users of the system through the payment of monthly service charges or fees.

- Describe alternatives for the establishment of the new of services within the district.

  Given the distance of the Friant Community from other developed areas and the lack of capacity to serve the projected development project, there are no reasonable or feasible alternatives to authorizing Waterworks District No. 18 to provide the desired services.

The item before the Commission is to authorize the District to provide wastewater services; it is not approval for construction of any particular wastewater treatment plant or related sanitation facilities. Various agencies, other than the Commission, which does not have land use or waste discharge authority, will consider approval of, and grant permits for, District wastewater services in the future. Supplemental environmental analysis addressing specific, new information not considered in the EIR may be necessary at that time in accordance with CEQA.

However, without assurance that is authorized to provide wastewater collection, treatment and disposal, it is not implausible that a public agency or private interest, such as the Friant Ranch developer, would be reluctant to expend the funds and prepare the work needed to perform the detailed analysis.

Staff has concluded that the environmental documentation that was prepared and certified by the County for the Friant Ranch development is sufficient for the Commission to authorize the District to provide this additional type of public service.

Provision of Wastewater Services to Existing Development

The non-sewered portions of the Friant Community rely on individual on-site disposal systems. The decision to fund or construct a wastewater collection system for the existing community rests with its residents. The developers of the Friant Ranch Specific Plan have offered to provide a point of connection for a future wastewater collections system to serve the existing Friant Community.

The Millerton Lake Mobile Home Park, within the existing Friant Community, currently receives sewage collection and disposal service from County Service Area No. 44A. This County-governed District operates an in-tract collection system and wastewater disposal facility. That disposal facility is considered to be outdated and in great need of replacement.

If the Commission allows the District to provide wastewater services, it would be appropriate to require Waterworks District No. 18 and the County of Fresno to each provide LAFCo with assurances, sufficient to the Executive Officer, that: (1) Waterworks District No. 18 shall provide wastewater services to the Millerton Lake Village Mobile Home Park currently served by CSA 44A; and (2) the new wastewater treatment plant, once fully permitted and operational, shall be used to provide such service.

An objection raised by the City of Fresno to this project is the lack of CEQA review conducted to provide wastewater services within the District's existing boundaries. It should be noted that one

of the categorical exemptions written specifically for LAFCO approvals is Class 19 (CEQA Guidelines section 15319) which reads:

> Class 19 consists of only the following annexations:
>
> (a) Annexations to a city or special district of areas containing existing public or private structures developed to the density allowed by the current zoning or pre-zoning of either the gaining or losing governmental agency whichever is more restrictive, provided, however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities.
>
> (b) Annexations of individual small parcels of the minimum size for facilities exempted by Section 15303, New Construction or Conversion of Small Structures.

Connecting existing structures that dispose of wastewater into the ground through septic systems onto a community sewer seems to be an environmentally preferable way to treat and dispose of wastewater effluent, but that issue can be addressed at the time a wastewater system is designed for the Friant Community. At this time, the only consideration before the Commission is whether the District should be authorized to provide wastewater disposal services. These other considerations can be addressed through subsequent actions.

Improved Water Supply and Treatment

Treated water for the initial development at Friant Ranch can be provided by the existing water system. The County of Fresno has required the Friant Ranch project to expand the present water treatment plan in phases to accommodate the needs of the project. (Friant Ranch Infrastructure Master Plan, p. 16.)

The District represents the expansion required of Friant Ranch will fully supply the water needs of the Project, and at full build-out, the District will have the same amount of capacity to serve its current customers as it does now.

Special Districts in the Friant Community

County Service Area No. 44A provides wastewater collection and disposal services for the Millerton Lake Mobile Home Village located within the Waterworks District No. 18. Once the Friant Ranch wastewater treatment plant is constructed, the CSA 44A treatment facility should be abandoned and its service responsibilities transferred to the District. If the Commission authorizes the District to provide wastewater services it would be appropriate to

require Waterworks District No. 18 and the County of Fresno to each provide LAFCo with assurances, sufficient to the Executive Officer, that: (1) Waterworks District No. 18 shall provide wastewater services to the Millerton Lake Village Mobile Home Park currently served by CSA 44A; and (2) the new wastewater treatment plant, once fully permitted and operational, shall be used to provide such service.

Other special districts in the Friant area include the Fresno County Fire Protection District, Fresno County Library District, Clovis Cemetery District, County Service Area No. 35, Consolidated Mosquito Abatement District, Clovis Unified School District, State Center Community College District and West Fresno County Red Scale Protective District.

County staff has indicated it may be worthwhile to explore, at some future time, whether it would be beneficial to consolidate County Service Area No. 34 with a portion of County Service Area No. 44, Waterworks District No. 38, and Waterworks District No. 18. Waterworks District No. 18 would become the service provider for these districts. This possibility is beyond the scope of the proposal that has been presented to the Commission at this time.

Independent vs. Dependent Special District

The City of Fresno has voiced the opinion that the Commission had not adequately considered the "alternative" of forming a special district with a locally-elected board of directors rather than allowing the existing District to provide the desired wastewater services.

This is a valid discussion regarding the organization of local agencies but staff believes it is not timely. If the residents of the Friant Community wish to form a special district with a locally-elected and accountable board of directors – as compared with the current arrangement in which the board of directors of the District is appointed by the Board of Supervisors – there are procedures to initiate such a formation. Apparently there has been insufficient interest in doing so, though that might change in the future.

While there may be benefits to having sewer service provided by an independent special district, it also raises the issue of fragmentation of decision making authority within the community. There are tangible benefits to having water and wastewater services provided by the same agency and any attempt to form an independent special district for the Friant Community should take into account all of the services that it should be authorized to provide and also how far its boundaries should extend in accommodating other public service needs.

This issue is not timely because there has been no expression of interest by the community, the District or the County government in any option other than the application to the Commission.

Property Tax Exchange Agreement

Revenue and Taxation Code Section 99 provides that whenever an application is filed, but prior the issuing a certificate of filing, the Executive Officer shall initiate a process through the County Assessor and Auditor of generating information to allow for the negotiated exchange of property taxes related to the boundary changes that have been proposed.

On September 22, LAFCo staff received a letter from the County of Fresno Auditor-Controller, Vicki Crow, confirming that the County of Fresno Tax Collector only collects assessments for Waterworks District No. 18. The District does not receive a share of the County-wide 1% property tax revenue. Therefore, a negotiated exhange of property taxes related to the proposed boundary changes is not required. A copy of the letter from Vicki Crow is attached as Exhibit D.

Environmental impacts and compliance with CEQA

The County is the lead agency and has found that significant environmental effects may result from development of Friant Ranch Specific Plan. An Environmental Impact Report (EIR) has been prepared and certified by the Board of Supervisors.

- On October 3, 2007, the County distributed the Notice of Preparation ("NOP") for the EIR for the Friant Community Plan Update and Friant Ranch Specific Plan for a review period ending on November 1, 2007.

- On October 30, 2009, a Notice of Availability ("NOA") of the Draft EIR was circulated for a review period ending December 15, 2009. The County considered written comments submitted during the comment period and prepared written responses.

- On August 24, 2010, the Final EIR, including written responses to the public comments, was made available. On February 1, 2011, the Board of Supervisors certified the Final EIR. This document was previously distributed to members of the Commission.

The County, in approving the Project, adopted a mitigation monitoring program to impose the various mitigation measures set forth in the EIR. Further, the County incorporated a reduced unit, smaller footprint development proposal in its Friant Ranch Specific Plan adoption. Accordingly, the application currently before the Commission reflects a "partial" annexation alternative, as the orginal area to be included within Waterworks District No. 18 was the entire 942 acres, rather than the proposed 520 acre area subject to this application.

The County made necessary findings, certified the Final EIR and adopted a Statement of Facts, Findings and Overriding Considerations and a Mitigation Monitoring and Reporting Plan on December 7, 2010. (*See Board of Supervisors Resolution No. 11-031 Certifying the Final Environmental Impact Report for the Friant Community Plan Update, Friant Ranch Specific Plan, Amendment to Text Application No. 363 and Amendment Application No. 3751; Adoption of CEQA Findings; Adoption of the Mitigation Measures, the Mitigation Monitoring Plan and the Statement of Overriding Considerations; and Approval of the Friant Community Plan Update and Friant Ranch Specific Plan, before the Board of Supervisors on February 1, 2011* ("County Resolution"). The EIR, Notice of Determination, and supporting resolutions can be found on LAFCo's website http://www.fresnolafco.org.

In March, 2011, the City of Fresno filed a Petition for Writ of Mandate against the County of Fresno challenging the County's certification of the EIR and approval of land use entitlements for the Friant Community Plan Update and Friant Ranch Specific Plan (11CECG00706). That case has been consolidated with two other Writ of Mandate Petitions against the County of Fresno with regard to the EIR. One case was filed by the San Joaquin River Parkway & Conservation Trust (11CECG00709). The other was filed by the Sierra Club and the League of Women Voters of Fresno (11CECG00726).

The County completed EIR covers the actions now before the Commission with respect to expanding the Sphere of Influence, authorizing the District to provide wastewater services and annexing the Friant Ranch territory to the District. Copies of the Final EIR were provided to all members of the Commission.

As a "Responsible Agency" the Commission is required, pursuant to CEQA Guidelines, to independently review and consider the environmental effects of the Project as presented in the adopted Final EIR for the Friant Community Plan Update and Friant Ranch Specific Plan prepared by the Lead Agency, the County of Fresno, prior to reaching a decision on the Project. (CEQA Guidelines section 15096.)

After such review the Commission is required to determine if there are any feasible alternatives or mitigation measure(s) within the Commission's power that would substantially lessen or avoid any significant effect the Project would have on the environment identified in the adopted EIR. The role of LAFCo is focused on issues associated with expanding the District service area and allowing the District to provide wastewater services. The Commission is required to review the municipal services to be provided by the District and the effective and efficient operation of the District. The regulatory aspect of the water and sewer system operations is within the purview of the County and Regional Water Quality Control Board.

Pursuant to Section 15096(h) of the CEQA Guidelines, the Commission's proposed CEQA Findings and proposed Statement of Overriding Considerations are attached as Exhibit D to this report. The Findings and the Statement of Overriding Considerations consider the mitigation measures and alternatives identified in the EIR, as well as the Statement of Facts, Findings and Overriding Considerations and a Mitigation Monitoring and Reporting Plan prepared by the County of Fresno.

The Commission has several options with regard to CEQA and the certified EIR. The Commission may choose one of three options.

Option 1: The Commission can rely on the EIR certified by the County of Fresno, and adopt the findings and Statement of Overriding Consideration contained in Exhibit E.

Option 2: The Commission can elect to prepare a subsequent EIR for the entire Project. (This option is only available if the Commission believes that substantial new information since the County's certification to the EIR has become available. At this time, Staff is unaware of any such new information other than the litigation mentioned earlier.)

Option 3: The Commission can elect to assume the role of lead agency for the Project.

Indemnification Agreement

Staff recommends that approval of the proposal be conditioned upon the Applicant signing an indemnification agreement, acceptable to the LAFCo Executive Officer and Counsel, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter.

Other Comments Received from Other Agencies

The following comments were received from other agencies in response to our notification to them that the application had been received.

- The County determined that the sphere of influence amendment, annexation and authorization to provide wastewater service is consistent with the Friant Community Plan, the Friant Ranch Specific Plan, and the Fresno County General Plan.

- The Clovis Unified School District responded attendance boundaries for Liberty Elementary, Kastner Intermediate, and Clovis West High School could be affected by the Project.

In respect to the potential for overcrowding conditions, the District responded that it would depend on the type of development. It is noted that for the most part, this is a senior age-restricted community.

- Caltrans had no comments other than those submitted in response to the County Draft EIR.

- The County Public Health Department commented on County's procedure for abandonment of wells. The Health Department said that such wells must be properly destroyed and the Applicant shall first apply for and obtain a permit for the destruction of the well from the Fresno County Department of Health, Environmental Health Division.

  The Health Department suggests that upon availability, any existing rural residential parcel be required to connect to the Waterworks District No. 18 community sewer system in the event of a failure of the existing sewage system, and that no building permits be issued for repair of such a system whether or not the mandatory three year connection requirement has expired.

- The County Library comments focused on the conclusion in the EIR that the Project will cause a disposition of cultural resources found on other property.

- The Federal Bureau of Reclamation responded that the sphere of influence revision would allow federal water to be applied to the newly annexed lands. The Bureau said the Project would require approval of the long-term transfer to County Waterworks District No. 18 from the Lower Tule River Irrigation District and issuance of a right-of-way permit/license for construction or modification of pipelines on Reclamation-owned lands.

- The State Department of Health Services expressed concern Waterworks District No. 18 did not have an adequate water source and treatment capacity to serve the proposed development and said the District must significantly increase its water source and treatment capacity before expanding its service area.

  Staff Response – Based on approval of the revised sphere of influence and annexation, the District will be in a position to proceed with finalizing arrangements for increasing water supplies as described for the Project.

Copies of comments received by LAFCo are attached hereto as Exhibit F.

Project Information

1. Land Use, Planning and Zoning - Present and Future:

The site is vacant or used for low level agricultural production such as grazing.

Existing zoning is per County of Fresno Ordinance R-450-3751 approving change to the boundaries of certain zones and zoning district, passed and adopted by the Board of Supervisors of the County of Fresno on February 1, 2011. See the Map attached as Exhibit G.

Surrounding land uses include Millerton Lake to the north, the existing Friant Community to the immediate east and west, open space and agriculture to the south and further to the east and west and local density.

The County has approved the Friant Ranch Specific Plan and related zoning designations for the area. Proposed uses approved by the County include up to 2,500 residential units and about 250,000 square feet of retail and commercial uses.

The site is not within the District sphere of influence; it is proposed to expand the sphere and encompass the Friant Ranch development area.

The proposed uses are in conformance with the County General Plan and Specific Plan.

2. Effect on maintaining integrity of agricultural lands:

Government Code Section 56377 provides direction to the Commission by stating:

> In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open-space lands to uses other than open-space uses, the commission shall consider all of the following policies and priorities:
>
> (a) Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.
>
> (b) Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of

the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency.

The County-approved Friant Ranch plan converts land use and zoning designations from agriculture to more intense uses. Converting non-prime agricultural lands used primarily for grazing does not adversely affect prime agricultural lands used for irrigated crops and orchards. By guiding urban uses away from prime agricultural lands the proposal may help maintain the integrity of the County's agricultural industry.

3. Topography, Natural Features and Drainage Basins:

The topography of the site and surrounding area is generally level to rolling hillsides. There are no significant natural boundaries affecting the proposal.

4. Population:

There are currently no dwelling units within the proposal area. Approval of the proposal could eventually result in the construction of up to 2,500 dwelling units.

The proposal is in proximity to the existing Friant Community and is separate from other developed communities in the general vicinity.

5. Governmental Services and Controls - Need, Cost, Adequacy and Availability:

The District currently provides water service. It is proposed that the District provide water service to the annexing area and that it also be authorized to provide wastewater collection, treatment and disposal services for the proposed annexation area and for the remainder of the Friant Community.

No other changes in governmental services are proposed other than the transfer of County Service Area No. 44A assets and responsibilities to Waterworks District No. 18.

6. Boundaries and Lines of Assessment:

The boundaries are definite and certain and contiguous to the existing District boundaries. There are no conflicts with lines of assessment or ownership.

7. Assessed Value, Tax Rates and Indebtedness:

The proposal is within rate areas 076086 and 076081. Overall tax rates will not be affected by this change. The annexing agency has no existing indebtedness. The assessed value of the annexation area is $1,077,482.00 (2010-2011 roll).

8. Environmental Justice:

The annexation will have no effect with respect to the fair treatment of people of all races and income, or the location of public facilities or services.

ALTERNATIVES FOR COMMISSION ACTION

This report presents specific actions for the Commission to consider, including (1) Updating the Waterworks District No. 18 Municipal Service Review, (2) amending the Waterworks District No. 18 Sphere of Influence to include the Friant Ranch project, (3) approving the Friant Ranch Annexation to Waterworks District No. 18 with specific terms and conditions and (4) authorize Waterworks District No. 18 to provide wastewater services.

It can take action on any or all of these items. It can approve all four components or may choose to approve only some at this time, such as the MSR Update and SOI amendment, and withhold taking action on the others for a future meeting.

It is recommended that following its review of this report and any testimony and materials that are submitted, the Commission consider the following options:

OPTION 1 – Adopt this report and APPROVE all or a portion of the following proposed actions.

A. Update Waterworks District No. 18 Municipal Service Review.

1. Find that the Municipal Service Review Update is Categorically Exempt from CEQA under Guidelines section 15306 (Information Collection).

2. Find the Municipal Service Review Update is complete and satisfactory and the written determinations are sufficient.

3. Adopt the Municipal Service Review Update including the written determinations as required by Government Code section 56430 and attached as Exhibit B.

B. Amend Waterworks District No. 18 Sphere of Influence.

1. Acting as Responsible Agency pursuant to CEQA Guidelines find that the environmental effects of the project as shown in the Final Environmental Impact Report prepared and certified by the County as Lead Agency and adopted by the Board of Supervisors, were reviewed and considered and comply with the requirements of CEQA Guidelines section 15096.

2. Prior to taking action to amend the Sphere of Influence find a Municipal Service Review Update has been prepared for Waterworks District No. 18.

3. Find that approval of the Sphere of Influence Amendment for Waterworks District No. 18 is based on sufficient information in the Municipal Service Review Update, Executive Officer's Report to the Commission and all other testimony, evidence and information provided by persons and interested agencies, and is in compliance with State law, including, but not limited to, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and the California Environmental Quality Act.

4. Find the proposed Waterworks District No. 18 Sphere of Influence Amendment is consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and Fresno LAFCo adopted Policies, Standards and Procedures, including, but not limited to, sections 100 et seq. and 330, and that this action carries out LAFCo's purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities.

5. Adopt the written determinations for the Sphere of Influence Amendment prepared in accord with California Government Code section 56425(e) and approve the revised Sphere of Influence, adding approximately 520 acres to the Waterworks District No. 18 Sphere of Influence attached as Exhibit C.

6. Impose the condition that approval of the Sphere of Influence Amendment is subject to the Applicant executing an indemnification agreement with the Commission, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter.

C. Approve the Friant Ranch Annexation to Waterworks District No. 18.

1. Acting as Responsible Agency pursuant to CEQA Guidelines find that the environmental effects of the project as shown in the Final Environmental Impact Report prepared and certified by the County as Lead Agency and adopted by the Board of Supervisors, were reviewed and considered and comply with the requirements of CEQA Guidelines section 15096.

2. Find that the proposed annexation is consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, including, but not limited to, section 56668 and Fresno LAFCo adopted Policies, Standards and Procedures, including, but not limited to, section 220, Standards for District Annexation, and that this action carries out LAFCo's purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities.

3. Find that approval of the proposed annexation is based on sufficient information including the Executive Officer's report to the Commission and all other testimony and information provided by persons and interested agencies, and is in compliance with state law, including, but not limited to, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, California Environmental Quality Act and Commission Policies, Standards and Procedures.

4. Find and determine that: (i) the territory is uninhabited; and (2) all landowners and affected agencies have consented to the annexation.

5. Assign the distinctive short-form designation "Friant Ranch Annexation to Waterworks District No. 18" and approve the 520-acre annexation, subject to the following terms and conditions:

    a. Applicant shall execute an indemnification agreement with the Commission, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter; and

    b. Waterworks District No. 18 and the County of Fresno shall each provide LAFCo with assurances, sufficient to the Executive

Officer, that: (1) Waterworks District No. 18 shall provide wastewater services to the Millerton Lake Village Mobile Home Park currently served by CSA 44A; and (2) the new wastewater treatment plant, once fully permitted and operational, shall be used to provide such service.

c. The territory is liable for existing or authorized taxes, charges, fees or assessments comparable to properties presently in the District.

6. Waive further Conducting Authority Proceedings and order the annexation subject to requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and the 30-day reconsideration period.

7. Direct the staff to initiate and conduct subsequent proceedings in compliance with the decision of the Local Agency Formation Commission only upon the signing of the resolution by the Chair.

D. Authorize Waterworks District No. 18 to Provide Wastewater Services.

1. Find that the proposed establishment of a new class of service, wastewater collection, treatment and disposal, is consistent with the LAFCo Policies, Standards and Procedures sections 100 *et seq.* and 200 *et seq.*, and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, including sections 56668, 56824.10 and 56824.12.

2. Determine that Waterworks District No. 18 will have sufficient revenues to carry out the proposed new class of services which will be financed by the imposition of service charges to those receiving the service for the collection, treatment and disposal of wastewater within that part of the District where these services will be provided.

3. Authorize Waterworks District No. 18 to provide wastewater collection, treatment and disposal services.

OPTION 2 – CONTINUE this proposal to a future meeting for additional information.

OPTION 3 - Adopt this report and DENY the proposed changes.

RECOMMENDED ACTION:

It is recommended the Commission approve OPTION 1 including all of the following actions:

1. Review and adopt the CEQA Findings included in Exhibit D;

2. Update the Waterworks District No. 18 Municipal Service Review as presented in Exhibit B;

3. Amend the Waterworks District No. 18 Sphere of Influence as presented in Exhibit C;

4. Approve the Friant Ranch Annexation to Waterworks District No. 18 as presented and subject to the various terms and conditions as shown; and

5. Authorize Waterworks District No. 18 to provide wastewater services.

Attachments

Exhibit A	Existing Municipal Service Review and Sphere of Influence for Waterworks District No 18 (February 9, 2011)
Exhibit B	Municipal Service Review Update
Exhibit C	Sphere of Influence Amendment
Exhibit D	Letter from Vicki Crow, Fresno County Auditor-Controller
Exhibit E	Required CEQA Findings as a Responsible Agency
Exhibit F	Correspondence received from County of Fresno, Clovis Unified School District, Caltrans, County Public Health Department, County Library, Federal Bureau of Reclamation, State Department of Health Services
Exhibit G	County of Fresno Zoning Map

September 28, 2011
Agenda Item No. 14

EXHIBIT A

EXISTING MSR AND SOI FOR WATERWORKS DISTRICT NO. 18
(APPROVED BY LAFCO FEBRUARY 9, 2011)

WATERWORKS DISTRICT NO. 18

MUNICIPAL SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE

Report to the
Fresno Local Agency Formation Commission

Jeff Witte
Candie Fleming
Samantha Hendricks
2115 Kern Street, Suite 310
Fresno, CA 93721

February 2011

WATERWORKS DISTRICT NO. 18

Water, Wastewater, and Storm Drainage

Contact Information

Manager:	Dan Pearce
Address:	PO Box 92, 17836 N Friant Road "D"
	Friant, CA 93626
Phone:	(559) 822-3575

Management Information

Governing Body:	Board of Directors	
Board Members:	Mark A. Sharer, President	Life
	James L. Carlton, Vice President	Life
	Bert A. Tipton	Life
	Debra Hiner	Life
	Billy Newman	Life
Board Meetings:	Last Tuesday of Each Month at 6:00 pm	
Staffing:	One General Manager, One Operations Manager, Three Water Operators, and One Bookkeeper.	

Service Information

Empowered Services:	Water, Wastewater Treatment, and Storm Drainage
Services Provided:	Water
Area Served:	Community of Friant, Lakeview Estates (Mira Bella).
Population Served:	800
Acres Served:	425
Infrastructure:	Water treatment plant and water distribution facilities

Fiscal Information

Budget:	$290,000
Sources of Funding:	Rates charged and property assessments.
Rate Structure:	Minimum $31 per month for residential, $45 per month for commercial and industrial. This is for 22,000 gallons.

Administrative Policies

Master Plan: Yes	**Policies/Procedures:** Yes	**By-laws:** Yes
Boundary Updated: 1984	**SOI Updated:** 2007	**Other:** No

1. MUNICIPAL SERVICE REVIEW

Description of District

Waterworks District No. 18 (District), formed in 1954, is located in the north central portion of Fresno County at the base of Friant Dam and Millerton Lake. The District provides surface water treatment and water distribution. Service provided is within designated service boundaries. The District's sphere of influence and district boundaries are shown on the enclosed map.

District Services and Background

Water services provided are within the District's powers as authorized in their enabling legislation, as codified in Water Code 55000 - 55991. District staff has expressed interest in activating several latent powers; specifically wastewater and storm drainage service, for which there is no current service provider within the District. To activate these latent powers, the District would apply to LAFCo for re-activation under the provisions of SB 135.

2. MSR DETERMINATIONS

This portion of the report addresses the factors specified in the governing statute for Municipal Service Reviews.

Growth and Population Projections

According to the 2010 US Census, Friant has a population of 850. Presently, the District has 414 customers receiving water service. The land uses in the District are primarily residential, with some commercial and industrial uses.

District staff is currently anticipating significant growth and population increases to the area due to a new proposed development, Friant Ranch. The proposed Friant Ranch is anticipated to add an additional 2,500 new homes to the area. The Friant Ranch development is anticipated to be annexed into the District. Significant growth will cause a significant increase in demand for public services the District is authorized to provide. The Friant Ranch development project has not yet been approved by the County. The development, if approved, is required to help finance additional infrastructure and facilities.

Additionally, the County of Fresno has expressed interest in consolidating or otherwise reorganizing a number of County Service Areas (CSAs) and Waterworks District No. 38 which are located within the vicinity of the District, with the District to remain the service provider for all of these areas.

The District does not have any formal projection for future population and growth. Land use decisions are provided by the County in the Friant Community Plan.

Present and planned capacity

Due to the anticipated growth, the District has stated that it will need to expand the water treatment system, construct a wastewater treatment plant, lay in sewer trunk lines and laterals and install a pumping station and related facilities. The District currently has engineering designs for the proposed new facilities. The planned facilities are expected to accommodate the proposed new development. The proposed new development is dependent on these new facilities to be constructed. The proposed development, if approved, is required to help finance additional infrastructure and facilities.

Currently, residents within the District primarily use septic systems for wastewater. Once the wastewater treatment plant is complete, residents will hook-up to the wastewater treatment plant, abandoning existing septic systems.

The District will be applying for a wastewater treatment permit and a storm drainage permit to accommodate the proposed Friant Ranch development.

Financial Ability of Agencies to Provide Services

Waterworks District No. 18 provided its approved 2010-2011 budget. No audits were made available; thus a comparison between projected budget items and actual revenues and expenditures is impossible at this time. All information provided by the District was reviewed to determine fiscal status, assess financial practices, and review pertinent management findings.

The FY 2010-11 operating budget states that major revenues are expected to come from residential water charges ($100,000), commercial water charges ($150,000), industrial water charges ($25,000), and other revenues. The total budgeted income is $294,700. Major expenditures are expected to go towards salaries ($45,000), professional fees ($43,500), PG&E ($25,000), water treatment supplies ($12,000), and other various expenses. The District anticipates water purchases to total $10,000. The total budgeted expense is $253,121. The budget is expected to be balanced, with a net income of $41,579.

Rates for water service were last updated in 2007. Rates for water service are currently at $31 per month for residential uses, and $45 per month for commercial uses. Water usage over 22,000 gallons per month are billed an additional charge under a tiered system.

The District's primary source of financing is from utility fees charged to customers and property tax assessments. The District currently receives $15 - $30 per parcel through the taxation process. The remainder of operating funds comes directly through monthly billing of the residents of Friant for the water used. These funds have been sufficient to cover the costs of providing services to Friant, but not enough to cover any future development or upgrades.

Funding for the new facilities required by the proposed Friant Ranch development project will be provided entirely by the project developers. The District is currently pursuing additional funding from grants associated with Indian gaming impacts. The District does not have any outstanding debt. And no additional cost avoidance opportunities have been identified.

Status of, and Opportunities for, Shared Facilities

The District does not share facilities with any other agencies. No additional opportunities for shared facilities have been identified.

Governmental Structure and Operational Efficiencies

California Water Code section 55000 – 55991 enables the formation of County Waterworks Districts to provide various services to the community. The District currently provides water services and anticipates providing wastewater and storm drainage services in the near future. This district is considered a dependent special district, which is governed by another legislative body, the county board of supervisors, who appoints the District's board members. Provisions in the California Water Code that existed prior to 1967 allowed the County Board of Supervisors to appoint registered voters and real property owners within the District to become the District's Board of Directors. Other than appointing the Board of Directors for indefinite terms, the County Board of Supervisors has no direct governance over the District.

The District, under its current legal form, is able to function efficiently and properly under its current government structure. The cost, time, and administrative complexity of changing the current government structure makes transitioning to an alternative government structure extremely difficult. The existing structure of the District, a county waterworks district, is sufficient to allow the District to continue service provision in the foreseeable future. Therefore, a reorganization of the current government structure is not likely to significantly improve services if the District does not expand its boundaries or seek to provide additional services. The current government structure is able to provide adequate service within district boundaries.

The Fresno County Department of Public Works and Planning, Resources Division, which manages Waterworks District No. 38 and a number of County Service Areas (CSAs), in the vicinity of Waterworks District No. 18, indicates that it would like to pursue discussions with the District regarding possible reorganizations or consolidation of service providers with the District. Specifically, the County is interested in exploring consolidation of CSA No. 34 (Millerton Newtown), CSA No. 34A (Brighton Crest), CSA No. 34B (Ventana Hills – inactive), CSA No. 34C (Granite Crest – inactive), CSA No. 44 (Friant Lighting), CSA No. 44A (Friant Mobile Home Park), and Waterworks District No. 38 (Millerton Lake Park Estates – Sky Harbor) with the District. The District would become the service provider for all areas currently occupied by the County managed Districts. With the exception of CSA No. 44 (Friant Lighting), these CSAs and the waterworks district provide water and/or wastewater services. A change in the type of

special district might be necessary if the District were to provide lighting services currently provided by CSA No. 44.

The District currently employs six employees. The District utilizes consultants for a district engineer and a district attorney. The District has indicated that current employees are adequate for the current services provided.

The budget is usually an indicator of management efficiency. According to information contained in the FY 2010-11 budget, the District's budget is balanced. The District does not have any outstanding debt and projected income exceeds projected expenses.

A body of five officials appointed by the County Board of Supervisors serves as the governing board of the District. Members are appointed for indefinite terms.

Meeting notices are posted outside the District's office, near the Friant Trading Post, and at the local Post Office. Regular meetings are held on the last Tuesday of each month at 6:00 pm in Suite B of the Depot Development office complex 17836 N. Friant Road. There appear to be ample opportunities for public involvement and input at regularly scheduled meetings. Meetings are noticed consistent with Brown Act requirements.

The District mails an annual survey to residents within the District to solicit comments about the services provided in the District.

3. SPHERE OF INFLUENCE REVIEW AND UPDATE

Government Code Section 56076 defines Sphere of Influence as "A plan for the probable physical boundaries and service area of a local agency, as determined by the commission."

Description of Current Sphere of Influence

The District encompasses approximately 425 acres. Its Sphere of Influence encompasses approximately 443 acres, as shown on the enclosed map.

Proposed Sphere Changes

This District sphere boundary was adopted in 1975 and re-affirmed in 2007. It is recommended that the Commission update the sphere to include the portions of the district that are currently outside of the sphere.

Sphere of Influence Recommendation and Determinations

It is recommended the Commission approve the following determinations and approve the changes in the Sphere of Influence.

1. Present and planned land uses in the area, including agriculture and open-space.

The current land uses are primarily residential. Future land uses within the District are expected to remain primarily residential.

2. Present and probable need for public facilities and services in the area.

   Water services are currently provided by Waterworks District No. 18. Development may occur outside District boundaries. A developer may request annexation into the District, but is required to pay for needed facilities to accommodate the new growth, including new wastewater and storm drainage facilities and water facility upgrades. Additionally, if the District were to consolidate with the County managed CSAs and waterworks district in the vicinity, the County or users within those CSA and waterworks district areas would be responsible for any necessary system upgrades or connections.

3. Present capacity of public facilities and adequacy of public service that the agency provides or is authorized to provide.

   Water services currently provided by Waterworks District No. 18 are adequate to serve the existing community. Wastewater and storm drainage services are currently not provided by the District. A study would be necessary to determine what effect consolidation with the County managed CSAs and waterworks district might have on the capacity of the District's existing system.

4. Existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.

The social or economic communities within the boundaries of Waterworks District No. 18 include the community of Friant.

4. ACKNOWLEDGEMENTS & REFERENCES

This draft Municipal Service Review was prepared by Fresno LAFCo staff. Responsibility for any errors or omissions rests with those who prepared the report.

Waterworks District No. 18 provided information on which the evaluation is based.

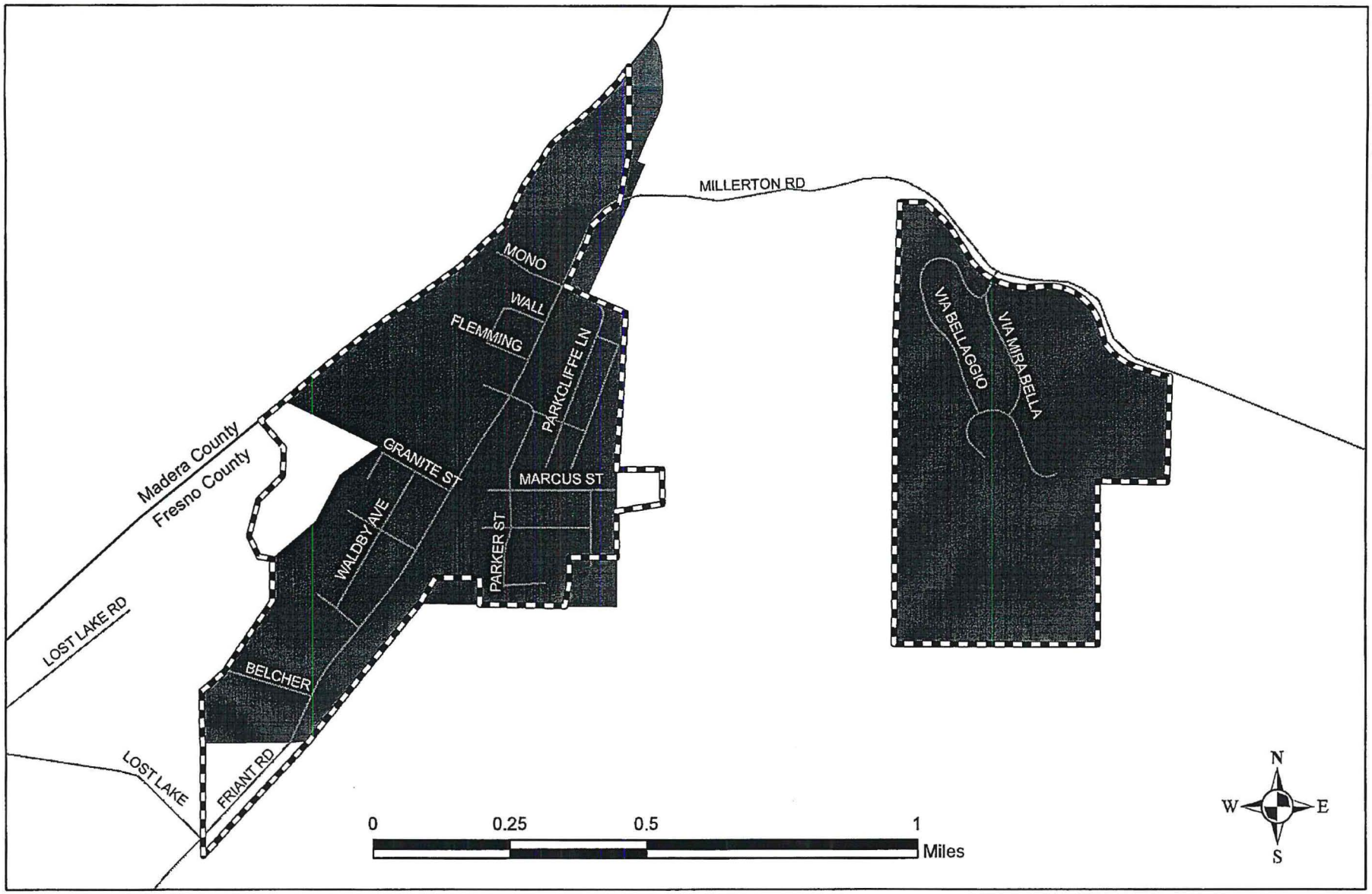
5. RECOMMENDATIONS

In consideration of information gathered and evaluated during the Municipal Service Review it is recommended the Commission:

1. Accept public testimony regarding the proposed Municipal Service Review.

2. Approve the recommended Municipal Service Review determinations, together with any changes deemed appropriate.

3. Approve the recommended Sphere of Influence determinations and amend the current Sphere of Influence.



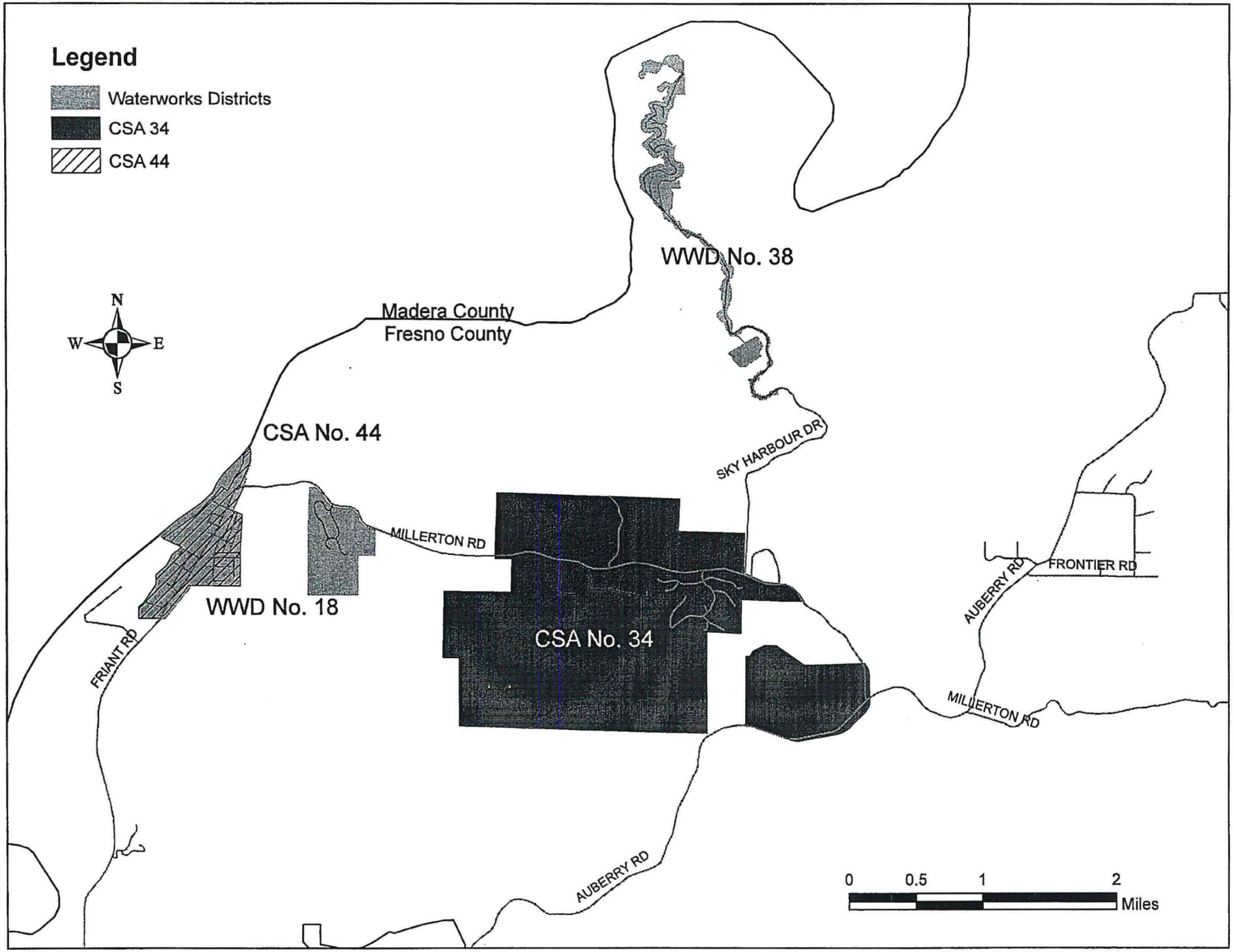
Fresno Local Agency Formation Commission
Waterworks District No. 18 - Friant

Legend

- District SOI
- District Area

District Formed: 1954
SOI Adopted: 6/25/1975
SOI Updated: 7/11/2007

Map Date: October 2007
District Area: 425 Acres
Sphere Area: 443 Acres


Legend
Waterworks Districts
CSA 34
CSA 44
N
W
E
S
WWD No. 38
Madera County
Fresno County
CSA No. 44
SKY HARBOUR DR
MILLERTON RD
WWD No. 18
CSA No. 34
FRIANT RD
AUBERRY RD
FRONTIER RD
AUBERRY RD
MILLERTON RD
0
0.5
1
2
Miles

September 28, 2011
Agenda Item No. 14

EXHIBIT B

MUNICIPAL SERVICE REVIEW UPDATE

WATERWORKS DISTRICT NO. 18

MUNICIPAL SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE

Report to the
Fresno Local Agency Formation Commission

Jeff Witte
Candie Fleming
Samantha Hendricks
2115 Kern Street, Suite 310
Fresno, CA 93721

September 28, 2011

WATERWORKS DISTRICT NO. 18

1. MUNICIPAL SERVICE REVIEW

Description of District

Waterworks District No. 18 (hereafter "District"), formed in 1956, is located in the north central portion of Fresno County at the base of Friant Dam and Millerton Lake. The District provides surface water treatment and water distribution. Service provided is within designated service boundaries. The District's sphere of influence and district boundaries are shown on the enclosed map.

It is proposed to expand the District to include the Friant Ranch development project consisting of up to 2,500 residential units and associated retail and commercial uses.

District Services

Water services being provided are within the District's authorization in legislation, as codified in Water Code 55000 - 55991.

The District has applied to LAFCo for authorization to provide wastewater services. County Service Area 44A provides wastewater service to the Millerton Lake Village Mobile Home Park within the District boundaries. There is no other wastewater service provider within the District.

2. MSR DETERMINATIONS

This portion of the report addresses the factors specified in the governing statute for Municipal Service Reviews.

Growth and Population Projections for the affected area

According to the 2010 US Census, Friant has a population of 850. Presently, the District has 414 customers receiving water service. The land uses in the District are primarily residential, with some commercial and industrial uses.

The County has recently approved the Friant Ranch project that will result in construction of up to 2,500 residential units and increased commercial and retail development. This growth will cause a significant increase in demand for public services. The Friant Ranch development as approved by the County will finance infrastructure and facilities.

The County has expressed interest in consolidating or reorganizing a number of County-governed special districts, e.g., County Service Areas and Waterworks District No. 38 which are located in the general vicinity of the District, with the District to remain the service provider for all of these areas. No action in this direction as yet been taken.

Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies

To serve and accommodate the anticipated growth, the District will need to expand the water supply and treatment system, construct a wastewater treatment plant and related facilities including sewer trunk lines and laterals and possible pumping stations.

Two relevant documents have been prepared by or for the District or County. The Friant Ranch Infrastructure Master Plan (Provost & Pritchard Engineering Group (February 2011) was adopted by the Board of Supervisors on February 1, 2011. The Strategic Plan for Waterworks District No. 18 (Provost & Pritchard Consulting Group) was prepared in July 2010. Both documents are available in the LAFCO office.

The planned facilities are expected to accommodate the proposed new development which is projected to finance this additional infrastructure and facilities.

Currently, residents within the District primarily use septic systems for wastewater. Once the wastewater treatment facility is complete, residents will have the opportunity to connect to the system and abandon existing septic systems.

Financial Ability of Agencies to Provide Services

The Waterworks District No. 18 FY 2010-11 operating budget states major revenues are expected to come from residential water charges ($100,000), commercial water charges ($150,000) and industrial water charges ($25,000). The total budgeted income is $294,700. Major expenditures go towards salaries ($45,000), professional fees ($43,500), PG&E ($25,000) and water treatment supplies ($12,000). The District anticipates water purchases to total $10,000. The total budgeted expense is $253,121.

Water service rates were last updated in 2007. Rates are currently at $31 per month for residential uses, and $45 per month for commercial uses. Water usage over 22,000 gallons per month are billed an additional charge under a tiered system.

The District is currently pursuing funding from grants associated with Indian gaming impacts. The District has no outstanding debt.

At such time as the District becomes a wastewater service provider it expects to impose or levy service charges for this new service which will cover the cost of operating the wastewater collection, treatment and disposal system. Funding for the new facilities required by the proposed Friant Ranch development project will be provided entirely by the project developers at no cost to the District.

Status of, and Opportunities for, Shared Facilities

The District does not share facilities with any other agencies. Should the District become a wastewater service provider it should become responsible for the services presently provided to the Millerton Lake Mobile Home Park by County Service Area 44A.

Governmental Structure and Operational Efficiencies

The District currently provides water services and anticipates providing wastewater services in the near future. The district is a dependent special district, meaning it is governed by a five-member board of directors appointed by the Board of Supervisors for indefinite terms. Other than appointing the Board of Directors for indefinite terms, the County Board of Supervisors has no direct governance over the District.

The District is able to function efficiently under its current government structure. The existing District structure as a county waterworks district is sufficient to allow continued service provision for water and for wastewater services.

The County Department of Public Works and Planning, Resources Division, which oversees the management of Waterworks District No. 38 and a number of County Service Areas (CSAs), in the vicinity of Waterworks District No. 18, indicates that it would like to pursue discussions with the District regarding possible reorganizations or consolidation of service providers with the District. Specifically, the County is interested in exploring consolidation of CSA No. 34 (Millerton Newtown), CSA No. 34A (Brighton Crest), CSA No. 34B (Vantaa Hills – inactive), CSA No. 34C (Granite Crest – inactive), CSA No. 44 (Friant Lighting), CSA No. 44A (Friant Mobile Home Park), and Waterworks District No. 38 (Millerton Lake Park Estates – Sky Harbor) with the District. The District would become the service provider for all areas currently occupied by the County managed Districts. With the exception of CSA No. 44 (Friant Lighting), these CSAs and the waterworks district provide water and/or wastewater services. A change in the type of special district might be necessary if the District were to provide lighting services currently provided by CSA No. 44.

The District currently employs six employees. The District utilizes consultants as the district engineer and a district legal counsel. The District indicates that current employees are adequate for the current services provided.

According to information contained in the FY 2010-11 budget, the District's budget is balanced. The District does not have any outstanding debt and projected income exceeds projected expenses.

Meeting notices are posted outside the District's office, near the Friant Trading Post, and at the local Post Office. Regular meetings are held on the last Tuesday of each month at 6:00 pm in Suite B of the Depot Development office complex 17836 N. Friant Road. There appear to be ample opportunities for public involvement and input at regularly scheduled meetings. Meetings are noticed consistent with Brown Act requirements.

The District mails an annual survey to residents within the District to solicit comments about the services provided in the District.

3. SPHERE OF INFLUENCE REVIEW AND UPDATE

Government Code Section 56076 defines Sphere of Influence as "A plan for the probable physical boundaries and service area of a local agency, as determined by the commission."

Description of Current Sphere of Influence

The District encompasses approximately 425 acres. Its Sphere of Influence encompasses approximately 443 acres, as shown on the enclosed map.

Proposed Sphere Changes

This District sphere boundary was adopted in 1975 and re-affirmed in 2007. It is recommended that the Commission update the sphere to include the portions of the district that are currently outside of the sphere.

Sphere of Influence Recommendation and Determinations

It is recommended the Commission approve the following determinations and approve the changes in the Sphere of Influence.

1. Present and planned land uses in the area, including agriculture and open-space.

   The current land uses are primarily residential. Future land uses within the District are expected to remain primarily residential.

2. Present and probable need for public facilities and services in the area.

   Water services are currently provided by Waterworks District No. 18. Development may occur outside District boundaries. A developer may request annexation into the District, but is required to pay for needed facilities to accommodate the new growth, including new wastewater and storm drainage facilities and water facility upgrades. Additionally, if the District were to consolidate with the County managed CSAs and waterworks district in the vicinity, the County or users within those CSA and waterworks district areas would be responsible for any necessary system upgrades or connections.

3. Present capacity of public facilities and adequacy of public service that the agency provides or is authorized to provide.

   Water services currently provided by Waterworks District No. 18 are adequate to serve the existing community. Wastewater and storm drainage services are currently not provided by the District. A study would be necessary to determine what effect consolidation with the County managed CSAs and waterworks district might have on the capacity of the District's existing system.

4. Existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.

   The social or economic communities within the boundaries of Waterworks District No. 18 include the community of Friant.

4. RECOMMENDATIONS

In consideration of information gathered and evaluated during the Municipal Service Review it is recommended the Commission:

1. Accept public testimony regarding the proposed Municipal Service Review.

2. Approve the recommended Municipal Service Review determinations, together with any changes deemed appropriate.

3. Approve the recommended Sphere of Influence determinations and amend the current Sphere of Influence.

5. ACKNOWLEDGEMENTS & REFERENCES

This revised Municipal Service Review was prepared by Bob Braitman of Braitman & Associates under the direction of the Fresno LAFCo staff. Responsibility for any errors or omissions rests with those who prepared the report.

Waterworks District No. 18 and the County of Fresno provided information on which the evaluation is based.

EXHIBIT C

SPHERE OF INFLUENCE AMENDMENT

WATERWORKS DISTRICT NO. 18

1. SPHERE OF INFLUENCE UPDATE

Government Code Section 56076 defines Sphere of Influence as "A plan for the probable physical boundaries and service area of a local agency, as determined by the commission."

Description of Current Sphere of Influence

The District encompasses approximately 425 acres. Its Sphere of Influence encompasses approximately 443 acres, as shown on the enclosed map.

Proposed Sphere Changes

This sphere boundary was adopted in 1975 and re-affirmed in 2011.

It has been proposed the Commission update the sphere to include that portion of the County-approved Friant Ranch development that is intended for urban uses.

Sphere of Influence Recommendation and Determinations

It is recommended the Commission approve the following determinations and approve the changes in the Sphere of Influence.

1. Present and planned land uses in the area, including agriculture and open-space.

   Current land uses within the District are primarily residential with some commercial uses. Future land uses within an expanded District are expected to remain primarily residential with some new commercial and retail uses.

2. Present and probable need for public facilities and services in the area.

   Water services are currently provided by Waterworks District No. 18 to existing urban uses within the Friant Community.

   The County has approved the Friant Ranch Specific Plan and rezoning which may result in the construction of up to 2.500 new residential units and new commercial and retail uses within the expanded District boundaries.

   The Friant Ranch Infrastructure Master Plan, approved by the County as an appendix to the Friant Ranch Specific Plan, requires the Project to fund the construction of facilities that are needed to provide water facility upgrades and wastewater services needed to accommodate the new development. The Friant Ranch Infrastructure Master Plan requires the Project to fund the construction of the collector system necessary to connect the existing Millerton Lake Village Mobile Home Park to the

new wastewater treatment plant once it is fully approved and operational. The Infrastructure Master Plan clarifies that the Project will provide sufficient capacity to serve the remaining areas within the Friant Community Plan area in accordance with the land use designations approved in the Friant Community Plan Update but connection to the wastewater disposal system would not be funded by the Project.

If the District were to consolidate with County managed CSAs and waterworks districts in the vicinity, the County or users within those districts would be responsible for any necessary system upgrades or connections.

3. Present capacity of public facilities and adequacy of public service that the agency provides or is authorized to provide.

   Water services currently provided by Waterworks District No. 18 are adequate to serve the existing community. The Friant Ranch Infrastructure Master Plan has been completed and adopted by the Board of Supervisors. It projects water and wastewater facilities needed to accommodate development of the Friant Ranch.

   A study would be necessary to determine what effect consolidation with the County managed CSAs and waterworks district might have on the capacity of the District's existing or planned system and its financial circumstances.

4. Existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.

   The social or economic community within the boundaries and vicinity of Waterworks District No. 18 is the community of Friant. If the Friant Ranch project comes to fruition residents of that development will be part of the overall Friant Community

2. ACKNOWLEDGEMENTS & REFERENCES

This amended Sphere of Influence was prepared by Bob Braitman of Braitman & Associates under the direction of the Fresno LAFCo staff. Responsibility for any errors or omissions rests with those who prepared the report.

Waterworks District No. 18 and the County of Fresno provided information on which the evaluation is based.

3. RECOMMENDATIONS

In consideration of information gathered and evaluated during the Municipal Service Review and review of the Sphere of Influence it is recommended the Commission:

1. Accept public testimony regarding the proposed Sphere of Influence.

2. Approve the recommended Sphere of Influence determinations and amend the current Sphere of Influence as shown on the enclosed map.

September 28, 2011
Agenda Item No. 14

EXHIBIT D

LETTER FROM VICKI CROW, FRESNO COUNTY AUDITOR-CONTROLLER

County of Fresno
Vicki Crow, C.P.A.
Auditor-Controller/Treasurer-Tax Collector

September 21, 2011

Jeff Witte, Executive Officer
LAFCo
2115 Kern Street, Suite 310
Fresno, CA 93721

Subject: Water Works District #18 request for confirmation of revenue received:

This letter is in response to an e-mail received asking for confirmation as to what the County of Fresno Tax Collector collects for Water Works District #18. This letter confirms that the County of Fresno Tax Collector only collects assessments for Water Works District #18. The District does not receive a share of the County wide 1% property tax revenue.

If you have questions or need more information please contact Robin Cook or George Gomez of our Special Accounting Section at (559) 600-3491.

Sincerely,

Vicki Crow

Vicki Crow, C.P.A.
Auditor-Controller/Treasurer-Tax Collector

EXHIBIT E

FRESNO LAFCO'S CEQA FINDINGS AND STATEMENT OF OVERRIDING CONSIDEATION FOR
WATERWORKS DISTRICT NO. 18 PROPOSAL

FRESNO LAFCO'S CEQA FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR WATERWORKS DISTRICT NO. 18 PROPOSAL

(APPLICATION MSR-11-6, SOI-156, AD-11-1, EP-11-1)

REQUIRED CEQA FINDINGS

FINDINGS OF FACT

1. CONSIDERATION OF THE EIR

The Commission has reviewed and considered the information in the EIR (consisting of the Draft EIR and the Final EIR) among other documents. The Commission has reached its own conclusions on whether and how to approve the four components of the proposal. These findings and determinations constitute the independent findings and determinations by the Commission in all respects and are fully and completely supported by substantial evidence, both oral and written, in the entire record relating to the Friant Community Plan Update and Friant Ranch Specific Plan Environmental Impact Report and the proposal before the Commission. Additionally, all Commissioners have reviewed and considered oral and written testimony and additional information presented at or prior to the public hearing on September 28, 2011.

2. RECORD OF PROCEEDINGS

The documents and other materials (including documents maintained in electronic format) that constitute the record of proceedings upon which this determination is based are in the custody of the Commission's Executive Officer, at 2115 Kern Street, Suite 310, Fresno, CA 93721.

The record of proceedings for Commission decisions on the proposal includes, but is not limited to, the following documents:

1. Public notices issued by the Commission in conjunction with the proposal.
2. The resolution of application adopted by WWD 18.
3. The WWD 18 Plan for Services submitted to the Commission.
4. The WWD 18 Strategic Plan submitted to the Commission.
5. The Draft Environmental Impact Report for the Friant Community Plan Update and Friant Ranch Specific Plan, October 2009, prepared by Quad Knopf (SCH #2007101016).
6. The Final Friant Community Plan Update and Friant Ranch Specific Plan Environmental Impact Report prepared by Quad Knopf (SCH #2007101016).
7. The County of Fresno's Mitigation Monitoring and Reporting Program for the Project.
8. Any minutes and recordings of all information sessions, public meetings, and public hearings held by the Commission in connection with the proposal.
9. All reports, studies, memoranda, maps, staff reports, or other planning documents prepared by or for the Commission related to the proposal.
10. Friant Ranch Specific Plan, adopted by Fresno County Board of Supervisors on February 1, 2011.

11. Friant Community Plan Update, adopted by Fresno County Board of Supervisors on February 1, 2011.
12. Friant Ranch Zoning Regulations, adopted by Fresno County Board of Supervisors on February 1, 2011.
13. Fresno County Board of Supervisors Resolution No. 11-031 Certifying the Final Environmental Impact Report for the Friant Community Plan Update, Friant Ranch Specific Plan, Amendment to Text Application No. 363 and Amendment Application No. 3751; Adoption of CEQA Findings; Adoption of the Mitigation Measures, the Mitigation Monitoring Program and the Statement of Overriding Considerations; and Approval of the Friant Community Plan Update and Friant Ranch Specific Plan.
14. All documents submitted to the Commission by other public agencies or members of the public in connection with the Project, through the close of the public hearing on September 28, 2011.
15. All reports, studies, memoranda, staff reports, or other documents related to the EIR prepared by the County or consultants to the County.
16. Any other materials required for the proceedings by Public Resources Code section 21167.6.

Although the findings below identify specific pages within the record in support of various conclusions, the Commission incorporates by reference and adopts as its own, the reasoning set forth in the EIR and related documents, and thus relies on that reasoning, even where not specifically mentioned or cited below, in reaching the conclusions herein. The Commission further intends that if these findings fail to cross-reference or incorporate by reference any other part of these findings, any finding required or permitted to be made by the Commission with respect to any particular subject matter of the proposal must be deemed made if it appears in any portion of these findings or findings elsewhere in the record.

3. SIGNIFICANT IMPACTS IDENTIFIED IN THE EIR (SECTION 15091)

The County certified the EIR for the broader Friant Community Plan Update and Friant Ranch Specific Plan project, comprising a general plan amendment, community plan, specific plan, and related approvals (Project) within the authorized land use jurisdiction of the County. The proposal before the Commission is just a component of the larger Project that would authorize the District to provide water and wastewater services within the entire Friant Community Plan area. The EIR identified certain significant environmental effects for the broader Project. Other than approving District boundaries that reflect the Alternative 3 development configuration analyzed in the EIR and approved by the County through the Friant Ranch Specific Plan, changes and alterations to avoid or substantially lessen the significant environmental effects as identified in the EIR are within the responsibility and jurisdiction of the County and not the Commission. Such changes have been adopted by the County or can and should be adopted by the County.

The Commission's jurisdiction to impose conditions on the Project is limited under Cortese-Knox and CEQA Guidelines section 15050 and 15096. As a responsible agency, the Commission has responsibility for mitigating or avoiding *only* the direct or indirect

environmental effects of *those parts of the project that it decides to carry out, finance, or approve.* (CEQA Guidelines, § 15096(g)(1).)

With only a few exceptions, the proposed mitigation measures and alternatives identified in the EIR that might reduce or eliminate the significant adverse indirect environmental impacts of the proposal are not within the jurisdiction of the Commission.

The Commission hereby makes the following findings regarding the significant effects of the proposed Project, pursuant to Public Resources Code section 21081 and section 15091 of the State CEQA Guidelines. The discussion below does not attempt to describe the full analysis of each environmental impact contained in the EIR. Instead, the discussion provides a summary description of each potentially significant impact, describes the applicable mitigation measures identified in the Draft EIR or Final EIR and adopted by the County, and states the Commission's findings on the significance of each impact after imposition of the adopted mitigation measures. A full explanation of these environmental findings and conclusions can be found in the DEIR and FEIR, and these findings hereby incorporate by reference the discussion and analysis in those documents supporting the FEIR's determinations regarding mitigation measures and the Project's impacts and mitigation measures designed to address those impacts. In making these findings, the Commission ratifies, adopts, and incorporates into these findings the analysis and explanation in the DEIR and FEIR, and ratifies, adopts, and incorporates in these findings the determinations and conclusions of the DEIR and FEIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

Aesthetic Impacts

Impact 3.1.3: Introduction of New Sources of Light and Glare and Increased Lighting on the Night Sky as a Result of the Project. Urban development in the Project will increase light and glare impacts due to additional streetlights, advertising signs, interior and exterior lighting, and light or reflective surfaces of buildings. Because the Project will create new and additional sources of substantial light or glare that would impact views in the area, this impact is considered potentially significant. (DEIR, pp. 3-11 – 3-13.)

> **Finding:** Impact 3.1.3 is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.
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> The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Implementation of Alternative No. 3 reduces the number of residential units in the Project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) This substantial unit reduction will reduce sources of light compared to the original project proposal, and provide additional open space buffers between the developed area and neighboring open space lands, further reducing this impact. (DEIR, p. 4-29.)
2. The County adopted mitigation measures 3.1.3a through 3.1.3f to mitigate the impact to a less than significant level. (County Resolution, Exh. B; DEIR, pp. 3-12 – 3-13.)
3. The Commission cannot monitor and enforce the aesthetic impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.1.4: Degradation of the Existing Visual Character or Quality of the Project Area and its Surroundings Resulting from Utilities and Roadway Construction. The Project will require the construction of additional utilities, roadways and a new wastewater treatment plant. Although some of the visual impacts will be temporary, visual impacts related to the removal of vegetation and permanent aboveground structures or lighting are considered potentially significant. (DEIR, pp. 3-13 – 3-14.)

Finding: Impact 3.1.4 is within the responsibility and jurisdiction of the County of Fresno and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not

the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the specific mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Alternative No. 3 reduces the number of residential units in the Project from 2,996 to 2,500, and concentrate development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) This reduction in residential units results in a corresponding reduction of public utilities necessary to serve such units. (DEIR, p. 4.33.)
2. The County of Fresno adopted mitigation measures 3.1.4a and 3.1.4b to reduce to a less-than significant level the adverse aesthetic effects of the Project. (County Resolution, Exh. B; DEIR, p. 3-14 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect aesthetic impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Agricultural Resources Impacts

Impact 3.2.2: Conflict with Agricultural Zoning or Williamson Act Contracts. The Project involved the County's redesignation of grazing land, which was previously zoned for agriculture. The proposed residential and commercial uses would conflict with the prior agricultural zoning. The EIR considered this impact significant and unavoidable because, at the time of the environmental review, the existing zoning was agriculture. (DEIR, p. 3-24.)

Finding: Impact 3.2.2 is within the responsibility and jurisdiction of the Commission. Notwithstanding the mitigation measures and alternative adopted by the County of Fresno, the Commission finds that this impact will be significant. However, the Commission finds that there are no feasible mitigation measures or alternatives that could be adopted that would reduce the environmental impact at the time of environmental review to a less-than-significant level.

The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942 acre development area. No other changes or alterations to the proposal, within the Commission's authority, would avoid or reduce the level of conflict with the prior zoning in effect during the environmental review. However, notably, the existing zoning provides for residential and commercial uses, not agriculture. As such, the proposal does not conflict with existing zoning.

To the extent that the inconsistency with zoning regulations no longer in effect results in a significant adverse impact that is not substantially lessened or avoided by mitigation adopted by the County, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942 acre development area. (See DEIR Table 4-6, p. 4-35.) Incorporation of Alternative 3 into the proposal, as well as adoption thereof by the County, reduces the impact to only 443 acres of previously agriculturally zoned lands that the County amended to plan for inconsistent urban uses. (DEIR, p. 4-29.)
2. The County of Fresno adopted mitigation measures 3.4.1b through 3.4.1e, and 3.4.3a(1), 3.4.3a(2)(a) and 3.4.5, which ensure that the identified conflict with agriculturally zoned lands would be offset by preserving more than 1500 acres of agricultural lands. (County Resolution, Exh. B; DEIR, pp. 3-102 – 3-109 and FEIR revisions thereto.) This mitigation ensures the conservation of over three times the amount of similarly situated agricultural grazing lands in perpetuity. (County Resolution, Exh. B, mitigation measures 3.4.1b through 3.4.1e, and 3.4.3a(1), 3.4.3a(2)(a), 3.4.5.)
3. The County changed the agricultural zoning for the lands within the Friant Ranch Specific Plan area to provide for residential and commercial uses. (See Friant Ranch Zoning Regulations, Fresno County Zoning Ordinance, §§840.B -840B(h).) As such, the Project benefits agricultural lands by converting non-prime agricultural lands and further protecting in perpetuity over three times the amount of grazing land.

Air Quality Impacts

Impact 3.3.1: Construction Impacts for the Development of the Friant Ranch Specific Plan (5 Phases) and Community Plan Update Carbon Monoxide (CO), Reactive Organic Gases (ROG), Nitrogen Oxide (NOx), Particulate Matter (PM10), & Fine Particulate Matter (PM2.5). The Project will produce construction related air pollutant emissions through the use of diesel-powered heavy equipment and site preparation activities, including mass grading, paving and building construction. (DEIR, p. 3-41.) Construction and site preparation activities

can generate substantial amounts of air pollution, including exhaust and fugitive dust emissions. (*Id.*)

The dust emissions can cause impacts both locally and regionally, depending on the weather, soil conditions, and the level and duration of construction activities. (*Id.*) Further, exhaust emissions would depend on the size of the fleet of diesel-powered heavy equipment and the level of operation. (*Id.*) The Project as originally proposed would consist of 5 phases and the construction of the Depot Parcel. The EIR analyzed construction-related air quality impacts on a phase-by-phase basis using the URBEMIS computer programs, version 9.2.4 and a traffic study conducted by Peters Engineering. (*Id.*) Based on that analysis, the EIR concluded that the impacts from Phases 1 and 2 are significant but unavoidable, from Phases 3, 4 and 5 potentially significant but reduced to less than significant with mitigations. (DEIR, pp. 3-45, 3-47; FEIR, Response to Comments 19.22-19.39, pp. 3-74 - 3-99.)

Adoption by the County of Alternative No. 3 effectively eliminated what was originally characterized as phase 3 in the Specific Plan, reducing the number of residential units in the Project from 2,996 to 2,500 and concentrating development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. Consequently, the Project, as adopted in Alternative No. 3, consists only of 4 phases, thereby reducing the potentially significant impacts. Notwithstanding the reduction in potentially significant impacts as a result of adoption and implementation of Alternative No. 3, the Project will continue to incorporate the mitigation measures analyzed and required by the EIR.

> **Finding:** Impact 3.3.1 is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.
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> The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)
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> Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that this significant adverse impact will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the Project from 2,996 to 2,500, and concentrated development on 496 acres as opposed to 667 acres of development within the entire 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) This reduction effectively eliminated an entire construction phase and resulting air quality impacts. (DEIR, p. 4-29.)
2. The County of Fresno adopted mitigation measures 3.3.1a through 3.3.1d to reduce the adverse air quality effects of the Project, but not to a less than significant level. (County Resolution, Exh. B; DEIR, pp. 3-343 – 3-349 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect air quality impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.3.2: Violation of Air Quality Standards by Area and Operational Emissions. Implementation of the Project will result in additional development and urbanization in the Friant Community, an area currently designated as a severe non-attainment area. (DEIR, p. 3-51.) The development will increase vehicular traffic emissions due to the addition of residences, public facilities, commercial uses, public and open space and park uses. These impacts are considered significant. (DEIR, p. 3-57.)

Finding: Impact 3.3.2 is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that this significant adverse impact will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the Project from 2,996 to 2,500, and concentrated development on 496 acres as opposed to 667 acres of development within the entire 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) This unit reduction effectively reduces the overall operational emissions resulting from residential traffic. (DEIR, pp. 4-29, 4-33; see also P&P Memos.)
2. The County adopted mitigation measures 3.3.2 to reduce the Project's impacts on the degradation of air quality from increases in vehicular traffic emissions. (County Resolution, Exh. B; DEIR, p. 3-57 and FEIR revision thereto.) Mitigation measure 3.3.2 would reduce the Project's potential to result in a significant impact on air quality to the greatest extent feasible by encouraging bicycle use and commute alternatives, and design guidelines encouraging reduced generation of air pollutants. However, the EIR determined that this measure will not reduce this impact to a less-than-significant level. (DEIR, p. 3-57 and FEIR revision thereto.)
3. The Commission cannot monitor and enforce the indirect air quality impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Biological Resources Impacts

Impact 3.4.1a: Impacts to the Succulent Owl's Clover. Implementation of the Project will result in additional development and urbanization in the Friant Community. The change in land management practices from cattle grazing to urban development may degrade the water quality in wetlands that contain the succulent owl's clover. These indirect impacts are considered significant. (DEIR, pp. 3-101 – 3-102.)

Finding: Impact 3.4.1a is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission

conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the proposal approval, reduces the number of residential units in the Project from 2,996 to 2,500, and concentrate development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Preservation of grassland and seasonal wetland habitat (excluding vernal pools) under Alternative No. 3 increases from approximately 250 acres to 460 acres, an increase of approximately 83%. (DEIR, p. 4-30.)
2. The County adopted mitigation measures 3.4.1a and 3.4.1a(1) to reduce to a less-than-significant level the impacts, if any, on succulent owl's clover. (County Resolution, Exh. B; DEIR, pp. 3-101 – 3-102 and FEIR revisions thereto; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.)
3. The Commission cannot monitor and enforce the biological impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1b: Impacts to Hartweg's Golden Sunburst. Implementation of the Project would result in the loss of Hartweg's golden sunburst habitat within the development footprint of the Specific Plan. (DEIR, p. 3-102.) This impact is considered significant. (DEIR, p. 3-103.)

Finding: Impact 3.4.1b is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry

out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the proposal approval, reduces the number of residential units in the Project from 2,996 to 2,500, and concentrate development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Alternative No. 3 would preserve one additional population of the Hartweg's golden sunburst, thus reducing impacts to the Hartweg's golden sunburst by approximately 276 square feet. (See DEIR, Table 4-6, p. 4-35 and Appendix O.)
2. The County adopted mitigation measure 3.4.1b to reduce to a less-than-significant level the impact on Hartweg's golden sunburst from the loss of habitat. (County Resolution, Exh. B; DEIR, pp. 3-103 - 3-104 and FEIR revisions thereto; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.)
3. The Commission cannot monitor and enforce the impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1c: Impacts to Vernal Pool Fairy Shrimp. Implementation of the Project would result in the direct loss of vernal pool fairy shrimp habitat and take of an unknown number of vernal pool fairy shrimp. Further, vernal pool fairy shrimp habitat in the undisturbed open space could be subject to degradation from changes in hydrology, discharge of polluted water into pools and the possible increased invasion by non-native plant species. This species is federally listed as threatened and take of the species is prohibited under Section 9 of the federal Endangered Species Act. These impacts are considered significant. (DEIR, p. 3-104.)

Finding: Impact 3.4.1c is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not

the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Findings:

1. Alternative 3, which was adopted by the County through the Friant Ranch Specific Plan and incorporated in the proposal, reduces jurisdictional impacts to seasonal wetland and drainage channels from 2.01 acres to 1.47 acres and impacts to vernal swales from 8.03 to 4.31. Alternative 3 reduces impacts to vernal pool habitat from approximately 2.29 acres to 0.99 acres. The loss of on-site vernal pool habitat associated with this alternative would be 7% compared with the 16% loss associated with the Project as originally proposed. (DEIR, Appendix O).
2. The County adopted mitigation measure 3.4.1c to reduce to a less-than-significant level the impacts on the vernal pool fairy shrimp habitat (County Resolution, Exh. B; DEIR, pp. 3-104 – 3-106 and FEIR revisions thereto; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.) Further, a considerable amount of additional vernal pool habitat would likely be preserved off-site through mitigation measure 3.4.1d associated with the California tiger salamander impacts. (*Id.;* County Resolution, Exh. B.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1d: Impacts to the California Tiger Salamander. Implementation of the Project will result in the loss of breeding and aestivation habitat for the California tiger salamander through elimination of vernal pools and grasslands habitats on the Project site. Because the elimination of the habitat would result in the mortality of an unknown number of California tiger salamander, these impacts are considered significant. (DEIR, pp. 3-106 – 3-107.)

Finding: Impact 3.4.1d is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or

alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Under Alternative 3, which was adopted by the County through the Friant Ranch Specific Plan and incorporated in the proposal, the preservation of grassland and seasonal wetland habitat (excluding vernal pools) used by various wildlife species for nesting, foraging, and aestivation increases from the approximately 250 acres under the initially proposed project to 460 acres, an increase of approximately 83%. (County Resolution, Exh. B.) Furthermore, most designated open space would be contiguous with lands supporting a mosaic of grasslands and seasonal wetlands to the south. (DEIR, Appendix O).
2. The County adopted mitigation measure 3.4.1d to reduce to a less-than-significant level the construction impacts, if any, on California tiger salamander and its habitat are substantially lessened by identifying, and then avoiding or protecting, habitat areas through the Project design. (County Resolution, Exh. B; DEIR, pp. 3-106 – 3-108 and FEIR revisions thereto; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.) Further, the mitigation measures for the vernal pool fairy shrimp will ensure that the Project's open space areas will continue to provide breeding and aestivation habitat for the California tiger salamander. (County Resolution, Exh. B; DEIR, pp. 3-104 – 3-106 and FEIR revisions thereto; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1e: Impacts to Western Spadefoot. Implementation of the Project will result in the loss of breeding and aestivation habitat for the western spadefoot through elimination of vernal pools and grasslands habitats on the Project site. Because the elimination of the habitat would result in the mortality of an unknown number of western spadefoot, these impacts are considered significant. (DEIR, pp. 3-108 – 3-109.)

Finding: Impact 3.4.1e is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the proposal approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Under Alternative 3, the preservation of grassland and seasonal wetland habitat (excluding vernal pools) used by various wildlife species for nesting, foraging, and aestivation would increase from the approximately 250 acres under the Proposed Project to 460 acres, an increase of approximately 83%. Furthermore, most designated open space would be contiguous with lands supporting a mosaic of grasslands and seasonal wetlands to the south. (DEIR, Appendix O).
2. The County adopted mitigation measure 3.4.1e to reduce to a less-than-significant level the construction impacts, if any, on western spadefoot habitat are substantially lessened by implementing the mitigation measure 3.4.1d for the California tiger salamander, which uses the same habitats as the western spadefoot. (DEIR, pp. 3-

108-3-109; County Resolution, Exh. B; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.)

3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1g: Impacts to Burrowing Owls. Implementation of the Project will result in the loss of burrowing owl foraging habitat and disruption of breeding activities or take of individual birds through site grading and other construction activities on the Project site. Although the loss of burrowing owl habitat would be fully mitigated by conservation of potential foraging habitat, the possible disruption of breeding activities and take of individual birds will remain significant. (DEIR, pp. 3-109 – 3-110.)

Finding: Impact 3.4.1g is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. (County Resolution, Exh. B.) No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the proposal approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 reduces the number of

residential units and concentrates development into less acreage than originally proposed, further reducing the potential for any impact. (DEIR, Appendix O.)

2. The County adopted mitigation measure 3.4.1g to reduce to a less-than-significant level Project impacts, if any, on burrowing owl habitat, breeding activities, and take of individual birds. (County Resolution, Exh. B; DEIR, pp. 3-109 – 3-111 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1h: Impacts to the American Badger. Implementation of the Project could result in mortalities to an unknown number of American badgers through construction activates. Although no badgers have been observed at the Project, it is reasonable to assume that badgers are occasional to frequent visitors that forage or den on the Project's site suitable habitats. These impacts to badgers are considered significant. (DEIR, p. 3-111.)

Finding: Impact 3.4.1h is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the proposal approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant

Ranch Specific Plan.) Adoption of Alternative No. 3 lessens development impacts to badgers by reducing the size of the developed area and extent of construction activity. (DEIR, Appendix O.)

2. The County adopted mitigation measure 3.4.1h to reduce to a less-than-significant level the Project impact, if any, on the American badger. Additionally, the Project is required to set aside under conservation easement approximately 1,500 acres of grassland habitat suitable for badgers to further mitigate the Project impacts. (County Resolution, Exh. B; DEIR, pp. 3-111- 3-113; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1i: Impacts to the Nesting Raptors. Project Implementation could result in disruption of breeding behaviors, abandonment of nest sites, disruption of feeding behavior resulting in reproductive failure and/or abandonment of young and death of adults and/or young through construction activities. These impacts to nesting raptors are considered significant. (DEIR, p. 3-113.)

Finding: Impact 3.4.1i is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. (County Resolution, Exh. B.) No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the proposal approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 reduces development impacts to raptors by reducing the size of the developed area and extent of construction activity. (DEIR, Appendix O.)
2. The County adopted mitigation measure 3.4.1i to reduce to a less-than-significant level the Project impacts, if any, on the nesting raptors. (County Resolution, Exh. B; DEIR, p 3-114 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1j: Impacts to Common and Special Status Nesting Birds. Implementation of the Project could result in the removal of active bird nests, disruption of breeding behaviors and subsequent loss of eggs and/or young through construction activities. These impacts are considered significant. (DEIR, p. 3-114.)

Finding: Impact 3.4.1j is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the proposal approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 will further lessen development impacts to common and special status nesting birds by reducing the area of development and extent of construction. (DEIR, Appendix O.)
2. The County adopted mitigation measure 3.4.1j to reduce to a less-than-significant level the Project impacts, if any, on the common and special status nesting birds. (County Resolution, Exh. B; DEIR, pp. 3-114 -3-115 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.2: Impacts of Friant Ranch Specific Plan Development (including wastewater treatment plant and disposal) to Riparian Habitat or Other Sensitive Natural Communities. Implementation of the Project will result in the removal and loss of northern hardpan vernal pool habitat. These impacts to the sensitive natural community are considered significant. (DIER, pp. 3-115 – 3-116.)

Finding: Impact 3.4.2 is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the proposal approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 lessens development impacts by reducing the extent of disturbance of vernal pool habitat. (DEIR, Appendix O.)
2. The County adopted mitigation measure 3.4.2 to reduce to a less-than-significant level the Project impacts, if any, on the northern hardpan vernal pool habitat. (County Resolution, Exh. B; DEIR, pp. 3-116 – 3-117 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.3: Impacts of Friant Ranch Specific Plan Development (including wastewater treatment plant and disposal) to Federally Protected Wetlands and Other Waters. Implementation of the Project will result in the loss of jurisdictional and isolated waters. These impacts to jurisdictional and isolated waters are considered significant. (DEIR, pp. 3-116 – 3-117.)

Finding: Impact 3.4.3 is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the proposal approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 lessens development impacts by reducing the extent of disturbance of wetlands. (DEIR, Appendix O.)
2. The County adopted mitigation measure 3.4.3a to reduce to a less-than-significant level the Project impacts, if any, from the loss of wetlands and other waters in the region. (County Resolution, Exh. B; DEIR, pp. 3-117 – 3-119 and FEIR revisions thereto; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.3b: Impacts to Water Quality in Seasonal Creeks, Reservoirs, and Other Downstream Waters. Implementation of the Project may result in soil erosion and polluted stormwater and irrigation runoff affecting the water quality, fish and other wildlife species of seasonal creeks, reservoirs and other downstream waters. The erosion and run-off may result in the deposition of silt and the introduction of pollutants into the receiving waters. These impacts are considered potentially significant. (DIER, p. 3-119.)

Finding: Impact 3.4.3b is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other

considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the proposal approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 will further lessen impacts from erosion and runoff by reducing the area of development and extent of construction activity. (DEIR, Appendix O.)
2. The County adopted mitigation measure 3.4.3b to reduce to a less-than-significant level the Project impacts, if any, on the water quality in seasonal creeks, reservoirs, and other downstream waters. (County Resolution, Exh. B; DEIR, p. 3-319 – 3-120 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.5: Consistency of the Friant Ranch Specific Plan with Local Policies or Ordinances Protecting Biological Resources. Implementation of the Project may result in inconsistencies with local policies and ordinances, including the County General Plan policies. Implementation of the Friant Ranch Specific Plan would remove wetlands and associated upland habitat, which without mitigation would conflict with Fresno County General Plan Policy OS-D.5 that requires the County to strive to identify and protect such lands, and policies OS-D.1 through OS-D.3 that support "no net loss" of such lands. Further, various General Plan policies relevant to wildlife species direct project proponents to mitigate loss of wildlife habitat, to maintain buffer zones around wildlife resources, to preserve habitats of special status species, to preserve open spaces of native vegetation, and to the maximum extent possible to preserve habitats for rare or endangered species. To the extent that the Project proposes to destroy and remove such wildlife habitat, the Project would conflict with these policies. These inconsistencies between Project elements and local policies and ordinances, without appropriate mitigation, may result in significant Project related impacts. (DIER, pp. 3-121 – 3-122.)

Finding: Impact 3.4.5 is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not

the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the proposal approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 lessens impacts by reducing the area of development extent of disturbance of wetlands and other habitat as well as the extent of construction activity. (DEIR, Appendix O.)
2. The County adopted mitigation measure 3.4.5 to reduce to a less-than-significant level Project impacts, if any, resulting from inconsistencies between the Project's elements and local policies or ordinances (DEIR, p. 3-122.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9: Impacts of the Friant Community Plan to Candidate, Sensitive, or Special Status Species.

Impact 3.4.9a: Impacts to Spiny-Sepaled Button Celery. Implementation of projects in the existing Friant Community Plan Area could result in mortalities to an unknown number of spiny-sepaled button celery through grading and construction activities. Although no spiny-sepaled button celery have been observed, vernal pools and swales may potentially contain this species. The possible removal of spiny-sepaled button celery is considered a potentially significant impact. (DIER, p. 3-125.)

Finding: Impact 3.4.9a is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or

alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9a to reduce to a less-than-significant level the existing Community Plan Area impacts, if any, on the spiny-sepaled button celery. (DEIR, p. 3-125 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9b: Impacts to Vernal Pool Fairy Shrimp. Implementation of construction projects could potentially result in the direct loss of ephemeral pool habitat and a take of an unknown number of vernal pool fairy shrimp within the existing Friant Community Plan Area. Further, vernal pool fairy shrimp habitat could be subject to degradation due to changes in surface topography and drainage patterns, and the discharge of polluted water into habitat. This species is federally listed as threatened and take of the species is prohibited under Section 9 of the federal Endangered Species Act. These impacts are considered significant. (DIER, pp. 3-125 – 3-126.)

Finding: Impact 3.4.9b is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry

out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9b to reduce to a less-than-significant level existing Community Plan Area impacts on the vernal pool fairy shrimp habitat. (County Resolution, Exh. B; DEIR, p. 3-126 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9c: Impacts to the Valley Elderberry Longhorn Beetle. Implementation of further projects could result in the direct loss of elderberry bushes and a take of an unknown number of Valley elderberry longhorn beetles within the existing Friant Community Plan Area. This species is federally listed as threatened and a take of the species is prohibited under Section 9 of the federal Endangered Species Act. These impacts are considered significant. (DIER, p. 3-127.)

Finding: Impact 3.4.9c is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9c to reduce to a less-than-significant level the impacts to the Valley elderberry longhorn beetle habitat in the existing Friant Community Plan Area. (County Resolution, Exh. B; DEIR, pp. 3-127 – 3-129.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9d: Impacts to the California Tiger Salamander. Implementation of construction projects within the existing Friant Community Plan Area could potentially result in the loss of breeding and aestivation habitat for the California tiger salamander through elimination of vernal pools and grasslands habitats. These impacts are considered significant. (DEIR, p. 3-129.)

Finding: Impact 3.4.9d is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9d that will reduce to a less-than-significant level the significant environmental effect identified in the EIR. Implementation of this mitigation measure will ensure that construction impacts, if any, on California tiger salamander and its habitat are substantially lessened by identifying potential breeding habitat through biological surveys prior to issuance of a grading permit, and then protecting the habitat and population, if found, by avoiding the population, compensating for the loss of occupied ephemeral pool habitat through a conservation easement or conservation credits, and preparing a Drainage Plan for

the site. Impacts will be further minimized or mitigated by identifying potential aestivating grassland habitat through biological surveys, and protecting the habitat and population, if found, by compensating for the loss of aestivation habitat through a conservation easement or through purchase of conservation credits. (County Resolution, Exh. B; DEIR, pp. 3-129 – 3-130.)

2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9e: Impacts to the Western Spadefoot. Implementation of projects within the existing Friant Community Plan Area could potentially result in the loss of breeding and aestivation habitat for the western spadefoot through elimination of ephemeral pools and grasslands habitats. These impacts are considered significant. (DEIR, p. 3-131.)

Finding: Impact 3.4.9e is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9e to reduce to a less-than-significant level the construction impacts, if any, on western spadefoot habitat. The mitigation measures for the California tiger salamander would reduce the impact on the western spadefoot because both species use the same breeding and aestivation habitats. (County Resolution, Exh. B; DEIR, pp. 3-129- 131.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals

for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9f: Impacts to the Western Pond Turtle. Implementation of projects within the existing Friant Community Plan Area could result in direct mortalities and decreased population viability to western pond turtles due to construction related activities and potential degradation in water quality. These impacts are considered significant. (DIER, p. 3-131.)

Finding: Impact 3.4.9f is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9f to reduce to a less-than-significant level the construction impacts, if any, on western pond turtles and their habitat. (County Resolution, Exh. B; DEIR, pp. 3-131-3-132 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9g: Impacts to the Swainson's Hawks. Grading in areas greater than 5 acres in size, particularly in the Lost Lake area, may result in the removal of foraging habitat or the disruption of breeding activities for the Swainson's hawk. These impacts are considered significant. (DEIR, p. 3-132.)

Finding: Impact 3.4.9g is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or

alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9g to reduce to a less-than-significant level the grading and construction impacts, if any, on Swainson's hawks and their foraging habitat. (County Resolution, Exh. B; DEIR, pp. 3-132 – 3-133 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9h: Impacts to Burrowing Owls. Implementation of projects within the existing Friant Community Plan Area could potentially result in the loss of burrowing owl foraging habitat and disruption of breeding activities or take of individual birds. These impacts are considered significant. (DEIR, p. 3-133 – 3-134.)

Finding: Impact 3.4.9h is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9h to reduce to less-than-significant levels the Project impacts, if any, on burrowing owl habitat and take of individual birds (County Resolution, Exh. B; DEIR, pp. 3-134 -3-135 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9i: Impacts to Other Nesting Raptors. Implementation of construction activities within the existing Friant Community Plan Area could result in the disruption of breeding behaviors, abandonment of nest sites, disruption of feeding behaviors resulting in reproductive failure and/or abandonment of young, and death of adults and/or young. These impacts are considered significant. (DEIR, pp. 3-135 – 3-136.)

Finding: Impact 3.4.9i is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other

considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9i to reduce to less-than-significant levels the Project impacts, if any, on raptors are substantially lessened by identifying nesting sites. (County Resolution, Exh. B; DEIR, p. 3-136.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9j: Impacts to Common and Special Status Nesting Birds. Implementation of construction activities within the existing Friant Community Plan Area could result in the removal of active bird nests, disruption of breeding behaviors and subsequent loss of eggs and/or young. These impacts are considered significant. (DEIR, pp. 3-136 – 3-137.)

Finding: Impact 3.4.9j is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9j to reduce to a less-than-significant level the Project impacts, if any, on common and special status nesting birds. (County Resolution, Exh. B; DEIR, p. 3-137.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals

for the Project because it is beyond its authority to do so. (FEIR, p. 2-28, Gov. Code, § 56000.)

Impact 3.4.9k: Impacts to the American Badger. Implementation of construction activities within the existing Friant Community Area Plan could result in mortalities to an unknown number of American badgers. Although no badgers have been observed in the existing Friant Community Area Plan, it is reasonable to assume that badgers are occasional to frequent visitors that forage or den on the existing Friant Community Plan Area site's suitable habitats. These impacts are considered significant. (DEIR, pp. 3-137 – 3-138.)

Finding: Impact 3.4.9k is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9k to reduce to a less-than-significant level the Project impacts, if any, on the American badger. (County Resolution, Exh. B; DEIR, pp. 3-138-3-139 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000.)

Impact 3.4.9l: Impacts to the Pallid and Western Mastiff Bat. Removal of roosting sites (trees and buildings) within the existing Friant Community Plan Area could potentially result in the disruption of breeding behaviors of the pallid bat and the western mastiff bat. These impacts are considered significant. (DEIR, p. 3-140.)

Finding: Impact 3.4.9l is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9l to reduce to a less-than-significant level the Project impacts, if any, on the pallid bat and western mastiff bat. (County Resolution, Exh. B; DEIR, pp. 3-140.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000.)

Impact 3.4.10: Impacts to Riparian Habitat or Other Sensitive Natural Communities Within the Existing Friant Community Plan Area. Implementation of future projects could result in loss of Great Valley Mixed Riparian Forest and other riparian habitats within the Existing Friant Community Plan Area. These impacts are considered significant. (DEIR, p. 3-140.)

Finding: Impact 3.4.10 is is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not

the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.10 to reduce to a less-than-significant level the Project impacts on the loss of riparian habitat or other sensitive natural communities. (County Resolution, Exh. B; DEIR, pp. 3-140-3-141.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.11: Impacts to Federally Protected Wetlands and Other Waters Within the Existing Friant Community Plan Area. Implementation of construction activities within the existing Friant Community Plan Area could result in the loss of wetlands and the degradation of water quality. The San Joaquin River and Lost Lake are located within the existing Friant Community Plan Area. There are no tributaries to the feature within the Area, but other wetland features within the Area may fall under the jurisdiction of the USACE. These impacts to federally protected wetlands and other waters within the existing Friant Community Plan Area are considered significant. (DEIR, pp. 3-141 – 3-142.)

Finding: Impact 3.4.11 is is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has

no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.11a to reduce to a less-than-significant level the Project impacts, if any, on the loss of wetlands and degradation of water quality in the Existing Friant Community Plan Area. (County Resolution, Exh. B; DEIR, pp. 3-142-3-143.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Impact 3.4.11b: Impacts to Water Quality in Seasonal Creeks, Reservoirs, and Other Downstream Waters. Implementation of construction activities within the existing Friant Community Plan Area may result in soil erosion, and polluted stormwater and irrigation runoff affecting the water quality, fish and other wildlife species of seasonal creeks, reservoirs and other downstream waters. The erosion and run-off may result in the deposition of silt and the introduction of pollutants into the receiving waters that drain into the San Joaquin River. These impacts are considered potentially significant. (DEIR, p. 3-143.)

Finding: Impact 3.4.11b is is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other

considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.11b to reduce to a less-than-significant level the Project impacts, if any, on the water quality in the San Joaquin River, seasonal creeks, reservoirs, and other downstream waters. The mitigation measure requires an erosion control plan with monitoring prior to commencing construction activities, and requires that all post-construction runoff be collected, treated, percolated, evaporated and discharged through a system of Low Impact Development integrated management practices. (County Resolution, Exh. B; DEIR, pp. 3-143-3-144 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so.

Impact 3.4.12: Impacts to Fish or Wildlife Movement Corridors Within the Existing Friant Community Plan Area. Implementation of construction activities within the existing Friant Community Plan Area could result in degradation of the riparian habitat corridor around the San Joaquin River and associated riparian habitat zone that could obstruct fish and wildlife movements. Terrestrial species move from upstream areas around Millerton Lake to downstream habitats preserved as part of the San Joaquin River Parkway. Degradation of the habitat corridor could obstruct the wildlife movement from upstream to downstream. (DEIR, p. 3-144.)

Finding: Impact 3.4.12 is is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. (County Resolution, Exh. B.) No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation

measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.12 to reduce to less-than-significant levels the Project impacts, if any, on the water quality of the riparian habitat corridor around the San Joaquin River and associated riparian habitat zone are substantially lessened. (County Resolution, Exh. B; DEIR, pp. 3-144 -3-145 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, §56000 et seq.)

Impact 3.4.13: Consistency with Local Policies or Ordinances Protecting Biological Resources Within the Friant Community Plan Area. Future projects within the existing Friant Community Plan Area may conflict with local policies and ordinances, including the County General Plan policies. Inconsistencies between project elements and local policies and ordinances, without appropriate mitigation, may result in significant project related impacts. (DEIR, pp. 3-145 – 3-146.)

Finding: Impact 3.4.13 is is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. (County Resolution, Exh. B.) No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measures 3.4.13a and 3.4.13b to reduce to a less-than-significant level any Project impacts associated with any potential inconsistency with local policies or ordinances protecting biological resources. (County Resolution, Exh. B; DEIR, p. 3-145-3-146.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Cultural Resources Impacts

Impact 3.5.1: Substantial Adverse Changes in the Significance of Historical and/or Archaeological Resources and Destruction of Unique Paleontological Resources. Implementation of the Project will impact one significant cultural resource, CA-FRE-2653, and could potentially impact unknown significant cultural resources located within the Friant Ranch Specific Plan Area development footprint. CA-FRE-2653 is a significant cultural resource eligible for listing on the National Register of Historic Places and the California Register, and may potentially provide new information on California pre-history. Additionally, this site may contain human remains and other archaeological resources. These impacts are considered potentially significant. (DEIR, p. 3-161.)

Finding: Impact 3.5.1 is is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. No feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measures 3.5.1a – 3.5.1h to reduce to a less-than-significant level the Project impacts on significant cultural resources. (County Resolution, Exh. B; DEIR, pp. 3-161-3-164 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect cultural resource impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.5.2: Disturbance of Human Remains. Implementation of the Project could result in the disturbance of human remains encountered during Project construction. Although no known burial grounds have been located on the Project, human remains may be present at the significant cultural resource site and elsewhere in the Project Area. This impact is considered potentially significant. (DEIR, p. 3-164.)

Finding: Impact 3.5.2 is is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.5.2 to reduce to a less-than-significant level the Project impacts on discovered human remains during Project construction and development. (County Resolution, Exh. B; FEIR revisions to DEIR, p. 3-164.)
2. The Commission cannot monitor and enforce the indirect cultural resource impacts potentially resulting from development pursuant to the County's land use approvals

for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Hazards and Hazardous Materials Impacts

Impact 3.7.6: Emergency Preparedness. Implementation of the Friant Ranch Specific Plan may impair or interfere with emergency response or evacuation plans if additional funds for emergency services and personnel are not available at the time of Project development. These impacts are considered potentially significant. (DEIR, p. 3-188.)

Finding: Impact 3.7.6 is is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the proposal approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 will further reduce impacts by reducing the number of residential units within the Project and the corresponding potential demand for services.
2. The County adopted mitigation measures 3.7.6a and 3.7.6b to reduce to a less-than-significant level the Project impacts on emergency preparedness by requiring that a Community Facilities District be formed prior to the issuance of a building permit to provide funding for fire and law enforcement services related to the Friant Ranch

Specific Plan. (County Resolution, Exh. B; DEIR, pp. 3-187 – 3-188.) The additional funding from the Community Facilities District will ensure that the Project will not impair or interfere with adopted emergency response or evacuation plans. (FEIR, Response to Comment 26.10, pp. 3-202-3-203.)

3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Hydrology and Water Quality Impacts

Impact 3.8.3: Alteration of the Existing Drainage Pattern and Stormwater Drainage Capacity. The Project will implement Integrated Management Practices for Low Impact Development to mitigate post-development peak flow rates to pre-development levels. (DEIR, p. 3-216.) Because of the increase in impervious surface area within the Project boundaries, the Project may have potentially significant impacts on stormwater drainage. (DEIR, pp. 3-216 – 3-217.)

Finding: Impact 3.8.3 is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the proposal approval, concentrates development on 482 acres as opposed to 696 acres of development

within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Incorporation of Alternative No. 3 into the proposal as proposed by the District further reduces impacts by reducing the area of development. (DEIR, p. 4-31.)

2. The County of Fresno adopted mitigation measure 3.8.3a to reduce to a less-than-significant level the potential significant environmental effect identified in the EIR. (County Resolution, Exh. B; DEIR, 3-216-3-221.)
3. The Commission cannot monitor and enforce the indirect hydrology and water quality impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000.)

Noise Impacts

Impact 3.10.1: Exposure to Excessive Noise Levels or Vibration. Implementation of the Project and development of the Friant Ranch Specific Plan, without mitigation measures, would result in noise impacts associated with increased traffic and construction noise. According to the Noise Assessment prepared for the Project, 3 out of the 24 road segments analyzed would be impacted by significant off-site traffic noise by 2030: (1) Friant Road, Willow to Copper River – Project traffic will cause a substantial increase in noise levels; (2) Willow Avenue; Friant to Copper – Project traffic will cause noise levels to exceed 60 dB DNL; (3) Willow Avenue, Perrin to Shepherd – Project traffic will cause noise levels to exceed 60 dB DNL. These impacts are considered potentially significant. (DEIR, pp. 3-245 – 3-248.)

Finding: Impact 3.10.1 is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other

considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; Friant Ranch Specific Plan.) Alternative No. 3 reduces the impact on noise levels because the smaller development footprint and fewer proposed residences would result in reduced excessive noise levels or vibrations from vehicular traffic. (DEIR, p. 4-32.)
2. The County of Fresno adopted mitigation measure 3.10.1a to reduce to a less than significant level the adverse noise effects of the Project. (County Resolution, Exh. B; DEIR, pp. 3-245-3-248.)
3. The Commission cannot monitor and enforce the indirect noise impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.10.2: Construction Noise. Implementation of the Project will result in construction noise due to development of commercial and residential uses of vacant parcels. Construction equipment, such as tractors, forklifts, air compressors, etc., may cause noise levels of 70 to 90 dBA. Further, the construction activities may cause sleep disruption and annoyance for nearby residents if the construction occurred at night or if the equipment is not properly muffled or maintained. These impacts are considered potentially significant. (DEIR, p. 3-249.)

Finding: Impact 3.10.1 is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse

impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Alternative No. 3 reduces the impact on noise levels because the smaller development footprint and fewer proposed residences would result in reduced excessive noise levels or vibrations from construction. (DEIR, p. 4-32.)
2. The County of Fresno adopted mitigation measures 3.10.2a through 3.10.2c to reduce to a less than significant level the adverse noise effects of the Project. (County Resolution, Exh. B; DEIR, pp. 3-249-3-250.)
3. The Commission cannot monitor and enforce the indirect noise impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Public Services and Recreation Impacts

Impact 3.12.1: Increased Demand for Fire Protection Services and Personnel. Implementation of the Project will increase the demand for fire protection services and personnel, resulting in the need for a Community Facilities District. (DEIR, p. 3-264.)

Finding: Impact 3.12.1 is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse

impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Alternative 3 will have less of a demand for public services because it contains fewer residential units within the Project, which equates to fewer personnel and less equipment needed to serve the Project. (DEIR, p. 4-32 and FEIR revisions thereto.)
2. The County of Fresno adopted mitigation measure 3.12.1 to reduce the adverse fire protection effects of the Project to less than significant. (County Resolution, Exh. B; DEIR, pp. 3-266 - 3-267.)
3. The Commission cannot monitor and enforce the indirect fire protection services and personnel impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.12.2: Increased Demand for Law Enforcement Services. Implementation of the Project will increase the demand for law enforcement services, resulting in the need for additional funds to hire more personnel and to purchase additional equipment. These impacts are considered potentially significant. (DEIR, pp. 3-266 – 3-267.)

Finding: Impact 3.12.2 is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse

impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Alternative 3 will have less of a demand for public services because it contains fewer residential units within the Project, which equates to fewer personnel and less equipment needed to serve the Project. (DEIR, p. 4-32 and FEIR revisions thereto.)
2. The County of Fresno adopted mitigation measure 3.12.2 to reduce the adverse noise effects of the Project on law enforcement. (County Resolution, Exh. B; DEIR, pp. 3-267.)
3. The Commission cannot monitor and enforce the indirect impacts related to law enforcement services potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Traffic Impacts

The EIR measured Project's traffic impacts in terms of Level of Service (LOS). LOS is a qualitative measure describing operational characteristics within a traffic stream, including measures such as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience. (DEIR, p. 3-281.) LOS is denoted by grades A – F, progressing from favorable to unfavorable conditions. (DEIR, p. 3-282.) The County of Fresno requires a LOS C or better, and the Cities of Fresno and Clovis require a LOS D or better be maintained, except in certain locations where conditions are constrained. (*Id.*) As detailed below, the Project would cause the LOS at numerous intersections and roadway segments to fall below the required minimum, constituting significant impacts. The EIR recommended, and the County adopted, mitigation measures that substantially lessen most of the Project's significant traffic impacts. (County Resolution, Exh. B.) The mitigation measures as described in the EIR, however, are based on trip calculations made using the number of residential units in the original project proposal and do not reflect reductions that will occur as a result of the County's adoption of Alternative No. 3. The County's adoption of Alternative No. 3 reduced the number of residential units, thereby reducing the number of vehicle trips in and around the Project Area and further reducing Project impacts. (See Memorandum from Provost & Pritchard to County Staff, re: Friant Ranch Project – Reduced Trip Generation per Environmentally Superior Alternative – Alternative 3, September 21, 2010; Memorandum from Provost & Pritchard to County Staff, re: Friant Ranch Project – Reduced Trip Generation per Environmentally Superior Alternative – Alternative 3 (Amendment #1), December 29, 2010 (collectively, these two memoranda are hereinafter referred to as "P&P Memos").)

Some mitigation measures require the Project's fair share contribution to the construction of road

improvements. Accordingly, EIR Tables 3.13.22 and 3.13.23 have been utilized to reflect changes in fair share percentages after adoption of Alternative No. 3. The mitigation measures adopted by the County (County Resolution, Exh. B) requiring fair share contributions for each of the impacts reflect these changes.

Additionally, the mitigation measures requiring Project construction of road improvements or fair share contributions to the construction of road are the responsibility of other jurisdictions, including the County, Caltrans, the Cities of Fresno and Clovis, and the County of Madera, and as such the Commission cannot ensure the improvements will be constructed. If the improvements identified in the recommended mitigation measures are not constructed prior to completion of the Project, the impacts would be significant and unavoidable, at least until the improvements are constructed. While the Commission has no evidence that the identified mitigation measures are not feasible, these Findings conservatively recognize the potential for one or more significant unavoidable traffic impacts should the necessary funding or construction be delayed or not occur. To the extent that any significant adverse traffic impact will not be substantially lessened or avoided due to the failure of any entity to fully fund or construct the identified improvements, the County finds that the specific economic, social and other considerations identified in the Statement of Overriding Considerations, support approval of the proposal.

Impact 3.13.1: The Project will increase traffic at the intersection of Friant Road and the Project entrance located north of Lost Lake Road. Fresno County requires that the LOS for this intersection be maintained at a level C or better. (DEIR, p. 3-282.) The increased traffic impacts would exceed the minimum levels of LOS for this intersection. This is a significant impact. (DEIR, p. 3-311.)

> **Finding:** Impact 3.13.1 is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.
>
> The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)
>
> Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse

impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 mitigates traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)
2. The County adopted mitigation measure 3.13.1 to reduce to a less-than-significant level the Project's impact on the LOS at the intersection of Friant Road and the Project entrance north of Lost Lake Road. (DEIR, p. 3-311 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.13.2: The Project will increase traffic at the intersection of Friant Road and Lost Lake Road. (DEIR, p. 3-311.) Fresno County requires that the LOS for this intersection be maintained at a level C or better. (DEIR, p. 3-282.) The increased traffic impacts would exceed the minimum acceptable levels of LOS for this intersection. This is a significant impact. (DEIR, p. 3-311.)

Finding: Impact 3.13.2 is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s)

should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 mitigates traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)
2. The County adopted mitigation measure 3.13.2 to reduce to a less-than-significant level the Project's impact on the LOS at the intersection of Friant Road and Lost Lake Road. (DEIR, p. 3-311 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.13.3 (including 3.13.3a-c): Implementation of the Project will increase traffic, which will contribute to substandard LOS at Caltrans intersections. (DEIR, p. 3-312.) Regional growth in the Project vicinity has created and is anticipated to create substandard LOS in the regional roadway network under the anticipated traffic analysis for the year 2030. The Project will contribute to the substandard LOS conditions under this analysis. The Project's contribution to the anticipated cumulative traffic conditions at Caltrans intersections is cumulatively considerable. This is considered a significant impact. (DEIR, p. 3-312.)

Finding: Impact 3.13.3 (including 3.13.3a-c) is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has

no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 mitigates traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)
2. The County adopted mitigation measures 3.13.3 (including 3.13.3a-c) to reduce to a less-than-significant level the Project's impact on the substandard LOS at Caltrans Intersections. (DEIR, p. 3-312 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impacts 3.13.4 (including 3.13.4a-b): Implementation of the Project will increase traffic, which will contribute to substandard LOS on Madera County intersections and roadways. (DEIR, pp. 3-283 and 3-315.) Regional growth in the Project vicinity has created and is anticipated to create substandard LOS in the regional roadway network under the anticipated traffic analysis for the year 2030. The Project will contribute to the substandard LOS conditions under this analysis. The Project's contribution to the anticipated cumulative traffic conditions within Madera County is cumulatively considerable. This is considered a significant impact. (DEIR, p. 3-315.)

Finding: Impact 3.13.4 (including 3.13.4a-b) is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 mitigates traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)
2. The County adopted mitigation measure 3.13.4 (including 3.13.4a-b) to reduce to a less-than-significant level the Project's impact on the substandard LOS to Madera County intersections and roadways. (DEIR pp. 3-315 - 3-317 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.13.5 (including 3.13.5a-o): Implementation of the Project will increase traffic, which will contribute to substandard LOS on Fresno County intersections and roadways. (DEIR, p. 3-317.) Regional growth in the Project vicinity has created and is anticipated to create substandard LOS in the County of Fresno's roadway network under the anticipated traffic analysis for the year 2030. The Project's anticipated traffic impacts will contribute to the anticipated cumulative traffic conditions within Fresno County intersections and roadways. LOS conditions under the EIR analysis are based on the existing condition on these intersections and roadways. The Project's contribution to the anticipated cumulative traffic conditions on these intersections and roadways is cumulatively considerable. Impacts 3.13.5a, 3.13.5c, and 3.13.5k are considered individually and cumulatively significant, and Impacts 3.13.5a, 3.13.5c-o are considered cumulatively significant.

Finding: Impact 3.13.5 (including 3.13.5a-o) is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that some of these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that significant adverse impacts will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 will further mitigate traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)
2. The County adopted mitigation measure 3.13.5 (including 3.13.5a-o) that reduces to a less-than-significant level any significant environmental effect identified in the EIR. (County Resolution, Exh. B; DEIR, 3-319 – 3-323.)
3. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.13.6 (including 3.13.6a, 3.13.6d, 3.13.6e): Implementation of the Project will increase traffic, which will contribute to substandard LOC on City of Fresno roadways and intersections. (DEIR, p. 3-323.) Regional growth in the Project vicinity has created and is anticipated to create substandard LOS in the City of Fresno's roadway network under the anticipated traffic analysis for the year 2030. The Project's anticipated traffic impacts will contribute to and exacerbate the substandard LOS conditions under this analysis based on existing conditions. The Project's contribution to the anticipated cumulative traffic conditions in the City of Fresno roadways and intersections is cumulatively considerable. Impacts 3.13.6a and 3.13.6d are considered individually and cumulatively significant impacts, and Impact 3.13.6e is considered a cumulatively significant impact.

Finding: Impact 3.13.6 (including 3.13.6a, 3.13.6d, and 3.13.6e) is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing

the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that some of these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that significant adverse impacts will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 mitigates traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)
2. The County adopted mitigation measure 3.13.6 (including 3.13.6a, 3.13.6d, and 3.13.6e) to reduce the Project's impacts on the substandard LOS on City of Fresno roadways and intersections. (County Resolution, Exh. B; DEIR, pp. 3-324 – 3-26 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so.

Impact 3.13.7 (including 3.13.7a-f): The Project will increase traffic and will contribute to substandard LOS on intersections and roadways within the shared jurisdiction of City of Clovis and City of Fresno. (DEIR, p. 3-326.) Regional growth in the Project vicinity has created and is anticipated to create substandard LOS in the City of Fresno and City of Clovis's shared roadway network under the anticipated traffic analysis for the year 2030. The Project's anticipated traffic impacts will contribute to and exacerbate the substandard LOS conditions under this analysis based on existing conditions. The Project's contribution to the anticipated cumulative traffic conditions in the City of Fresno and City of Clovis shared roadways and intersections is cumulatively considerable. Impacts 3.13.7d and 3.13.7e are considered individually and cumulatively significant impacts, and Impacts 3.13.7a-c and 3.13.7f are considered cumulatively significant impacts.

Findings: Impact 3.13.7 (including 3.13.7a-f) is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that some of these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that significant adverse impacts will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 mitigates traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)
2. The County adopted mitigation measure 3.13.7 (including 3.13.7a-f) to substantially lessen the Project's impact on the identified intersections and roadways within the shared jurisdiction of City of Clovis and City of Fresno. (County Resolution, Exh. B; DEIR, pp. 3-327 – 328 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Utilities and Service Systems Impacts

Impact 3.14.3: Inadequate Wastewater Treatment Capacity and Facilities. Implementation of the Project will result in growth requiring additional wastewater treatment capacity. (DEIR, p. 3-362.) Presently, nearly all of the buildings in the Friant Community are serviced by individual septic systems, with one small sewer system package treatment plant servicing the Millerton Lake Village Mobile Home Park. (DEIR, p. 3-348.)

Without mitigation, the Project could impact existing wastewater treatment capacity and will require construction of a new wastewater treatment plant. (DEIR, p. 3-369.) The diversion from the mobile home park may require addition of a pumping station at the present site to transfer the existing flows, and the new wastewater treatment plant may have additional impacts on noise, aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology, soils and mineral resources, and hydrology and water quality. (DEIR, pp. 3-363, 3-364, 3-366.) These impacts are considered potentially significant. (DEIR, p. 3-369.)

Finding: Impact 3.14.3 is within the jurisdiction of the Commission.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Specifically, the proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

In addition to the changes and/or alterations imposed by the County of Fresno, Commission staff has proposed the following condition for approval of the Annexation portion of the proposal: Waterworks District No. 18 and the County of Fresno shall each provide LAFCo with assurances, sufficient to the Executive Officer, that: (1) Waterworks District No. 18 shall provide wastewater services to the Millerton Lake Village Mobile Home Park currently served by CSA 44A; and (2) the new wastewater treatment plant, once fully permitted and operational, shall be used to provide such service.

Since the mitigation measures, other than the proposed condition from the Commission, are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 lessens the demand for wastewater service by reducing the number of residential units in the Project. (DEIR, p. 4-33.)

2. The County of Fresno adopted mitigation measures 3.14.3a-g to reduce to a less-than-significant level the Project's impacts on wastewater treatment capacity and facilities. (County Resolution, Exh. B; DEIR, pp. 3-369 – 3.371 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the wastewater treatment capacity impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.14.7: Development of the Community Plan Area Will Increase the Demand for Electricity and Natural Gas and Will Result in the Need to Construct New Infrastructure to Serve the Community Plan Area. Implementation of the Project will increase the demand for electricity and natural gas, resulting in impacts related to the timing of installation of utilities and the development of electrical and natural gas infrastructure. These impacts include the availability of utility easements, extensions of existing electrical and natural gas facilities to support the new demands, the installation of new gas distribution feeder mains, regulator stations, and distribution and transmission lines, and the cost of new utility infrastructure. (DEIR, p. 3-376.)

Finding: Impact 3.14.7 is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:
1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed

to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 substantially lessens impacts to electricity and natural gas demand by reducing the number of residential units in the Project. (DEIR, p. 4-33.)

2. The County of Fresno adopted mitigation measures 3.14.7a-b to reduce to a less-than-significant level any Project impacts on electricity and natural gas. (County Resolution; Exh. B; DEIR, p. 3-377 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the electric and natural gas demand impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Greenhouse Gas Impacts

Impact 3.15.1: Development of the Project Could Potentially Result in a Cumulatively Considerable Incremental Contribution to the Significant Cumulative Impact of Global Climate Change. Implementation of the Project will result in additional greenhouse gas emissions due to development and increased traffic. The carbon dioxide emissions from vehicle travel will contribute to the greenhouse gasses locally, regionally, and globally. Additionally, the consumption of fossil fuel for energy production would also contribute to greenhouse gas emissions through the addition of residential development. These impacts are considered potentially significant. (DEIR, pp. 3-387 – 3-391.)

Finding: Impact 3.15.1 is within the responsibility and jurisdiction of Fresno County and not the Commission. It is not a direct impact of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that this significant adverse impact will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 substantially lessens impacts by reducing the number of residential units in the Project, thereby reducing residential energy consumption and vehicle traffic emissions contributing to climate change impacts. (DEIR, p. 4-29.)
2. The County adopted mitigation measures 3.15.1a-h that reduces the potential significant environmental effect identified in the EIR. (County Resolution, Exh. B; DEIR, pp. 3-391 – 3-393.)
3. The Commission cannot monitor and enforce the climate change impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Cumulative Impacts

Cumulative Impact 5.2.1: The landscape in north-central Fresno County has historically been predominately rural open space and agricultural grazing. This has changed over the years to more urban uses. The combination of the proposed development in the Project, other individual project proposals and the Fresno County and Madera County general plans would result in significant changes to the existing visual character and quality of the area due to the increased conversion of rural open space and agricultural grazing lands to urban uses. (DEIR, p. 5-8/) This Project's contribution to this cumulative impact is considered cumulatively considerable and therefore significant.

Finding: Impact 5.2.1 is within the responsibility and jurisdiction of the Commission. Notwithstanding the mitigation measures and alternative adopted by the County of Fresno, the Commission finds that this impact will be significant. However, the Commission finds that there are no feasible mitigation measures or alternatives that could be adopted that would reduce the environmental impact to a less-than-significant level.

The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts.

Moreover, the EIR concludes that these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that this significant adverse impact will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Implementation of Alternative No. 3 reduces the number of residential units in the Project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) This substantial unit reduction will reduce sources of light compared to the original project proposal, and provide additional open space buffers between the developed area and neighboring open space lands, further reducing this impact. (DEIR, p. 4-29.)
2. The County adopted mitigation measures 3.1.3a through 3.1.3f to mitigate aesthetic impacts. (County Resolution, Exh. B; DEIR, pp. 3-12 – 3-13.)
3. The Commission cannot monitor and enforce the cumulative aesthetic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Cumulative Impact 5.2.2: Agricultural Resources. Many of the projects listed in DEIR Table 5-1 and this Project would result in the redesignation of agriculturally zoned lands to non-agricultural uses that conflict with that zoning. (DEIR, pp. 5-8 – 5-9.) The Project's contribution to the cumulative impact from redesignation of agricultural lands is considered cumulatively considerable and therefore significant. (DEIR, p. 5-9.)

Finding: Impact 5.2.2. is within the responsibility and jurisdiction of the Commission. Notwithstanding the mitigation measures and alternative adopted by the County of Fresno, the Commission finds that this impact will be significant. However, the Commission finds that there are no feasible mitigation measures or alternatives that could be adopted that would reduce the environmental impact at the time of environmental review to a less-than-significant level.

The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942 acre development area. Additionally, the existing zoning at the time of the proposal provides for residential and commercial uses, not agriculture. As such, the proposal does not conflict with existing zoning.

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

To the extent that the inconsistency with zoning regulations no longer in effect results in a significant adverse impact that is not substantially lessened or avoided by mitigation adopted by the County, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942 acre development area. (See DEIR Table 4-6, p. 4-35.) Incorporation of Alternative 3 into the proposal, as well as adoption thereof by the County, reduces the impact to only 443 acres of previously agriculturally zoned lands that the County amended to plan for inconsistent urban uses. (DEIR, p. 4-29.)
2. The County of Fresno adopted mitigation measures 3.4.1b through 3.4.1e, and 3.4.3a(1), 3.4.3a(2)(a) and 3.4.5, which ensure that the identified conflict with agriculturally zoned lands would be offset by preserving more than 1500 acres of agricultural lands. (County Resolution, Exh. B; DEIR, pp. 3-102 – 3-109 and FEIR revisions thereto.) This mitigation ensures the conservation of over three times the amount of similarly situated agricultural grazing lands in perpetuity. (County Resolution, Exh. B, mitigation measures 3.4.1b through 3.4.1e, and 3.4.3a(1), 3.4.3a(2)(a), 3.4.5.)
3. The County changed the agricultural zoning for the lands within the Friant Ranch Specific Plan area to provide for residential and commercial uses. (See Friant Ranch Zoning Regulations, Fresno County Zoning Ordinance, §§840.B -840B(h).) As such, the Project benefits agricultural lands by converting non-prime agricultural lands and further protecting in perpetuity over three times the amount of grazing land.

Cumulative Impact 5.2.3: Air Quality. The Project, along with the proposed development in Fresno, Tulare, Kings and Madera Counties, will increase air pollution from mobile and stationary sources in the San Joaquin Valley Air Pollution Control District, which is classified as a nonattainment area for state and federal ozone and dust standards. (DEIR, p. 5-9.) The Project's contribution to the cumulative air quality impact is considered cumulatively considerable and therefore significant. (*Id.*)

Finding: Impact 5.2.3 is within the responsibility and jurisdiction of the County of Fresno, not the Commission. It is not an effect of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this cumulative impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or

alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that this significant adverse impact will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the Project from 2,996 to 2,500, and concentrated development on 496 acres as opposed to 667 acres of development within the entire 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) This reduction effectively eliminated an entire construction phase and resulting air quality impacts, as well as reduced the overall operational emissions resulting from residential traffic. (DEIR, pp. 4-29, 4-33; see also P&P Memos.)
2. The County of Fresno adopted mitigation measures 3.3.1a through 3.3.1d to reduce the adverse air quality effects of the Project. (County Resolution, Exh. B; DEIR, pp. 3-343 – 3-349 and FEIR revisions thereto.)
3. The County adopted mitigation measures 3.3.2 to reduce the Project's impacts on the degradation of air quality from increases in vehicular traffic emissions. (County Resolution, Exh. B; DEIR, p. 3-57 and FEIR revision thereto.)
4. The Commission cannot monitor and enforce the cumulative air quality impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Cumulative Impact 5.2.10: Noise. The Project will increase the cumulative noise levels from traffic to levels in excess of 60 dB Day-Night Average Level or will substantially increase criteria for 4 of the 24 road segments analyzed. (DEIR, pp. 3-244 – 3-248, 5-19.) The Project's contribution to the cumulative noise impact is considered cumulatively considerable and therefore significant.

Finding: Impact 5.2.10 is within the responsibility and jurisdiction of the County of Fresno, not the Commission. It is not an effect of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this cumulative impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that this significant adverse impact will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the Project from 2,996 to 2,500, and concentrated development on 496 acres as opposed to 667 acres of development within the entire 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Alternative 3 will reduce the Project's contribution to cumulatively significant noise impact by reducing the number of residents and number of vehicle trips. (DEIR, p. 4-32 and FEIR revisions thereto.)
2. The County adopted mitigation measures 3.10.1a that will reduce to less-than-significant levels the on-site traffic noise impacts of the Project to all areas in the Project vicinity, except for the impact to the existing homes along Friant Road and Willow Avenue. (County Resolution, Exh. B; DEIR, pp. 3-248 – 3-250.)
3. The Commission cannot monitor and enforce the cumulative noise impacts potentially resulting from construction or operations of the Project pursuant to the County's land use approvals because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Cumulative Impact 5.2.13: Transportation and Circulation. The Project would increase traffic generation, contributing to the cumulative traffic impacts with other foreseeable regional development. (DEIR, pp. 3-312 – 3-329, 5-21.) The Project's contribution to the cumulative traffic impacts is considered cumulatively considerable and therefore significant. (*Id.*)

Finding: Impact 5.2.13 is within the responsibility and jurisdiction of the County of Fresno, not the Commission. It is not an effect of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce the cumulative traffic impact of the Project to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or

alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that some of these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that significant adverse impacts will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 mitigates traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)
2. The County adopted mitigation measures to reduce the Project's contribution to cumulatively considerable traffic impacts resulting from the cumulative projects and other foreseeable regional development. (DEIR, p. 5-21; see also Findings regarding Impacts 3.13.3, 3.13.4, 3.13.5, 3.13.6, 3.13.7, *supra.*)
3. The Commission cannot monitor and enforce the cumulative traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so.

Cumulative Impact 5.2.15: Greenhouse Gas Emission and Global Climate Change. The Project would substantially increase development and would generate increased greenhouse gas emissions. (DEIR, pp. 3-385 – 3-393, 5-23.) The Project's contribution to the cumulative impact from greenhouse gas emissions and global climate change is considered cumulatively considerable and therefore significant. (*Id.*)

Finding: Impact 5.2.15 is within the responsibility and jurisdiction of the County of Fresno, not the Commission. It is not an effect of the proposal. The proposal incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the proposal, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not

the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that this significant adverse impact will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the proposal.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 reducing the number of residential units in the Project results in corresponding reductions in emissions from vehicular and energy use. (DEIR, p. 4-29; see also P&P Memos.)
2. The County adopted mitigation measures 3.15.1a through 3.15.1h to reduce greenhouse gas emissions within the Project area. (See Finding regarding Impact 3.15.1, *supra.*)
3. The Commission cannot monitor and enforce the cumulative greenhouse gas/climate change impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so.

4. *FINDINGS REGARDING ALTERNATIVES ANALYZED IN THE EIR*

The County certified the EIR for the broader Project comprising a general plan amendment, community plan, specific plan, and related approvals within the authorized land use jurisdiction of the County. The proposal is just a component of the larger Project that would authorize the District to provide water and wastewater services within the entire area included within the County's Friant Community Plan Update.

All the project alternatives identified in the Final EIR include the proposal, except for the No Project Alternative. Alternatives 1-3 in the EIR consider alternative development configurations that effectively reduce the subject annexation area to avoid certain environmental features of the subject property. The EIR identified Alternative 3 as the environmentally superior alternative (other than the No Project Alternative). The Commission finds that the proposal implements Alternative 3, which would result in the fewest adverse physical impacts to biological resources. Alternative 3 allows for more undisturbed open space and conserved grazing lands. Alternative 3 reduces the development footprint and residential unit count while still incorporating (proportionate with the reduced units) the mitigation measures applicable to the Project. The changes reduce almost all of the impacts of the Project as originally proposed and evaluated in the EIR, including without limitation, traffic, biological resources, air quality, greenhouse gas, energy usage, aesthetic, agricultural, water supply, and water quality impacts. Additionally,

Alternative 3 would appear to preserve the most open space and would provide the least impact to wetlands, drainages, and vernal pools, thereby substantially reducing the impacts to waters of the United States, the California tiger salamander, and vernal pool fairy shrimp. Moreover, the alternative's level of connectivity to adjacent open space areas to the south further protect biological resources by facilitating species mitigation. Therefore, because Alternative 3 offers the smallest project footprint, the most open space preserved, and the least impact to biological resources, Alternative 3 is the environmentally superior alternative. The proposal implements Alternative 3 and thus minimizes or avoids potentially significant Project impacts in a manner consistent with the Commission's authority.

STATEMENT OF OVERRIDING CONSIDERATIONS (CEQA Guidelines §§ 15093, 15096(h))

The County of Fresno, acting as the Lead Agency, adopted its own Statement of Overriding Considerations. (See County Resolution at pp. 149-154.) Because the Project will result in the occurrence of significant effects which are identified in the final EIR that are not avoided or substantially lessened, and others that are only lessened by the actions of other agencies outside of the Commission's control, the Commission provides the following, specific reasons to support the proposal, which is a component of the broader Project.

The Commission has made a reasonable and good faith effort to evaluate any alternatives or mitigation measures that would eliminate or substantially mitigate the environmental impacts resulting from the Project. The Commission has reviewed the actions by the County of Fresno to eliminate or substantially mitigate the environmental impacts, particularly the County's required implementation of the environmentally superior alternative and various mitigation measures, goals and policies identified in the EIR, General Plan, the adopted Friant Community Plan Update, and the adopted Friant Ranch Specific Plan (hereafter "Project").

For the reasons set forth below, the Commission determines that economic, social, recreational, environmental, and policy considerations outweigh the significant and unavoidable adverse environmental impacts identified in the EIR and described in the Commission's Findings above. This Statement of Overriding Considerations justifies finding the unavoidable adverse environmental impacts from the Project acceptable.

The Commission finds that any one of the benefits set forth below is sufficient by itself to warrant approval of the Project, and justify the unavoidable adverse environmental impacts from the Project. This determination is based on the findings herein and the evidence in the record. Having balanced the unavoidable adverse environmental impacts against each of the benefits, the Commission hereby adopts this Statement of Overriding Considerations, for the following reasons.

1. Economic Considerations and Job Creation

The county of Fresno has historically experienced considerably higher rates of unemployment (12 to 15 percent or greater average annual unemployment) than most areas of California. (Bureau of Labor Statistics, Economy at a Glance, Fresno, Ca, available at

http://www.blg.ca_fresno_msa_htm, last accessed August 13, 2010).) In order to provide an adequate opportunity for economic enhancement and employment growth in Fresno County, it will be necessary to make available appropriate land area and resources to accommodate new retail, commercial, office, and residential developments such as Friant Ranch.

Project construction is projected to generate additional economic output of $918 million in the County of Fresno's economy over the 10-year construction period, an average of $92 million annually. (Economic & Planning Systems, Inc., Friant Ranch Economic Impact Analysis (June 11, 2010), p. 4.) This represents an addition of 1.7 percent to the County's total annual economic output. *(Ibid.)* Additionally, the construction of the project is expected to create employment for approximately 660 workers annually over the 10-year period earning a total of $264 million in employee income or an average of $40,000 annually per worker. *(Ibid.)* The Project will also generate additional capital income of approximately $139 million including proprietary income, interest payments, rent, royalties from contracts, dividends, and corporate profits. Note that income is part of the Project's total economic input mentioned above. *(Ibid.)*

At Project build-out, total household spending from the Project would stimulate an estimated $110 million in additional economic output for the County annually, which represents an increase of approximately 0.2 percent in the County's economic output. *(Id.* at 5.) The additional output stimulated from household spending would support approximately 760 new jobs (part-time and full-time) in the County earning $23 million in employee income annually, an average of $31,000 annual income per worker. *(Id.* at 6.)

In addition, at build-out, the **Project is projected to generate positive fiscal impacts to the County's operating funds.** The annual revenue generated by the project from various taxes, licenses, and permits is estimated to exceed the costs of services the County will provide (e.g., health and sanitation, police and fire protection) **by approximately $2.6 to $2.9 million.** (Economic & Planning Systems, Inc., Friant Ranch Fiscal Impact Study (June 11, 2010) at p.3.)

Friant Ranch is congruent with the Fresno Regional Jobs Initiative (RJI) mission to develop a short- and long-term comprehensive strategy aimed at creating new jobs. Elements of Friant Ranch support four of the RJI job growth clusters. They are the Construction Cluster, Water Technology Cluster, Tourism Cluster and Healthcare Cluster.

2. Social And Recreational Benefits

The Project provides unique social and recreational benefits. The Project will result in Fresno's first 55+ age qualified Active Adult lifestyle community to accommodate the County's growing baby boomer population and help meet the demand for retirement housing.

The Project provides diverse housing types, sizes and designs to accommodate varying lifestyles and income levels of Fresno's expanding Active Adult (55+) population. The Project offers housing to meet the growing demand for retirement housing as the "Baby Boomer" generation reach 55 years of age and older. In Fresno County, the 65-74 year age group is projected to grow by approximately 59 percent in the coming decade, an increase of more than 29,000 people, and the 55-64 age group is projected to grow by 27 percent, an increase of more than 24,000 people. By providing a lifestyle alternative for older citizens, the Project provides

an opportunity for residents of Fresno County to age in place and will prevent retirement relocation to other California counties, Arizona and Nevada.

Additionally, state tax law allows homeowners to transfer the current assessed value of the home they sell to the home they purchase, provided that home is within the same county. Demographic research indicates that 90 percent of the Friant Ranch market would come from the existing Fresno County 55+ baby boomer population, which is expected to grow in Fresno County by 59 percent through 2010. Approval of the Friant Ranch project will allow these current residents to take advantage of these provisions of state law, while retaining the economic benefit of their residency within the County, a benefit that will be lost if they relocate to other counties or other states that increasingly are approving active adult communities to satisfy the growing demand for this lifestyle and product.

The Project also provides considerable open space and linkages to recreational amenities. The Project's proximity to Millerton Lake, the San Joaquin River, and Table Mountain Casino enables it to become a hub of sub-regional and recreational growth and services. It enhances the recreational uses and tourism of Millerton Lake, Lost Lake Park, the San Joaquin River, and Table Mountain Casino. The Project provides connectivity to the regional trail system and provides an on-site interpretive trail system accessible to the public.

The Project builds on the existing retail services in Friant with an 18-acre commercial area and provides an expanded customer base that will create a hub of sub-regional services serving unincorporated Fresno County. The location at the confluence of two primary circulation links, Friant Road and State Route 41, optimizes access and convenience to surrounding areas. The resurgence of the location as a hub will assist in regenerating the existing town and contribute to the needed services and infrastructure for current residents that either would not occur or would be delayed without the implementation of the Friant Ranch project.

Specifically, the Friant Ranch Project will provide the construction of a new tertiary wastewater treatment facility that will immediately serve the Friant Ranch Specific Plan Area and the Millerton Lake Mobile Home Park within the Project Area, and will also have the capacity to serve the proposed build out (in accordance with the Friant Community Plan) of the remaining portions of the Project Area. (Friant Community Plan Update & Friant Ranch Specific Plan, Final Environmental Impact Report, August 2010, Responses to Comments, p. 3-70; see, DEIR, p. 3-371 [mitigation measure 3.14.3d requires "[c]ommitments from the wastewater treatment provider [for the Project] to receive anticipated flows from the Friant Ranch Specific Plan Area and Millerton Lake Village Mobile Home Park at the WWTP shall be secured by Fresno County prior to County approval of improvement plans for wastewater collection and transmission infrastructure"].)

Friant Ranch will revitalize the Friant Community and provide significant regional benefits. The Project will provide economic and social benefits to the Friant community and beyond. Friant's history can be traced to the town of Millerton, Fresno County's first county seat, which was established in 1856. (*See* Friant Ranch Specific Plan.) While Friant briefly grew in population during construction of the Friant Dam in the 1930's and 1940's, the area has maintained a modest population and limited economy over the past 60 years. (*Id.*) Existing

commercial business cannot thrive and new commercial businesses will not be established in Friant because there are not enough residents to support them. Additional residences will not be established in Friant because there is an insufficient water supply and no wastewater treatment system. In short, the community of Friant is in dire need of a partner willing to invest in Friant. The Annexation Area is the only property in or abutting the existing community that is large enough to justify the significant investment needed to improve the community's infrastructure and allow for growth of the existing community.

3. Orderly Development and Agricultural Preservation

The Friant community is one of the oldest communities in Fresno County and has long been considered a legitimate growth area by the County. The 1983 Community Plan assumed growth would occur within the Friant area, but noted the following requisite conditions to facilitate the desired growth: (1) a large increase in area development opportunities; (2) successful promotion of the community as a desirable place in which to live for retirees or commuters; and (3) a large increase in the use of recreational facilities in the Friant area. (1983 Community Plan at § 3.01a.) The 2011 Friant Community Plan Update acknowledges that growth is needed to meet the County goals for the Friant area. (2011 Friant Community Plan Update.) Further, the General Plan population projections estimate that the Unincorporated East Valley, of which the Friant Community Plan Area is a part, will grow from 87,705 people in 1996 to 101,542 people in 2020, an increase of 13,837 people. (Fresno County General Plan, Table A-1 of Appendix A.) The area subject to this proposal will accommodate a portion of this anticipated growth.

The Friant Community Plan Update and Friant Ranch Specific Plan protect prime agricultural land by directing growth to the non-prime agricultural lands within the area proposed for annexation. (Gov. Code, 56377(b) ["[d]evelopment or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands"].) The proposal does not involve "prime agricultural lands" as defined by state law and the Commission Policy, as it is non-irrigated rangeland suitable for seasonal grazing, and cannot support one animal unit per acre due to if current topography, soil structure, and water supplies. The annexation area does not have the requisite natural resources sufficient to support fruit or nut-bearing trees, vines, bushes, or crops. (Certified EIR at Response to Comment 18.3, FEIR at p. 3-64.); cf. Commission Policy 005-06C(2)(a), 005-06C(2)(c).) The Certified EIR provides extensive additional evidence and analysis explaining why the Project does not affect valuable or productive agricultural land. (Exh. E, Responses to Comments 18.3,19.16, 19.73, 19.150; see also Friant Ranch Specific Plan at pp. 113-114.) The Certified EIR further relies on the Fresno County General Plan goals and policies to support its determination that the Project would not result in significant impacts to prime agricultural lands. (Exh. E, Response to Comment 18.3.) Accordingly, development within the area subject to the Annexation—non-prime agricultural land—is consistent with the Commission's policies encouraging orderly urban development and preservation of agricultural lands. (Commission Policy at 103-02,104-02, and 104-03; see also Gov. Code, § 56300.)

In contrast to the non-prime agricultural soils within the area subject to this proposal, virtually all land presently designated for development and in and around the cities of Fresno and Clovis contain prime agricultural soils. Directing development to the subject non-prime agricultural soils immediately adjacent to an existing unincorporated community will absorb some of the

housing demand identified in these planning documents and reduce the growth pressure on prime agricultural soils in other areas.

The Commission's incorporation of the reduced footprint analyzed in Alternative 3 (which is incorporated into the proposed Annexation Area) minimizes the conversion of grazing land to non-agricultural uses, and facilitates the permanent conservation of approximately 482 acres within the area formerly proposed for development. (Exh. E, Response to Comment 18.3, FEIR at pp. 3-64-3-65; see also Certified EIR, Mitigation Measures 3.4.1b, 3.4.1c, 3.4.1d, 3.4.1e, 3.4.3a(1), 3.4.3a(2)(a) and 3.4.5, DEIR at p. 3-24; see also County Resolution, Exh. B.) Said mitigation requirements further require conservation of over 1,000 acres of off-site grazing land (in the Friant vicinity, within Fresno and Madera Counties) to be preserved in perpetuity and managed consistent with a grazing plan. (*Id.*) Thus, the Project benefits agricultural lands by protecting in perpetuity over three times the amount of grazing land. (County Resolution, Exh. B, Mitigation Measures 3.4.1b - 3.4.1e, and 3.4.3a(1), 3.4.3a(2)(a), 3.4.5.)

4. Environmental Benefits

The Northeast Development Configuration, as incorporated into the Project, reduces impacts to the environment by providing higher density development on fewer acres, resulting in less land development and substantial area dedicated to parks and undisturbed open space. The Project's 942-acre environmentally preferred land plan preserves over 460 acres of permanent on-site open space, protecting the natural foothills, canyons, and habitat areas including vernal pools, tiger salamander and fairy shrimp habitat. The Project also will provide 1,060 acres of off-site open space protection to offset any development impacts to habitat areas. This undisturbed permanent open space will be dedicated via easement to a conservation trust. The combination of on-site avoidance and on-site and off-site preservation and mitigation results in no net loss of wetland areas.

In total, the Project will set aside more than half of the Project area as preserved open space. This is consistent with the 2025 General Plan's goals of providing quality open space and protecting, preserving, and enhancing natural resources. (2025 Fresno General Plan, February 2002, Goal # 10, 11, p 3.)

The Project design respects the natural topography of the property with minimum grading and incorporates innovative and environmentally beneficial features such as biofiltration, reducing environmental impacts from stormwater and runoff.

Effluent from the new wastewater treatment facility will be treated to Title 22 unrestricted reuse quality with a Membrane Bio Reactor (MBR) system. The Project proposes to use 145.5 acre Beck Ranch, previously and aggregate mining site, as a land irritation and storage site for the Title 22 treated water, eliminating the need for direct winter discharge of treated effluent in to the San Joaquin River. This will also allow for restoration of a portion of the Beck Ranch property to an agriculture land use.

The Project will minimize air quality impacts compared to other residential development. By targeting the development to the active adult community, the Project will generate significantly less morning and evening peak hour traffic vehicular trips. The Project provides

for individual Neighborhood Electric Vehicles (NEV) paths on major interior roadways. It utilizes compact Mixed Use development design consistent with the San Joaquin Valley Blueprint. The Project will provide transportation alternatives such as public transit (e.g., HOA shuttle buses to River Park and Casino), NEV electric vehicles, pedestrian/bicycle facilities, neighborhood trails & local retail linkage, regional trails, and telecommuting. The Project will also participate in the San Joaquin Valley Air Pollution Control District Rule 9510 mitigation program.

5. Policy

The Project implements and furthers important plans and public policies adopted and endorsed by the County related to urban growth.

Development of mixed urban uses on the Project site, which is adjacent to the North Growth Area, essentially the northerly most area available for substantial urban development, and is endorsed by the Fresno County General Plan and the City of Fresno's 2025 General Plan as the logical geographical conclusion of the predominantly northward urban growth that has occurred over the past 45 years (Friant Community Plan Update & Friant Ranch Specific Plan, Final Environmental Impact Report, August 2010, pp. 3-64, 3-72, 3-259.) The Project site is not valuable or productive agricultural land. Furthermore, there is not a land parcel large enough within the City of Fresno boundaries to accommodate an age-qualified lifestyle community with the amenities and natural outdoor recreational features available contiguous to the property location.

The Project's location, adjacent to the town of Friant, is an expansion of an existing established town and will contribute to the revitalization of Fresno County's only Redevelopment Area and the town of Friant. In October 1992, Fresno County approved the *Friant Redevelopment Plan* in an effort to address the conditions identified by the California Health and Safety Code as blight and to encourage housing opportunities, rehabilitation and repair of facilities, and expand and develop the commercial area by providing needed public improvements. The redevelopment zone is the only redevelopment area in Fresno County. Eighty acres of Friant Ranch, including a significant portion of the Friant Ranch Commercial Village Core, are located in the Friant Redevelopment Plan area, and the Project will extend revenue collection for the plan (which is set to expire in 2012) by 20 years.

With Friant's proximity to Millerton Lake, the San Joaquin River, and Table Mountain Casino, the Project will serve as a foundation that enables the town of Friant to become a hub of sub-regional and recreational growth and services. In each of these ways the Project will further implementation of the goals and objectives of the County's only redevelopment area.

The County has imposed, and Friant Ranch has agreed to, the following conditions to development in the Annexation Area: (1) to bring long term reliable water supply to the Friant community; (2) to construct additional water treatment facilities to purify the water; and (3) to construct sewage treatment facilities in order that the existing septic systems and outdated wastewater treatment plant can be abandoned. Thus, development within the Annexation Area,

consistent with the County's newly adopted plans for the area, will revitalize the community of Friant. Specifically, the Project provides a new tertiary wastewater treatment facility that will (upon County and Regional Water Quality Control Board approval and construction) immediately serve the Friant Ranch Specific Plan Area and the Millerton Lake Mobile Home Park, and will also have the capacity to serve the proposed buildout of the remaining portions of WWD 18's Western Service Area (in accordance with the adopted Friant Community Plan analyzed in the Certified EIR and upon completion of a collector system, which is not funded by or a part of the Project). (Certified EIR, DEIR at p. 3-70; see also Friant Ranch Specific Plan; DEIR, p. 3-371 [mitigation measure 3.14.3d requires "[c]ommitments from the wastewater treatment provider [for the Project] to receive anticipated flows from the Friant Ranch Specific Plan Area and Millerton Lake Village Mobile Home Park at the WWTP shall be secured by Fresno County prior to County approval of improvement plans for wastewater collection and transmission infrastructure"].)

The Project embraces and promotes important San Joaquin Valley Blueprint principles. For example, the Project embraces the "smart growth" concept of clustering development to preserve open space and protect natural resources; directs development toward existing communities, creates walkable and bikable neighborhoods, fosters distinctive, attractive communities with a strong sense of place, and supports actions that encourage environmental resource management. The Project implements these principles by providing nearly 13 miles of pedestrian/bicycle facilities, neighborhood trails and local retail linkages and linkage to regional trails as well as a community technology focus for telecommuting and intranet connectivity.

The Project also supports and implements the principles and strategies of the Growth Alternative Alliance's "A Landscape of Choice," which the County has adopted as a goal in its 2025 General Plan, by offering a compact integrated community plan that provides a full range of services — neighborhood commercial uses, community centers, medical services, public services, transit, and recreational uses — while also protecting key environmental resources through open space and comprehensive transit, street and trail systems that facilitate efficient access to community amenities and recreational areas. (See e.g. 2025 Fresno General Plan, February 2002, Goal #5, p.3, Appendix A, p.177.)

Finally, the Project is consistent with and furthers implementation of a County's approved mine reclamation plan, pursuant to California's Surface Mining and Reclamation Act of 1975, Public Resources Code 2710 et seq. That plan calls for ultimate rehabilitation of the Beck Property to a combination of ponds and agricultural land. The Project is consistent with that plan because it includes storage of effluent within the former excavation area on the Beck Property. Additionally, reclaimed water stored on the Beck Property will be used to irrigate the balance of the site, which will be restored to agricultural production.

EXHIBIT F

COMMENTS RECEIVED BY LAFCO REGARDING
WATERWORKS DISTRICT NO. 18 REORGANIZATION

Fresno Local Agency Formation Commission



DATE: June 3, 2011

TO: Bernard Jimenez, Manager, Development Services Division
Department of Public Works and Planning

FROM: Jeff Witte, Executive Officer

SUBJECT: "Friant Ranch Annexation", AD-11-1, "Sphere of Influence Revision" for Waterworks District #18, RSOI-156; and "Extension of Powers" (Sewer), EP-11-1

The attached application has been filed for processing with the Fresno Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting information on the following factors:

1. County plan designation for the area:

The parcels involved in this reorganization are located within the Friant Community Plan and the Friant Ranch Specific Plan that includes various land use designations such as: Residential, Commercial, Open Space, and Public Facilities.

2. Consistency of the proposal with adopted County General and Community Plans and Policies:

The proposed reorganization, attachment to Waterworks District (WWD) #18, Sphere of Influence revision, and extension of powers for sewer service is consistent with the Friant Community Plan, the Friant Ranch Specific Plan, and the Fresno County General Plan. (See General Plan Policy LU-G.23, The County shall ensure that the expansion of unincorporated communities can be provided with the necessary public services.)

3. Any pending County plans, projects (i.e. community development, roads, etc.) or development permits:

The Friant Ranch Community Plan Update and the Friant Ranch Specific Plan were adopted by the Board of Supervisors on February 1, 2011. There are no development permits pending at this time.

4. Other related comments:

No comments on the proposal.

5. Recommendations:

No specific recommendations for the proposal.

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011**. Your assistance is greatly appreciated. Thank you.

6-8-11

Bernard Jimenez, Development Services Manager
Department of Public Works and Planning

Date

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ cfleming@co.fresno.ca.us

Fresno Local Agency Formation Commission

Received
MAY 2011
LAFCo

MAY 2011
RECEIVED
DEPT OF PUBLIC HEALTH
SO. CA BRANCH-DWFO

Date: May 23, 2011

To: State Department of Health Services

From: Jeff Witte, Executive Officer JW

Subject: "Friant Ranch Annexation", AD-11-1; "Sphere of Influence Revision" for the Waterworks District #18, RSOI-156; and "Extension of Powers" (Sewer), EP-11-1

The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting information on the following particular factors:

1. Adequacy and availability of existing and proposed community water systems:
The District does not have adequate water source and treatment capacity to serve the proposed development.

2. Need for services other than those proposed:

3. Effect of project on water quality:

4. Related State or County plans or projects:

5. Other comments:
The District must significantly increase its water source and treatment capacity before expanding its service area.

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011.** Your assistance is greatly appreciated. Thank you.

Supervising Sanitary Engineer
Signature and Title

5/25/11
Date

JW:cf

Attachment: Application, Map, Legal Description, Service Plan, Resolution

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ cfleming@co.fresno.ca.us

County of Fresno
Fresno County Public Library
Laurel Prysiazny, County Librarian



June 2, 2011

MEMO

To: Jeff Witte, Executive Officer

From: Laurel Prysiazny, Fresno County Librarian

Re: Friant Ranch Annexation – SOI Revision

The EIR for this proposal (pp. 3-147 to 3-164) outlines a thorough and suitable plan for the disposition of cultural resources found as a result of future property development.

2420 Mariposa Street / Fresno, California 93721-2285 / (559) 488-3185 / FAX (559) 488-1971
www.fresnolibrary.org
Equal Employment Opportunity ● Affirmative Action ● Disabled Employer

Fresno Local Agency Formation Commission

DATE: May 23, 2011

TO: Elections Division

FROM: Jeff Witte, Executive Officer JW

SUBJECT: "Friant Ranch Annexation", AD-11-1; "Sphere of Influence Revision" for the Waterworks District #18, RSOI-156; and "Extension of Powers" (Sewer) EP-11-1

The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting the following information indicated by an "X":

A. _____ Please furnish a list of all registered voters along with their address as shown upon the most recent assessment roll being prepared by the County within 300 feet of the exterior boundary of the property.

B X Number of registered voters in the area. 0

C. X If more than 11 registered voters, for notification purposes please furnish a list of all registered voters along with their address as shown upon the most recent assessment roll being prepared by the County. Also please furnish a list of registered voters along with their addresses for the territory within 300 feet of the exterior boundary of the property.

D. _____ What percent of the registered voters in the proposal area does the attached petition represent? _____

E. X Will the proposal adversely affect precinct boundaries or the conduct of elections? No

F. _____ Other comments:

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011.** Your assistance is greatly appreciated. Thank you.

JW:cf

Attachments: Map, Legal description

Signature and Title

Date

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ ofleming@co.fresno.ca.us

Fresno Local Agency Formation Commission



DATE: May 23, 2011

TO: County Committee on School District Reorganization
Clovis Unified School District
State Center Community College

FROM: Jeff Witte, Executive Officer JW

SUBJECT: "Friant Ranch Annexation, AD-11-1; "Sphere of Influence Revision" for the Waterworks District #18; and "Extension of Powers" (Sewer), EP-11-1

The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting information on the following particular factors:

1. Under present attendance boundaries, which schools will students from this area attend?
Liberty Elementary, Kastner Intermediate, Clovis West High School

2. Are any of the above schools of the District already at or near capacity? Please describe:
No

3. Will this proposal and other pending proposals create any overcrowded conditions at any of the above schools? Please describe:
Maybe, depends on what type of development goes in.

4. Is there any agreement, ordinance, or other arrangement of the District and/or City to provide for school facilities that would affect any resulting overcrowding from this proposal? Please describe:
no

5. Describe any building plans of the District that would affect this proposal:
None

6. Other Comments:

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011.** Your assistance is greatly appreciated. Thank you.

JW:cf

Attachments: Application, Map, Legal Description, and Resolution

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ cfleming@co.fresno.ca.us

Fleming, Candace Lynn

From: Jennifer Bryan-Sanchez [jennifer_bryan-sanchez@dot.ca.gov]
Sent: Tuesday, May 31, 2011 2:06 PM
To: Fleming, Candace Lynn
Cc: Michael Navarro
Subject: RE: RSOI-156, FRIANT RANCH ANNEXATION SPHERE OF INFLUENCE REVISION
Attachments: RSOI-156 FRIANT RANCH ANNEXATION.pdf

Good afternoon Candie,

Regarding the Sphere of Influence Revisions, RSOI-156, Friant Ranch Annexation, Caltrans has "No Comment". For your convenience I have attached a copy of the cover sheet with Caltrans' "No Comment" on it. Should you have any questions or concerns please feel free to contact me.

Thanks and have a wonderful evening!

Jennifer Bryan-Sanchez
Associate Transportation Planner
CalTrans District Office 6
1352 W. Olive Ave.
Fresno, CA. 93728
(559)488-7307

LAFCo Fresno Local Agency Formation Commission

SCCAO
RECEIVED
MAY 24 2011

Received
JUN 2011
LAFCo

Date: May 23, 2011

To: Bureau of Reclamation, Attention David Woolley

From: Jeff Witte, Executive Officer JW

Subject: "Friant Ranch Annexation", AD-11-1; "Sphere of Influence Revision" for the Waterworks District #18, RSOI-156; and "Extension of Powers", EP-11-1

The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting information on the following particular factors:

1. Adequacy and availability of existing and proposed community water systems:

2. Need for services other than those proposed:

3. Effect of project on water quality:

4. Related State or County plans or projects:

5. Other comments:

OFFICIAL FILE COPY		
CODE	ACTION	INIT &DATE
414		
411		
413		
420	✓	
440		
DATE ACTION TAKEN		
COPIES TO		
Classification: LND-11.00		
Project: CVP-LAFCO		
Control No: 11043105		
Folder I.D.: 1148105		
Date Input & Initials: MAY 24 2011 QR		

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011**. Your assistance is greatly appreciated. Thank you.

Rena Ballew, Repayment Specialist
Signature and Title

6/1/2011
Date

JW:cf

Attachment: Application, Map, Legal Description, Service Plan, Resolution

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ cfleming@co.fresno.ca.us

Actions requiring Bureau of Reclamation approval include:

- Approval of Sphere of Influence revision to allow federal water to be applied to the newly annexed lands
- Approval of the long-term water transfer to Fresno County Waterworks No. 18 from Lower Tule River Irrigation District
- Issuance of a right-of-way permit/license for construction or modification of pipelines on Reclamation-owned lands

Please continue to send all correspondence related to this action to the Bureau of Reclamation, Attention: SCC-414.

County of Fresno
Department of Public Health
Edward J. Moreno, M.D., M.P.H., Director-Health Officer



June 1, 2011

999999999
LU0016030
PE 2620
CX

Mr. Jeff Witte
Local Agency Formation Commission
2115 Kern St., Suite 310
Fresno, CA 93721

Dear Mr. Witte:

PROJECT NO: RSOI-156 & EP-11-1

SUBJECT: "Friant Ranch Annexation", "Sphere of Influence Revision" for the Waterworks District # 18 and Extension of Powers

1. Adequacy and availability of existing and proposed community water and sewer systems:

2. Need for services other than those proposed:

3. Effect of project on air or water quality:

4. Related County plans or projects:

5. Other comments:

- Drinking water which meets state quality standards for public water systems is a precious commodity which must be protected. Existing standards for water well construction and destruction are designed to protect groundwater quality, thereby protecting the public health. The expense associated with proper destruction of a well is infinitesimally small in comparison to the expense of cleaning up contaminated groundwater.

  The Fresno County Department of Public Health is concerned that abandoned water wells are not being properly destroyed, particularly with respect to new development projects. As city boundaries expand, community services are provided to areas originally served only by individual domestic and agricultural wells. Improper abandonment of such wells presents a reason, when development occurs, it is extremely important to ensure the safe and proper destruction of <u>all</u> abandoned water wells. Prior to destruction of any existing agricultural wells, a sample of the upper most fluid in the well column should be sampled for lubricating oil. The presence of oil staining around the well may indicate the use of lubricating oil to maintain the well

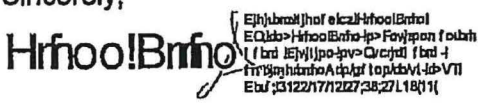
pump. Should lubricating oil be found in the well, the oil should be removed from the well prior to placement of fill material for destruction. The "oily water" removed from the well must be handled in accordance with federal, state and local government requirements. Transportation of these materials on public roadways may require special permits and licensure.

Any wells that exist or that have been abandoned, which are not intended for use by the project, must be properly destroyed. For those wells located in the unincorporated area of Fresno County, the applicant shall apply for and obtain a permit(s) to destroy water well(s) from the Fresno County Department of Public Health, Environmental Health Division prior to commencement of work. The destruction and construction of wells can only be completed by a licensed C-57 contractor. Contact the Water Surveillance Program at (559) 445-3357 for more information.

- Upon availability, this Department recommends that any existing rural residential parcel(s) be required to connect to Waterworks District 18 community sewer system in the event of a failure of the existing sewage system(s), and that no building permits be issued for repair of such a system whether or not the mandatory three (3) year connection requirement has expired.

If I can be of more assistance, please contact me at (559) 445-3271.

Sincerely,



R.E.H.S., M.S.
Supervising Environmental Health Specialist
Environmental Health Division

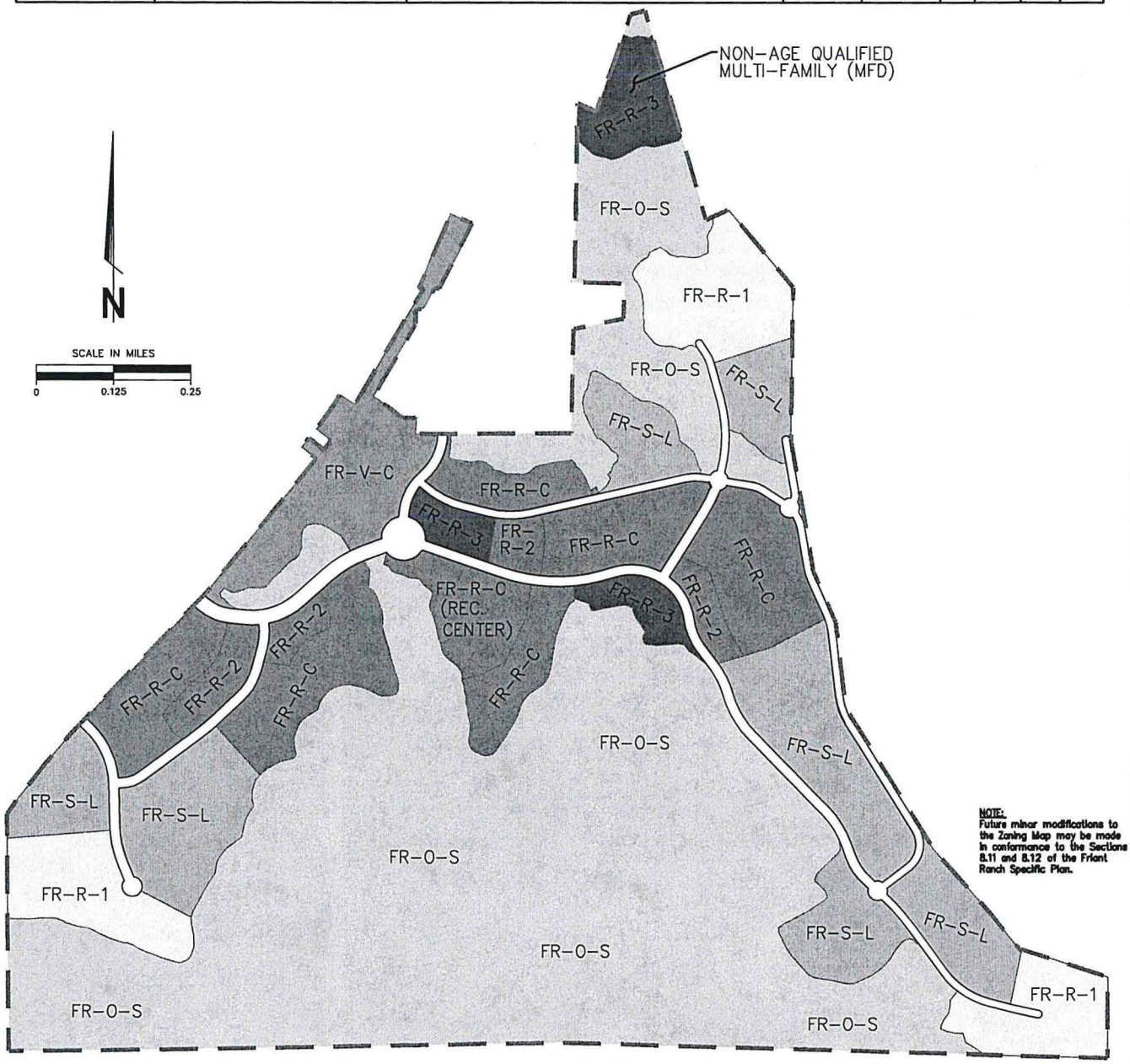
ga

cc Wayne Fox, Environmental Health Division

EXHIBIT G

COUNTY OF FRESNO ZONING MAP

	ZONING DISTRICT	LAND USE DESIGNATION	SPECIFIC LAND USE DESCRIPTION	ACRES	DENSITY RANGE (DU/AC)	MAXIMUM TOTAL UNITS	MAXIMUM TOTAL SQ.FT.
COMMERCIAL							
	FR-V-C	COMMUNITY COMMERCIAL	VILLAGE CENTER (MIXED USE)	36.6	--	50	250,000
RESIDENTIAL							
	FR-R-1	MEDIUM DENSITY RES	SINGLE-FAMILY ONE (SFD-1)	69.4	2-5	290	--
	FR-S-L	MEDIUM HIGH DENSITY RES	SINGLE-FAMILY TWO (SFD-2)	131.5	5-8	745	--
	FR-R-2	MEDIUM HIGH DENSITY RES	SINGLE-FAMILY THREE (SFD-3)	22.2	8-12	1,069	--
	FR-R-C	MEDIUM HIGH DENSITY RES	SINGLE-FAMILY THREE (SFD-3)	108.7			--
	FR-R-3	MEDIUM HIGH DENSITY RES	MULTI-FAMILY (MFD)	13.3	12-18	166	--
			ACTIVE ADULT TOTAL	345.1	--	2,270	--
	FR-R-C	MEDIUM HIGH DENSITY RES	ACTIVE ADULT RECREATION CENTER	16.1	--	--	42,000
	FR-R-3	MEDIUM HIGH DENSITY RES	NON-AGE QUALIFIED MULTI-FAMILY (MFD)	14.3	12-18	180	--
OPEN SPACE							
	FR-O-S	OPEN SPACE	UNDISTURBED OPEN SPACE AND REVEGETATED SLOPES	482.4	--	--	--
TRANSPORTATION AND CIRCULATION							
	N/A	N/A	ROADS	47.7			
— — —		PROJECT BOUNDARY	TOTAL	942.2	--	2,500	292,000



EST. 1968
PROVOST& PRITCHARD
CONSULTING GROUP
An Employee Owned Company

FRIANT RANCH – PRELIMINARY ZONING MAP

MAP 2

DESIGN ENGINEER: ABL
DATE: 9-8-2010
JOB NO: 13280401
SHEET 1 OF 1

3/2/2011 11:22 AM G:\Clients\Friant Ranch - 1328\13280401-CCSB3 GRD\Vera\Zoning Map\Zoning Map 2010-9-8.dwg -Adam Lee

555 12th Street, Suite 1500
Oakland, California 94607
tel 510.808.2000
fax 510.444.1108
www.meyersnave.com

Timothy D. Cremin
Attorney at Law
tcremin@meyersnave.com

meyers | nave

August 23, 2011

Via E-mail and Facsimile

Chairman and Commissioners of the Fresno
Local Agency Formation Commission
Fresno Local Agency Formation Commission
2115 Kern Street, Suite 310
Fresno, CA 93721

Re: **Commission Meeting – August 24, 2011**
Fresno County Waterworks District 18 Approvals
Items 9 A, B, C and D
Consideration of Municipal Services Review, Sphere of Influence Revisions, Friant Ranch Annexation, and Extension of Powers (Sewer)

Dear Chairman and Commissioners of the Fresno Local Agency Formation Commission:

This letter is submitted on behalf of our client, the City of Fresno ("City"). The City of Fresno hereby objects to the recommended approval of certain actions relating to the expansion of Fresno County Waterworks District 18's ("District") boundaries and services including the following: Municipal Services Review, Sphere of Influence Revisions, Friant Ranch Annexation, and Extension of Powers (Sewer) (collectively "Actions" or "Proposal"). The Actions largely relate to allowing the District to provide services to the recently approved Friant Ranch Project ("Project"). However, they also allow the District to provide new services within its existing boundaries for sewer treatment and disposal. As explained in more detail below, the City of Fresno objects to the approval of the Actions because they violate applicable law, including, but not limited to, the California Environmental Quality Act ("CEQA") and the Cortese-Knox-Hertzberg Local Government Reorganization Act ("CKH"). In particular, the Friant Ranch environmental impact report, which the Commission relies upon for the Actions, is legally deficient and subject to three pending lawsuits challenging its compliance with CEQA. The proposed Commission action also does not comply with the CEQA requirements for responsible agency actions. The Commission Actions also do not comply with CKH which governs its actions. Therefore, the City respectfully requests that the Commission not approve the Actions.

The City requests that this letter be included as part of the record on the Actions. The City also requests that the Commission provide written notice to the City of any future Commission

hearings or meeting relating to the Actions, Fresno County Waterworks District 18 and the Friant Ranch Project.

A. Background on Friant Ranch Project and Existing Lawsuits Against County EIR

The Friant Ranch Project is a huge expansion of urban growth in a largely undeveloped, unincorporated area in Fresno County which was zoned for agricultural use and lacks available public services and infrastructure. It will increase the population in the area by over 4,000 people (from 778 to 4,842), adds over 2,200 housing units to the existing 226 homes in the area, and allows for the construction of a 73,508 square foot shopping center. Since there are no available public facilities in the area to serve this very large development, the Project requires building a new wastewater treatment facility, expanding the existing water treatment facility, and importing water from another county and watershed. The proposed Actions relate to the District's provision of water and wastewater for the existing and expanded District area.

On February 1, 2011, the Fresno County Board of Supervisors certified the Final Environmental Impact Report and approved General Plan Amendment Plan Application No. 511, Zoning Text Amendment Application No. 363 and Zoning Amendment Application No. 3751 for the Friant Ranch Project. The City of Fresno has filed a lawsuit challenging the County of Fresno's approval of the Friant Ranch Project as violating state and local laws, including CEQA. The lawsuit is pending in Fresno County Superior Court (Case No. 11CECG00706). The lawsuit challenges the County's certification of the Environmental Impact Report ("Friant Ranch EIR" or "EIR") and the approvals for the Friant Ranch Project. The City believes that the EIR is substantially deficient and fails to analyze and mitigate many of the significant environmental impacts of the Project. Two other lawsuits have been filed by other parties challenging the EIR as violating CEQA.

B. Commission Approval of Actions Would Violate CEQA

Approval of the Actions would violate CEQA because the Commission has not conducted adequate environmental review of the direct and indirect impacts of the activities resulting the Actions. Approval of the Actions allows the District to provide water and wastewater in the existing and expanded District area. Therefore, all the impacts of providing these services and constructing the facilities needed to provide these services must be analyzed. The needed facilities include constructing a new wastewater facility, significantly expanding the existing water treatment facility, and constructing pipelines and other infrastructure to convey water and wastewater. The Actions also include the impacts of obtaining and transporting a new water supply from the Lower Tule River Irrigation District. There has been no CEQA environmental review conducted for certain aspects of the Actions, such as the provision of wastewater services within the District's existing boundaries, including the construction of new infrastructure and the growth-inducing impacts of providing sewer service to this area. Furthermore, the Commission has not made required findings under CEQA for the significant impacts of its actions before approving the Actions.

The Commission's reliance on the Friant Ranch EIR for the CEQA analysis of its Actions is improper. The Commission has not followed the required procedures for use of the EIR by a responsible agency, including the requirements of CEQA Guidelines §15096. The Commission

has not provided proper notice of the CEQA review. The CEQA action is not listed on the meeting agenda in violation of the Brown Act and CEQA. The Commission has not made findings or adopted mitigations for the significant environmental impacts that will result from the Actions. The Commission has not considered additional mitigations or alternatives that will lessen the environmental impacts of the District expansion of boundaries and services. Also, the Friant Ranch EIR does not adequately analyze the particular environmental impacts of the Actions. As stated above, the EIR does not address the provision of sewer services in the existing District boundaries, the construction of infrastructure to provide these services, and the growth-inducing impacts of providing these services. In addition, the EIR was a program EIR and did not analyze the project-specific impacts of a new wastewater facility, water treatment facility expansion, and obtaining and transporting water from outside the local watershed. The Commission also cannot rely on the EIR because it is fundamentally inadequate in its analysis and mitigation of impacts. The City objects to the use of the EIR for the Commission's actions based on all the objections raised in its lawsuit and the comment letters on the EIR that are applicable to the Commission's actions. The City's lawsuit and comment letters to the EIR specifying these objections and deficiencies are attached hereto as Exhibit A and incorporated herein by this reference.

In particular, the analysis of the adequacy of water supply is deficient because the water demand is improperly calculated due to "discounting" the water demand from senior units, and improperly analyzing the uncertainties regarding future water supply (see EIR, pp. 3-355-356). Therefore, the EIR's conclusion that there is adequate water supply for the District to provide water services to the expanded boundaries is incorrect. This deficiency is further evidenced by the letter submitted to the Commission from the State Department of Health which states that the District "does not have an adequate water source for the proposed development". The EIR also inadequately addresses the impacts from needed services infrastructure. For those impacts found significant, such as the biological impacts of the construction of the wastewater treatment plant, the mitigations in the EIR are inadequate because they are "standardless" and deferred mitigations. The impacts of the discharge of treated effluent is also inadequately analyzed and mitigated in the EIR.

C. Commission Approval of Actions Would Violate CKH

The Commission plays an important and fundamental role to balance the promotion of orderly development with the State interests in discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services. (Gov. Code § 56001) The Commission is required to consider these issues with other factors set forth in Government Code section 56668. These include the following factors that are particularly relevant here: proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years; probable effect of the proposed annexation and of alternative course of action on the cost and adequacy of services and controls in the area and adjacent areas; the effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the County; the effect of the proposal on maintaining the economic integrity of agricultural lands; the comments of any affected local agency or other public agency, such as the City of Fresno; the ability of the receiving entity to provide the services to the area,

including the sufficiency of revenues for those services following the proposed boundary change; and timely availability of water supplies adequate for projected needs as specified in Government Code section 65352.5.

Other provisions of State law require consideration of other factors in circumstances that are relevant here. For example, where a proposal would lead to the conversion of open-space land to other uses, LAFCOs are required to consider certain polices discouraging such conversion. (Gov. Code § 56377.) For district annexations, the Commission is required to consider "whether the proposed annexation will be for the interest of landowners or present or future inhabitants within the district and within the territory proposed to be annexed to the district." (Gov. Code § 56668.3(a)(1).)

The staff report does not provide an analysis of these statutory factors. Therefore, there is not sufficient information provided to the Commission to adequately evaluate these factors before making its decision, which it is legally obligated to do. Also, if these factors are properly considered, the Commission should not approve the Proposal. The Proposal is not consistent with State law and Fresno LAFCO policies. If the Commission approves the Proposal based on the current record, it would fail to meet its statutory duties.

The Proposal raises many significant issues that warrant its disapproval. The Proposal facilitates a development project that is not proximate to other populated areas and that is in an area in which significant growth is not likely in the next ten years. (See Gov. Code, § 56668, subd. (a).) The Proposal is inconsistent with LAFCO's mandate to discourage urban sprawl. The Proposal will adversely affect adjacent areas, such as the City, by requiring the extension and provision of significant public services and infrastructure outside existing urban boundaries. It will convert a significant amount of agricultural land to urban uses. Water supply for the Project is not adequate and will not be timely available to serve the Project. As stated above, the EIR improperly analyzes the adequacy and availability of water supply to serve the Project. The Water Transfer Agreement on which the Project depends has not been approved by the U.S. Bureau of Reclamation.

The analysis provided to the Commission also does not adequately consider whether there are any "alterative actions," such as the formation of a locally governed, independent special district, that would be a better alternative to the District for the provision of services. Even when the boards are appointed, county waterworks districts are alter egos of the County. Ultimately, no local control is exercised over waterworks districts, since the Board of Supervisors can dissolve the Board of Directors at any time. LAFCO should give careful consideration to whether a waterworks district is the appropriate governance model for the provision of municipal services.

The ability of the District to provide the services is also not properly analyzed and considered. Presently, the District is the operator of a small water distribution system. The Proposal would change it into a combined water and sewer utility that operates a large wastewater treatment plant. It would result in a five fold increase in service connections, ten fold if one considers the connections for both water and sewer. The skills and expertise necessary to operate a wastewater treatment plant are significant. At this point, the Commission has not considered whether the District has the requisite expertise and competency.

The Proposal also is inconsistent with the Commission's Policies, Standards and Procedures. The staff report recommends that the Commission find that the Proposal is consistent with the Commission's Policies, Standards, and Procedures, but it does not analyze any of the relevant policies. However, the Proposal is inconsistent with those policies. For example, Section 103.03 discourages "leap frog, non-contiguous urban development patterns." This Proposal results in urbanization in a rural community distant from urban infrastructure. Furthermore, contrary to Section 210.05, the Proposal encourages urban sprawl, in that it brings an urban level of service to what is currently a rural community.

The Plan for Services does not meet legal requirements. The Commission is required to consider the "plan for services" submitted by the District pursuant to Government Code section 56653. (Gov. Code § 56666.) The combined municipal services review and "plan for services" submitted by the District with its application fails to satisfy the statutory requirements for plans for services set out in Government Code sections 56824.12 and 56653.

The Municipal Services Review ("MSR") does not reflect the Commission's independent judgment and fails to meet legal requirements. Government Code Section 56430 requires LAFCO to "conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission" in order to establish or update spheres of influence. Here, rather than itself conducting the service review, the staff report recommends that the Commission approve a municipal service review that was *submitted by the District.* This is at odds with the purpose of the municipal service review process, which was designed to have the Commission serve as an independent reviewer of service providers. The staff report and the draft MSR also fail to acknowledge the existence of a municipal service review prepared by Commission staff and adopted by the Commission on February 9, 2011 which appears to satisfy all of the statutory requirements set out in Government Code section 56430.

There is no reference in the application materials and staff report that the issue of Property Tax Exchange was properly addressed. This is required to be addressed as part of the application process. If this step has not been covered, then the Commission may not act on the Proposal.

D. Conclusion

As evidenced by its lawsuit, the City is concerned about the significant environmental impacts of the Friant Ranch Project and the failure to adequately analyze and mitigate these impacts under CEQA. The Commission's proposed actions will result in significant impacts through the provision of expanded water and wastewater services by the District in its existing and expanded boundaries. The environmental impacts of the approval of these Actions have not been properly analyzed and mitigated under CEQA. The Commission has not complied with the CEQA requirements to act as a responsible agency under the Friant Ranch EIR. The approval of the Actions also would not comply with CKH. There is inadequate analysis of the factors that the Commission is required to consider. The Actions are inconsistent with the statutory factors. Therefore, we urge the Commission not to approve the Actions.

We appreciate the Commission's consideration of the important issues raised by the City in this letter.

Very truly yours,

Timothy D. Cremin

TDC:cs
Enclosures
c: Jeff Witte, Fresno County LAFCO Executive Officer
Kenneth Price, County LAFCO Counsel
Dan Pearce, District Manager
Neal Costanzo, District Counsel, Costanzo & Associates
John Fox, City Attorney's Office, City of Fresno
Mark Scott, City Manager, City of Fresno

COPY

James C. Sanchez, City Attorney (SBN 116356)
David P. Hale, Chief Assistant City Attorney (SBN 90230)
John W. Fox, Senior Deputy City Attorney (SBN 171426)
CITY OF FRESNO
2600 Fresno Street, Second Floor
Fresno, CA 93721-3600
Telephone: (559) 621-7533
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Telephone: (510) 808-2000
Facsimile: (510) 444-1108

Attorneys for CITY OF FRESNO

FILED

MAR 04 2011

FRESNO COUNTY SUPERIOR COURT
By _____ CSP - DEPUTY

EXEMPT FROM FILING FEES
GOV'T CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF FRESNO

CITY OF FRESNO, a Municipal Corporation,

Petitioner,

v.

COUNTY OF FRESNO; BOARD OF SUPERVISORS OF COUNTY OF FRESNO; and DOES 1 through 10, inclusive

Respondents.

BIGELOW SILKWOOD FRIANT RANCH LP; FRIANT RANCH L.P.; FRIANT RANCH NO. 2 L.P.; WHISPERING SPRINGS LLC; FRIANT STATION INC.; MARTIN & ASSOCIATES, LLC; DEPOT DEVELOPMENT INC.; and DOES 11 through 50, inclusive,

Real Parties in Interest.

CASE NO.

PETITION FOR WRIT OF MANDATE

Trial Date: None Set

[Code of Civil Procedure §§ 1085 and 1094.5; Public Resources Code § 21000 *et seq.* ("CEQA"), Government Code § 65000 *et seq.*, Water Code § 10910 *et seq.*]

BY FAX

Petitioner CITY OF FRESNO (the "City") alleges as follows in this Petition for Writ of Mandate ("Petition"):

INTRODUCTION

1. The City challenges the actions of Respondents COUNTY OF FRESNO and BOARD OF SUPERVISORS OF COUNTY OF FRESNO (collectively, the "County") certifying an environmental impact report ("EIR") and approving various land use entitlements for the Friant Community Plan Update and Friant Ranch Specific Plan ("the Project"). The applicants for and recipients of County Project approvals are Real Parties in Interest BIGELOW SILKWOOD FRIANT RANCH L.P., FRIANT RANCH L.P. FRIANT RANCH NO. 2 L.P., and/or MARTIN & ASSOCIATES, LLC (collectively, "Applicant"). The owners of property located on the Project site are Real Parties in Interest BIGELOW SILKWOOD FRIANT RANCH L.P., FRIANT RANCH NO. 2 L.P., WHISPERING SPRINGS LLC, FRIANT STATION INC., and DEPOT DEVELOPMENT INC (collectively, "Property Owners").

2. The Project will result in a huge expansion of urban growth in a largely undeveloped, unincorporated area in Fresno County which was zoned for agricultural use and lacks available public services and infrastructure. The Project violates fundamental principles, policies and objectives of the County and City General Plans and the Memorandum of Understanding between the County and cities located in the County. These principles and policies embodied in these documents direct urban development to existing cities and urbanized areas which have available public facilities to accommodate such development, and focus on preserving agricultural land and environmental resources.

3. The Project completely contradicts these principles, policies and objectives. The Project expands the Community Plan area over 1,500 acres and rezones over 900 acres of agricultural land to residential and commercial use. It significantly expands urban development outside the existing Friant community. It will increase the population in the area by over 4,000 people (from 778 to 4,842) and adds over 2,200 housing units to the existing 226 homes in the area. Since there are no available public facilities in the area to serve this very large development, the Project requires building a new wastewater treatment facility, expanding the existing water

treatment facility, and importing water from another county and watershed.

4. This huge increase in development in a relatively rural area results in a massive amount of environmental impacts from the Project. The EIR identifies significant impacts in almost all areas (including many significant and unavoidable impacts) and contains numerous mitigation measures. Despite this, the EIR fails to adequately disclose and address all significant environmental impacts and includes many mitigation measures which will not result in reducing these impacts to less than significant. These impacts will have significant adverse effects on City and County residents.

5. The City challenges the following County actions on the Project, taken on or about February 1, 2011, for violating numerous state and local laws and regulations: (1) amending the County General Plan to approve the Friant Community Plan Update by adding the 942.2 acre Friant Ranch Specific Plan Area and designating the Specific Plan Area for a variety of residential, commercial and open space uses and other related amendments in General Plan Amendment No. 511 ("General Plan Amendments"); (2) adopting the Friant Ranch Specific Plan ("Specific Plan"); (3) approving amendments to the County Zoning Code to rezone the Project site to various proposed new zoning districts and establishing specific zoning districts and regulations for the Specific Plan area relating to Amendment to Text Application No. 363 and Amendment Application No. 3751 ("Zoning Amendments"); (4) certifying an Environmental Impact Report ("EIR") for the Project and adopting a Statement of Fact, Environmental Impact Findings, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program pursuant to the California Environmental Quality Act, Public Resources Code section 21000, *et seq* ("CEQA"); and (5) adoption of or failure to adopt certain findings in support of the foregoing approvals.

6. The City contends that the County's approval actions violated CEQA. The Project's EIR violated many of the central mandatory provisions of CEQA including, but not limited to, failing to adequately identify and analyze significant impacts caused by the Project, adopt adequate and feasible mitigation measures to reduce these significant impacts, and adequately analyze alternative projects. As a result, the County's findings concerning the

Project's environmental impacts are improper and not supported by substantial evidence. Therefore, the EIR violates the central purpose of CEQA which is to provide the public and decisionmakers with full information on potential impacts of the Project and ways to avoid those impacts. The Project will have numerous significant environmental effects that are either unidentified, understated, or inadequately mitigated in the EIR, including but not limited to impacts on City roadways and residential and commercial areas of the City.

7. The City further contends that the County's approval violated the State Planning and Zoning Law, Government Code section 65000 *et seq.* ("State Planning and Zoning Law"), on grounds that the Project is plainly inconsistent with governing land use goals and policies contained in the County General Plan.

8. In addition, the water supply analysis in the Water Supply Assessment prepared for the Project, which was relied on and included in the EIR, violated the requirements of Water Code section 10910 *et seq.*

9. As set forth in detail in this Petition, the County actions approving the Project and certifying the EIR violated CEQA, State Planning and Zoning Law, Water Code section 10910 *et seq.*, and local laws, regulations and policies. Therefore, the City seeks a peremptory writ of mandate under Code of Civil Procedure sections 1085 and/or 1094.5 and Public Resources Code sections 21168 and/or 21168.5 commanding the County to set aside its certification of the EIR and related CEQA findings for the Project, and approving General Plan Amendments, Specific Plan and Zoning Amendments for the Project. The City further seeks an injunction and/or stay of the effect of the entitlements for the Project and activities authorized under the Project approvals during the pendency of these proceedings. Finally, the City seeks an award of costs and attorneys fees under Code of Civil Procedure section 1021.5 and other provisions of law, together with any other relief the Court deems necessary and proper.

PARTIES

10. Petitioner CITY OF FRESNO is a municipal corporation formed in accordance with the laws of the State of California. The City is located within the County of Fresno and the State of California. The City boundary is located adjacent to the Project site.

11. The City and its residents will suffer direct harm as a result of adverse environmental and public health impacts caused by the Project. In particular, the City will suffer numerous significant adverse impacts associated with this Project, including significant traffic, air quality, and noise impacts from activities and vehicle trips from the Project.

12. The purposes of an EIR under CEQA include both protection of the environment, and the disclosure of full and complete information about the environmental impacts of projects to the public. Since the City, its residents, and its environment will be significantly and adversely impacted by the Project, the City has a clear and present beneficial interest in the County's performance of its duties to comply with CEQA. The City and its residents are within the class of persons and entities to which the County owes such duties.

13. By this action, the City seeks to protect its interests and the interests of its residents, and to enforce a public duty owed to the City and its residents by the County. Because the claims asserted and the relief sought in this Petition are broad-based and of a public as opposed to purely private or pecuniary nature, direct participation in this litigation by individual City residents is not necessary.

14. This action involves enforcement of the following important public rights. The protection of the environment and the reduction of environmental impacts through compliance with the requirements of CEQA. Enforcement of State law requirements that land use development proceed in accordance with General Plans adopted by local jurisdictions. General Plans are the "constitution for all future development". Enforcement of State law that the availability and adequacy of water supply and the impacts of obtaining water supply must be thoroughly analyzed and evaluated before land use entitlements are approved. This action will convey a substantial benefit on the public and a large class of persons who do not have the resources or ability to bring this lawsuit to vindicate their rights.

15. Defendant and Respondent COUNTY OF FRESNO ("Fresno County" or "County") is, and at all time relevant to this Petition has been, a political subdivision of the State of California. Defendant and Respondent BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO (the "Board") is the governing body of the County. The City is informed and believes

that, on or about February 1, 2010, the County, acting through its Board : certified the EIR for the Project, adopted environmental findings, a statement of overriding considerations, and mitigation monitoring and reporting program pursuant to CEQA; and approved the General Plan Amendments, Specific Plan and Zoning Amendments for the Project. The County served as the "lead agency" under CEQA for the Project.

16. The City is informed and believes that Real Party in Interest BIGELOW SILKWOOD FRIANT RANCH L.P. is a limited partnership organized under the laws of the State of California with its place of business located in O'Neals, California. The City is informed and believes that BIGELOW SILKWOOD FRIANT RANCH L.P. is an applicant for the Project and owns property located on the Project site.

17. The City is informed and believes that Real Party in FRIANT RANCH L.P. is a limited partnership organized under the laws of the State of California with its place of business located in O'Neals, California. The City is informed and believes that FRIANT RANCH LP is an applicant for the Project.

18. The City is informed and believes that Real Party in Interest MARTIN & ASSOCIATES LLC is a limited liability company organized under the laws of the State of California with its place of business located in Costa Mesa, California. The City is informed and believes that MARTIN & ASSOCIATES LLC is an applicant for the Project.

19. The City is informed and believes that Real Party in Interest FRIANT RANCH No. 2 L.P. is a limited partnership organized under the laws of the State of California with its place of business located in O'Neals, California. The City is informed and believes that FRIANT RANCH No. 2 L.P. is an applicant for the Project and owns property located on the Project site.

20. The City is informed and believes that Real Party in Interest WHISPERING SPRINGS LLC is a limited liability company organized under the laws of the State of California with its place of business located in Fresno, California. The City is informed and believes that WHISPERING SPRINGS LLC owns property located on the Project site.

21. The City is informed and believes that Real Party in Interest FRIANT STATION INC. is a corporation organized under the laws of the State of California with its place of business

located in Fresno, California. The City is informed and believes that FRIANT STATION INC. owns property located on the Project site.

22. The City is informed and believes that Real Party in Interest DEPOT DEVELOPMENT INC. is a corporation organized under the laws of the State of California with its place of business located in Fresno, California. The City is informed and believes that DEPOT DEVELOPMENT INC. owns property located on the Project site.

23. The City does not know the true names of DOES 1 through 50 inclusive, and therefore names them by such fictitious names. The City will amend this Petition to reflect the true names and capacities of DOES 1 through 50 inclusive once ascertained.

JURISDICTION AND VENUE

24. This action is brought pursuant to Code of Civil Procedure sections 1085 and 1094.5 and Public Resources Code sections 21167, 21168 and 21168.5. Venue is proper in Fresno County under Code of Civil Procedure section 395 since the Defendants and Project site are located in the County of Fresno.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

25. This action is brought consistent with the requirements of Public Resources Code sections 21167, 21168, 21168.5, and 21177, Government Code section 65009, and Code of Civil Procedure sections 1085 and 1094.5. The City, and officials and/or authorized representatives of the City presented written and oral comments in opposition to the Project and EIR to the County prior to the County approval of the Project and certification of the EIR, including but not limited to, submitting detailed letters to the County dated December 15, 2009, December 7, 2010 and February 1, 2011. The letters submitted on December 7, 2010 and February 1, 2011 were specifically addressed to the Board of Supervisors and delivered prior to the respective hearings conducted on the Project on those dates. Copies of these three letters are attached to this Petition as Exhibits A, B and C, and are incorporated herein by this reference. The City and/or other agencies and members of the public raised each of the legal deficiencies asserted in this Petition orally or in writing during the public comment provided by CEQA, or prior to the close of the public hearing on the Project before the issuance of the Notice of Determination.

26. The City has performed all conditions precedent to filing this action by complying with the requirements of Public Resources Code section 21167.5 in serving notice of the commencement of this action on the County on or about March 2, 2011. Proof of service of that notification and the Notice of Intent is attached hereto as Exhibit D.

INADEQUATE REMEDY AT LAW. STAY/INJUNCTION

27. The City and its residents will continue to suffer adverse and irreparable environmental harm from the Project and the County's failure to comply with CEQA and other laws in approving and carrying out the Project, as described herein, until and unless this Court provides the relief prayed for in this Petition. The City has no plain, speedy or adequate remedy at law for this irreparable harm.

28. The City is informed and believes that the County and Real Parties in Interest are threatening to proceed with the Project right away. Construction and operation of the Project will irreparably harm the environment as described in this Petition. A stay or preliminary and permanent injunction should issue preventing the County and Real Parties in Interest from proceeding with the Project.

NEWLY PRODUCED EVIDENCE

29. In accordance with Code of Civil Procedure section 1094.5(e), the City may, prior to or during the hearing on this Petition, offer additional relevant evidence that could not, in the exercise of reasonable diligence, have been produced at the administrative hearings on the Project.

ATTORNEYS FEES

30. The City is entitled to recover attorneys' fees as provided under Code of Civil Procedure section 1021.5 or other laws, if they prevail in this action.

FACTUAL BACKGROUND

31. The Project essentially results in the development of a new urban center in the unincorporated area of the County. It "leapfrogs" development into a largely open space area which was zoned for agricultural uses. It directly contradicts the core principles of the County General Plan which are to direct development to cities, unincorporated communities and other areas where public facilities and infrastructure are available. The Project site does not have any of

the basic utilities and infrastructure needed to serve the development. A transportation network, public utilities, public safety, water and sewer infrastructure are either absent or grossly insufficient. The County's claim that the Project is a "logical" outgrowth of the existing Friant community and related Community Plan is belied by the facts. The Project will result in an exponential increase in population, housing units, and area devoted to urban uses compared to existing conditions. The result is huge environmental impacts, many of which will affect surrounding communities such as the City.

32. The City is informed and believes that on or about October 3, 2007, the County issued a Notice of Preparation (NOP) of an EIR for the Project.

33. The City is informed and believes that on or about October 30, 2009, the County issued a Notice of Availability (NOA) of a Draft Environmental Impact Report for the Friant Community Plan Update and Friant Ranch Specific Plan ("Draft EIR") which was circulated for public review.

34. Various agencies, organizations, and individuals, including the City, submitted oral and written comments on the Draft EIR prior to the close of the public comment period. Exhibit A to this Petition, which is incorporated by reference as if set forth herein in full, is a copy of the City's December 15, 2009 comment letter on the Draft EIR. The comments expressed significant concern about the overall quality of the EIR and the analysis and mitigation of the Project's numerous significant environmental impacts. Many public agencies with jurisdiction over environmental resources affected by the project raised issues of concern including California Department of Transportation, San Joaquin Valley Air Pollution Control District, California Department of Fish and Game, and California Regional Water Quality and Control Board. In addition, several environmental groups submitted comment letters raising environmental concerns with the Project including, San Joaquin River Parkway and Conservation and Trust, San Joaquin River Conservancy, and Revive the San Joaquin. Deficiencies in the Draft EIR raised in the comment letters included, but are not limited to the following: the EIR failed to adequately identify, evaluate, and mitigate all significant environmental impacts of the Project; the EIR failed to adequately consider alternatives to the Project; the EIR's Project description was inadequate;

inadequacies of the Draft EIR required that it be revised and recirculated for public review; and the Project was inconsistent with the County General Plan.

35. The City is informed and believes that in about August or September 2010, the County made available the Final EIR for the Project. The Final EIR contained significant new information about the environmental impacts of the Project that was not included in the Draft EIR including, but not limited to, identification and analysis of new significant impacts (example, $PM_{2.5}$ and toxic air contaminants), significant new information and analysis on traffic impacts, and new and revised mitigation measures for significant impacts (example, biology).

36. The County prepared the item for consideration by the County Planning Commission. Just a couple of days before the Planning Commission hearing schedule for October 7, 2010, the County release a 100+ page staff report on the Project and proposed Project approvals. On October 6, 2010, the City requested a continuance of the County Planning Commission hearing for one meeting to allow the City sufficient time to review the staff report and materials. The City's requested continuance was not granted.

37. The City is informed and believes that on or about October 7, 2010 and October 21, 2010, the County Planning Commission held meetings to consider the Final EIR, General Plan Amendments, Specific Plan and Zoning Amendments. The County Planning Commission recommended that the County Board of Supervisors certify the Final EIR and adopt findings on environmental impacts and mitigation measures, and approve the General Plan Amendments, Specific Plan and Zoning Amendments.

38. The City is informed and believes that on or about December 7, 2010, the County Board held a meeting on the Project and Final EIR. Before and at this hearing, the City submitted a letter to the County objecting to the Project and the adequacy of the responses to the City comment letter on the Draft EIR. In addition, the City Manager for the City of Fresno provided testimony at this hearing summarizing the City's objections to the Project. Exhibit B to this Petition, which is incorporated by reference as if set forth herein in full, is a copy of the City's December 7, 2010 comment letter on the Final EIR. The Board opened the public hearing and then continued the public hearing and its consideration of the item to February 1, 2011.

39. On February 1, 2011, prior to the continued hearing on the Project, the City submitted another letter to the Board of Supervisors providing further facts and evidence to support its arguments that the EIR failed to adequately analyze and disclose the significant traffic impacts in the City of Fresno from this Project. Exhibit C to this Petition, which is incorporated by reference as if set forth herein in full, is a copy of the City's February 1, 2011 comment letter on the Final EIR.

40. The City is informed and believes that on or about February 1, 2011, the Board: certified the FEIR , adopted environmental findings, a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program; and approved the General Plan Amendments, Specific Plan and Zoning Amendments for the Project. The staff report for the February 1, 2011 meeting contained a cursory response to the issues raised in the City's December 7, 2010 letter with most responses claiming that the issues had already been adequately addressed in the Final EIR.

41. The City is informed and believes that, on or about February 3, 2011, the County filed a Notice of Determination under CEQA for its approval of the Project.

FIRST CLAIM FOR RELIEF

(Violations of CEQA)

42. The City herein incorporates by reference all preceding paragraphs in their entirety.

43. At all times relevant to this action the County was the "Lead Agency" under CEQA responsible for the review and approval of the Project.

44. CEQA requires the lead agency to first identify the environmental effects of its project or program, and then to mitigate those adverse environmental effects through the imposition of feasible mitigation measures or the analysis and selection of feasible alternatives. (Public Resources Code, §§ 21002 and 21081.) CEQA requires a lead agency to establish that either: (1) impacts will not have a significant effect on the environment or (2) the agency has adopted findings that all significant environmental effects have been avoided or mitigated to the extent feasible, and any remaining significant effects are unavoidable and are acceptable due to specific overriding economic, social, technological, or other benefits.

45. An EIR must include a finite, stable, accurate and meaningful project description. (14 Code of California Regulations (C.C.R.) § 15124.) An EIR must include a description of the physical environmental conditions in the vicinity of the project as they existed at the time the notice of preparation is published, with particular focus on the regional setting. (14 C.C.R., § 15125.) An EIR must identify and evaluate the direct, indirect, and cumulative environmental impacts of all phases of a project. (14 C.C.R., § 15126.) The discussion must include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development), health and safety problems caused by the physical changes, and other environmental resources such as water, historical resources, scenic quality, and public services. (14 C.C.R., § 15126.2.)

46. A lead agency must describe and evaluate feasible measures for minimizing or avoiding a project's direct, indirect, and cumulative impacts on the environment. (Public Resources Code, § 21100(b)(3); 14 C.C.R., § 15126.4.) A lead agency may not improperly defer the formulation of mitigation measures until a future time. (14 C.C.R., § 15126.4.) The impacts of proposed mitigation measures must be analyzed. A lead agency must also provide information in the record to justify rejecting mitigation measures as infeasible.

47. A lead agency must identify all significant effects on the environment caused by a proposed project that cannot be avoided. (Public Resources Code, § 21100(b)(2)(A).)

48. An EIR must describe a range of reasonable alternatives to the project, or to the location of the project, that would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and must evaluate the comparative merits of the alternatives. (14 C.C.R., § 15126.6.) An EIR must also include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. (*Id.*)

49. Recirculation of a Draft EIR is required whenever there is an addition of significant new information in the EIR after the public review period had ended, but before certification. (14 C.C.R., § 15088.5(a).) Information is "significant" if it shows that: (1) a new significant

environmental impact would result from the project or from a new mitigation measure proposed to be implemented; or (2) a substantial increase in the severity of an environmental impact. (*Id.*) Recirculation is also required if the EIR is changed in a way that "deprives the public of a meaningful opportunity to comment . . ." or when it reveals that the earlier EIR "was so fundamentally and basically inadequate in nature that public comment on the draft was in effect meaningless." (*Id.*)

50. A lead agency must provide good faith, reasoned analysis in response to comments. (14 C.C.R., § 15088(c).) The Final EIR must address recommendations and objections raised in comments in detail, giving reasons why they were not accepted. (*Id.*) Specific responses are required to comments raising specific questions about significant issues.

51. The standard of review of a CEQA challenge to an EIR is whether the lead agency abused its discretion by failing to proceed in a manner required by law or its decision is not supported by substantial evidence.

52. The County failed to comply with CEQA requirements as described below.

EIR Does Not Meet Standards for Project Level Review

53. The EIR claims that its analysis is both a Program- and Project-level review under CEQA. However, the EIR does not contain sufficient detail on the elements of the Project-level approval and its impacts to meet the CEQA standards for Project-level review. This is important because the EIR states that it will be relied upon for the CEQA analysis for implementation of the Project-level approval without any further CEQA review. The use of this EIR as a Project-level analysis will deprive the public of full and complete disclosure of the environmental impacts of the Project.

54. Therefore, the Board's certification of the EIR and approval of the Project violates CEQA and constitutes an abuse of discretion.by failing to proceed in the manner required by law and by adopting findings that are legally inadequate and not supported by substantial evidence.

Notice Requirements for EIR were Inadequate

55. CEQA requires that a Notice of Preparation of a Draft EIR be made available for public comment and review. (14 C.C.R. § 15082; Pub. Res. Code § 21080.4(c)).

56. The County failed to comply with the noticing requirement for the Notice of Preparation.

57. Therefore, the Board's certification of the EIR and approval of the Project violates CEQA and constitutes an abuse of discretion by failing to proceed in the manner required by law.

Inadequate Analysis of Significant Impacts

58. The EIR for this Project fails to adequately and accurately provide a finite, stable, accurate and meaningful project description. The EIR further fails to include an adequate or accurate description of the physical environmental conditions in the vicinity of the project as they existed at the time the Notice of Preparation is published. The EIR also fails to analyze the impacts of infrastructure needed to serve the Project which are part of the Project Description.

59. The EIR for this Project further fails to evaluate adequately all of the Project's significant direct, indirect, and cumulative impacts, including, but not limited to impacts on: aesthetics, agricultural resources, air quality, biological resources, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, population and housing, public services, recreation, transportation and traffic, utilities, greenhouse gas emissions, and urban decay. The growth-inducing and cumulative analysis are cursory and completely inadequate. The significant impacts of the Project in these areas are not identified or properly mitigated. The EIR fails to evaluate adequately the significant traffic and circulation, noise, and air quality impacts, both Project-specific and cumulative, of Project-related traffic on roadways, including those located in the City. The EIR and its supporting traffic study artificially limited the scope of its traffic-impact analysis, and thereby failed to identify impacts to intersections and roadways which were improperly excluded from review. The EIR's traffic-impact analysis was also based on incorrect and unsupported analytical assumptions, including assumptions about Project trip generation based on an incorrect characterization of the future population of the proposed Project, and therefore improperly underestimated traffic and traffic-related impacts of the Project. Furthermore, the EIR inadequately analyzes impacts including, but not limited to the following: Impacts relating to the availability of water to serve the Project under the standards of Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova and Water Code

§ 10910 *et seq.*; Impacts due to greenhouse gas emissions from this Project which is sprawl development inconsistent with SB 375 and AB 32; Impacts on air quality in a region already in non-attainment for certain air pollutants; Impacts from the conversion of hundreds of acres of agricultural land and loss of water supply to agricultural land; land use and planning impacts associated with inconsistency of the Project with numerous County General Plan policies to protect the environment by directing growth to urban areas with available services; Impacts on nearby recreational facilities, including Lost Lake Park and the San Joaquin River Parkway Plan; health risk impacts; Blight and urban decay impacts; and the significant and unavoidable impact to many biological resources located in the area. The EIR also fails to analyze the impacts of the infrastructure needed to serve the Project, such as the new wastewater treatment plant, expansion of existing water treatment plant, and the infrastructure needed to convey and supply water to the Project from outside the local watershed. The EIR also fails to include all related reasonably foreseeable future projects in its cumulative impacts analysis, and therefore understates the cumulative impacts of the Project.

60. As a result, the conclusions of the significance of Project environmental impacts on many areas is understated with certain impacts being much greater than described and impacts being described as less than significant after mitigation when, in fact, significant impacts will remain even after the mitigation described in the EIR is imposed.

61. Therefore, the Board's certification of the EIR and approval of the Project violates CEQA and constitutes an abuse of discretion by failing to proceed in the manner required by law and by adopting findings that are legally inadequate and not supported by substantial evidence.

Inadequacy of Mitigation Measures and Failure To Adopt All Feasible Mitigation Measures

62. An EIR must describe, evaluate, and require feasible measures for minimizing or avoiding a project's direct, indirect, and cumulative impacts on the environment. (14 C.C.R. § 15126.4.) In addition, adopted mitigation measures must meet certain standards such as definiteness and enforceability to support a finding that the mitigation will actually result in a reduction in the significant impact by a measurable level. The formulation of mitigation measures cannot be deferred to the future through development of a plan without defined elements or

standards from which the effectiveness of the mitigation can be determined. The environmental impacts from the implementation of mitigation measures must be analyzed.

63. The EIR for this Project contains numerous mitigation measures that do not meet CEQA standards. The EIR contains mitigation measures which do not contain adequate and definite standards to support a known and measurable reduction in impacts to less than significant. The EIR also improperly defers formulation of various mitigation measures until the future. Certain mitigation measures require the formulation of "plans" without specifying the elements of the plans or standards the plans must meet. Furthermore, the language for certain mitigations that the measures are "encouraged" and will be "imposed where feasible and appropriate" does not ensure implementation and enforcement and, therefore, do not support a finding of a reduction in the impacts' level of significance from the mitigation.

64. The EIR and County CEQA findings also improperly fail to describe, evaluate, and require all reasonable, feasible mitigation measures for the Project's direct, indirect, and cumulative impacts. For certain impacts such as agricultural resources, it finds that there are no feasible specific mitigation measures for preserving land for agricultural use despite the availability of measures such as conservation easements and fee programs. For other impacts, such as certain traffic and air quality impacts, the County either proposes infeasible mitigation, fails to propose feasible mitigation, including "fair share" payments from the Project to implementing improvements to County and City streets and intersections, which are feasible and needed to mitigate the significant impacts of the Project. Where mitigation is determined insufficient to avoid the significant impacts of the Project, the EIR makes a general boilerplate finding that there are "no other feasible mitigation measures or alternatives that could be adopted that could reduce this impact to less than significant". However, the County did not cite any facts to support this finding and failed to specifically address mitigation measures proposed by the City and others to reduce these significant impacts. The County also improperly and without adequate support refused to consider multiple feasible mitigation measures suggested by the City and others in comments on the EIR. In these and other respects, the County failed to adequately mitigate the significant and unavoidable impacts of the Project as required by CEQA.

65. The EIR also fails to analyze the environmental impacts from the implementation of mitigation measures as required under CEQA.

66. Therefore, the Board's certification of the EIR and approval of the Project violates CEQA and constitutes an abuse of discretion by failing to proceed in the manner required by law and by adopting findings that are legally inadequate and not supported by substantial evidence.

Inadequate Project Alternatives and Findings on Infeasibility of Alternatives

67. An EIR must describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. (14 C.C.R. § 15126.6.) An EIR must include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. (*Id.*)

68. The EIR for this Project fails to identify and evaluate a reasonable range of alternatives to the Project. It includes a narrow set of Project Objectives that improperly constrains the consideration of a full range of alternatives. The Alternatives in the EIR are basically alternative designs for the same type of project which will result in very similar impacts. This violates CEQA because it does not evaluate a range of alternatives that would substantially reduce the impacts of the proposed Project. The City and other commenters requested analysis of additional alternatives, but those requests were summarily dismissed by the County.

69. The Board's findings on the feasibility of alternatives to reduce the substantial and significant impacts of the Project are inadequate under CEQA and are not supported by substantial evidence. The County findings demonstrate that the environmental impacts of the "Alternatives" are very similar and would not eliminate the significant and unavoidable impacts of the proposed Project. These findings also demonstrate that the "Alternatives" do not represent a "reasonable range", were improperly constrained by the Project Objectives, and violate CEQA requirements to design Alternatives to reduce Project impacts.

70. Therefore, the Board's certification of the EIR and approval of the Project violates CEQA and constitutes an abuse of discretion by failing to proceed in the manner required by law

and by adopting findings that are legally inadequate and not supported by substantial evidence.

Failure To Respond Adequately To Comments On Draft EIR

71. A lead agency must evaluate comments on environmental issues received from persons who reviewed a Draft EIR during the public comment period, and must prepare a written response. (14 C.C.R. § 15088(a).) The written response must describe the disposition of significant environmental issues raised. (*Id.* at subd. (c).) In particular, the major environmental issues raised, when the lead agency's position is at variance with recommendations and objections raised in the comments, must be addressed in detail, giving reasons why specific comments and suggestions were not accepted. (*Id.*) There must be good faith, reasoned analysis in response. (*Id.*) Conclusory statements unsupported by factual information will not suffice. (*Id.*)

72. The County here failed to provide a detailed, written, good faith, reasoned analysis in response to comments received on the Draft EIR during the public comment period from individuals and responsible agencies, and failed to give adequate reasons why specific comments and suggestions were not accepted. Instead, the County merely gave conclusory statements unsupported by factual information. In particular, the County's responses to comments failed to respond in adequate detail to City comments on traffic impacts and inconsistency of the Project with County General Plan policies.

73. Therefore, the Board's certification of the EIR and approval of the Project violates CEQA and constitutes an abuse of discretion by failing to proceed in the manner required by law.

Failure to Recirculate EIR Despite Significant New Information

74. The Final EIR and other documents modifying the Project and environmental review of the Project issued after release of the Draft EIR contain significant new information and revisions to the Draft EIR's evaluations of impacts and proposed mitigation, requiring recirculation of a revised Draft EIR prior to certification pursuant to 14 C.C.R. § 15088.5.

75. The County here failed to recirculate a revised Draft EIR notwithstanding the addition of significant new information in the Final EIR and other documents modifying the Project and environmental review of the Project issued after publication of the Draft EIR. Examples of new significant information included after circulation of the Draft EIR are: an

analysis of the environmental impacts from toxic air contaminants and $PM_{2.5}$; significant new mitigation measures and significant revisions to mitigation measures contained in the Draft EIR; and detailed new analysis of air quality and traffic impacts. The failure to recirculate the EIR for public comment on this new information deprived the public of a meaningful opportunity to comment on the significant impacts of the Project.

76. Therefore, the Board's certification of the EIR and approval of the Project violates CEQA and constitutes an abuse of discretion by failing to proceed in the manner required by law and by adopting findings that are legally inadequate and not supported by substantial evidence.

Unsupported CEQA Findings and Statement Of Overriding Considerations

77. CEQA requires that the lead agency make certain findings in certifying the EIR and approving the project. Under Public Resources Code section 21081, an agency must make findings on the environmental impacts of the project as part of the project approval. Specifically, the agency must make findings on whether the project's impacts will be less than significant, reduced to less than significant after incorporation of mitigation measures, or significant and unavoidable even after the adoption of all feasible mitigation measures and alternatives. The agency may not approve a project with significant unavoidable impacts unless it finds, based on substantial evidence, that there are no feasible mitigation measures and alternatives which will reduce the impact to less than significant and specific overriding economic, legal, social, technological, or other benefits of the project outweigh these significant and unavoidable environment impacts.

78. The EIR for this Project identifies numerous impacts which are significant and require mitigation, and certain impacts which are significant and unavoidable including impacts on agricultural resources, air quality, traffic, noise and aesthetics. The County adopted a series of findings of fact for these significant impacts. For those impacts that were identified as significant and unavoidable, the County found these impacts acceptable and adopted a statement of overriding considerations.

79. The County's findings on environmental impacts and the statement of overriding considerations do not comply with CEQA requirements and are not supported by substantial

evidence.

80. Therefore, the Board's certification of the EIR and approval of the Project violates CEQA and constitutes an abuse of discretion by failing to proceed in the manner required by law and by adopting findings that are legally inadequate and not supported by substantial evidence.

SECOND CLAIM FOR RELIEF

(Violations of State Planning And Zoning Law)

81. The City hereby incorporates by reference all preceding paragraphs in their entirety.

82. Under the State Planning and Zoning Law, Government Code section 65000 *et seq.*, land use entitlements must be consistent with the goals, policies, and objectives contained in a valid, current, internally consistent General Plan, and with all applicable duly adopted zoning ordinances. In particular, a specific plan and zoning must be consistent with the General Plan. In addition, State law requires that the County comply with certain procedural requirements for approval of general plan amendments, zoning amendments and specific plans.

83. Furthermore, a Specific Plan must comply with specific requirements of State law, Government Code section 65450 *et seq.*

84. The Project is inconsistent and incompatible with applicable goals, policies and objectives of the County General Plan. In particular, the General Plan Amendments, Specific Plan and Zoning Amendments are inconsistent with the goals, policies and objectives of the County General Plan. The Project violates fundamental policies of the County General Plan including: directing urban development to cities and unincorporated communities where public facilities and infrastructure are available; the County shall maintain agriculturally-designated areas for agricultural use and direct urban growth away from agricultural land; protect water resources critical to agriculture; and the County shall coordinate with cities to address regional planning and growth issues. The Project flies in the face of all of these policies. The County did not adopt any amendments to these policies in approving the Project. Therefore, the Project is not consistent with the General Plan and the Project General Plan Amendments result in an internally inconsistent General Plan.

85. The County did not comply with all the procedural requirements, including proper notice and hearing, for adoption of the General Plan Amendments, Specific Plan and Zoning Amendments. The Specific Plan also does not comply with the requirements of State Planning and Zoning Law.

86. The County therefore abused its discretion by failing to proceed in the manner required by the State Planning and Zoning Law and by adopting findings of General Plan consistency that are not supported by the evidence.

THIRD CLAIM FOR RELIEF

(Violations of Water Code section 10910 et seq.)

87. The City hereby incorporates by reference all preceding paragraphs in their entirety.

88. Under Water Code section 10910 *et seq.*, a detailed water supply assessment ("WSA") is required for the approval of certain types of projects. The WSA must be included in the CEQA document prepared for the project. (Water Code section 10911(b).) CEQA requires compliance with these Water Code Provisions. (Public Resources Code section 21151.9.)

89. The Project is subject to these requirements. A WSA was purportedly prepared for the Project pursuant to Water Code section 10910 *et seq.* The WSA was included as an appendix to the EIR and its analysis was incorporated into the EIR. The County relied on the WSA in making its findings and determinations on the water supply impacts for the Project.

90. The WSA does not meet the standards of Water Code section 10910 *et* seq., in that it fails to provide adequate assurance of available water to serve the needs of the Project. The WSA does not include the specific information on water demand and supply required by the Water Code, especially during drought conditions.

91. The County therefore abused its discretion by failing to proceed in the manner required by State law by relying upon and approving an inadequate WSA as part of it certification of the EIR.

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PRAYER

WHEREFORE, the City prays for relief and entry of judgment as follows:

1. For a peremptory writ of mandate directing the County:

(a) to vacate and set aside its actions certifying the EIR for the Project and adopting environmental findings, mitigation measures, a statement of overriding considerations, and a mitigation monitoring and reporting program under CEQA for the Project; and

(b) to vacate and set aside its action approving the General Plan Amendments, Specific Plan and Zoning Amendments for the Project; and

(c) to vacate and set aside its action relying upon and approving the WSA as part of its certification of the EIR and adoption of CEQA environmental findings; and

(d) to comply fully with CEQA, the State Planning and Zoning Law, Water Code section 10910 *et seq.*, the County General Plan and all applicable Federal, State and local laws, policies, ordinances and regulations in any subsequent action or actions taken relating to the Project.

2. For an order staying the effect of the County's approvals relating to the Project pending the outcome of this proceeding.

3. For a preliminary and permanent injunction directing the County and Real Parties in Interest to cease and refrain from engaging in any action related to the Project that could result in any change or alteration in the physical environment until the County takes any necessary action to bring its action into compliance with CEQA, the State Planning and Zoning Law, Water Code section 10910 *et seq.*, the County General Plan and all applicable Federal, State and local laws, policies, ordinances and regulations.

4. For costs of suit.

5. For an award of attorneys' fees.

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6. For other legal or equitable relief that the Court deems just and proper.

DATED: March 4, 2011

MEYERS, NAVE, RIBACK, SILVER & WILSON

By: _____
Peter S. Hayes
Attorneys for CITY OF FRESNO

PURSUANT TO CODE OF CIVIL PROCEDURE § 446, THIS PETITION IS DEEMED VERIFIED BY OPERATION OF LAW.

1604729.2

Exhibit A

Andrew T. Souza
City Manager

December 15, 2009

Briza Sholars, Planner
Fresno County Public Works and Planning Development
2220 Tulare Street, 6th Floor
Fresno, CA 93721

SUBJECT: Draft Environmental Impact Report, Friant Community Plan Update and Friant Ranch Specific Plan, State Clearing House No. 2007101016

Dear Ms. Sholars:

This letter contains the City of Fresno's (City) comments on the Draft Environmental Impact Report (EIR) for the Friant Community Plan Update (Community Plan) and the Friant Ranch Specific Plan (Specific Plan) prepared by the County of Fresno (County).

The City strongly objects to the Project, which involves a huge expansion of urban growth within the County in an area currently zoned for agricultural use without available public services. The Project violates fundamental principles of the County and City General Plans and the Memorandums of Understanding (MOU) between the County and cities. These documents direct urban development to existing cities and urbanized areas which have available service capacity to accommodate such development. They focus on preserving agricultural land and environmental resources. The Project completely contradicts these principles, not to mention the purpose and intent of SB 375, which requires local agencies to develop regional targets and plans to reduce greenhouse gas emissions from land use and transportation. The Project expands the Community Plan area over 1800 acres and rezones over 900 acres of agricultural land to residential and commercial use. It significantly expands urban development outside the existing Friant community. It will increase the population in the area from 519 to 6,000 and housing units from 236 to almost 3,000. There is no available service capacity in the area for this very large development, so the Project requires building a new wastewater treatment facility, expanding the existing water treatment facility, and importing water from another county/ watershed.

Given the extent of development proposed and its location, it should come as no surprise that the EIR identifies a massive amount of environmental impacts from the Project. The EIR identifies significant impacts in almost all areas (including many significant and unavoidable impacts) and contains numerous mitigation measures. Despite this, the EIR fails to adequately disclose and

address all significant environmental impacts and includes many mitigation measures, which will not result in reducing these impacts to less than significant. These impacts will adversely affect City and County residents and impede the City's plans for future development.

The City respectfully requests that the County reconsider moving forward with this Project. If the County decides to continue to go forward with this Project, the Draft EIR needs to be substantially revised and recirculated because, as explained below, it substantially understates the significant impacts of the Project, contains inadequate mitigation measures, and, overall, fails to meet the requirements of the California Environmental Quality Act (CEQA).

General Comments:

The level of detail and amount of information provided in the EIR on Project components do not support project-level review for the Specific Plan. Although the EIR states that it contains project-level review for the Specific Plan, the analysis does not meet the CEQA standard. This is of particular concern because the EIR states that it will be relied on for the CEQA environmental review for the implementation of the Specific Plan project with no further analysis required (esp. given the state law exemption for residential projects that are part of a specific plan with a certified EIR). As currently drafted, the EIR cannot be relied upon for implementation of the Project, including the Specific Plan, and further CEQA environmental review will be required.

As an example, one Project component for which the EIR purports to provide detailed project level review is "a land use designation and zone change" for the Depot Parcel. However, full extent of the Project's proposal for the Depot Parcel is not clear, since the Air Quality chapter of the EIR states that "[t]he Depot Parcel consists of: 73,508 [square feet] of shopping center use . . ." The EIR is entirely inadequate as a project level evaluation of development of a 70,000+ square foot shopping center project on the Depot Parcel site. The EIR provides absolutely no information about the physical configuration of, or anchor tenants for a shopping center proposal for the Depot Parcel site. Therefore, the EIR cannot possibly provide project level analysis of the environmental impacts of such a specific development proposal.

The EIR contains no information on the Development Agreement. Therefore, the approval of the Development Agreement cannot rely on the EIR for its environmental review to the extent its impacts are not analyzed in the document.

The Project Objectives are too narrow and basically recite the elements of the Project. It is a violation of CEQA to tailor Project Objectives to the specific project being proposed which constrains the proper consideration of alternatives. The improper Project Objectives allow the County to reject consideration of certain alternatives as "not meeting the Project Objectives."

The EIR must analyze whether the approval of the Specific Plan will contribute to further blight or urban decay within the Friant Redevelopment Project Boundary by concentrating new development outside the Redevelopment Project Plan Area. The EIR contains no analysis of this potential significant impact. It also does not provide the text of the Friant Redevelopment Plan commercial development standards that are proposed to be repealed and analyze the effect of the repeal on the redevelopment goals and policies.

The analysis of growth inducing impacts is cursory and completely inadequate. The Project will have significant growth-inducing impacts due to the expansion of public services available in this unincorporated area, especially wastewater treatment and water services. For instance, according to the Municipal Service Review prepared by LAFCO, dated July 2007, Waterworks District 18, the district that will provide water service for this project, currently, encompasses 444 acres and services 234 customers. As such, this project will increase the number of the district's customers in excess of tenfold. These new services and related infrastructure will induce new growth in the entire Community Plan area and beyond. The impacts of this future growth should be analyzed in the EIR.

There is no discussion in the EIR of preliminary consultation by the County with the DWR, RWCB, or the Department of the Interior to investigate the adequacy of the Project's water supply plan or its wastewater discharge plan. Furthermore, the EIR fails to provide any performance history of Waterworks District 18, or provide evidence of its ability to meet regulatory standards. The EIR also needs to describe any impacts to the existing aged water distribution system as a result of the proposed new development and infrastructure.

Chapter 3.1 Aesthetics

County General Plan Policy OS-L.3 requires that development proposals of more than four lots be designed to "blend in" to the natural landscape and minimize scarring of vegetation and terrain. The EIR claims that the Friant Ranch Project will "preserve the integrity of the existing terrain and natural vegetation in visually sensitive areas." Yet it is impossible to judge the accuracy of this claim, since the EIR provides illustrations only of pre-Project conditions, without any illustration showing the effect of the Project on existing scenic vistas and visually sensitive areas. The EIR should be revised to provide this information in visual, illustrative form.

Chapter 3.2 Agricultural Resources

The EIR must include and analyze mitigation measures to address the significant impact from the rezoning of over 900 acres of Agricultural land to urban uses. The EIR does not contain any mitigation measures to address this significant impact because it states that no mitigation measures are "available". Therefore, the EIR identifies the impact as significant and unavoidable. CEQA requires that all feasible mitigation measures be adopted for any significant and unavoidable impact. So, the EIR must analyze any available feasible mitigation measures to reduce agricultural impacts. Examples of feasible mitigation measures to address the loss of agricultural land include, but are not limited to, protecting existing agricultural land from conversion through imposing easements or Williamson Act contracts, and adopting a fee mitigation program to fund permanent preservation of agricultural land. The EIR should evaluate these mitigation measures and the County should adopt any feasible mitigation measures. In addition, since the impact is significant and unavoidable, the EIR should evaluate alternatives that could reduce this impact, such as significantly reducing or eliminating the conversion of agricultural land included as part of the Project.

The EIR incorrectly concludes that the Project's conversion of agricultural land is consistent with the County General Plan. However, this agricultural land conversion violates central goals and policies of the General Plan to protect agricultural land, including Goal LU-A (promote long term conservation of productive and potentially productive agricultural land) and Policy LU-A.1 (County

shall maintain agriculturally designated land for agricultural use and direct urban growth away from this land). The inconsistency with these policies is a significant environmental impact which requires mitigation.

The EIR should evaluate the significance of impacts on agricultural land by using soils evaluation criteria (such as use of the Storie index) rather than solely relying on Statewide farmland maps. The lack of designation on the Statewide maps or historic use of the land for grazing does not conclusively determine its viability for agriculture.

The EIR needs to provide further evidence to support its conclusion that the transfer of water from the Lower Tule River Irrigation District (LTRID) that currently serves agricultural users will not have a significant impact on agricultural. The statement that LTRID will use "supplemental" sources to replace water divert from these users is insufficient, especially given the significant uncertainties surrounding water available for agricultural users in the Central Valley (see comments on water supply analysis below).

The EIR improperly ignores grazing land as a category of farmland worthy of conservation and fails to analyze or mitigate potential adverse impacts to grazing. Grazing is important to Central Valley agriculture. The 2008 Fresno County Crop & Livestock Report showed Countywide $7.84 million revenue from beef calf production, $31.55 million from feeder beef stock, and $131.39 million from beef cattle slaughter stock. Due to parcelization on the Valley floor and concomitant loss of winter pasture, beef cattle raising is a threatened industry in the County. The EIR contains no data or analysis on the importance of the Project's valley land for the annual rotation of stock from high country (summer) pastures to winter pastures (winter pasture is needed due to snowfall in high country). The EIR does not provide any information on how this proposal could adversely affect supply of grazing land, particularly winter grazing land, in Fresno County. Current conditions are that the Friant Ranch is available for grazing and customarily leased for this purpose. Loss of grazing land from the Project cannot be dismissed as an impact simply because current zoning could allow 40-acre home sites, since grazing and livestock activities occurs on virtually all 40 acre grassland parcels in Fresno County.

Chapter 3.3 Air Quality

The EIR purports to evaluate, as a standard of significance for air quality impacts, whether Project-related air pollution would result in exposure of sensitive receptors to substantial pollutant concentrations. Yet, in fact, while the EIR discusses the Project's construction and operational *emissions*, it does not proved any discussion of, or conclusions about, Project-related effects on air pollutant concentrations. Neither does the EIR identify any potentially affected sensitive receptors, nor does it conclude whether sensitive receptors would be exposed to substantial concentration levels. The County must revise the EIR to address this subject, and recirculate the document if any significant air pollutant concentration impacts are identified.

The EIR also includes, among its standards of significance for air quality impacts, the potential for the Project to expose sensitive receptors or the general public to substantial levels of toxic air contaminants. Yet the EIR does not discuss or determine the significance of the Project's toxic air contaminant impacts. For instance, the bulk of the Project's traffic congestion would be occurring on

roadways outside the project area, such as Friant Road, yet there is no CALINE 4 or diesel exhaust analysis on these congested segments and intersections to indicate what the health effects would be to Fresno residents and schoolchildren near Friant Road. Furthermore, under CEQA, the EIR must disclose the human health related effects of the Project's air pollution impacts. (CEQA Guidelines section 15126.2(a).) The EIR fails completely in this area. The EIR should be revised to disclose and determine the significance of TAC impacts, and of human health risks due to exposure to Project-related air emissions.

An EIR is required to evaluate all foreseeable project activities and impacts, including both direct and indirect environmental effects of a Project. The EIR identifies the Project as having a growth-inducing impact, particularly on the area covered by the existing Friant Community Plan. In fact, a key objective of the Project is the "revitalization" of the existing Friant Community. Yet the EIR categorically excludes any evaluation of air quality impacts which will occur in the Community Plan area outside the Friant Ranch Specific Plan Area and the Depot Parcel. (See DEIR page 3-40.) This refusal to evaluate the foreseeable air quality impacts of the Project's "revitalization" of the existing Friant Community is a failure to evaluate a foreseeable environmental impact of the Project, and is fatal to the EIR.

Impact area 3.3-1 purports to identify construction impacts related to a number of criteria pollutants, as well as particulate matter (PM_{10}) and Fine Particulate Matter ($PM_{2.5}$.) Yet, in fact, the Air Quality chapter contains no disclosure, discussion, or significance determinations related to Project-related $PM_{2.5}$. The EIR must be revised to provide analysis of $PM_{2.5}$ impacts.

The EIR's discussion of construction and operational air emissions identifies a significant impact as (inter alia) a violation of SJVAPCD emissions standards. The EIR sets out the federal and state ambient (concentration) thresholds for various pollutants in Table 3.3-1, but does not present the emissions thresholds for CO, ROG, NOx, PM_{10} or $PM_{2.5}$. The EIR should be revised to provide that information.

The EIR's discussion of construction emissions understates and conceals Project impacts by artificially breaking construction of the Project into five discrete "phases" which are each discussed in a vacuum, without reference to *contemporaneous* construction emissions from other "phases." For example, by disclosing and evaluating the air emissions associated with "phase 1" (2010 – 2012) separately from "phase 2" (2011 – 2015), the EIR fails to disclose the *total* construction emissions that will occur during the years when phases 1 and 2 are *both* occurring (2011 and 2012). The same is true for 2013 – 2014 (when phases 2 and 3 will overlap), 2015 (when phases 2, 3 *and* 4 will overlap) 2016 (when phases 3 and 4 will overlap) 2017 (when phases 4 and 5 will overlap) and 2020 (when phase 5 will overlap with construction of shopping center on the Depot Parcel). By segmenting construction of the Project in this manner, the EIR conceals the total level of emissions that will result from Project construction in the years in which phases overlap, and thereby substantially under-reports the Project's significant construction emissions impacts. This segmentation furthermore calls into question the EIR's determination that construction emissions under phases 3 and 4 will be less than significant, since construction emissions under both of those phases will overlap with significant construction emissions impacts under phase 2. The EIR must be revised to disclose and determine the significance of all contemporaneously occurring Project-related construction emissions. Finally, the EIR must be revised to disclose and determine the

significance of the Project's *total* air emissions, in years when Project *construction* emissions overlap with Project *operational* emissions.

Phase 1 construction emissions are determined to be significant and unavoidable, even after the application of Option 2 (enhanced mitigation) measures. Yet the mitigation described in the EIR for Phase 1 construction impacts requires "[u]se of diesel oxidation catalysts capable of a 15% - 40% reduction in NOx emissions on all diesel equipment." In light of the significance of this impact, a mitigation measure which allows such a broad range of emission reductions is insufficient. Unless and until the impact is reduced to less than significant, CEQA requires the County to impose all feasible mitigation. This mitigation measure must be revised to require the maximum feasible (40%) reduction in NOx (and other significant criteria pollutant) emissions.

The EIR must also determine, on the basis of substantial evidence, that no additional feasible mitigation measures would further reduce or avoid the Project's air quality impacts which remain significant after imposition of the EIR's recommended mitigation measures. For example, the EIR must evaluate the feasibility of mitigating significant construction emissions impacts by requiring:

1) all heavy-duty diesel trucks to comply with EPA on-road PM emissions standards and be equipped with Best Available Control Technology (BACT) devises certified by CARB.

2) Idling restrictions (maximum 5 minutes) on construction equipment, when not in use.

3) Construction equipment to incorporate, where feasible, emissions-savings technology such as hybrid drives and specific fuel economy standards.

4) "Other Construction Equipment Mitigation Measures," as listed in EIR Table 3.3-11. Since SJVAPCD requires the mitigation measures listed in Table 3.3-11 for significant construction-related air quality impacts, the EIR is deficient for not imposing them on significant Project construction emissions impacts.

EIR Table 3.3-10 additionally lists "Enhanced [PM] Control Measures" which "should be implemented at construction sites when required to mitigate significant PM_{10} impacts." Yet EIR Table 1-1 does not list any of these "enhanced" control measures as being imposed on Project construction – even for significant PM impacts. These "enhanced" PM control measures must be imposed on Project construction.

Table 3.3-10 furthermore identifies "Additional [PM] Control Measures," which are "strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reductions.". The Project construction site is certainly large, and is likely located near sensitive receptors (although, as discussed above, the EIR provides no disclosure about potentially affected sensitive receptors). Yet Table 1-1 does not list any of these "additional" PM control measures as being imposed on Project construction, either. These "additional" PM control measures must also be imposed on the Project.

Table 3.3-12 divides Project operations emissions into those under the Friant Ranch Specific Plan, and those under the Community Plan "outside the Friant Ranch Specific Plan." It is unclear from

this table into which category the EIR places operational emissions from the Depot Parcel. The EIR elsewhere describes development of the Depot Parcel as included within the "project level" analysis which is afforded to the Specific Plan area. Yet 3.3-12 says that the Community Plan Area, *outside* the Friant Ranch Specific Plan Area, "includes the Depot Parcel." From this, it is unclear whether operational emissions from the Depot Parcel are being given general program level analysis or detailed project level analysis. Furthermore, since the shopping center which is apparently proposed for the Depot Parcel is not described in any detail in the EIR, it is unclear how operational emissions from that shopping center were determined, or even whether the EIR included operation of the shopping center when it estimated the Project's operational emissions.

The EIR identifies a significant and unavoidable impact from Project operational emissions. The EIR imposes mitigation measure 3.3-2, which contains a laundry list of measures. The description of mitigation measure 3.3-2 states an "intent" that some of these measures will be imposed "during review of future project-specific submittals for non-residential development," though only "where feasible and appropriate." Other measures are to be imposed "as determined by the County in consultation with the APCD," although it is unclear when such consultation will occur. Additionally, the mitigation measure provides that "the County and SJVAPCD may substitute different air pollution control measures for individual projects, which are equally effective or superior to" the measures listed in mitigation measure 3.3-2. However, it is entirely unclear how the County and SJVAPCD will determine whether a proposed substitute measure is equally or more effective, since the effectiveness of the measures listed in mitigation measure 3.2 is not quantified or even qualitatively described. This mitigation measure is entirely inadequate for the Project's significant operational emissions impacts – particularly with regard to the activities purportedly receiving project level analysis in this EIR. Mitigation measure 3.3-2 improperly defers committing to specific mitigation measures, without committing to achieve a definite quantity of impact reduction in the EIR. It is therefore not a valid mitigation measure under CEQA.

The EIR's analysis of Project odor impacts (Impact 3.3:3), while discussing relatively minor irritants such as barbeques, completely fails to address, or determine the significance of, odor impacts from the proposed wastewater treatment plant. This renders the odor impact analysis useless.

Chapter 3.4 Biological Resources

Despite the numerous significant impacts on biological impacts documented in the EIR, it concludes that all impacts can be mitigated to less than significant. This conclusion is not supported for the vast majority of the impacted biological resources. As explained in more detail below, many of the mitigation measures lack detail and definiteness to determine how they will be implemented and their effectiveness. Others constitute deferred mitigation by requiring only the future development of certain "plans" without identifying elements of the plans or standards they must meet. Also, preservation of existing resources does not mitigate for the loss of resources. Only creation or restoration of resources to replace those lost constitutes mitigation under CEQA. Overall, the Project will result in many significant and unavoidable impacts on biological impacts that were improperly identified as less than significant with mitigation in the EIR.

For vernal pools and the species they support (vernal pool fairy shrimp), the proposed mitigation is completely inadequate. The EIR does not explain why it is infeasible to design the Project to avoid

Impacts to all vernal pools. Preservation of existing vernal pools is not mitigation for filling pools. Creation and restoration are the only mitigations under CEQA. The EIR does not contain any standards for creation and restoration. It does not require that any created or restored wetlands have the functional and value equivalency to the destroyed pools. The option for mitigation through use of a conservation bank is similarly standardless because it does not establish criteria that the conservation bank must meet. Similarly, the "mitigation" through payment into a fund does not assure that the money will actually result in the creation of the required amount and quality of pools to mitigate the impact.

The EIR does not analyze indirect impacts of the Project on vernal pools. The EIR must evaluate whether the Project's effects on the uplands and watersheds that support "preserved" vernal pools will have an adverse impact on these pools. Similarly, the EIR does not analyze whether the Grazing Management Plans and Open Space Access Plan required by mitigations will adversely affect the preserved pools. The EIR also does not properly analyze the impacts of storm water runoff on vernal pools. Storm water run-off may result in over-inundation of vernal pools or contamination from urban run-off. All these indirect impacts should be analyzed and mitigated.

The mitigation measures which require the development of Drainage Plan to address the impacts of storm water runoff on resources is inadequate. The mitigation measure does not specify methods that the Drainage Plans must implement or set performance standards. Rather the Drainage Plans set aspirational and amorphous goals, such as "ensuring" that post-project runoff into open space will "mimic to the extent possible" pre-project conditions and run-off to vernal pools will be "roughly equivalent" to pre-project conditions. These measures are inadequate to assure less than significant impacts. Vernal pools are very sensitive resources and impacts to preserved pools can only be avoided if the amount and quality of water needed to support these resources and their species is mandated by strict standards. The absence of these standards violates CEQA.

For impacts on the California Tiger Salamander (CTS) and the western spadefoot, the mitigation is inadequate because it relies on preservation of existing potential habitat and does not describe or explain why the preservation areas identified are adequate to support or do support the species. Again, preservation is not proper mitigation. The mitigation should specifically describe sites that have been evaluated for the presence or support of the species and how these sites will be managed to assure that they provide successful habitat for CTS breeding and aestivation and western spadefoot habitat.

For the succulent owl's clover, it is unclear why the Project will not result in direct impacts to the species since the filling of wetlands and vernal pools (where this species is located) will occur under the proposed Project. It is also unclear how the mitigation requiring the development of a Land Management Plan, which is described in only very general terms, will mitigate any impacts. Both these issues need to be explained in more detail and the actual Plan needs to be included in the mitigation measure. The Plan should specify mandatory elements and actions, and the remedial actions that will be taken if the Plan fails, rather than just stating these elements will be developed. Also, a Management Plan to protect preserved resources does not mitigate for the loss of plants. The information in the EIR is insufficient to support a less than significant finding. The similar mitigation for the Hartweg's golden sunburst has these same deficiencies.

The removal of 942.2 acres of foraging habitat under the Specific Plan for the burrowing owl and Swainson's hawk should be described as a significant impact and mitigation should be required. The on-site preserve is not proper mitigation. This Project's removal of this large amount of habitat also is a significant cumulative impact which the EIR fails to identify (see discussion of cumulative impacts below).

The erosion control plan should specify measures that will be required under the Plan. As currently drafted, the mitigation does not require any specific measures, but only identifies possible "typical" measures (Mitigation Measure 3.4.3b).

The Project is inconsistent with many policies of the County General Plan to protect biological resources. Therefore, the EIR conclusion that there is no inconsistency with plans and no resulting significant impact is incorrect. County General Plan goals and policies that the Project is inconsistent with include: (1) Goal OS-D and Policies OS-D.2 and OS-D.5 which require no net loss of the "function and value" of wetlands and require avoidance, minimization or compensation for impacts. The mitigation measures do not require the created wetlands provide the same function and value as the impacted wetlands. Preservation of existing wetlands is not allowed for mitigation. The proposed mitigation is inconsistent with these policies; (2) Policy OS-D.5 which requires coordination with regulatory agencies at all levels of environmental review. The EIR does not contain any information on the County consulting with regulatory agencies in the evaluation of impacts or development of mitigation measures. In fact, many mitigation measures state that the development of plans and consultation will take place at a later date when agencies consider approval of permits; (3) Policies OS-E.14 and OS-E.17 which require that wetlands, riparian habitat and rare and endangered species habitat should be preserved "to the maximum extent practicable". The Project's numerous significant impacts on these resources violates these policies; and (4) Policy OS-D.6 which requires preservation of riparian habitat and other sensitive communities unless there are public safety concerns. The Project's impacts on these resources violates this policy because there is no underlying public safety concern, such as flood protection, that justifies the Project's impacts

The use of limited reconnaissance surveys to evaluate impacts in the Community Plan area is insufficient for even a program-level EIR. More detail about the existing conditions should be included in the EIR. A program EIR is allowed to evaluate the project in less detail, but it does not allow a less detailed or cursory review of existing conditions. In addition, some of the mitigation measures for the same species impacts are different for the Community Plan than the Specific Plan. The EIR should explain the basis for differences and inconsistencies in mitigation for similar impacts.

Chapter 3.7 Hazards and Hazardous Materials

The EIR notes that hazards due to proximity of the Project to the Friant-Kern Canal and abandoned water wells were raised as an issue of concern during the scoping process for the EIR. Yet the EIR's Hazards and Hazardous Materials chapter does not acknowledge this comment in its cursory treatment of existing hazardous material sites or risks of contamination. The EIR should be revised to address this concern.

Chapter 3.8 Hydrology and Water Quality

The EIR's conclusion that the impact from storm water runoff will be less than significant due to the implementation of Low Impact Development (LID) measures as part of the Project is unsupported by evidence. The Project polices on LID referenced in the EIR do not specify or mandate these measures. Many of the policies are qualified by the words "where warranted" or "where feasible". The Plan does not provide specific information on pretreatment of storm water before it is discharged to "swales", the San Joaquin River or elements of the Fresno Stream Group. Since there are no specific measures and no final Plan that is required as part of the Project, the EIR cannot rely on these potential LID measures to support a less than significant finding. The EIR should be revised to find the impacts from storm water potentially significant and include a mitigation measure which requires the implementation of specific LID measures that will reduce the impact to less than significant.

The EIR does not properly analyze storm water drainage capacity impacts. There is no quantification of pre-project and post-project runoff amounts. There is no discussion of capacity of existing storm drainage system and how well it functions. The reliance on a LID plan to be approved in the future based on "suggested management practices" listed in the mitigation measure is inadequate. The EIR should require compliance with an already developed plan that shows that these measures can be successfully implemented to handle the estimated increased in runoff from the Project, especially in light of the significant conversion of existing undeveloped and unpaved land proposed by the Project. The Plan also should show the capacity of the soils in retention/detention basins to absorb runoff. The mitigation should require that the amount of post-Project runoff does not exceed pre-Project levels for each Project Phase. The analysis and mitigation measure in the EIR are insufficient to support the less than significant conclusion.

The EIR does not describe or analyze how effective control of mosquitoes, and mosquito-borne diseases, such as West Nile Virus and dengue fever, will be achieved if the LID concept creates a plethora of small ponding areas in the Project area.

The EIR does not contain sufficient evidence to support its conclusion that the use of treated effluent for landscaping and on the Beck, Lost Lake Park "or similarly situated property" will be less than significant. The EIR addresses this issue in a single conclusory paragraph. More detail is required to demonstrate that the planned application of treated effluent on open lands will not affect water quality or have other impacts.

The EIR inadequately analyzes impacts from biosolids generated by the wastewater treatment plant. The EIR, Appendix N, and the Project Infrastructure Plan do not present specific information on storage or disposal of biosolids from the proposed tertiary treatment. The EIR only states that disposal of biosolids will conform to regulations and will go to landfill (which would contravene AB 939 solid waste diversion mandates). No impacts from biosolid storage, transport or disposal are analyzed or mitigated, neither within the Project area, nor for transport to and disposal in some other municipality's area.

The EIR does not analyze the conflicts between the County Land Use policies for River Influence Areas and the proposal to site wastewater plant facilities serving development unrelated to the River within the River Influence Area.

The EIR improperly evaluates the required level of protection in the San Joaquin Riverbottom which is now keyed to a 200-year floodplain (not a 100-year floodplain). It also does not analyze the jurisdiction of the Central Valley Flood Protection Board as they now exist, nor as their jurisdiction will be expanded under recent California flood prevention legislation (SB5, SB 17, SB 85, AB 5, AB 70, AB 156, and AB 162 effective in 2008).

The EIR does not analyze how Corps of Engineers flood detention structures on the Fresno Stream Group could be affected by development of the Project area, which would greatly increase the extent of impervious surfaces and generate runoff.

For possible inundation from Friant Dam and Millerton Lake, the EIR should include a map that shows the area that is subject to inundation and the land uses allowed in that area to support its less than significant conclusion.

The EIR identifies 23 pollutants that will exceed regulatory standards in the mixing zone for the wastewater discharge. The EIR should identify this as a significant impact and include mitigation measures to address the impact.

Chapter 3.9 Land Use and Planning

The Project presents fundamental inconsistencies with the land use and planning policies in the County of Fresno General Plan and the General Plans of surrounding cities. The proposed General Plan Amendment to change the Community Plan boundaries and General Plan land use designations cannot "cure" this fundamental inconsistency. The Project will result in a development that is incompatible with many of the central goals and policies that guide land use development in the County. The main inconsistency that results from the Project is the development of intense urban uses on agricultural land in an incorporated area which does not have adequate public services. The policies of directing urban development to incorporated areas with existing services to support development and away from agricultural land are contradicted by the Project. The EIR conclusion that the Project is not inconsistent with planning policies is wrong.

The inconsistencies with County land use policies include but are not limited to the following: (1) policies that promote the Friant area as a recreational hub since Specific Plan does not focus on recreational uses; (2) policies for preservation of agricultural land (see comments in Agriculture section above). The Right to Farm notices does not mitigate the impacts of urban development next to agricultural land; (3) inconsistencies with the Community Plan which does not contemplate or allow the type of development under the Specific Plan or the large expansion of its Plan area.

The EIR does not provide any analysis of the Project inconsistencies with the January, 2003 Amended and Restated MOU between the County and City, and the MOU between the County and the City of Clovis. The Project is inconsistent with the City/County MOU because: (1) The MOU

requires the County to consult with the City in the early stages of preparation for projects (such as this Project) that involve new urban development inconsistent with existing County Plans (MOU, Section 4.4); and (2) the MOU requirement for the County to adhere with Rural Residential Development Restriction policies and preserve agricultural land (MOU, Section 4.5)

The EIR does not characterize the Bigelow Ranch (Friant Ranch) as eastside rangeland, and does not analyze the Project's consistency with County General Plan policies for Eastside Rangeland and Eastside Grazing Land.

The EIR fails to evaluate the Project's consistency with the San Joaquin Valley Regional Blueprint: Vision for the Valley.

The Project is also completely inconsistent with the land use and transportation policies of SB 375. The goal of SB 375 is to reduce greenhouse gas (GHG) emissions from vehicle trips through regional land use and transportation planning. Under SB 375, a sustainable community strategy (SCS) will be developed as part of the regional transportation plan process. The SCS will reduce GHG emissions by reducing vehicle miles traveled relating to land use. The type of development that the SCS promotes is concentrated urban development in existing urban areas and reduced sprawl development. The SCS should include urban infill development that includes mixed use, higher density housing, proximity to transit or incorporation of alternative transportation elements, and the location of housing near jobs. SB 375 also promotes sustaining existing agricultural land and preventing its conversion to urban uses. The Project flies in the face of all these policies. It is classic sprawl development which coverts existing agricultural land and open space to create housing that is not proximate to jobs, existing urban development, or transit. It will result in an increase rather than decrease of GHG emissions and vehicle miles traveled. It will impede the creation of a SCS for Fresno County that can meet the GHG reduction goals for the County established under SB 375.

Chapter 3.10 Noise

The EIR's determination that installation of sound insulation within existing structures is not feasible mitigation is not supported by substantial evidence. The EIR explains that installation of sound insulation is infeasible "because it would require remodeling of existing structures along the roadways." This vague, unsupported, and unquantified assertion is not sufficient to support a determination that mitigation by installing sound insulation in existing structures.

Chapter 3.11 Population and Housing

This section of the EIR concludes that the Project is consistent with the goals of the County's Housing Element in that the Project will provide adequate housing and supportive services for persons age 65 and older, who have special needs. This conclusion is unsupported, since the Project makes no provision for the skilled nursing facilities, hospital facilities, or community care assisted facilities which are typically required supportive services for this population. The Project, and the EIR, must be revised to address adequate provision of medical care and social services for the age 55+ population accommodated by the Project.

The population and housing section of the EIR also fails to demonstrate that there is any actual demand for housing for active adults aged 55+ in the Friant area, nor does it provide any evidence to support a conclusion that the Project's housing would be price-accessible to lower-income seniors. The Project also fails to make adequate provision for other housing age groups, particularly children.

The EIR does not identify any provision that provides the County with power to enforce the "age 55 or older" requirement for the residential units designated for such a requirement. In Fresno County, it is currently estimated that a significant percentage of senior citizens are currently raising or housing their grandchildren, due to socioeconomic conditions. In light of the lack of County enforcement power, the EIR needs to either provide evidence to support a conclusion that CC&R and HOA regulations will be adequate to enforce the residential age requirements, or else revise its projections of the age groups likely to be accommodated by the Project.

Chapter 3.12 Public Services and Recreation

The EIR's section on Public Services and Recreation determines that a potentially significant impact of increased demand for fire protection services will be mitigated to a less than significant level by establishment of a CFD to serve Friant Ranch "consistent with fire and emergency response time standards established in the County General Plan. However, the County standards do not quantify required response times, nor does the EIR contain any quantification or data on the fire/emergency response times which will be achieved under this mitigation measure. It is entirely unclear, therefore, how the EIR determines that this impact will be reduced to a less than significant level. The EIR must be revised to commit to achieve an acceptable, quantified level of fire/emergency response time. Additionally, as discussed below in comments on the Transportation/Traffic section, the EIR must be revised to address the potential for unacceptable levels of service on the Project's main access roads to significantly impair fire and emergency response times.

The above comments also apply to the EIR's unquantified analysis of law enforcement services. The EIR concludes that potentially significant impacts in this area will be reduced by formation of a CFD to maintain "adequate" staffing and facilities to serve the Friant Ranch community – without any explanation of how "adequacy" in this regard will be determined. The EIR provides no data or quantification regarding the need for law enforcement staffing and facilities which will be created by the Project. Nor does the EIR address any potential for significant environmental impacts to result from construction/operation of new law enforcement facilities for which the Project will create a need. The EIR needs to be revised to discuss these issues.

Furthermore, the EIR does not appear to respond to the comments of the California Highway Patrol, on the NOP, that the Project is likely to create a need for a minimum of five, and as many as seven, additional officers to handle the increase in traffic volume and attendant collisions and other traffic-related emergencies created by the Project. The EIR needs to be revised to address those impacts, and to provide for the Project to fund the necessary CHP services.

Finally, the EIR needs to evaluate whether there will be any additional need to bus students from the Project area to public schools, and to address any impacts to public services related to such a need.

The EIR should disclose and determine the significance of the impacts on existing recreational facilities (e.g., Lost Lake Park, Millerton Lake Recreation Area, and San Joaquin River Parkway) of increased use by the new residents who would be introduced by the Project.

Chapter 3.13 Transportation/Traffic

The EIR's traffic and transportation impacts analysis, and Appendix D (Traffic Impact Study, or TIS) is inadequate in many respects.

The City of Fresno does not agree with the peak hour trip generation rate reductions. The EIR appears to assume that active adults aged 55 and above constitute a category of residents whose commuting patterns can be assumed to differ from those of the general population. Even though this is predominately an active senior (55 and over) housing project many people in this low socio-economic region are still working 8AM-5PM positions well beyond the age of 55. This proposed project does not require that the active seniors are retired. The ITE trip generation rates for senior housing are for projects closer in proximity to the city center or adjacent to a metropolitan region. In addition, projects cited in the Fehr & Peers projects were in affluent communities and in a different economic period than a recession. The City of Fresno requires that intersection within its jurisdiction utilize the ITE trip generation rate for a single family home. All impact fees and mitigation should be calculated based on this single family home trip generation rate. Furthermore, this assumption appears at least potentially at odds with the comments by CalTrans, on the NOP, that the Project has the potential to generate in excess of 30,000 daily vehicle trips. It also contradicts the experience of the City of Fresno, which has observed that most or many homeowners in this age group commute to work daily, if only to afford their mortgages. The EIR's traffic analysis should be revised to reflect current societal conditions, under which great numbers of active adults over the age of 55 – particularly in suburban developments like the proposed Friant Ranch Project – have driving patterns similar to the general population.

Appendix D identifies Friant Road and Willow Avenue as the major routes providing access to the Project site. Yet the EIR identifies multiple road segments and intersections on both Friant Road and Willow Avenue as operating at unacceptable levels of service either now or by 2030. Furthermore, the EIR concludes that no mitigation can feasibly result in either of these two major access routes operating at acceptable levels of service. Yet the EIR's traffic analysis concludes that development under the Friant Ranch Specific Plan, on property served by these two unacceptably impeded roadways will have absolutely "no impact" to emergency services access. The EIR, as a document providing environmental analysis of a project to create a new community containing nearly 3,000 residences for active adults (age 55+), must explain how it determines that access for necessary medical services will not be significantly affected by the unacceptable traffic conditions on Friant Road and Willow Avenue.

The City of Fresno does not agree that the Average Daily Traffic (ADT) volumes will decrease due to trip chaining of a remote development. The model is showing that 75% of the proposed project traffic will be directed to the City of Fresno. While the percentage might not change the total amount of the project traffic based on the trip generation may change drastically and have significant impacts. We agree that the total average daily trips (ADT) at the entrance to this subdivision might be less based on the distance it is from the attractions, however I would argue that the Vehicle Miles

Traveled (VMT) per trip would be substantially higher than a typical trip in the Fresno COG model for the City of Fresno due to its remote location and this could greatly affect air quality emissions in a region that is already not meeting air quality standards.

In addition the City of Fresno has never approved a pass-by trip reduction of more than 15%, which is consistent with the Caltrans Traffic Impact Study Guidelines. This would assume that the adjacent roadway facility traffic volumes could support this amount of reduction (which was not discussed in the traffic impact study) and that the proposed commercial land uses would be of convenience that would support a pass-by reduction.

Table 4.1 of Appendix D identifies a number of study intersections as operating acceptably under existing conditions. However field observations by the City of Fresno's Traffic Engineer confirm that these intersections are not operating acceptably due to long queues, demand exceeding capacity, traffic signal cycle length, and unserved demand. Many of these intersections operate at unacceptable levels for multiple hours and periods of the day. The "black box" analysis approach, utilized in the preparation of Appendix D, of merely counting the traffic volume that makes it through the intersection, is inadequate. The analysis must include identifying the demand and calculating the saturation flow rates due to ramp metering, blocked through lanes due to queues that exceed turn pockets, through lane queues that block both left and right-turn pockets, upstream queues that do not accept through traffic, and lane utilization. This requires peak hour field observations and documentation by a qualified professional engineer. Failure to perform this level of analysis appears to have grossly underestimated the impacts of the proposed project, and concealed the true level of service, demand, or capacity of the roadway. Some of the study intersections are misrepresented by 1-4 level of service grades. The entire TIS needs to be redone to actually reflect the existing conditions experienced in the field. Until this analysis is corrected the entire documentation and analysis in the TIS and DEIR is baseless and lacking in evidentiary support.

The City of Fresno's preliminary review indicates that the following intersections are inaccurately analyzed in the EIR, and as a result affect all the analysis through the environment document as this is the base condition from which all impacts are determined, evaluated, and mitigated:

1. Friant/Shepherd (queues and capacity affected by ramp metering which serves between 1,500-1,900 vehicles per hour, in addition westbound left-turns are not fully served and northbound right-turn queues exceed capacity)

2. Friant/Audubon (queues and capacity affected by ramp metering which serves between 1,500-1,900 vehicles per hour)

3. Friant/Fresno (queues and capacity affected by ramp metering which serves between 1,500-1,900 vehicles per hour)

4. Friant/SR 41 NB off ramp (queues and capacity affected by ramp metering which serves between 1,500-1,900 vehicles per hour)

5. Friant/SR 41 SB off-ramp (adjacent queues and lane utilization affect this intersection)

6. Blackstone/Nees (SR 41 southbound on-ramp backs up into this intersection due to ramp metering. Northbound through lanes, Westbound left-turns, southbound U-turns/left-turns, and eastbound right turns all are impacted due to ramp metering)

7. Herndon/Blackstone (City of Fresno has identified the WB right-turn needs to be extended by over 300 feet and become an overlap phase yet the TIS suggests that the queue is only 90 feet. This capital improvement grant application was ranked highly by the regional review panel as most people in the Fresno region are aware of the regular congestion at this intersection)

8. Fresno/Nees (due to queues and delays on Friant many northeast commuters have shifted to Nees Avenue to access the southbound SR 41 on-ramp)

9. Audubon/Nees (needs to be signalized and synchronized with both Palm/Nees and Nees/Ingram)

10. Palm/Nees (adjacent queues from intersections affect intersection operations)

11. Palm/Herndon (intersection capacity exceeds demand. City of Fresno recently installed southbound right-turn overlap phasing as queues extend north to adjacent intersection)

12. Willow/Herndon (City of Clovis just widened intersection because of level of service operations)

13. Willow/Bullard (a capital project is already identified by both the City of Clovis and City of Fresno for unacceptable levels of service for which the traffic consultant that prepared the TIS bid on the design work)

14. Herndon/SR 41 NB off ramp (queues on the northbound off-ramp routinely back up to Sierra and Bullard Avenue on the SR 99 mainline in addition queues from Herndon/Blackstone and Herndon/Fresno block capacity)

15. Herndon/SR 41 SB off ramp (intersection is routinely blocked by queues from Herndon/Blackstone and Herndon/Fresno)

Additional problems with the TIS include the queuing analysis from the software program Output, utilized in preparation of Appendix D. That analysis does not reflect existing conditions during the peak hours/periods in the field. These queues need to be measured in the field to verify that the analysis is done correctly. Queues affect lane utilization, accessibility of turn pockets, saturation of through lanes, and downstream and upstream intersection operations. Some of the worst congestion in the City of Fresno occurs on the intersections and roadway segments analyzed within this DEIR/TIS due to the imbalance of land uses in northeast Fresno. The Friant Ranch proposed project is adding more residential that already exists in northeast Fresno.

Section 4.3 of the TIS, concerning Existing Bicycle and Pedestrian Facilities, also contains errors. Willow Avenue from Shepherd to Friant Road in the County does not have Type II Bike Lanes as

defined by the Caltrans Highway Design Manual. They need all of the following to qualify: stripe at the appropriate width, bike lane stencil, bike lane regulatory sign, and no parking signs.

With regard to Table 4.3 of the TIS, how can roadway segments operate worse than intersection level of service? When roadway segments are at capacity the intersections (or nodes) become the capacity constraint.

The TIS fails to account for the shift in traffic to adjacent facilities caused by the queues and level of service on Friant Road. Motorists will find the path of least resistance such as Audubon Drive (between Friant Road and Nees Avenue), Nees Avenue, and Herndon Avenue that are not reflected in the model because multiple travel time runs and field observations need to be completed to determine the path of least resistance.

Roundabouts have been identified to calm traffic on Audubon Drive between Friant and Nees as a result of the traffic shift and queues in a number of traffic impact studies in northeast Fresno for large developments. This was not reflected as part of this DEIR/TIS. Contribution to these roundabouts should be included in these environmental documentations as this project further exacerbates Friant Road.

On page 22 of the TIS, Shepherd Avenue/Willow Avenue traffic signal has already has been constructed. The traffic consultants for this TIS prepared the design for this traffic signal and were aware of the construction timing and completion.

On page 22 of the TIS, Herndon Avenue does not have bike lanes. It is designated as an Expressway from SR 99 to Willow Avenue in the City of Fresno General Plan.

Rural level of service roadway segment thresholds should not be used for 4 lane divided roadways like Friant Road from Copper to the Town of Friant. When 3,000 homes are added and a 4 lane roadway is constructed it becomes more suburban (urban) setting and not a rural. Failure to correctly evaluate thresholds underestimates the existing conditions and impacts from the proposed project. The entire TIS needs to be redone correctly so that the existing conditions actually reflect the existing conditions experienced in the field so that the proposed project impacts can be evaluated, determined, and mitigated.

The City of Fresno does not agree with the methodology for determining how many lanes would be required if the roadways could be more than 6 lanes or that the capacity of a single lane is 742 vehicles per lane. This analysis does not adequately address the further exacerbation of infrastructure created by the proposed project.

The EIR's transportation and traffic impacts chapter, based on the TIS, is also riddled with errors. The County of Fresno has already identified the Friant Road as a dangerous roadway with fatality/accident billboards and the capital improvement project to widen a LOS A, two lane roadway to a LOS A, 4 lane roadway separated by a median prior to it experiencing capacity deficiency. Fatal accidents were associated with passing, high speeds, and driving under the influence. Adding more traffic to Friant Road without adequately addressing all the safety issues of Friant Road from

Millerton Lake to the City of Fresno could cause more accidents. Friant Road should have a barrier in the median to keep motorists under the influence from hitting on-coming motorists.

In addition, a Class 1 Trail may need to be constructed adjacent/parallel to Friant Road from the City of Fresno to Friant Ranch to allow cyclists a separation from the increased traffic volumes. The City of Fresno is concerned about the safety of the cyclist community on Friant Road. This is a main recreation route for many City of Fresno residents. The roadway was recently widened to improve safety of existing traffic, but that project did not anticipate this growth to occur outside of the urban metropolitan areas. More vehicles could cause more conflicts with cyclists that use this route as a major recreation area.

Due to the Friant Road 4 lane widening project, traffic volumes on Friant Road are now driving faster than ever before. Fresno Police Department enforces these speeds regularly within the City of Fresno city limits but both County Sheriff Departments and the California Highway Patrol have funding and resource constraints on their ability to adequately serve and protect a new suburban area in northeast Fresno. The traffic impact study does not address the 85th percentile with respect to the posted speed limit of Friant Road. In addition, the speed differential of traffic on Friant Road north of Copper River and south of Shepherd (back of completely stopped vehicles due to ramp metering) has not been adequately addressed. A series of three overhead changeable message signs should be installed southbound between Willow Avenue and Shepherd Avenue (connected to the City of Fresno ITS system) to notify motorists of stopped traffic ahead. Sensors should be constructed between SR 41 and Copper Avenue to determine the flow of traffic and when stopped traffic occurs so that the Changeable Message Signs can automatically notify motorists.

The County of Madera is currently considering whether to approve two mining operations, the Jackson Mine and the 145/41 Vulcan Mine operation. We understand that both of these mining operations intend to utilize portions of Friant road as truck routes. Truck traffic and mining operations have a significant impact on our circulation infrastructure. Eighty percent of wear and tear damage to roadways is caused by heavy truck traffic, so when the percentage of truck traffic increases on a roadway the failure of the roadway infrastructure occurs faster. Friant Road has failed in the #3 and #2 outside lane because of truck traffic from County Vulcan mine near Copper River/Friant Road. It is our understanding that the County of Fresno failed to collect mitigation for the continued mining operation extension permit for maintenance of Friant Road per the request of the City of Fresno. Furthermore, the EIR does not make clear which of the cumulative projects, discussed in the EIR's cumulative impacts analysis, were or were not included in the EIR's discussion of cumulative traffic impacts. It is not clear whether either of these proposed mining operations in Madera County where included to determine the cumulative traffic impacts caused by this project.

Another significant impact of the Friant Ranch project is the "temporary" (10-30 years) of construction traffic to build out Friant Ranch. The City of Fresno does not have adequate maintenance resources to mitigate the impacts of Friant Ranch construction traffic.

The discussion of mitigation in the EIR is also inadequate. While payment consistent with the policies and nexus study of the City of Fresno Traffic Signal Mitigation Impact (TSMI) fee and Fresno Major Street Impact (FMSI) fee may help to mitigate some of the impacts of the Friant

Ranch, this proposed project was not assumed as part of the modeling for those impact fees. The Friant Ranch project could be further exacerbating conditions for which those impact fees are intended to mitigate. The Friant Ranch project could consume reserve capacity for projects within the City of Fresno that are not fully built out but were assumed to be built out with the impact fee programs. Unfortunately the analysis provided in the existing conditions and subsequent phasing does not represent the field conditions so the City of Fresno is not able to determine the impacts and necessary mitigation measures.

The County of Fresno does not have an impact fee program for traffic signals or roadway improvements. Payment of pro-rata fair share is not consistent with CEQA to fully mitigate the impacts of the Friant Ranch project. CEQA requires that the mitigation project be included in a Capital Improvement Plan and be fully funded or an impact fee be developed consistent with the Mitigation Fee Act so that the mitigation project can be implemented. Until the details of a mitigation fee program can be finalized between the County and all other public agencies with jurisdiction over potentially affected roadway infrastructure, the mitigation measures in the EIR may be unenforceable and therefore invalid.

The EIR states that, where an intersection or roadway segment is identified as operating at an unacceptable level of service but the EIR provides no mitigation for the Project's contribution to that unacceptable level of service, the Project's contribution has been "deemed" not significant or cumulatively considerable. The EIR cannot "deem" Project impacts insignificant simply by refusing to discuss them. Where the Project would result in a significant transportation/traffic impact, or would contribute to a significant transportation/traffic impact, the EIR needs to explain, and support with substantial evidence, any conclusion that the Project's contribution is less than significant or less than cumulatively considerable.

The EIR also fails to address the NOP comments of the Public Utilities Commission, that the Project will create and/or contribute along with other cumulative development in Fresno and Madera Counties, to traffic impacts at at-grade rail crossings. The EIR needs to be revised to disclose the Project's impacts in this area, to determine their significance, and to provide mitigation for any significant Project-specific or cumulative impacts to at-grade rail crossings.

The EIR's mitigation measure requiring that "information regarding alternative transportation such as ridesharing and mass transportation" is likely to be ineffective, since the Project does not include infrastructure for park and ride facilities, mass transit facilities, or other transportation services.

The City has also identified additional infrastructure which may require improvement due in part or in whole to the proposed Project. The intersection of Willow/Friant will definitely need improvements due to the high speed traffic, ability of motorists to judge gap acceptance, and available gaps in traffic.

Friant Ranch may also be required to fund or contribute to a second San Joaquin River Crossing be constructed or at a minimum an implementation and funding program developed so that Friant Ranch contributes to the construction of the new bridge. The County Board of Supervisors shall be on board with the San Joaquin River Crossing project and implementing that project and fee

program prior to development in this area of the County to facilitate access to this region. Failure to do so would create a significant and unavoidable impact to the region.

The TIS/DEIR does not adequately address the existing capacity or substandard design of the existing bridge crossing near Friant Ranch over the San Joaquin River.

Friant Ranch may be required to pay the Measure C Regional Transportation Mitigation Fee (RTMF) through the Joint Powers Authority that will be put in place January 2010. Failure to contribute to the RTMF will cause significant and unavoidable impacts to the Measure C program for which this project is relying on to construct infrastructure to mitigate impacts. However, the timing of those assumed mitigation improvements are not consistently identified.

Since this proposed project will be utilizing the Friant Road/SR 41 interchange the southbound on-ramp auxiliary lane will need to be constructed from Friant Road to Herndon Avenue interchanges. Friant Road/SR 41 interchange was designed without knowledge of the Friant Ranch project and its associated traffic volumes. This project further exacerbates the need for the auxiliary lane. Payment of the pro-rata Caltrans fair share does not fully mitigate the impacts of Friant Ranch because the improvement is not constructed and there is not an implementation plan or identified funding to construct the project. Failure to construct these freeway improvements will result in a significant and unavoidable impact that is not acceptable to the City of Fresno.

Additionally, since this proposed project will be utilizing Friant Road/SR 41 interchange and the motorists have to either exit Herndon Avenue/SR41 interchange (or shift existing traffic to the Herndon Avenue/SR 41 interchange from the Friant Road/SR 41 interchange due to exacerbating the impacts of Friant Road) or else drive past the Herndon/SR 41 interchange of the SR 41 mainline, the northbound off-ramp at Herndon/SR 41 will need an auxiliary lane constructed from Sierra to Herndon along with off-ramp widening (to dual lefts and dual rights) to keep three through lanes on Northbound SR 41 operational for sprawl traffic to Friant/SR 41 interchange and Madera County from rear-ending motorists on SR 41 exiting Herndon Avenue. Observation of tire marks on the freeway suggests a lot of rear end accidents at high speeds under existing conditions, which will be exacerbated by the Project. Failure to construct these freeway improvements will result in a significant and unavoidable impact that is not acceptable to the City of Fresno.

Finally, these and other faults of the EIR's transportation and traffic section contaminate the rest of the EIR, resulting in an underestimation of the impacts of the Project in other areas. The Project will significantly increase the Vehicle Miles Travelled (VMT) for an existing single family home assumed in the Fresno Council of Government model for air quality conformity. Fresno County and the San Joaquin Valley are already in non attainment. In addition, an increase in VMT has a negative impact on the consumption of fossil fuels. This proposed project will not be served by alternative models of transportation such as transit. The proposed density would not make serving this project economically feasible for a region that is attempting to become more sustainable both fiscally and environmentally. In actuality single family homes at this density and at this remote location are not economically feasible to serve public safety, public infrastructure maintenance, or with public services.

The County is proposing a development outside an incorporated or sphere of influence area that does not have fee programs in place that may cause future sprawl or expansion of our current City of Fresno sphere of influence similar to Copper River Ranch. Until the County of Fresno develops policies on sprawl and new town development or expansions consistent with SB 375 and AB 32 any approval of projects of this magnitude is a significant and unavoidable impact.

The County developing this project to County standards could cause ADA issues without sidewalks on both sides of residential streets. Seniors have a higher tendency to need ADA infrastructure. How will ADA seniors be served by para transit?

The widening of Friant Road to four lanes has now become a sprawl inducing transportation capital improvement project when it was originally identified as a safety project. Without the widening of Friant Ranch to four lanes, this proposed project would not be economically feasible.

Chapter 3.14 Utilities and Service Systems

The water supply analysis does not satisfy the CEQA standards under Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova. Under Vineyard, the CEQA analysis must show a reasonable likelihood of adequate water being available to meet the Project and cumulative demand in the short-term and long-term. As the EIR acknowledges, there are significant uncertainties regarding the ultimate provision of water to serve the Project including: no water source currently available to serve the project; water is anticipated to be provided through an "agreement in principle" with LTRID involving Central Valley Project (CVP) water which has not been finalized and is subject to approval by the federal government; numerous lawsuits and settlements involving water rights and usage in the area; the need for LTRID to allocate other sources of water for existing agricultural users to replace the water transferred to meet Project demand; and impacts from global warming. Additional uncertainties which the EIR does not discuss include the recently announced reductions in CVP allocations for 2010 and the series of legislative bills passed this fall by the State Legislature which include a bond measure requiring voter approval. In light of all these uncertainties, Vineyard requires that the EIR analyze alternative sources of water and the impacts of obtaining these sources. The EIR does not contain this analysis. Also, since the proposed LTRID Agreement may terminate in the future, the EIR should analyze the impacts of curtailment of the Project after it has been partially built out as required under Vineyard.

The EIR does not analyze the environmental impacts of the water facilities needed to serve the Project. These facilities include the expansion of WWD 18 water treatment plant and other water system facilities. These are not included in the Project description and are not specifically analyzed in the EIR.

The EIR does not adequately analyze the impacts of the proposed water transfer on the LTRID and its water users. There is no adequate description or graphic depiction of the location or size of the LTRID, nor any information on its total water supplies and current water uses. The EIR should specifically identify the customers and crops that will be deprived of the 2,000 AFY that the project proposes to divert to the Friant area. The EIR must analyze the impacts that the diversion of this water supply will have on the LTRID service area. If the EIR is relying upon the impact analysis in a certified environmental document prepared for the transfer of replacement water to the farmland

located in LTRID, the analysis in the CEQA document must be summarized and the document incorporated by reference in this EIR. The EIR fails to comply with these requirements.

The EIR should analyze the impacts of LTRID's use pre-1914 water in critical dry periods to meet demand. Although the Water Supply Assessment identifies the shortfall and LTRID's need to use this water to meet the demand, the EIR does not analyze the associated environmental impacts. The EIR also does not analyze the regulations governing CVP water transfers, or use of this pre-1914 water. It is the City's understanding that the California Department of Water Resources has not yet obtained the detailed surface water user data to ascertain whether all surface water rights previously deemed "pre-1914" are, in fact, legitimate. The requirement for water used to report this date will begin next year, under provisions of SB7X 8. Until the status of "pre-1914" water rights are evaluated and affirmed after these surveys are done, it is too early to declare that LTRID's water transfers to the Friant Ranch Project can be made up by that surface water supply. Since this DEIR was released just prior to enactment of the SB7X 1, SB7X 2, SB7X 3, SB7 X 7 or SB7X 8 package of water reform legislation and since this legislation has such a significant impact on the projects proposed hydrology, re-analysis of the project under these new regulations, and recirculation of the DEIR, is warranted.

The EIR's discussion of water supply impacts "conservatively" declines to adjust water use forecasts due to an assumption that residences in the Friant Ranch Specific Plan Area will have lower-than average occupancy rates. By contrast, however, the EIR's discussion of wastewater treatment impacts does not adopt this "conservative" assumption, and instead assumes that active adult housing in the Specific Plan area will produce lower than average demand for wastewater treatment. What is the substantial evidence upon which the EIR bases its decision to adopt these two, mutually inconsistent assumptions. In light of this inconsistency, the EIR needs to re-evaluate anticipated wastewater treatment demands created by the Project, and if necessary revise the Project to provide adequate wastewater treatment capacity.
The EIR indicates that PG&E has stated that it has a sufficient power supply to serve the Project. Since it is commonly known that overall population growth and development in California and the San Joaquin Valley will lead to future power shortfalls unless there are major gains in energy conservation and alternative energy development, the EIR cannot simply rely on PG&E's purported statement, but must reconcile that assurance with the long-term energy supply outlook for the state and region, and needs to provide mitigation in the form of higher standards for conservation and alternative energy programs, built into every component of the Project.

Since the Project includes a Specific Plan which is being examined at a project-specific level, the EIR needs to identify the routes of major electrical and gas transmission lines and distribution substations serving the Friant Ranch development. The EIR further needs to evaluate the impacts of transmission line construction, maintenance and operation on the Project site and other lands traversed by these lines (vegetation removal, erosion, fire hazards, EMF, etc.) The EIR cannot defer or segregate this vital component of the proposed Project for later design and evaluation.

Chapter 3.15 Greenhouse Gas Emissions and Global Climate Change

The discussion of the Regulatory Environmental is completely inadequate. There is no discussion of numerous laws and regulations on greenhouse gas (GHG) impacts and analysis including: (1) the

latest state CEQA Guidelines amendments on greenhouse gas analysis before the State Resources Agency for adoption which are expected to be in effect January 2010. The greenhouse gas analysis should comply with these CEQA Guidelines; (2) the proposed regulations of the San Joaquin Valley Air Pollution Control District on addressing and mitigating GHG impacts from development. SJVAPCD has been developing these regulations for over a year and they are expected to be adopted shortly. The regulations include guidance on how to address GHG impacts under CEQA.; (3) the AB 32 Scoping Plan which includes reductions from land use development; (4) SB 375 which requires the adoption of regional targets for GHG reductions from land use and transportation and the development of regional plans to achieve these reduction targets; (5) information developed by the State Attorney General's Office on the analysis and mitigation of GHG emissions under CEQA; and (5) the recent determination by the US Environmental Protection Agency that CO_2 threatens public health and the environment due to its impacts on climate change. The EIR should discuss these important regulatory developments and apply these regulations and guidance in its analysis of GHGs.

The EIR should quantify the GHG emissions from all construction and operational activities of the Project, including the construction and operation of the new wastewater treatment plant and the expansion of the water treatment plant. Methodologies for quantification from all the Project uses are known and should be used, so that the full amount of emissions from the Project is disclosed. The EIR's estimated Project GHG emissions only focus on a narrow part of the Project and greatly understate the Project's emissions.

Since the EIR concludes that the impact from GHG emissions is significant and unavailable, it needs to evaluate and consider all feasible mitigation measures to reduce the impacts. The Plan policies and so-called mitigation measures included in the EIR to potentially reduce GHG are too general. The policies and programs are mostly to "support", "encourage" and "promote" certain actions, which are not requirements. Also, there is no evidence and analysis to show that the measures, if implemented, will actually reduce GHG emissions and, if so, by how much. The EIR should evaluate the feasibility of the Best Performance Standards proposed by the SJVAPCD as part of its Report for Addressing Greenhouse Gas Emissions Under CEQA (See http://www.valleyair.org/Programs/CCAP/11-05-09/1_CCAP_FINAL_CEQA_GHG_Draft_Staff_Report_Nov_05_2009.pdf) and the mitigations recommended by the Attorney General's Office to address GHG emissions under CEQA (See http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf).

The EIR should analyze and reach a conclusion on the significance of the impacts of global warming on the Project for other issues besides water. The EIR should analyze the potential global warming impacts due to flooding and increased temperature (especially as it relates to increasing the likelihood of violations of air quality standards).

Even though the EIR finds that the impact on greenhouse gases is significant and unavoidable, it should establish a significance threshold on which to base this determination. Under the proposed SJVAPCD Guidance, the recommended standard of significance is a 29% reduction.

Chapter 4 Evaluation of Alternatives

The EIR does not discuss an adequate or reasonable range of alternatives. Aside from the statutorily required No Project Alternative, the EIR only evaluates three alternative configurations of development under the Friant Ranch Specific Plan. These three "alternatives" are so similar as to not represent a reasonable range. The EIR admits that "[t]he North, East, and Northeast Development Configuration Alternatives are similar in terms of their level of impact."

The EIR's rejection of analysis of an off-site alternative is entirely self-serving and circular. The EIR bases its decision not to evaluate an off-site alternative primarily on the purpose of the Project to create "a master-planned active adult community" that is "within or immediately adjacent to the Friant Community." This "purpose" describes the proposed Project precisely, and so admits of no meaningful alternative. That is not acceptable under CEQA. An EIR may not reject consideration of off-site alternatives simply because they would not be identical to the proposed Project. The EIR is required to look at a range of reasonable alternatives to achieve the objectives of the Project while lessening its impacts, and so needs to broaden its range of alternatives to consider (1) other potential Project's to "revitalize" the existing Friant Community with fewer environmental impacts than the creation of a vast new residential development in the Specific Plan Area and (2) other potential locations for master-planned active adult communities in the County or neighboring counties, or in established urban areas of the County, which would have fewer impacts that the proposed Project.

Additionally, the EIR should discuss a variation on the No Project Alternative, under which the "programmatic" changes proposed for the Community Plan and the Redevelopment Plan would occur, but the "project-level" activities in the Specific Plan Area and the Depot Parcel would not occur.

Finally, it does not appear that the EIR discusses any alternative for development of the Depot Parcel as a shopping center. In light of the existing vacant commercial and retail space in the Friant Community, the EIR should evaluate other potential uses for the site that would have fewer environmental impacts and would not potentially contribute to blight in the existing Friant Community by drawing away commerce.

Chapter 5 Cumulative Impacts

The list of cumulative projects is inadequate. It fails to include past general plan amendments for projects on the east side of the Friant-Kern Canal, Madera County projects across the San Joaquin River north of Friant, and the Blasingame project proposal to the south of the Project. Among relevant cumulative projects which are improperly not included in the EIR's cumulative analysis are (1) commercial developments, already approved but not yet constructed, at Freeway 41 and Friant Road; (2) the 40-acre retail commercial project located at the corner of Friant and Audubon; (3) the proposed Jackson Baker Mining Quarry in Madera County; and (4) the proposed Vulcan mining quarry in Madera County.

Overall, the cumulative analysis is inconsistent with CEQA requirements and vastly understates the significant cumulative impacts of the Project. The analysis is flawed in two important respects: (1) it

improperly concludes, without any further analysis, that just because the Project level impact is reduced to less than significant, the Project's impact is less than cumulative considerable. CEQA law is clear that whether a Project's cumulative impact is significant (i.e., cumulative considerable) cannot be determined based on the mitigation of Project level impacts; and (2) the EIR improperly finds that the Project contribution is less than cumulative considerable if the Project impact is a small percentage of a large problem (ex. Project impact on "only 2 acres" of vernal pools as less than cumulatively considerable because small amount compared to overall number of vernal pools impacted by cumulative development). This use of the "ratio" rule has been firmly rejected by CEQA case law (see Kings County Farm Bureau v. City of Hanford). Contrary to the EIR analysis, the bigger the cumulative impact is, the smaller the Project contribution that should be considered significant. These flaws are especially prominent in the analysis of biological impacts where the impacts on vernal pools, CTS and its habitat, and riparian and special status species habitat are found less than cumulatively considerable because Project impacts are mitigated and there still remains a "significant amount" of these resources in County even after project impacts. The majority of the Project's impacts on biological resources should be found cumulatively considerable.

Since the Project's impact on agricultural resources is cumulatively considerable, there must be mitigation analyzed and adopted to address this significant impact (see discussion of mitigation of agricultural impacts above).

The Project's significant conflicts with land use and other policies create a cumulatively considerable impact. As discussed above, the Project violates the fundamental policies that guide County and city planning, including directing urban development to cities or within existing developed unincorporated area, preserving agricultural land, directing development to areas with public services in place, and protecting environmental resources.

The EIR's analysis of cumulative air quality impacts is severely inadequate under CEQA. The analysis does not distinguish among types of air quality impacts (e.g., emissions impacts, ambient or concentration impacts, odor impacts, etc.) The analysis furthermore fails to provide quantified data, or even to qualitatively describe the future cumulative air quality conditions to which the Project will make a cumulatively considerable contribution, or present any information on the relative size of the Project's contribution. The discussion is also entirely lacking in any mention of mitigation for the Project's cumulatively considerable contribution to this significant cumulative impact. The discussion of cumulative air quality impacts must be fundamentally revised, made more detailed, and expanded.

The EIR's Project-specific analysis of population and housing impacts used a threshold under which impacts are significant if a Project would "induce substantial population growth in an area, either directly . . . or indirectly." Under this standard, the EIR identifies a significant and unavoidable Project-specific population and housing impact. However, the EIR's treatment of cumulative population and housing impacts is entirely inconsistent with its treatment of Project-specific impacts. The EIR's cumulative analysis inexplicably abandons the standards used in the Project-specific analysis, and purports to recognize cumulative impacts only if they result from *unplanned* growth. By this sleight of hand, the EIR reaches the unsupportable and absurd conclusion that the Project, which even by itself would have a significant and unavoidable population and housing impact, and which would clearly contribute along with other cumulative projects to "substantial population

growth," would somehow not contribute to a significant cumulative population and housing impact. This conclusion is clearly irrational and unsupported. The EIR must be revised to recognize that the Project, in addition to resulting in significant Project-specific population and housing impacts, will additionally make a cumulatively considerable contribution to significant cumulative population and housing impacts.

The discussion of cumulative utilities/service systems impacts appears to conclude that the Project will not contribute to significant cumulative surface water demand impacts, simply because the Project applicant claims to have obtained adequate surface water supplies for the Project through 2030. That conclusion is incorrect under CEQA, under which a Project may make a cumulatively considerable contribution to a significant cumulative impact even if it has a less than significant Project-specific impact. Furthermore, the EIR's implied conclusion that there is no significant cumulative water supply problem to which the Project would contribute is contradicted by the EIR's own (too brief) discussion of the West's finite water supply, which will likely be drastically reduced by factors including climate change. The EIR's discussion, which is entirely lacking in data about cumulative surface water supply impacts, and which fails to account for the Project's share in compounding those impacts, is completely inadequate under CEQA. The EIR does not contain an analysis of the Project's contribution to the significant cumulative water impact in the region. The EIR analysis is a Project level analysis based on the Water Supply Assessment. The Project requires the reallocation of water from existing users. The EIR does not analyze how the water demand for the cumulative development in the area will be met. Given the existing water crisis and the lack of new supplies, the Project's demand should be found cumulatively considerable.

Sincerely,

Andrew T. Souza
City Manager

Exhibit B

City of
FRESNO

James C. Sanchez
City Attorney

December 7, 2010

HAND-DELIVERED TO CLERK AND BOARD OF SUPERVISORS

Supervisor Judy Case, Chair
Supervisor Phil Larsen, Vice Chair
Supervisor Henry Perea
Supervisor Debbie Poochigian
Supervisor Susan Anderson
Fresno County Board of Supervisors
2281 Tulare Street, Room 301
Hall of Records
Fresno, CA 93721

Re: December 7, 2010 Board of Supervisors Meeting
2:00 PM Afternoon Session – Agenda Item 14
Certification of Environmental Impact Report and Related Approvals
Related to Friant Ranch Community Plan Update and Adoption of Friant Ranch Specific Plan

To the Honorable Chair and Board of Supervisors:

The City of Fresno ("City") thanks the County of Fresno for the opportunity to comment on the County's proposed approval of the Friant Community Plan Update and Friant Ranch Specific Plan Project ("Project" or "Friant Ranch Project"). The City previously submitted a letter, dated December 15, 2009, in which the City commented on the Draft Environmental Impact Report ("DEIR") for the Project. The purpose of this correspondence is to again express the City's strong concerns about the Project. As the City previously stated in its comments on the DEIR, this Project represents a huge expansion of urban growth in an area of the County that does not have the infrastructure or public facilities to support it. If this Project is approved, it will do the following:

1. Expand the Friant Community Plan Area from its current size of 585 acres to 1,505, nearly tripling its size;

2. Rezone over 900 acres of agricultural land to urban residential and commercial uses;

3. Significantly increase the number of housing units from 236 to 3,000; and

4. Substantially increase the population from approximately 519 to 6,000.

Though this has been described as a "senior" or "retirement" housing project, it does not fit that definition. The proposed age restrictions would apply to only 80% of the units and the age restrictions would require that only one person 55 years of age or older live in the age restricted units. The other residents of the age restricted units could be of any age. Furthermore, according to a recent study of 10,000 U.S. worker's investment accounts reported on by the USA Today on December 3, 2010, that because of the recession, employees will have to continue to work at least two years longer, or until 73, in order to retire comfortably. Based upon this new data, the Friant Ranch Project has the potential to be another housing development for individuals working in the cities of Clovis and Fresno, as there are no significant employment opportunities in Friant, nor are any planned as part of this Project.

Furthermore, this Project is being proposed in an area that currently does not have any of the infrastructure or public improvements to support such a major development. As detailed in the 103-page Friant Ranch Infrastructure Master Plan, this Project will require construction of enough infrastructure and public facilities to supply a small city. And although the Project applicant will be required to initially construct these improvements, it is unclear who will be responsible for the long term maintenance of these facilities, especially if the development doesn't work out as planned. The City has learned the hard way that the property tax generated by residential development doesn't come close to covering the costs and expenses associated with providing services (including police and fire services) to those developments.

As such, contrary to the statements in the Staff Report to the County Board of Supervisors, this Project does not represent the implementation of "smart growth" principles. It reflects the exact opposite: Implementation of planning principles characterized by greenfield, leapfrog and otherwise unsustainable development. In short, this Project runs contrary to at least two key principles of "smart growth;" (1) Preserve Open Space, Farmland, Natural Beauty and Critical Environmental Areas; and (2) Strengthen and Direct Development Towards Existing Communities. This Project fails on both accounts.

As identified in the section of this letter identifying procedural violations in the County's hearing of this Project, this Board *is barred by law from approving the Project at its December 7, 2010 hearing* for improperly failing to notice that hearing after the County Planning Commission reviewed the Project. Before the Board again considers approving the Project, the City respectfully requests that the County revise its environmental review consistent with the City's comments (in both this letter and the City's letter commenting on the DEIR). The City hopes the Board will ultimately decided to deny, or, at the very least, fully mitigate the environmental impacts of this Project.

<u>Land Use and Planning Impacts</u>

The Friant Ranch Project Is Inconsistent With The Fresno County General Plan ("CGP"): In section 3.9.1 of the Draft Environmental Impact Report ("DEIR"), entitled "Regulatory Setting, related to Land Use and Planning," the County acknowledges that State law requires that all land use actions be consistent with the locally adopted general plans and that such land use actions include the adoption of specific plans, approval of rezoning applications,

subdivision maps and other discretionary actions such as conditional use permits. For a project to be legally consistent with an operative general plan it will further the objectives and policies of the general plan and not obstruct their attainment considering all its aspects. (See *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors of El Dorado County* (1998) 62 Cal.App.4th 1332, 1336.) Furthermore, the question is not whether there is a direct conflict between some mandatory provision of a general plan and some aspect of a project, but whether the project is compatible with, and does not frustrate, the general plan's goals and policies. (*Napa Citizens for Honest Government v. County of Napa* (2001) 91 Cal.App.4th 342, 378.) In determining whether there is substantial evidence to support the finding that the project is consistent with the General Plan, a court will reverse a local governing body's determination of consistency with a general plan if the court concludes that a reasonable person examining the same evidence that was before the local governing body could not have reached the same conclusion. (*See No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal.App.3d 223, 243.)

With regard to compliance with the California Environmental Quality Act, the DEIR acknowledges that a project causes a significant impact on the environment when it:

> Conflicts with an applicable land use plan, policy or regulation of an agency with jurisdiction over the 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.

For the reasons set forth below, the evidence before the Fresno County Board of Supervisors does not support a conclusion that this Project is consistent with the County's General Plan. As such, this Project cannot be approved unless the County's General Plan is amended to accommodate this type of project. Furthermore, this Project's fundamental inconsistency with the County's General Plan results in a fatally flawed Final EIR for this Project.

The Project Is Not Consistent With The County General Plan's Fundamental Policy Directive For Urban Development Patterns: The County's General Plan in Chapter 2, Section F (p. 2-55) states, "The fundamental policy directive of this General Plan is to direct intensive development to cities, unincorporated communities, and other areas where public facilities and infrastructure are available." The County has acknowledged that this fundamental policy directive, which is repeated in CGP Policy LU-A.1, applies to this Project when it states, in its response to the City's Comment 19.16 (FEIR, p. 3-72.), "Consistent with Policy LU-A.1, the Friant Ranch Specific Plan proposes growth immediately adjacent to the unincorporated community of Friant where public facilities and infrastructure are available." However, as set forth below, this conclusion that public infrastructure and facilities are available to accommodate this Project is contrary to the substantial evidence contained in the FEIR, including the DEIR, for this Project. The City makes specific reference to the Appendix N to the DEIR, entitled "Friant Ranch Infrastructure Master Plan," which sets forth the significant amount of off-site infrastructure improvements that will be required to accommodate this Project.

As detailed in the DEIR, the unincorporated community of Friant does not have the necessary transportation, public utility, public safety, water or sewer infrastructure currently available for this Project. Furthermore, Friant does not have the other public services necessary to support such a large scale development. For instance, the nearest hospitals are in the City of Fresno, the nearest significant shopping facilities are in the Cities of Fresno and Clovis and the businesses that provide the services required by such a population are all located within the Cities of Clovis and Fresno. All of this infrastructure will have to be constructed or provided to support this exponential population growth in Friant. As such, this Project is completely inconsistent with the General Plans fundamental policy directive to direct intensive development areas where public facilities and infrastructure are available, and therefore, is inconsistent with the CGP itself.

The County Has Proceeded With Pursuing The Approval Of This Project Without Complying With LU-H.9: CGP Policy LU-H.9 states, "The County shall coordinate with cities and adjacent counties to address regional planning and growth issues."

In this case, the County is considering approval of a project that will facilitate significant urbanized growth in Friant, resulting in expansion of the Friant Community Plan Area by two-fold, and the potential to increase the number of dwelling units within the Friant Community Plan Area by 10 times and to conservatively increase the residential population within the Plan Area from approximately 500 residents to in excess of 6,000 residents. As set forth in the DEIR, this proposed massive population expansion will have significant impacts on numerous City of Fresno streets and intersections, in addition to other impacts to its infrastructure. Yet, the County has failed to make any efforts to consult or coordinate with the City of Fresno to address the growth issues associated with this significant expansion in the Friant Community Plan Area. This is in direct conflict with the mandates of this policy.

This Project Is Inconsistent With CGP Policy LU-A.1: CGP Policy LU-A.1 states, "The County shall: (1) maintain agriculturally-designated areas for agriculture use; and (2) shall direct urban growth away from valuable agricultural lands to cities, unincorporated communities, and other areas planned for such development where public facilities and infrastructure are available."

In this case, this Project proposes to change the land use designation of approximately 670 acres, currently designated for agriculture use and currently used as grazing land, to urban residential and commercial uses. Furthermore, despite the County's claims to the contrary, the land to be redesignated has proven to be valuable grazing land. In fact, in its comment letter, the State Department of Conservation stated, "If property is being used for agricultural purposes (grazing), then it still has agricultural value." (FEIR, Comment 18.3, p. 3-63) As such, this Project is inconsistent with both parts of this mandatory policy.

In the County's responses to comments, it contends that the use of the term "valuable agricultural lands" implies "productive or potential productive agricultural lands" as that term is defined in Appendix B of the CGP. However, had the drafters of the CGP meant "valuable agricultural lands" was limited to "productive or potentially productive agricultural lands" they

would certainly have just referred to those terms in CGP Policy LU-A.1. However, that was not done. As such, the term "valuable agricultural lands" was intended to have a meaning broader than just "productive or potentially productive agricultural lands" that would include the grazing land the Project will be converting to urban uses.

Furthermore, in concluding that the agricultural land this Project will convert to urbanized uses does not qualify as "Productive (Prime) Agricultural Land," the County relies strictly on the statement within the definition of that term, "Soils which are suitable for the production of most climatically adapted irrigated crops." The County then, in summary fashion, concludes that the converted land does not meet that standard. However, the County ignores the rest of the definition which states that "Such land includes the following soils . . . . (2) Land which qualifies for rating with a Storie index rating of 80 through 100." When confronted by the City of Fresno with its failure to use the Storie index rating (FEIR, Comment No. 19.17), the County responded by stating, "Further, even if the County applied alternative threshold, such as use of the Storie index, the soils of the subject property are not of sufficient quality to warrant special consideration." (FEIR, Response to Comment No. 19.17.) This response indicates that the County failed to comply with its CGP by failing to calculate the Storie index rating for this property before determining that it did not qualify as either "Productive (Prime) Agricultural Land" or "Potentially Productive Agricultural Land." It is easy to present a post-hoc rationalization for failing to comply with the CGP. However, it does not change the fact that the CGP was not complied with when evaluating the agricultural land the Project will convert to urban uses.

This Project Is Inconsistent With CGP Policy LU-A.19: CGP Policy LU-A.19 states, "The County shall adopt and support policies and programs that seek to protect and enhance surface water and groundwater resources critical to agriculture." However, the County's promotion of this Project runs contrary to this mandatory policy. This Project, to be viable, requires an agreement with the Lower Tule River Irrigation District that, if approved by the necessary agencies, would indefinitely divert up to 2,000 acre-feet of its Central Valley Project water allocation, on an annual basis, to supply what is essentially a residential/commercial urban development. As such, if the County approves this Project and the agreement with the LTRID goes into effect, the County will have effectively supported a policy that indefinitely takes from agricultural use a significant amount of surface water resources. It should be noted that on its website, the LTRID states, "As one of the largest irrigation districts in the State of California, the lower Tule River Irrigation District (LTRID) supplies supplemental water for district-wide crop irrigation to 104,000 acres in the Valley – 30,000 being permanent plantings." Nowhere, on its website does the LTRID state it currently provides any water to support urban residential or commercial development.

In summary, this Project is not consistent with key directives, goals and policies set forth in the CGP. A project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment. (*Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 378.) In this case, the adoption of the amendment to the Friant Community Plan and the adoption of the Friant Ranch Specific Plan will obstruct the fundamental policy directive of the

CGP to direct intensive development to cities, unincorporated communities, and other areas where public facilities and infrastructure are available, not to mention the other numerous CGP policies with which these plans will conflict. The County acknowledges that this Project has inconsistencies with the applicable land use plans, policies and regulations adopted for the purpose of avoiding or mitigating an environmental effect, and noted that such inconsistencies are potentially significant. (DEIR, p. 3-234). However, the County then concludes, without explanation, "[H]owever, the impact will be reduced to a less than significant level if the Project is approved. It is unclear how the approval of a project that is inconsistent with the CGP and other regulatory plans, when proposed, will somehow be transformed into one that is consistent with the CGP once adopted. This approach to analysis is inconsistent with State planning law CEQA and the jurisprudence interpreting these provisions. (*Ibid.*, at 378, *Corona-Norco Unified School Dist. v. City of Corona* (1993) 17 Cal.App.4th 985, 994.) The County is legally required to approve only projects that are consistent with its CGP. As such, it is legally compelled to deny this Project because of its inconsistency with its CGP.

Traffic Impact Analysis

The City also continues to have serious concerns about the validity of the traffic impact analysis in the EIR.

The City's traffic experts, Scott Mozier and Bryan Jones, have carefully reviewed the DEIR and FEIR for this Project. Mr. Mozier serves as City Engineer and Assistant Public Works Director for the City of Fresno. Mr. Mozier is licensed in the State of California as a civil engineer and traffic engineer, with over 17 years of experience in transportation project design, management and planning for numerous jurisdictions throughout the State including Caltrans, the County of Los Angeles, the City of Los Angeles, the County of Fresno, the City of Clovis, the City of Fresno, the Valley Transportation Authority of Santa Clara County, the City of Fremont and the City of San Jose. Mr. Mozier has overseen the City of Fresno's development impact fee programs for the past five years and has reviewed numerous traffic impact studies for new development as well as traffic operation studies for capital improvement projects. Bryan Jones is the City Traffic Engineer and Traffic Engineering Division Manager for the City of Fresno. His many responsibilities include overseeing the roadways, signs, traffic signals, roundabouts, traffic circles, street lights, transportation planning, traffic control plan review, street design plan checks, special permits, service requests, bicycle/pedestrian transportation, safe route to schools program, and the Intelligent Transportation System (ITS signal synchronization). Bryan has extensive experience in both public and private engineering and planning. He is a graduate of the University of California, Davis in Civil Engineering with an emphasis in Transportation and a minor in Communications. Bryan is currently the President of the Institute of Transportation Engineers (ITE) Central Valley Section, the Staff Director for the Bicycle and Pedestrian Advisory Committee (BPAC), and holds a professional engineering license in Traffic Engineering (TE), a Professional Transportation Planning (PTP) certificate, and American Institute of Certified Planners (AICP) membership. Both possess expert knowledge, both of traffic impact analysis under CEQA and of traffic and roadway conditions in the City of Fresno.

These City traffic experts strongly disagree with the EIR's characterization of existing conditions on the City streets that will be most used by Project traffic. The Project is expected to generate 22,343 Average Daily Trips, some 80% of which will use City streets. As the EIR recognizes, the Project would exacerbate traffic levels on City streets. Yet the EIR grossly understates the Project's impacts based on a baseline description that inaccurately characterizes Friant Road, Herndon Avenue, and Willow Avenue as operating at LOS A or B, when in fact most, if not all, of those roads are operating at LOS F (unacceptable) based upon the basic definition of LOS F in the Highway Capacity Manual and field observation by City's Traffic Engineer, Bryan Jones. The reason the analysis in the TIS for this Project related to these intersections is defective is that it focused on traffic being served by the intersection not the actual traffic demand at the intersection. When it takes 7-12 minutes of stop and go traffic to drive on Friant from Shepherd to SR41 in the AM peak hour the intersections and roadway are not operating at LOS A and B.

In addition, the trip generation assumptions used in the EIR's traffic analysis are not reasonable or supported with adequate evidence. The EIR assumes that peak hour trip generation for Project residences would only be approximately 25% of a typical single family home. The EIR bases this assumption on the Institute of Transportation Engineers Trip Generation Manual Code, which recommends a lower trip/dwelling unit assumption for "senior adult housing" than for more standard residential uses. However, this assumption is not reasonably applied to this Project. While the Friant Ranch Specific Plan indicates that the Project is primarily intended to house persons aged 55 or older, it further indicates that only 80% of occupied units will be required to house persons of that age, and even those units need contain only one person aged 55 or older. The City's opinion is that it is foreseeable that a considerable portion of the future population of the Project will be persons younger than 55, perhaps residing with an elderly relative. Such households would foreseeably include commuters (particularly in light of the Project's remoteness from places of employment) and parents with school-age children. In addition, as previously noted in this letter, persons older than 55 increasingly remain part of the workforce. In light of these considerations, it is unreasonable for the EIR to assume the low trip/dwelling unit number than is used in the EIR's traffic analysis.

The EIR's overly optimistic baseline description and assumptions about Project trip generation result in a gross understatement of the Project's impacts to traffic congestion in the City, and also understate the contribution of the Project to air quality impacts from vehicle emissions. Due to the remote location of this Project from jobs, schools and commercial retain, this Project will have more vehicle miles traveled (VMT) per trip than is assumed in the Fresno COG model. The increase in VMT has a direct correlation with poor air quality in the San Joaquin Valley Air Pollution Control District Central Valley who currently has the fifth worst non-attainment status in the nation. Standard modeling assumptions and procedures do not adequately reflect the air quality impacts of this project due to its remote location.

Furthermore, even aside from the problems with its basic assumptions, the EIR's traffic analysis does not properly take into account all types of movement on affected roadways in the City. The EIR's analysis of impacts to intersections along Friant Road and Willow Avenue is flawed, in that it only accounts for the traffic volumes served by the intersections during the peak

hour and does not account for the demand, freeway ramp metering, associated queues or lane utilization that will have a negative impact on intersection operations. The southbound loop on-ramp to SR 41 only allows for 1,200-1,500 vehicles per hour, so the two southbound lanes on Friant that serve the on-ramp movement cannot accommodate the 1,900 passenger cars per lane per hour assumption in the Synchro analysis. The EIR assumes these on-ramps will be able to accommodate 1,900 passenger cars per hour per lane of southbound Friant Road traffic. Traffic from this Project will displace existing traffic onto Nees Avenue, which will make an eastbound right-turn onto Friant to access SR 41. Furthermore, the existing southbound SR 41 loop on-ramp does not have adequate acceleration and merge area to allow merging of SR 41 southbound through traffic with the adjacent downstream SR 41 slip ramp on-ramp traffic. Both ramps are metered, which causes queues northbound and southbound on Friant. Those queues can cause gridlock on Friant Road intersections. Currently, queues on Friant are often backed up to the intersection with Shepherd Avenue; with this Project, the queues could back up past Shepherd.

In the opinion of the City's traffic experts, the EIR consultant team needs to perform travel time runs along the Friant corridor during the peak hours and measure queues at intersections. This consultant should also perform lane utilization calculations, ramp metering calculations, and saturation flow rate analysis for each lane on Friant Road during the peak hours. This consultant should also measure the number of vehicles that make it through an intersection versus those that want to get through the intersection but cannot due to downstream congestion and queues. Without such supplemental study, and without revisions to the EIR's erroneous baseline description and assumptions, the traffic analysis in the EIR is hopelessly flawed in violation of CEQA.

Traffic Impact Mitigation Measures

Furthermore, the City believes that many of the mitigation measures for the Project's significant impacts to City streets are inadequate under CEQA. In particular, as discussed below, the City feels that the County should require payment of the Project's fair share contribution to needed improvements to City streets to go directly to the City's existing capital improvement programs.

The EIR Improperly Fails To Require Mitigation For Impacts 3.13-7a, 3.13-7b, And 3.13-7d: The EIR improperly concludes that there is no feasible mitigation for the Project's significant traffic impacts to the intersections of Willow Avenue and Nees Avenue (Impact 3.13-7a), Willow Avenue and Herndon Avenue (Impact 3.13-7b), and Willow Avenue and Bullard Avenue (Impact 3.13-7d. On the basis of this finding of mitigation infeasibility, the EIR declines to require the applicant to provide any contribution to reducing or avoiding the Project's significant impacts to these intersections. This failure violates CEQA.

CEQA requires feasible mitigation of all significant impacts, including significant cumulative impacts. Feasible mitigation measures for a project's impacts to intersections or roadways that are outside the jurisdiction of the lead agency may include a fair share payment to the agency with jurisdiction over the affected intersections/roadways, provided that the agency with jurisdiction over those intersections/roadways has in place an enforceable plan to make the

needed improvements and is committed to implementing the plan. (See *City of Marina v. Board of Trustees* (2006) 39 Cal.App.4th 341.) The City of Fresno has established a Traffic Signal Mitigation Impact Fee ("TSMI") program and a Fresno Major Street Impact ("FMSI") fee program, each of which require projects with adverse impacts on City roadways to contribute their fair share toward implementing needed infrastructure improvements to reduce or avoid those impacts. As is acknowledged in the Traffic Impact Study ("TIS") for the Project, the City's TSMI program provides for developers to pay fair share fees to improve the Willow/Nees, Willow/Herndon, and Willow/Bullard intersections. ("Traffic Impact Study, Proposed Friant Ranch Project, prepared for Quad Knopf, Inc., dated October 28, 2009, page 23.) Thus, under *City of Marina,* a fair share payment to the City of Fresno's TSMI program is a feasible mitigation measure that the County must impose upon the Project, to mitigate its significant impacts to the Willow/Nees, Willow/Herndon, and Willow/Bullard intersections. Failure to impose such mitigation would violate CEQA.

The EIR Improperly Fails To Require Fair Share Mitigation For Impacts 3.13-6a, 3.13-6d And 3.13-6e To Be Paid Directly To The City: The EIR also provides inadequate mitigation for the Project's significant impacts to the intersections of Friant Road and Shepherd Avenue (Impact 3.13-6a) and Nees Avenue and Audubon Drive (Impact 3.13-6d), and to the segment of Friant Road between Champlain Avenue and Ft. Washington Road (Impact 3.13-6e). The EIR requires the Project applicant to pay a fair share of needed improvements to those intersections and that road segment. However, the EIR provides for mitigation funds to be paid to the *County*, and for the City to receive reimbursement only upon presentation of receipts for construction of the needed improvements. This arrangement is contrary to CEQA.

The City's TSMI program provides for collection of fees to construct improvements to the Friant/Shepherd and Nees/Audubon intersections. (See "City-Wide Traffic Signal Mitigation Impact Fee Nexus Analysis for Proposed Fee Update," prepared by City of Fresno, Public Works Department, dated August 29, 2008: Attachment A to this letter.) The City's FMSI program likewise provides for collection of fees to construct improvements to the segment of Friant Road between Champlain Avenue and Ft. Washington Road. (See "Draft Final Report, Major Street Impact Fee Program Nexus Study," prepared for the City of Fresno by Economic & Planning Systems, Inc., dated March 15, 2007, Appendix A: Attachment B to this letter.) Because the City has existing programs to which the Project applicant can directly contribute its fair share of funding needed improvements to those intersections and that road segment, the EIR's requirement that the Project applicant pay fair share mitigation to the County, rather than directly to the City, is inconsistent with *City of Marina*. That case held that CEQA may require a project proponent to enter into an agreement *with the agency having jurisdiction over significantly affected roadways outside the lead agency's jurisdiction*, if the affected agency has in place a capital improvement program and has committed to make the needed roadway improvements. Although *City of Marina* concerned a project undertaken by a public entity, the court noted that both public *and private* project applicants may be required to pay fair share mitigation directly to the agency with jurisdiction over impacted roadways. (See *City of Marina, supra,* 39 Cal.4th at 364, n. 15.)

Furthermore, the *Anderson First* case holds that a measure that requires fair share funding for roadway improvements may be inadequate if the measure does not "make [payment of the] fees part of a reasonable, *enforceable plan or program that is sufficiently tied to the actual mitigation* of the traffic impacts at issue." (*Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173.) The County, unlike the City, has no enforceable plan to improve roadways in the City's jurisdiction. The EIR's mitigation measures which require payment into a County holding fund rather than directly to the City, therefore, do not satisfy the requirement that mitigation payments go into an enforceable "plan or program" sufficiently tied to needed roadway improvements. The EIR should therefore replace its mitigation measures for Impacts 3.13-6d and 3.13-6e with measures requiring the applicant to enter into an agreement to pay its fair share contribution directly into the City's enforceable program to actually implement the needed improvements.

Additionally, *Anderson First* held inadequate mitigation that failed to require the project applicant to pay *both* an initial, lump-sum fair share payment for the first phase of construction, *and* also supplemental payments based on the ultimate cost of the finished improvements. (*Anderson First, supra,* 130 Cal.App.4th at 1189.) The EIR's mitigation measures for Impacts 3.13-6d and 3.13-6e would withhold from the City *all* of the Project's entire fair share contribution until *after* the City completes the needed improvements. The mitigation measures at issue should therefore be revised to provide the City with the Project applicant's fair share of needed "start-up" funding to implement the needed improvements.

The EIR Should Require Fair Share Mitigation For Impacts 3.13-7c, 3.13-7e, And 3.13-7f To Be Paid Directly To The City: The EIR also identifies significant impacts to the intersections of Willow Avenue and Sierra Avenue (Impact 3.13-7c), and Willow Avenue and Barstow Avenue (Impact 3.13-7e), and to Willow Avenue between Alluvial and Barstow Avenues (Impact 3.13-7f). The EIR declares mitigation to these intersections and road segments to be infeasible, even though the EIR recognizes that needed improvements have been planned or identified as needed by the City. The City does not currently have in place fee programs to fund the needed improvements at these locations, although it certainly could have so arranged had the County properly consulted with the City in preparing this EIR. The City is nevertheless willing to extend its capital improvement programs to cover these improvements, and requests the County to require the applicant to enter into an agreement with the City to provide its fair share of funding these improvements.

The EIR Fails To Adequately Support Its Conclusion That Mitigation For Impacts 3.13-6b, 3.13-6c, And 3.13-6f Is Infeasible: The EIR fails to provide adequate evidence to support its conclusion that no mitigation is feasible for significant impacts to the Friant Road and Audubon Drive intersection (Impact 3.13-6b), the Friant Road and Fresno Street intersection (Impact 3.13-6c) and the segment of Friant Road between Shepherd Avenue and SR 41 (Impact 3.13-6f). The EIR merely concludes that these intersections and segment have been constructed to the largest reasonable configuration and that no further improvements are feasible. These statements are not correct. The City has recently imposed mitigation measures on development projects to fund additional traffic lanes at both the Friant/Audubon and Friant/Fresno intersections [See Mitigation Measures Imposed on "Fresno 40" Project Attachment C to this

letter]. The City's General Plan identifies the need for a third westbound left turn lane and a third southbound through lane – although the EIR for the Friant Ranch now indicates that a second northbound right turn lane also needs to be constructed. Thus, the City has in place plans to improve the Friant/Audubon and Friant/Fresno intersections, and the segment of Friant Road between Shepherd Avenue and SR 41. The segment of Friant Road between Shepherd Avenue and SR 41 is also covered by the City's FMSI Program. (See "Draft Final Report, Major Street Impact Fee Program Nexus Study," prepared for the City of Fresno by Economic & Planning Systems, Inc., dated March 15, 2007, Appendix A.) The City requests the County to require the applicant to enter into an agreement with the City to provide its fair share of funding these improvements.

The EIR's Mitigation Measures For Impacts To Roadways Under The Jurisdiction Of The County, The County Of Madera, And Caltrans Are Inadequate Under CEQA: The EIR's mitigation measures requiring fair share payments to mitigate the Project's traffic impacts to roadways under the jurisdiction of the County of Fresno, the County of Madera, and Caltrans are inadequate under *City of Marina, Anderson First* and *Tracy First v. City of Tracy* (2009) 177 Cal.App.4th 912. Under those cases, mitigation requiring fair share payments for roadway improvements is not adequate unless it requires payment into a reasonable program which the applicable agency commits itself to implementing.

The EIR provides no evidence that the improvements it identifies as needed for Project impacts to roadways under the jurisdiction of the County, the County of Madera, or Caltrans will be improved under a reasonable *program* which the applicable agencies have committed themselves to implement. The EIR fails to show that the County has established any capital improvement program for funding or implementing the improvements which the EIR identifies as needed for roadways in the County. Although Caltrans collects a per trip fee to fund improvements to the interchange of SR 41 and Friant Road, the EIR fails to show that Caltrans has developed a plan to implement those improvements. And while the County of Madera has established a Road Impact Fee for improvements along SR 41 and at the intersection of Road 145 and Road 206, the EIR fails to show an existing capital improvement plan to fund and implement those improvements. Because these jurisdictions have not included the improvements identified as needed in the EIR in a capital improvement plan which they have committed to implementing, the EIR's requirement of fair share payments to these jurisdictions is inadequate as mitigation under CEQA.

<u>Water Supply Analysis</u>

Mitigation Measure 3.14.1 Fails To Provide Adequate Assurance Of Available Water Supply: The FEIR's response to City comment 19.132 mischaracterizes Mitigation Measure 3.14.1 and its effect to preclude development until an adequate water transfer agreement is executed and approved by WWI8, LTRID and the U.S. Bureau of Reclamation. Contrary to the statement in Response 19.32, the text of Mitigation Measure 3.14.1 does *not* require an approved agreement prior to approval of any tentative map. Instead, that measure does not require that the agreement be in place until prior to recordation of the final subdivision map. Although language has been added to Mitigation Measure 3.14.1 in the Mitigation

Monitoring and Reporting Program to state, "[a]pproval and execution of the water transfer agreement for the full project water amount shall be required prior to approval of any land use entitlements," the time for implementation is indicated as "[p]rior to recordation of a final subdivision map."

Therefore, before it approves the water transfer agreement, the County could approve tentative maps, including vesting tentative maps, and could also enter into a development agreement, that might afford the developer entitlement to development approvals. Mitigation Measure 3.14.1 therefore fails to ensure that no project entitlements will be granted until a final and fully approved water transfer agreement is in place.

Such a mitigation measure fails to meet the requirements of *Vineyard Area Citizens for Responsible Growth, et al., v. City of Rancho Cordova* (2007) 40 Cal.4th 412, which holds that the local agency be able to provide "firm assurances" of supply at the tentative subdivision map stage for a project with more than 500 residential units and be able to curtail development if sufficient water is not available for each phase of a project. Government Code Section 66473.7 provides a further basis for the requirement to identify sufficient water for the Project.

The EIR's Discussion Of The Water Transfer Agreement And Expansion Of WW18 Is Inadequate. In order to support adequate assessment of the likelihood of approval of the transfer agreement and availability of the additional CVP water for Project-specific water supply, the EIR must provide additional evaluation of U.S. Bureau of Reclamation (USBR) regulations and contractual requirements for approval of the proposed out-of-district water transfer by LTRID, and facts to establish whether the proposed transfer of CVP water meets those requirements.

As part of any approval of a future water transfer agreement by the USBR, the LTRID contract with USBR requires environmental evaluation of the proposed water transfer, including, "...as appropriate, an analysis of groundwater impacts and economic and social effects, including environmental justice, of the proposed water transfer on both transferor and transferee." (See DEIR Appendix B, Water Supply Assessment, Appendix C, p. 33.) The EIR suggests that the future environmental review of a WW18 and LTRID water transfer agreement will rely on the EIR for this Project. The EIR is inadequate to support such review, however, as it fails to provide adequate groundwater analysis and is devoid of analysis of economic and social impacts of the water transfer and/or the Project.

LAFCO approval will also be required for the large expansion of the boundaries of WW18. To facilitate LAFCO's review, the EIR should provide a discussion of LAFCO standards and how the Project conforms or does not conform with them, to permit LAFCO to assess the likelihood of the proposed water supply program being implemented.

Because the EIR claims to be sufficiently detailed to preclude the need for further project-specific environmental study for development within the Specific Plan Area and consistent with the Specific Plan, CEQA and the principles enunciated in *Vineyard* require more

certainty that a sufficient water supply is available to serve all development envisioned in the Friant Ranch Specific Plan.

The FEIR's Responses To City Comments 19.138, 19.139, And 19.162 – 164 Are Inadequate: The DEIR relies on LTRID's pre-1914 water rights for water from the Tule River as a supplemental water source in critical dry and multiple dry years. The City noted in its comment 19.139 on the DEIR that California Department of Water Resources (CDWR) water use surveys had not yet obtained the detailed surface water user data now required to be reported pursuant to SB7X8, to verify the legitimacy of LTRID's pre-1914 water rights. The response to Comment 19.138 notes that the pre-1914 water rights were recognized and quantified in a 1916 court case, *Poplar v. Howard*. However in a much more recent case, *Pleasant Valley Canal Co. v. Borror* (1998) 61 Cal.App.4th 742, the court noted that the intended scope of *Poplar* was obscure and difficult to determine. Thus, the assertion in the County's response that the *Poplar* decision is determinative is not accurate and leaves unchanged the need for further quantification based on current users. Because current Tule River users include those possessing riparian and/or appropriative rights, the rights can and have changed over time, depending on how use has changed. Thus, the *Poplar* decision is not conclusive as to LTRID's rights. The EIR must be revised to disclose additional information regarding CDWR's review and confirmation of those rights.

The fact that "No Tule River water supplies will be used within the Project Area [because] [t]he Project will receive CVP Friant Division Class 1 supplies stored in Millerton Lake in all years"(Response to City's Comment 19.139) does not mean that the Project's use of Tule River water to offset CVP Class 1 water contracted to other users is irrelevant, because Tule River water is needed to meet the South Valley commitments that would normally be met with the CVP Class 1 supplies transferred to WW18 for the Project. CDWR's confirmation of the continuing right to the pre-1914 water is essential to evaluation of alternative supply for Friant Ranch under Vineyard.

The response to Comment 19.139 also fails to adequately discuss recent water reform legislation, particularly SB7X 7, which requires a 20% state-wide reduction in urban per capita water use by the year 2020, with the interim goal of a 10% reduction by 2015. The response merely states that "the measure would affect the infrastructure and building details of the Project, not the interagency water agreement." Provisions of the LTRID contract with USBR require that in order to renew its USBR contract for CVP water beyond February, 2026, LTRID must have prepared and implemented a water conservation plan which meets federal criteria. (See DEIR, Appendix B, Water Supply Assessment, Appendix C, §2(b)(2).) Compliance with SB7X 7 is certainly relevant to this determination. The FEIR should more fully explain how its infrastructure and building details affect the amount of water required from WW18 and LTRID, in order to support its conclusion that an adequate water conservation program is in place and renewal of the LTRID contract for CVP water is warranted.

With respect to SB7X 8, the response to Comment 19.139 correctly notes that the legislation imposes heightened reporting requirements on diverters. What the response does not do is analyze what current reporting requirements are and how those might change under the new

legislation. In addition, SB7X 1 does more than just create the Delta Stewardship Council as noted in the response. The response states that the Project is not covered by this legislation because the Tule River is not a tributary to the Sacramento/San Joaquin Delta system. But the Tule River is only part of the water supply source for the Project; the San Joaquin River is part of the CVP, so the response needs to address whether the CVP Friant Division is impacted by SB7X 1.

In responding to the City's Comments 19.162 -- 164, the FEIR should have provided more detailed discussion of the untitled environmental document which the EIR apparently relies on to support its conclusion that LTRID's increased extraction of water from the Tule River would not cause significant cumulative impacts. (See DEIR, p. 5-17.) *Vineyard* restates and reinforces existing CEQA law which requires an EIR to clearly identify any outside sources the EIR relies upon as evidence, and to discuss the analysis and conclusions in those sources in a way that makes clear to the public and to decision makers what portions of the sources are used, and why they are important to the EIR's conclusions. The EIR's vague discussion of the unnamed document cited on DEIR page 5-17 does not satisfy these requirements. Particularly, given LRTID's policy of requiring use of groundwater to supplement the needs of its customers during dry years, the FEIR should have provided additional discussion of whether the District's supply of water to the Project may cause significant impacts on the District's groundwater basin.

Agricultural Impacts

CEQA requires that an EIR discuss feasible mitigation measures to avoid or substantially reduce a project's significant environmental impacts. (Guidelines 15126.4(a).) The DEIR and FEIR conclude that the project will have significant environmental impacts from rezoning over 900 acres of Agricultural land to urban uses, but contains no mitigation measures or any discussion of possible mitigation measures. Instead, the document simply concludes with no explanation that "no mitigation measures are available." In its December 15, 2009 comment letter, the City described several feasible mitigation measures that are commonly used to mitigate reduction and conversion of agricultural lands (conservation easements and/or Williamson Act contracts to protect lands currently used for agriculture). (Dec. 15, 2009 letter from Andrew Souza, City Manager, City of Fresno, p. 3.) If feasible mitigation measures are available, CEQA requires the lead agency to consider and implement them to reduce or eliminate significant environmental impacts. (Guidelines 15126.4(a).)

The County's response to this comment suggests that over 1,000 acres of agricultural lands (actually grazing lands) will be preserved via a conservation easement through implementation of Mitigation Measure Nos. 3.4.1d, 3.4.1e, 3.4.3a(1), 3.4.3a(2)(a) and 3.4.5. However, these mitigation measures do not in fact preserve a single acre of agricultural lands. These mitigation measures are mitigating impacts to biological resources. As such they are designed to minimize or avoid impacts on species protected under the state and/or federal Endangered Species Acts and require acres of vernal pool, wetland and other habitat for the California tiger salamander and the western spadefoot be protected from development. These acres are not agricultural land to be used for agricultural purposes or even agricultural land to be used for grazing. It is wholly disingenuous for the County to suggest that these mitigation

measures in any way mitigate the impacts on the significant loss of agriculturally zoned land because they do not.

The City also commented in its December 15, 2009 letter that the County ignored the significance of grazing land as farmland worthy of conservation. The City explained in detail the significant economic value of this land to the County and the Central Valley as a whole, which indisputably establishes that grazing land is "Farmland of Local Importance." The County improperly split the City's comments on grazing into individual statements to enable it to dismiss several comments (such as the economic value of grazing to the area) summarily by concluding that they did not address environmental issues. The County is wrong. Collectively, these comments present a significant environmental concern – the DEIR and FEIR fail to address the significant impacts on a grazing lands in the project area, which are Farmlands of Local Importance. CEQA requires the County to analyze these impacts. The County's failure to do so renders the document inadequate under CEQA.

In its December 15, 2009 comment letter, the City stated:

> "The EIR incorrectly concludes that the Project's conversion of agricultural land is consistent with the County General Plan. However, this agricultural land conversion violates central goals and policies of the General Plan to protect agricultural land, including Goal LU-A (promote long term conservation of productive and potentially productive agricultural land) and Policy LU-A.1 (County shall maintain agriculturally designated land for agricultural use and direct urban growth away from this land). The inconsistency with these policies is a significant environmental impact which requires mitigation."

The County's response to this comment ignores the letter and spirit of the General Plan which repeatedly reinforces the importance of agriculture to the County's future. The General Plan does not simply seek to minimize the loss of agricultural land, it seeks to improve and increase agricultural lands. For example, the General Plan requires the County to implement General Plan land use policies and programs to conserve agricultural land and to promote improved soil productivity. (General Plan ED-A.14.) It also calls for the County to maintain agriculturally-designated areas for agriculture use and to promote the long-term conservation of *potentially* productive agricultural land, which is land that is not currently useful for agricultural production but could be if the soil were improved or it was otherwise rehabilitated. (General Plan, LU-A.1, LU-A.) The General Plan also recognizes the County's goals to create jobs and regional prosperity by focusing on growing and improving its primary industry, agriculture. (General Plan, Chapter 2, Goals and Policies for Economic Development.) The courts have repeatedly acknowledged that the general plan is the "constitution for all future developments" and decisions affecting land use must be consistent with the general plan. (*See California Native Plant Society v. City of Rancho Cordova,* 172 Cal.App.4th 603, 636.)

The City's original comment is correct – the proposed project is inconsistent with the General Plan. This inconsistency must be accurately presented and analyzed in the document,

and mitigation measures must be implemented, to bring the EIR into compliance with CEQA on this issue.

Furthermore, the goals and policies in the General Plan which seek to increase the influence and importance of the County in the agricultural industry require the County to do more than the minimum of checking the designation of a particular area on the statewide farming maps to determine if the lands at issue have agricultural significance or potential value. As discussed in the City's December 15, 2009 comment letter, soils evaluation criteria such as the Storie index should have been utilized to evaluate the significance of impacts on agricultural lands. The County's response did not adequately address this issue. It concludes that the project area includes hilly terrain and sandy soils which generally receive low scores under the Storie index; therefore, use of such tools would have simply reinforced the conclusion that the site contains only unproductive agricultural lands. A conclusory statement which assumes the outcome of an analysis that was never undertaken is not sufficient under CEQA, which requires conclusions to be supported by substantial evidence in the record. (Guidelines 15093.)

Procedural Violations

The County Provided Inadequate Time For Public Review Of The DEIR: The County appears to have provided an inadequate public review period for the DEIR. According to the Notice of Preparation dated October 3, 2007, the period of public review period began on October 3, 2007 and ended on November 1, 2007. This was a period of 29 days. CEQA requires public review for a minimum of 30 days. (CEQA Guidelines Section 15082). The County's improperly short public review period appears to have violated CEQA.

Noticing Defects Preclude Approval Of The Project On December 7, 2010: In *Environmental Defense Project of Sierra County v. County of Sierra* (2008) 158 Cal.App.4th 877, the court held that rezoning actions heard by a Planning Commission or other recommending body must be separately noticed for subsequent action by the deciding body because Government Code §65094 requires as part of the necessary notice contents, "a general explanation of the matter to be heard." The court said this explanation must include the Planning Commission's recommendation, and that cannot be done until after the Planning Commission recommendation is made.

In this case, the County noticed the Planning Commission hearing on this Project (for October 7, 2010) and the Board of Supervisors hearing (for December 7, 2010) in a single notice. (Notice of Public Hearing, Attachment D to this letter.) The City, in inquiries to the County Department of Public Works and Planning, has ascertained that the County failed to separately notice the Board of Supervisors hearing, with an explanation of the Planning Commission's recommendation, after the Planning Commission took action on the Project. Therefore, the Board may not grant final approval to the Project at its December 7, 2010 hearing.

The Proposed Resolution Purporting To Approve The Two Zoning Amendments Violates State Law: The draft resolution purporting to amend the zoning map (Application 3751) and the Zoning Ordinance text (Application 363) clearly states that both amendments are

"approved" by the resolution. A separate draft ordinance adopting the zoning map changes (Application 3751) is included in the packet, but it does not include Application 363, which adds 8 subsections of detailed zoning regulations to the Ordinance Code of the County of Fresno. This attempt to amend a zoning ordinance by resolution would violate the procedural requirements for zoning amendments set out in Government Code Sections 65853-65856. Without the required ordinance for Application 363, the proposed rezoning is invalid.

In light of these procedural failings, the defects in the EIR identified in this letter and the City's comments on the DEIR, and the glaring inconsistency of this Project with the most fundamental directive of the County's own General Plan, the City respectfully requests this Board to deny this unwise Project

Sincerely,

JAMES C. SANCHEZ
City Attorney

Enclosures

cc: Mayor
Council
Mark Scott, City Manager
David P. Hale, Chief Assistant City Attorney
Bruce Rudd, Assistant City Attorney
John Dugan, Director of Development and Resource Management
Bryan Jones, City Traffic Engineer
Patrick Wiemiller, Director of Public Works
Scott Mozier, City Engineer

DPH:JWF/sah [54739sah/dph/jwf] 12-07-10

Exhibit C

City of
FRESNO

James C. Sanchez
City Attorney

February 1, 2011

HAND-DELIVERED TO CLERK AND BOARD OF SUPERVISORS

Supervisor Phil Larson, Chair
Supervisor Debbie Poochigian, Vice Chair
Supervisor Henry Perea
Supervisor Judy Case
Supervisor Susan Anderson
Fresno County Board of Supervisors
2281 Tulare Street, Room 301
Hall of Records
Fresno, CA 93721

Re: February 1, 2011 Board of Supervisors Meeting
2:00 PM Afternoon Session – Agenda Item 9
Certification of Environmental Impact Report and Related Approvals
Related to Friant Ranch Community Plan Update and Adoption of Friant Ranch Specific Plan

To the Honorable Chair and Board of Supervisors:

The City of Fresno submits this letter to again express its opposition to this project. The City has reviewed the responses prepared by the County's consultant, Quad Knopf (Exhibit 1, to County's Staff report for this Agenda Item), to the City's comment letter dated December 7, 2010 (Exhibit 1, to County's Staff report for this Agenda Item), and generally finds that the responses are inadequate and, in many cases, non-responsive. As such, the City stands by the comments and objections contained in its December 7, 2010 letter to the Board of Supervisors as well as its comment letter on the Draft Environmental Impact Report dated December 15, 2009 and asserts that the Final Environmental Impact Report is flawed and requires significant revisions. Furthermore, the City contends that, for the reasons set forth in the City's comment letters, if the County Board of Supervisors certifies this EIR and approves this project, it will have done so in violation of CEQA and will have abused its discretion as it will not have proceeded in a manner required by law and its approval is not supported by substantial evidence.

Furthermore, to provide additional substantial evidence in support of the City's comments that the traffic analysis performed for this project is flawed, the City's Traffic Engineer, Bryan Jones, TE, PTP, AICP, supervised the taking of the attached 11 photographs, numbered 1 through 11. According to Mr. Jones, these photographs were taken on December 17, 2010 between 7:30-7:50 AM, which the City of Fresno has determined to be the peak travel time for southbound Friant Road in the AM peak hour. Mr. Jones provides the following analysis as to what these photographs depict:

As can be seen on a number of photos the queues from the Friant/southbound SR 41 loop onramp, California Department of Transportation (Caltrans) ramp metering creates a significant impact to the capacity of all three southbound travel lanes on Friant Road. In effect, a parking lot occurs on Friant that often extends through multiple traffic signals to Shepherd Avenue. Caltrans reports that the southbound loop onramp capacity is approximately 1,200-1,500 vehicles per hour. However, the Traffic Impact Study (TIS) and Environmental Impact Report (EIR) assumed that all three southbound lanes were free-flow traffic conditions with a saturation flow rate of nearly 1,900 vehicles per lane. The 1,900 vehicles per lane is an assumption within the Highway Capacity Manual methodology that should only be used when queues from closely spaced intersections do not block or back up to adjacent intersection. Otherwise the saturation flow rate should be calculated by the Professional Traffic Engineer based on field measurements. Assuming 1,900 vehicle per lanes would require the southbound loop onramp to serve nearly 3,800 per hour or more than twice (almost three times) its current capacity.

As can be seen in these pictures, the number two and three southbound travel lanes (outside travel lanes) serve the southbound SR 41 loop onramp and the queues from this onramp back up and block the flow of traffic southbound on Friant Road. As a result, the number two and three lanes do not have a saturation flow rate of 1,900 vehicles per lane as those two lanes are served by ramp metering that only allows for 1,200-1,500 vehicles per hour (both lanes combined). The number one lane (closest to the median travel lane) serves all southbound Friant Road vehicle demand with a destination to the Nees Avenue/Blackstone/Friant intersection or beyond which occurs just past the freeway onramp. This number one lane is also utilized by motorists trying to bypass or jump the queue which often stop to get back into the queued number two lane and block the number one lane.

The queues and delays on Friant Road often result in motorists utilizing other roadway paths of travel to avoid this Friant/SR 41 interchange area so the extent of additional traffic from the proposed Friant Ranch is also not known on other roadways such as Audubon between Friant and Nees Avenue, Audubon/First between Friant and Nees Avenue, Millbrook between Shepherd and Nees Avenue, Nees between Millbrook and Blackstone Avenue and Colfax between Millbrook and Fresno that all receive spill over from the existing congestion on southbound Friant Road. The existing diversion of traffic is so extreme that motorists utilizing the northbound Friant travel lanes from Blackstone and Nees to access the southbound SR 41 slip ramp near In-and-Out Burger and Chick-Fil-A restaurants back up from the slip ramp well past the driveway on Nees Avenue westbound to the old Claim Jumper's restaurant. As a result, motorists often cut through that parking lot of all these restaurants to access the northbound Friant lanes. Any

additional traffic that was not assumed in the City of Fresno General Plan and the Fresno Council of Governments Regional Model would further exacerbate the impacts on Friant Road and adjacent roadways. The Fresno COG Model and the City's General Plan did not anticipate large scale County development as that information was not included in the County of Fresno General Plan. In addition, the traffic consultant did not modify trip distance assumptions within the model and utilized standard metropolitan region trip lengths that are not appropriate for such a remote project. This project will increase the Vehicle Miles Travelled (VMT) per trip. VMT increases have a negative impact on air quality in the San Joaquin Region and work directly against the SB 375/AB 32 mandates from the State of California to improve air quality. The San Joaquin Valley already has the fifth worst air quality basin in the nation and struggling to achieve the goals of SB 375/AB 32. This project is not a step in the right direction.

The City of Fresno has adopted City-wide impact fee programs to build out our circulation element including roadways and intersection traffic control such as traffic signals. The County of Fresno has not adopted a similar impact fee program for new development within the County of Fresno or to mitigate impacts from County development on City roadways and intersections. The County of Fresno continues to rely on determining a pro-rata share calculation which is contrary to court decisions establishing requirements for the payment of fees mitigate environmental impacts. Payment of such pro-rata calculations does not fully mitigate the impacts of the proposed project especially since the calculation of the pro-rata shares are based on flawed analysis and may never be constructed without an adopted impact fee program. Furthermore, the County has made no effort to establish a fee program associated with this project that would comply with the requirements of California law.

In short, as shown by these photographs, the analysis and mitigation in the TIS and EIR are flawed and do not accurately represent the real operational measures of quality of service or level of service that a motorists experiences on Friant Road. As a result, significant impacts cannot be accurately determined or mitigated and consequently the information being voted on by the County of Fresno Board of Supervisors is not fully disclosed, which is a requirement of the California Environmental Quality Act.

To provide the County Board of Supervisors with a picture of the monetary cost of the impacts to City streets caused by this proposed Friant Ranch project, City of Fresno Public Works staff performed a rough calculation of what this project would have been required to pay in Traffic Signal Mitigation Impact Fees ("TSMI") and Fresno Major Street Impact ("FMSI") fees had it been located within the City of Fresno. The calculation of the TSMI fee was based upon the trip generation rates utilized in the Traffic Impact Study for this project, which the City has already stated are inaccurate and flawed. Based upon this information and based upon the City's initial estimate that approximately 80 percent of the trips generated by this project will use

streets within the City of Fresno for within its sphere of influence, this project would currently be required to pay the following amounts: TSMI - $842,241.00, FMSI - $4,067,902.00, Total fees - $4,910,143.00. Again, these are rough estimates based upon what the City has established are inaccurate trip generation rates used for this project. However, it certainly establishes the magnitude of the impacts this project will have on the City's street system.

Both City Traffic Engineer Bryan Jones TE, PTP, AICP and Assistant Director of Public Works, Scott Mozier PE, TE offered to meet with County of Fresno Public Works and Planning staff prior to the February 1st meeting to discuss a resolution to our concerns, however that meeting was decided not to be necessary by County staff.

The San Joaquin Valley Air Pollution Control District encourages Valley citizens to "***Make one change,***" to make a difference and improve the air quality in the Valley. Similarly, the City encourages the County Board of Supervisors to avoid making a negative change, that will not only have a significant detrimental impact on valley air quality but will significantly impact the infrastructure and public services of neighboring communities and needlessly divert valuable water currently available for agricultural uses, to facilitate green-field, leap-frog development in the Friant community that does not have the infrastructure to support it. The City again urges the County Board of Supervisors to not approve the Friant Ranch Project.

Sincerely,

JOHN W. FOX
Senior Deputy City Attorney

Enclosures

cc: Mayor Swearengin
Fresno City Council
Mark Scott, City Manager
James C. Sanchez, City Attorney
David P. Hale, Chief Assistant City Attorney
Bruce Rudd, Assistant City Attorney
John Dugan, Director of Development and Resource Management
Bryan Jones, City Traffic Engineer
Patrick Wiemiller, Director of Public Works
Scott Mozier, City Engineer

DPH:JWF/sah [55148sah/dph/jwf] 02-01-11

Exhibit D

City of
FRESNO

James C. Sanchez
City Attorney

March 2, 2011

VIA PERSONAL DELIVERY AND FIRST CLASS MAIL

Bernice E. Seidel
Clerk to the Board of Supervisors
County of Fresno
2281 Tulare Street, Room 301
Fresno, CA. 93721

Victor E. Salazar, Fresno County Clerk
2221 Kern Street
Fresno CA 93721

Re: Notice of Commencement of CEQA Litigation Challenging Approval of the Friant Community Plan Update & Friant Ranch Specific Plan
CA File No. 8151-25

Dear Ms. Seidel and Mr. Salazar:

Pursuant to Public Resources Code section 21167.5, this letter serves to notify the County of Fresno and the Board of Supervisors of the County of Fresno that on or before March 7, 2011 the City of Fresno intends to file a Petition for Writ of Mandate in the Fresno County Superior Court, under the provisions of the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) and other statutes, challenging the Board of Supervisors' February 1, 2011 approval of the Friant Community Plan Update & Friant Ranch Specific Plan and associated approvals and actions (together referred to as the "Friant Ranch Project"), and its certification of the Environmental Impact Report for the Friant Ranch Project.

The petition alleges, among other things, that the County abused its discretion, failed to proceed in a manner required by law, and was in violation of CEQA and the CEQA guidelines with regard to the approval of the Friant Ranch Project and the certification of the Environmental Impact Report for the Friant Ranch Project. The petition further alleges violation of the State Planning and Zoning Law (Government Code § 65000, et seq.) and the California Water Code (Water Code § 10910, et seq). The Petition for Writ of Mandamus will seek a peremptory writ of mandamus, costs, and attorneys' fees.

Sincerely,

JOHN W. FOX
Senior Deputy City Attorney

cc: Kevin Briggs, County Counsel
Alan Weaver, Director of Public Works and Planning

JWF:sah [55353sah/jwf] 03/02/11

PROOF OF SERVICE
CCP §§ 1011, 1013, 1013a, 2015.5
FRCP 5(b)

STATE OF CALIFORNIA, COUNTY OF FRESNO

I am employed in the County of Fresno, State of California. I am over the age of 18 and not a party to the within action; my business address is 2600 Fresno Street, Fresno, CA 93721-3602.

On **March 2, 2011,** I served the document described as **NOTICE OF COMMENCEMENT OF CEQA LITIGATION CHALLENGING APPROVAL OF THE FRIANT COMMUNITY PLAN UPDATE & FRIANT RANCH SPECIFIC PLAN** on the interested parties in this action by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list: placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

Bernice E. Seidel
Clerk to the Board of Supervisors
County of Fresno
2281 Tulare Street, Room 301
Fresno, CA. 93721

Victor E. Salazar, Fresno County Clerk
2221 Kern Street
Fresno CA 93721

Alan Weaver, Director of Public Works and Planning
County of Fresno
2220 Tulare Street, 6th floor
Fresno, CA 93721

Kevin Briggs, County Counsel
County of Fresno
2220 Tulare Street, Ste. 500
Fresno, CA 93721

■ BY MAIL I deposited such envelope in the mail at Fresno, California. The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Fresno, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

■ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

□ (BY FAX) I caused the above-referenced document to be transmitted by fax to the addressee(s) at the fax number(s) shown.

□ BY OVERNIGHT COURIER) I caused the above-referenced envelope(s) to be delivered to an overnight courier service for delivery to the addressee(s).

Executed on **March 2, 2011,** at Fresno, California.

I declare under penalty of perjury under the laws of the State of California That the above is true and correct.

Shari Herbold

AGENDA ITEM NO. 14

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Oakland, California 94607
tel 510.808.2000
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www.meyersnave.com

Timothy D. Cremin
Attorney at Law
tcremin@meyersnave.com

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September 26, 2011

Via E-mail and Facsimile

Chairman and Commissioners of the Fresno
Local Agency Formation Commission
Fresno Local Agency Formation Commission
2115 Kern Street, Suite 310
Fresno, CA 93721

Re: **Commission Meeting – September 28, 2011**
Fresno County Waterworks District 18 Approvals
Items 14 A, B, C and D
Consideration of Municipal Services Review, Sphere of Influence Revisions, Friant Ranch Annexation, and Extension of Powers (Sewer)

Dear Chairman and Commissioners of the Fresno Local Agency Formation Commission:

This letter is submitted on behalf of our client, the City of Fresno. The City of Fresno hereby objects to the recommended approval of certain actions relating to the expansion of Fresno County Waterworks District 18's ("District") boundaries and services including the following: Municipal Services Review, Sphere of Influence Revisions, Friant Ranch Annexation, and Extension of Powers (Sewer) (collectively "Actions" or "Proposal"). This letter addresses the information in the Executive Officer's Report for the September 28, 2011 meeting ("Sept 28th Report" or "Report"). The City believes that the objections raised in its prior letter to the Commission on this matter, dated August 23, 2011 ("August 23rd Letter"), have not been adequately addressed. Therefore, the City incorporates herein by reference all the objections raised in its August 23rd Letter.

The Actions largely relate to allowing the District to provide services to the recently approved Friant Ranch Project ("Project"). However, they also allow the District to provide new services within its existing boundaries for sewer treatment and disposal. As explained in more detail below, the City of Fresno ("City") objects to the approval of the Actions because they violate applicable law, including, but not limited to, the California Environmental Quality Act ("CEQA") and the Cortese-Knox-Hertzberg Local Government Reorganization Act ("CKH"). In particular, the Friant Ranch environmental impact report ("County EIR"), which the Commission relies upon for the Actions, is legally deficient and subject to three pending lawsuits challenging its compliance with CEQA. The proposed Commission action also does not comply with the CEQA requirements for responsible agency actions. The Commission Actions also do not comply with CKH which governs its actions. Therefore, the City respectfully requests that the Commission not approve the Actions.

The City requests that this letter be included as part of the record on the Actions. The City also requests that the Commission provide written notice to the City of any future Commission hearings or meeting relating to the Actions, Fresno County Waterworks District 18 and the Friant Ranch Project.

A. Commission Approval of Actions Would Violate CEQA

The Sept 28th Report does not cure the violations of CEQA in the proposed Commission approval of the Actions. As discussed in the August 23rd Letter, the County EIR is fundamentally flawed. The Commission CEQA actions and findings incorporate the County EIR and CEQA findings that are being litigated in Court. With this approach, the Commission Actions incorporate all the flaws in the County EIR and CEQA findings. Given the inadequacy of the County EIR, the Commission as responsible agency, is required to either prepare a supplemental EIR or assume the role of lead agency for the Actions. (CEQA Guidelines § 15096.)

The proposed CEQA findings for the Actions are inadequate under CEQA. The "new" findings included in the Sept 28th Report mirror the CEQA findings made by the County. Therefore, they have all the deficiencies that the County findings have, as described in the August 23rd Letter (See attachments to Letter). In addition, the repeated finding that the mitigation measures are "in the control of another agency" is improper. As a responsible agency, the Commission is required to make findings for each significant effect of the project. (CEQA Guidelines § 15096(h).) In particular, it is required to mitigate or avoid "the direct or indirect environmental effects of those parts of the Project which it decides to carry out, finance or approve." (CEQA Guidelines § 15096(g)(1).) The Commission is required to "adopt any feasible alternative or mitigation measure that would lessen or avoid a significant impact." (CEQA Guidelines § 15096(g)(2).) The proposed CEQA findings completely fail to do this. The Commission must make more detailed findings and adopt feasible mitigation measures or alternatives to reduce the impacts from the project that it is approving. These include, but are not limited to, impacts on utilities and service systems for the provision of water and wastewater services, the biological impacts of the wastewater treatment plant and disposal of effluent, and the loss of agricultural land due to urbanization authorized under the annexation. In addition to these Project-level impacts, the Commission should make particular findings and adopt mitigations for the cumulative impacts in these and other areas.

The Commission must carefully consider feasible mitigation measures and alternatives for the numerous significant and unavoidable impacts identified in the findings for which a Statement of Overriding Considerations is adopted. The adoption of a Statement of Overriding Considerations requires a finding that there are no available feasible mitigation measures and alternatives to reduce the impact to less than significant. The proposed findings do not even address feasibility of mitigations and alternatives. The "Alternative" mentioned in the findings (496 acres of developable area as opposed to the originally proposed 667 acres) is not even applicable to the Actions. The Actions include annexation of 520 acres, which is a larger area than the so-called reduced development area of 496 acres approved by the County. The findings do not address the impact of inclusion of these additional 24 acres of open space in the annexation and where those 24 acres are located. Furthermore, there is no evidence in the

record to support the so-called benefits that will result from the Commission's action and override the significant adverse environmental effects. Given the Commission's position on the "narrowness" of its Actions, there is no evidence that any of these benefits would result from the Commission's Actions.

The City also objects to the two CEQA exemptions referenced in the Report. The exemption for information collection (CEQA Guidelines § 15306) is not applicable to the adoption of the Municipal Services Review. CEQA Guideline § 15306 specifically states that it only applies "strictly for information gathering purposes, or as part of a study leading to an action which a public agency has **not** yet approved, adopted or funded (emphasis added)." Since the Commission will be approving and adopting the Municipal Services Review as a formal action, the exemption clearly does not apply. The Class 19 exemption does not apply to the requirement to provide wastewater services to the Millerton Lake Village Mobile Home Park (CEQA Guidelines § 15319.) The Class 19 exemption only applies to annexations "containing existing public or private structures developed to a density allowed by the current zoning . . . provided, however, that the extension of utility services to existing facilities would have a capacity to serve only the existing facilities". The action relating to Millerton Lake Village Mobile Home Park does not meet either of these criteria. The annexation area does not contain "existing structures . . . developed to a density allowed by current zoning". The capacity of the proposed wastewater treatment plant would greatly exceed the need of the Mobile Home Park and the current capacity of the wastewater disposal facility serving the Park.

B. Commission Approval of Actions Would Violate CKH

Overall, the Sept 28th Report does not address the concerns raised in the August 23rd Letter. The Report does not contain facts to support the policy standards applicable to the Commission's decision. In particular, it contains insufficient factual information to support consistency with the fundamental policy for urban growth under the County General Plan - to limit new urban growth to cities and existing unincorporated communities where public facilities and infrastructure are available. On its face, the expansion of "an existing unincorporated community" by over 12 times its "existing" size (200 to 2500 homes) is not growth within an existing community. It is development of a new city outside urban boundaries. The Friant Ranch development also does not have any available public facilities or infrastructure to serve its needs. This is evidenced by the Actions before the Commission and the need for a new large wastewater treatment facility and expansion of a water treatment plant. The Project is classic leapfrog development. The Report concedes this point in its response to whether there are alternatives to the District for establishing new services- "Given the distance of the Friant Community from other developed areas and the lack of [existing] capacity to serve the projected development project, there are no . . . alternatives to authorizing [the District] to provide the desired [urban] services." (Report, p. 8.)

The Plan for Services does not satisfy the requirement that the District submit a Plan. Also, the Plan for Services is inadequate because it does not address the provision of water services to a much broader area with a greatly increased demand. Similarly, the Financial Plan does not provide enough detail and information on the availability of funding to build and maintain the

significant and costly infrastructure needed to provide services to the Friant Ranch Project area and its residents.

The letter from the County Auditor-Controller does not constitute compliance with Revenue and Taxation Code § 99. The Commission has not complied with the procedural requirements under that Section. Revenue and Taxation Code § 99 requires that the issue of property tax exchange be addressed before the application is accepted. Because Section 99 was not complied with, the Commission lacks jurisdiction to hear the annexation application. The fact that a special district does not currently receive any part of the property tax share does not alter the requirements under Revenue and Taxation Code § 99. The County Board of Supervisors can still choose to allocate property tax revenues to special districts in the territory to be annexed. The District Board also can demand a portion of the property tax increment pursuant to Section 99.01.

C. Conclusion

As evidenced by its lawsuit, the City is concerned about the significant environmental impacts of the Friant Ranch Project and the failure to adequately analyze and mitigate these impacts under CEQA. The Commission's proposed actions will result in significant impacts through the provision of expanded water and wastewater services by the District in its existing and expanded boundaries. The environmental impacts of the approval of these Actions have not been properly analyzed and mitigated under CEQA. The Commission has not complied with the CEQA requirements to act as a responsible agency under the Friant Ranch EIR and the proposed CEQA findings are inadequate. The approval of the Actions also would not comply with CKH. There is inadequate analysis of the factors that the Commission is required to consider. The Actions are inconsistent with the statutory factors. Therefore, we urge the Commission not to approve the Actions.

We appreciate the Commission's consideration of the important issues raised by the City in this letter.

Very truly yours,

Timothy D. Cremin

TDC:cs
c: Jeff Witte, Fresno County LAFCO Executive Officer
Kenneth Price, County LAFCO Counsel
Dan Pearce, District Manager
Neal Costanzo, District Counsel, Costanzo & Associates
Mark Scott, City Manager, City of Fresno
James Sanchez, City Attorney, City of Fresno
David Hale, City Attorney's Office, City of Fresno
John Fox, City Attorney's Office, City of Fresno

Pucheu LAW
A Professional Corporation

6495 N. Palm Avenue, Suite 103 • Fresno, California 93704
559.261.2112 • 559.261.2117 (F)

September 22, 2011

Via Hand Delivery and Electronic Mail

Chairman and Commissioners
Fresno Local Agency Formation Commission
2115 Kern Street, Suite 310
Fresno, CA 93721

Re: Fresno County Waterworks District 18 (WWD 18) Sphere of Influence Revisions, Annexation, and Extension of Powers Related to the Friant Ranch Specific Plan (Project)

Dear Chairman and Commissioners:

On behalf of Friant Ranch, L.P. (Friant Ranch), this firm has reviewed the comments submitted by City of Fresno (City) on August 23, 2011 (City Comments) related to the above-described actions (WWD 18 Actions). The allegations set forth in the City Comments attempt to confuse the WWD 18 Actions and related facts. At the request of your staff and counsel, this letter responds to the City Comments and provides the Fresno Local Agency Formation Commission (Commission) with requisite clarifications and pertinent information to inform your decision on the WWD 18 Actions. Friant Ranch, the primary landowner within the subject area, respectfully requests that the Commission consider the information set forth herein pursuant to Government Code section 56668(m).

On February 1, 2011, the County of Fresno (County) certified the Friant Community Plan Update and Friant Ranch Specific Plan Environmental Impact Report, State Clearing House No. 2007101016 (Certified EIR) and approved the Friant Community Plan Update and Friant Ranch Specific Plan providing for residential and commercial development within the area subject to the WWD 18 Actions (Annexation Area). By and through such approvals, the County acknowledged the need for the Project. The County recognized that the Project provides trails to enhance the area's recreational amenities, ideal housing for a growing active adult (55+) population, and private investment in state of the art infrastructure to expand the existing, longstanding Friant community. The City inappropriately coins this Project as leapfrog development. In fact, the Project has been specifically designed to revitalize an existing, unincorporated community. The administrative record before the County contains substantial evidence to support the County's findings and the environmental determinations in the Certified EIR.

For background and to assist the Commission in making requisite findings and determinations under the California Environmental Quality Act, Pub. Resources Code, section 21000 et seq. (CEQA) and Cortese-Knox-Hertzberg, Gov. Code, sections 56000 et seq. (Cortese-Knox), enclosed are the following pertinent documents:

Exhibit A	Contract Between the United States and Lower Tule River Irrigation District Providing for Project Water Service from Friant Division and for Facilities Repayment
Exhibit B	Option and Long-Term Transfer Agreement Between Lower Tule River Irrigation District and Waterworks District 18
Exhibit C	County of Fresno, Final Friant Community Plan Update and Friant Ranch Specific Plan Environmental Impact Report, Responses to Comment Letter 19 (City of Fresno) and Related Responses
Exhibit D	County of Fresno Responses to December 7, 2010 City of Fresno Comment Letter included within County of Fresno, Staff Report for February 1, 2011 Board of Supervisors Hearing
Exhibit E	Waterworks District 18 Strategic Plan
Exhibit F	Economic and Planning Systems, Inc., Friant Ranch Economic Benefit Analysis
Exhibit G	Economic and Planning Systems, Inc., Friant Ranch Fiscal Impact Study
Exhibit H	United States Bureau of Reclamation, Central Valley Project Allocation Data, Water Years 2005 - 2011 (downloaded from www.usbr.gov in September 2011)
Exhibit I	Prime Agricultural Lands in the Vicinity of Urban Growth

Relying on the above-referenced documents, the following discussion: (1) demonstrates the reliability of the permanent water supply identified by WWD 18 to serve the Project; (2) explains the benefit of the WWD 18 Actions to the existing Friant Ranch community and the surrounding agricultural open space; (3) provides additional information about the WWD 18 Actions and the Project to inform the Commission's findings; (4) summarizes the CEQA requirements related to the Commission's reliance on the Certified EIR; and (5) addresses WWD 18's ability to provide water and wastewater services to the Project.

A. WWD 18 Has Identified A Permanent, Reliable, Local Water Supply.

In March 2011, relying on the Certified EIR, Lower Tule River Irrigation District (LTRID) and WWD 18 approved and executed an Option and Long-Term Transfer Agreement Between Lower Tule River Irrigation District and Waterworks District 18. (Water Supply Agreement). (See Exh. B.) The Water Supply Agreement permanently

obligates LTRID to provide Central Valley Project (CVP), Friant Division Class 1 water supplies to WWD 18 to serve the Annexation Area. (Exh. B.)

1. WWD 18 Contracted With LTRID For Local, Fresno County Water Supplies.

The City alleges that WWD 18 proposes to "import" water from another watershed to serve the Annexation Area. (City Comments at p. 2.) As explained in the Certified EIR and supporting documents, the proposed water supply for the Project comes from the same source as WWD 18's current supplies—water that the United States Bureau of Reclamation (Reclamation) stores behind Friant Dam in Millerton Lake through the CVP, Friant Division. (Exh. C, Response to Comment 19.1; certified EIR, Exh. B thereto [Water Supply Assessment] at pp. ES-1 – ES-2.) The water subject to the Water Supply Agreement has historically been exported out of Fresno County, to Tulare and Kern Counties, via the Friant Kern Canal. (See Exh. A, internal Exh. B thereto; see also Exh. B at p. 1.) Under the Water Supply Agreement, however, the CVP, Friant Division Class 1 water supply (originating in Fresno County) would be released from an existing pipe at the base of Friant Dam directly to the WWD 18 water treatment plant. (Certified EIR, FEIR, at p. 2-30; Exh. B at p. 2.)

As such, the local, CVP Friant Division water supply stored by Reclamation in the immediate Project vicinity will serve the Annexation Area.

2. The Certified EIR Appropriately Calculated Expected Water Demand.

Relying on the Water Supply Assessment, the Certified EIR appropriately concluded that water supply subject to the Water Supply Agreement will meet the Project demands, over the required 20-year planning horizon, in normal, critically dry, and multiple dry years. (Water Supply Assessment at p. ES-3.) The Water Supply Assessment calculated the water supply demand resulting from the Project, in addition to the existing and planned future uses within the WWD 18 Service Area. (Water Supply Assessment at pp. 22-28.)

In calculating such demand, the Water Supply Assessment applied historic demand rates from local cities like Clovis. (Exh. D at p.29, Response to ¶ 3 of Comment 5-26; see also Friant Ranch Infrastructure Master Plan at p. 13.) Contrary to the City's allegations that the active adult (55+) nature of the Project was inappropriately used to reduce expected demands, the Water Supply Assessment states:

> These [water demand] factors have *not* been adjusted for the much-lower average occupancy of each unit in an age-restricted 55+ active adult community such as the Project. Approximately, two-thirds of domestic water is for external use. Lower average occupancy has *not* been factored into these tables, as a measure of conservatism. (Water Supply Assessment at p. 22, emphasis added; see also Certified EIR, DEIR at p. 3-351; cf. City Comments at 3.)

In addition, the Water Supply Assessment analyzed potential water supply demand of a considerably larger project than the "Alternative 3" development configuration approved by the County. (See Water Supply Assessment [analyzing potential demand of 2,996 residential units within Friant Ranch Specific Plan area]; cf. Friant Ranch Specific Plan [planning for 2,500 residential units within Friant Ranch Specific Plan area].) Total water demand under Alternative 3 is just 1,093 acre-feet, a reduction of almost 400 acre-feet from the demand estimate analyzed in the Water Supply Assessment. (Friant Ranch Infrastructure Master Plan at p. 14.) Alternative 3 significantly lessens the Project's water demand, and increases the margin of safety provided by the Water Supply Agreement.

Thus, the Certified EIR appropriately considered WWD 18's reasonable water demand estimates for development within the Annexation Area.

3. WWD 18 Has Appropriately Addressed Water Supply Uncertainties.

The Water Supply Assessment explained, and the Certified EIR considered, all potential uncertainties related to the proposed water supply and WWD 18's plan for addressing those uncertainties. (Certified EIR, DEIR at pp. 355-356.) After analyzing potential uncertainties, the Water Supply Assessment appropriately concludes that the proposed water supply will be adequate. In particular, Reclamation has typically provided over 94% of contracted Friant Division CVP Class 1 supplies annually. (Exh. C, Response to Comment 19.132; see also Water Supply Assessment at p. 15 [explaining average Class 1 water supply allotment from 1966 to 2006 was 94%].) Further, Reclamation has made available 100% of LTRID's contracted CVP Friant Division Class 1 supplies for water year 2008, 2009, 2010 and 2011. (See Exh. H.)

The City Comments inappropriately suggest that the Commission cannot act without Reclamation approval of the Water Supply Agreement. (City Comments at p. 4.) The Certified EIR and Water Supply Assessment disclose the need for Reclamation approval of the Water Supply Agreement. (Certified EIR, DEIR at pp. 2-30, 355-356; see also Water Supply Assessment at p. ES-3; Exh. C, Response to Comment 19.11.) WWD 18, LTRID, and Friant Ranch representatives have been consulting with Reclamation throughout the course of the entitlement process in pursuit of the requisite Reclamation approvals. Land use and water supply planning, by their very nature, must move forward as parallel processes, and the remaining need for Reclamation approval of the Water Supply Agreement is a reasonable condition at this stage in the development process. (See e.g., Gov. Code § 66473.7, discussed *infra* at D.3.)

The County addressed any potential uncertainty caused by the pending Reclamation approval by including mitigation to ensure that no development can take place within the Annexation Area until Reclamation approves the Water Supply Agreement. (Certified EIR, DEIR at p. 3-356.) Mitigation measure 3.14.1 requires WWD 18 to secure Reclamation approval of the Water Supply Assessment prior to approval of any tentative map within the Annexation Area. (Fresno County Board of Supervisors, Resolution 11-031, Exh. A thereto [Mitigation Monitoring Program] at p. 101.) Thus, mitigation

measure 3.14.1 ensures that the Specific Plan development cannot proceed until final Reclamation approval of the Water Supply Agreement. (Exh. C, Responses to Comments 19.132 and 32.18.)

The Certified EIR acknowledged that State law provides additional safeguards by requiring the County to obtain a water supply verification from a water purveyor capable of serving the Project prior to issuing a tentative map for 500 or more residential units (or the equivalent). (Gov. Code, § 66473.7; Certified EIR at p. 3-333.) The water supply verification must ensure that sufficient water supplies are available to serve the Project in single dry, multiple dry, and normal water years. (*Ibid.*) The requirement that water supply be further verified prior to the County's approval of any large tentative maps for the Project provides additional assurance that development cannot proceed without proving that adequate supplies are available. (Exh. C, Response to Comment 16.5.)

As such, state law and mitigation adopted by the County will ensure that WWD 18 has secured the identified reliable water supply prior to tentative map approval allowing development within the Annexation Area.

4. LTRID's Permanent Reclamation Contract Strengthens Reliability.

As forecasted in the Certified EIR, in November 2010, LTRID entered into the Contract Between the United States and Lower Tule River Irrigation District Providing for Project Water Service from Friant Division and for Facilities Repayment (Repayment Contract). (Exh. A [Repayment Contract]; see Exh. C, Response to Comment 19.132 at (4).) LTRID paid off the remaining repayment obligation owed to Reclamation such that the Repayment Contract gives LTRID a "permanent right" to its proportionate share of the Friant Division water supplies. (Repayment Contract at Recital h and Article 3(a)-(b).) By its terms, the Water Transfer Agreement remains in effect for the duration of the Repayment Contract. (Exh. B.)

Therefore, by and through the Water Supply Agreement, WWD 18 has a permanent, reliable supply of water to serve the Friant Ranch development. The identified supply and related assurances provided in the Certified EIR satisfy Commission requirements concerning "timely" availability of water supplies. (Gov. Code, § 65352.5.)

B. ANNEXATION AREA IS LOGICAL, TIMELY EXTENSION OF WWD 18 SERVICE AREA.

1. The Annexation Area is Proximate to a Populated, Unincorporated Community.

The Annexation Area is immediately adjacent to the existing service area of WWD 18, and abuts the 1983 Friant Community Plan Area. (Certified EIR, DEIR at pp. 2-5 and 2-16.) Portions of the Annexation Area lie within the 1983 Friant Community Plan Area. (*Ibid.*) Some of the lands within the Annexation Area were zoned and designated for commercial and residential uses during the 1964 and 1983 Community Planning efforts. (See Exh. C, Response to Comment 19.16; see also Certified EIR, FEIR at p. 2-5,

Figure 2-4.) Further, approximately 80 acres of the Annexation Area fall within the Fresno County Friant Redevelopment Area. (Certified EIR, FEIR at p.2-7, Figure 2-5.)

Pursuant to the Friant Community Plan Update, the County has included the entire Annexation Area within the Friant Community Plan area. (Friant Community Plan Update at UC p 4-21.) The County zoned all lands within the Annexation Area for residential and commercial uses. (See Friant Ranch Zoning Regulations, Fresno County Zoning Ordinance §§ 840.B et seq.) As such, the Annexation Area is proximate to, and a logical extension of, the populated area comprising the unincorporated community of Friant. (Exh. C, Response to Comment 19.16.) The location of the Annexation Area immediately adjacent to the existing community will facilitate the Friant Redevelopment Plan goal of reviving the unincorporated area, and will also improve the public facilities and infrastructure available to the existing community. *(Id.)*

Thus, the proposed development immediately adjacent to the WWD 18 current service area and the existing community of Friant promotes planned, orderly and efficient development of this populated area of unincorporated Fresno County.

2. <u>The Project is Consistent With Longstanding Plans for Growth in Friant.</u>

The Friant community is one of the oldest communities in Fresno County and has long been considered a legitimate growth area by the County. (Friant Ranch Specific Plan at p. 12, § 1.8.2.) The 1983 Community Plan assumed growth would occur within the Friant area, but noted the following requisite conditions to facilitate the desired growth: (1) a large increase in area development opportunities; (2) successful promotion of the community as a desirable place in which to live for retirees or commuters; and (3) a large increase in the use of recreational facilities in the Friant area. (1983 Community Plan at § 3.01a.) The 2011 Friant Community Plan Update acknowledges that growth is needed to meet the County goals for the Friant area. (2011 Friant Community Plan Update at pp. UCP 4-1, UCP 4-29 – UCP 4-32.) Further, the General Plan population projections estimate that the Unincorporated East Valley, of which the Friant Community Plan Area is a part, will grow from 87,705 people in 1996 to 101,542 people in 2020, an increase of 13,837 people. (Fresno County General Plan, Table A-1 of Appendix A.) The Annexation Area will accommodate a portion of this anticipated growth.

The Certified EIR unequivocally determines that the Project is consistent with County goals and policies relating to the timing and location of growth, preservation of agricultural resources, and public facilities and services. (Certified EIR, DEIR at p. 3-255 and FEIR revisions thereto.) The Fresno County General Plan directs intensive development to unincorporated communities. (Fresno County General Plan, p. 2-33.) The Project is consistent with Fresno County and Commission policies for growth because "public facilities and infrastructure are available or can be expanded." (Certified EIR, DEIR at p. 3-22; see Friant Ranch Infrastructure Master Plan; see Exh. G [WWD 18 Strategic Plan]; Fresno County General Plan, Policy LU-G.23 ["County shall ensure

that the expansion of unincorporated communities can be provided with necessary public services and such expansion is consistent with other General Plan policies"].)

The Fresno County General Plan contemplates potential new growth areas in the Friant-Millerton Area and recognizes that it is an area void of productive agricultural soils. (Exh. C, Response to Comment 19.73.) The Annexation Area is within the area depicted as residential growth area in the General Plan, outside the area's productive agricultural land. (General Plan, Exh. LU-5; Certified EIR, DEIR at p. 3-232.) Several neighborhoods surround the Annexation Area, and planned or existing developments in the area include Millerton New Town, Brighton Crest, and Table Mountain Casino. (Exh. C, Response to Comment 32.12; see also Friant Ranch Specific Plan at pp. 14-15.)

Therefore, contrary to City's contentions about leapfrog development, growth within the annexation area is consistent with longstanding planning documents identifying Friant as a growth area.

3. The Annexation Area Does Not Contain Prime Agricultural Lands.

The Friant Community Plan Update and Friant Ranch Specific Plan protect prime agricultural land by directing growth to the non-prime agricultural lands within the Annexation Area. (Gov. Code, 56377(b) ["[d]evelopment or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands"].) In fact, State law and Commission Policy direct that the Commission "shall be guided towards areas containing non-prime agricultural lands," such as the Annexation Area. (Commission Policy at 104-02; see also Gov. Code, § 56377.)

The WWD 18 Actions do not involve "prime agricultural lands" as defined by state law and the Commission Policy:

- The Annexation Area is not currently located in an irrigation or water district having a sufficient water allocation, and the groundwater is not of sufficient quantity to support irrigation. (Certified EIR at p. 3-205; Gov. Code, 56054; see also Commission Policy 005-06B.)

- The Annexation Area does not qualify for rating as Class I or Class II in the Soil Conservation Land Use Capability Classification. (Gov. Code, 56054; see also Commission Policy 005-06C(1); see Exh. C, Response to Comment 18.3; Certified EIR, DEIR at pp. 3-15, 3-18 [demonstrating that non-prime farmlands do not contain Class 1 and Class 2 soils].)

- The Annexation Area is non-irrigated rangeland suitable for seasonal grazing, and cannot support one animal unit per acre due to current topography, soil structure, and water supplies. The Annexation Area does not have the requisite natural resources sufficient to support fruit or nut-bearing trees, vines, bushes, or crops. (Exh. C at Response to Comment 18.3; cf. Commission Policy 005-06C(2)(a), 005-06C(2)(c).)

The Certified EIR provides extensive additional evidence and analysis explaining why the Project does not affect valuable or productive agricultural land. (Exh. C, Responses to Comments 18.3,19.16, 19.73, 19.150; see also Friant Ranch Specific Plan at pp. 113-114.) In sum, the Certified EIR applied the significance thresholds set forth in CEQA Guidelines Appendix G to determine that the "conversion of 'non-prime and non-important agricultural land' resulted in no significant impact to agricultural resources. (Exh. C, Response to Comment 18.3; see also Certified EIR, DEIR at p. 3-23.) The Certified EIR further relies on the Fresno County General Plan goals and policies to support its determination that the Project would not result in significant impacts to prime agricultural lands. (Exh. C, Response to Comment 18.3.)

Accordingly, development within the Annexation Area—non-prime agricultural land—is consistent with the Commission's policies encouraging orderly urban development and preservation of agricultural lands. (Commission Policy at 103-02,104-02, and 104-03; see also Gov. Code, § 56300.)

4. Development Within the Annexation Area Promotes Agricultural Conservation.

In addition to avoiding prime agricultural lands, Friant Ranch has committed to preserving over 1500 acres of agricultural land in the Friant vicinity. The Certified EIR identified (and the County adopted) mitigation and a reduced-unit alternative that ensure approximately 482 acres of grazing land within and immediately south of the Annexation Area (away from the currently populated area) will be conserved in perpetuity and actively managed consistent with a grazing plan. (Exh. C, Response to Comment 18.3; see also Certified EIR, Mitigation Measures 3.4.1b, 3.4.1c, 3.4.1d, 3.4.1e, 3.4.3a(1), 3.4.3a(2)(a) and 3.4.5, and DEIR at p. 3-24 and FEIR revisions thereto; see also Mitigation Monitoring Program.) Further, said mitigation requirements further require conservation of over 1,000 acres of off-site grazing land (in the Friant vicinity, within Fresno and Madera Counties) to be preserved in perpetuity and managed consistent with a grazing plan. (*Id.*)

The City indicates that the master planned active-adult (55+) community proposed for the Annexation Area should be directed elsewhere to urban areas in order to avoid conversion of agricultural lands. However, in contrast to the non-prime agricultural soils within the Annexation Area, a considerable amount of land in and around the cities of Fresno and Clovis contain prime agricultural soils. (Certified EIR, DEIR at pp. 4-3 – 4-4; see also, e.g. Exh. I.) Directing development to the subject non-prime agricultural soils

immediately adjacent to an existing unincorporated community will absorb some of the housing demand identified in these planning documents and reduce the growth pressure on prime agricultural soils in other areas.

Therefore, development within the Annexation Area will promote conservation of agricultural lands in the surrounding area.

C. SUBSTANTIAL EVIDENCE SUPPORTS REQUISITE COMMISSION FINDINGS.

The Certified EIR and related documents made available to the Commission by the County and WWD 18 provide ample support and justification for the Commission to make requisite findings (including any requisite overriding considerations under CEQA) for the WWD 18 Actions. The Project approved by the County reflects coordination between local, state, and federal governmental agencies and environmental review, resulting in a significantly reduced development footprint, extensive preservation of agricultural land and habitat, identification of a reliable water supply, and infrastructure improvements within the existing Friant community. Though the Certified EIR recognizes certain significant and unavoidable impacts resulting from the Project, economic, social, recreational, environmental, and policy considerations outweigh the significant and unavoidable adverse environmental impacts identified in the Certified EIR. (See Fresno County Board of Supervisors Resolution 11-031, Exh. A thereto.) Moreover, said impacts result from aspects of the Project that are outside the control of the Commission. (See *infra* at D.)

For the convenience of the Commission, a list of key considerations follows:

- *Recreational Amenities.* The unincorporated community of Friant is a destination area due to recreational opportunities provided by Millerton Lake, the San Joaquin River, Lost Lake Park Recreation Area and Table Mountain Casino, and its proximity to the confluence of two primary circulation links—Friant Road and Highway 41—providing access and convenience to surrounding areas. (Friant Ranch Specific Plan at pp. 5, 14-15, and 39.) The Project provides considerable open space and linkages to recreational amenities, such as Millerton Lake, the San Joaquin River, Lost Lake Park Recreation Area and Table Mountain Casino. The Project enhances recreational uses and tourism of these amenities by providing connectivity to the regional trail system and on-site interpretive trail system accessible to the public. (Exh. C, Response to Comment 19.73; Certified EIR, DEIR at pp. 3-230 – 3.232, 3-270; Friant Ranch Specific Plan at pp. 112-113; Friant Community Plan Update at pp. 4-29, 4-37, 4-38.) The Project builds on existing retail services in Friant with an 18-acre commercial area and provides an expanded customer base that will create a hub of sub-regional services serving the unincorporated community of Friant and surrounding area. (Friant Ranch Specific Plan at pp. 28-31, § 2.3.2.)

- *State of the Art Infrastructure for Community.* The County has imposed, and Friant Ranch has agreed to, the following conditions to development in the Annexation Area: (1) to bring long term reliable water supply to the Friant community; (2) to construct additional water treatment facilities to purify the water; and (3) to construct sewage treatment facilities in order that the existing septic systems and outdated wastewater treatment plant can be abandoned. Thus, development within the Annexation Area, consistent with the County's newly adopted plans for the area, will revitalize the community of Friant. Specifically, the Project provides a new tertiary wastewater treatment facility that will (upon County and Regional Water Quality Control Board approval and ultimate construction) immediately serve the Friant Ranch Specific Plan Area and the Millerton Lake Mobile Home Park. (Mitigation Monitoring Program, Mitigation Measure 3.13.3d; see also Certified EIR, DEIR at p. 3-371.) The new wastewater treatment plant will also have the capacity to serve the proposed buildout of the remaining portions of WWD 18's Western Service Area (in accordance with the adopted Friant Community Plan analyzed in the Certified EIR and upon completion of a collector system for areas outside of the Millerton Lake Village Mobile Home Park and Friant Ranch Specific Plan area), which are not funded by or a part of the Project. (Certified EIR, DEIR at p. 3-70; Infrastructure Master Plan at pp. 24, 27, and 30.) The wastewater treatment plant will be sized to allow expansions to facilitate the planned growth under the Friant Community Plan Update, which was analyzed in the EIR. Excepting the designations for the Depot Parcel and Annexation Area, such growth has not changed since the 1983 Community Plan (Certified EIR, DEIR at p. 6.6 ["The policies and guidelines of the Community Plan and Specific Plan have been formulated to control and guide new development in the area in a manner compatible with existing uses and consistent with the General Plan"]; see also Exh. C, Response to Comment 19.10.)

- *Preservation of Agricultural Lands.* The County changed the agricultural zoning for the lands within the Friant Ranch Specific Plan area to provide for residential and commercial uses. (See Friant Ranch Zoning Regulations, Fresno County Zoning Ordinance, §§ 840.B et seq.) However, the subject lands are not prime farmland, have not been capable of irrigation due to lack of groundwater supplies, and have not been protected by Williamson Act. (Certified EIR, DEIR at pp. 3-18 – 3-19; cf. Gov. Code, § 56064 [defining "prime agricultural lands"]; see also Commission Policy at pp. 9, 20.) Further, the County's adoption of mitigation and the alternative development configuration analyzed in the Certified EIR ensure the conservation of over three times the amount of similarly situated agricultural grazing lands in perpetuity. (Certified EIR, FEIR at pp. 2.24-2.25 [mitigation measures 3.4.1b through 3.4.1e, and 3.4.3a(1), 3.4.3a(2)(a), 3.4.5, and Alternative 3 development configuration]; Mitigation Monitoring Program.) As such, the Project benefits agricultural lands. The Commission's incorporation of the reduced footprint analyzed in Alternative 3 (which is incorporated into the proposed Annexation Area) minimizes the conversion of grazing land to non-agricultural uses. As such, the proposal now before the Commission is, in effect, a

"partial annexation" from what was initially proposed to the County and analyzed in the Certified EIR. (Certified EIR, FEIR at pp. 2.24-2.25.)

- *Economic Stimulus.* Project construction is projected to generate additional economic output of $918 million in the County of Fresno's economy over the 10-year construction period, an average of $92 million annually. (Exh. F [Economic & Planning Systems, Inc., Friant Ranch Economic Impact Analysis] at p. 4.) This represents an addition of 1.7 percent to the County's total annual economic output. (*Id.*) Additionally, the construction of the project is expected to create employment for approximately 660 workers annually over the 10-year period. (*Id.*) At Project build-out, total household spending from the Project would stimulate an estimated $110 million in additional economic output for the County annually, which represents an increase of approximately 0.2 percent in the County's economic output. (Exh. F [Economic & Planning Systems, Inc., Friant Ranch Economic Impact Analysis] at p. 5.) The additional output stimulated from household spending would support approximately 760 new jobs (part-time and full-time) in the County earning $23 million in employee income annually, an average of $31,000 annual income per worker. (*Ibid.*)

- *Fiscal Benefits.* In addition, at Project build-out, the Project is projected to generate positive fiscal impacts to the County's operating funds. The annual revenue generated by the Project from various taxes, licenses, and permits is estimated to exceed the costs of services the County will provide (e.g., health and sanitation, police and fire protection) by approximately $2.6 to $2.9 million. (See Exh. G [Economic and Planning Systems, Inc., Friant Ranch Fiscal Impact Study] at p. 3.) At build-out, household spending from the Project is projected to stimulate $110 million in additional economic output in the County's economy annually, which represents an increase of approximately 0.2 percent in the County's economic output. (*Id.* at 5.) The additional output stimulated from household spending would support approximately 760 new jobs (part-time and full-time). (*Id.* at 6.) In addition, at build-out, the project is projected to generate positive fiscal impacts to the County's operating funds.

- *Active Adult (55+) Housing.* One of the market sectors not currently being served in Fresno County is housing for active adults of retirement age. As analyzed in the Certified EIR, the 65-74 year age group in Fresno County is projected to grow by approximately 59 percent this decade, an increase of over 29,000 people. (Certified EIR, DEIR at p. 3-255.) The 55-64 year age group in Fresno County is projected to increase by 27 percent through 2020, an increase of 24,000 people. By providing the County's first and only 55+ age-qualified active adult lifestyle community, Friant Ranch implements General Plan Goal H-C by accommodating the County's growing baby boomer population and helping meet the demand for retirement housing. (Certified EIR, DEIR at p. 3-255.) As such, the Certified EIR determines that the Project also promotes General Plan Goal H-E, which requires the County to "provide an adequate supply of housing and

supportive services for persons with special needs including elderly, homeless, disabled, female head of household and large families." (*Id.*)

- *Revitalization of Longstanding Community.* Friant Ranch will revitalize the Friant Community and provide significant regional benefits. The Project will provide economic and social benefits to the Friant community and beyond. Friant's history can be traced to the town of Millerton, Fresno County's first county seat, which was established in 1856. (2011 Friant Community Plan Update at p. UCP 4-6; see also Friant Ranch Specific Plan at p. 12, § 1.8.2.) While Friant briefly grew in population during construction of the Friant Dam in the 1930's and 1940's, the area has maintained a modest population and limited economy over the past 60 years. (*Id.*) Existing commercial business cannot thrive and new commercial businesses will not be established in Friant because there are not enough residents to support them. Despite plans for growth in Friant (discussed *supra*), additional residences will not be established in Friant because there is an insufficient water supply and no wastewater treatment system. In short, the community of Friant is in dire need of a partner willing to invest in Friant. The Annexation Area is the only property in or abutting the existing community that is large enough to justify the significant investment needed to improve the community's infrastructure and allow for growth of the existing community. (Certified EIR, DEIR at p. 4-3 – 4-4.)

D. The City Comments Misconstrue the Applicable CEQA Requirements

1. CEQA Requires the Commission to Assume the EIR Complies with CEQA.

As indicated in the City Comments, the City has filed litigation against the County's (County) certification of the Certified EIR and the Project approvals. (Fresno County Superior Court, Case No. 11CECG00706.) However, contrary to the City's suggestion, the existence of litigation concerning the Certified EIR does not preclude the Commission from processing and approving the WWD 18 Actions. Rather, the Commission must assume that the Certified EIR complies with CEQA despite the pending litigation. (Pub. Resources Code, § 21167.3 ["[i]n the event an action or proceeding is commenced..., responsible agencies shall assume that the environmental impact report ... for the project does comply with [CEQA] and shall approve or disapprove the project"].)

The City asks the Commission to defy this mandate by making allegations that the Commission did not adhere to certain responsible agency obligations while the City processes the Certified EIR. (City Comments at pp. 2-3) The City Comments completely reverse the purpose of these comment and consultation requirements, which are a component of the defined parameters through which a responsible agency may challenge the adequacy of an EIR. (See 14 Cal. Code Regs. § 15000 et seq. [CEQA Guidelines], § 15096(d)-(e).) If the Commission did not comment within the timeframes provided by the County with respect to the Certified EIR, CEQA assumes that the

Commission "has no comment to make." (CEQA Guidelines, § 15207.) Since the Commission did not raise any objections to the Certified EIR during the County's process or during the 30 days after the County filed its notice of determination, the Commission is "deemed to have waived any objection to the adequacy of the EIR" for use in considering the WWD 18 Actions. (CEQA Guidelines, § 15096(e)(2).)

The City incorporates by reference all of the "objections raised in its lawsuit and the comment letters on the EIR that are applicable to the Commission actions." (City Comments at p. 3.) The County adequately addressed each of the CEQA objections raised by the City during its process on the Certified EIR. (See Exhibits C and D.) Further, given the broad nature of the County actions in comparison to the limited WWD 18 Actions, the attempted incorporation by reference lacks specificity and is so vague as to be meaningless in the context of CEQA's requirement that the Commission assume the adequacy of the Certified EIR. In any event, the County and Friant Ranch are diligently working to defend the Certified EIR in the noted litigation. (Pub. Resources Code, § 21167.3.) As such, Friant Ranch respectfully urges the Commission to consider the Certified EIR and approve the WWD 18 Actions.

2. The Commission Has Narrow Authority Under CEQA.

CEQA expressly limits the Commission's authority, as responsible agency, concerning the Certified EIR. The Commission is not authorized to determine the adequacy of the Certified EIR or its conformance with CEQA. (Pub. Resources Code, § 21167.3.) Rather, with respect to the Certified EIR and the WWD 18 Actions, the Commission complies with CEQA by "considering the EIR... prepared by the lead agency and by reaching its own conclusions on whether and how to approve the project involved." (CEQA Guidelines at § 15096(a); see also, *id.* at §§ 15091, 15093, 15096, 15162, 15163.) The Commission has narrow authority to impose feasible mitigation measures or feasible alternatives within the Commission's power that would mitigate or avoid direct or indirect impacts of those parts of the Project that the Commission decides to carry out, finance, or approve. (CEQA Guidelines, §§ 15041(b),15096(g).)

The City suggests that the Commission has authority over construction of wastewater and water treatment facilities, water and wastewater conveyance infrastructure, transport of the identified water supply, and wastewater disposal. (See City Comments at 2, ¶ B.) The City further contends that the Certified EIR did not consider these activities. (*Id.*) Contrary to the City's assertions, (1) the Certified EIR analyzed the impacts of such actions (see generally, Exh. C and D.); and (2) these actions are not within the WWD 18 Actions that the Commission has authority to carry out, finance, or approve. (CEQA Guidelines, § 15096(g); cf. City Comments at 2, ¶ B.)

The City Comments demonstrate an overarching confusion concerning the nature of the WWD 18 Actions, the level of planning currently undertaken for the Project, and state requirements for parallel processing land use entitlements, water supply approvals, infrastructure, and environmental review. (City Comments at pp. 2-3). As required by

CEQA, the Certified EIR for the Friant Community Plan Update and Friant Ranch Specific Plan considered all reasonably foreseeable public agency actions and approvals associated with the Project. (Certified EIR at pp. 2-14 – 2-31.) The Certified EIR appropriately analyzed the potential impacts of the infrastructure required for WWD 18 to provide water and wastewater service to the annexation area. (Exh. C, Responses to Comments 19.133, 19.142-19.143; CEQA Guidelines, § 15146.) The City, however, wholly overlooks such analysis and demands that the Commission undertake additional analysis of potential environmental impacts concerning the construction of certain facilities, which have not been approved and do not fall within the approval authority of the Commission. (City Comments at pp. 2-3; cf. *infra* at p. 3.)

The City similarly misconstrues Cortese-Knox requirements to suggest that the Commission has the authority and obligation to approve the construction of water and wastewater infrastructure, and that the Commission must analyze the specific impacts associated with such construction. (City Comments at pp. 2-3.) However, similar to CEQA, the language of Cortese-Knox provides no such authority or obligation to the Commission. (See e.g., Gov. Code § 55653(b), 56430(a)(2).) Rather, the Commission does not have land use authority. The Commission's purposes are to: (i) discourage urban sprawl; (ii) preserve open space and prime agricultural lands; (iii) efficiently provide government services; (iv) encourage the orderly formation and development of local agencies based upon local conditions and circumstances (Gov. Code, § 56301.) The Commission "shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements." (Gov. Code, § 56375.)

CEQA requires the Commission to consider potentially significant impacts resulting from actions it carries out, funds, or directly approves. (CEQA Guidelines, §15002.) As a responsible agency, the Commission may refuse to approve the Project "in order to avoid direct or indirect environmental effects of that part of the project which the responsible agency would be called on to carry out or approve," but not with respect to impacts resulting from an action outside of its authority. (CEQA Guidelines, § 15042.) Construction of wastewater and water treatment facilities, water and wastewater conveyance infrastructure, transfer of the identified water supply, and wastewater disposal are not governmental actions directly undertaken by, financed in whole or in part by, or approved by the Commission. (*Id.*; cf. Gov. Code, § 56375.) None of the WWD 18 Actions would "give impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures" with respect to these specific activities. (CEQA Guidelines, § 15004.)

In fact, the agencies with approval authority over the water treatment plant, wastewater treatment plant, water conveyance infrastructure, and disposal have not approved the specific locations for the plant, infrastructure, or disposal. Prior to securing rights and approvals to carry out the proposed water and wastewater activities, WWD 18 must obtain County, Regional Water Quality Control Board, and United States Bureau of Reclamation approvals. (Certified EIR, FEIR at pp. 2.14-2.29.) Further, WWD 18,

Lower Tule River Irrigation District (LTRID), and the United States Bureau of Reclamation, not the Commission, have authority over the approval and transfer or LTRID supplies to WWD 18. (*Id.*)

3. Supplemental CEQA Analysis is not Warranted.

The City further demands that the Commission conduct additional environmental review concerning the Project. (City Comments at 2, ¶ B.) However, the City makes no factual allegations warranting such review and, in fact, no substantial changes or new information exist to satisfy the strict criteria for supplemental review set forth in CEQA. (Pub. Resources Code, § 21166; Gov. Code, § 65457; CEQA Guidelines, §§ 15096(f), 15162, 15163, 15183.) The Certified EIR considered potential impacts resulting from the WWD 18 Actions. (See generally, Exh. C and D.) No new information has arisen warranting supplemental analysis.

E. THE CERTIFIED EIR DETERMINED WWD 18 CAN RELIABLY SERVE THE PROJECT.

The Certified EIR directly addressed the question of whether WWD 18 has the technical and managerial capacity to provide water and wastewater treatment service on the scale required by the Project. (Exh. C, Response to Comment 16.4.) The Certified EIR acknowledges that WWD 18 in its present form does not have sufficient staff or capital reserves to serve the Project at buildout, but the analysis explains how the District's Strategic Plan for growth will ensure that needs are met. (See Exh. E.)

The Certified EIR also explains that additional technical staff will be needed to provide the level of service necessary to serve the Project. (Exh. C, Response to Comment 16.4.) The Strategic Plan anticipates WWD 18 retaining contract services to provide the required skilled personnel as the need for services grows. (Exh. E.) Use of contract services to manage water and wastewater treatment facilities is common and successful throughout the state. The Certified EIR also affirms WWD 18's demonstrated ability to manage a wastewater treatment facility in compliance with regulatory requirements, providing evidence to support its statement that WWD 18 has a "consistent history of achieving its water quality objectives." (Exhibit C, Response to Comment 19.12.)

Policy 4.9 of the Friant Ranch Specific Plan requires that necessary infrastructure be installed and in place prior to occupancy of dwelling units in Friant Ranch. The Project thus includes, and various EIR mitigation measures require, the timely construction of necessary public facilities such that adequate levels of service are maintained. (See, e.g., Certified EIR, DEIR at p. 3-368 [discussing wastewater treatment plan phasing), DEIR at p. 3-357 [discussing water treatment and delivery facilities]; see also Friant Ranch Specific Plan at pp. 117-118.)

The Friant Ranch Infrastructure Master Plan provides the County and WWD 18 staff with a regulatory framework to create appropriate development conditions for maps and commercial site plans as they are developed. The Infrastructure Master Plan describes

the complete infrastructure system necessary to serve the Project and makes clear how facilities must be sized and located to accommodate buildout. While detailed design has been appropriately left to the Project phases, the necessary backbone infrastructure is clear and will be the responsibility of the Friant Ranch developer. WWD 18 has agreed to administer the public utilities and has, in cooperation with the Project team, developed the Strategic Plan demonstrating how it will grow from its current size to serve Friant Ranch and the surrounding community as the Project develops (Exh. E.) Doing so will require significant financial support from Friant Ranch development, as well as new technical, professional and managerial experience that WWD 18 will attract and hire as necessary. (*Id.*). The Project provides for the construction, financing, and maintenance of all necessary facilities, consistent with the EIR. (Friant Ranch Specific Plan, pp. 117-118.) Further, the County will condition future tentative map approvals upon construction and financing of necessary facilities, as required by the Certified EIR and adopted mitigation. (See Certified EIR, Mitigation Measures 3.14.1 – 3.14.3, DEIR at pp. 3-356, 3-362 – 3.374; see Mitigation Monitoring Program.)

Thus, the Certified EIR and Project documents demonstrate that, with the backing of the Friant Ranch developer and appropriate use of contract services, WWD can and will reliably serve the Project.

F. CONCLUSION

Based on the information summarized herein and contained in the administrative records before the Commission and the County, including the Certified EIR, the proposed WWD 18 Actions satisfy California Environmental Quality Act, Pub. Resources Code, § 21000 et seq. (CEQA), the Cortese Knox Hertzberg Act, Gov. Code, § 56000 et seq. (Cortese Knox), and your Commission Policies, Standards and Procedures Manual (Commission Policies). As such, Friant Ranch, L.P. respectfully urges the Commission to consider the Certified EIR, make appropriate findings under CEQA, Cortese-Knox, and the Commission Policies, and approve the WWD 18 Actions.

Sincerely,

Jacqueline McDonald Pucheu

JMP:me
Enclosures

cc: Kenneth Price
Jeff Witte
Neal Costanzo (via electronic mail)

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September 28, 2011

Sent via Hand Delivery and Electronic Mail

Chairman and Commissioners
Fresno Local Agency Formation Commission
2115 Kern Street, Suite 310
Fresno, CA 93721

Re: Fresno County Waterworks District 18 (WWD 18) Sphere of Influence Revisions, Annexation, and Extension of Powers Related to the Friant Ranch Specific Plan (Project)

Dear Chairman and Commissioners:

On behalf of Friant Ranch, L.P. (Friant Ranch), this firm has reviewed the comments submitted by the San Joaquin River Parkway and Conservation Trust (Parkway) related to the above described actions (WWD 18 Actions). This firm's correspondence to the Fresno Local Agency Formation Commission (Commission) dated September 22, 2011 (attached hereto as Exhibit A) provides extensive information rebutting the allegations in the Parkway comments. The proposed WWD 18 Actions and related findings set forth in the Commission staff report conform to the California Environmental Quality Act, Pub. Resources Code, § 21000 et seq. (CEQA) and the Cortese-Knox-Hertzberg Act, Gov. Code, § 56000 et seq. Moreover, the WWD 18 Actions further the Commission Policies, Standards, and Procedure Manual (Commission Policies). Specific responses to the Parkway allegations follow.

THE PROPOSED FINDINGS SATISFY CEQA

Parkway alleges that the proposed findings only address "direct" impacts of the WWD 18 Actions. This allegation is unfounded. Consistent with CEQA Guidelines sections 15091 and 15096, the proposed findings consider all significant impacts identified in the Friant Community Plan Update and Friant Ranch Specific Plan Environmental Impact Report, State Clearinghouse No. 2007101016 (Certified EIR), whether or not said impacts directly result from the WWD 18 Actions. (See Staff Report, Exh. E; cf. CEQA Guidelines, §§ 15096(h).)

REVITALIZATION OF FRIANT COMMUNITY

Parkway alleges that the Commission has not considered growth-inducing impacts of WWD 18 providing wastewater service to the Friant Community Plan area. As required by the Project approvals and analyzed in the Certified EIR, the proposed water and wastewater infrastructure will be sized to serve the entire Project area, including the 1983 Friant Community Plan Area (which at that time did not include the Specific Plan area currently proposed for annexation). The proposed wastewater treatment plant does not provide wastewater treatment capacity beyond the growth planned for the Friant Community Plan area. Thus, the WWD 18 Actions will not promote growth beyond Friant.

The Certified EIR identifies the potential for the infrastructure to promote previously planned growth within this unincorporated community. In fact, revitalization of the Friant Community Plan area through such infrastructure is a fundamental reason the County has expanded the existing community to include the Specific Plan area. Moreover, providing these essential services to an existing unincorporated community is consistent with Cortese-Knox and the Commission's Policies. (See Exhibit A at pp. 5, 9-10.)

THE STAFF REPORT APPROPRIATELY CONSIDERS MITIGATION AND ALTERNATIVES

Parkway asserts that the Commission should not follow the staff report's proposal related to mitigation and alternatives. However, as set forth in turn below, the findings and conditions set forth in the staff report satisfy CEQA.

Mobile Home Community Connection. Parkway alleges the proposed condition at paragraph 5(b) in the staff report creates additional, undisclosed impacts. However, this condition mirrors the Friant Ranch Specific Plan and Friant Ranch Infrastructure Master Plan requirements that the new wastewater treatment plant immediately serve the mobile home community. As such, the Certified EIR analyzed the impacts of converting the mobile home community, currently being served by an outdated wastewater treatment facility, to the proposed state-of-the-art tertiary treatment facility serving the Friant Ranch Specific Plan area. Moreover, the conversion of the mobile home community to the highest treatment level currently available for such plants would positively impact the community and the surrounding environment. (See Exh. B.) For this reason, the County received extensive oral and written comments from the community residents in support of the project and proposed wastewater treatment plant connection.

Wastewater Treatment. Parkway alleges that the Commission should impose a mitigation measure requiring WWD 18 to provide a "higher level of wastewater treatment" and/or line the proposed effluent pond. Such actions are beyond the authority of the Commission. The California legislature has given the Regional Water Quality Control Board specific authority to regulate discharges of waste to waters of the

state. (See Porter-Cologne Water Quality Control Act, Water Code, §§ 13000 et seq.) The Commission has no such authority. (See generally, Cortese-Knox.) Furthermore, CEQA requires no additional mitigation. As explained in the attached letter from David McGlasson, PE, PLS, of Provost & Pritchard, the Project already proposes to treat the project's wastewater to Title 22 standards for unrestricted reuse. Such "tertiary" treated effluent is permitted for use by the Regional Water Quality Control Board for nearly every purpose, and meets the State's best practices requirements. There is no basis for requiring a higher level of treatment or pond liner here.[1] Simply put, the Commission should not impose mitigation measures relating to the treatment methodology.

Park Mitigation. Parkway inappropriately requests the Commission to impose a mitigation fee for impacts to parks. Such mitigation is outside the Commission authority and not justified by any impacts of the Project. (See Gov. Code, § 56000 et seq.; see also Certified EIR, DEIR, pp. 3-270 [concluding that the Project does not have potential to result in significant impacts to parks, including Lost Lake Park, Millerton Park, Millerton Lake State Recreation Area, and the San Joaquin River Parkway].) In short, the Certified EIR found that the Project would exceed all state and local parkland to population standards and that the impact on the surrounding recreation facilities will be less than significant. (Certified EIR, DEIR, pp. 3-268 to 3-270 [Project-specific parkland dedication for the Friant Ranch Specific Plan exceeds the Quimby Act ratio of 3 acres to 1,000 residents].) Further, the County property taxes, park entrance fees, and standard development fees will fund County parks. (See February 1, 2011 Fresno County Board of Supervisors Staff Report, Quad Knopf Responses to Comments, p. 2, Response 1-3.)[2] In

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[1] The Certified EIR and the record contain abundant evidence that no wastewater discharge from the project will enter the river. Therefore, even if the Commission had authority to impose mitigation, and it does not, there is absolutely no basis to require lining the effluent pond. First, as discussed above, the water stored in the effluent pond will be tertiary-treated water. As explained in studies by Larry Walker & Associates and RBI, even if this treated wastewater was mixed with river water it would not create any harmful effects on the aquatic environment. Second, there is no realistic possibility that indirect discharges of treated effluent would ever reach the river. As demonstrated by evidence in the record, the soil at the effluent storage site is relatively impermeable, and the land application of wastewater will be at agronomic rates. Further, the elevation gradient from the pond to the river would require water to flow uphill for any mixing with river water to occur. And finally, even if there was some possibility of this migration of wastewater, it would have to travel through 2,000 feet of soil that would provide additional treatment and infiltration.

[2] Parkway cites a Seifel Consulting Inc. report ("Seifel report") to claim the Project will result in a $1.7 to $2.4 million increase in costs to parks, which the Project should offset. Even if the Commission had authority to impose park mitigation requirements, which Cortese-Knox and CEQA do not grant, the costs amount identified in the Seifel report are not backed by any reliable evidence. The Seifel report is based on numerous false and unsupported assumptions, including, but not limited to: (i) the report (page 4) assumes, without evidence, an extremely high visitation rate of 100 percent of Friant Ranch Residents (4,750 residents) visiting Lost Lake twice per year, Millerton Lake once per year, Friant Cove one-half per year, and the Fish Hatchery half per year; (ii) the report's estimates of annual increases in operating costs due to Friant Ranch (page 4, table 3) do not offset for the revenues that would be received by the parks from payment of gate fees by Friant Ranch visitors (typically ranging from $5.00 to $10 per vehicle, per

light of the EIR findings and the compliance with existing County standards for acceptable park to population ratios, the Commission has no basis for requiring any type of park fee specific to Friant Ranch.

Water Supply. Parkway suggests that the Commission should include a mitigation measure requiring the districts to approved the proposed water transfer between Lower Tule River Irrigation District (LTRID) and WWD 18. However, WWD 18 and LTRID approved the agreement after the County's certification of the EIR. (See Exh. A at pp. 2-3, and internal exhibit B thereto.)

Alternatives. Parkway suggests that the Commission did not incorporate any of the alternatives set forth in the Certified EIR, and inappropriately asserted that the alternatives are outside of the authority of the Commission. However, as determined in the proposed findings, the WWD 18 Actions implement the Alternative 3 development configuration analyzed in the EIR. The Certified EIR analyzed the annexation of the entire Friant Ranch Specific Plan area—942 acres—into WWD 18. After the County's certification of the EIR and adoption of the underlying entitlements, WWD 18 and the Commission appropriately decided to address a smaller area in the annexation application. The proposed annexation area includes 520 acres to incorporate the development footprint per the Friant Ranch Specific Plan.[3] Such an area is a drastic reduction from the initial 942-acre annexation proposal analyzed in the Certified EIR.

THE COMMISSION SHOULD ADOPT THE PROPOSED OVERRIDING CONSIDERATIONS

Parkway inappropriately alleges that the Commission cannot adopt the proposed overriding considerations included in the staff report because doing so would violate Cortese-Knox and the Commission Policies. In fact, the Commission can and should adopt the proposed overriding considerations. In particular, the third overriding consideration entitled Orderly Development and Agricultural Preservation explains that the WWD 18 Actions promote and further the Cortese-Knox and Commission Policies.

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visitation); (iii) the report does not account for the fair share County facility fees paid per Fresno County Code Chapter 17.90 for every residential unit; (iv) the report does not account for increased property tax revenue generated by the Project; (v) the report unrealistically assumes that costs will increase in a linear manner on a per-user basis (p. 4, fn. 6) [in other words, the report assumes that each visitor will cause an impact on park facilities; such an assumption cannot be supported]. In addition, to these unwarranted assumptions, the report does not acknowledge that the Project complies with the Quimby Act and exceeds the County's parks standards. Nor does the report recognize any benefit from Friant Ranch privately funded trails and transportation modal that benefit the Friant area. Finally, the report references the Lost Lake Master Plan (Seifel report p. 5). That plan has not been adopted and there is no nexus between the Project's impacts on parks and the proposed Lost Lake Master Plan.

[3] As explained in the staff report and application, "portions of the open space areas within the Specific Plan" are included within the annexation area as "necessary to provide a contiguous service area" per Cortese Knox and Commission Policies. (Staff Report, p. 6.) Per the adopted Project entitlements, however, said open space areas will not require or receive water or wastewater service.

(Staff Report, Exh. E at pp. 68-69; see also, Exh. A at pp. 9-12.) Substantial evidence in the record supports each of the proposed findings. (See e.g., Exh. A and internal exhibits F-G thereto.)

SUBSTANTIAL EVIDENCE SUPPORTS WWD 18 SERVICE TO FRIANT AREA

As detailed in the prior correspondence to the Commission, substantial evidence before the Commission supports the Commission's determination that WWD 18 should provide water and wastewater service to the Friant community, including the area proposed for annexation. The Plan for Services submitted by the District, as well as the WWD 18 Strategic Plan and Friant Ranch Infrastructure Master Plan, provide sufficient information to satisfy Cortese-Knox. Thus, the Certified EIR and Project documents demonstrate that, with the backing of the Friant Ranch developer and appropriate use of contract services, WWD can and will reliably serve the Project. (See Exh. A, pp. 15-16.)

Thank you for your consideration of these responses to Parkway comments. Friant Ranch respectfully urges the Commission to consider the Certified EIR, make appropriate findings under CEQA, Cortese-Knox, and the Commission Policies, and approve the WWD 18 Actions.

Sincerely,



Jacqueline McDonald Pucheu

JMP/me

cc: Kenneth Price
Jeff Witte
Neal Costanzo

EXHIBIT A

Pucheu LAW
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September 22, 2011

Via Hand Delivery and Electronic Mail

Chairman and Commissioners
Fresno Local Agency Formation Commission
2115 Kern Street, Suite 310
Fresno, CA 93721

Re: Fresno County Waterworks District 18 (WWD 18) Sphere of Influence Revisions, Annexation, and Extension of Powers Related to the Friant Ranch Specific Plan (Project)

Dear Chairman and Commissioners:

On behalf of Friant Ranch, L.P. (Friant Ranch), this firm has reviewed the comments submitted by City of Fresno (City) on August 23, 2011 (City Comments) related to the above-described actions (WWD 18 Actions). The allegations set forth in the City Comments attempt to confuse the WWD 18 Actions and related facts. At the request of your staff and counsel, this letter responds to the City Comments and provides the Fresno Local Agency Formation Commission (Commission) with requisite clarifications and pertinent information to inform your decision on the WWD 18 Actions. Friant Ranch, the primary landowner within the subject area, respectfully requests that the Commission consider the information set forth herein pursuant to Government Code section 56668(m).

On February 1, 2011, the County of Fresno (County) certified the Friant Community Plan Update and Friant Ranch Specific Plan Environmental Impact Report, State Clearing House No. 2007101016 (Certified EIR) and approved the Friant Community Plan Update and Friant Ranch Specific Plan providing for residential and commercial development within the area subject to the WWD 18 Actions (Annexation Area). By and through such approvals, the County acknowledged the need for the Project. The County recognized that the Project provides trails to enhance the area's recreational amenities, ideal housing for a growing active adult (55+) population, and private investment in state of the art infrastructure to expand the existing, longstanding Friant community. The City inappropriately coins this Project as leapfrog development. In fact, the Project has been specifically designed to revitalize an existing, unincorporated community. The administrative record before the County contains substantial evidence to support the County's findings and the environmental determinations in the Certified EIR.

For background and to assist the Commission in making requisite findings and determinations under the California Environmental Quality Act, Pub. Resources Code, section 21000 et seq. (CEQA) and Cortese-Knox-Hertzberg, Gov. Code, sections 56000 et seq. (Cortese-Knox), enclosed are the following pertinent documents:

Exhibit A	Contract Between the United States and Lower Tule River Irrigation District Providing for Project Water Service from Friant Division and for Facilities Repayment
Exhibit B	Option and Long-Term Transfer Agreement Between Lower Tule River Irrigation District and Waterworks District 18
Exhibit C	County of Fresno, Final Friant Community Plan Update and Friant Ranch Specific Plan Environmental Impact Report, Responses to Comment Letter 19 (City of Fresno) and Related Responses
Exhibit D	County of Fresno Responses to December 7, 2010 City of Fresno Comment Letter included within County of Fresno, Staff Report for February 1, 2011 Board of Supervisors Hearing
Exhibit E	Waterworks District 18 Strategic Plan
Exhibit F	Economic and Planning Systems, Inc., Friant Ranch Economic Benefit Analysis
Exhibit G	Economic and Planning Systems, Inc., Friant Ranch Fiscal Impact Study
Exhibit H	United States Bureau of Reclamation, Central Valley Project Allocation Data, Water Years 2005 - 2011 (downloaded from www.usbr.gov in September 2011)
Exhibit I	Prime Agricultural Lands in the Vicinity of Urban Growth

Relying on the above-referenced documents, the following discussion: (1) demonstrates the reliability of the permanent water supply identified by WWD 18 to serve the Project; (2) explains the benefit of the WWD 18 Actions to the existing Friant Ranch community and the surrounding agricultural open space; (3) provides additional information about the WWD 18 Actions and the Project to inform the Commission's findings; (4) summarizes the CEQA requirements related to the Commission's reliance on the Certified EIR; and (5) addresses WWD 18's ability to provide water and wastewater services to the Project.

A. WWD 18 Has Identified A Permanent, Reliable, Local Water Supply.

In March 2011, relying on the Certified EIR, Lower Tule River Irrigation District (LTRID) and WWD 18 approved and executed an Option and Long-Term Transfer Agreement Between Lower Tule River Irrigation District and Waterworks District 18. (Water Supply Agreement). (See Exh. B.) The Water Supply Agreement permanently

obligates LTRID to provide Central Valley Project (CVP), Friant Division Class 1 water supplies to WWD 18 to serve the Annexation Area. (Exh. B.)

1. WWD 18 Contracted With LTRID For Local, Fresno County Water Supplies.

The City alleges that WWD 18 proposes to "import" water from another watershed to serve the Annexation Area. (City Comments at p. 2.) As explained in the Certified EIR and supporting documents, the proposed water supply for the Project comes from the same source as WWD 18's current supplies—water that the United States Bureau of Reclamation (Reclamation) stores behind Friant Dam in Millerton Lake through the CVP, Friant Division. (Exh. C, Response to Comment 19.1; certified EIR, Exh. B thereto [Water Supply Assessment] at pp. ES-1 – ES-2.) The water subject to the Water Supply Agreement has historically been exported out of Fresno County, to Tulare and Kern Counties, via the Friant Kern Canal. (See Exh. A, internal Exh. B thereto; see also Exh. B at p. 1.) Under the Water Supply Agreement, however, the CVP, Friant Division Class 1 water supply (originating in Fresno County) would be released from an existing pipe at the base of Friant Dam directly to the WWD 18 water treatment plant. (Certified EIR, FEIR, at p. 2-30; Exh. B at p. 2.)

As such, the local, CVP Friant Division water supply stored by Reclamation in the immediate Project vicinity will serve the Annexation Area.

2. The Certified EIR Appropriately Calculated Expected Water Demand.

Relying on the Water Supply Assessment, the Certified EIR appropriately concluded that water supply subject to the Water Supply Agreement will meet the Project demands, over the required 20-year planning horizon, in normal, critically dry, and multiple dry years. (Water Supply Assessment at p. ES-3.) The Water Supply Assessment calculated the water supply demand resulting from the Project, in addition to the existing and planned future uses within the WWD 18 Service Area. (Water Supply Assessment at pp. 22-28.)

In calculating such demand, the Water Supply Assessment applied historic demand rates from local cities like Clovis. (Exh. D at p.29, Response to ¶ 3 of Comment 5-26; see also Friant Ranch Infrastructure Master Plan at p. 13.) Contrary to the City's allegations that the active adult (55+) nature of the Project was inappropriately used to reduce expected demands, the Water Supply Assessment states:

> These [water demand] factors have *not* been adjusted for the much-lower average occupancy of each unit in an age-restricted 55+ active adult community such as the Project. Approximately, two-thirds of domestic water is for external use. Lower average occupancy has *not* been factored into these tables, as a measure of conservatism. (Water Supply Assessment at p. 22, emphasis added; see also Certified EIR, DEIR at p. 3-351; cf. City Comments at 3.)

In addition, the Water Supply Assessment analyzed potential water supply demand of a considerably larger project than the "Alternative 3" development configuration approved by the County. (See Water Supply Assessment [analyzing potential demand of 2,996 residential units within Friant Ranch Specific Plan area]; cf. Friant Ranch Specific Plan [planning for 2,500 residential units within Friant Ranch Specific Plan area].) Total water demand under Alternative 3 is just 1,093 acre-feet, a reduction of almost 400 acre-feet from the demand estimate analyzed in the Water Supply Assessment. (Friant Ranch Infrastructure Master Plan at p. 14.) Alternative 3 significantly lessens the Project's water demand, and increases the margin of safety provided by the Water Supply Agreement.

Thus, the Certified EIR appropriately considered WWD 18's reasonable water demand estimates for development within the Annexation Area.

3. WWD 18 Has Appropriately Addressed Water Supply Uncertainties.

The Water Supply Assessment explained, and the Certified EIR considered, all potential uncertainties related to the proposed water supply and WWD 18's plan for addressing those uncertainties. (Certified EIR, DEIR at pp. 355-356.) After analyzing potential uncertainties, the Water Supply Assessment appropriately concludes that the proposed water supply will be adequate. In particular, Reclamation has typically provided over 94% of contracted Friant Division CVP Class 1 supplies annually. (Exh. C, Response to Comment 19.132; see also Water Supply Assessment at p. 15 [explaining average Class 1 water supply allotment from 1966 to 2006 was 94%].) Further, Reclamation has made available 100% of LTRID's contracted CVP Friant Division Class 1 supplies for water year 2008, 2009, 2010 and 2011. (See Exh. H.)

The City Comments inappropriately suggest that the Commission cannot act without Reclamation approval of the Water Supply Agreement. (City Comments at p. 4.) The Certified EIR and Water Supply Assessment disclose the need for Reclamation approval of the Water Supply Agreement. (Certified EIR, DEIR at pp. 2-30, 355-356; see also Water Supply Assessment at p. ES-3; Exh. C, Response to Comment 19.11.) WWD 18, LTRID, and Friant Ranch representatives have been consulting with Reclamation throughout the course of the entitlement process in pursuit of the requisite Reclamation approvals. Land use and water supply planning, by their very nature, must move forward as parallel processes, and the remaining need for Reclamation approval of the Water Supply Agreement is a reasonable condition at this stage in the development process. (See e.g., Gov. Code § 66473.7, discussed *infra* at D.3.)

The County addressed any potential uncertainty caused by the pending Reclamation approval by including mitigation to ensure that no development can take place within the Annexation Area until Reclamation approves the Water Supply Agreement. (Certified EIR, DEIR at p. 3-356.) Mitigation measure 3.14.1 requires WWD 18 to secure Reclamation approval of the Water Supply Assessment prior to approval of any tentative map within the Annexation Area. (Fresno County Board of Supervisors, Resolution 11-031, Exh. A thereto [Mitigation Monitoring Program] at p. 101.) Thus, mitigation

measure 3.14.1 ensures that the Specific Plan development cannot proceed until final Reclamation approval of the Water Supply Agreement. (Exh. C, Responses to Comments 19.132 and 32.18.)

The Certified EIR acknowledged that State law provides additional safeguards by requiring the County to obtain a water supply verification from a water purveyor capable of serving the Project prior to issuing a tentative map for 500 or more residential units (or the equivalent). (Gov. Code, § 66473.7; Certified EIR at p. 3-333.) The water supply verification must ensure that sufficient water supplies are available to serve the Project in single dry, multiple dry, and normal water years. (*Ibid.*) The requirement that water supply be further verified prior to the County's approval of any large tentative maps for the Project provides additional assurance that development cannot proceed without proving that adequate supplies are available. (Exh. C, Response to Comment 16.5.)

As such, state law and mitigation adopted by the County will ensure that WWD 18 has secured the identified reliable water supply prior to tentative map approval allowing development within the Annexation Area.

4. LTRID's Permanent Reclamation Contract Strengthens Reliability.

As forecasted in the Certified EIR, in November 2010, LTRID entered into the Contract Between the United States and Lower Tule River Irrigation District Providing for Project Water Service from Friant Division and for Facilities Repayment (Repayment Contract). (Exh. A [Repayment Contract]; see Exh. C, Response to Comment 19.132 at (4).) LTRID paid off the remaining repayment obligation owed to Reclamation such that the Repayment Contract gives LTRID a "permanent right" to its proportionate share of the Friant Division water supplies. (Repayment Contract at Recital h and Article 3(a)-(b).) By its terms, the Water Transfer Agreement remains in effect for the duration of the Repayment Contract. (Exh. B.)

Therefore, by and through the Water Supply Agreement, WWD 18 has a permanent, reliable supply of water to serve the Friant Ranch development. The identified supply and related assurances provided in the Certified EIR satisfy Commission requirements concerning "timely" availability of water supplies. (Gov. Code, § 65352.5.)

B. ANNEXATION AREA IS LOGICAL, TIMELY EXTENSION OF WWD 18 SERVICE AREA.

1. The Annexation Area is Proximate to a Populated, Unincorporated Community.

The Annexation Area is immediately adjacent to the existing service area of WWD 18, and abuts the 1983 Friant Community Plan Area. (Certified EIR, DEIR at pp. 2-5 and 2-16.) Portions of the Annexation Area lie within the 1983 Friant Community Plan Area. (*Ibid.*) Some of the lands within the Annexation Area were zoned and designated for commercial and residential uses during the 1964 and 1983 Community Planning efforts. (See Exh. C, Response to Comment 19.16; see also Certified EIR, FEIR at p. 2-5,

Figure 2-4.) Further, approximately 80 acres of the Annexation Area fall within the Fresno County Friant Redevelopment Area. (Certified EIR, FEIR at p.2-7, Figure 2-5.)

Pursuant to the Friant Community Plan Update, the County has included the entire Annexation Area within the Friant Community Plan area. (Friant Community Plan Update at UC p 4-21.) The County zoned all lands within the Annexation Area for residential and commercial uses. (See Friant Ranch Zoning Regulations, Fresno County Zoning Ordinance §§ 840.B et seq.) As such, the Annexation Area is proximate to, and a logical extension of, the populated area comprising the unincorporated community of Friant. (Exh. C, Response to Comment 19.16.) The location of the Annexation Area immediately adjacent to the existing community will facilitate the Friant Redevelopment Plan goal of reviving the unincorporated area, and will also improve the public facilities and infrastructure available to the existing community. *(Id.)*

Thus, the proposed development immediately adjacent to the WWD 18 current service area and the existing community of Friant promotes planned, orderly and efficient development of this populated area of unincorporated Fresno County.

2. <u>The Project is Consistent With Longstanding Plans for Growth in Friant.</u>

The Friant community is one of the oldest communities in Fresno County and has long been considered a legitimate growth area by the County. (Friant Ranch Specific Plan at p. 12, § 1.8.2.) The 1983 Community Plan assumed growth would occur within the Friant area, but noted the following requisite conditions to facilitate the desired growth: (1) a large increase in area development opportunities; (2) successful promotion of the community as a desirable place in which to live for retirees or commuters; and (3) a large increase in the use of recreational facilities in the Friant area. (1983 Community Plan at § 3.01a.) The 2011 Friant Community Plan Update acknowledges that growth is needed to meet the County goals for the Friant area. (2011 Friant Community Plan Update at pp. UCP 4-1, UCP 4-29 – UCP 4-32.) Further, the General Plan population projections estimate that the Unincorporated East Valley, of which the Friant Community Plan Area is a part, will grow from 87,705 people in 1996 to 101,542 people in 2020, an increase of 13,837 people. (Fresno County General Plan, Table A-1 of Appendix A.) The Annexation Area will accommodate a portion of this anticipated growth.

The Certified EIR unequivocally determines that the Project is consistent with County goals and policies relating to the timing and location of growth, preservation of agricultural resources, and public facilities and services. (Certified EIR, DEIR at p. 3-255 and FEIR revisions thereto.) The Fresno County General Plan directs intensive development to unincorporated communities. (Fresno County General Plan, p. 2-33.) The Project is consistent with Fresno County and Commission policies for growth because "public facilities and infrastructure are available or can be expanded." (Certified EIR, DEIR at p. 3-22; see Friant Ranch Infrastructure Master Plan; see Exh. G [WWD 18 Strategic Plan]; Fresno County General Plan, Policy LU-G.23 ["County shall ensure

that the expansion of unincorporated communities can be provided with necessary public services and such expansion is consistent with other General Plan policies"].)

The Fresno County General Plan contemplates potential new growth areas in the Friant-Millerton Area and recognizes that it is an area void of productive agricultural soils. (Exh. C, Response to Comment 19.73.) The Annexation Area is within the area depicted as residential growth area in the General Plan, outside the area's productive agricultural land. (General Plan, Exh. LU-5; Certified EIR, DEIR at p. 3-232.) Several neighborhoods surround the Annexation Area, and planned or existing developments in the area include Millerton New Town, Brighton Crest, and Table Mountain Casino. (Exh. C, Response to Comment 32.12; see also Friant Ranch Specific Plan at pp. 14-15.)

Therefore, contrary to City's contentions about leapfrog development, growth within the annexation area is consistent with longstanding planning documents identifying Friant as a growth area.

3. The Annexation Area Does Not Contain Prime Agricultural Lands.

The Friant Community Plan Update and Friant Ranch Specific Plan protect prime agricultural land by directing growth to the non-prime agricultural lands within the Annexation Area. (Gov. Code, 56377(b) ["[d]evelopment or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands"].) In fact, State law and Commission Policy direct that the Commission "shall be guided towards areas containing non-prime agricultural lands," such as the Annexation Area. (Commission Policy at 104-02; see also Gov. Code, § 56377.)

The WWD 18 Actions do not involve "prime agricultural lands" as defined by state law and the Commission Policy:

- The Annexation Area is not currently located in an irrigation or water district having a sufficient water allocation, and the groundwater is not of sufficient quantity to support irrigation. (Certified EIR at p. 3-205; Gov. Code, 56054; see also Commission Policy 005-06B.)

- The Annexation Area does not qualify for rating as Class I or Class II in the Soil Conservation Land Use Capability Classification. (Gov. Code, 56054; see also Commission Policy 005-06C(1); see Exh. C, Response to Comment 18.3; Certified EIR, DEIR at pp. 3-15, 3-18 [demonstrating that non-prime farmlands do not contain Class 1 and Class 2 soils].)

- The Annexation Area is non-irrigated rangeland suitable for seasonal grazing, and cannot support one animal unit per acre due to current topography, soil structure, and water supplies. The Annexation Area does not have the requisite natural resources sufficient to support fruit or nut-bearing trees, vines, bushes, or crops. (Exh. C at Response to Comment 18.3; cf. Commission Policy 005-06C(2)(a), 005-06C(2)(c).)

The Certified EIR provides extensive additional evidence and analysis explaining why the Project does not affect valuable or productive agricultural land. (Exh. C, Responses to Comments 18.3,19.16, 19.73, 19.150; see also Friant Ranch Specific Plan at pp. 113-114.) In sum, the Certified EIR applied the significance thresholds set forth in CEQA Guidelines Appendix G to determine that the "conversion of 'non-prime and non-important agricultural land' resulted in no significant impact to agricultural resources. (Exh. C, Response to Comment 18.3; see also Certified EIR, DEIR at p. 3-23.) The Certified EIR further relies on the Fresno County General Plan goals and policies to support its determination that the Project would not result in significant impacts to prime agricultural lands. (Exh. C, Response to Comment 18.3.)

Accordingly, development within the Annexation Area—non-prime agricultural land—is consistent with the Commission's policies encouraging orderly urban development and preservation of agricultural lands. (Commission Policy at 103-02,104-02, and 104-03; see also Gov. Code, § 56300.)

4. Development Within the Annexation Area Promotes Agricultural Conservation.

In addition to avoiding prime agricultural lands, Friant Ranch has committed to preserving over 1500 acres of agricultural land in the Friant vicinity. The Certified EIR identified (and the County adopted) mitigation and a reduced-unit alternative that ensure approximately 482 acres of grazing land within and immediately south of the Annexation Area (away from the currently populated area) will be conserved in perpetuity and actively managed consistent with a grazing plan. (Exh. C, Response to Comment 18.3; see also Certified EIR, Mitigation Measures 3.4.1b, 3.4.1c, 3.4.1d, 3.4.1e, 3.4.3a(1), 3.4.3a(2)(a) and 3.4.5, and DEIR at p. 3-24 and FEIR revisions thereto; see also Mitigation Monitoring Program.) Further, said mitigation requirements further require conservation of over 1,000 acres of off-site grazing land (in the Friant vicinity, within Fresno and Madera Counties) to be preserved in perpetuity and managed consistent with a grazing plan. (*Id.*)

The City indicates that the master planned active-adult (55+) community proposed for the Annexation Area should be directed elsewhere to urban areas in order to avoid conversion of agricultural lands. However, in contrast to the non-prime agricultural soils within the Annexation Area, a considerable amount of land in and around the cities of Fresno and Clovis contain prime agricultural soils. (Certified EIR, DEIR at pp. 4-3 – 4-4; see also, e.g. Exh. I.) Directing development to the subject non-prime agricultural soils

immediately adjacent to an existing unincorporated community will absorb some of the housing demand identified in these planning documents and reduce the growth pressure on prime agricultural soils in other areas.

Therefore, development within the Annexation Area will promote conservation of agricultural lands in the surrounding area.

C. SUBSTANTIAL EVIDENCE SUPPORTS REQUISITE COMMISSION FINDINGS.

The Certified EIR and related documents made available to the Commission by the County and WWD 18 provide ample support and justification for the Commission to make requisite findings (including any requisite overriding considerations under CEQA) for the WWD 18 Actions. The Project approved by the County reflects coordination between local, state, and federal governmental agencies and environmental review, resulting in a significantly reduced development footprint, extensive preservation of agricultural land and habitat, identification of a reliable water supply, and infrastructure improvements within the existing Friant community. Though the Certified EIR recognizes certain significant and unavoidable impacts resulting from the Project, economic, social, recreational, environmental, and policy considerations outweigh the significant and unavoidable adverse environmental impacts identified in the Certified EIR. (See Fresno County Board of Supervisors Resolution 11-031, Exh. A thereto.) Moreover, said impacts result from aspects of the Project that are outside the control of the Commission. (See *infra* at D.)

For the convenience of the Commission, a list of key considerations follows:

- *Recreational Amenities.* The unincorporated community of Friant is a destination area due to recreational opportunities provided by Millerton Lake, the San Joaquin River, Lost Lake Park Recreation Area and Table Mountain Casino, and its proximity to the confluence of two primary circulation links—Friant Road and Highway 41—providing access and convenience to surrounding areas. (Friant Ranch Specific Plan at pp. 5, 14-15, and 39.) The Project provides considerable open space and linkages to recreational amenities, such as Millerton Lake, the San Joaquin River, Lost Lake Park Recreation Area and Table Mountain Casino. The Project enhances recreational uses and tourism of these amenities by providing connectivity to the regional trail system and on-site interpretive trail system accessible to the public. (Exh. C, Response to Comment 19.73; Certified EIR, DEIR at pp. 3-230 – 3.232, 3-270; Friant Ranch Specific Plan at pp. 112-113; Friant Community Plan Update at pp. 4-29, 4-37, 4-38.) The Project builds on existing retail services in Friant with an 18-acre commercial area and provides an expanded customer base that will create a hub of sub-regional services serving the unincorporated community of Friant and surrounding area. (Friant Ranch Specific Plan at pp. 28-31, § 2.3.2.)

- *State of the Art Infrastructure for Community.* The County has imposed, and Friant Ranch has agreed to, the following conditions to development in the Annexation Area: (1) to bring long term reliable water supply to the Friant community; (2) to construct additional water treatment facilities to purify the water; and (3) to construct sewage treatment facilities in order that the existing septic systems and outdated wastewater treatment plant can be abandoned. Thus, development within the Annexation Area, consistent with the County's newly adopted plans for the area, will revitalize the community of Friant. Specifically, the Project provides a new tertiary wastewater treatment facility that will (upon County and Regional Water Quality Control Board approval and ultimate construction) immediately serve the Friant Ranch Specific Plan Area and the Millerton Lake Mobile Home Park. (Mitigation Monitoring Program, Mitigation Measure 3.13.3d; see also Certified EIR, DEIR at p. 3-371.) The new wastewater treatment plant will also have the capacity to serve the proposed buildout of the remaining portions of WWD 18's Western Service Area (in accordance with the adopted Friant Community Plan analyzed in the Certified EIR and upon completion of a collector system for areas outside of the Millerton Lake Village Mobile Home Park and Friant Ranch Specific Plan area), which are not funded by or a part of the Project. (Certified EIR, DEIR at p. 3-70; Infrastructure Master Plan at pp. 24, 27, and 30.) The wastewater treatment plant will be sized to allow expansions to facilitate the planned growth under the Friant Community Plan Update, which was analyzed in the EIR. Excepting the designations for the Depot Parcel and Annexation Area, such growth has not changed since the 1983 Community Plan (Certified EIR, DEIR at p. 6.6 ["The policies and guidelines of the Community Plan and Specific Plan have been formulated to control and guide new development in the area in a manner compatible with existing uses and consistent with the General Plan"]; see also Exh. C, Response to Comment 19.10.)

- *Preservation of Agricultural Lands.* The County changed the agricultural zoning for the lands within the Friant Ranch Specific Plan area to provide for residential and commercial uses. (See Friant Ranch Zoning Regulations, Fresno County Zoning Ordinance, §§ 840.B et seq.) However, the subject lands are not prime farmland, have not been capable of irrigation due to lack of groundwater supplies, and have not been protected by Williamson Act. (Certified EIR, DEIR at pp. 3-18 – 3-19; cf. Gov. Code, § 56064 [defining "prime agricultural lands"]; see also Commission Policy at pp. 9, 20.) Further, the County's adoption of mitigation and the alternative development configuration analyzed in the Certified EIR ensure the conservation of over three times the amount of similarly situated agricultural grazing lands in perpetuity. (Certified EIR, FEIR at pp. 2.24-2.25 [mitigation measures 3.4.1b through 3.4.1e, and 3.4.3a(1), 3.4.3a(2)(a), 3.4.5, and Alternative 3 development configuration]; Mitigation Monitoring Program.) As such, the Project benefits agricultural lands. The Commission's incorporation of the reduced footprint analyzed in Alternative 3 (which is incorporated into the proposed Annexation Area) minimizes the conversion of grazing land to non-agricultural uses. As such, the proposal now before the Commission is, in effect, a

"partial annexation" from what was initially proposed to the County and analyzed in the Certified EIR. (Certified EIR, FEIR at pp. 2.24-2.25.)

- *Economic Stimulus.* Project construction is projected to generate additional economic output of $918 million in the County of Fresno's economy over the 10-year construction period, an average of $92 million annually. (Exh. F [Economic & Planning Systems, Inc., Friant Ranch Economic Impact Analysis] at p. 4.) This represents an addition of 1.7 percent to the County's total annual economic output. (*Id.*) Additionally, the construction of the project is expected to create employment for approximately 660 workers annually over the 10-year period. (*Id.*) At Project build-out, total household spending from the Project would stimulate an estimated $110 million in additional economic output for the County annually, which represents an increase of approximately 0.2 percent in the County's economic output. (Exh. F [Economic & Planning Systems, Inc., Friant Ranch Economic Impact Analysis] at p. 5.) The additional output stimulated from household spending would support approximately 760 new jobs (part-time and full-time) in the County earning $23 million in employee income annually, an average of $31,000 annual income per worker. (*Ibid.*)

- *Fiscal Benefits.* In addition, at Project build-out, the Project is projected to generate positive fiscal impacts to the County's operating funds. The annual revenue generated by the Project from various taxes, licenses, and permits is estimated to exceed the costs of services the County will provide (e.g., health and sanitation, police and fire protection) by approximately $2.6 to $2.9 million. (See Exh. G [Economic and Planning Systems, Inc., Friant Ranch Fiscal Impact Study] at p. 3.) At build-out, household spending from the Project is projected to stimulate $110 million in additional economic output in the County's economy annually, which represents an increase of approximately 0.2 percent in the County's economic output. (*Id.* at 5.) The additional output stimulated from household spending would support approximately 760 new jobs (part-time and full-time). (*Id.* at 6.) In addition, at build-out, the project is projected to generate positive fiscal impacts to the County's operating funds.

- *Active Adult (55+) Housing.* One of the market sectors not currently being served in Fresno County is housing for active adults of retirement age. As analyzed in the Certified EIR, the 65-74 year age group in Fresno County is projected to grow by approximately 59 percent this decade, an increase of over 29,000 people. (Certified EIR, DEIR at p. 3-255.) The 55-64 year age group in Fresno County is projected to increase by 27 percent through 2020, an increase of 24,000 people. By providing the County's first and only 55+ age-qualified active adult lifestyle community, Friant Ranch implements General Plan Goal H-C by accommodating the County's growing baby boomer population and helping meet the demand for retirement housing. (Certified EIR, DEIR at p. 3-255.) As such, the Certified EIR determines that the Project also promotes General Plan Goal H-E, which requires the County to "provide an adequate supply of housing and

supportive services for persons with special needs including elderly, homeless, disabled, female head of household and large families." (*Id.*)

- *Revitalization of Longstanding Community.* Friant Ranch will revitalize the Friant Community and provide significant regional benefits. The Project will provide economic and social benefits to the Friant community and beyond. Friant's history can be traced to the town of Millerton, Fresno County's first county seat, which was established in 1856. (2011 Friant Community Plan Update at p. UCP 4-6; see also Friant Ranch Specific Plan at p. 12, § 1.8.2.) While Friant briefly grew in population during construction of the Friant Dam in the 1930's and 1940's, the area has maintained a modest population and limited economy over the past 60 years. (*Id.*) Existing commercial business cannot thrive and new commercial businesses will not be established in Friant because there are not enough residents to support them. Despite plans for growth in Friant (discussed *supra*), additional residences will not be established in Friant because there is an insufficient water supply and no wastewater treatment system. In short, the community of Friant is in dire need of a partner willing to invest in Friant. The Annexation Area is the only property in or abutting the existing community that is large enough to justify the significant investment needed to improve the community's infrastructure and allow for growth of the existing community. (Certified EIR, DEIR at p. 4-3 – 4-4.)

D. THE CITY COMMENTS MISCONSTRUE THE APPLICABLE CEQA REQUIREMENTS

1. CEQA Requires the Commission to Assume the EIR Complies with CEQA.

As indicated in the City Comments, the City has filed litigation against the County's (County) certification of the Certified EIR and the Project approvals. (Fresno County Superior Court, Case No. 11CECG00706.) However, contrary to the City's suggestion, the existence of litigation concerning the Certified EIR does not preclude the Commission from processing and approving the WWD 18 Actions. Rather, the Commission must assume that the Certified EIR complies with CEQA despite the pending litigation. (Pub. Resources Code, § 21167.3 ["[i]n the event an action or proceeding is commenced..., responsible agencies shall assume that the environmental impact report ... for the project does comply with [CEQA] and shall approve or disapprove the project"].)

The City asks the Commission to defy this mandate by making allegations that the Commission did not adhere to certain responsible agency obligations while the City processes the Certified EIR. (City Comments at pp. 2-3) The City Comments completely reverse the purpose of these comment and consultation requirements, which are a component of the defined parameters through which a responsible agency may challenge the adequacy of an EIR. (See 14 Cal. Code Regs. § 15000 et seq. [CEQA Guidelines], § 15096(d)-(e).) If the Commission did not comment within the timeframes provided by the County with respect to the Certified EIR, CEQA assumes that the

Commission "has no comment to make." (CEQA Guidelines, § 15207.) Since the Commission did not raise any objections to the Certified EIR during the County's process or during the 30 days after the County filed its notice of determination, the Commission is "deemed to have waived any objection to the adequacy of the EIR" for use in considering the WWD 18 Actions. (CEQA Guidelines, § 15096(e)(2).)

The City incorporates by reference all of the "objections raised in its lawsuit and the comment letters on the EIR that are applicable to the Commission actions." (City Comments at p. 3.) The County adequately addressed each of the CEQA objections raised by the City during its process on the Certified EIR. (See Exhibits C and D.) Further, given the broad nature of the County actions in comparison to the limited WWD 18 Actions, the attempted incorporation by reference lacks specificity and is so vague as to be meaningless in the context of CEQA's requirement that the Commission assume the adequacy of the Certified EIR. In any event, the County and Friant Ranch are diligently working to defend the Certified EIR in the noted litigation. (Pub. Resources Code, § 21167.3.) As such, Friant Ranch respectfully urges the Commission to consider the Certified EIR and approve the WWD 18 Actions.

2. The Commission Has Narrow Authority Under CEQA.

CEQA expressly limits the Commission's authority, as responsible agency, concerning the Certified EIR. The Commission is not authorized to determine the adequacy of the Certified EIR or its conformance with CEQA. (Pub. Resources Code, § 21167.3.) Rather, with respect to the Certified EIR and the WWD 18 Actions, the Commission complies with CEQA by "considering the EIR... prepared by the lead agency and by reaching its own conclusions on whether and how to approve the project involved." (CEQA Guidelines at § 15096(a); see also, *id.* at §§ 15091, 15093, 15096, 15162, 15163.) The Commission has narrow authority to impose feasible mitigation measures or feasible alternatives within the Commission's power that would mitigate or avoid direct or indirect impacts of those parts of the Project that the Commission decides to carry out, finance, or approve. (CEQA Guidelines, §§ 15041(b),15096(g).)

The City suggests that the Commission has authority over construction of wastewater and water treatment facilities, water and wastewater conveyance infrastructure, transport of the identified water supply, and wastewater disposal. (See City Comments at 2, ¶ B.) The City further contends that the Certified EIR did not consider these activities. (*Id.*) Contrary to the City's assertions, (1) the Certified EIR analyzed the impacts of such actions (see generally, Exh. C and D.); and (2) these actions are not within the WWD 18 Actions that the Commission has authority to carry out, finance, or approve. (CEQA Guidelines, § 15096(g); cf. City Comments at 2, ¶ B.)

The City Comments demonstrate an overarching confusion concerning the nature of the WWD 18 Actions, the level of planning currently undertaken for the Project, and state requirements for parallel processing land use entitlements, water supply approvals, infrastructure, and environmental review. (City Comments at pp. 2-3). As required by

CEQA, the Certified EIR for the Friant Community Plan Update and Friant Ranch Specific Plan considered all reasonably foreseeable public agency actions and approvals associated with the Project. (Certified EIR at pp. 2-14 – 2-31.) The Certified EIR appropriately analyzed the potential impacts of the infrastructure required for WWD 18 to provide water and wastewater service to the annexation area. (Exh. C, Responses to Comments 19.133, 19.142-19.143; CEQA Guidelines, § 15146.) The City, however, wholly overlooks such analysis and demands that the Commission undertake additional analysis of potential environmental impacts concerning the construction of certain facilities, which have not been approved and do not fall within the approval authority of the Commission. (City Comments at pp. 2-3; cf. *infra* at p. 3.)

The City similarly misconstrues Cortese-Knox requirements to suggest that the Commission has the authority and obligation to approve the construction of water and wastewater infrastructure, and that the Commission must analyze the specific impacts associated with such construction. (City Comments at pp. 2-3.) However, similar to CEQA, the language of Cortese-Knox provides no such authority or obligation to the Commission. (See e.g., Gov. Code § 55653(b), 56430(a)(2).) Rather, the Commission does not have land use authority. The Commission's purposes are to: (i) discourage urban sprawl; (ii) preserve open space and prime agricultural lands; (iii) efficiently provide government services; (iv) encourage the orderly formation and development of local agencies based upon local conditions and circumstances (Gov. Code, § 56301.) The Commission "shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements." (Gov. Code, § 56375.)

CEQA requires the Commission to consider potentially significant impacts resulting from actions it carries out, funds, or directly approves. (CEQA Guidelines, §15002.) As a responsible agency, the Commission may refuse to approve the Project "in order to avoid direct or indirect environmental effects of that part of the project which the responsible agency would be called on to carry out or approve," but not with respect to impacts resulting from an action outside of its authority. (CEQA Guidelines, § 15042.) Construction of wastewater and water treatment facilities, water and wastewater conveyance infrastructure, transfer of the identified water supply, and wastewater disposal are not governmental actions directly undertaken by, financed in whole or in part by, or approved by the Commission. (*Id.*; cf. Gov. Code, § 56375.) None of the WWD 18 Actions would "give impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures" with respect to these specific activities. (CEQA Guidelines, § 15004.)

In fact, the agencies with approval authority over the water treatment plant, wastewater treatment plant, water conveyance infrastructure, and disposal have not approved the specific locations for the plant, infrastructure, or disposal. Prior to securing rights and approvals to carry out the proposed water and wastewater activities, WWD 18 must obtain County, Regional Water Quality Control Board, and United States Bureau of Reclamation approvals. (Certified EIR, FEIR at pp. 2.14-2.29.) Further, WWD 18,

Lower Tule River Irrigation District (LTRID), and the United States Bureau of Reclamation, not the Commission, have authority over the approval and transfer or LTRID supplies to WWD 18. (*Id.*)

3. Supplemental CEQA Analysis is not Warranted.

The City further demands that the Commission conduct additional environmental review concerning the Project. (City Comments at 2, ¶ B.) However, the City makes no factual allegations warranting such review and, in fact, no substantial changes or new information exist to satisfy the strict criteria for supplemental review set forth in CEQA. (Pub. Resources Code, § 21166; Gov. Code, § 65457; CEQA Guidelines, §§ 15096(f), 15162, 15163, 15183.) The Certified EIR considered potential impacts resulting from the WWD 18 Actions. (See generally, Exh. C and D.) No new information has arisen warranting supplemental analysis.

E. THE CERTIFIED EIR DETERMINED WWD 18 CAN RELIABLY SERVE THE PROJECT.

The Certified EIR directly addressed the question of whether WWD 18 has the technical and managerial capacity to provide water and wastewater treatment service on the scale required by the Project. (Exh. C, Response to Comment 16.4.) The Certified EIR acknowledges that WWD 18 in its present form does not have sufficient staff or capital reserves to serve the Project at buildout, but the analysis explains how the District's Strategic Plan for growth will ensure that needs are met. (See Exh. E.)

The Certified EIR also explains that additional technical staff will be needed to provide the level of service necessary to serve the Project. (Exh. C, Response to Comment 16.4.) The Strategic Plan anticipates WWD 18 retaining contract services to provide the required skilled personnel as the need for services grows. (Exh. E.) Use of contract services to manage water and wastewater treatment facilities is common and successful throughout the state. The Certified EIR also affirms WWD 18's demonstrated ability to manage a wastewater treatment facility in compliance with regulatory requirements, providing evidence to support its statement that WWD 18 has a "consistent history of achieving its water quality objectives." (Exhibit C, Response to Comment 19.12.)

Policy 4.9 of the Friant Ranch Specific Plan requires that necessary infrastructure be installed and in place prior to occupancy of dwelling units in Friant Ranch. The Project thus includes, and various EIR mitigation measures require, the timely construction of necessary public facilities such that adequate levels of service are maintained. (See, e.g., Certified EIR, DEIR at p. 3-368 [discussing wastewater treatment plan phasing), DEIR at p. 3-357 [discussing water treatment and delivery facilities]; see also Friant Ranch Specific Plan at pp. 117-118.)

The Friant Ranch Infrastructure Master Plan provides the County and WWD 18 staff with a regulatory framework to create appropriate development conditions for maps and commercial site plans as they are developed. The Infrastructure Master Plan describes

the complete infrastructure system necessary to serve the Project and makes clear how facilities must be sized and located to accommodate buildout. While detailed design has been appropriately left to the Project phases, the necessary backbone infrastructure is clear and will be the responsibility of the Friant Ranch developer. WWD 18 has agreed to administer the public utilities and has, in cooperation with the Project team, developed the Strategic Plan demonstrating how it will grow from its current size to serve Friant Ranch and the surrounding community as the Project develops (Exh. E.) Doing so will require significant financial support from Friant Ranch development, as well as new technical, professional and managerial experience that WWD 18 will attract and hire as necessary. (*Id.).* The Project provides for the construction, financing, and maintenance of all necessary facilities, consistent with the EIR. (Friant Ranch Specific Plan, pp. 117-118.) Further, the County will condition future tentative map approvals upon construction and financing of necessary facilities, as required by the Certified EIR and adopted mitigation. (See Certified EIR, Mitigation Measures 3.14.1 – 3.14.3, DEIR at pp. 3-356, 3-362 – 3.374; see Mitigation Monitoring Program.)

Thus, the Certified EIR and Project documents demonstrate that, with the backing of the Friant Ranch developer and appropriate use of contract services, WWD can and will reliably serve the Project.

F. CONCLUSION

Based on the information summarized herein and contained in the administrative records before the Commission and the County, including the Certified EIR, the proposed WWD 18 Actions satisfy California Environmental Quality Act, Pub. Resources Code, § 21000 et seq. (CEQA), the Cortese Knox Hertzberg Act, Gov. Code, § 56000 et seq. (Cortese Knox), and your Commission Policies, Standards and Procedures Manual (Commission Policies). As such, Friant Ranch, L.P. respectfully urges the Commission to consider the Certified EIR, make appropriate findings under CEQA, Cortese-Knox, and the Commission Policies, and approve the WWD 18 Actions.

Sincerely,

Jacqueline McDonald Pucheu

JMP:me
Enclosures

cc: Kenneth Price
Jeff Witte
Neal Costanzo (via electronic mail)

EXHIBIT B

Job No. 13281103 LAF

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MEMORANDUM

To: Jacqueline McDonald Pucheu, Esq.

From: David McGlasson, PE, PLS

Subject: LAFCO Action with respect to WWD 18
Response to Shute, Mihaly & Weinberger Letter of 9/27/2011

Date: September 28, 2011

At your request we have reviewed the subject letter, and particularly the section on page 6 which states that LAFCO "must" adopt additional mitigation measures beyond those required by the County's certified EIR. We have several thoughts on this.

1. The letter asks that the Commission direct that WWD 18 "complete negotiations" for a water source. This is moot, since the agreement between WWD 18 and LTRID was signed several months ago, soon after the two agencies were able to take their lawfully-required actions as Responsible Agencies under CEQA. The final agreement provides WWD 18 with up to 2,000 AF of water per year in perpetuity, as evaluated in the EIR and Water Supply Assessment.

2. The letter asks that the Commission "require a higher level of wastewater treatment to protect the San Joaquin River from discharges from the new wastewater treatment plant." This comment makes no sense on several levels.

   First and most importantly, the new WWTP will not discharge to the San Joaquin River. The Specific Plan is clear on that point, as is the approval resolution passed by the Board of Supervisors on February 1, 2011. All effluent will be land applied to agricultural crops or landscaping as irrigation at agronomic rates.

   Second, the Specific Plan proposes that the WWTP will produce effluent meeting Title 22 standards for unrestricted reuse. This is also known as "tertiary" effluent, and is permitted for use by the Regional Water Quality Control Board for nearly every purpose including irrigation of school yards and for use in swimming ponds. The record already contains studies by Larry Walker & Associates and by RBI, for the original river discharge proposal, demonstrating that mixing of all the project's effluent with the river would not create harmful effects on aquatic species. Since the adopted proposal eliminates river discharge entirely, and the proposed tertiary effluent meets the State's Best Practices requirements, there is no reason, legal or otherwise, to suggest that a higher level of treatment is necessary or beneficial.

Third, the record already contains evidence that there will be no indirect discharge to the river. There is because the soil at the effluent storage site is relatively impermeable, and more importantly the elevation gradient from the pond to the river would require water to flow uphill for there to be mixing. However, if for some reason, as the letter suggests, there is a way that some small quantity of treated effluent could find its way from the Beck property effluent storage pond to the river, the fact that such water would have to pass through over 2,000 feet of soil along the way would provide additional treatment and filtration. This in-soil treatment effect has been documented many times in professional literature.

Fourth, establishment of the required wastewater treatment level is the purview of the Regional Water Quality Control Board, which will issue Waste Discharge Requirements pursuant to a Report of Waste Discharge and Report of Water Reclamation which will be filed by WWD 18 in due course. The WDRs are expected to require tertiary treatment, as the Specific Plan proposes, as the RWQCB has a long history of similar requirements for projects proposing land-applied irrigation effluent disposal. In any case, the final decision rests with the RWQCB, not with LAFCO.

3. The letter states that "the risk of indirect discharge could be mitigated by lining the effluent pond with high-density polyethylene to protect the river." This comment reflects similar misrepresentations as those discussed in the effluent quality discussion above. Because of the adverse hydraulic gradient, there is no physical risk of the effluent even reaching the river. The final design of the effluent storage pond, including any possibility of a liner and/or groundwater monitoring wells, is subject to RWQCB approval, and the assertion that the treated effluent would somehow damage the waters of the river has been thoroughly refuted.



9/28/11

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September 22, 2011

Via Hand Delivery and Electronic Mail

Chairman and Commissioners
Fresno Local Agency Formation Commission
2115 Kern Street, Suite 310
Fresno, CA 93721

Re: Fresno County Waterworks District 18 (WWD 18) Sphere of Influence Revisions, Annexation, and Extension of Powers Related to the Friant Ranch Specific Plan (Project)

Dear Chairman and Commissioners:

On behalf of Friant Ranch, L.P. (Friant Ranch), this firm has reviewed the comments submitted by City of Fresno (City) on August 23, 2011 (City Comments) related to the above-described actions (WWD 18 Actions). The allegations set forth in the City Comments attempt to confuse the WWD 18 Actions and related facts. At the request of your staff and counsel, this letter responds to the City Comments and provides the Fresno Local Agency Formation Commission (Commission) with requisite clarifications and pertinent information to inform your decision on the WWD 18 Actions. Friant Ranch, the primary landowner within the subject area, respectfully requests that the Commission consider the information set forth herein pursuant to Government Code section 56668(m).

On February 1, 2011, the County of Fresno (County) certified the Friant Community Plan Update and Friant Ranch Specific Plan Environmental Impact Report, State Clearing House No. 2007101016 (Certified EIR) and approved the Friant Community Plan Update and Friant Ranch Specific Plan providing for residential and commercial development within the area subject to the WWD 18 Actions (Annexation Area). By and through such approvals, the County acknowledged the need for the Project. The County recognized that the Project provides trails to enhance the area's recreational amenities, ideal housing for a growing active adult (55+) population, and private investment in state of the art infrastructure to expand the existing, longstanding Friant community. The City inappropriately coins this Project as leapfrog development. In fact, the Project has been specifically designed to revitalize an existing, unincorporated community. The administrative record before the County contains substantial evidence to support the County's findings and the environmental determinations in the Certified EIR.

For background and to assist the Commission in making requisite findings and determinations under the California Environmental Quality Act, Pub. Resources Code, section 21000 et seq. (CEQA) and Cortese-Knox-Hertzberg, Gov. Code, sections 56000 et seq. (Cortese-Knox), enclosed are the following pertinent documents:

Exhibit A	Contract Between the United States and Lower Tule River Irrigation District Providing for Project Water Service from Friant Division and for Facilities Repayment
Exhibit B	Option and Long-Term Transfer Agreement Between Lower Tule River Irrigation District and Waterworks District 18
Exhibit C	County of Fresno, Final Friant Community Plan Update and Friant Ranch Specific Plan Environmental Impact Report, Responses to Comment Letter 19 (City of Fresno) and Related Responses
Exhibit D	County of Fresno Responses to December 7, 2010 City of Fresno Comment Letter included within County of Fresno, Staff Report for February 1, 2011 Board of Supervisors Hearing
Exhibit E	Waterworks District 18 Strategic Plan
Exhibit F	Economic and Planning Systems, Inc., Friant Ranch Economic Benefit Analysis
Exhibit G	Economic and Planning Systems, Inc., Friant Ranch Fiscal Impact Study
Exhibit H	United States Bureau of Reclamation, Central Valley Project Allocation Data, Water Years 2005 - 2011 (downloaded from www.usbr.gov in September 2011)
Exhibit I	Prime Agricultural Lands in the Vicinity of Urban Growth

Relying on the above-referenced documents, the following discussion: (1) demonstrates the reliability of the permanent water supply identified by WWD 18 to serve the Project; (2) explains the benefit of the WWD 18 Actions to the existing Friant Ranch community and the surrounding agricultural open space; (3) provides additional information about the WWD 18 Actions and the Project to inform the Commission's findings; (4) summarizes the CEQA requirements related to the Commission's reliance on the Certified EIR; and (5) addresses WWD 18's ability to provide water and wastewater services to the Project.

A. WWD 18 Has Identified A Permanent, Reliable, Local Water Supply.

In March 2011, relying on the Certified EIR, Lower Tule River Irrigation District (LTRID) and WWD 18 approved and executed an Option and Long-Term Transfer Agreement Between Lower Tule River Irrigation District and Waterworks District 18. (Water Supply Agreement). (See Exh. B.) The Water Supply Agreement permanently

obligates LTRID to provide Central Valley Project (CVP), Friant Division Class 1 water supplies to WWD 18 to serve the Annexation Area. (Exh. B.)

1. WWD 18 Contracted With LTRID For Local, Fresno County Water Supplies.

The City alleges that WWD 18 proposes to "import" water from another watershed to serve the Annexation Area. (City Comments at p. 2.) As explained in the Certified EIR and supporting documents, the proposed water supply for the Project comes from the same source as WWD 18's current supplies—water that the United States Bureau of Reclamation (Reclamation) stores behind Friant Dam in Millerton Lake through the CVP, Friant Division. (Exh. C, Response to Comment 19.1; certified EIR, Exh. B thereto [Water Supply Assessment] at pp. ES-1 – ES-2.) The water subject to the Water Supply Agreement has historically been exported out of Fresno County, to Tulare and Kern Counties, via the Friant Kern Canal. (See Exh. A, internal Exh. B thereto; see also Exh. B at p. 1.) Under the Water Supply Agreement, however, the CVP, Friant Division Class 1 water supply (originating in Fresno County) would be released from an existing pipe at the base of Friant Dam directly to the WWD 18 water treatment plant. (Certified EIR, FEIR, at p. 2-30; Exh. B at p. 2.)

As such, the local, CVP Friant Division water supply stored by Reclamation in the immediate Project vicinity will serve the Annexation Area.

2. The Certified EIR Appropriately Calculated Expected Water Demand.

Relying on the Water Supply Assessment, the Certified EIR appropriately concluded that water supply subject to the Water Supply Agreement will meet the Project demands, over the required 20-year planning horizon, in normal, critically dry, and multiple dry years. (Water Supply Assessment at p. ES-3.) The Water Supply Assessment calculated the water supply demand resulting from the Project, in addition to the existing and planned future uses within the WWD 18 Service Area. (Water Supply Assessment at pp. 22-28.)

In calculating such demand, the Water Supply Assessment applied historic demand rates from local cities like Clovis. (Exh. D at p.29, Response to ¶ 3 of Comment 5-26; see also Friant Ranch Infrastructure Master Plan at p. 13.) Contrary to the City's allegations that the active adult (55+) nature of the Project was inappropriately used to reduce expected demands, the Water Supply Assessment states:

> These [water demand] factors have *not* been adjusted for the much-lower average occupancy of each unit in an age-restricted 55+ active adult community such as the Project. Approximately, two-thirds of domestic water is for external use. Lower average occupancy has *not* been factored into these tables, as a measure of conservatism. (Water Supply Assessment at p. 22, emphasis added; see also Certified EIR, DEIR at p. 3-351; cf. City Comments at 3.)

In addition, the Water Supply Assessment analyzed potential water supply demand of a considerably larger project than the "Alternative 3" development configuration approved by the County. (See Water Supply Assessment [analyzing potential demand of 2,996 residential units within Friant Ranch Specific Plan area]; cf. Friant Ranch Specific Plan [planning for 2,500 residential units within Friant Ranch Specific Plan area].) Total water demand under Alternative 3 is just 1,093 acre-feet, a reduction of almost 400 acre-feet from the demand estimate analyzed in the Water Supply Assessment. (Friant Ranch Infrastructure Master Plan at p. 14.) Alternative 3 significantly lessens the Project's water demand, and increases the margin of safety provided by the Water Supply Agreement.

Thus, the Certified EIR appropriately considered WWD 18's reasonable water demand estimates for development within the Annexation Area.

3. WWD 18 Has Appropriately Addressed Water Supply Uncertainties.

The Water Supply Assessment explained, and the Certified EIR considered, all potential uncertainties related to the proposed water supply and WWD 18's plan for addressing those uncertainties. (Certified EIR, DEIR at pp. 355-356.) After analyzing potential uncertainties, the Water Supply Assessment appropriately concludes that the proposed water supply will be adequate. In particular, Reclamation has typically provided over 94% of contracted Friant Division CVP Class 1 supplies annually. (Exh. C, Response to Comment 19.132; see also Water Supply Assessment at p. 15 [explaining average Class 1 water supply allotment from 1966 to 2006 was 94%].) Further, Reclamation has made available 100% of LTRID's contracted CVP Friant Division Class 1 supplies for water year 2008, 2009, 2010 and 2011. (See Exh. H.)

The City Comments inappropriately suggest that the Commission cannot act without Reclamation approval of the Water Supply Agreement. (City Comments at p. 4.) The Certified EIR and Water Supply Assessment disclose the need for Reclamation approval of the Water Supply Agreement. (Certified EIR, DEIR at pp. 2-30, 355-356; see also Water Supply Assessment at p. ES-3; Exh. C, Response to Comment 19.11.) WWD 18, LTRID, and Friant Ranch representatives have been consulting with Reclamation throughout the course of the entitlement process in pursuit of the requisite Reclamation approvals. Land use and water supply planning, by their very nature, must move forward as parallel processes, and the remaining need for Reclamation approval of the Water Supply Agreement is a reasonable condition at this stage in the development process. (See e.g., Gov. Code § 66473.7, discussed *infra* at D.3.)

The County addressed any potential uncertainty caused by the pending Reclamation approval by including mitigation to ensure that no development can take place within the Annexation Area until Reclamation approves the Water Supply Agreement. (Certified EIR, DEIR at p. 3-356.) Mitigation measure 3.14.1 requires WWD 18 to secure Reclamation approval of the Water Supply Assessment prior to approval of any tentative map within the Annexation Area. (Fresno County Board of Supervisors, Resolution 11-031, Exh. A thereto [Mitigation Monitoring Program] at p. 101.) Thus, mitigation

measure 3.14.1 ensures that the Specific Plan development cannot proceed until final Reclamation approval of the Water Supply Agreement. (Exh. C, Responses to Comments 19.132 and 32.18.)

The Certified EIR acknowledged that State law provides additional safeguards by requiring the County to obtain a water supply verification from a water purveyor capable of serving the Project prior to issuing a tentative map for 500 or more residential units (or the equivalent). (Gov. Code, § 66473.7; Certified EIR at p. 3-333.) The water supply verification must ensure that sufficient water supplies are available to serve the Project in single dry, multiple dry, and normal water years. (*Ibid.*) The requirement that water supply be further verified prior to the County's approval of any large tentative maps for the Project provides additional assurance that development cannot proceed without proving that adequate supplies are available. (Exh. C, Response to Comment 16.5.)

As such, state law and mitigation adopted by the County will ensure that WWD 18 has secured the identified reliable water supply prior to tentative map approval allowing development within the Annexation Area.

4. LTRID's Permanent Reclamation Contract Strengthens Reliability.

As forecasted in the Certified EIR, in November 2010, LTRID entered into the Contract Between the United States and Lower Tule River Irrigation District Providing for Project Water Service from Friant Division and for Facilities Repayment (Repayment Contract). (Exh. A [Repayment Contract]; see Exh. C, Response to Comment 19.132 at (4).) LTRID paid off the remaining repayment obligation owed to Reclamation such that the Repayment Contract gives LTRID a "permanent right" to its proportionate share of the Friant Division water supplies. (Repayment Contract at Recital h and Article 3(a)-(b).) By its terms, the Water Transfer Agreement remains in effect for the duration of the Repayment Contract. (Exh. B.)

Therefore, by and through the Water Supply Agreement, WWD 18 has a permanent, reliable supply of water to serve the Friant Ranch development. The identified supply and related assurances provided in the Certified EIR satisfy Commission requirements concerning "timely" availability of water supplies. (Gov. Code, § 65352.5.)

B. ANNEXATION AREA IS LOGICAL, TIMELY EXTENSION OF WWD 18 SERVICE AREA.

1. The Annexation Area is Proximate to a Populated, Unincorporated Community.

The Annexation Area is immediately adjacent to the existing service area of WWD 18, and abuts the 1983 Friant Community Plan Area. (Certified EIR, DEIR at pp. 2-5 and 2-16.) Portions of the Annexation Area lie within the 1983 Friant Community Plan Area. (*Ibid.*) Some of the lands within the Annexation Area were zoned and designated for commercial and residential uses during the 1964 and 1983 Community Planning efforts. (See Exh. C, Response to Comment 19.16; see also Certified EIR, FEIR at p. 2-5,

Figure 2-4.) Further, approximately 80 acres of the Annexation Area fall within the Fresno County Friant Redevelopment Area. (Certified EIR, FEIR at p.2-7, Figure 2-5.)

Pursuant to the Friant Community Plan Update, the County has included the entire Annexation Area within the Friant Community Plan area. (Friant Community Plan Update at UC p 4-21.) The County zoned all lands within the Annexation Area for residential and commercial uses. (See Friant Ranch Zoning Regulations, Fresno County Zoning Ordinance §§ 840.B et seq.) As such, the Annexation Area is proximate to, and a logical extension of, the populated area comprising the unincorporated community of Friant. (Exh. C, Response to Comment 19.16.) The location of the Annexation Area immediately adjacent to the existing community will facilitate the Friant Redevelopment Plan goal of reviving the unincorporated area, and will also improve the public facilities and infrastructure available to the existing community. *(Id.)*

Thus, the proposed development immediately adjacent to the WWD 18 current service area and the existing community of Friant promotes planned, orderly and efficient development of this populated area of unincorporated Fresno County.

2. <u>The Project is Consistent With Longstanding Plans for Growth in Friant.</u>

The Friant community is one of the oldest communities in Fresno County and has long been considered a legitimate growth area by the County. (Friant Ranch Specific Plan at p. 12, § 1.8.2.) The 1983 Community Plan assumed growth would occur within the Friant area, but noted the following requisite conditions to facilitate the desired growth: (1) a large increase in area development opportunities; (2) successful promotion of the community as a desirable place in which to live for retirees or commuters; and (3) a large increase in the use of recreational facilities in the Friant area. (1983 Community Plan at § 3.01a.) The 2011 Friant Community Plan Update acknowledges that growth is needed to meet the County goals for the Friant area. (2011 Friant Community Plan Update at pp. UCP 4-1, UCP 4-29 – UCP 4-32.) Further, the General Plan population projections estimate that the Unincorporated East Valley, of which the Friant Community Plan Area is a part, will grow from 87,705 people in 1996 to 101,542 people in 2020, an increase of 13,837 people. (Fresno County General Plan, Table A-1 of Appendix A.) The Annexation Area will accommodate a portion of this anticipated growth.

The Certified EIR unequivocally determines that the Project is consistent with County goals and policies relating to the timing and location of growth, preservation of agricultural resources, and public facilities and services. (Certified EIR, DEIR at p. 3-255 and FEIR revisions thereto.) The Fresno County General Plan directs intensive development to unincorporated communities. (Fresno County General Plan, p. 2-33.) The Project is consistent with Fresno County and Commission policies for growth because "public facilities and infrastructure are available or can be expanded." (Certified EIR, DEIR at p. 3-22; see Friant Ranch Infrastructure Master Plan; see Exh. G [WWD 18 Strategic Plan]; Fresno County General Plan, Policy LU-G.23 ["County shall ensure

that the expansion of unincorporated communities can be provided with necessary public services and such expansion is consistent with other General Plan policies"].)

The Fresno County General Plan contemplates potential new growth areas in the Friant-Millerton Area and recognizes that it is an area void of productive agricultural soils. (Exh. C, Response to Comment 19.73.) The Annexation Area is within the area depicted as residential growth area in the General Plan, outside the area's productive agricultural land. (General Plan, Exh. LU-5; Certified EIR, DEIR at p. 3-232.) Several neighborhoods surround the Annexation Area, and planned or existing developments in the area include Millerton New Town, Brighton Crest, and Table Mountain Casino. (Exh. C, Response to Comment 32.12; see also Friant Ranch Specific Plan at pp. 14-15.)

Therefore, contrary to City's contentions about leapfrog development, growth within the annexation area is consistent with longstanding planning documents identifying Friant as a growth area.

3. The Annexation Area Does Not Contain Prime Agricultural Lands.

The Friant Community Plan Update and Friant Ranch Specific Plan protect prime agricultural land by directing growth to the non-prime agricultural lands within the Annexation Area. (Gov. Code, 56377(b) ["[d]evelopment or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands"].) In fact, State law and Commission Policy direct that the Commission "shall be guided towards areas containing non-prime agricultural lands," such as the Annexation Area. (Commission Policy at 104-02; see also Gov. Code, § 56377.)

The WWD 18 Actions do not involve "prime agricultural lands" as defined by state law and the Commission Policy:

- The Annexation Area is not currently located in an irrigation or water district having a sufficient water allocation, and the groundwater is not of sufficient quantity to support irrigation. (Certified EIR at p. 3-205; Gov. Code, 56054; see also Commission Policy 005-06B.)

- The Annexation Area does not qualify for rating as Class I or Class II in the Soil Conservation Land Use Capability Classification. (Gov. Code, 56054; see also Commission Policy 005-06C(1); see Exh. C, Response to Comment 18.3; Certified EIR, DEIR at pp. 3-15, 3-18 [demonstrating that non-prime farmlands do not contain Class 1 and Class 2 soils].)

- The Annexation Area is non-irrigated rangeland suitable for seasonal grazing, and cannot support one animal unit per acre due to current topography, soil structure, and water supplies. The Annexation Area does not have the requisite natural resources sufficient to support fruit or nut-bearing trees, vines, bushes, or crops. (Exh. C at Response to Comment 18.3; cf. Commission Policy 005-06C(2)(a), 005-06C(2)(c).)

The Certified EIR provides extensive additional evidence and analysis explaining why the Project does not affect valuable or productive agricultural land. (Exh. C, Responses to Comments 18.3,19.16, 19.73, 19.150; see also Friant Ranch Specific Plan at pp. 113-114.) In sum, the Certified EIR applied the significance thresholds set forth in CEQA Guidelines Appendix G to determine that the "conversion of 'non-prime and non-important agricultural land' resulted in no significant impact to agricultural resources. (Exh. C, Response to Comment 18.3; see also Certified EIR, DEIR at p. 3-23.) The Certified EIR further relies on the Fresno County General Plan goals and policies to support its determination that the Project would not result in significant impacts to prime agricultural lands. (Exh. C, Response to Comment 18.3.)

Accordingly, development within the Annexation Area—non-prime agricultural land—is consistent with the Commission's policies encouraging orderly urban development and preservation of agricultural lands. (Commission Policy at 103-02,104-02, and 104-03; see also Gov. Code, § 56300.)

4. Development Within the Annexation Area Promotes Agricultural Conservation.

In addition to avoiding prime agricultural lands, Friant Ranch has committed to preserving over 1500 acres of agricultural land in the Friant vicinity. The Certified EIR identified (and the County adopted) mitigation and a reduced-unit alternative that ensure approximately 482 acres of grazing land within and immediately south of the Annexation Area (away from the currently populated area) will be conserved in perpetuity and actively managed consistent with a grazing plan. (Exh. C, Response to Comment 18.3; see also Certified EIR, Mitigation Measures 3.4.1b, 3.4.1c, 3.4.1d, 3.4.1e, 3.4.3a(1), 3.4.3a(2)(a) and 3.4.5, and DEIR at p. 3-24 and FEIR revisions thereto; see also Mitigation Monitoring Program.) Further, said mitigation requirements further require conservation of over 1,000 acres of off-site grazing land (in the Friant vicinity, within Fresno and Madera Counties) to be preserved in perpetuity and managed consistent with a grazing plan. (*Id.*)

The City indicates that the master planned active-adult (55+) community proposed for the Annexation Area should be directed elsewhere to urban areas in order to avoid conversion of agricultural lands. However, in contrast to the non-prime agricultural soils within the Annexation Area, a considerable amount of land in and around the cities of Fresno and Clovis contain prime agricultural soils. (Certified EIR, DEIR at pp. 4-3 – 4-4; see also, e.g. Exh. I.) Directing development to the subject non-prime agricultural soils

immediately adjacent to an existing unincorporated community will absorb some of the housing demand identified in these planning documents and reduce the growth pressure on prime agricultural soils in other areas.

Therefore, development within the Annexation Area will promote conservation of agricultural lands in the surrounding area.

C. SUBSTANTIAL EVIDENCE SUPPORTS REQUISITE COMMISSION FINDINGS.

The Certified EIR and related documents made available to the Commission by the County and WWD 18 provide ample support and justification for the Commission to make requisite findings (including any requisite overriding considerations under CEQA) for the WWD 18 Actions. The Project approved by the County reflects coordination between local, state, and federal governmental agencies and environmental review, resulting in a significantly reduced development footprint, extensive preservation of agricultural land and habitat, identification of a reliable water supply, and infrastructure improvements within the existing Friant community. Though the Certified EIR recognizes certain significant and unavoidable impacts resulting from the Project, economic, social, recreational, environmental, and policy considerations outweigh the significant and unavoidable adverse environmental impacts identified in the Certified EIR. (See Fresno County Board of Supervisors Resolution 11-031, Exh. A thereto.) Moreover, said impacts result from aspects of the Project that are outside the control of the Commission. (See *infra* at D.)

For the convenience of the Commission, a list of key considerations follows:

- *Recreational Amenities.* The unincorporated community of Friant is a destination area due to recreational opportunities provided by Millerton Lake, the San Joaquin River, Lost Lake Park Recreation Area and Table Mountain Casino, and its proximity to the confluence of two primary circulation links—Friant Road and Highway 41—providing access and convenience to surrounding areas. (Friant Ranch Specific Plan at pp. 5, 14-15, and 39.) The Project provides considerable open space and linkages to recreational amenities, such as Millerton Lake, the San Joaquin River, Lost Lake Park Recreation Area and Table Mountain Casino. The Project enhances recreational uses and tourism of these amenities by providing connectivity to the regional trail system and on-site interpretive trail system accessible to the public. (Exh. C, Response to Comment 19.73; Certified EIR, DEIR at pp. 3-230 – 3.232, 3-270; Friant Ranch Specific Plan at pp. 112-113; Friant Community Plan Update at pp. 4-29, 4-37, 4-38.) The Project builds on existing retail services in Friant with an 18-acre commercial area and provides an expanded customer base that will create a hub of sub-regional services serving the unincorporated community of Friant and surrounding area. (Friant Ranch Specific Plan at pp. 28-31, § 2.3.2.)

- *State of the Art Infrastructure for Community.* The County has imposed, and Friant Ranch has agreed to, the following conditions to development in the Annexation Area: (1) to bring long term reliable water supply to the Friant community; (2) to construct additional water treatment facilities to purify the water; and (3) to construct sewage treatment facilities in order that the existing septic systems and outdated wastewater treatment plant can be abandoned. Thus, development within the Annexation Area, consistent with the County's newly adopted plans for the area, will revitalize the community of Friant. Specifically, the Project provides a new tertiary wastewater treatment facility that will (upon County and Regional Water Quality Control Board approval and ultimate construction) immediately serve the Friant Ranch Specific Plan Area and the Millerton Lake Mobile Home Park. (Mitigation Monitoring Program, Mitigation Measure 3.13.3d; see also Certified EIR, DEIR at p. 3-371.) The new wastewater treatment plant will also have the capacity to serve the proposed buildout of the remaining portions of WWD 18's Western Service Area (in accordance with the adopted Friant Community Plan analyzed in the Certified EIR and upon completion of a collector system for areas outside of the Millerton Lake Village Mobile Home Park and Friant Ranch Specific Plan area), which are not funded by or a part of the Project. (Certified EIR, DEIR at p. 3-70; Infrastructure Master Plan at pp. 24, 27, and 30.) The wastewater treatment plant will be sized to allow expansions to facilitate the planned growth under the Friant Community Plan Update, which was analyzed in the EIR. Excepting the designations for the Depot Parcel and Annexation Area, such growth has not changed since the 1983 Community Plan (Certified EIR, DEIR at p. 6.6 ["The policies and guidelines of the Community Plan and Specific Plan have been formulated to control and guide new development in the area in a manner compatible with existing uses and consistent with the General Plan"]; see also Exh. C, Response to Comment 19.10.)

- *Preservation of Agricultural Lands.* The County changed the agricultural zoning for the lands within the Friant Ranch Specific Plan area to provide for residential and commercial uses. (See Friant Ranch Zoning Regulations, Fresno County Zoning Ordinance, §§ 840.B et seq.) However, the subject lands are not prime farmland, have not been capable of irrigation due to lack of groundwater supplies, and have not been protected by Williamson Act. (Certified EIR, DEIR at pp. 3-18 – 3-19; cf. Gov. Code, § 56064 [defining "prime agricultural lands"]; see also Commission Policy at pp. 9, 20.) Further, the County's adoption of mitigation and the alternative development configuration analyzed in the Certified EIR ensure the conservation of over three times the amount of similarly situated agricultural grazing lands in perpetuity. (Certified EIR, FEIR at pp. 2.24-2.25 [mitigation measures 3.4.1b through 3.4.1e, and 3.4.3a(1), 3.4.3a(2)(a), 3.4.5, and Alternative 3 development configuration]; Mitigation Monitoring Program.) As such, the Project benefits agricultural lands. The Commission's incorporation of the reduced footprint analyzed in Alternative 3 (which is incorporated into the proposed Annexation Area) minimizes the conversion of grazing land to non-agricultural uses. As such, the proposal now before the Commission is, in effect, a

"partial annexation" from what was initially proposed to the County and analyzed in the Certified EIR. (Certified EIR, FEIR at pp. 2.24-2.25.)

- *Economic Stimulus.* Project construction is projected to generate additional economic output of $918 million in the County of Fresno's economy over the 10-year construction period, an average of $92 million annually. (Exh. F [Economic & Planning Systems, Inc., Friant Ranch Economic Impact Analysis] at p. 4.) This represents an addition of 1.7 percent to the County's total annual economic output. (*Id.*) Additionally, the construction of the project is expected to create employment for approximately 660 workers annually over the 10-year period. (*Id.*) At Project build-out, total household spending from the Project would stimulate an estimated $110 million in additional economic output for the County annually, which represents an increase of approximately 0.2 percent in the County's economic output. (Exh. F [Economic & Planning Systems, Inc., Friant Ranch Economic Impact Analysis] at p. 5.) The additional output stimulated from household spending would support approximately 760 new jobs (part-time and full-time) in the County earning $23 million in employee income annually, an average of $31,000 annual income per worker. (*Ibid.*)

- *Fiscal Benefits.* In addition, at Project build-out, the Project is projected to generate positive fiscal impacts to the County's operating funds. The annual revenue generated by the Project from various taxes, licenses, and permits is estimated to exceed the costs of services the County will provide (e.g., health and sanitation, police and fire protection) by approximately $2.6 to $2.9 million. (See Exh. G [Economic and Planning Systems, Inc., Friant Ranch Fiscal Impact Study] at p. 3.) At build-out, household spending from the Project is projected to stimulate $110 million in additional economic output in the County's economy annually, which represents an increase of approximately 0.2 percent in the County's economic output. (*Id.* at 5.) The additional output stimulated from household spending would support approximately 760 new jobs (part-time and full-time). (*Id.* at 6.) In addition, at build-out, the project is projected to generate positive fiscal impacts to the County's operating funds.

- *Active Adult (55+) Housing.* One of the market sectors not currently being served in Fresno County is housing for active adults of retirement age. As analyzed in the Certified EIR, the 65-74 year age group in Fresno County is projected to grow by approximately 59 percent this decade, an increase of over 29,000 people. (Certified EIR, DEIR at p. 3-255.) The 55-64 year age group in Fresno County is projected to increase by 27 percent through 2020, an increase of 24,000 people. By providing the County's first and only 55+ age-qualified active adult lifestyle community, Friant Ranch implements General Plan Goal H-C by accommodating the County's growing baby boomer population and helping meet the demand for retirement housing. (Certified EIR, DEIR at p. 3-255.) As such, the Certified EIR determines that the Project also promotes General Plan Goal H-E, which requires the County to "provide an adequate supply of housing and

supportive services for persons with special needs including elderly, homeless, disabled, female head of household and large families." (*Id.*)

- *Revitalization of Longstanding Community.* Friant Ranch will revitalize the Friant Community and provide significant regional benefits. The Project will provide economic and social benefits to the Friant community and beyond. Friant's history can be traced to the town of Millerton, Fresno County's first county seat, which was established in 1856. (2011 Friant Community Plan Update at p. UCP 4-6; see also Friant Ranch Specific Plan at p. 12, § 1.8.2.) While Friant briefly grew in population during construction of the Friant Dam in the 1930's and 1940's, the area has maintained a modest population and limited economy over the past 60 years. (*Id.*) Existing commercial business cannot thrive and new commercial businesses will not be established in Friant because there are not enough residents to support them. Despite plans for growth in Friant (discussed *supra*), additional residences will not be established in Friant because there is an insufficient water supply and no wastewater treatment system. In short, the community of Friant is in dire need of a partner willing to invest in Friant. The Annexation Area is the only property in or abutting the existing community that is large enough to justify the significant investment needed to improve the community's infrastructure and allow for growth of the existing community. (Certified EIR, DEIR at p. 4-3 – 4-4.)

D. THE CITY COMMENTS MISCONSTRUE THE APPLICABLE CEQA REQUIREMENTS

1. CEQA Requires the Commission to Assume the EIR Complies with CEQA.

As indicated in the City Comments, the City has filed litigation against the County's (County) certification of the Certified EIR and the Project approvals. (Fresno County Superior Court, Case No. 11CECG00706.) However, contrary to the City's suggestion, the existence of litigation concerning the Certified EIR does not preclude the Commission from processing and approving the WWD 18 Actions. Rather, the Commission must assume that the Certified EIR complies with CEQA despite the pending litigation. (Pub. Resources Code, § 21167.3 ["[i]n the event an action or proceeding is commenced..., responsible agencies shall assume that the environmental impact report ... for the project does comply with [CEQA] and shall approve or disapprove the project"].)

The City asks the Commission to defy this mandate by making allegations that the Commission did not adhere to certain responsible agency obligations while the City processes the Certified EIR. (City Comments at pp. 2-3) The City Comments completely reverse the purpose of these comment and consultation requirements, which are a component of the defined parameters through which a responsible agency may challenge the adequacy of an EIR. (See 14 Cal. Code Regs. § 15000 et seq. [CEQA Guidelines], § 15096(d)-(e).) If the Commission did not comment within the timeframes provided by the County with respect to the Certified EIR, CEQA assumes that the

Commission "has no comment to make." (CEQA Guidelines, § 15207.) Since the Commission did not raise any objections to the Certified EIR during the County's process or during the 30 days after the County filed its notice of determination, the Commission is "deemed to have waived any objection to the adequacy of the EIR" for use in considering the WWD 18 Actions. (CEQA Guidelines, § 15096(e)(2).)

The City incorporates by reference all of the "objections raised in its lawsuit and the comment letters on the EIR that are applicable to the Commission actions." (City Comments at p. 3.) The County adequately addressed each of the CEQA objections raised by the City during its process on the Certified EIR. (See Exhibits C and D.) Further, given the broad nature of the County actions in comparison to the limited WWD 18 Actions, the attempted incorporation by reference lacks specificity and is so vague as to be meaningless in the context of CEQA's requirement that the Commission assume the adequacy of the Certified EIR. In any event, the County and Friant Ranch are diligently working to defend the Certified EIR in the noted litigation. (Pub. Resources Code, § 21167.3.) As such, Friant Ranch respectfully urges the Commission to consider the Certified EIR and approve the WWD 18 Actions.

2. The Commission Has Narrow Authority Under CEQA.

CEQA expressly limits the Commission's authority, as responsible agency, concerning the Certified EIR. The Commission is not authorized to determine the adequacy of the Certified EIR or its conformance with CEQA. (Pub. Resources Code, § 21167.3.) Rather, with respect to the Certified EIR and the WWD 18 Actions, the Commission complies with CEQA by "considering the EIR... prepared by the lead agency and by reaching its own conclusions on whether and how to approve the project involved." (CEQA Guidelines at § 15096(a); see also, *id.* at §§ 15091, 15093, 15096, 15162, 15163.) The Commission has narrow authority to impose feasible mitigation measures or feasible alternatives within the Commission's power that would mitigate or avoid direct or indirect impacts of those parts of the Project that the Commission decides to carry out, finance, or approve. (CEQA Guidelines, §§ 15041(b),15096(g).)

The City suggests that the Commission has authority over construction of wastewater and water treatment facilities, water and wastewater conveyance infrastructure, transport of the identified water supply, and wastewater disposal. (See City Comments at 2, ¶ B.) The City further contends that the Certified EIR did not consider these activities. (*Id.*) Contrary to the City's assertions, (1) the Certified EIR analyzed the impacts of such actions (see generally, Exh. C and D.); and (2) these actions are not within the WWD 18 Actions that the Commission has authority to carry out, finance, or approve. (CEQA Guidelines, § 15096(g); cf. City Comments at 2, ¶ B.)

The City Comments demonstrate an overarching confusion concerning the nature of the WWD 18 Actions, the level of planning currently undertaken for the Project, and state requirements for parallel processing land use entitlements, water supply approvals, infrastructure, and environmental review. (City Comments at pp. 2-3). As required by

CEQA, the Certified EIR for the Friant Community Plan Update and Friant Ranch Specific Plan considered all reasonably foreseeable public agency actions and approvals associated with the Project. (Certified EIR at pp. 2-14 – 2-31.) The Certified EIR appropriately analyzed the potential impacts of the infrastructure required for WWD 18 to provide water and wastewater service to the annexation area. (Exh. C, Responses to Comments 19.133, 19.142-19.143; CEQA Guidelines, § 15146.) The City, however, wholly overlooks such analysis and demands that the Commission undertake additional analysis of potential environmental impacts concerning the construction of certain facilities, which have not been approved and do not fall within the approval authority of the Commission. (City Comments at pp. 2-3; cf. *infra* at p. 3.)

The City similarly misconstrues Cortese-Knox requirements to suggest that the Commission has the authority and obligation to approve the construction of water and wastewater infrastructure, and that the Commission must analyze the specific impacts associated with such construction. (City Comments at pp. 2-3.) However, similar to CEQA, the language of Cortese-Knox provides no such authority or obligation to the Commission. (See e.g., Gov. Code § 55653(b), 56430(a)(2).) Rather, the Commission does not have land use authority. The Commission's purposes are to: (i) discourage urban sprawl; (ii) preserve open space and prime agricultural lands; (iii) efficiently provide government services; (iv) encourage the orderly formation and development of local agencies based upon local conditions and circumstances (Gov. Code, § 56301.) The Commission "shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements." (Gov. Code, § 56375.)

CEQA requires the Commission to consider potentially significant impacts resulting from actions it carries out, funds, or directly approves. (CEQA Guidelines, §15002.) As a responsible agency, the Commission may refuse to approve the Project "in order to avoid direct or indirect environmental effects of that part of the project which the responsible agency would be called on to carry out or approve," but not with respect to impacts resulting from an action outside of its authority. (CEQA Guidelines, § 15042.) Construction of wastewater and water treatment facilities, water and wastewater conveyance infrastructure, transfer of the identified water supply, and wastewater disposal are not governmental actions directly undertaken by, financed in whole or in part by, or approved by the Commission. (*Id.*; cf. Gov. Code, § 56375.) None of the WWD 18 Actions would "give impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures" with respect to these specific activities. (CEQA Guidelines, § 15004.)

In fact, the agencies with approval authority over the water treatment plant, wastewater treatment plant, water conveyance infrastructure, and disposal have not approved the specific locations for the plant, infrastructure, or disposal. Prior to securing rights and approvals to carry out the proposed water and wastewater activities, WWD 18 must obtain County, Regional Water Quality Control Board, and United States Bureau of Reclamation approvals. (Certified EIR, FEIR at pp. 2.14-2.29.) Further, WWD 18,

Lower Tule River Irrigation District (LTRID), and the United States Bureau of Reclamation, not the Commission, have authority over the approval and transfer or LTRID supplies to WWD 18. (*Id.*)

3. Supplemental CEQA Analysis is not Warranted.

The City further demands that the Commission conduct additional environmental review concerning the Project. (City Comments at 2, ¶ B.) However, the City makes no factual allegations warranting such review and, in fact, no substantial changes or new information exist to satisfy the strict criteria for supplemental review set forth in CEQA. (Pub. Resources Code, § 21166; Gov. Code, § 65457; CEQA Guidelines, §§ 15096(f), 15162, 15163, 15183.) The Certified EIR considered potential impacts resulting from the WWD 18 Actions. (See generally, Exh. C and D.) No new information has arisen warranting supplemental analysis.

E. THE CERTIFIED EIR DETERMINED WWD 18 CAN RELIABLY SERVE THE PROJECT.

The Certified EIR directly addressed the question of whether WWD 18 has the technical and managerial capacity to provide water and wastewater treatment service on the scale required by the Project. (Exh. C, Response to Comment 16.4.) The Certified EIR acknowledges that WWD 18 in its present form does not have sufficient staff or capital reserves to serve the Project at buildout, but the analysis explains how the District's Strategic Plan for growth will ensure that needs are met. (See Exh. E.)

The Certified EIR also explains that additional technical staff will be needed to provide the level of service necessary to serve the Project. (Exh. C, Response to Comment 16.4.) The Strategic Plan anticipates WWD 18 retaining contract services to provide the required skilled personnel as the need for services grows. (Exh. E.) Use of contract services to manage water and wastewater treatment facilities is common and successful throughout the state. The Certified EIR also affirms WWD 18's demonstrated ability to manage a wastewater treatment facility in compliance with regulatory requirements, providing evidence to support its statement that WWD 18 has a "consistent history of achieving its water quality objectives." (Exhibit C, Response to Comment 19.12.)

Policy 4.9 of the Friant Ranch Specific Plan requires that necessary infrastructure be installed and in place prior to occupancy of dwelling units in Friant Ranch. The Project thus includes, and various EIR mitigation measures require, the timely construction of necessary public facilities such that adequate levels of service are maintained. (See, e.g., Certified EIR, DEIR at p. 3-368 [discussing wastewater treatment plan phasing), DEIR at p. 3-357 [discussing water treatment and delivery facilities]; see also Friant Ranch Specific Plan at pp. 117-118.)

The Friant Ranch Infrastructure Master Plan provides the County and WWD 18 staff with a regulatory framework to create appropriate development conditions for maps and commercial site plans as they are developed. The Infrastructure Master Plan describes

the complete infrastructure system necessary to serve the Project and makes clear how facilities must be sized and located to accommodate buildout. While detailed design has been appropriately left to the Project phases, the necessary backbone infrastructure is clear and will be the responsibility of the Friant Ranch developer. WWD 18 has agreed to administer the public utilities and has, in cooperation with the Project team, developed the Strategic Plan demonstrating how it will grow from its current size to serve Friant Ranch and the surrounding community as the Project develops (Exh. E.) Doing so will require significant financial support from Friant Ranch development, as well as new technical, professional and managerial experience that WWD 18 will attract and hire as necessary. (*Id.*). The Project provides for the construction, financing, and maintenance of all necessary facilities, consistent with the EIR. (Friant Ranch Specific Plan, pp. 117-118.) Further, the County will condition future tentative map approvals upon construction and financing of necessary facilities, as required by the Certified EIR and adopted mitigation. (See Certified EIR, Mitigation Measures 3.14.1 – 3.14.3, DEIR at pp. 3-356, 3-362 – 3.374; see Mitigation Monitoring Program.)

Thus, the Certified EIR and Project documents demonstrate that, with the backing of the Friant Ranch developer and appropriate use of contract services, WWD can and will reliably serve the Project.

F. CONCLUSION

Based on the information summarized herein and contained in the administrative records before the Commission and the County, including the Certified EIR, the proposed WWD 18 Actions satisfy California Environmental Quality Act, Pub. Resources Code, § 21000 et seq. (CEQA), the Cortese Knox Hertzberg Act, Gov. Code, § 56000 et seq. (Cortese Knox), and your Commission Policies, Standards and Procedures Manual (Commission Policies). As such, Friant Ranch, L.P. respectfully urges the Commission to consider the Certified EIR, make appropriate findings under CEQA, Cortese-Knox, and the Commission Policies, and approve the WWD 18 Actions.

Sincerely,

Jacqueline McDonald Pucheu

JMP:me
Enclosures

cc: Kenneth Price
Jeff Witte
Neal Costanzo (via electronic mail)

FRESNO LOCAL AGENCY FORMATION COMMISSION FINDINGS CONCERNING COUNTY WATERWORKS DISTRICT NO. 18 ANNEXATION

(APPLICATION MSR-11-6, SOI-156, AD-11-1, EP-11-1)

REQUIRED CEQA FINDINGS

With respect to the Friant Community Plan Update and Friant Ranch Specific Plan (Project), the Fresno Local Agency Formation Commission (Commission) is a responsible agency and the County of Fresno is the lead agency. As the lead agency, the County has prepared and certified the Friant Community Plan Update and Friant Ranch Specific Plan Environmental Impact Report, SCH #2007101016 (EIR). The County adopted mitigation measures and an alternative development configuration (Alternative No. 3), and made findings related to mitigation measures, alternatives, and a statement of overriding considerations. (*See Board of Supervisors Resolution No. 11-031 Certifying the Final Environmental Impact Report for the Friant Community Plan Update, Friant Ranch Specific Plan, Amendment to Text Application No. 363 and Amendment Application No. 3751; Adoption of CEQA Findings; Adoption of the Mitigation Measures, the Mitigation Monitoring Program and the Statement of Overriding Considerations; and Approval of the Friant Community Plan Update and Friant Ranch Specific Plan, before the Board of Supervisors on February 1, 2011* (hereinafter, "County Resolution").

Pursuant to the Cortese-Knox-Hertzberg Local Government Annexation Act, Gov. Code., sections 54000 et seq. (Cortese-Knox), the Commission's authority with respect to the Project is to: (1) update the municipal service review for Waterworks District No. 18 (hereafter "District"); (2) amend the District sphere of influence to encompass approximately 520 acres to include the Friant Ranch Specific Plan area; (3) approve the annexation of approximately 520 acres to the District with specific terms and conditions (Annexation); and (4) authorize the District to provide wastewater services (collectively, Annexation).

As a responsible agency, the Commission complies with CEQA by "considering the EIR… prepared by the lead agency and by reaching its own conclusions on whether and how to approve the project involved." (CEQA Guidelines at § 15096(a); see also, id. at §§ 15091, 15093, 15096, 15162, 15163.) CEQA expressly limits the Commission's authority, as responsible agency, concerning the EIR. Since the Commission has not challenged the County's EIR, the Commission is not authorized to determine the adequacy of the EIR or its conformance with CEQA. (Pub. Resources Code, § 21167.3.) The EIR considered potential impacts resulting from the Annexation, and provides sufficient information for the Commission to consider any potentially significant impacts resulting from actions it carries out, funds, or directly approves. (CEQA Guidelines, §15002.) No substantial changes or new information exist to satisfy the strict criteria for supplemental review set forth in CEQA. (Pub. Resources Code, § 21166; CEQA Guidelines, §§ 15096(f), 15162, 15163, 15183.)

The Commission has narrow authority to impose feasible mitigation measures or feasible alternatives within the Commission's power that would mitigate or avoid direct or indirect impacts of those parts of the Project that the Commission decides to carry out, finance, or approve. (CEQA Guidelines, §§ 15041(b), 15096(g).) The Commission has reviewed each of

the mitigation measures and alternatives identified in the EIR. None of the mitigation measures or alternatives address the issues over which the Commission has discretion in considering the application for the Annexation relating to the Friant Ranch Specific Plan, except for denial of the Annexation and carrying out the Alternative 3 development configuration through the proposed sphere of influence boundaries and annexation area. CEQA does not grant the Commission new powers independent of the powers granted to the Commission by others laws, such as Cortese-Knox. (CEQA Guidelines, section 15040(b).) The Commission does not have any land use authority. (See e.g., Gov. Code, § 56375 [the Commission "shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements"].) Therefore, other than denying the Annexation or approving the Annexation as proposed to carry out the Alternative 3 development configuration, the Commission cannot legally impose the identified mitigation measures or alternatives as conditions of approval.

The County, however, has adopted its mitigation monitoring program to impose the various mitigation measures set forth in the EIR on the Project. Further, the County incorporated a reduced unit, smaller footprint development proposal in its Friant Ranch Specific Plan adoption. Accordingly, the application for the Annexation reflects a "partial annexation" alternative, as the original area to be included within WWD 18 was 942 acres, rather than the proposed 520 acre area subject to the Annexation.

FINDINGS OF FACT

1. CONSIDERATION OF THE EIR

The Commission has reviewed and considered the information in the EIR (consisting of the Draft EIR and the Final EIR) among other documents. The Commission has reached its own conclusions on whether and how to approve the Annexation. These findings and determinations constitute the independent findings and determinations by the Commission in all respects and are fully and completely supported by substantial evidence, both oral and written, in the entire record relating to the Friant Community Plan Update and Friant Ranch Specific Plan Environmental Impact Report and the Annexation. Additionally, all voting Commissioners have reviewed and considered oral and written testimony and additional information presented at or prior to the public hearing on September 28, 2011.

2. RECORD OF PROCEEDINGS

The documents and other materials (including documents maintained in electronic format) that constitute the record of proceedings upon which this determination is based are in the custody of the Commission's Executive Officer, at 2115 Kern Street, Suite 310, Fresno, CA 93721.

The record of proceedings for Commission decisions on the Annexation includes, but is not limited to, the following documents:

1. Public notices issued by the Commission in conjunction with the Annexation.
2. The resolution of application adopted by WWD 18.
3. The WWD 18 Plan for Services submitted to the Commission.

4. The WWD 18 Strategic Plan submitted to the Commission.
5. The Draft Environmental Impact Report for the Friant Community Plan Update and Friant Ranch Specific Plan, October 2009, prepared by Quad Knopf (SCH #2007101016).
6. The Final Friant Community Plan Update and Friant Ranch Specific Plan Environmental Impact Report prepared by Quad Knopf (SCH #2007101016).
7. The County of Fresno's Mitigation Monitoring and Reporting Program for the Project.
8. Any minutes and recordings of all information sessions, public meetings, and public hearings held by the Commission in connection with the Annexation.
9. All reports, studies, memoranda, maps, staff reports, or other planning documents prepared by or for the Commission related to the Annexation.
10. Friant Ranch Specific Plan, adopted by Fresno County Board of Supervisors on February 1, 2011.
11. Friant Community Plan Update, adopted by Fresno County Board of Supervisors on February 1, 2011.
12. Friant Ranch Zoning Regulations, adopted by Fresno County Board of Supervisors on February 1, 2011.
13. Fresno County Board of Supervisors Resolution No. 11-031 Certifying the Final Environmental Impact Report for the Friant Community Plan Update, Friant Ranch Specific Plan, Amendment to Text Application No. 363 and Amendment Application No. 3751; Adoption of CEQA Findings; Adoption of the Mitigation Measures, the Mitigation Monitoring Program and the Statement of Overriding Considerations; and Approval of the Friant Community Plan Update and Friant Ranch Specific Plan.
14. All documents submitted to the Commission by other public agencies or members of the public in connection with the Project, through the close of the public hearing on September 28, 2011.
15. All reports, studies, memoranda, staff reports, or other documents related to the EIR prepared by the County or consultants to the County.
16. Any other materials required for the proceedings by Public Resources Code section 21167.6.

Although the findings below identify specific pages within the record in support of various conclusions, the Commission incorporates by reference and adopts as its own, the reasoning set forth in the EIR and related documents, and thus relies on that reasoning, even where not specifically mentioned or cited below, in reaching the conclusions herein. The Commission further intends that if these findings fail to cross-reference or incorporate by reference any other part of these findings, any finding required or permitted to be made by the Commission with respect to any particular subject matter of the Annexation must be deemed made if it appears in any portion of these findings or findings elsewhere in the record.

3. SIGNIFICANT IMPACTS IDENTIFIED IN THE EIR (SECTION 15091)

The County certified the EIR for the broader Friant Community Plan Update and Friant Ranch Specific Plan project, comprising a general plan amendment, community plan, specific plan, and related approvals (Project) within the authorized land use jurisdiction of the County. The proposed Annexation is just a component of the larger Project that would authorize the District

to provide water and wastewater services within the entire Friant Community Plan area. The EIR identified certain significant environmental effects for the broader Project. Other than approving District boundaries that reflect the Alternative 3 development configuration analyzed in the EIR and approved by the County through the Friant Ranch Specific Plan, changes and alterations to avoid or substantially lessen the significant environmental effects as identified in the EIR are within the responsibility and jurisdiction of the County and not the Commission. Such changes have been adopted by the County or can and should be adopted by the County.

The Commission's jurisdiction to impose conditions on the Annexation is limited under Cortese-Knox and CEQA Guidelines section 15050 and 15096. As a responsible agency, the Commission has responsibility for mitigating or avoiding *only* the direct or indirect environmental effects of *those parts of the project that it decides to carry out, finance, or approve.* (CEQA Guidelines, § 15096(g)(1).)

The Annexation has no direct environmental effects. Other than approving the boundaries appropriate for carrying out the Alternative 3 development configuration, the proposed mitigation measures and alternatives identified in the EIR that might reduce or eliminate the significant adverse indirect environmental impacts of the Annexation are not within the jurisdiction of the Commission in considering approval of the Annexation. The Commission cannot monitor and enforce the indirect aesthetic impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. Therefore, the Commission cannot ensure that significant indirect impacts that may result from the Project, of which the Annexation is a component, will be reduced to less than significant by mitigation measures that are beyond its authority.

The Commission hereby makes the following findings regarding the significant effects of the proposed Project, pursuant to Public Resources Code section 21081 and section 15091 of the State CEQA Guidelines. The discussion below does not attempt to describe the full analysis of each environmental impact contained in the EIR. Instead, the discussion provides a summary description of each potentially significant impact, describes the applicable mitigation measures identified in the Draft EIR or Final EIR and adopted by the County, and states the Commission's findings on the significance of each impact after imposition of the adopted mitigation measures. A full explanation of these environmental findings and conclusions can be found in the DEIR and FEIR, and these findings hereby incorporate by reference the discussion and analysis in those documents supporting the FEIR's determinations regarding mitigation measures and the Project's impacts and mitigation measures designed to address those impacts. In making these findings, the Commission ratifies, adopts, and incorporates into these findings the analysis and explanation in the DEIR and FEIR, and ratifies, adopts, and incorporates in these findings the determinations and conclusions of the DEIR and FEIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

Aesthetic Impacts

Impact 3.1.3: Introduction of New Sources of Light and Glare and Increased Lighting on the Night Sky as a Result of the Project. Urban development in the Project will increase light

and glare impacts due to additional streetlights, advertising signs, interior and exterior lighting, and light or reflective surfaces of buildings. Because the Project will create new and additional sources of substantial light or glare that would impact views in the area, this impact is considered potentially significant. (DEIR, pp. 3-11 – 3-13.)

Finding: Impact 3.1.3 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Implementation of Alternative No. 3 reduces the number of residential units in the Project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) This substantial unit reduction will reduce sources of light compared to the original project proposal, and provide additional open space buffers between the developed area and neighboring open space lands, further reducing this impact. (DEIR, p. 4-29.)
2. The County adopted mitigation measures 3.1.3a through 3.1.3f to mitigate the impact to a less than significant level. (County Resolution, Exh. B; DEIR, pp. 3-12 – 3-13.)
3. The Commission cannot monitor and enforce the aesthetic impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.1.4: Degradation of the Existing Visual Character or Quality of the Project Area and its Surroundings Resulting from Utilities and Roadway Construction. The Project will require the construction of additional utilities, roadways and a new wastewater treatment plant. Although some of the visual impacts will be temporary, visual impacts related to the removal of vegetation and permanent aboveground structures or lighting are considered potentially significant. (DEIR, pp. 3-13 – 3-14.)

Finding: Impact 3.1.4 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Alternative No. 3 reduces the number of residential units in the Project from 2,996 to 2,500, and concentrate development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) This reduction in residential units results in a corresponding reduction of public utilities necessary to serve such units. (DEIR, p. 4.33.)
2. The County of Fresno adopted mitigation measures 3.1.4a and 3.1.4b to reduce to a less-than significant level the adverse aesthetic effects of the Project. (County Resolution, Exh. B; DEIR, p. 3-14 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect aesthetic impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Agricultural Resources Impacts

Impact 3.2.2: Conflict with Agricultural Zoning or Williamson Act Contracts. The Project involved the County's redesignation of grazing land, which was previously zoned for agriculture. The proposed residential and commercial uses would conflict with the prior agricultural zoning. The EIR considered this impact significant and unavoidable because, at the time of the environmental review, the existing zoning was agriculture. (DEIR, p. 3-24.)

Finding: Impact 3.2.2 is not a direct impact of the Annexation. Notably, the existing zoning at the time of the Annexation provides for residential and commercial uses, not agriculture. As such, the Annexation does not conflict with existing zoning.

The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942 acre development area. No other changes or alterations to the Annexation, within the Commission's authority, would avoid or reduce the level of conflict with the prior zoning in effect during the environmental review.

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

To the extent that the inconsistency with zoning regulations no longer in effect results in a significant adverse impact that is not substantially lessened or avoided by mitigation adopted by the County, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942 acre development area. (See DEIR Table 4-6, p. 4-35.) Incorporation of Alternative 3 into the Annexation, as well as adoption thereof by the County, reduces the impact to only 443 acres of previously agriculturally zoned lands that the County amended to plan for inconsistent urban uses. (DEIR, p. 4-29.)
2. The County of Fresno adopted mitigation measures 3.4.1b through 3.4.1e, and 3.4.3a(1), 3.4.3a(2)(a) and 3.4.5, which ensure that the identified conflict with agriculturally zoned lands would be offset by preserving more than 1500 acres of agricultural lands. (County Resolution, Exh. B; DEIR, pp. 3-102 – 3-109 and FEIR revisions thereto.) This mitigation ensures the conservation of over three times the

amount of similarly situated agricultural grazing lands in perpetuity. (County Resolution, Exh. B, mitigation measures 3.4.1b through 3.4.1e, and 3.4.3a(1), 3.4.3a(2)(a), 3.4.5.)

3. The County changed the agricultural zoning for the lands within the Friant Ranch Specific Plan area to provide for residential and commercial uses. (See Friant Ranch Zoning Regulations, Fresno County Zoning Ordinance, §§840.B -840B(h).) As such, the Project benefits agricultural lands by converting non-prime agricultural lands and further protecting in perpetuity over three times the amount of grazing land.

Air Quality Impacts

Impact 3.3.1: Construction Impacts for the Development of the Friant Ranch Specific Plan (5 Phases) and Community Plan Update Carbon Monoxide (CO), Reactive Organic Gases (ROG), Nitrogen Oxide (NOx), Particulate Matter (PM10), & Fine Particulate Matter (PM2.5). The Project will produce construction related air pollutant emissions through the use of diesel-powered heavy equipment and site preparation activities, including mass grading, paving and building construction. (DEIR, p. 3-41.) Construction and site preparation activities can generate substantial amounts of air pollution, including exhaust and fugitive dust emissions. (*Id.*)

The dust emissions can cause impacts both locally and regionally, depending on the weather, soil conditions, and the level and duration of construction activities. (*Id.*) Further, exhaust emissions would depend on the size of the fleet of diesel-powered heavy equipment and the level of operation. (*Id.*) The Project as originally proposed would consist of 5 phases and the construction of the Depot Parcel. The EIR analyzed construction-related air quality impacts on a phase-by-phase basis using the URBEMIS computer programs, version 9.2.4 and a traffic study conducted by Peters Engineering. (*Id.*) Based on that analysis, the EIR concluded that the impacts from Phases 1 and 2 are significant but unavoidable, from Phases 3, 4 and 5 potentially significant but reduced to less than significant with mitigations. (DEIR, pp. 3-45, 3-47; FEIR, Response to Comments 19.22-19.39, pp. 3-74 - 3-99.)

Adoption by the County of Alternative No. 3 effectively eliminated what was originally characterized as phase 3 in the Specific Plan, reducing the number of residential units in the Project from 2,996 to 2,500 and concentrating development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. Consequently, the Project, as adopted in Alternative No. 3, consists only of 4 phases, thereby reducing the potentially significant impacts. Notwithstanding the reduction in potentially significant impacts as a result of adoption and implementation of Alternative No. 3, the Project will continue to incorporate the mitigation measures analyzed and required by the EIR.

> **Finding:** Impact 3.3.1 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that this significant adverse impact will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the Project from 2,996 to 2,500, and concentrated development on 496 acres as opposed to 667 acres of development within the entire 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) This reduction effectively eliminated an entire construction phase and resulting air quality impacts. (DEIR, p. 4-29.)
2. The County of Fresno adopted mitigation measures 3.3.1a through 3.3.1d to reduce the adverse air quality effects of the Project, but not to a less than significant level. (County Resolution, Exh. B; DEIR, pp. 3-343 – 3-349 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect air quality impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.3.2: Violation of Air Quality Standards by Area and Operational Emissions. Implementation of the Project will result in additional development and urbanization in the Friant Community, an area currently designated as a severe non-attainment area. (DEIR, p. 3-51.) The development will increase vehicular traffic emissions due to the addition of residences, public facilities, commercial uses, public and open space and park uses. These impacts are considered significant. (DEIR, p. 3-57.)

Finding: Impact 3.3.2 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or

alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that this significant adverse impact will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the Project from 2,996 to 2,500, and concentrated development on 496 acres as opposed to 667 acres of development within the entire 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) This unit reduction effectively reduces the overall operational emissions resulting from residential traffic. (DEIR, pp. 4-29, 4-33; see also P&P Memos.)
2. The County adopted mitigation measures 3.3.2 to reduce the Project's impacts on the degradation of air quality from increases in vehicular traffic emissions. (County Resolution, Exh. B; DEIR, p. 3-57 and FEIR revision thereto.) Mitigation measure 3.3.2 would reduce the Project's potential to result in a significant impact on air quality to the greatest extent feasible by encouraging bicycle use and commute alternatives, and design guidelines encouraging reduced generation of air pollutants. However, the EIR determined that this measure will not reduce this impact to a less-than-significant level. (DEIR, p. 3-57 and FEIR revision thereto.)
3. The Commission cannot monitor and enforce the indirect air quality impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Biological Resources Impacts

Impact 3.4.1a: Impacts to the Succulent Owl's Clover. Implementation of the Project will result in additional development and urbanization in the Friant Community. The change in land management practices from cattle grazing to urban development may degrade the water quality in wetlands that contain the succulent owl's clover. These indirect impacts are considered significant. (DEIR, pp. 3-101 – 3-102.)

Finding: Impact 3.4.1a is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No

other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the Annexation approval, reduces the number of residential units in the Project from 2,996 to 2,500, and concentrate development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Preservation of grassland and seasonal wetland habitat (excluding vernal pools) under Alternative No. 3 increases from approximately 250 acres to 460 acres, an increase of approximately 83%. (DEIR, p. 4-30.)
2. The County adopted mitigation measures 3.4.1a and 3.4.1a(1) to reduce to a less-than-significant level the impacts, if any, on succulent owl's clover. (County Resolution, Exh. B; DEIR, pp. 3-101 – 3-102 and FEIR revisions thereto; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.)
3. The Commission cannot monitor and enforce the biological impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1b: Impacts to Hartweg's Golden Sunburst. Implementation of the Project would result in the loss of Hartweg's golden sunburst habitat within the development footprint of the Specific Plan. (DEIR, p. 3-102.) This impact is considered significant. (DEIR, p. 3-103.)

Finding: Impact 3.4.1b is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to

approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the Annexation approval, reduces the number of residential units in the Project from 2,996 to 2,500, and concentrate development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Alternative No. 3 would preserve one additional population of the Hartweg's golden sunburst, thus reducing impacts to the Hartweg's golden sunburst by approximately 276 square feet. (See DEIR, Table 4-6, p. 4-35 and Appendix O.)
2. The County adopted mitigation measure 3.4.1b to reduce to a less-than-significant level the impact on Hartweg's golden sunburst from the loss of habitat. (County Resolution, Exh. B; DEIR, pp. 3-103 - 3-104 and FEIR revisions thereto; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.)
3. The Commission cannot monitor and enforce the impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1c: Impacts to Vernal Pool Fairy Shrimp. Implementation of the Project would result in the direct loss of vernal pool fairy shrimp habitat and take of an unknown number of vernal pool fairy shrimp. Further, vernal pool fairy shrimp habitat in the undisturbed open space could be subject to degradation from changes in hydrology, discharge of polluted water into pools and the possible increased invasion by non-native plant species. This species is federally listed as threatened and take of the species is prohibited under Section 9 of the federal Endangered Species Act. These impacts are considered significant. (DEIR, p. 3-104.)

Finding: Impact 3.4.1c is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Findings:

1. Alternative 3, which was adopted by the County through the Friant Ranch Specific Plan and incorporated in the Annexation, reduces jurisdictional impacts to seasonal wetland and drainage channels from 2.01 acres to 1.47 acres and impacts to vernal swales from 8.03 to 4.31. Alternative 3 reduces impacts to vernal pool habitat from approximately 2.29 acres to 0.99 acres. The loss of on-site vernal pool habitat associated with this alternative would be 7% compared with the 16% loss associated with the Project as originally proposed. (DEIR, Appendix O).
2. The County adopted mitigation measure 3.4.1c to reduce to a less-than-significant level the impacts on the vernal pool fairy shrimp habitat (County Resolution, Exh. B; DEIR, pp. 3-104 – 3-106 and FEIR revisions thereto; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.) Further, a considerable amount of additional vernal pool habitat would likely be preserved off-site through mitigation measure 3.4.1d associated with the California tiger salamander impacts. (*Id.;* County Resolution, Exh. B.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1d: Impacts to the California Tiger Salamander. Implementation of the Project will result in the loss of breeding and aestivation habitat for the California tiger salamander through elimination of vernal pools and grasslands habitats on the Project site. Because the elimination of the habitat would result in the mortality of an unknown number of California tiger salamander, these impacts are considered significant. (DEIR, pp. 3-106 – 3-107.)

Finding: Impact 3.4.1d is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Under Alternative 3, which was adopted by the County through the Friant Ranch Specific Plan and incorporated in the Annexation, the preservation of grassland and seasonal wetland habitat (excluding vernal pools) used by various wildlife species for nesting, foraging, and aestivation increases from the approximately 250 acres under the initially proposed project to 460 acres, an increase of approximately 83%. (County Resolution, Exh. B.) Furthermore, most designated open space would be contiguous with lands supporting a mosaic of grasslands and seasonal wetlands to the south. (DEIR, Appendix O).
2. The County adopted mitigation measure 3.4.1d to reduce to a less-than-significant level the construction impacts, if any, on California tiger salamander and its habitat are substantially lessened by identifying, and then avoiding or protecting, habitat areas through the Project design. (County Resolution, Exh. B; DEIR, pp. 3-106 – 3-108 and FEIR revisions thereto; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.) Further,

the mitigation measures for the vernal pool fairy shrimp will ensure that the Project's open space areas will continue to provide breeding and aestivation habitat for the California tiger salamander. (County Resolution, Exh. B; DEIR, pp. 3-104 – 3-106 and FEIR revisions thereto; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.)

3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1e: Impacts to Western Spadefoot. Implementation of the Project will result in the loss of breeding and aestivation habitat for the western spadefoot through elimination of vernal pools and grasslands habitats on the Project site. Because the elimination of the habitat would result in the mortality of an unknown number of western spadefoot, these impacts are considered significant. (DEIR, pp. 3-108 – 3-109.)

Finding: Impact 3.4.1e is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the Annexation approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Under Alternative 3, the preservation of grassland and seasonal

wetland habitat (excluding vernal pools) used by various wildlife species for nesting, foraging, and aestivation would increase from the approximately 250 acres under the Proposed Project to 460 acres, an increase of approximately 83%. Furthermore, most designated open space would be contiguous with lands supporting a mosaic of grasslands and seasonal wetlands to the south. (DEIR, Appendix O).

2. The County adopted mitigation measure 3.4.1e to reduce to a less-than-significant level the construction impacts, if any, on western spadefoot habitat are substantially lessened by implementing the mitigation measure 3.4.1d for the California tiger salamander, which uses the same habitats as the western spadefoot. (DEIR, pp. 3-108-3-109; County Resolution, Exh. B; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1g: Impacts to Burrowing Owls. Implementation of the Project will result in the loss of burrowing owl foraging habitat and disruption of breeding activities or take of individual birds through site grading and other construction activities on the Project site. Although the loss of burrowing owl habitat would be fully mitigated by conservation of potential foraging habitat, the possible disruption of breeding activities and take of individual birds will remain significant. (DEIR, pp. 3-109 – 3-110.)

Finding: Impact 3.4.1g is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. (County Resolution, Exh. B.) No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation

measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the Annexation approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 reduces the number of residential units and concentrates development into less acreage than originally proposed, further reducing the potential for any impact. (DEIR, Appendix O.)
2. The County adopted mitigation measure 3.4.1g to reduce to a less-than-significant level Project impacts, if any, on burrowing owl habitat, breeding activities, and take of individual birds. (County Resolution, Exh. B; DEIR, pp. 3-109 – 3-111 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1h: Impacts to the American Badger. Implementation of the Project could result in mortalities to an unknown number of American badgers through construction activates. Although no badgers have been observed at the Project, it is reasonable to assume that badgers are occasional to frequent visitors that forage or den on the Project's site suitable habitats. These impacts to badgers are considered significant. (DEIR, p. 3-111.)

Finding: Impact 3.4.1h is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation

measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the Annexation approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 lessens development impacts to badgers by reducing the size of the developed area and extent of construction activity. (DEIR, Appendix O.)
2. The County adopted mitigation measure 3.4.1h to reduce to a less-than-significant level the Project impact, if any, on the American badger. Additionally, the Project is required to set aside under conservation easement approximately 1,500 acres of grassland habitat suitable for badgers to further mitigate the Project impacts. (County Resolution, Exh. B; DEIR, pp. 3-111- 3-113; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1i: Impacts to the Nesting Raptors. Project Implementation could result in disruption of breeding behaviors, abandonment of nest sites, disruption of feeding behavior resulting in reproductive failure and/or abandonment of young and death of adults and/or young through construction activities. These impacts to nesting raptors are considered significant. (DEIR, p. 3-113.)

Finding: Impact 3.4.1i is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. (County Resolution, Exh. B.) No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry

out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the Annexation approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 reduces development impacts to raptors by reducing the size of the developed area and extent of construction activity. (DEIR, Appendix O.)
2. The County adopted mitigation measure 3.4.1i to reduce to a less-than-significant level the Project impacts, if any, on the nesting raptors. (County Resolution, Exh. B; DEIR, p 3-114 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.1j: Impacts to Common and Special Status Nesting Birds. Implementation of the Project could result in the removal of active bird nests, disruption of breeding behaviors and subsequent loss of eggs and/or young through construction activities. These impacts are considered significant. (DEIR, p. 3-114.)

Finding: Impact 3.4.1j is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission

conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the Annexation approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 will further lessen development impacts to common and special status nesting birds by reducing the area of development and extent of construction. (DEIR, Appendix O.)
2. The County adopted mitigation measure 3.4.1j to reduce to a less-than-significant level the Project impacts, if any, on the common and special status nesting birds. (County Resolution, Exh. B; DEIR, pp. 3-114 -3-115 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.2: Impacts of Friant Ranch Specific Plan Development (including wastewater treatment plant and disposal) to Riparian Habitat or Other Sensitive Natural Communities. Implementation of the Project will result in the removal and loss of northern hardpan vernal pool habitat. These impacts to the sensitive natural community are considered significant. (DIER, pp. 3-115 – 3-116.)

Finding: Impact 3.4.2 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission

conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the Annexation approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 lessens development impacts by reducing the extent of disturbance of vernal pool habitat. (DEIR, Appendix O.)
2. The County adopted mitigation measure 3.4.2 to reduce to a less-than-significant level the Project impacts, if any, on the northern hardpan vernal pool habitat. (County Resolution, Exh. B; DEIR, pp. 3-116 – 3-117 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.3: Impacts of Friant Ranch Specific Plan Development (including wastewater treatment plant and disposal) to Federally Protected Wetlands and Other Waters. Implementation of the Project will result in the loss of jurisdictional and isolated waters. These impacts to jurisdictional and isolated waters are considered significant. (DEIR, pp. 3-116 – 3-117.)

Finding: Impact 3.4.3 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation

measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the Annexation approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 lessens development impacts by reducing the extent of disturbance of wetlands. (DEIR, Appendix O.)
2. The County adopted mitigation measure 3.4.3a to reduce to a less-than-significant level the Project impacts, if any, from the loss of wetlands and other waters in the region. (County Resolution, Exh. B; DEIR, pp. 3-117 – 3-119 and FEIR revisions thereto; see also United States Fish and Wildlife Service, Biological Opinion on the Proposed Friant Ranch Project, Fresno County, CA (U.S. Army Corps of Engineers File No. SPK-2004-966) issued on April 7, 2010.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.3b: Impacts to Water Quality in Seasonal Creeks, Reservoirs, and Other Downstream Waters. Implementation of the Project may result in soil erosion and polluted stormwater and irrigation runoff affecting the water quality, fish and other wildlife species of seasonal creeks, reservoirs and other downstream waters. The erosion and run-off may result in the deposition of silt and the introduction of pollutants into the receiving waters. These impacts are considered potentially significant. (DIER, p. 3-119.)

Finding: Impact 3.4.3b is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s)

should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the Annexation approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 will further lessen impacts from erosion and runoff by reducing the area of development and extent of construction activity. (DEIR, Appendix O.)
2. The County adopted mitigation measure 3.4.3b to reduce to a less-than-significant level the Project impacts, if any, on the water quality in seasonal creeks, reservoirs, and other downstream waters. (County Resolution, Exh. B; DEIR, p. 3-319 – 3-120 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.5: Consistency of the Friant Ranch Specific Plan with Local Policies or Ordinances Protecting Biological Resources. Implementation of the Project may result in inconsistencies with local policies and ordinances, including the County General Plan policies. Implementation of the Friant Ranch Specific Plan would remove wetlands and associated upland habitat, which without mitigation would conflict with Fresno County General Plan Policy OS-D.5 that requires the County to strive to identify and protect such lands, and policies OS-D.1 through OS-D.3 that support "no net loss" of such lands. Further, various General Plan policies relevant to wildlife species direct project proponents to mitigate loss of wildlife habitat, to maintain buffer zones around wildlife resources, to preserve habitats of special status species, to preserve open spaces of native vegetation, and to the maximum extent possible to preserve habitats for rare or endangered species. To the extent that the Project proposes to destroy and remove such wildlife habitat, the Project would conflict with these policies. These inconsistencies between Project elements and local policies and ordinances, without appropriate mitigation, may result in significant Project related impacts. (DIER, pp. 3-121 – 3-122.)

Finding: Impact 3.4.5 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the Annexation approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 lessens impacts by reducing the area of development extent of disturbance of wetlands and other habitat as well as the extent of construction activity. (DEIR, Appendix O.)
2. The County adopted mitigation measure 3.4.5 to reduce to a less-than-significant level Project impacts, if any, resulting from inconsistencies between the Project's elements and local policies or ordinances (DEIR, p. 3-122.)
3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9: Impacts of the Friant Community Plan to Candidate, Sensitive, or Special Status Species.

Impact 3.4.9a: Impacts to Spiny-Sepaled Button Celery. Implementation of projects in the existing Friant Community Plan Area could result in mortalities to an unknown number of spiny-sepaled button celery through grading and construction activities. Although no spiny-sepaled button celery have been observed, vernal pools and swales may potentially contain this species. The possible removal of spiny-sepaled button celery is considered a potentially significant impact. (DIER, p. 3-125.)

Finding: Impact 3.4.9a is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9a to reduce to a less-than-significant level the existing Community Plan Area impacts, if any, on the spiny-sepaled button celery. (DEIR, p. 3-125 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9b: Impacts to Vernal Pool Fairy Shrimp. Implementation of construction projects could potentially result in the direct loss of ephemeral pool habitat and a take of an unknown number of vernal pool fairy shrimp within the existing Friant Community Plan Area. Further, vernal pool fairy shrimp habitat could be subject to degradation due to changes in surface topography and drainage patterns, and the discharge of polluted water into habitat. This species is federally listed as threatened and take of the species is prohibited under Section 9 of the federal Endangered Species Act. These impacts are considered significant. (DIER, pp. 3-125 – 3-126.)

Finding: Impact 3.4.9b is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9b to reduce to a less-than-significant level existing Community Plan Area impacts on the vernal pool fairy shrimp habitat. (County Resolution, Exh. B; DEIR, p. 3-126 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9c: Impacts to the Valley Elderberry Longhorn Beetle. Implementation of further projects could result in the direct loss of elderberry bushes and a take of an unknown number of Valley elderberry longhorn beetles within the existing Friant Community Plan Area. This species is federally listed as threatened and a take of the species is prohibited under Section 9 of the federal Endangered Species Act. These impacts are considered significant. (DIER, p. 3-127.)

Finding: Impact 3.4.9c is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other

considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9c to reduce to a less-than-significant level the impacts to the Valley elderberry longhorn beetle habitat in the existing Friant Community Plan Area. (County Resolution, Exh. B; DEIR, pp. 3-127 – 3-129.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9d: Impacts to the California Tiger Salamander. Implementation of construction projects within the existing Friant Community Plan Area could potentially result in the loss of breeding and aestivation habitat for the California tiger salamander through elimination of vernal pools and grasslands habitats. These impacts are considered significant. (DEIR, p. 3-129.)

Finding: Impact 3.4.9d is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9d that will reduce to a less-than-significant level the significant environmental effect identified in the EIR. Implementation of this mitigation measure will ensure that construction impacts, if any, on California tiger salamander and its habitat are substantially lessened by identifying potential breeding habitat through biological surveys prior to issuance of a

grading permit, and then protecting the habitat and population, if found, by avoiding the population, compensating for the loss of occupied ephemeral pool habitat through a conservation easement or conservation credits, and preparing a Drainage Plan for the site. Impacts will be further minimized or mitigated by identifying potential aestivating grassland habitat through biological surveys, and protecting the habitat and population, if found, by compensating for the loss of aestivation habitat through a conservation easement or through purchase of conservation credits. (County Resolution, Exh. B; DEIR, pp. 3-129 – 3-130.)

2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9e: Impacts to the Western Spadefoot. Implementation of projects within the existing Friant Community Plan Area could potentially result in the loss of breeding and aestivation habitat for the western spadefoot through elimination of ephemeral pools and grasslands habitats. These impacts are considered significant. (DEIR, p. 3-131.)

Finding: Impact 3.4.9e is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9e to reduce to a less-than-significant level the construction impacts, if any, on western spadefoot habitat. The mitigation measures for the California tiger salamander would reduce the impact on the western spadefoot because both species use the same breeding and aestivation habitats. (County Resolution, Exh. B; DEIR, pp. 3-129- 131.)

2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9f: Impacts to the Western Pond Turtle. Implementation of projects within the existing Friant Community Plan Area could result in direct mortalities and decreased population viability to western pond turtles due to construction related activities and potential degradation in water quality. These impacts are considered significant. (DIER, p. 3-131.)

Finding: Impact 3.4.9f is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9f to reduce to a less-than-significant level the construction impacts, if any, on western pond turtles and their habitat. (County Resolution, Exh. B; DEIR, pp. 3-131-3-132 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9g: Impacts to the Swainson's Hawks. Grading in areas greater than 5 acres in size, particularly in the Lost Lake area, may result in the removal of foraging habitat or the disruption of breeding activities for the Swainson's hawk. These impacts are considered significant. (DEIR, p. 3-132.)

Finding: Impact 3.4.9g is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9g to reduce to a less-than-significant level the grading and construction impacts, if any, on Swainson's hawks and their foraging habitat. (County Resolution, Exh. B; DEIR, pp. 3-132 – 3-133 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9h: Impacts to Burrowing Owls. Implementation of projects within the existing Friant Community Plan Area could potentially result in the loss of burrowing owl foraging habitat and disruption of breeding activities or take of individual birds. These impacts are considered significant. (DEIR, p. 3-133 – 3-134.)

Finding: Impact 3.4.9h is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9h to reduce to less-than-significant levels the Project impacts, if any, on burrowing owl habitat and take of individual birds (County Resolution, Exh. B; DEIR, pp. 3-134 -3-135 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9i: Impacts to Other Nesting Raptors. Implementation of construction activities within the existing Friant Community Plan Area could result in the disruption of breeding behaviors, abandonment of nest sites, disruption of feeding behaviors resulting in reproductive failure and/or abandonment of young, and death of adults and/or young. These impacts are considered significant. (DEIR, pp. 3-135 – 3-136.)

Finding: Impact 3.4.9i is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other

considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9i to reduce to less-than-significant levels the Project impacts, if any, on raptors are substantially lessened by identifying nesting sites. (County Resolution, Exh. B; DEIR, p. 3-136.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.9j: Impacts to Common and Special Status Nesting Birds. Implementation of construction activities within the existing Friant Community Plan Area could result in the removal of active bird nests, disruption of breeding behaviors and subsequent loss of eggs and/or young. These impacts are considered significant. (DEIR, pp. 3-136 – 3-137.)

Finding: Impact 3.4.9j is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9j to reduce to a less-than-significant level the Project impacts, if any, on common and special status nesting birds. (County Resolution, Exh. B; DEIR, p. 3-137.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals

for the Project because it is beyond its authority to do so. (FEIR, p. 2-28, Gov. Code, § 56000.)

Impact 3.4.9k: Impacts to the American Badger. Implementation of construction activities within the existing Friant Community Area Plan could result in mortalities to an unknown number of American badgers. Although no badgers have been observed in the existing Friant Community Area Plan, it is reasonable to assume that badgers are occasional to frequent visitors that forage or den on the existing Friant Community Plan Area site's suitable habitats. These impacts are considered significant. (DEIR, pp. 3-137 – 3-138.)

Finding: Impact 3.4.9k is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9k to reduce to a less-than-significant level the Project impacts, if any, on the American badger. (County Resolution, Exh. B; DEIR, pp. 3-138-3-139 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000.)

Impact 3.4.9l: Impacts to the Pallid and Western Mastiff Bat. Removal of roosting sites (trees and buildings) within the existing Friant Community Plan Area could potentially result in the disruption of breeding behaviors of the pallid bat and the western mastiff bat. These impacts are considered significant. (DEIR, p. 3-140.)

Finding: Impact 3.4.9l is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.9l to reduce to a less-than-significant level the Project impacts, if any, on the pallid bat and western mastiff bat. (County Resolution, Exh. B; DEIR, pp. 3-140.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000.)

Impact 3.4.10: Impacts to Riparian Habitat or Other Sensitive Natural Communities Within the Existing Friant Community Plan Area. Implementation of future projects could result in loss of Great Valley Mixed Riparian Forest and other riparian habitats within the Existing Friant Community Plan Area. These impacts are considered significant. (DEIR, p. 3-140.)

Finding: Impact 3.4.10 is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not

the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.10 to reduce to a less-than-significant level the Project impacts on the loss of riparian habitat or other sensitive natural communities. (County Resolution, Exh. B; DEIR, pp. 3-140-3-141.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.4.11: Impacts to Federally Protected Wetlands and Other Waters Within the Existing Friant Community Plan Area. Implementation of construction activities within the existing Friant Community Plan Area could result in the loss of wetlands and the degradation of water quality. The San Joaquin River and Lost Lake are located within the existing Friant Community Plan Area. There are no tributaries to the feature within the Area, but other wetland features within the Area may fall under the jurisdiction of the USACE. These impacts to federally protected wetlands and other waters within the existing Friant Community Plan Area are considered significant. (DEIR, pp. 3-141 – 3-142.)

Finding: Impact 3.4.11 is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has

no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.11a to reduce to a less-than-significant level the Project impacts, if any, on the loss of wetlands and degradation of water quality in the Existing Friant Community Plan Area. (County Resolution, Exh. B; DEIR, pp. 3-142-3-143.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (Gov. Code, § 56000 et seq.)

Impact 3.4.11b: Impacts to Water Quality in Seasonal Creeks, Reservoirs, and Other Downstream Waters. Implementation of construction activities within the existing Friant Community Plan Area may result in soil erosion, and polluted stormwater and irrigation runoff affecting the water quality, fish and other wildlife species of seasonal creeks, reservoirs and other downstream waters. The erosion and run-off may result in the deposition of silt and the introduction of pollutants into the receiving waters that drain into the San Joaquin River. These impacts are considered potentially significant. (DEIR, p. 3-143.)

Finding: Impact 3.4.11b is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other

considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.11b to reduce to a less-than-significant level the Project impacts, if any, on the water quality in the San Joaquin River, seasonal creeks, reservoirs, and other downstream waters. The mitigation measure requires an erosion control plan with monitoring prior to commencing construction activities, and requires that all post-construction runoff be collected, treated, percolated, evaporated and discharged through a system of Low Impact Development integrated management practices. (County Resolution, Exh. B; DEIR, pp. 3-143-3-144 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so.

Impact 3.4.12: Impacts to Fish or Wildlife Movement Corridors Within the Existing Friant Community Plan Area. Implementation of construction activities within the existing Friant Community Plan Area could result in degradation of the riparian habitat corridor around the San Joaquin River and associated riparian habitat zone that could obstruct fish and wildlife movements. Terrestrial species move from upstream areas around Millerton Lake to downstream habitats preserved as part of the San Joaquin River Parkway. Degradation of the habitat corridor could obstruct the wildlife movement from upstream to downstream. (DEIR, p. 3-144.)

Finding: Impact 3.4.12 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. (County Resolution, Exh. B.) No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation

measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.4.12 to reduce to less-than-significant levels the Project impacts, if any, on the water quality of the riparian habitat corridor around the San Joaquin River and associated riparian habitat zone are substantially lessened. (County Resolution, Exh. B; DEIR, pp. 3-144 -3-145 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, §56000 et seq.)

Impact 3.4.13: Consistency with Local Policies or Ordinances Protecting Biological Resources Within the Friant Community Plan Area. Future projects within the existing Friant Community Plan Area may conflict with local policies and ordinances, including the County General Plan policies. Inconsistencies between project elements and local policies and ordinances, without appropriate mitigation, may result in significant project related impacts. (DEIR, pp. 3-145 – 3-146.)

Finding: Impact 3.4.13 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. (County Resolution, Exh. B.) No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measures 3.4.13a and 3.4.13b to reduce to a less-than-significant level any Project impacts associated with any potential inconsistency with local policies or ordinances protecting biological resources. (County Resolution, Exh. B; DEIR, p. 3-145-3-146.)
2. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Cultural Resources Impacts

Impact 3.5.1: Substantial Adverse Changes in the Significance of Historical and/or Archaeological Resources and Destruction of Unique Paleontological Resources. Implementation of the Project will impact one significant cultural resource, CA-FRE-2653, and could potentially impact unknown significant cultural resources located within the Friant Ranch Specific Plan Area development footprint. CA-FRE-2653 is a significant cultural resource eligible for listing on the National Register of Historic Places and the California Register, and may potentially provide new information on California pre-history. Additionally, this site may contain human remains and other archaeological resources. These impacts are considered potentially significant. (DEIR, p. 3-161.)

Finding: Impact 3.5.1 is not a direct impact of the Annexation. No feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measures 3.5.1a – 3.5.1h to reduce to a less-than-significant level the Project impacts on significant cultural resources. (County Resolution, Exh. B; DEIR, pp. 3-161-3-164 and FEIR revisions thereto.)
2. The Commission cannot monitor and enforce the indirect cultural resource impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.5.2: Disturbance of Human Remains. Implementation of the Project could result in the disturbance of human remains encountered during Project construction. Although no known burial grounds have been located on the Project, human remains may be present at the significant cultural resource site and elsewhere in the Project Area. This impact is considered potentially significant. (DEIR, p. 3-164.)

Finding: Impact 3.5.2 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The County adopted mitigation measure 3.5.2 to reduce to a less-than-significant level the Project impacts on discovered human remains during Project construction and development. (County Resolution, Exh. B; FEIR revisions to DEIR, p. 3-164.)
2. The Commission cannot monitor and enforce the indirect cultural resource impacts potentially resulting from development pursuant to the County's land use approvals

for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Hazards and Hazardous Materials Impacts

Impact 3.7.6: Emergency Preparedness. Implementation of the Friant Ranch Specific Plan may impair or interfere with emergency response or evacuation plans if additional funds for emergency services and personnel are not available at the time of Project development. These impacts are considered potentially significant. (DEIR, p. 3-188.)

Finding: Impact 3.7.6 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the Annexation approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 will further reduce impacts by reducing the number of residential units within the Project and the corresponding potential demand for services.
2. The County adopted mitigation measures 3.7.6a and 3.7.6b to reduce to a less-than-significant level the Project impacts on emergency preparedness by requiring that a

Community Facilities District be formed prior to the issuance of a building permit to provide funding for fire and law enforcement services related to the Friant Ranch Specific Plan. (County Resolution, Exh. B; DEIR, pp. 3-187 – 3-188.) The additional funding from the Community Facilities District will ensure that the Project will not impair or interfere with adopted emergency response or evacuation plans. (FEIR, Response to Comment 26.10, pp. 3-202-3-203.)

3. The Commission cannot monitor and enforce the indirect biological impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Hydrology and Water Quality Impacts

Impact 3.8.3: Alteration of the Existing Drainage Pattern and Stormwater Drainage Capacity. The Project will implement Integrated Management Practices for Low Impact Development to mitigate post-development peak flow rates to pre-development levels. (DEIR, p. 3-216.) Because of the increase in impervious surface area within the Project boundaries, the Project may have potentially significant impacts on stormwater drainage. (DEIR, pp. 3-216 – 3-217.)

Finding: Impact 3.8.3 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Adoption of Alternative No. 3, which is incorporated into the Annexation approval, concentrates development on 482 acres as opposed to 696 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Incorporation of Alternative No. 3 into the Annexation as proposed by the District further reduces impacts by reducing the area of development. (DEIR, p. 4-31.)
2. The County of Fresno adopted mitigation measure 3.8.3a to reduce to a less-than-significant level the potential significant environmental effect identified in the EIR. (County Resolution, Exh. B; DEIR, 3-216-3-221.)
3. The Commission cannot monitor and enforce the indirect hydrology and water quality impacts potentially resulting from development pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000.)

Noise Impacts

Impact 3.10.1: Exposure to Excessive Noise Levels or Vibration. Implementation of the Project and development of the Friant Ranch Specific Plan, without mitigation measures, would result in noise impacts associated with increased traffic and construction noise. According to the Noise Assessment prepared for the Project, 3 out of the 24 road segments analyzed would be impacted by significant off-site traffic noise by 2030: (1) Friant Road, Willow to Copper River – Project traffic will cause a substantial increase in noise levels; (2) Willow Avenue; Friant to Copper – Project traffic will cause noise levels to exceed 60 dB DNL; (3) Willow Avenue, Perrin to Shepherd – Project traffic will cause noise levels to exceed 60 dB DNL. These impacts are considered potentially significant. (DEIR, pp. 3-245 – 3-248.)

Finding: Impact 3.10.1 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation

measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; Friant Ranch Specific Plan.) Alternative No. 3 reduces the impact on noise levels because the smaller development footprint and fewer proposed residences would result in reduced excessive noise levels or vibrations from vehicular traffic. (DEIR, p. 4-32.)
2. The County of Fresno adopted mitigation measure 3.10.1a to reduce to a less than significant level the adverse noise effects of the Project. (County Resolution, Exh. B; DEIR, pp. 3-245-3-248.)
3. The Commission cannot monitor and enforce the indirect noise impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.10.2: Construction Noise. Implementation of the Project will result in construction noise due to development of commercial and residential uses of vacant parcels. Construction equipment, such as tractors, forklifts, air compressors, etc., may cause noise levels of 70 to 90 dBA. Further, the construction activities may cause sleep disruption and annoyance for nearby residents if the construction occurred at night or if the equipment is not properly muffled or maintained. These impacts are considered potentially significant. (DEIR, p. 3-249.)

Finding: Impact 3.10.1 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s)

should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Alternative No. 3 reduces the impact on noise levels because the smaller development footprint and fewer proposed residences would result in reduced excessive noise levels or vibrations from construction. (DEIR, p. 4-32.)
2. The County of Fresno adopted mitigation measures 3.10.2a through 3.10.2c to reduce to a less than significant level the adverse noise effects of the Project. (County Resolution, Exh. B; DEIR, pp. 3-249-3-250.)
3. The Commission cannot monitor and enforce the indirect noise impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Public Services and Recreation Impacts

Impact 3.12.1: Increased Demand for Fire Protection Services and Personnel. Implementation of the Project will increase the demand for fire protection services and personnel, resulting in the need for a Community Facilities District. (DEIR, p. 3-264.)

Finding: Impact 3.12.1 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse

impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Alternative 3 will have less of a demand for public services because it contains fewer residential units within the Project, which equates to fewer personnel and less equipment needed to serve the Project. (DEIR, p. 4-32 and FEIR revisions thereto.)
2. The County of Fresno adopted mitigation measure 3.12.1 to reduce the adverse fire protection effects of the Project to less than significant. (County Resolution, Exh. B; DEIR, pp. 3-266 - 3-267.)
3. The Commission cannot monitor and enforce the indirect fire protection services and personnel impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.12.2: Increased Demand for Law Enforcement Services. Implementation of the Project will increase the demand for law enforcement services, resulting in the need for additional funds to hire more personnel and to purchase additional equipment. These impacts are considered potentially significant. (DEIR, pp. 3-266 – 3-267.)

Finding: Impact 3.12.2 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse

impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Alternative 3 will have less of a demand for public services because it contains fewer residential units within the Project, which equates to fewer personnel and less equipment needed to serve the Project. (DEIR, p. 4-32 and FEIR revisions thereto.)
2. The County of Fresno adopted mitigation measure 3.12.2 to reduce the adverse noise effects of the Project on law enforcement. (County Resolution, Exh. B; DEIR, pp. 3-267.)
3. The Commission cannot monitor and enforce the indirect impacts related to law enforcement services potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Traffic Impacts

The EIR measured Project's traffic impacts in terms of Level of Service (LOS). LOS is a qualitative measure describing operational characteristics within a traffic stream, including measures such as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience. (DEIR, p. 3-281.) LOS is denoted by grades A – F, progressing from favorable to unfavorable conditions. (DEIR, p. 3-282.) The County of Fresno requires a LOS C or better, and the Cities of Fresno and Clovis require a LOS D or better be maintained, except in certain locations where conditions are constrained. (*Id.*) As detailed below, the Project would cause the LOS at numerous intersections and roadway segments to fall below the required minimum, constituting significant impacts. The EIR recommended, and the County adopted, mitigation measures that substantially lessen most of the Project's significant traffic impacts. (County Resolution, Exh. B.) The mitigation measures as described in the EIR, however, are based on trip calculations made using the number of residential units in the original project proposal and do not reflect reductions that will occur as a result of the County's adoption of Alternative No. 3. The County's adoption of Alternative No. 3 reduced the number of residential units, thereby reducing the number of vehicle trips in and around the Project Area and further reducing Project impacts. (See Memorandum from Provost & Pritchard to County Staff, re: Friant Ranch Project – Reduced Trip Generation per Environmentally Superior Alternative – Alternative 3, September 21, 2010; Memorandum from Provost & Pritchard to County Staff, re: Friant Ranch Project – Reduced Trip Generation per Environmentally Superior Alternative – Alternative 3 (Amendment #1), December 29, 2010 (collectively, these two memoranda are hereinafter referred to as "P&P Memos").)

Some mitigation measures require the Project's fair share contribution to the construction of road

improvements. Accordingly, EIR Tables 3.13.22 and 3.13.23 have been utilized to reflect changes in fair share percentages after adoption of Alternative No. 3. (See Revised Segment & Intersection fair share contributions, Table D and Table E of P&P Memos.) The mitigation measures adopted by the County (County Resolution, Exh. B) requiring fair share contributions for each of the impacts reflect these changes.

Additionally, the mitigation measures requiring Project construction of road improvements or fair share contributions to the construction of road are the responsibility of other jurisdictions, including the County, Caltrans, the Cities of Fresno and Clovis, and the County of Madera, and as such the Commission cannot ensure the improvements will be constructed. If the improvements identified in the recommended mitigation measures are not constructed prior to completion of the Project, the impacts would be significant and unavoidable, at least until the improvements are constructed. While the Commission has no evidence that the identified mitigation measures are not feasible, these Findings conservatively recognize the potential for one or more significant unavoidable traffic impacts should the necessary funding or construction be delayed or not occur. To the extent that any significant adverse traffic impact will not be substantially lessened or avoided due to the failure of any entity to fully fund or construct the identified improvements, the County finds that the specific economic, social and other considerations identified in the Statement of Overriding Considerations, support approval of the Annexation.

Impact 3.13.1: The Project will increase traffic at the intersection of Friant Road and the Project entrance located north of Lost Lake Road. Fresno County requires that the LOS for this intersection be maintained at a level C or better. (DEIR, p. 3-282.) The increased traffic impacts would exceed the minimum levels of LOS for this intersection. This is a significant impact. (DEIR, p. 3-311.)

> **Finding:** Impact 3.13.1 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.
>
> The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)
>
> Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse

impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 mitigates traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)
2. The County adopted mitigation measure 3.13.1 to reduce to a less-than-significant level the Project's impact on the LOS at the intersection of Friant Road and the Project entrance north of Lost Lake Road. (DEIR, p. 3-311 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.13.2: The Project will increase traffic at the intersection of Friant Road and Lost Lake Road. (DEIR, p. 3-311.) Fresno County requires that the LOS for this intersection be maintained at a level C or better. (DEIR, p. 3-282.) The increased traffic impacts would exceed the minimum acceptable levels of LOS for this intersection. This is a significant impact. (DEIR, p. 3-311.)

Finding: Impact 3.13.2 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s)

should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 mitigates traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)
2. The County adopted mitigation measure 3.13.2 to reduce to a less-than-significant level the Project's impact on the LOS at the intersection of Friant Road and Lost Lake Road. (DEIR, p. 3-311 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.13.3 (including 3.13.3a-c): Implementation of the Project will increase traffic, which will contribute to substandard LOS at Caltrans intersections. (DEIR, p. 3-312.) Regional growth in the Project vicinity has created and is anticipated to create substandard LOS in the regional roadway network under the anticipated traffic analysis for the year 2030. The Project will contribute to the substandard LOS conditions under this analysis. The Project's contribution to the anticipated cumulative traffic conditions at Caltrans intersections is cumulatively considerable. This is considered a significant impact. (DEIR, p. 3-312.)

Finding: Impact 3.13.3 (including 3.13.3a-c) is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission

conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 mitigates traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)
2. The County adopted mitigation measures 3.13.3 (including 3.13.3a-c) to reduce to a less-than-significant level the Project's impact on the substandard LOS at Caltrans Intersections. (DEIR, p. 3-312 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impacts 3.13.4 (including 3.13.4a-b): Implementation of the Project will increase traffic, which will contribute to substandard LOS on Madera County intersections and roadways. (DEIR, pp. 3-283 and 3-315.) Regional growth in the Project vicinity has created and is anticipated to create substandard LOS in the regional roadway network under the anticipated traffic analysis for the year 2030. The Project will contribute to the substandard LOS conditions under this analysis. The Project's contribution to the anticipated cumulative traffic conditions within Madera County is cumulatively considerable. This is considered a significant impact. (DEIR, p. 3-315.)

Finding: Impact 3.13.4 (including 3.13.4a-b) is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry

out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 mitigates traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)
2. The County adopted mitigation measure 3.13.4 (including 3.13.4a-b) to reduce to a less-than-significant level the Project's impact on the substandard LOS to Madera County intersections and roadways. (DEIR pp. 3-315 - 3-317 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.13.5 (including 3.13.5a-o): Implementation of the Project will increase traffic, which will contribute to substandard LOS on Fresno County intersections and roadways. (DEIR, p. 3-317.) Regional growth in the Project vicinity has created and is anticipated to create substandard LOS in the County of Fresno's roadway network under the anticipated traffic analysis for the year 2030. The Project's anticipated traffic impacts will contribute to the anticipated cumulative traffic conditions within Fresno County intersections and roadways. LOS conditions under the EIR analysis are based on the existing condition on these intersections and roadways. The Project's contribution to the anticipated cumulative traffic conditions on these intersections and roadways is cumulatively considerable. Impacts 3.13.5a, 3.13.5c, and 3.13.5k are considered individually and cumulatively significant, and Impacts 3.13.5a, 3.13.5c-o are considered cumulatively significant.

Finding: Impact 3.13.5 (including 3.13.5a-o) is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or

alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that some of these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that significant adverse impacts will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 will further mitigate traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)
2. The County adopted mitigation measure 3.13.5 (including 3.13.5a-o) that reduces to a less-than-significant level any significant environmental effect identified in the EIR. (County Resolution, Exh. B; DEIR, 3-319 – 3-323.)
3. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.13.6 (including 3.13.6a, 3.13.6d, 3.13.6e): Implementation of the Project will increase traffic, which will contribute to substandard LOC on City of Fresno roadways and intersections. (DEIR, p. 3-323.) Regional growth in the Project vicinity has created and is anticipated to create substandard LOS in the City of Fresno's roadway network under the anticipated traffic analysis for the year 2030. The Project's anticipated traffic impacts will contribute to and exacerbate the substandard LOS conditions under this analysis based on existing conditions. The Project's contribution to the anticipated cumulative traffic conditions in the City of Fresno roadways and intersections is cumulatively considerable. Impacts 3.13.6a and 3.13.6d are considered individually and cumulatively significant impacts, and Impact 3.13.6e is considered a cumulatively significant impact.

Finding: Impact 3.13.6 (including 3.13.6a, 3.13.6d, and 3.13.6e) is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that some of these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that significant adverse impacts will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 mitigates traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)
2. The County adopted mitigation measure 3.13.6 (including 3.13.6a, 3.13.6d, and 3.13.6e) to reduce the Project's impacts on the substandard LOS on City of Fresno roadways and intersections. (County Resolution, Exh. B; DEIR, pp. 3-324 – 3-26 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so.

Impact 3.13.7 (including 3.13.7a-f): The Project will increase traffic and will contribute to substandard LOS on intersections and roadways within the shared jurisdiction of City of Clovis and City of Fresno. (DEIR, p. 3-326.) Regional growth in the Project vicinity has created and is anticipated to create substandard LOS in the City of Fresno and City of Clovis's shared roadway network under the anticipated traffic analysis for the year 2030. The Project's anticipated traffic impacts will contribute to and exacerbate the substandard LOS conditions under this analysis based on existing conditions. The Project's contribution to the anticipated cumulative traffic conditions in the City of Fresno and City of Clovis shared roadways and intersections is cumulatively considerable. Impacts 3.13.7d and 3.13.7e are considered individually and cumulatively significant impacts, and Impacts 3.13.7a-c and 3.13.7f are considered cumulatively significant impacts.

Findings: Impact 3.13.7 (including 3.13.7a-f) is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No

other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that some of these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that significant adverse impacts will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 mitigates traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)
2. The County adopted mitigation measure 3.13.7 (including 3.13.7a-f) to substantially lessen the Project's impact on the identified intersections and roadways within the shared jurisdiction of City of Clovis and City of Fresno. (County Resolution, Exh. B; DEIR, pp. 3-327 – 328 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the indirect traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Utilities and Service Systems Impacts

Impact 3.14.3: Inadequate Wastewater Treatment Capacity and Facilities. Implementation of the Project will result in growth requiring additional wastewater treatment capacity. (DEIR, p. 3-362.) Presently, nearly all of the buildings in the Friant Community are serviced by individual septic systems, with one small sewer system package treatment plant servicing the Millerton Lake Village Mobile Home Park. (DEIR, p. 3-348.)

Without mitigation, the Project could impact existing wastewater treatment capacity and will require construction of a new wastewater treatment plant. (DEIR, p. 3-369.) The diversion from the mobile home park may require addition of a pumping station at the present site to transfer the existing flows, and the new wastewater treatment plant may have additional impacts on noise,

aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology, soils and mineral resources, and hydrology and water quality. (DEIR, pp. 3-363, 3-364, 3-366.) These impacts are considered potentially significant. (DEIR, p. 3-369.)

Finding: Impact 3.14.3 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 lessens the demand for wastewater service by reducing the number of residential units in the Project. (DEIR, p. 4-33.)
2. The County of Fresno adopted mitigation measures 3.14.3a-g to reduce to a less-than-significant level the Project's impacts on wastewater treatment capacity and facilities. (County Resolution, Exh. B; DEIR, pp. 3-369 – 3.371 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the wastewater treatment capacity impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Impact 3.14.7: Development of the Community Plan Area Will Increase the Demand for Electricity and Natural Gas and Will Result in the Need to Construct New Infrastructure to Serve the Community Plan Area. Implementation of the Project will increase the demand

for electricity and natural gas, resulting in impacts related to the timing of installation of utilities and the development of electrical and natural gas infrastructure. These impacts include the availability of utility easements, extensions of existing electrical and natural gas facilities to support the new demands, the installation of new gas distribution feeder mains, regulator stations, and distribution and transmission lines, and the cost of new utility infrastructure. (DEIR, p. 3-376.)

Finding: Impact 3.14.7 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that said other agency will actually carry out the mitigation measures to mitigate the identified impact. While the Commission has no evidence that the identified mitigation measure(s) are not feasible, the Commission conservatively recognizes the potential for significant unavoidable adverse impact(s) should the necessary mitigation not occur. To the extent that these significant adverse impacts are not substantially lessened or avoided through the identified mitigation measure(s), the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 substantially lessens impacts to electricity and natural gas demand by reducing the number of residential units in the Project. (DEIR, p. 4-33.)
2. The County of Fresno adopted mitigation measures 3.14.7a-b to reduce to a less-than-significant level any Project impacts on electricity and natural gas. (County Resolution; Exh. B; DEIR, p. 3-377 and FEIR revisions thereto.)
3. The Commission cannot monitor and enforce the electric and natural gas demand impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Greenhouse Gas Impacts

Impact 3.15.1: Development of the Project Could Potentially Result in a Cumulatively Considerable Incremental Contribution to the Significant Cumulative Impact of Global Climate Change. Implementation of the Project will result in additional greenhouse gas emissions due to development and increased traffic. The carbon dioxide emissions from vehicle travel will contribute to the greenhouse gasses locally, regionally, and globally. Additionally, the consumption of fossil fuel for energy production would also contribute to greenhouse gas emissions through the addition of residential development. These impacts are considered potentially significant. (DEIR, pp. 3-387 – 3-391.)

Finding: Impact 3.15.1 is not a direct impact of the Annexation. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that this significant adverse impact will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) Adoption of Alternative No. 3 substantially lessens impacts by reducing the number of residential units in the Project, thereby reducing residential energy consumption and vehicle traffic emissions contributing to climate change impacts. (DEIR, p. 4-29.)
2. The County adopted mitigation measures 3.15.1a-h that reduces the potential significant environmental effect identified in the EIR. (County Resolution, Exh. B; DEIR, pp. 3-391 – 3-393.)
3. The Commission cannot monitor and enforce the climate change impacts potentially

resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Cumulative Impacts

Cumulative Impact 5.2.1: The landscape in north-central Fresno County has historically been predominately rural open space and agricultural grazing. This has changed over the years to more urban uses. The combination of the proposed development in the Project, other individual project proposals and the Fresno County and Madera County general plans would result in significant changes to the existing visual character and quality of the area due to the increased conversion of rural open space and agricultural grazing lands to urban uses. (DEIR, p. 5-8/) This Project's contribution to this cumulative impact is considered cumulatively considerable and therefore significant.

Finding: The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this cumulative impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that this significant adverse impact will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Implementation of Alternative No. 3 reduces the number of residential units in the Project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35; see also Friant Ranch Specific Plan.) This substantial unit reduction will reduce sources of light compared to the original project proposal, and provide additional open space buffers between the developed area and neighboring open space lands, further reducing this impact. (DEIR, p. 4-29.)
2. The County adopted mitigation measures 3.1.3a through 3.1.3f to mitigate aesthetic impacts. (County Resolution, Exh. B; DEIR, pp. 3-12 – 3-13.)

3. The Commission cannot monitor and enforce the cumulative aesthetic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Cumulative Impact 5.2.2: Agricultural Resources. Many of the projects listed in DEIR Table 5-1 and this Project would result in the redesignation of agriculturally zoned lands to non-agricultural uses that conflict with that zoning. (DEIR, pp. 5-8 – 5-9.) The Project's contribution to the cumulative impact from redesignation of agricultural lands is considered cumulatively considerable and therefore significant. (DEIR, p. 5-9.)

Finding: Impact 5.2.2. analyzes the Project's contribution to cumulative impacts resulting from conflicts with existing agricultural zoning. The existing zoning at the time of the Annexation provides for residential and commercial uses, not agriculture. As such, the Annexation does not conflict with existing zoning.

The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942 acre development area. No other changes or alterations to the Annexation, within the Commission's authority, would avoid or reduce the level of conflict with the prior zoning in effect during the environmental review.

Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

To the extent that the inconsistency with zoning regulations no longer in effect results in a significant adverse impact that is not substantially lessened or avoided by mitigation adopted by the County, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942 acre development area. (See DEIR Table 4-6, p. 4-35.) Incorporation of Alternative 3 into the Annexation, as well as adoption thereof by the County, reduces the impact to only 443 acres of previously agriculturally zoned lands that the County amended to plan for inconsistent urban uses. (DEIR, p. 4-29.)
2. The County of Fresno adopted mitigation measures 3.4.1b through 3.4.1e, and 3.4.3a(1), 3.4.3a(2)(a) and 3.4.5, which ensure that the identified conflict with agriculturally zoned lands would be offset by preserving more than 1500 acres of

agricultural lands. (County Resolution, Exh. B; DEIR, pp. 3-102 – 3-109 and FEIR revisions thereto.) This mitigation ensures the conservation of over three times the amount of similarly situated agricultural grazing lands in perpetuity. (County Resolution, Exh. B, mitigation measures 3.4.1b through 3.4.1e, and 3.4.3a(1), 3.4.3a(2)(a), 3.4.5.)

3. The County changed the agricultural zoning for the lands within the Friant Ranch Specific Plan area to provide for residential and commercial uses. (See Friant Ranch Zoning Regulations, Fresno County Zoning Ordinance, §§840.B -840B(h).) As such, the Project benefits agricultural lands by converting non-prime agricultural lands and further protecting in perpetuity over three times the amount of grazing land.

Cumulative Impact 5.2.3: Air Quality. The Project, along with the proposed development in Fresno, Tulare, Kings and Madera Counties, will increase air pollution from mobile and stationary sources in the San Joaquin Valley Air Pollution Control District, which is classified as a nonattainment area for state and federal ozone and dust standards. (DEIR, p. 5-9.) The Project's contribution to the cumulative air quality impact is considered cumulatively considerable and therefore significant. (*Id.*)

Finding: The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this cumulative impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that this significant adverse impact will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the Project from 2,996 to 2,500, and concentrated development on 496 acres as opposed to 667 acres of development within the entire 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) This reduction effectively eliminated an entire construction phase and resulting air quality impacts, as well as reduced the overall operational

emissions resulting from residential traffic. (DEIR, pp. 4-29, 4-33; see also P&P Memos.)

2. The County of Fresno adopted mitigation measures 3.3.1a through 3.3.1d to reduce the adverse air quality effects of the Project. (County Resolution, Exh. B; DEIR, pp. 3-343 – 3-349 and FEIR revisions thereto.)
3. The County adopted mitigation measures 3.3.2 to reduce the Project's impacts on the degradation of air quality from increases in vehicular traffic emissions. (County Resolution, Exh. B; DEIR, p. 3-57 and FEIR revision thereto.)
4. The Commission cannot monitor and enforce the cumulative air quality impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Cumulative Impact 5.2.10: Noise. The Project will increase the cumulative noise levels from traffic to levels in excess of 60 dB Day-Night Average Level or will substantially increase criteria for 4 of the 24 road segments analyzed. (DEIR, pp. 3-244 – 3-248, 5-19.) The Project's contribution to the cumulative noise impact is considered cumulatively considerable and therefore significant.

Finding: The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this cumulative impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that this significant adverse impact will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the Project from 2,996 to 2,500, and concentrated development on 496 acres as opposed to 667 acres of development within the entire 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Alternative 3 will reduce the Project's contribution to

cumulatively significant noise impact by reducing the number of residents and number of vehicle trips. (DEIR, p. 4-32 and FEIR revisions thereto.)

2. The County adopted mitigation measures 3.10.1a that will reduce to less-than-significant levels the on-site traffic noise impacts of the Project to all areas in the Project vicinity, except for the impact to the existing homes along Friant Road and Willow Avenue. (County Resolution, Exh. B; DEIR, pp. 3-248 – 3-250.)
3. The Commission cannot monitor and enforce the cumulative noise impacts potentially resulting from construction or operations of the Project pursuant to the County's land use approvals because it is beyond its authority to do so. (FEIR, p. 2-28; Gov. Code, § 56000 et seq.)

Cumulative Impact 5.2.13: Transportation and Circulation. The Project would increase traffic generation, contributing to the cumulative traffic impacts with other foreseeable regional development. (DEIR, pp. 3-312 – 3-329, 5-21.) The Project's contribution to the cumulative traffic impacts is considered cumulatively considerable and therefore significant. (*Id.*)

Finding: The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce the cumulative traffic impact of the Project to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that some of these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that significant adverse impacts will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:

1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 mitigates traffic impacts by reducing the number of residential units in the Project, thereby reducing the number of vehicle trips attributable to the Project. (DEIR, p. 4-33; P&P Memos.)

2. The County adopted mitigation measures to reduce the Project's contribution to cumulatively considerable traffic impacts resulting from the cumulative projects and other foreseeable regional development. (DEIR, p. 5-21; see also Findings regarding Impacts 3.13.3, 3.13.4, 3.13.5, 3.13.6, 3.13.7, *supra.*)
3. The Commission cannot monitor and enforce the cumulative traffic impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so.

Cumulative Impact 5.2.15: Greenhouse Gas Emission and Global Climate Change. The Project would substantially increase development and would generate increased greenhouse gas emissions. (DEIR, pp. 3-385 – 3-393, 5-23.) The Project's contribution to the cumulative impact from greenhouse gas emissions and global climate change is considered cumulatively considerable and therefore significant. (*Id.*)

Finding: The Annexation incorporates the Alternative No. 3 analyzed in the EIR (and adopted by the County through the Friant Ranch Specific Plan) by reducing the Annexation Area to approximately 520 acres from the originally proposed 942-acre development area. No other feasible changes or alterations to the Annexation, within the Commission's authority, would reduce this impact to less than significant.

The EIR identified other changes or alterations to the Project that avoid or substantially lessen the significant environmental effect as identified in the EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the Commission. Such changes have been adopted by such public agency or can and should be adopted by such public agency. (CEQA Guidelines, § 15091(a)(2).)

Since the mitigation measures are within the jurisdiction and responsibility of another public agency, the Commission cannot ensure that the mitigation measures that the County has adopted will actually be carried out to mitigate the identified impacts. Moreover, the EIR concludes that these significant adverse impacts will not be reduced to less than significant through the County's adopted mitigation measures. To the extent that this significant adverse impact will not be substantially lessened or avoided, the Commission finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Annexation.

Facts in Support of Finding:
1. Incorporation of Alternative No. 3 reduced the number of residential units in the project from 2,996 to 2,500, and concentrates development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. (See DEIR Table 4-6, p. 4-35.) Adoption of Alternative No. 3 reducing the number of residential units in the Project results in corresponding reductions in emissions from vehicular and energy use. (DEIR, p. 4-29; see also P&P Memos.)
2. The County adopted mitigation measures 3.15.1a through 3.15.1h to reduce greenhouse gas emissions within the Project area. (See Finding regarding Impact 3.15.1, *supra.*)
3. The Commission cannot monitor and enforce the cumulative greenhouse gas/climate

change impacts potentially resulting from construction pursuant to the County's land use approvals for the Project because it is beyond its authority to do so.

4. *FINDINGS REGARDING ALTERNATIVES ANALYZED IN THE EIR*

The County certified the EIR for the broader Project comprising a general plan amendment, community plan, specific plan, and related approvals within the authorized land use jurisdiction of the County. The proposed Annexation is just a component of the larger Project that would authorize the District to provide water and wastewater services within the entire area included within the County's Friant Community Plan Update. The EIR identified certain significant environmental effects for the broader Project. There is no evidence that the Annexation would directly cause any adverse environmental impacts. Rather, the EIR supports the conclusion that the Annexation does not directly cause any environmental impacts because it does not authorize any development, nor change any of the land use regulations applicable to the property. The Commission has responsibility for mitigating or avoiding only the direct or indirect impacts resulting from the parts of the Project within its authority and for which it can feasibly require mitigation.

All the project alternatives identified in the Final EIR include the Annexation, except for the No Project Alternative. Thus, selecting one or the other of the alternatives (other than the No Project Alternative) would not eliminate the Annexation. The Commission does not have authority over the No Project Alternative because said alternative does not require Commission approval of any boundary changes or District powers. A Commission denial of the Annexation would not result in a No Project Alternative because the Project is broader than the Commission's actions on the Annexation and development within the area could still potentially occur under the Project despite a denial of this Annexation. Further, the Commission does not have authority over the Alternative Wastewater Treatment Plant Location because the Commission does not have land use or waste discharge authority.

Alternatives 1-3 in the EIR consider alternative development configurations that effectively reduce the subject annexation area to avoid certain environmental features of the subject property. The EIR identified Alternative 3 as the environmentally superior alternative (other than the No Project Alternative). The Commission finds that the proposed Annexation implements Alternative 3, which would result in the fewest adverse physical impacts to biological resources. Alternative 3 allows for more undisturbed open space and conserved grazing lands. Alternative 3 reduces the development footprint and residential unit count while still incorporating (proportionate with the reduced units) the mitigation measures applicable to the Project. The changes reduce almost all of the impacts of the Project as originally proposed and evaluated in the EIR, including without limitation, traffic, biological resources, air quality, greenhouse gas, energy usage, aesthetic, agricultural, water supply, and water quality impacts. Additionally, Alternative 3 would preserve the most open space and would provide the least impact to wetlands, drainages, and vernal pools, thereby substantially reducing the impacts to waters of the United States, the California tiger salamander, and vernal pool fairy shrimp. Moreover, the alternative's level of connectivity to adjacent open space areas to the south further protect biological resources by facilitating species mitigation. Therefore, because Alternative 3 offers the smallest project footprint, the most open space preserved, and the least impact to

biological resources, Alternative 3 is the environmentally superior alternative. The Annexation implements Alternative 3 and thus minimizes or avoids potentially significant Project impacts in a manner consistent with LAFCo's authority.

STATEMENT OF OVERRIDING CONSIDERATIONS (CEQA Guidelines §§ 15093, 15096(h))

The County of Fresno, acting as the Lead Agency, adopted its own Statement of Overriding Considerations. (See County Resolution at pp. 149-154.) The Commission has determined that the Annexation will not directly cause any adverse environmental effects. Because the Project will result in the occurrence of significant effects which are identified in the final EIR that are not avoided or substantially lessened, and others that are only lessened by the actions of other agencies outside of the Commission's control, the Commission provides the following, specific reasons to support the Annexation, which is a component of the broader Project.

LAFCo has made a reasonable and good faith effort to evaluate any alternatives or mitigation measures that would eliminate or substantially mitigate the environmental impacts resulting from the Project. LAFCo has reviewed the actions by the County of Fresno to eliminate or substantially mitigate the environmental impacts, particularly the County's required implementation of the environmentally superior alternative and various mitigation measures, goals and policies identified in the EIR, General Plan, the adopted Friant Community Plan Update, and the adopted Friant Ranch Specific Plan (hereafter "Project").

For the reasons set forth below, LAFCo determines that economic, social, recreational, environmental, and policy considerations outweigh the significant and unavoidable adverse environmental impacts identified in the EIR and described in LAFCo's Findings above. This Statement of Overriding Considerations justifies finding the unavoidable adverse environmental impacts from the Project acceptable.

LAFCo finds that any one of the benefits set forth below is sufficient by itself to warrant approval of the Project, and justify the unavoidable adverse environmental impacts from the Project. This determination is based on the findings herein and the evidence in the record. Having balanced the unavoidable adverse environmental impacts against each of the benefits, the LAFCo hereby adopts this Statement of Overriding Considerations, for the following reasons.

1. Economic Considerations and Job Creation

The county of Fresno has historically experienced considerably higher rates of unemployment (12 to 15 percent or greater average annual unemployment) than most areas of California. (Bureau of Labor Statistics, Economy at a Glance, Fresno, Ca, available at http://www.blg.ca_fresno_msa_htm, last accessed August 13, 2010).) In order to provide an adequate opportunity for economic enhancement and employment growth in Fresno County, it will be necessary to make available appropriate land area and resources to accommodate new retail, commercial, office, and residential developments such as Friant Ranch.

Project construction is projected to generate additional economic output of $918 million in the

County of Fresno's economy over the 10-year construction period, an average of $92 million annually. (Economic & Planning Systems, Inc., Friant Ranch Economic Impact Analysis (June 11, 2010), p. 4.) This represents an addition of 1.7 percent to the County's total annual economic output. *(Ibid.)* Additionally, the construction of the project is expected to create employment for approximately 660 workers annually over the 10-year period earning a total of $264 million in employee income or an average of $40,000 annually per worker. *(Ibid.)* The Project will also generate additional capital income of approximately $139 million including proprietary income, interest payments, rent, royalties from contracts, dividends, and corporate profits. Note that income is part of the Project's total economic input mentioned above. *(Ibid.)*

At Project build-out, total household spending from the Project would stimulate an estimated $110 million in additional economic output for the County annually, which represents an increase of approximately 0.2 percent in the County's economic output. *(Id.* at 5.) The additional output stimulated from household spending would support approximately 760 new jobs (part-time and full-time) in the County earning $23 million in employee income annually, an average of $31,000 annual income per worker. *(Id.* at 6.)

In addition, at build-out, the **Project is projected to generate positive fiscal impacts to the County's operating funds.** The annual revenue generated by the project from various taxes, licenses, and permits is estimated to exceed the costs of services the County will provide (e.g., health and sanitation, police and fire protection) **by approximately $2.6 to $2.9 million.** (Economic & Planning Systems, Inc., Friant Ranch Fiscal Impact Study (June 11, 2010) at p.3.)

Friant Ranch is congruent with the Fresno Regional Jobs Initiative (RJI) mission to develop a short- and long-term comprehensive strategy aimed at creating new jobs. Elements of Friant Ranch support four of the RJI job growth clusters. They are the Construction Cluster, Water Technology Cluster, Tourism Cluster and Healthcare Cluster.

2. **Social And Recreational Benefits**

The Project provides unique social and recreational benefits. The Project will result in Fresno's first 55+ age qualified Active Adult lifestyle community to accommodate the County's growing baby boomer population and help meet the demand for retirement housing.

The Project provides diverse housing types, sizes and designs to accommodate varying lifestyles and income levels of Fresno's expanding Active Adult (55+) population. The Project offers housing to meet the growing demand for retirement housing as the "Baby Boomer" generation reach 55 years of age and older. In Fresno County, the 65-74 year age group is projected to grow by approximately 59 percent in the coming decade, an increase of more than 29,000 people, and the 55-64 age group is projected to grow by 27 percent, an increase of more than 24,000 people. By providing a lifestyle alternative for older citizens, the Project provides an opportunity for residents of Fresno County to age in place and will prevent retirement relocation to other California counties, Arizona and Nevada.

Additionally, state tax law allows homeowners to transfer the current assessed value of the home they sell to the home they purchase, provided that home is within the same county. Demographic research indicates that 90 percent of the Friant Ranch market would come from

the existing Fresno County 55+ baby boomer population, which is expected to grow in Fresno County by 59 percent through 2010. Approval of the Friant Ranch project will allow these current residents to take advantage of these provisions of state law, while retaining the economic benefit of their residency within the County, a benefit that will be lost if they relocate to other counties or other states that increasingly are approving active adult communities to satisfy the growing demand for this lifestyle and product.

The Project also provides considerable open space and linkages to recreational amenities. The Project's proximity to Millerton Lake, the San Joaquin River, and Table Mountain Casino enables it to become a hub of sub-regional and recreational growth and services. It enhances the recreational uses and tourism of Millerton Lake, Lost Lake Park, the San Joaquin River, and Table Mountain Casino. The Project provides connectivity to the regional trail system and provides an on-site interpretive trail system accessible to the public.

The Project builds on the existing retail services in Friant with an 18-acre commercial area and provides an expanded customer base that will create a hub of sub-regional services serving unincorporated Fresno County. The location at the confluence of two primary circulation links, Friant Road and State Route 41, optimizes access and convenience to surrounding areas. The resurgence of the location as a hub will assist in regenerating the existing town and contribute to the needed services and infrastructure for current residents that either would not occur or would be delayed without the implementation of the Friant Ranch project.

Specifically, the Friant Ranch Project will provide the construction of a new tertiary wastewater treatment facility that will immediately serve the Friant Ranch Specific Plan Area and the Millerton Lake Mobile Home Park within the Project Area, and will also have the capacity to serve the proposed build out (in accordance with the Friant Community Plan) of the remaining portions of the Project Area. (Friant Community Plan Update & Friant Ranch Specific Plan, Final Environmental Impact Report, August 2010, Responses to Comments, p. 3-70; see, DEIR, p. 3-371 [mitigation measure 3.14.3d requires "[c]ommitments from the wastewater treatment provider [for the Project] to receive anticipated flows from the Friant Ranch Specific Plan Area and Millerton Lake Village Mobile Home Park at the WWTP shall be secured by Fresno County prior to County approval of improvement plans for wastewater collection and transmission infrastructure"].)

Friant Ranch will revitalize the Friant Community and provide significant regional benefits. The Project will provide economic and social benefits to the Friant community and beyond. Friant's history can be traced to the town of Millerton, Fresno County's first county seat, which was established in 1856. (*See* Friant Ranch Specific Plan.) While Friant briefly grew in population during construction of the Friant Dam in the 1930's and 1940's, the area has maintained a modest population and limited economy over the past 60 years. (*Id.*) Existing commercial business cannot thrive and new commercial businesses will not be established in Friant because there are not enough residents to support them. Additional residences will not be established in Friant because there is an insufficient water supply and no wastewater treatment system. In short, the community of Friant is in dire need of a partner willing to invest in Friant. The Annexation Area is the only property in or abutting the existing community that is large enough to justify the significant investment needed to improve the community's

infrastructure and allow for growth of the existing community.

3. Orderly Development and Agricultural Preservation

The Friant community is one of the oldest communities in Fresno County and has long been considered a legitimate growth area by the County. The 1983 Community Plan assumed growth would occur within the Friant area, but noted the following requisite conditions to facilitate the desired growth: (1) a large increase in area development opportunities; (2) successful promotion of the community as a desirable place in which to live for retirees or commuters; and (3) a large increase in the use of recreational facilities in the Friant area. (1983 Community Plan at § 3.01a.) The 2011 Friant Community Plan Update acknowledges that growth is needed to meet the County goals for the Friant area. (2011 Friant Community Plan Update.) Further, the General Plan population projections estimate that the Unincorporated East Valley, of which the Friant Community Plan Area is a part, will grow from 87,705 people in 1996 to 101,542 people in 2020, an increase of 13,837 people. (Fresno County General Plan, Table A-1 of Appendix A.) The area subject to this Annexation will accommodate a portion of this anticipated growth.

The Friant Community Plan Update and Friant Ranch Specific Plan protect prime agricultural land by directing growth to the non-prime agricultural lands within the area proposed for annexation. (Gov. Code, 56377(b) ["[d]evelopment or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands"].) The Annexation does not involve "prime agricultural lands" as defined by state law and the Commission Policy, as it is non-irrigated rangeland suitable for seasonal grazing, and cannot support one animal unit per acre due to if current topography, soil structure, and water supplies. The annexation area does not have the requisite natural resources sufficient to support fruit or nut-bearing trees, vines, bushes, or crops. (Certified EIR at Response to Comment 18.3, FEIR at p. 3-64.); cf. Commission Policy 005-06C(2)(a), 005-06C(2)(c).) The Certified EIR provides extensive additional evidence and analysis explaining why the Project does not affect valuable or productive agricultural land. (Exh. E, Responses to Comments 18.3,19.16, 19.73, 19.150; see also Friant Ranch Specific Plan at pp. 113-114.) The Certified EIR further relies on the Fresno County General Plan goals and policies to support its determination that the Project would not result in significant impacts to prime agricultural lands. (Exh. E, Response to Comment 18.3.) Accordingly, development within the area subject to the Annexation—non-prime agricultural land—is consistent with the Commission's policies encouraging orderly urban development and preservation of agricultural lands. (Commission Policy at 103-02,104-02, and 104-03; see also Gov. Code, § 56300.)

In contrast to the non-prime agricultural soils within the area subject to this Annexation, virtually all land presently designated for development and in and around the cities of Fresno and Clovis contain prime agricultural soils. Directing development to the subject non-prime agricultural soils immediately adjacent to an existing unincorporated community will absorb some of the housing demand identified in these planning documents and reduce the growth pressure on prime agricultural soils in other areas.

The Commission's incorporation of the reduced footprint analyzed in Alternative 3 (which is incorporated into the proposed Annexation Area) minimizes the conversion of grazing land to non-agricultural uses, and facilitates the permanent conservation of approximately 482 acres

within the area formerly proposed for development. (Exh. E, Response to Comment 18.3, FEIR at pp. 3-64-3-65; see also Certified EIR, Mitigation Measures 3.4.1b, 3.4.1c, 3.4.1d, 3.4.1e, 3.4.3a(1), 3.4.3a(2)(a) and 3.4.5, DEIR at p. 3-24; see also County Resolution, Exh. B.) Said mitigation requirements further require conservation of over 1,000 acres of off-site grazing land (in the Friant vicinity, within Fresno and Madera Counties) to be preserved in perpetuity and managed consistent with a grazing plan. (*Id.*) Thus, the Project benefits agricultural lands by protecting in perpetuity over three times the amount of grazing land. (County Resolution, Exh. B, Mitigation Measures 3.4.1b - 3.4.1e, and 3.4.3a(1), 3.4.3a(2)(a), 3.4.5.)

4. Environmental Benefits

The Northeast Development Configuration, as incorporated into the Project, reduces impacts to the environment by providing higher density development on fewer acres, resulting in less land development and substantial area dedicated to parks and undisturbed open space. The Project's 942-acre environmentally preferred land plan preserves over 460 acres of permanent on-site open space, protecting the natural foothills, canyons, and habitat areas including vernal pools, tiger salamander and fairy shrimp habitat. The Project also will provide 1,060 acres of off-site open space protection to offset any development impacts to habitat areas. This undisturbed permanent open space will be dedicated via easement to a conservation trust. The combination of on-site avoidance and on-site and off-site preservation and mitigation results in no net loss of wetland areas.

In total, the Project will set aside more than half of the Project area as preserved open space. This is consistent with the 2025 General Plan's goals of providing quality open space and protecting, preserving, and enhancing natural resources. (2025 Fresno General Plan, February 2002, Goal # 10, 11, p 3.)

The Project design respects the natural topography of the property with minimum grading and incorporates innovative and environmentally beneficial features such as biofiltration, reducing environmental impacts from stormwater and runoff.

Effluent from the new wastewater treatment facility will be treated to Title 22 unrestricted reuse quality with a Membrane Bio Reactor (MBR) system. The Project proposes to use 145.5 acre Beck Ranch, previously and aggregate mining site, as a land irritation and storage site for the Title 22 treated water, eliminating the need for direct winter discharge of treated effluent in to the San Joaquin River. This will also allow for restoration of a portion of the Beck Ranch property to an agriculture land use.

The Project will minimize air quality impacts compared to other residential development. By targeting the development to the active adult community, the Project will generate significantly less morning and evening peak hour traffic vehicular trips. The Project provides for individual Neighborhood Electric Vehicles (NEV) paths on major interior roadways. It utilizes compact Mixed Use development design consistent with the San Joaquin Valley Blueprint. The Project will provide transportation alternatives such as public transit (e.g., HOA shuttle buses to River Park and Casino), NEV electric vehicles, pedestrian/bicycle facilities, neighborhood trails & local retail linkage, regional trails, and telecommuting. The Project will also participate in the San Joaquin Valley Air Pollution Control District Rule 9510

mitigation program.

5. **Policy**

The Project implements and furthers important plans and public policies adopted and endorsed by the County related to urban growth.

Development of mixed urban uses on the Project site, which is adjacent to the North Growth Area, essentially the northerly most area available for substantial urban development, and is endorsed by the Fresno County General Plan and the City of Fresno's 2025 General Plan as the logical geographical conclusion of the predominantly northward urban growth that has occurred over the past 45 years (Friant Community Plan Update & Friant Ranch Specific Plan, Final Environmental Impact Report, August 2010, pp. 3-64, 3-72, 3-259.) The Project site is not valuable or productive agricultural land. Furthermore, there is not a land parcel large enough within the City of Fresno boundaries to accommodate an age-qualified lifestyle community with the amenities and natural outdoor recreational features available contiguous to the property location.

The Project's location, adjacent to the town of Friant, is an expansion of an existing established town and will contribute to the revitalization of Fresno County's only Redevelopment Area and the town of Friant. In October 1992, Fresno County approved the *Friant Redevelopment Plan* in an effort to address the conditions identified by the California Health and Safety Code as blight and to encourage housing opportunities, rehabilitation and repair of facilities, and expand and develop the commercial area by providing needed public improvements. The redevelopment zone is the only redevelopment area in Fresno County. Eighty acres of Friant Ranch, including a significant portion of the Friant Ranch Commercial Village Core, are located in the Friant Redevelopment Plan area, and the Project will extend revenue collection for the plan (which is set to expire in 2012) by 20 years.

With Friant's proximity to Millerton Lake, the San Joaquin River, and Table Mountain Casino, the Project will serve as a foundation that enables the town of Friant to become a hub of sub-regional and recreational growth and services. In each of these ways the Project will further implementation of the goals and objectives of the County's only redevelopment area.

The County has imposed, and Friant Ranch has agreed to, the following conditions to development in the Annexation Area: (1) to bring long term reliable water supply to the Friant community; (2) to construct additional water treatment facilities to purify the water; and (3) to construct sewage treatment facilities in order that the existing septic systems and outdated wastewater treatment plant can be abandoned. Thus, development within the Annexation Area, consistent with the County's newly adopted plans for the area, will revitalize the community of Friant. Specifically, the Project provides a new tertiary wastewater treatment facility that will (upon County and Regional Water Quality Control Board approval and construction) immediately serve the Friant Ranch Specific Plan Area and the Millerton Lake Mobile Home Park, and will also have the capacity to serve the proposed buildout of the remaining portions of WWD 18's Western Service Area (in accordance with the adopted Friant Community Plan

analyzed in the Certified EIR and upon completion of a collector system, which is not funded by or a part of the Project). (Certified EIR, DEIR at p. 3-70; see also Friant Ranch Specific Plan; DEIR, p. 3-371 [mitigation measure 3.14.3d requires "[c]ommitments from the wastewater treatment provider [for the Project] to receive anticipated flows from the Friant Ranch Specific Plan Area and Millerton Lake Village Mobile Home Park at the WWTP shall be secured by Fresno County prior to County approval of improvement plans for wastewater collection and transmission infrastructure"].)

The Project embraces and promotes important San Joaquin Valley Blueprint principles. For example, the Project embraces the "smart growth" concept of clustering development to preserve open space and protect natural resources; directs development toward existing communities, creates walkable and bikable neighborhoods, fosters distinctive, attractive communities with a strong sense of place, and supports actions that encourage environmental resource management. The Project implements these principles by providing nearly 13 miles of pedestrian/bicycle facilities, neighborhood trails and local retail linkages and linkage to regional trails as well as a community technology focus for telecommuting and intranet connectivity.

The Project also supports and implements the principles and strategies of the Growth Alternative Alliance's "A Landscape of Choice," which the County has adopted as a goal in its 2025 General Plan, by offering a compact integrated community plan that provides a full range of services — neighborhood commercial uses, community centers, medical services, public services, transit, and recreational uses — while also protecting key environmental resources through open space and comprehensive transit, street and trail systems that facilitate efficient access to community amenities and recreational areas. (See e.g. 2025 Fresno General Plan, February 2002, Goal #5, p.3, Appendix A, p.177.)

Finally, the Project is consistent with and furthers implementation of a County's approved mine reclamation plan, pursuant to California's Surface Mining and Reclamation Act of 1975, Public Resources Code 2710 et seq. That plan calls for ultimate rehabilitation of the Beck Property to a combination of ponds and agricultural land. The Project is consistent with that plan because it includes storage of effluent within the former excavation area on the Beck Property. Additionally, reclaimed water stored on the Beck Property will be used to irrigate the balance of the site, which will be restored to agricultural production.

Fresno Local Agency Formation Commission

September 15, 2011

Mr. Alan Weaver, Director
Public Works & Planning
2220 Tulare Street, Suite 700
Fresno, CA 93721

Dear Alan:

The Fresno Local Agency Formation Commission (LAFCo) will be hearing the Sphere of Influence Revision for Waterworks District No. 18 and Friant Ranch Annexation proposals at the next LAFCo meeting on September 28, 2011, at 1:30 P.M. in the Board of Supervisors hearing room. I would appreciate it if you could have Staff from your department present that would be able to answer any questions the Commission may have related to their approval and the Environmental Impact Report that was prepared for the project by the County and certified by the Board of Supervisors.

Yours truly,

Jeff Witte
Executive Officer

JW:cf

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LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone: (559) 495-0604 • Fax: (559) 495-0655 • E-mail: cfleming@co.fresno.ca.us

Subject: Draft Staff Report for Friant Ranch Applicant

The Fresno Local Agency Formation Commission (LAFCo) will be considering an application by Waterworks District No. 18 to annex and develop a portion of the Friant Ranch Specific Plan area that was previously approved by the Fresno County Board of Supervisors. There are several components to the application which LAFCo will be considering that include the following:

(1) Update of the Municipal Service Review for Waterworks District No. 18;
(2) Amendment to the Waterworks District No. 18's sphere of influence to encompass the Friant Ranch specific Plan area;
(3) Annexation to the Waterworks District No. 18's service boundaries; and
(4) Activation of latent powers for Waterworks District No. 18 to provide for wastewater collection, treatment, and disposal.

Acting as a Responsible Agency, the Commission will review and consider the Environmental Impact Report prepared by the County of Fresno and certified by the Fresno County Board of Supervisors and all related documents.

If you would like to provide comments related to the Commission's Draft report, you may do so by faxing your comments to (559) 495-0655, by e-mail to jewitte@co.fresno.ca.us. or by sending a letter of comment to our office located at 2115 Kern Street, Suite 310, Fresno, CA 93721. All comments are due no later than 10:00 a.m., Wednesday, September 21, 2011.

LAFCo reserves the right to make further revisions to this draft and is not obligated to include any or all comments received.

Sincerely,

Jeff Witte
Executive Officer

JW:cf

Enclosure

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(Space Below for use of County Clerk only)

IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA

NOTICE OF PROTEST HEARING
FRESNO LOCAL AGENCY FORMATION COMMISSION
(LAFCo)

City of Fresno "Willow-Copper No. 1 Reorganization".
Resolution No. RO-10-6

DATE AND TIME OF HEARING:

SEPTEMBER 28, 2011 at 1:30 P.M.

MISC. NOTICE

DECLARATION OF PUBLICATION (2015.5 C.C.P.)

STATE OF CALIFORNIA

COUNTY OF FRESNO

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or intrested in the above entitled matter. I am the principal clerk of **THE BUSINESS JOURNAL** published in the city of Fresno, County of Fresno, State of California, Monday, Wednesday, Friday, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Fresno, State of California, under the date of March 4, 1911, in Action No.14315; that the notice of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

SEPTEMBER 5, 2011

.....

.....

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Fresno, California,

SEPTEMBER 5, 2011

ON .....

.....

NOTICE OF PROTEST HEARING FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)

PLEASE BE ADVISED THAT A PROTEST HEARING will be held on Wednesday, September 28, 2011, by the Fresno Local Agency Formation Commission (LAFCo) concerning the following proposal:

City of Fresno "Willow-Copper No. 1 Reorganization". A request by LAFCo Counsel for clarification by the Commission of Resolution No. RO-10-6 approving a reorganization to annex approximately 287 acres to the City of Fresno and detach from the Fresno County Fire Protection District for territory located at the northwest corner of Willow and Copper Avenues (LAFCo File No. RO-10-6).

If you are a landowner within the territory of the "Willow-Copper No. 1 Reorganization" as described above, you have protest rights and may file a written protest in opposition to the change of your property. Official LAFCo Protest Forms may be mailed to or delivered to the Fresno LAFCo office (address below) or presented to the LAFCo Commission before the end of the protest hearing. Please contact the LAFCo Office to obtain information about how to protest and to request an Official LAFCo Protest Form. An Official LAFCo Protest Form must be utilized to submit a valid protest. Forms will also be available at the hearing.

THE PROTEST HEARINGS WILL BE HELD at 1:30 p.m., or as soon thereafter as possible, on Wednesday, September 28, 2011, in Room 301, Hall of Records, Tulare and "M" Streets, Fresno. For information contact the Fresno LAFCo Commission Office at 2115 Kern Street, Suite 310, Fresno, CA 93721. Please direct questions to Jeff Witte, LAFCo Executive Officer at (559) 495-0604 or e-mail Mr. Witte at jewitte@co.fresno.ca.us. **The staff reports for the above proposal will be available to view on our website at: fresnolafco.org after September 22, 2011.**

DATED: September 5, 2011
09/05/2011

THIS IS A LEGAL NOTICE

NOTICE OF PUBLIC HEARING

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
FRESNO COUNTY, CALIFORNIA

NOTICE IS HEREBY GIVEN that the Fresno Local Agency Formation Commission (LAFCo) will consider the Municipal Service Review (MSR), Sphere of Influence Revision, and Extension of Powers Request for the Waterworks District No. 18 at a public hearing on September 28, 2011.

LAFCo is responsible for reviewing the adopted spheres of influence (SOI) for special districts in Fresno County (Government Code section 56425). Municipal Service Reviews involve analyzing an agency's services and making determinations. The Commission is required to adopt written determinations regarding six specific topics.

LAFCo has reviewed the SOI for the Waterworks District No. 18 in an MSR. The Commission will consider the information, recommendations, and determinations in this study at its September 28, 2011 hearing. At this hearing the Commission will consider adopting the MSR, with or without amendments and make determinations pursuant to California Government Code Section 56430(a).

The Commission will also consider a Sphere of Influence Revision for Waterworks District No. 18 that will add approximately 520 acres to its sphere of influence and an annexation of approximately 520 acres to the District for territory located adjacent to the Community of Friant.

In addition, the Commission will also consider a request from Waterworks District No. 18 to allow the District to provide wastewater collection and treatment services to their district.

A Final Environmental Impact Report (FEIR) has been prepared by the Lead Agency, County of Fresno, for a project that includes consideration of the above projects by LAFCo. The Fresno County Board of Supervisors certified the FEIR on February 10, 2011 (SCH# 2007101016). Acting as Responsible Agency under the California Environmental Quality Act (CEQA) the Commission will consider the information in the FEIR, the findings made by the Lead Agency regarding the significant environmental impacts, and the Statement of Overriding Considerations adopted by the County of Fresno, then will independently consider the project's significant environmental impacts prior to making a decision on this proposal.

THE PUBLIC HEARING will be held on Wednesday, September 28, 2011, at 1:30 p.m., or as soon thereafter, in the Fresno County Board of Supervisors' Chamber, Room 301, Hall of Records, Tulare and "M" Streets, in downtown Fresno. Interested agencies and individuals are invited to attend this meeting and give public testimony on this item. For information, please contact Jeff Witte, Executive Officer at Fresno LAFCo, 2115 Kern Street, Suite 310, Fresno, CA 93721, phone: (559) 495-0604, e-mail address: jewitte@co.fresno.ca.us.

Jeff Witte, LAFCo Executive Officer

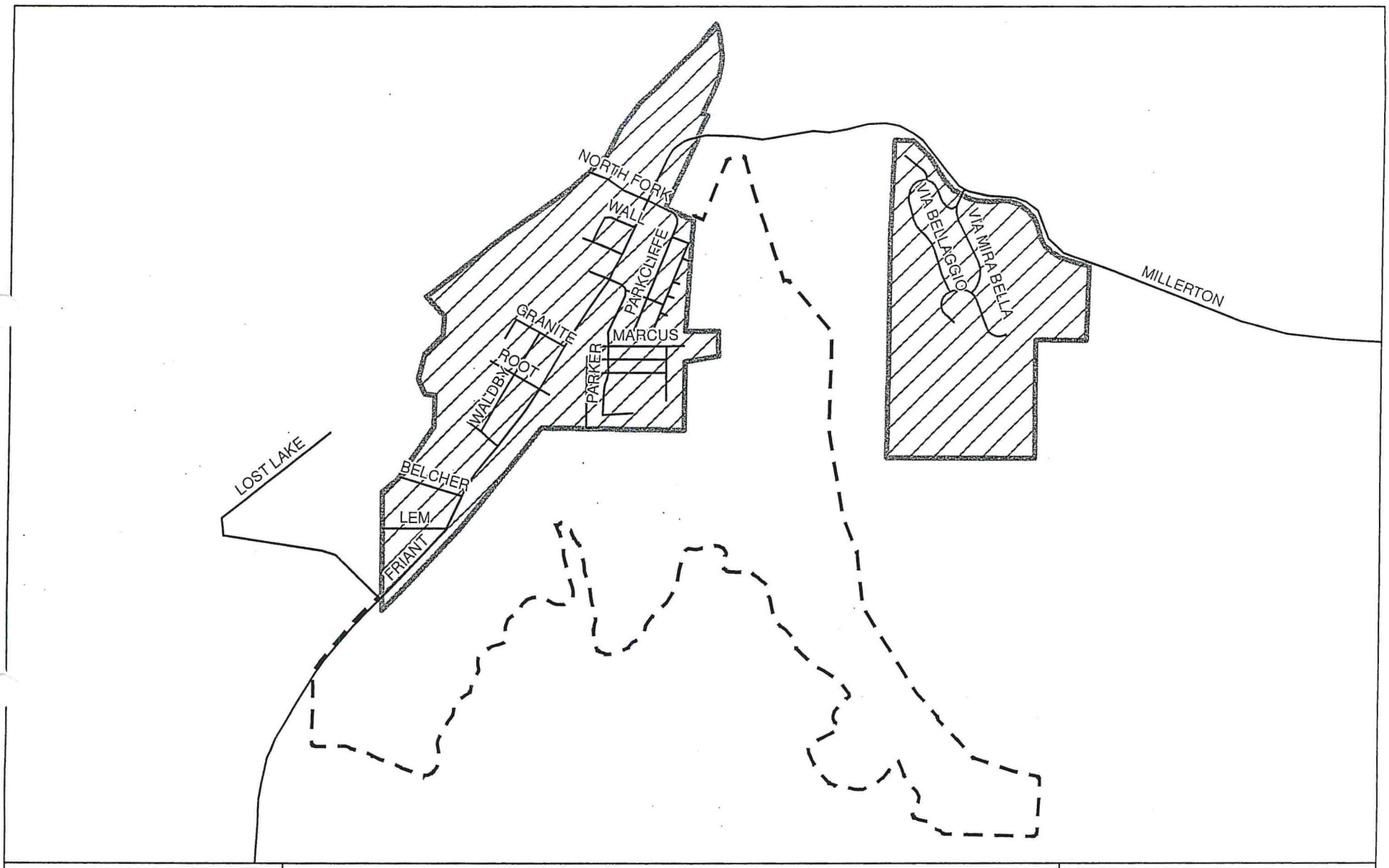
Dated: September 6, 2011, File No. RSOI-156, AD-11-1, EP-11-1

(1) If you are an applicant for, or a participant in, any proceeding on the agenda for a **land use entitlement** and have made a **campaign contribution** of more than $250 to any member or alternative member of the Commission **within twelve (12) months prior to the Commission considering your application**, please immediately inform the Commission of your contribution. State law **disqualifies** each Commissioner and Alternative Commissioner from participating in and voting on land use entitlement decisions (which include changes of organization and reorganizations) if the Commissioner or Alternative Commissioner has received campaign contributions from (i) an applicant for a land use entitlement, (ii) someone who lobbies the Commission or LAFCo staff regarding an application for land use entitlement, (iii) someone who testifies in person before the Commission regarding an application for land use entitlement, or (iv) someone who otherwise acts to influence the outcome of an application for land use entitlement.

State law also prohibits applicants and participants from making campaign contributions to a Commissioner or Alternate Commissioner within three (3) months **after** the Commission's action. If you have any questions regarding these requirements which are contained within the **California Political Reform Act** (Government Code Section 84308 *et seq.*), please consult with Commission staff at 559/495-0604.

(2) In compliance with the Americans with Disabilities Act (**ADA**), if you need special assistance to participate at this meeting, please contact Ms. Candie Fleming, Clerk to the Commission at 559-495-0604. Notification 48 hours prior to the meeting will enable the Clerk to make reasonable arrangements to ensure accessibility to this meeting. Pursuant to the ADA, the meeting room is accessible to the physically disabled.

(3) A Staff report prepared for this item will be posted on the Fresno LAFCo Website: **www.fresnolafco.org.** five days prior to the public hearing.



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Legend

District SOI

Proposed SOI Expansion & Annexation

Proposed SOI Expansion

Waterworks District No. 18

G:\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Boundary_Annexation_BW_County_Roads.mxd

Consolidated Mosquito
Abatement District
P.O. Box 278
Selma, CA 93662

Fresno County Fire Protection District
Attn: Brian Newlin
210 S. Academy Avenue
Sanger, CA 93657

Fresno County Fire Protection District
Attn: Ray Franklin
210 S. Academy Avenue
Sanger, CA 93657

Fresno County Fire Protection District
Attn: Chief Larkin
210 S. Academy Avenue
Sanger, CA 93657

West Fresno County Red Scale
Protective District
21136 Trimmer Springs Road
Sanger, CA 93657

Jeff Roberts
P.O. Box 343
Friant, CA 93626

Neal Costanzo
Costanzo & Associates
575 E. Locust Avenue, Suite 115
Fresno, CA 93720-0163

Todd Bristol. Secretary
Sierra Cedars Com. Service Dist.
P.O. Box 494
Shaver Lake, CA 93664

Dan Pearce, General Manager
Waterworks District No. 18
P.O. Box 92
Friant, CA 93626

Provost & Pritchard Consulting
Group
286 W. Cromwell
Fresno, CA 93711

Bigelow-Silkwood Friant Ranch
c/o E L Silkwood
P.O. Box 22
O'Neals, CA 93645

Whispering Springs LLC
c/o E L Silkwood
7110 N. Fresno Street, #340
Fresno, CA 93720

Bernard Jimenez, Division Manager
Development Services Division
2220 Tulare Street, Suites A & B
Fresno, CA 93721

Depot Development Inc.
7110 N. Fresno Street, #340
Fresno, CA 93720

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1218 26th Avenue, #202
San Francisco, CA 9412

Colleen Giuliani
1218 26th Avenue, #202
San Francisco, CA 9412

Ryan Jacobsen
CEO Executive Director
Fresno County Farm Bureau
1274 W. Hedges Avenue
Fresno, CA 93728

Provost & Pritchard
286 W. Cromwell
Fresno, CA 93711

San Joaquin River Conservancy
5469 E. Olive Avenue
Fresno, CA 93727

Friant Water Users Authority
854 N. Harvard
Lindsay, CA 93291

Department of Parks & Rec.
Central Valley District
22708 Broadway
Columbia, CA 95310-9400

Bureau of Reclamation
Attn: SCC-414
1243 "N" Street
Fresno, CA 93721

Dan Casas
Table Mountain Rancheria
8184 Table Mountain Rd
P.O. Box 445
Friant, CA 93626

Rena Ballew/George Bushard
USBR
1234 "N" Street
Fresno, CA 93721

Sierra Resource
Conservation District
3763 E. Robinson
Fresno, CA 93726

Fresno County Library &
Historical Landmarks Commission
2420 Mariposa Street
Fresno, CA 93721

Joe Prado, Special Dist. Admin.
c/o Resources & Development
2220 Tulare Street, Suite 600
Fresno, CA 93721

Bruce Thiesen, Manage
Clovis Veterans Memorial District
453 Hughes
Clovis, CA 93612

Lorna Roush, Secretary
Riverdale Memorial District
P.O. Box 464
Riverdale, CA 93656

REQUIRED CEQA FINDINGS

CEQA Guidelines § 15091

The Commission has reviewed the DEIR and the FEIR, which contains any text changes to the DEIR and additional information. The Commission has also considered the public record on the Project. After reviewing the public record, as composed of the aforementioned elements, the Commission hereby makes the following findings regarding the significant effects of the proposed Project, pursuant to Public Resources Code section 21081 and section 15091 of the State CEQA Guidelines.

Aesthetic Impacts

Impact 3.1.3: Introduction of New Sources of Light and Glare and Increased Lighting on the Night Sky as a Result of the Project. Urban development in the Project will increase light and glare impacts due to additional streetlights, advertising signs, interior and exterior lighting, and light or reflective surfaces of buildings. Because the Project will create new and additional sources of substantial light or glare that would impact views in the area, this impact is considered potentially significant. (DEIR, pp. 3-11 – 3-13.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.1.4: Degredation of the Existing Visual Character or Quality of the Project Area and its Surroundings Resulting from Utilities and Roadway Construction. The Project will require the construction of additional utilities, roadways and a new wastewater treatment plant. Although some of the visual impacts will be temporary, visual impacts related to the removal of vegetation and permanent aboveground structures or lighting are considered potentially significant. (DEIR, pp. 3-13 – 3-14.)

Finding: Changes or alterations have been required in, or incorporated into, the Project, including the adoption of Alternative No. 3, that avoid or substantially less the significant environmental effect as identified in the EIR. The changes or alterations will reduce to a less-than-significant level Project impacts, if any, related to aesthetic impacts from on- and off-site utilities and roadway construction. (*See Resolution Certifying the Final Environmental Impact Report for the Friant Community Plan Update, Friant Ranch Specific Plan, Amendment to Text Application No. 363 and Amendment Application No. 3751; Adoption of CEQA Findings; Adoption of the Mitigation Measures, the Mitigation Monitoring Program and the Statement of Overriding Considerations; and Approval of the Friant Community Plan Update and Friant Ranch Specific Plan*, before the Fresno County Board of Supervisors on February 1, 2011 (hereinafter, "County Resolution").) LAFCo adopts as its own the County of Fresno's *Facts in Support of Finding* included on pages 7-8 of the County Resolution.

Agricultural Resources Impacts

Impact 3.2.2: Conflict with Agricultural Zoning or Williamson Act Contracts. The Project would require the redesignation of 900 acres of grazing land, which is currently zoned for agriculture. The proposed residential and commercial uses would conflict with the existing agricultural zoning. This impact is considered significant and unavoidable. (DEIR, p. 3-24.)

Finding: Through Mitigation Measures 3.4.1 through 3.4..3(a), 3.4.3a(2)(a) and 3.4.5 ensures the conservation of over three times the amount of similarly situated agricultural grazing lands in perpetuity, LAFCo finds there are no feasible mitigation measures or alternatives that could be adopted that would reduce this impact to a less-than-significant level. However, adoption of Alternative 3 reduces the impact only 443 acres of agriculturally zoned lands that will be put to inconsistent urban uses (DEIR, p. 4-29.) To the extent that this significant adverse impact will not be substantially lessened or avoided, LAFCo finds that specific economic, social, and other considerations adopted in the Statement of Overriding Considerations support certification of the EIR and approval of the Project. (*See* County Resolution pp. 8-9.)

Air Quality Impacts

Impact 3.3.1: Construction Impacts for the Development of the Friant Ranch Specific Plan (5 Phases) and Community Plan Update Carbon Monoxide (CO), Reactive Organic Gases (ROG), Nitrogen Oxide (NOx), Particulate Matter (PM10), & Fine Particulate Matter (PM2.5). The Project will produce construction related air pollutant emissions through the use of diesel-powered heavy equipment and site preparation activities, including mass grading, paving and building construction. (DEIR, p. 3-41.) Construction and site preparation activities can generate substantial amounts of air pollution, including exhaust and fugitive dust emissions. (*Id.*) The dust emissions can cause impacts both locally and regionally, depending on the weather, soil conditions, and the level and duration of construction activities. (*Id.*) Further, exhaust emissions would depend on the size of the fleet of diesel-powered heavy equipment and the level of operation. (*Id.*) The Project as originally proposed would consist of 5 phases and the construction of the Depot Parcel. The EIR analyzed construction-related air quality impacts on a phase-by-phase basis using the URBEMIS computer programs, version 9.2.4 and a traffic study conducted by Peters Engineering. (*Id.*) Based on that analysis, the EIR concluded that the impacts from Phases 1 and 2 are significant but unavoidable, from Phases 3, 4 and 5 potentially significant but reduced to less than significant with mitigations. (DEIR, pp. 3-45, 3-47; FEIR, Response to Comments 19.22-19.39, pp. 3-74 - 3-99.) Adoption of Alternative No. 3 will effectively eliminate what was originally characterized as phase 3 in the Specific Plan, reducing the number of residential units in the Project from 2,996 to 2,500 and concentrating development on 496 acres as opposed to 667 acres of development within the 942-acre Specific Plan Area. Consequently, the Project, as adopted in Alternative No. 3, consists only of 4 phases, thereby reducing the potentially significant impacts. Notwithstanding the reduction in potentially significant

impacts as a result of adoption and implementation of Alternative No. 3, the Project will continue to incorporate the mitigation measures analyzed and required by the EIR.

Phase 1 Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Phase 2 Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Phase 3 Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Phase 4 Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Phase 5 Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.3.2: Violation of Air Quality Standards by Area and Operational Emissions. Implementation of the Project will result in additional development and urbanization in the Friant Community, an area currently designated as a severe non-attainment area. (DEIR, p. 3-51.) The development will increase vehicular traffic emissions due to the addition of residences, public facilities, commercial uses, public and open space and park uses. These impacts are considered significant. (DEIR, p. 3-57.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Biological Resources Impacts

Impact 3.4.1a: Impacts to the Succulent Owl's Clover. Implementation of the Project will result in additional development and urbanization in the Friant Community. The change in land management practices from cattle grazing to urban development may degrade the water quality in wetlands that contain the succulent owl's clover. These indirect impacts are considered significant. (DEIR, pp. 3-101 – 3-102.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.1b: Impacts to Hartweg's Golden Sunburst. Implementation of the Project would result in the loss of Hartweg's golden sunburst habitat within the development footprint of the Specific Plan. (DEIR, p. 3-102.) This impact is considered significant. (DEIR, p. 3-103.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.1c: Impacts to Vernal Pool Fairy Shrimp. Implementation of the Project would result in the direct loss of vernal pool fairy shrimp habitat and take of an unknown number of vernal pool fairy shrimp. Further, vernal pool fairy shrimp habitat in the undisturbed open space could be subject to degredation from changes in hydrology, dicharge of polluted water into pools and the possible increased invasion by non-native plant species. This species is federally listed as threatened and take of the species is prohibited under Section 9 of the federal Endangered Species Act. These impacts are considered significant. (DEIR, p. 3-104.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.1d: Impacts to the California Tiger Salamander. Implementation of the Project will result in the loss of breeding and aestivation habitat for the California tiger salamander through elimination of vernal pools and grasslands habitats on the Project site. Because the elimination of the habitat would result in the mortality of an unknown number of California tiger salamander, these impacts are considered significant. (DEIR, pp. 3-106 – 3-107.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.1e: Impacts to Western Spadefoot. Implementation of the Project will result in the loss of breeding and aestivation habitat for the western spadefoot through elimination of vernal pools and grasslands habitats on the Project site. Because the elimination of the habitat would result in the mortality of an unknown number of western spadefoot, these impacts are considered significant. (DEIR, pp. 3-108 – 3-109.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.1g: Impacts to Burrowing Owls. Pursuant to Mitigation Measure 3.4.1d, implementation of the Project will result in the loss of burrowing owl foraging habitat and disruption of breeding activities or take of individual birds through site grading and other construction activities on the Project site. Although the loss of burrowing owl habitat would be fully mitigated by conservation of potential foraging habitat, the possible disruption of breeding activities and take of individual birds will remain significant. (DEIR, pp. 3-109 – 3-110.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.1h: Impacts to the American Badger. Implementation of the Project could result in mortalities to an unknown number of American badgers through construction activates. Although no badgers have been observed at the Project, it is reasonable to assume that badgers are occasional to frequent visitors that forage or den on the Project's site suitable habitats. These impacts to badgers are considered significant. (DEIR, p. 3-111.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.1i: Impacts to the Nesting Raptors. Implementation of the Project could result in the disruption of breeding behaviors, abandonment of nest sites, disruption of feeing behaviors resulting in reproductive failure and/or abandonment of young and death of adults and/or young through construction activities. These impacts to nesting raptors are considered significant. (DEIR, p. 3-113.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.1j: Impacts to Common and Special Status Nesting Birds. Implementation of the Project could result in the removal of active bird nests, disruption of breeding behaviors and subsequent loss of eggs and/or young through construction activities. These impacts are considered significant. (DIER, p. 3-114.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other

agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.2: Impacts of Friant Ranch Specific Plan Development (including wastewater treatment plant and disposal) to Riparian Habitat or Other Sensitive Natural Communities. Implementation of the Project will result in the removal and loss of northern hardpan vernal pool habitat. These impacts to the sensitive natural community are considered significant. (DIER, pp. 3-115 – 3-116.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.3: Impacts of Friant Ranch Specific Plan Development (including wastewater treatment plant and disposal) to Federally Protected Wetlands and Other Waters. Implementation of the Project will result in the loss of jurisdictional and isolated waters. These impacts to jurisdictional and isolated waters are considered significant. (DEIR, pp. 3-116 – 3-117.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.3b: Impacts to Water Quality in Seasonal Creeks, Reservoirs, and Other Downstream Waters. Implementation of the Project may result in soil erosion and polluted stormwater and irrigation runoff affecting the water quality, fish and other wildlife species of seasonal creeks, reservoirs and other downstream waters. The erosion and run-off may result in the deposition of silt and the introduction of pollutants into the receiving waters. These impacts are considered potentially significant. (DIER, p. 3-119.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.5: Consistency of the Friant Ranch Specific Plan with Local Policies or Ordinances Protecting Biological Resources. Implementation of the Project may result in inconsistencies with local policies and ordinances, including the County General Plan policies. Implementation of the Friant Ranch Specific Plan would remove wetlands and associated upland habitat, which without mitigation would conflict with Fresno County General Plan Policy OS-D.5 that requires the County to strive to identify and protect such lands, and policies OS-D.1 through OS-D.3 that support "no net loss" of such lands. Further, various General Plan policies relevant to wildlife species direct project proponents to mitigate loss of wildlife habitat, to maintain buffer zones around wildlife resources, to preserve habitats of special status species, to preserve open spaces of native vegetation, and to the maximum extent possible to preserve habitats for rare or

endangered species. To the extent that the Project proposes to destroy and remove such wildlife habitat, the Project would conflict with these policies. These inconsistencies between Project elements and local policies and ordinances, without appropriate mitigation, may result in significant Project related impacts. (DIER, pp. 3-121 – 3-122.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.9: Impacts of the Friant Community Plan to Candidate, Sensitive, or Special Status Species.

Impact 3.4.9a: Impacts to Spiny-Sepaled Button Celery. Implementation of projects in the existing Friant Community Plan Area could result in mortalities to an unknown number of spiny-sepaled button celery through grading and construction activities. Although no spiny-sepaled button celery have been observed, vernal pools and swales may potentially contain this species. the possible removal of spiny-sepaled button celery is considered a potentially significant impact. (DIER, p. 3-125.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.9b: Impacts to Vernal Pool Fairy Shrimp. Implementation of construction projects could potentially result in the direct loss of ephemeral pool habitat and a take of an unknown number of vernal pool fairy shrimp within the existing Friant Community Plan Area. Further, vernal pool fairy shrimp habitat could be subject to degredation due to changes in surface topography and drainage pattersn, and the discharge of polluted water into habitat. This species is federally listed as threatened and take of the species is prohibited under Section 9 of the federal Endangered Species Act. These impacts are considered significant. (DIER, pp. 3-125 – 3-126.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.9c: Impacts to the Valley Elderberry Longhorn Beetle. Implementation of further projects could result in the direct loss of elderberry bushes and a take of an unknown number of Valley elderberry longhorn beetles within the existing Friant Community Plan Area. This species is federally listed as threatened and a take of the species is prohibited under Section 9 of the federal Endangered Species Act. These impacts are considered significant. (DIER, p. 3-127.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.9d: Impacts to the California Tiger Salamander. Implementation of construction projects within the existing Friant Community Plan Area could potentially result in the loss of breeding and aestivation habitat for the California tiger salamander through elimination of vernal pools and grasslands habitats. These impacts are considered significant. (DEIR, p. 3-129.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.9e: Impacts to the Western Spadefoot. Implementation of projects within the existing Friant Community Plan Area could potentially result in the loss of breeding and aestivation habitat for the western spadefoot through elimination of ephemeral pools and grasslands habitats. These impacts are considered significant. (DIER, p. 3-131.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.9f: Impacts to the Western Pond Turtle. Implementation of projects within the existing Friant Community Plan Area could result in direct mortalities and decreased population viability to western pond turtles due to construction related activities and potential degredation in water quality. These impacts are considered significant. (DIER, p. 3-131.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.9g: Impacts to the Swainson's Hawks. Grading in areas greater than 5 acres in size, particularly in the Lost Lake area, may result in the removal of foraging habitat or the disruption of breeding activities for the Swainson's hawk. These impacts are considered significant. (DEIR, p. 3-132.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.9h: Impacts to Burrowing Owls. Implementation of projects within the existing Friant Community Plan Area could potentially result in the loss of burrowing owl foraging habitat and disruption of breeding activities or take of individual birds. These impacts are considered significant. (DEIR, p. 3-133 – 3-134.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.9i: Impacts to Other Nesting Raptors. Implementation of construction activites within the existing Friant Community Plan Area could result in the disruption of breeding behaviors, abandonment of nest sites, disruption of feeding behaviors resulting in reproductive failure and/or abandonment of young, and death of adults and/or young. These impacts are considered significant. (DEIR, pp. 3-135 – 3-136.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.9j: Impacts to Common and Special Status Nesting Birds. Implementation of construction activities within the existing Friant Community Plan Area could result in the removal of active bird nests, disruption of breeding behaviors and subsequent loss of eggs and/or young. These impacts are considered significant. (DEIR, pp. 3-136 – 3-137.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.9k: Impacts to the American Badger. Implementation of construction activities within the existing Friant Community Area Plan could result in mortalities to an unknown number of American badgers. Although no badgers have been observed in the existing Friant Community Area Plan, it is reasonable to assume that badgers are occasional to frequent visitors that forage or den on the existing Friant Community Plan Area site's suitable habitats. These impacts are considered significant. (DEIR, pp. 3-137 – 3-138.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.9l: Impacts to the Pallid and Western Mastiff Bat. Removal of roosting sites (trees and buildings) within the existing Friant Community Plan Area could potentially result in the disruption of breeding behaviors of the pallid bat and the western mastiff bat. These impacts are considered significant. (DEIR, p. 3-140.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.10: Impacts to Riparian Habitat or Other Sensitive Natural Communities Within the Existing Friant Community Plan Area. Implementation of future projects could result in loss of Great Valley Mixed Riparian Forest and other riparian habitats within the Existing Friant Community Plan Area. These impacts are considered significant. (DEIR, p. 3-140.)

Finding: Changes or alterations have been required in, or incorporated into, the Project to avoid or substantially lessen the significant environmental effect as identified in the EIR. These changes or alterations will reduce to a less-than-significant level the impacts related to the loss of riparian habitat or other sensitive natural communities within the existing Friant Community Plan Area. (*See* County Resolution.) LAFCo adopts as its own the County of Fresno's *Facts in Support of Finding* included on pages 55-56 of the County Resolution.

Impact 3.4.11: Impacts to Federally Protected Wetlands and Other Waters Within the Existing Friant Community Plan Area. Implementation of construction activities within the existing Friant Community Plan Area could result in the loss of wetlands and the degredation of water quality. The San Joaquin River and Lost Lake are located within the existing Friant Community Plan Area. There are no tributaries to those feature within the Area, but other wetland features within the Area may fall under the jurisdiction of the USACE. These impacts to federally protected wetlands and other waters within the existing Friant Community Plan Area are considered significant. (DEIR, pp. 3-141 – 3-142.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.11b: Impacts to Water Quality in Seasonal Creeks, Reservoirs, and Other Downstream Waters. Implementation of construction activities within the existing Friant Community Plan Area may result in soil erosion, and polluted stormwater and irrigation runoff affecting the water quality, fish and other wildlife species of seasonal creeks, reservoirs and other downstream waters. The erosion and run-off may result in the deposition of silt and the introduction of pollutants into the receiving waters that drain into the San Joaquin River. These impacts are considered potentially significant. (DEIR, p. 3-143.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.12: Impacts to Fish or Wildlife Movement Corridors Within the Existing Friant Community Plan Area. Implementation of construction activities within the existing Friant Community Plan Area could result in degredation of the riparian habitat corridor around the San Joaquin River and associated riparian habitat zone that could obstruct fish and wildlife movements. Terrestrial species move from upstream areas around Millerton Lake to downstream habitats preserved as part of the San Joaquin River Parkway. Degredation of the habitat corridor could obstruct the wildlife movement from upstream to downstream. these impacts are considered significant. (DEIR, p. 3-144.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.4.13: Consistency with Local Policies or Ordinances Protecting Biological Resources Within the Friant Community Plan Area. Future projects within the existing Friant Community Plan Area may conflict with local policies and ordinances, including the County General Plan policies. Inconsistencies between project elements and local policies and ordinances, without appropriate mitigation, may result in significant project related impacts. (DEIR, pp. 3-145 – 3-146.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Cultural Resources Impacts

Impact 3.5.1: Substantial Adverse Changes in the Significance of Historical and/or Archaeological Resources and Destruction of Unique Paleontological Resources. Implementation of the Project will impact one significant cultural resource, CA-FRE-2653, and could potentially impact unknown significant cultural resources located within the Friant Ranch Specific Plan Area development footprint. CA-FRE-2653 is a significant cultural resource eligible for listing on the National Register of Historic Places and the California Register, and may potentially provide new information on California pre-history. Additionally, this site may contain human remains and other archaeological resources. These impacts are considered potentially significant. (DEIR, p. 3-161.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.5.2: Disturbance of Human Remains. Implementation of the Project could result in the disturbance of human remains encountered during Project construction. Although no known burial grounds have been located on the Project, human remains may

be present at the significant cultural resource site and elsewhere in the Project Area. This impact is considered potentially significant. (DEIR, p. 3-164.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Hazards and Hazardous Materials Impacts

Impact 3.7.6: Emergency Preparedness. Implementation of the Friant Ranch Specific Plan may impair or interfere with emergency response or evacuation plans if additional funds for emergency services and personnel are not available at the time of Project development. These impacts are considered potentially significant. (DEIR, p. 3-188.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Hydrology and Water Quality Impacts

Impact 3.8.3: Alteration of the Existing Drainage Pattern and Stormwater Drainage Capacity. The Project will implement Integrated Management Practices for Low Impact Development to mitigate post-development peak flow rates to pre-development levels. (DEIR, p. 3-216.) Because of the increase in impervious surface area within the Project boundaries, the Project may have potentially significant impacts on stormwater drainage. (DEIR, pp. 3-216 – 3-217.)

Finding: Changes or alterations have been required in, or incorporated into, the Project, including adoption of Alternative No. 3, to avoid or substantially lessen the significant environmental effect as identified in the EIR. These changes or alterations will reduce to a less-than-significant level Project impacts on stormwater drainage alteration and capacity. LAFCo adopts as its own the County of Fresno's *Facts in Support of Finding* included on pages 66-68 of the County Resolution.

Noise Impacts

Impact 3.10.1: Exposure to Excessive Noise Levels or Vibration. Implementation of the Project and development of the Friant Ranch Specific Plan, without mitigation measures, would result in noise impacts associated with increased traffic and construction noise. According to the Noise Assessment prepared for the Project, 3 out of the 24 road segments analyzed would be impacted by significant off-site traffic noise by 2030: (1) Friant Road, Willow to Copper River – Project traffic will cause a substantial increase in noise levels; (2) Willow Avenue; Friant to Copper – Project traffic will cause noise levels to exceed 60 dB DNL; (3) Willow Avenue, Perrin to Shepherd – Project traffic will cause noise levels to exceed 60 dB DNL. These impacts are considered potentially significant. (DEIR, pp. 3-245 – 3-248.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.10.2: Construction Noise. Implementation of the Project will result in construction noise due to development of commercial and residential uses of vacant parcels. Construction equipment, such as tractors, forklifts, air compressors, etc., may cause noise levels of 70 to 90 dBA. Further, the construction activities may cause sleep disruption and annoyance for nearby residents if the construction occurred at night or if the equipment is not properly muffled or maintained. These impacts are considered potentially significant. (DEIR, p. 3-249.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Public Services and Recreation Impacts

Impact 3.12.1: Increased Demand for Fire Protection Services and Personnel. Implementation of the Project will increase the demand for fire protection services and personnel, resulting in the need for a Community Facilities District. (DEIR, p. 3-264.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.12.2: Increased Demand for Law Enforcement Services. Implementation of the Project will increase the demand for law enforcement services, resulting in the need for additional funds to hire more personnel and to purchase additional equipment. These impacts are considered potentially significant. (DEIR, pp. 3-266 – 3-267.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Traffic Impacts

Impact 3.13.1: The Project will increase traffic at the intersection of Friant Road and the Project entrance located north of Lost Lake Road. Fresno County requires that the LOS for this intersection be maintained at a level C or better. (DEIR, p. 3-282.) The increased traffic impacts would exceed the minimum levels of LOS for this intersection. This is a significant impact. (DEIR, p. 3-311.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.13.2: The Project will increase traffic at the intersection of Friant Road and Lost Lake Road. (DEIR, p. 3-311.) Fresno County requires that the LOS for this intersection be maintained at a level C or better. (DEIR, p. 3-282.) The increased traffic impacts would exceed the minimum acceptable levels of LOS for this intersection. This is a significant impact. (DEIR, p. 3-311.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.13.3: Implementation of the Project will increase traffic, which will contribute to substandard LOS at Caltrans Intersections. (DEIR, p. 3-312.) The intersections specifically impacted by the traffic increases are discussed more fully below.

Impact 3.13.3a: The Project will exacerbate anticipate delays and decrease the cumulative LOS at the intersection of SR 41 and Road 145 to below the minimum acceptable LOS. Caltrans requires that the LOS for this intersection be maintained at a level C or better. (DEIR, p. 3-282.) Regional growth in the Project vicinity has create and is anticipated to create substandard LOS in the regional roadway network under the anticipated traffic analysis for the year 2030. The Project will contribute to the substandard LOS conditions under this analysis. The Project's contribution to the anticipated cumulative traffic conditions at this intersection is cumulatively considerable. This is considered a significant impact. (DEIR, p. 3-312.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.13.3b: The Project will exacerbate anticipated delays and will decrease the existing and cumulative LOS at the intersection of SR 41 and Avenue 12 to a level below the minimum acceptable LOS. Caltrans requires that the LOS for this intersection be maintained at a level C or better. (DEIR, p. 3-283.) Regional growth in the Project vicinity has create and is anticipated to create substandard LOS in the regional roadway network under the anticipated traffic analysis for the year 2030. The Project will contribute to the substandard LOS conditions under this analysis. The Project's contribution to the anticipated cumulative traffic conditions at this intersection is cumulatively considerable. This is considered a significant impact. (DEIR, p. 3-312.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other

agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.13.3c: The Project will exacerbate anticipated delays and will decrease the existing and cumulative LOS at the intersection of SR 41 and Avenue 15 to a level below the minimum acceptable LOS. Caltrans requires that the LOS for this intersection be maintained at a level C or better. (DEIR, p. 3-283.) Regional growth in the Project vicinity has create and is anticipated to create substandard LOS in the regional roadway network under the anticipated traffic analysis for the year 2030. The Project will contribute to the substandard LOS conditions under this analysis. The Project's contribution to the anticipated cumulative traffic conditions at this intersection is cumulatively considerable. This is considered a significant impact. (DEIR, p. 3-312.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.13.3e: The Project will exacerbate anticipated delays and will decrease the existing and cumulative LOS at the intersection of Friant Road and the SR 41 off ramp. Caltrans requires that the LOS for this intersection be maintained at a level C or better. (DEIR, p. 3-283.) Regional growth in the Project vicinity has create and is anticipated to create substandard LOS in the regional roadway network under the anticipated traffic analysis for the year 2030. The Project will contribute to the substandard LOS conditions under this analysis. The Project's contribution to the anticipated cumulative traffic conditions at this intersection is cumulatively considerable. This is considered a significant impact. (DEIR, p. 3-312.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.13.3e: The Proejct will exacerbate anticipated delays and will decrease the existing and cumulative LOS at the intersection of Friant Road and SR 41 southbound off ramp to below the minimum acceptable LOS. Caltrans requires that the LOS for this intersection be maintained at a level C or better. (DEIR, p. 3-283.) Regional growth in the Project vicinity has create and is anticipated to create substandard LOS in the regional roadway network under the anticipated traffic analysis for the year 2030. The Project will contribute to the substandard LOS conditions under this analysis. The Project's contribution to the anticipated cumulative traffic conditions at this intersection is cumulatively considerable. This is considered a significant impact. (DEIR, p. 3-312.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.13.4: Implementation of the Project will increase traffic, which will contribute to substandard LOS to Madera County intersections and roadways. (DEIR, p. 3-315.) The intersections and roadways specifically impacted by the traffic increases are discussed more fully in Impacts 3.13.4a and 3.13.4b.

Impact 3.13.4a: The Project will decrease the cumulative LOS at the intersection of Road 145 and Road 206 to below the minimum acceptable LOS. Madera County requires that the LOS for this intersection be maintained at a level D or better. (DEIR, p. 3-283.) Regional growth in the Project vicinity has create and is anticipated to create substandard LOS in the regional roadway network under the anticipated traffic analysis for the year 2030. The Project will contribute to the substandard LOS conditions under this analysis. The Project's contribution to the anticipated cumulative traffic conditions at this intersection is cumulatively considerable. This is considered a significant impact. (DEIR, p. 3-315.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.13.4b: The Project will decrease the cumulative LOS on the Madera County segment of Road 206, including the bridge, west of Friant Road to below the minimum acceptable LOS. Caltrans requires that the LOS for this intersection be maintained at a level C or better. (DEIR, p. 3-283.) Regional growth in the Project vicinity has create and is anticipated to create substandard LOS in the regional roadway network under the anticipated traffic analysis for the year 2030. The Project will contribute to the substandard LOS conditions under this analysis. The Project's contribution to the anticipated cumulative traffic conditions at this intersection is cumulatively considerable. This is considered a significant impact. (DEIR, p. 3-315.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.13.5a-o: Implementation of the Project will increase traffic, which will contribute to substandard LOS to Fresno County intersections and roadways. (DEIR, p. 3-317.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.13.6a-e: Implementation of the Project will increase traffic, which will contribute to substandard LOC on City of Fresno roadways and intersections. (DEIR, p. 3-323.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Impact 3.13.7a-f: The Project will increase traffic and will contribute to substandard LOS to intersections and roadways within the shared jurisdiction of City of Clovis and City of Fresno. (DEIR, p. 3-326.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Utilities and Service Systems Impacts

Impact 3.14.3: Inadequate Wastewater Treatment Capacity and Facilities. Implementation of the Project will result in growth requiring additional wastewater treatment capacity. (DEIR, p. 3-362.) Presently, nearly all of the buildings in the Friant Community are serviced by individual septic systems, with one small sewer system package treatment plant servicing the Millerton Lake Village Mobile Home Park. (DEIR, p. 3-348.) Without mitigation, the Project could impact existing wastewater treatment capacity and will require construction of a new wastewater treatment plant. (DEIR, p. 3-369.) The diversion from the mobile home park may require addition of a pumping station at the present site to transfer the existing flows, and the new wastewater treatment plant may have additional impacts on noise, aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology, soils and mineral resources, and hydrology and water quality. (DEIR, pp. 3-363, 3-364, 3-366.) These impacts are considered potentially significant. (DEIR, p. 3-369.)

Finding: Changes or alterations have been required in, or incorporated into, the Project, including the adoption of Alternative No. 3, that avoid or substantially lessen the potential significant environmental effect as identified in the EIR. These changes or alterations will reduce to a less-than-significant level the Project's impacts on wastewater treatment capacity and facilities. LAFCo adopts as its own the County of Fresno's *Facts in Support of Finding* included on pages 116-117 of the County Resolution.

Impact 3.14.7: Development of the Community Plan Area Will Increase the Demand for Electricity and Natural Gas and Will Result in the Need to Construct New Infrastructure to Serve the Community Plan Area. Implementation of the Project will increase the demand for electricity and natural gas, resulting in impacts related to the timing of installation of utilities and the development of electrical and natural gas infrastructure. These impacts include the availability of utility easements, extensions of existing electrical and natural gas facilities to support the new demands, the installation of new gas distribution feeder mains, regulator stations, and distribution and transmission lines, and the cost of new utility infrastructure. (DEIR, p. 3-376.)

Finding: Changes or alterations have been required in, or incorporated into, the Project, including adoption of Alternative No. 3, that avoid or substantially lessen any significant environmental effect as identified in the EIR. These changes or alterations will reduce to a less than significant level the Project's impacts related to development of electrical and natural gas infrastructure and installation timing. LAFCo adopts as its own the County of Fresno's *Facts in Support of Finding* included on pages 117-118 of the County Resolution.

Greenhouse Gas Impacts

Impact 3.15.1: Development of the Project Could Potentially Result in a Cumulatively Considerable Incremental Contribution to the Significant Cumulative Impact of Global Climate Change. Implementation of the Project will result in additional greenhouse gas emissions due to development and increased traffic. The carbon dioxide emissions from vehicle travel will contribute to the greenhouse gasses locally, regionally, and globally. Additionally, the consumption of fossil fuel for energy production would also contribute to greenhouse gas emissions through the addition of residential development. These impacts are considered potentially significant. (DEIR, pp. 3-387 – 3-391.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Cumulative Impacts

Cumulative Impact 5.2.1: Aesthetics. The landscape in north-central Fresno County has historically been predominately rural open space and agricultural grazing. This has changed over the years to more urban uses. The combination of the proposed development in the Project, other individual project proposals and the Fresno County and Madera County general plans would result in significant changes to the existing visual character and quality of the area due to the increased conversion of rural open space and agricultural grazing lands to urban uses. (DEIR, p. 5-8/) This Project's contribution to this cumulative impact is considered cumulatively considerable and therefore significant.

Finding: LAFCo finds there are no feasible mitigation measures or alternatives that could be adopted that would reduce the Project's considerable contribution to cumulative significant aesthetic impact to a less than significant level. To the extent that this impact will not be substantially lessened or avoided, LAFCo finds that specific economic, social and other considerations identified in the Statement of Overriding Considerations support approval of the Project. LAFCo adopts as its own the County of Fresno's *Facts in Support of Finding* included on page 121 of the County Resolution.

Cumulative Impact 5.2.2: Agricultural Resources. Many of the projects listed in DEIR Table 5-1 and this Project would result in the redesignation of agriculturally zoned lands to non-agricultural uses that conflict with that zoning. (DEIR, pp. 5-8 – 5-9.) The

Project's contribution to the cumulative impact from redesignation of agricultural lands is considered cumulatively considerable and therefore significant. (DEIR, p. 5-9.)

Finding: LAFCo finds there are no feasible mitigation measures or alternatives that could be adopted that would avoid or substantially lessen the Project's contribution to the cumulative impact from redesignation of agriculturally zoned lands to a less than significant level. (DEIR, p. 5-9.) To the extent that this impact will not be substantially lessened or avoided, the County finds that specific economic, social, and other considerations identified in the Statement of Overriding Considerations support approval of the Project. LAFCo adopts as its own the County of Fresno's *Facts in Support of Finding* included on pages 121-122 of the County Resolution.

Cumulative Impact 5.2.3: Air Quality. The Project, along with the proposed development in Fresno, Tulare, Kings and Madera Counties, will increase air pollution from mobile and stationary sources in the San Joaquin Valley Air Pollution Control District, which is classified as a nonattainment area for state and federal ozone and dust standards. (DEIR, p. 5-9.) The Project's contribution to the cumulative air quality impact is considered cumulatively considerable and therefore significant. (*Id.*)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Cumulative Impact 5.2.10: Noise. The Project will increase cumulative the noise levels from traffic to levels in excess of 60 dB Day-Night Average Level or will substantially increase criteria for 4 of the 24 road segments analyzed. (DEIR, pp. 3-244 – 3-248, 5-19.) The Project's contribution to the cumulative noise impact is considered cumulatively considerable and therefore significant.

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Cumulative Impact 5.2.13: Transportation and Circulation. The Project would increase traffic generation, contributing to the cumulative traffic impacts with other foreseeable regional development. (DEIR, pp. 3-312 – 3-329, 5-21.) The Project's contribution to the cumulative traffic impacts is considered cumulatively considerable and therefore significant. (*Id.*)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

Cumulative Impact 5.2.15: Greenhouse Gas Emission and Global Climate Change. The Project would substantially increase development and would generate increased

greenhouse gas emissions. (DEIR, pp. 3-385 – 3-393, 5-23.) The Project's contribution to the cumulative impact from greenhouse gas emissions and global climate change is considered cumulatively considerable and therefore significant. (*Id.*)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency and not LAFCo. Such changes have been adopted by such other agency or can and should be adopted by such other agency. (CEQA Guidelines, § 15091(a)(2).)

CEQA Guidelines § 15093

Pursuant to CEQA Guidelines §§ 15093 and 15096(h) the Commission must adopt a Statement of Overriding Considerations. Because the Project will result in the occurrence of significant effects which are identified in the final EIR that are not avoided or substantially lessened, the Commission must state in writing the specific reasons to support its action.

As the Lead Agency, the County of Fresno adopted its own Statement of Overriding Considerations. The Commission has reviewed this statement and adopts it as its own. The County's Statement of Overriding Considerations is re-printed below. It can be found on pages 149-154 of the County Resolution.

STATEMENT OF OVERRIDING CONSIDERATIONS

The County of Fresno has made a reasonable and good faith effort to eliminate or substantially mitigate the environmental impacts resulting from the Project by requiring implementation of the environmentally superior alternative—Project Alternative No. 3: Northeast Development Configuration and the Beck Property alternative wastewater treatment plant location—and various mitigation measures, goals and policies identified in the EIR, General Plan, the proposed Friant Community Plan Update, and the proposed Friant Ranch Specific Plan. As such, reference to the "Project" herein refers to the Project as modified by said alternatives, mitigation measures, goals and policies. The County recognizes, however, that even with the implementation of all feasible alternatives and mitigation measures, the Project will have significant and unavoidable environmental impacts.
For the reasons set forth below, the County of Fresno determines that economic, social, recreational, environmental, and policy considerations outweigh the significant and unavoidable adverse environmental impacts identified in the E1R. This Statement of Overriding Considerations justifies finding the unavoidable adverse environmental impacts from the Project acceptable.

The County of Fresno finds that any one of the benefits set forth below is sufficient by itself to warrant approval of the Project, and justify the unavoidable adverse environmental impacts from the Project. This determination is based on the findings herein and the evidence in the record. Having balanced the unavoidable adverse environmental impacts against each of the benefits, the County of Fresno hereby adopts this Statement of Overriding Considerations, for the following reasons.

1. Economic Considerations and Job Creation

The County of Fresno has historically experienced considerably higher rates of

unemployment (12 to 15 percent or greater average annual unemployment) than most areas of California. (Bureau of Labor Statistics, Economy at a Glance, Fresno, Ca, available at http://www.blg.ca_fresno_msa_htm, last accessed August 13, 2010).) In order to provide an adequate opportunity for economic enhancement and employment growth in Fresno County, it will be necessary to make available appropriate land area and resources to accommodate new retail, commercial, office, and residential developments such as Friant Ranch. Project construction is projected to generate additional economic output of $918 million in the County of Fresno's economy over the 10-year construction period, an average of $92 million annually. (Economic & Planning Systems, Inc., Friant Ranch Economic Impact Analysis (June 11, 2010), p. 4.) This represents an addition of 1.7 percent to the County's total annual economic output. *(Ibid.)* Additionally, the construction of the project is expected to create employment for approximately 660 workers annually over the 10-year period earning a total of $264 million in employee income or an average of $40,000 annually per worker. *(Ibid.)* The Project will also generate additional capital income of approximately $139 million including proprietary income, interest payments, rent, royalties form contracts, dividends, and corporate profits. Note that income is part of the Project's total economic input mentioned above. *(Ibid.)*
At Project build-out, total household spending from the Project would stimulate an estimated $110 million in additional economic output for the County annually, which represents an increase of approximately 0.2 percent in the County's economic output. *(Id.* at 5.) The additional output stimulated from household spending would support approximately 760 new jobs (part-time and full-time) in the County earning $23 million in employee income annually, an average of $31,000 annual income per worker. *(Id.* at 6.)

In addition, at build-out, the **Project is projected to generate positive fiscal impacts to the County's operating funds.** The annual revenue generated by the project from various taxes, licenses, and permits is estimated to exceed the costs of services the County will provide (e.g., health and sanitation, police and fire protection) **by approximately $2.6 to $2.9 million.** (Economic & Planning Systems, Inc., Friant Ranch Fiscal Impact Study (June 11, 2010) at p. 3.)

Friant Ranch is congruent with the Fresno Regional Jobs Initiative (RJI) mission to develop a short- and long-term comprehensive strategy aimed at creating new jobs. Elements of Friant Ranch support four of the RJI job growth clusters. They are the Construction Cluster, Water Technology Cluster, Tourism Cluster and Healthcare Cluster.

2. **Social And Recreational Benefits**

The Project provides unique social and recreational benefits. The Project will result in Fresno's first 55+ age qualified Active Adult lifestyle community to accommodate the County's growing baby boomer population and help meet the demand for retirement housing.

The Project provides diverse housing types, sizes and designs to accommodate varying lifestyles and income levels of Fresno's expanding Active Adult (55+) population. The Project offers housing to meet the growing demand for retirement housing as the "Baby Boomer" generation reach 55 years of age and older. In Fresno County, the 65-74 year age group is projected to grow by approximately 59 percent in the coming decade, an increase of more than 29,000 people, and the 55-64 age group is projected to grow by 27 percent, an increase of more than 24,000 people. By providing a lifestyle alternative for older citizens, the Project provides an opportunity for residents of Fresno County to age in place and will prevent retirement relocation to other California counties, Arizona and Nevada. Additionally, state tax law allows homeowners to transfer the current assessed value of the home they sell to the home they purchase, provided that home is within the same county. Demographic research indicates that 90 percent of the Friant Ranch market would come from the existing Fresno County 55+ baby boomer population, which

is expected to grow in Fresno County by 59 percent through 2010. Approval of the Friant Ranch project will allow these current residents to take advantage of these provisions of state law, while retaining the economic benefit of their residency within the County, a benefit that will be lost if they relocate to other counties or other states that increasingly are approving active adult communities to satisfy the growing demand for this lifestyle and product.

The Project also provides considerable open space and linkages to recreational amenities. The Project's proximity to Millerton Lake, the San Joaquin River, and Table Mountain Casino enables it to become a hub of sub-regional and recreational growth and services. It enhances the recreational uses and tourism of Millerton Lake, Lost Lake Park, the San Joaquin River, and Table Mountain Casino. The Project provides connectivity to the regional trail system and provides an on-site interpretive trail system accessible to the public.

The Project builds on the existing retail services in Friant with an 18-acre commercial area and provides an expanded customer base that will create a hub of sub-regional services serving unincorporated Fresno County. The location at the confluence of two primary circulation links, Friant Road and State Route 41, optimizes access and convenience to surrounding areas. The resurgence of the location as a hub will assist in regenerating the existing town and contribute to the needed services and infrastructure for current residents that either would not occur or would be delayed without the implementation of the Friant Ranch project.

Specifically, the Friant Ranch Project will provide the construction of a new tertiary wastewater treatment facility that will immediately serve the Friant Ranch Specific Plan Area and the Millerton Lake Mobile Home Park within the Project Area, and will also have the capacity to serve the proposed build out (in accordance with the Friant Community Plan) of the remaining portions of the Project Area. (Friant Community Plan Update & Friant Ranch Specific Plan, Final Environmental Impact Report, August 2010, p. 3-70.)

Friant Ranch will contribute to Fresno County's only Redevelopment Area and the Town of Friant revitalization. A significant portion of the Friant Ranch Commercial Village Core is located in the Friant Redevelopment Area. Redevelopment tax revenues may be used to fund public Friant infrastructure improvements.

3. Environmental Benefits

The Northeast Development Configuration, as incorporated into the Project, reduces impacts to the environment by providing higher density development on fewer acres, resulting in less land development and substantial area dedicated to parks and undisturbed open space. The Project's 942-acre environmentally preferred land plan preserves over 460 acres of permanent on-site open space, protecting the natural foothills, canyons, and habitat areas including vernal pools, tiger salamander and fairy shrimp habitat. The Project also will provide 1,060 acres of off-site open space protection to offset any development impacts to habitat areas. This undisturbed permanent open space will be dedicated via easement to a conservation trust. The combination of on-site avoidance and on-site and off-site preservation and mitigation results in no net loss of wetland areas.

In total, the Project will set aside more than half of the Project area as preserved open space. This is consistent with the 2025 General Plan's goals of providing quality open space and protecting, preserving, and enhancing natural resources. (2025 Fresno General Plan, February 2002, Goal # 10, 11, p 3)

The Project design respects the natural topography of the property with minimum grading and

incorporates innovative and environmentally beneficial features such as biofiltration, reducing environmental impacts from stormwater and runoff.
Effluent from the new wastewater treatment facility will be treated to Title 22 unrestricted reuse quality with a Membrane Bio Reactor (MBR) system. The Project proposes to use 145.5 acre Beck Ranch, previously and aggregate mining site, as a land irritation and storage site for the Title 22 treated water, eliminating the need for direct winter discharge of treated effluent in to the San Joaquin River. This will also allow for restoration of a portion of the Beck Ranch property to an agriculture land use.

The Project will minimize air quality impacts compared to other residential development. By targeting the development to the active adult community, the Project will generate significantly less morning and evening peak hour traffic vehicular trips. The Project provides for individual Neighborhood Electric Vehicles (NEV) paths on major interior roadways. It utilizes compact Mixed Use development design consistent with the San Joaquin Valley Blueprint. The Project will provide transportation alternatives such as public transit (e.g., HOA shuttle buses to River Park and Casino), NEV electric vehicles, pedestrian/bicycle facilities, neighborhood trails & local retail linkage, regional trails, and telecommuting. The Project will also participate in the San Joaquin Valley Air Pollution Control District Rule 9510 mitigation program.

4. **Policy**

The Project implements and furthers important plans and public policies adopted and endorsed by the County related to urban growth.

Development of mixed urban uses on the Project site, which is adjacent to the North Growth Area, essentially the northerly most area available for substantial urban development, and is endorsed by the Fresno County General Plan and the City of Fresno's 2025 General Plan as the logical geographical conclusion of the predominantly northward urban growth that has occurred over the past 45 years (Friant Community Plan Update & Friant Ranch Specific Plan, Final Environmental Impact Report, August 2010, pp. 3-64, 3-72, 3-259.) The Project site is not valuable or productive agricultural land_ Furthermore, there is not a land parcel large enough within the City of Fresno boundaries to accommodate an age-qualified lifestyle community with the amenities and natural outdoor recreational features available contiguous to the property location.

The Project's location, adjacent to the town of Friant, is an expansion of an existing established town and will contribute to the revitalization of Fresno County's only Redevelopment Area and the town of Friant. In October 1992, Fresno County approved the *Fr/ant Redevelopment Plan* in an effort to address the conditions identified by the California Health and Safety Code as blight and to encourage housing opportunities, rehabilitation and repair of facilities, and expand and develop the commercial area by providing needed public improvements. The redevelopment zone is the only redevelopment area in Fresno County. Eighty acres of Friant Ranch, including a significant portion of the Friant Ranch Commercial Village Core, are located in the Friant Redevelopment Plan area, and the Project will extend revenue collection for the plan (which is set to expire in 2012) by 20 years With Friant's proximity to Millerton Lake, the San Joaquin River, and Table Mountain Casino, the Project will serve as a foundation that enables the town of Friant to become a hub of sub-regional and recreational growth and services. In each of these ways the Project will further implementation of the goals and objectives of the County's only redevelopment area.

The Project embraces and promotes important San Joaquin Valley Blueprint principles. For example, the Project embraces the "smart growth" concept of clustering development to preserve open space and protect natural resources; directs development toward existing communities,

creates walkable and bikable neighborhoods, fosters distinctive, attractive communities with a strong sense of place, and supports actions that encourage environmental resource management. The Project implements these principles by providing nearly 13 miles of pedestrian/bicycle facilities, neighborhood trails and local retail linkages and linkage to regional trails as well as a community technology focus for telecommuting and intranet connectivity.

The Project also supports and implements the principles and strategies of the Growth Alternative Alliance's "A Landscape of Choice," which the County has adopted as a goal in its 2025 General Plan, by offering a compact integrated community plan that provides a full range of services — neighborhood commercial uses, community centers, medical services, public services, transit, and recreational uses — while also protecting key environmental resources through open space and comprehensive transit, street and trail systems that facilitate efficient access to community amenities and recreational areas. (See e.g. 2025 Fresno General Plan, February 2002, Goal #5, p.3, Appendix A, p.177.)

Finally, the Project is consistent with and furthers implementation of the County's approved mine reclamation plan, pursuant to California's Surface Mining and Reclamation Act of 1975, Public Resources Code 2710 et seq. That plan calls for ultimate rehabilitation of the Beck Property to a combination of ponds and agricultural land. The Project is consistent with that plan because it includes storage of effluent within the former excavation area on the Beck Property. Additionally, reclaimed water stored on the Beck Property will be used to irrigate the balance of the site, which will be restored to agricultural production.

Hendricks, Samantha

From: Witte, Jeff
Sent: Friday, October 21, 2011 12:47 PM
To: Fleming, Candace Lynn; Hendricks, Samantha
Cc: Ken Price (KPrice@bakermanock.com)
Subject: FW: Search for Documents, Explanation Regarding New Sphere of Influence fo r WWD #18
Attachments: 2011 - 10-21 - Letter to Jeff Witte at LAFco - Item #14 on 09-28-11.doc

From: radleyreep@netzero.com [mailto:radleyreep@netzero.com]
Sent: Friday, October 21, 2011 12:39 PM
To: Witte, Jeff
Cc: radleyreep@netzero.com
Subject: Search for Documents, Explanation Regarding New Sphere of Influence fo r WWD #18

October 21, 2011

Mr. Witte,

Thank you for taking my call at noon today and providing me with your email address.

Attached is a letter regarding the recent Waterworks District #18 annexation and the change to its SOI. Please have your agency respond by return email as soon as possible.

Thank you so much,

Radley Reep

57-Year-Old Mom Looks 25
Mom Reveals $5 Wrinkle Trick That Has Angered Doctors!
ConsumerLifestyles.org

RESOLUTION NO. AD-11-1

FRESNO LOCAL AGENCY FORMATION COMMISSION
FRESNO COUNTY, CALIFORNIA

A REQUEST BY THE WATERWORKS DISTRICT NO 18 FOR APPROVAL OF THE "FRIANT RANCH ANNEXATION"	)))	**CONTINUED TO SEPTEMBER 28, 2011 2011 HEARING**

WHEREAS, preliminary proceedings were initiated by the Waterworks District No. 18 to annex approximately 520 acres of territory located adjacent to the Community of Friant, as shown within Exhibit "A", attached hereto and by this reference incorporated herein; and

WHEREAS, said proposal was accepted for filing by the Executive Officer and set for hearing on the 24th day of August, 2011, at the hour of 1:30 p.m.; and

WHEREAS, all owners of land within the territory proposed to be annexed have given written consent to such proposal; and

WHEREAS, notice of said hearing was given as required by State Law; and

WHEREAS, the Executive Officer reviewed the application and prepared a report to this Commission, said report having been mailed at least five days before the public hearing; and

WHEREAS, the Executive Officer reported that new information had been received and requested additional time to review and respond to the information so that it could be included in staff's report; and

WHEREAS, this Commission continued the item to allow the Executive Officer time to review and respond to additional information that was received after the staff report was completed and distributed.

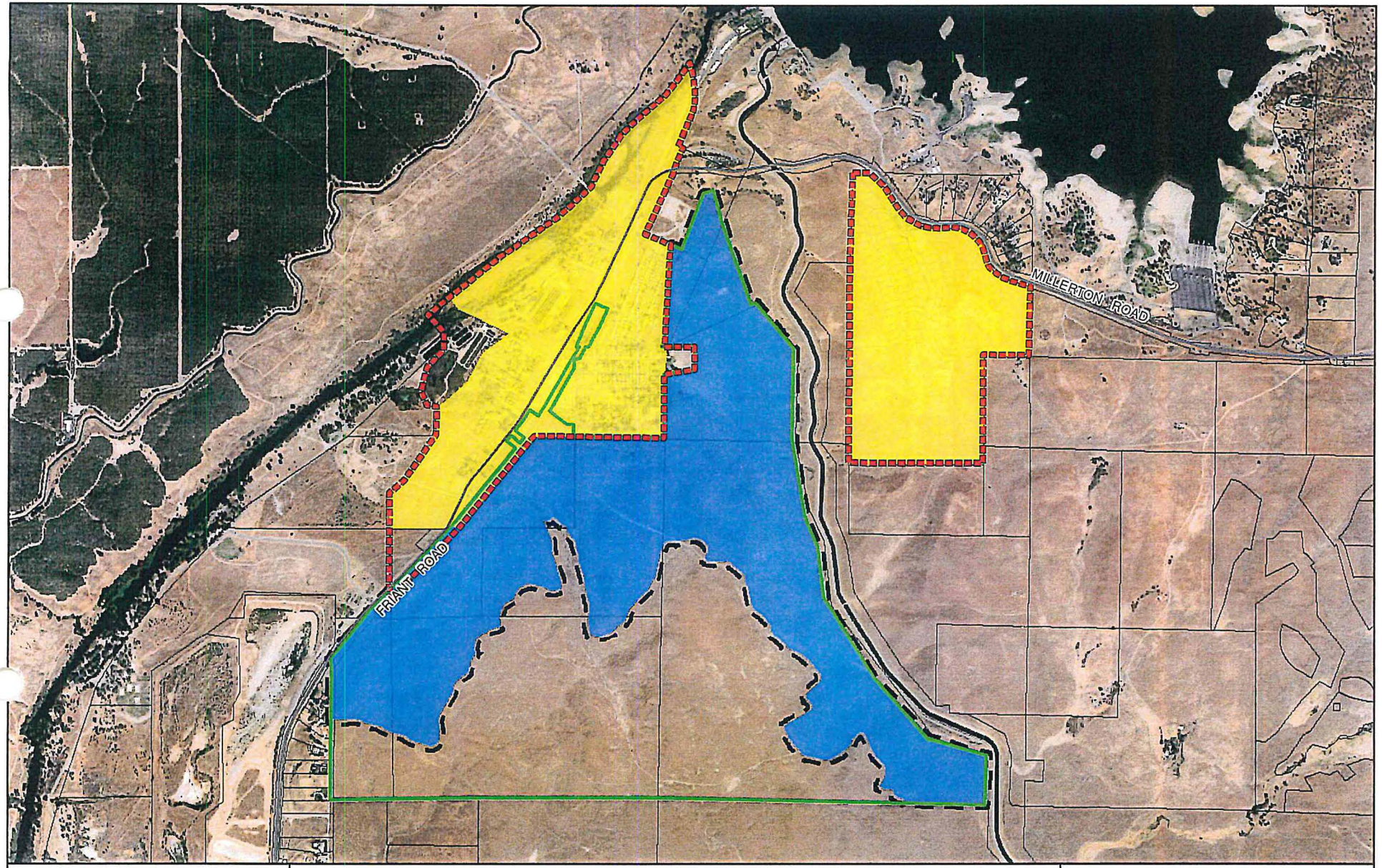
* * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO)

CERTIFICATION

I, Jeff Witte, Executive Officer of the Fresno Local Agency Formation Commission (LAFCo), Fresno County, State of California, hereby certify that the foregoing resolution was adopted by the Commission on the 24th day of August, 2011.

Jeff Witte, Executive Officer
Fresno Local Agency Formation Commission



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EST. 1968
PROVOST& PRITCHARD
CONSULTING GROUP
An Employee Owned Company
286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

Legend

- District SOI
- District Area
- Proposed District Area Expansion
- Friant Ranch Specific Plan Boundary
- Proposed SOI Expansion

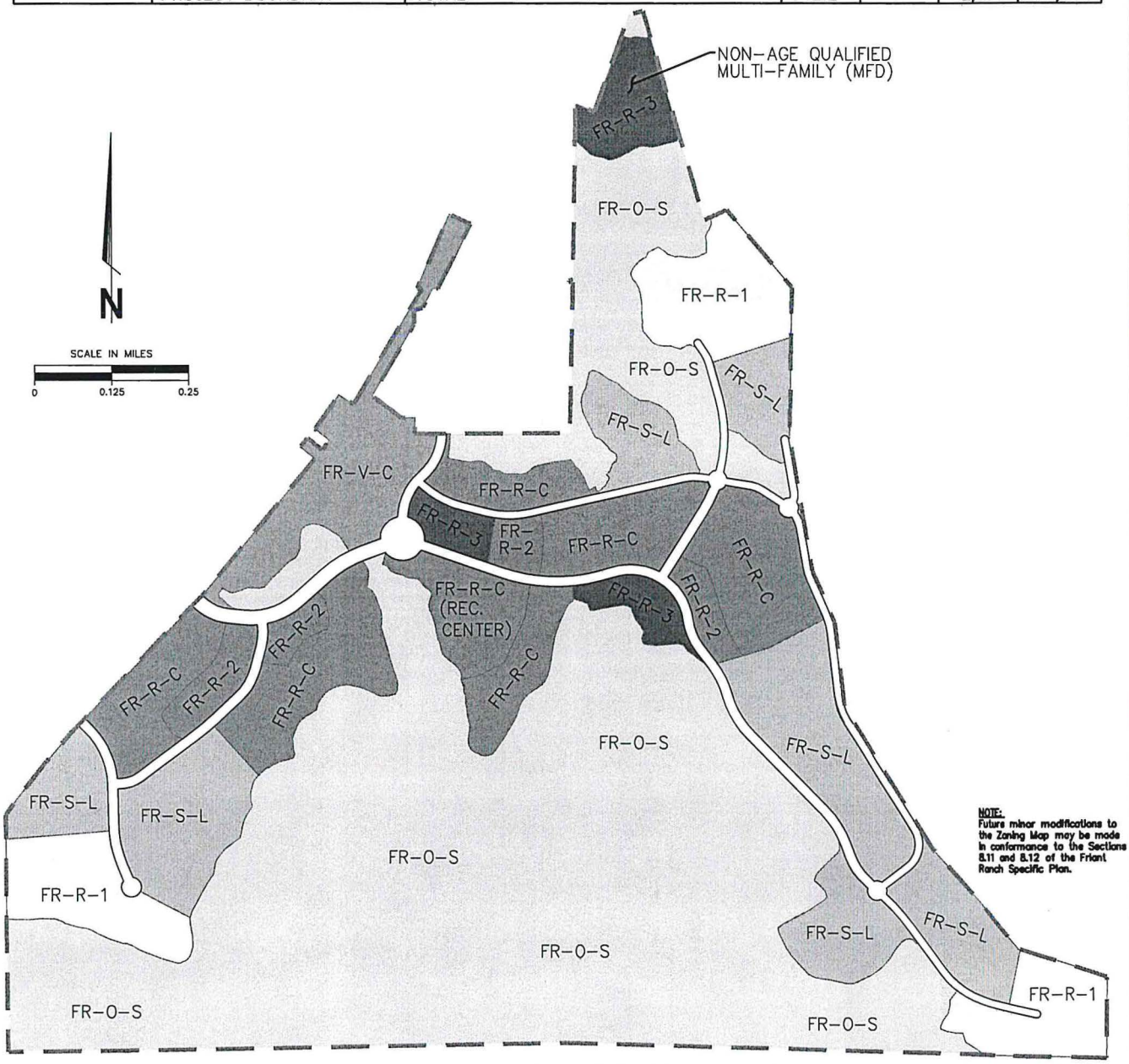
Figure 2

Proposed SOI Expansion

Waterworks District No. 18

3/17/2011 \\pineflat\dwg_dgn\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Boundary_Annexation.mxd

	ZONING DISTRICT	LAND USE DESIGNATION	SPECIFIC LAND USE DESCRIPTION	ACRES	DENSITY RANGE (DU/AC)	MAXIMUM TOTAL UNITS	MAXIMUM TOTAL SQ.FT.
COMMERCIAL							
	FR-V-C	COMMUNITY COMMERCIAL	VILLAGE CENTER (MIXED USE)	36.6	--	50	250,000
RESIDENTIAL							
	FR-R-1	MEDIUM DENSITY RES	SINGLE-FAMILY ONE (SFD-1)	69.4	2-5	290	--
	FR-S-L	MEDIUM HIGH DENSITY RES	SINGLE-FAMILY TWO (SFD-2)	131.5	5-8	745	--
	FR-R-2	MEDIUM HIGH DENSITY RES	SINGLE-FAMILY THREE (SFD-3)	22.2	8-12	1,069	--
	FR-R-C	MEDIUM HIGH DENSITY RES	SINGLE-FAMILY THREE (SFD-3)	108.7			--
	FR-R-3	MEDIUM HIGH DENSITY RES	MULTI-FAMILY (MFD)	13.3	12-18	166	--
			ACTIVE ADULT TOTAL	**345.1**	--	**2,270**	--
	FR-R-C	MEDIUM HIGH DENSITY RES	ACTIVE ADULT RECREATION CENTER	16.1	--	--	42,000
	FR-R-3	MEDIUM HIGH DENSITY RES	NON-AGE QUALIFIED MULTI-FAMILY (MFD)	14.3	12-18	180	--
OPEN SPACE							
	FR-O-S	OPEN SPACE	UNDISTURBED OPEN SPACE AND REVEGETATED SLOPES	482.4	--	--	--
TRANSPORTATION AND CIRCULATION							
	N/A	N/A	ROADS	47.7			
		PROJECT BOUNDARY	**TOTAL**	**942.2**	--	**2,500**	**292,000**



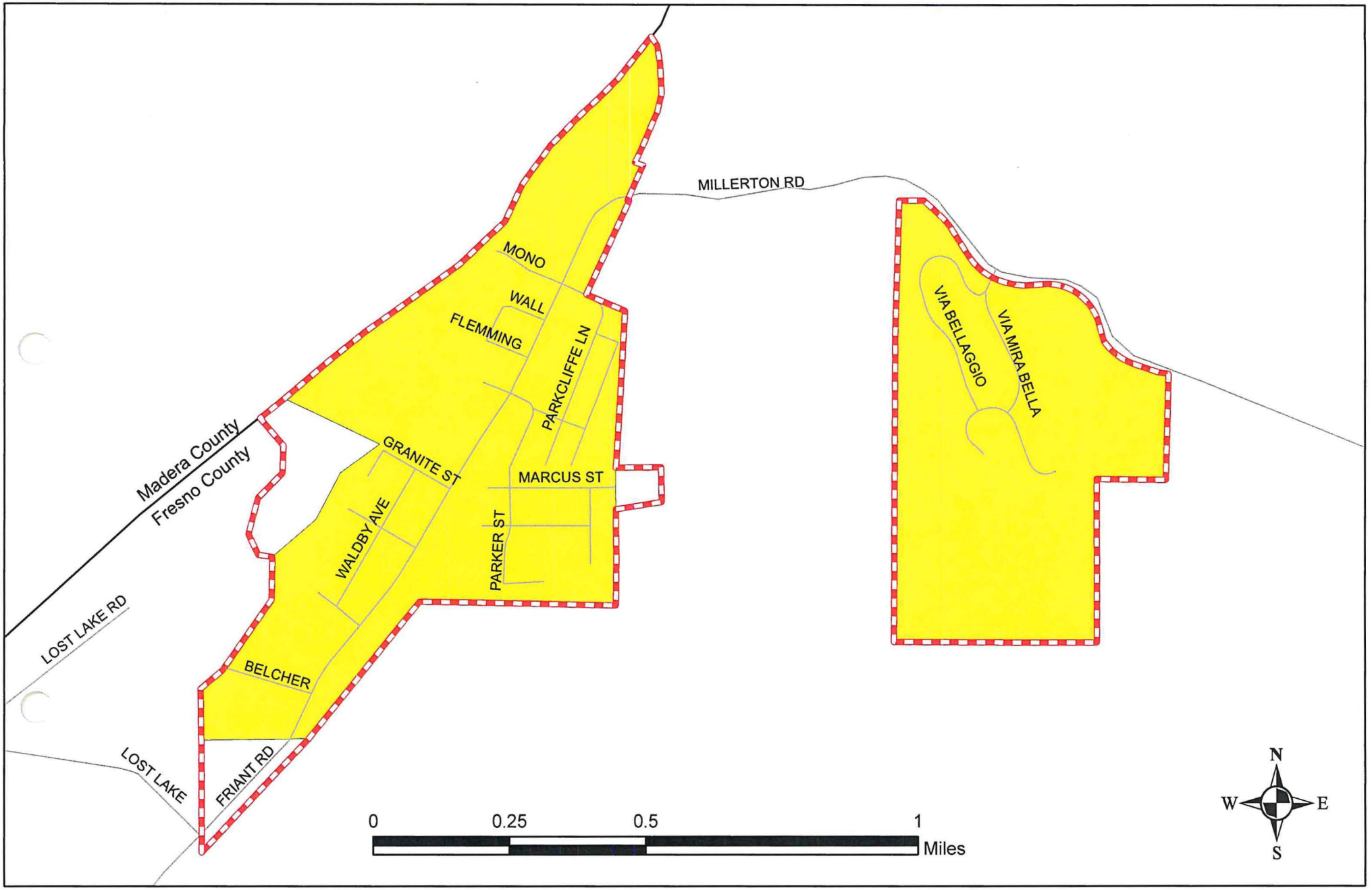
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FRIANT RANCH - PRELIMINARY ZONING MAP

MAP 2

DESIGN ENGINEER: ABL
DATE: 9-8-2010
JOB NO: 13280401
SHEET 1 OF 1

9/9/2010 9:12 AM G:\Clients\Friant Ranch - 1328\13280401-CCS83 GRID\dwg\Zoning Map\Zoning Map 2010-9-7.dwg -Adam Lee



Fresno Local Agency Formation Commission
Waterworks District No. 18 - Friant

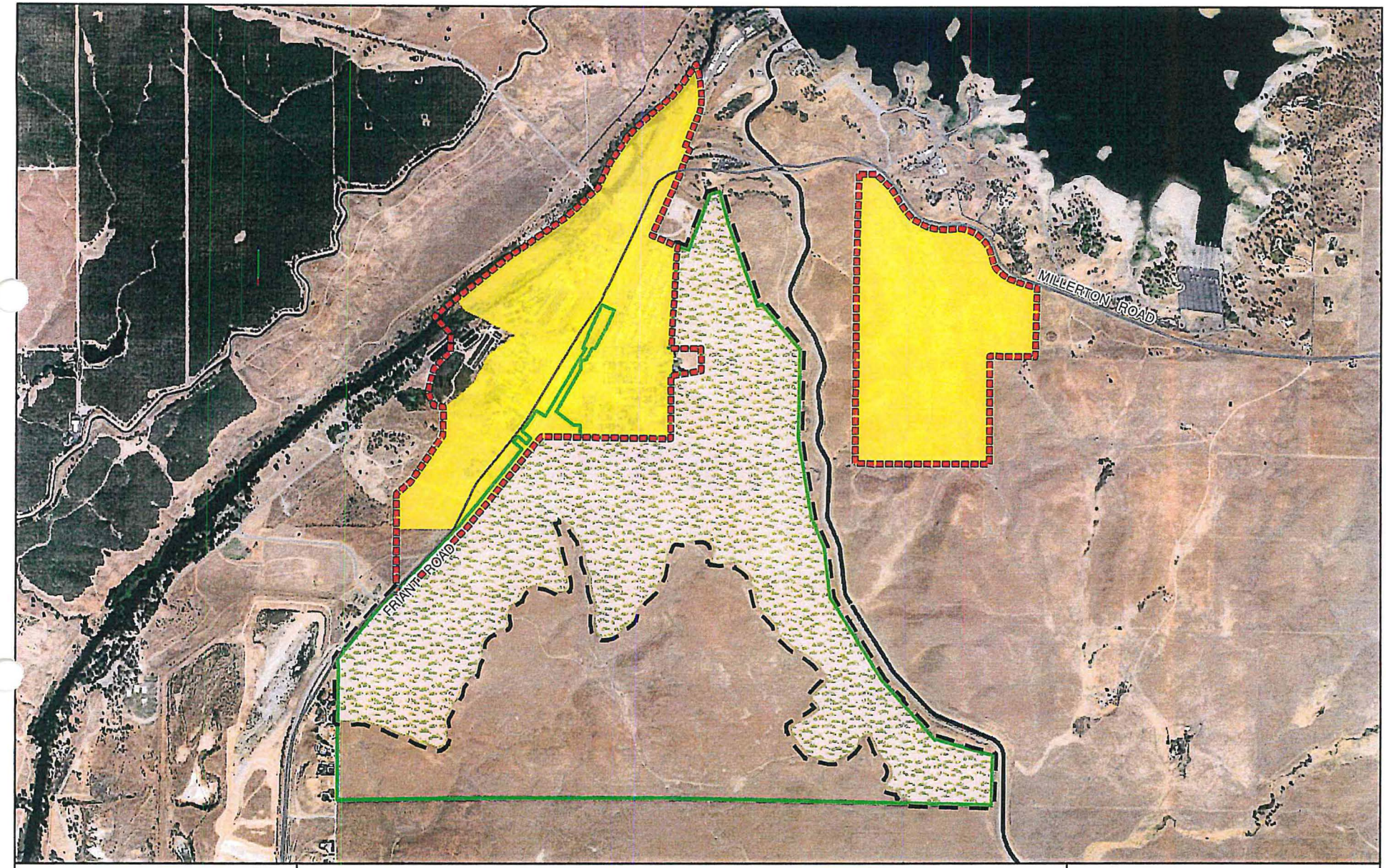
FIGURE 1
(EXISTING)

Legend

- District SOI
- District Area

District Formed: 1954
SOI Adopted: 6/25/1975
SOI Updated: 2/09/2011

Map Date: March 2011
District Area: 444 Acres
Sphere Area: 475 Acres



0 1,000 2,000 Feet

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(559) 449-2700

Legend

- District SOI
- District Area
- DWR 2000 Land Use
- Friant Ranch Specific Plan Boundary
- Proposed SOI Expansion

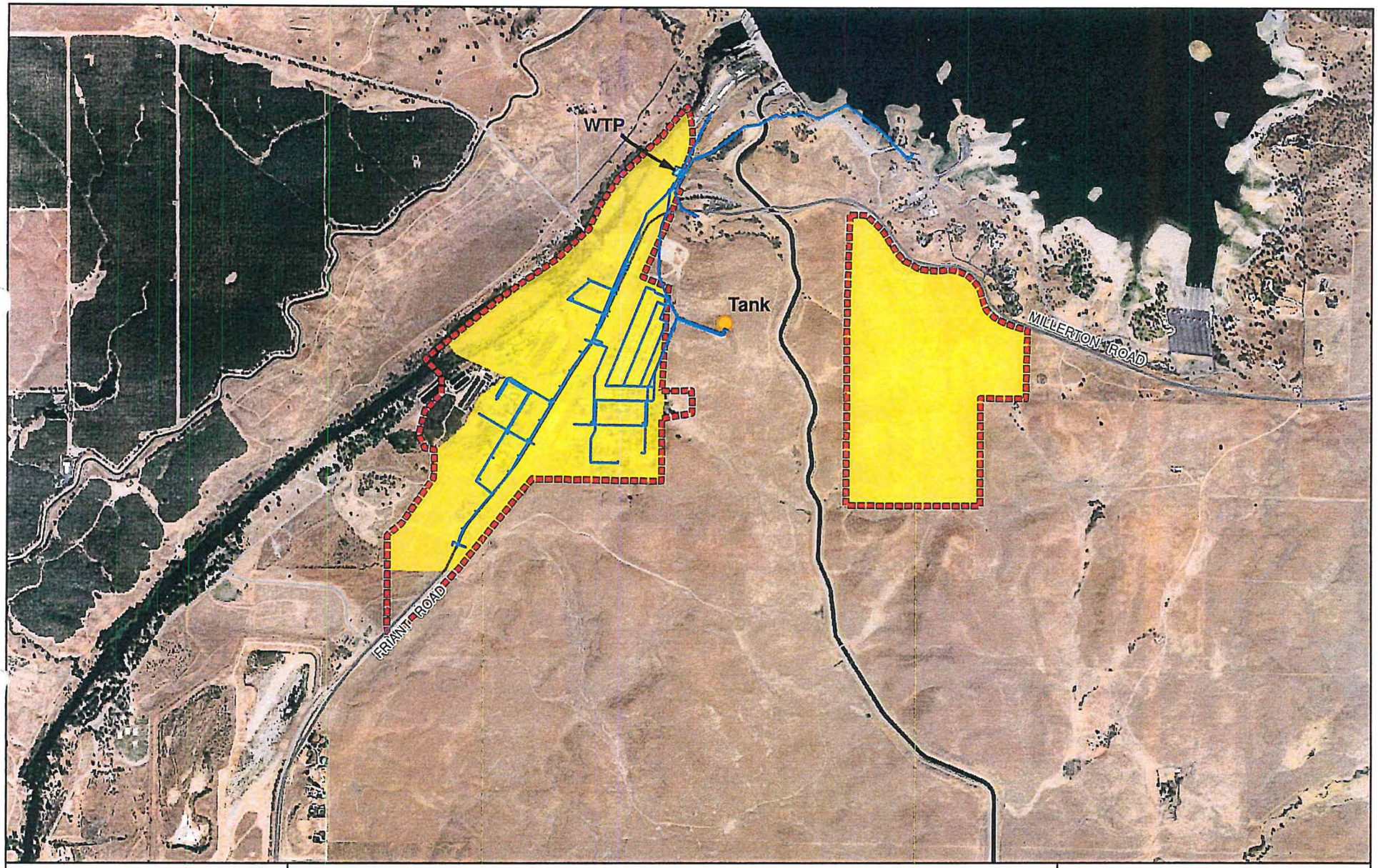
NOTE:
ALL LAND WITHIN THE PROPOSED SOI EXPANSION IS NATIVE VEGETATION ACCORDING TO THE LATEST DWR LAND USE SURVEY (FRESNO COUNTY, 2000)

Figure 3

Existing Land Use Within Proposed SOI Expansion

Waterworks District No. 18

3/17/2011 \\pineflat\dwg_dgn\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Boundary_Annexation_Landuse.mxd



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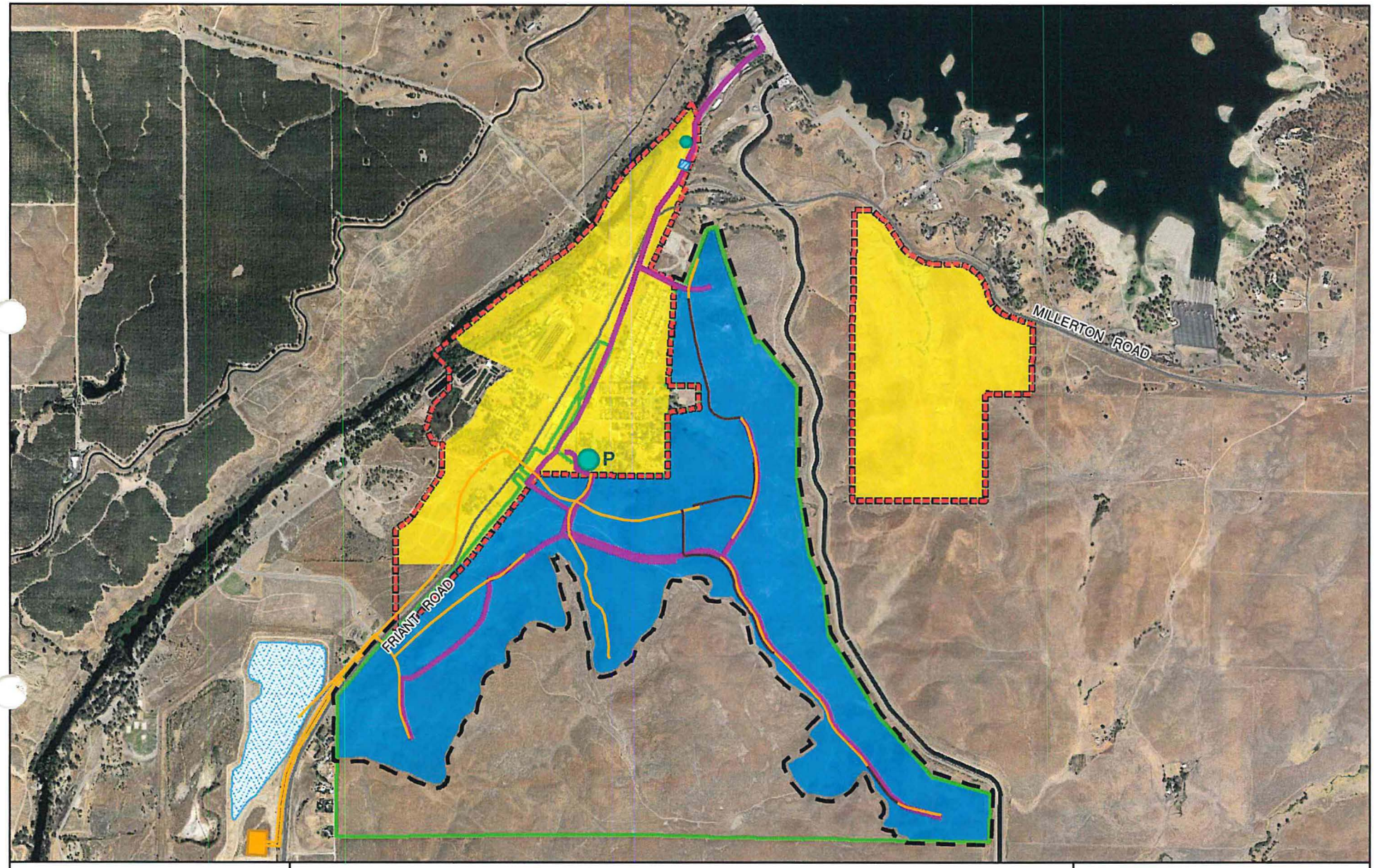
District SOI
District Area
Water Treatment Plant (WTP)
Existing Water Line
Tank

Figure 4

Proposed SOI Expansion
Existing Utilities

Waterworks District No. 18

3/17/2011 \\pineflat\dwg_dgn\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Utilities_Exist.mxd



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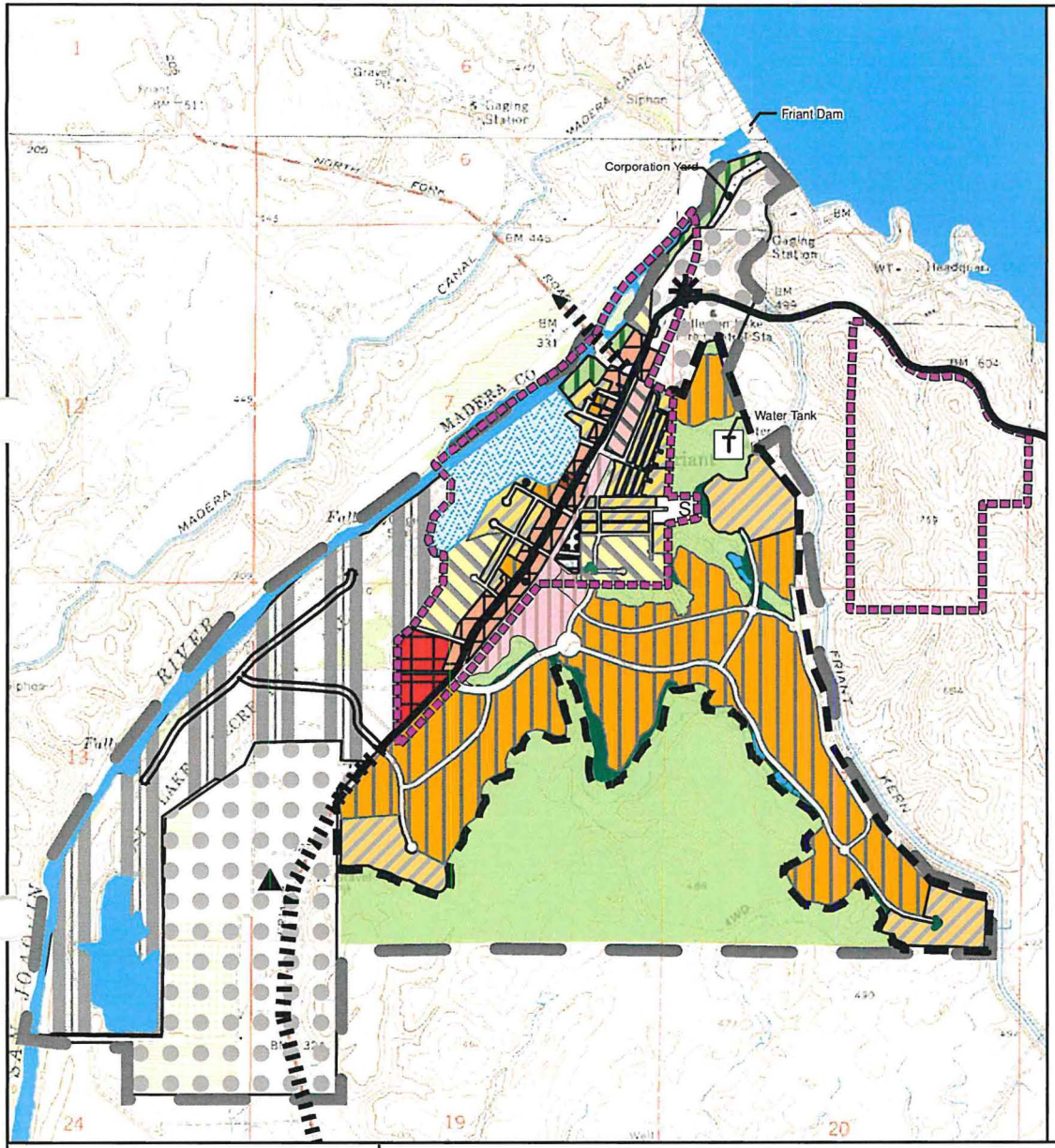
District SOI
District Area
Specific Plan Boundary
P Proposed Booster Pump
Proposed SOI Expansion
Proposed District Area Expansion
Proposed WWTP
Proposed Tank
Proposed Water Line
Proposed Sewer Force Main
Proposed Sewer Main
Water Treatment Plant (WTP)

Figure 5

Proposed SOI Expansion
Future Utilities

Waterworks District No. 18

3/17/2011 \\pineflat\dwg_dgn\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Utilities_Proposed.mxd



Legend

Land Use

Agriculture

Residential

- Low Density
- Medium Density
- Medium High

Commercial

- Highway
- Special
- Community
- Indicates change from Low Density Residential to Highway Commercial

Open Space

- Lost Lake Regional Park
- Floodplain
- Undisturbed Open Space
- Revegetated Slopes

Circulation

- Expressway
- Park Drive
- Arterial

Friant Community Plan Boundary

WWD 18

- Existing District SOI
- Proposed SOI Expansion

Public Facilities

- Sewage Treatment Plant
- Fish Hatchery
- Telephone Relay Station
- CY — Corporation Yard
- S — School
- P — Post Office
- Water Treatment Plant (WWD #18)
- T — Potable Water Tank (WWD #18)
- Proposed Sewage Treatment Plant

0 1,500 3,000 Feet

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Fresno, CA 93711-6162
(559) 449-2700

Figure

Proposed SOI Expansion
Friant Community Plan
Land Use Map (Feb. 2011)

Waterworks District No. 18

3/17/2011 G:\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Comm_LUse.mxd

LAFCo Fresno Local Agency Formation Commission

Received
JUN 2011

DATE: June 3, 2011

TO: Bernard Jimenez, Manager, Development Services Division
Department of Public Works and Planning

FROM: Jeff Witte, Executive Officer

SUBJECT: "Friant Ranch Annexation", AD-11-1, "Sphere of Influence Revision" for Waterworks District #18, RSOI-156; and "Extension of Powers" (Sewer), EP-11-1

The attached application has been filed for processing with the Fresno Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting information on the following factors:

1. County plan designation for the area:

The parcels involved in this reorganization are located within the Friant Community Plan and the Friant Ranch Specific Plan that includes various land use designations such as: Residential, Commercial, Open Space, and Public Facilities.

2. Consistency of the proposal with adopted County General and Community Plans and Policies:

The proposed reorganization, attachment to Waterworks District (WWD) #18, Sphere of Influence revision, and extension of powers for sewer service is consistent with the Friant Community Plan, the Friant Ranch Specific Plan, and the Fresno County General Plan. (See General Plan Policy LU-G.23, The County shall ensure that the expansion of unincorporated communities can be provided with the necessary public services.)

3. Any pending County plans, projects (i.e. community development, roads, etc.) or development permits:

The Friant Ranch Community Plan Update and the Friant Ranch Specific Plan were adopted by the Board of Supervisors on February 1, 2011. There are no development permits pending at this time.

4. Other related comments:

No comments on the proposal.

5. Recommendations:

No specific recommendations for the proposal.

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011**. Your assistance is greatly appreciated. Thank you.

6-8-11

Bernard Jimenez, Development Services Manager — Date
Department of Public Works and Planning

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ cfleming@co.fresno.ca.us

Fresno Local Agency Formation Commission

Received
MAY 2011
LAFCo

MAY 2011
RECEIVED
DEPT OF PUBLIC HEALTH
SO. CA BRANCH-DWFO

Date: May 23, 2011

To: State Department of Health Services

From: Jeff Witte, Executive Officer JW

Subject: "Friant Ranch Annexation", AD-11-1; "Sphere of Influence Revision" for the Waterworks District #18, RSOI-156; and "Extension of Powers" (Sewer), EP-11-1

The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting information on the following particular factors:

1. Adequacy and availability of existing and proposed community water systems:
The District does not have adequate water source and treatment capacity to serve the proposed development.

2. Need for services other than those proposed:

3. Effect of project on water quality:

4. Related State or County plans or projects:

5. Other comments:
The District must significantly increase its water source and treatment capacity before expanding its service area.

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011.** Your assistance is greatly appreciated. Thank you.

Supervising Sanitary Engineer
Signature and Title

5/25/11
Date

JW:cf

Attachment: Application, Map, Legal Description, Service Plan, Resolution

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ cfleming@co.fresno.ca.us

County of Fresno

Fresno County Public Library
Laurel Prysiazny, County Librarian

Received
JUN 2011
LAFCo

June 2, 2011

MEMO

To: Jeff Witte, Executive Officer

From: Laurel Prysiazny, Fresno County Librarian

Re: Friant Ranch Annexation – SOI Revision

The EIR for this proposal (pp. 3-147 to 3-164) outlines a thorough and suitable plan for the disposition of cultural resources found as a result of future property development.

Fresno Local Agency Formation Commission

DATE: May 23, 2011

TO: Elections Division

FROM: Jeff Witte, Executive Officer JW

SUBJECT: "Friant Ranch Annexation", AD-11-1; "Sphere of Influence Revision" for the Waterworks District #18, RSOI-156; and "Extension of Powers" (Sewer) EP-11-1

The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting the following information indicated by an "X":

A. _____ Please furnish a list of all registered voters along with their address as shown upon the most recent assessment roll being prepared by the County within 300 feet of the exterior boundary of the property.

B X Number of registered voters in the area. 0

C. X If more than 11 registered voters, for notification purposes please furnish a list of all registered voters along with their address as shown upon the most recent assessment roll being prepared by the County. Also please furnish a list of registered voters along with their addresses for the territory within 300 feet of the exterior boundary of the property.

D. _____ What percent of the registered voters in the proposal area does the attached petition represent? _____

E. X Will the proposal adversely affect precinct boundaries or the conduct of elections? No

F. _____ Other comments:

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011.** Your assistance is greatly appreciated. Thank you.

JW:cf

Attachments: Map, Legal description

_____

Signature and Title

_____

Date

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ cfleming@co.fresno.ca.us

Fresno Local Agency Formation Commission



DATE: May 23, 2011

TO: County Committee on School District Reorganization
Clovis Unified School District
State Center Community College

FROM: Jeff Witte, Executive Officer JW

SUBJECT: "Friant Ranch Annexation, AD-11-1; "Sphere of Influence Revision" for the Waterworks District #18; and "Extension of Powers" (Sewer), EP-11-1

The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting information on the following particular factors:

1. Under present attendance boundaries, which schools will students from this area attend?
Liberty Elementary, Kastner Intermediate, Clovis West High School

2. Are any of the above schools of the District already at or near capacity? Please describe:
No

3. Will this proposal and other pending proposals create any overcrowded conditions at any of the above schools? Please describe:
Maybe, depends on what type of development goes in.

4. Is there any agreement, ordinance, or other arrangement of the District and/or City to provide for school facilities that would affect any resulting overcrowding from this proposal? Please describe:
no

5. Describe any building plans of the District that would affect this proposal:
None

6. Other Comments:

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011.** Your assistance is greatly appreciated. Thank you.

JW:cf

Attachments: Application, Map, Legal Description, and Resolution

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ cfleming@co.fresno.ca.us

Fleming, Candace Lynn

From: Jennifer Bryan-Sanchez [jennifer_bryan-sanchez@dot.ca.gov]
Sent: Tuesday, May 31, 2011 2:06 PM
To: Fleming, Candace Lynn
Cc: Michael Navarro
Subject: RE: RSOI-156, FRIANT RANCH ANNEXATION SPHERE OF INFLUENCE REVISION
Attachments: RSOI-156 FRIANT RANCH ANNEXATION.pdf

Good afternoon Candie,

Regarding the Sphere of Influence Revisions, RSOI-156, Friant Ranch Annexation, Caltrans has "No Comment". For your convenience I have attached a copy of the cover sheet with Caltrans' "No Comment" on it. Should you have any questions or concerns please feel free to contact me.

Thanks and have a wonderful evening!

Jennifer Bryan-Sanchez
Associate Transportation Planner
CalTrans District Office 6
1352 W. Olive Ave.
Fresno, CA. 93728
(559)488-7307

LAFCo Fresno Local Agency Formation Commission

SCCAO
RECEIVED
MAY 24 2011



Date: May 23, 2011

To: Bureau of Reclamation, Attention David Woolley

From: Jeff Witte, Executive Officer JW

Subject: "Friant Ranch Annexation", AD-11-1; "Sphere of Influence Revision" for the Waterworks District #18, RSOI-156; and "Extension of Powers", EP-11-1

The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting information on the following particular factors:

1. Adequacy and availability of existing and proposed community water systems:

2. Need for services other than those proposed:

3. Effect of project on water quality:

4. Related State or County plans or projects:

5. Other comments:

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Project: CVP-LAFCO		
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Date Input & Initials: MAY 24 2011 QR		

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011**. Your assistance is greatly appreciated. Thank you.

Rena Ballew, Repayment Specialist
Signature and Title

6/1/2011
Date

JW:cf

Attachment: Application, Map, Legal Description, Service Plan, Resolution

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ cfleming@co.fresno.ca.us

Actions requiring Bureau of Reclamation approval include:

- Approval of Sphere of Influence revision to allow federal water to be applied to the newly annexed lands
- Approval of the long-term water transfer to Fresno County Waterworks No. 18 from Lower Tule River Irrigation District
- Issuance of a right-of-way permit/license for construction or modification of pipelines on Reclamation-owned lands

Please continue to send all correspondence related to this action to the Bureau of Reclamation, Attention: SCC-414.

County of Fresno
Department of Public Health
Edward L. Moreno, M.D., M.P.H., Director-Health Officer

Received
JUN 2011
LAFCO

June 1, 2011

999999999
LU0016030
PE 2620
CX

Mr. Jeff Witte
Local Agency Formation Commission
2115 Kern St., Suite 310
Fresno, CA 93721

Dear Mr. Witte:

PROJECT NO: RSOI-156 & EP-11-1

SUBJECT: "Friant Ranch Annexation", "Sphere of Influence Revision" for the Waterworks District # 18 and Extension of Powers

1. Adequacy and availability of existing and proposed community water and sewer systems:

2. Need for services other than those proposed:

3. Effect of project on air or water quality:

4. Related County plans or projects:

5. Other comments:

   - Drinking water which meets state quality standards for public water systems is a precious commodity which must be protected. Existing standards for water well construction and destruction are designed to protect groundwater quality, thereby protecting the public health. The expense associated with proper destruction of a well is infinitesimally small in comparison to the expense of cleaning up contaminated groundwater.

     The Fresno County Department of Public Health is concerned that abandoned water wells are not being properly destroyed, particularly with respect to new development projects. As city boundaries expand, community services are provided to areas originally served only by individual domestic and agricultural wells. Improper abandonment of such wells presents a reason, when development occurs, it is extremely important to ensure the safe and proper destruction of <u>all</u> abandoned water wells. Prior to destruction of any existing agricultural wells, a sample of the upper most fluid in the well column should be sampled for lubricating oil. The presence of oil staining around the well may indicate the use of lubricating oil to maintain the well

pump. Should lubricating oil be found in the well, the oil should be removed from the well prior to placement of fill material for destruction. The "oily water" removed from the well must be handled in accordance with federal, state and local government requirements. Transportation of these materials on public roadways may require special permits and licensure.

Any wells that exist or that have been abandoned, which are not intended for use by the project, must be properly destroyed. For those wells located in the unincorporated area of Fresno County, the applicant shall apply for and obtain a permit(s) to destroy water well(s) from the Fresno County Department of Public Health, Environmental Health Division prior to commencement of work. The destruction and construction of wells can only be completed by a licensed C-57 contractor. Contact the Water Surveillance Program at (559) 445-3357 for more information.

- Upon availability, this Department recommends that any existing rural residential parcel(s) be required to connect to Waterworks District 18 community sewer system in the event of a failure of the existing sewage system(s), and that no building permits be issued for repair of such a system whether or not the mandatory three (3) year connection requirement has expired.

If I can be of more assistance, please contact me at (559) 445-3271.

Sincerely,



R.E.H.S., M.S.
Supervising Environmental Health Specialist
Environmental Health Division

ga

cc Wayne Fox, Environmental Health Division

LAFCo Fresno Local Agency Formation Commission



DATE: June 3, 2011

TO: Bernard Jimenez, Manager, Development Services Division
Department of Public Works and Planning

FROM: Jeff Witte, Executive Officer

SUBJECT: "Friant Ranch Annexation", AD-11-1, "Sphere of Influence Revision" for Waterworks District #18, RSOI-156; and "Extension of Powers" (Sewer), EP-11-1

The attached application has been filed for processing with the Fresno Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting information on the following factors:

1. County plan designation for the area:

The parcels involved in this reorganization are located within the Friant Community Plan and the Friant Ranch Specific Plan that includes various land use designations such as: Residential, Commercial, Open Space, and Public Facilities.

2. Consistency of the proposal with adopted County General and Community Plans and Policies:

The proposed reorganization, attachment to Waterworks District (WWD) #18, Sphere of Influence revision, and extension of powers for sewer service is consistent with the Friant Community Plan, the Friant Ranch Specific Plan, and the Fresno County General Plan. (See General Plan Policy LU-G.23, The County shall ensure that the expansion of unincorporated communities can be provided with the necessary public services.)

3. Any pending County plans, projects (i.e. community development, roads, etc.) or development permits:

The Friant Ranch Community Plan Update and the Friant Ranch Specific Plan were adopted by the Board of Supervisors on February 1, 2011. There are no development permits pending at this time.

4. Other related comments:

No comments on the proposal.

5. Recommendations:

No specific recommendations for the proposal.

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011.** Your assistance is greatly appreciated. Thank you.

Bernard Jimenez, Development Services Manager
Department of Public Works and Planning

6-8-11
Date

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ cfleming@co.fresno.ca.us

LAFCo Fresno Local Agency Formation Commission

MAY 2011

MAY 2011
RECEIVED
DEPT OF PUBLIC HEALTH
SO. CA BRANCH-DWFO

Date: May 23, 2011

To: State Department of Health Services

From: Jeff Witte, Executive Officer JW

Subject: "Friant Ranch Annexation", AD-11-1; "Sphere of Influence Revision" for the Waterworks District #18, RSOI-156; and "Extension of Powers" (Sewer), EP-11-1

The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting information on the following particular factors:

1. Adequacy and availability of existing and proposed community water systems:
The District does not have adequate water source and treatment capacity to serve the proposed development.

2. Need for services other than those proposed:

3. Effect of project on water quality:

4. Related State or County plans or projects:

5. Other comments:
The District must significantly increase its water source and treatment capacity before expanding its service area.

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011.** Your assistance is greatly appreciated. Thank you.

Supervising Sanitary Engineer
Signature and Title

5/25/11
Date

JW:cf

Attachment: Application, Map, Legal Description, Service Plan, Resolution

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ cfleming@co.fresno.ca.us

County of Fresno

Fresno County Public Library
Laurel Prysiazny, County Librarian

Received 2011 LAFCo

June 2, 2011

MEMO

To: Jeff Witte, Executive Officer

From: Laurel Prysiazny, Fresno County Librarian

Re: Friant Ranch Annexation – SOI Revision

The EIR for this proposal (pp. 3-147 to 3-164) outlines a thorough and suitable plan for the disposition of cultural resources found as a result of future property development.

Fresno Local Agency Formation Commission

DATE: May 23, 2011

TO: Elections Division

FROM: Jeff Witte, Executive Officer JW

SUBJECT: "Friant Ranch Annexation", AD-11-1; "Sphere of Influence Revision" for the Waterworks District #18, RSOI-156; and "Extension of Powers" (Sewer) EP-11-1

The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting the following information indicated by an "X":

A. _____ Please furnish a list of all registered voters along with their address as shown upon the most recent assessment roll being prepared by the County within 300 feet of the exterior boundary of the property.

B ___X___ Number of registered voters in the area. ___0___

C. ___X___ If more than 11 registered voters, for notification purposes please furnish a list of all registered voters along with their address as shown upon the most recent assessment roll being prepared by the County. Also please furnish a list of registered voters along with their addresses for the territory within 300 feet of the exterior boundary of the property.

D. _____ What percent of the registered voters in the proposal area does the attached petition represent? _____

E. ___X___ Will the proposal adversely affect precinct boundaries or the conduct of elections? No

F. _____ Other comments:

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011.** Your assistance is greatly appreciated. Thank you.

JW:cf

Attachments: Map, Legal description

Jean Witte

[illegible]

Signature and Title

Date

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ cfleming@co.fresno.ca.us

Fresno Local Agency Formation Commission



DATE: May 23, 2011

TO: County Committee on School District Reorganization
Clovis Unified School District
State Center Community College

FROM: Jeff Witte, Executive Officer JW

SUBJECT: "Friant Ranch Annexation, AD-11-1; "Sphere of Influence Revision" for the Waterworks District #18; and "Extension of Powers" (Sewer), EP-11-1

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Liberty Elementary, Kastner Intermediate, Clovis West High School

2. Are any of the above schools of the District already at or near capacity? Please describe:
No

3. Will this proposal and other pending proposals create any overcrowded conditions at any of the above schools? Please describe:
Maybe, depends on what type of development goes in.

4. Is there any agreement, ordinance, or other arrangement of the District and/or City to provide for school facilities that would affect any resulting overcrowding from this proposal? Please describe:
no

5. Describe any building plans of the District that would affect this proposal:
None

6. Other Comments:

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011.** Your assistance is greatly appreciated. Thank you.

JW:cf

Attachments: Application, Map, Legal Description, and Resolution

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ cfleming@co.fresno.ca.us

Fleming, Candace Lynn

From: Jennifer Bryan-Sanchez [jennifer_bryan-sanchez@dot.ca.gov]
Sent: Tuesday, May 31, 2011 2:06 PM
To: Fleming, Candace Lynn
Cc: Michael Navarro
Subject: RE: RSOI-156, FRIANT RANCH ANNEXATION SPHERE OF INFLUENCE REVISION
Attachments: RSOI-156 FRIANT RANCH ANNEXATION.pdf

Good afternoon Candie,

Regarding the Sphere of Influence Revisions, RSOI-156, Friant Ranch Annexation, Caltrans has "No Comment". For your convenience I have attached a copy of the cover sheet with Caltrans' "No Comment" on it. Should you have any questions or concerns please feel free to contact me.

Thanks and have a wonderful evening!

Jennifer Bryan-Sanchez
Associate Transportation Planner
CalTrans District Office 6
1352 W. Olive Ave.
Fresno, CA. 93728
(559)488-7307

LAFCo Fresno Local Agency Formation Commission

SCCAO
RECEIVED
MAY 24 2011



Date: May 23, 2011

To: Bureau of Reclamation, Attention David Woolley

From: Jeff Witte, Executive Officer JW

Subject: "Friant Ranch Annexation", AD-11-1; "Sphere of Influence Revision" for the Waterworks District #18, RSOI-156; and "Extension of Powers", EP-11-1

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1. Adequacy and availability of existing and proposed community water systems:

2. Need for services other than those proposed:

3. Effect of project on water quality:

4. Related State or County plans or projects:

5. Other comments:

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Date Input & Initials MAY 24 2011 CR		

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011.** Your assistance is greatly appreciated. Thank you.

Rena Ballew, Repayment Specialist
Signature and Title

6/1/2011
Date

JW:cf

Attachment: Application, Map, Legal Description, Service Plan, Resolution

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ cfleming@co.fresno.ca.us

Actions requiring Bureau of Reclamation approval include:

- Approval of Sphere of Influence revision to allow federal water to be applied to the newly annexed lands
- Approval of the long-term water transfer to Fresno County Waterworks No. 18 from Lower Tule River Irrigation District
- Issuance of a right-of-way permit/license for construction or modification of pipelines on Reclamation-owned lands

Please continue to send all correspondence related to this action to the Bureau of Reclamation, Attention: SCC-414.

County of Fresno
Department of Public Health
Edward L. Moreno, M.D., M.P.H., Director-Health Officer



June 1, 2011

999999999
LU0016030
PE 2620
CX

Mr. Jeff Witte
Local Agency Formation Commission
2115 Kern St., Suite 310
Fresno, CA 93721

Dear Mr. Witte:

PROJECT NO: RSOI-156 & EP-11-1

SUBJECT: "Friant Ranch Annexation", "Sphere of Influence Revision" for the Waterworks District # 18 and Extension of Powers

1. Adequacy and availability of existing and proposed community water and sewer systems:

2. Need for services other than those proposed:

3. Effect of project on air or water quality:

4. Related County plans or projects:

5. Other comments:

- Drinking water which meets state quality standards for public water systems is a precious commodity which must be protected. Existing standards for water well construction and destruction are designed to protect groundwater quality, thereby protecting the public health. The expense associated with proper destruction of a well is infinitesimally small in comparison to the expense of cleaning up contaminated groundwater.

  The Fresno County Department of Public Health is concerned that abandoned water wells are not being properly destroyed, particularly with respect to new development projects. As city boundaries expand, community services are provided to areas originally served only by individual domestic and agricultural wells. Improper abandonment of such wells presents a reason, when development occurs, it is extremely important to ensure the safe and proper destruction of <u>all</u> abandoned water wells. Prior to destruction of any existing agricultural wells, a sample of the upper most fluid in the well column should be sampled for lubricating oil. The presence of oil staining around the well may indicate the use of lubricating oil to maintain the well

pump. Should lubricating oil be found in the well, the oil should be removed from the well prior to placement of fill material for destruction. The "oily water" removed from the well must be handled in accordance with federal, state and local government requirements. Transportation of these materials on public roadways may require special permits and licensure.

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- Upon availability, this Department recommends that any existing rural residential parcel(s) be required to connect to Waterworks District 18 community sewer system in the event of a failure of the existing sewage system(s), and that no building permits be issued for repair of such a system whether or not the mandatory three (3) year connection requirement has expired.

If I can be of more assistance, please contact me at (559) 445-3271.

Sincerely,



R.E.H.S., M.S.
Supervising Environmental Health Specialist
Environmental Health Division

ga

cc Wayne Fox, Environmental Health Division

Fleming, Candace Lynn

From: Witte, Jeff
Sent: Wednesday, August 24, 2011 9:32 AM
To: 'Ken Price'
Cc: Fleming, Candace Lynn
Subject: FW: Assessments for WWD #18
Attachments: WW - Resolution 11-04 Assessments.pdf

From: danpearce [mailto:danpearce@netptc.net]
Sent: Wednesday, August 24, 2011 9:27 AM
To: Witte, Jeff
Subject: Assessments for WWD #18

Mr. Witte,

Fresno County Waterworks District #18 (Friant) has no taxing authority. When the water treatment facility was being built, the citizens (real property owners) voted to assess themselves and have the County of Fresno send these monies to the District. They were $15.00 per year to pay off the loan to the Department of Water Resources for the water treatment facility. The other assessment was to fund repairs and replace equipment beyond routine maintenance and that amount was determined by parcel size.

The District has paid the loan to the Department of Water Resources and that assessment has been discontinued.

Each year the District submits to Fresno County Auditor-Controller the amounts to be placed upon the current tax roll as a Special Assessment. The County then collects the assessment and remits that amount to the District. The District deposits that money in a special reserve account.

I have attached Resolution 11-04 which authorizes the assessments.

Dan Pearce, Manager

Fresno County Waterworks District 18
P.O. Box 92
Friant, California 93626-0092
(559) 822-3575 (559) 822-2533

RESOLUTION 11 – 04

IT IS HEREIN RESOLVED by the Board of Directors of Fresno County Waterworks District No. 18 (Friant) that:

WHEREAS, there are or may be outstanding accounts due, for water fees or parcel assessments, which appear uncollectible in the normal process of billing, and;

WHEREAS, in accordance with the provisions of the Resolution heretofore duly adopted by the Board of Directors, such fees or assessments and such other charges for collection of such, shall become a lien on the land. (WATC 5501.1 a-c; WATC 5501.1, d.), and;

WHEREAS, it is the opinion of the Board of Directors that the most expedient manner for collection of such accounts is to avail itself of the option to place such accounts with the Auditor-Controller of the County of Fresno for collection as special assessment on the Tax Roll.

NOW THEREFORE BE IT RESOLVED, that the Board of Directors does hereby authorize and direct that all outstanding delinquent charges due the District that appear to be uncollectible in the ordinary manner of billing, be logged with the Fresno County Auditor-Controller, to be placed upon the current Tax Roll as a Special Assessment and collected in accordance with all laws and statutes.

IT IS FURTHER RESOLVED by the Board of Directors of Fresno County Waterworks District #18 (Friant) that;

WHEREAS, the District has reviewed the cost of providing dependable water service, and;

WHEREAS, the budget currently approved by the Board of Directors clearly requires the establishment of a fund to repair and replace equipment beyond routine maintenance.

NOW THEREFORE BE IT RESOLVED, that such funds will be collected as an annual assessment on the land, and will be logged with the Fresno County Auditor-Controller to be placed upon the current Tax Roll as a Special Assessment, collected in accordance with such laws and statutes that may apply.

Note:
The District will furnish Fresno County Auditor-Controller with a listing of each real property parcel within the District, listed by the Assessor's Parcel Number, together with the amount of charge applicable to each parcel, according the time schedule furnished by the Auditor-Controller.

PASSED AND ADOPTED this 28th Day of June 2011, by the following vote:

AYES:	5	Members: Sharer, Carlton, Tupton, ~~Coolbaugh~~ Hines
NOES:	0	Members:
ABSENT:	0	Members:
ABSTAIN:	0	Members

Mark Sharer

Mark Sharer, President

Darlene Storm

Darlene Storm
Clerk to the Board

Fleming, Candace Lynn

From: Witte, Jeff
Sent: Monday, August 08, 2011 9:22 AM
To: Fleming, Candace Lynn
Subject: FW: Public Hearing - Fresno Co. Waterworks #18 SOI Revision

---

From: Bushard, George K [mailto:GBushard@usbr.gov]
Sent: Monday, August 08, 2011 8:17 AM
To: Witte, Jeff
Subject: Public Hearing - Fresno Co. Waterworks #18 SOI Revision

Mr. Witte,

I've been assigned some of the federal actions for the above SOI revision and annexation. I plan on attending the August 24 hearing. It the hearing is setback, is there a website or some other place I can go to for the new date and start time? Thanks in advance for your assistance.

George K. Bushard
Contract Repayment Specialist
South-Central California Area Office (SCCAO)
Bureau of Reclamation
Phone: (559) 487-5121
Fax: (559) 487-5397

LAW OFFICES OF
COSTANZO & ASSOCIATES
A PROFESSIONAL CORPORATION
575 E. LOCUST AVENUE
SUITE 115
FRESNO, CALIFORNIA 93720-2928
(559) 261-0163

NEAL E. COSTANZO
MICHAEL G. SLATER

FAX (559) 261-0706

OUR FILE NO. 02880-001

March 21, 2011



Via U.S. Mail & Email: jewitte@co.fresno.ca.us
Jeff Witte, Executive Officer
Fresno County Local Agency
Formation Commission (LAFCo)
2115 Kern Street, Suite 300
Fresno, CA 93721

Re: Proposed Revision of Sphere of Influence, Annexation of Territory and Activation of Latent Powers by Fresno County Waterworks District #18 (the "District")

Dear Mr. Witte:

During our recent meeting concerning the intent of the District to apply for a revision of its sphere of influence to accommodate the recently approved Friant Ranch Development, you requested, among other things, a copy of the staff report or executive summary presented to the Board of Supervisors in connection with its approval, occurring on February 2, 2011, of an Environmental Impact Report, Friant Community Plan Update, Friant Ranch Specific Plan and Rezoning Ordinance. The February 1, 2011 staff report is attached. The EIR and Specific Plan documents are voluminous and are on file with the County of Fresno and available at their website. We also discussed the fact that a number of court challenges under the California Environmental Quality Act (CEQA) have been initiated by various groups and wished to confirm that in accordance with applicable law, notwithstanding these challenges, LAFCo, as a responsible agency in connection with the referenced application is required to, and should treat the County certification of the EIR and approval of entitlements for the development as conclusive. You asked for authority for that proposition. The authority is Public Resources Code §21167.3 which reads in part as follows:

> "(a). If an action or proceeding alleging that an Environmental Impact Report or a Negative Declaration does not comply with the provisions of this division is commenced . . . and if an injunction or stay is issued prohibiting the project from being carried out or approved pending final determination of the issue of such compliance, a responsible agency shall assume that the Environmental Impact Report or the Negative Declaration for the project does comply with the provisions of this division and shall issue a conditional approval or disapproval of such project according to the time table for agency action . . . A conditional approval shall constitute permission to proceed with a project when and only when such action or preceding results in a final

Inter Office Memo

DATE: February 1, 2011

TO: Board of Supervisors

FROM: Alan Weaver, Director
Department of Public Works and Planning

SUBJECT: General Plan Amendment No. 511 (Friant Community Plan Update, Friant Ranch Specific Plan), Amendment to Text Application No. 363, and Amendment Application No. 3751 and Associated Draft and Final Environmental Impact Reports.

RECOMMENDED ACTION:

1. **Certify the Environmental Impact Report prepared for the project and adopt the Statement of Fact, Findings and Overriding Considerations and the Mitigation Monitoring and Reporting Plan; and**
2. **Approve the Friant Community Plan Update by expanding the boundary by adding the 942.2-acre Friant Ranch Specific Plan Area proposing to designate the Specific Plan Area (Alternative No. 3) for a variety of residential, commercial, and open space uses including the alternative wastewater treatment plant location (General Plan Amendment No. 511) as the first amendment of the Fresno County General Plan of 2011; and**
3. **Approve adoption of the Friant Ranch Specific Plan (Alternative No. 3) containing goals, policies, implementation measures and development standards for the Specific Plan Area (General Plan Amendment No. 511); and**
4. **Adopt Ordinance approving Amendment to Text Application No. 363 - Friant Ranch Zoning Regulations, containing specific zoning districts for the Friant Ranch Specific Plan; and**
5. **Adopt Ordinance approving Amendment Application No. 3751 to rezone the project site to the various proposed zone districts, rezone the 7.19-acre "Depot Parcel" from Single-Family Residential Agricultural District (R-A) to General Commercial (C-6), rezone two parcels totaling 6.6 acres from R-A and C-6 to Open Space (OS), and rezone a 106-acre parcel from AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District to OS.**
6. **Include a Condition requiring that the Applicant shall enter into an agreement indemnifying the County for legal costs associated with approval of the project.**

The Friant Community Plan Update ("Update") proposes to increase the existing Community Plan Area boundary by adding the 942.2-acre Friant Ranch Specific Plan Area and designate the Specific Plan Area for a variety of residential, commercial, and open space uses. The Specific Plan is proposed as a predominately active adult (ages 55+) community. The Community Plan Update proposes revision to existing policies and inclusion of new policies to include provisions consistent with the policies of the 2000 General Plan Update.

Below are the responses to the items for clarification raised by your Board:

Size Comparison Data:

Below is a table which includes information regarding the land area, population, number of dwelling units, population density, and growth rate. It should be noted, as discussed in the Agenda Item and during the December 7, 2010 hearing, the project as originally proposed encompasses a 942-acre plan area including 2,996 units of varying density, which accommodate primarily active adult (ages 55+) residents along with village center commercial uses, a recreation center and large undisturbed open space area of approximately 250 acres as well as parks and a trail system. However, during the EIR process and the required analysis of alternatives, aside from the no project alternative, Alternative No. 3 has been determined to be the most environmentally superior while still allowing development to occur. Alternative No. 3 accommodates 2,500 units (almost 500 less units than originally proposed). It should be noted that although the Friant Ranch Specific Plan Area encompasses 942 acres, under Alternative No. 3, 460 of those acres will be devoted to undisturbed open space, and 22 acres to re-vegetate open space slopes, thus resulting in only 460 acres of actual urban development. As a point of reference, the current size of the Friant community is 862 acres, approximately 300 acres of which is occupied by Lost Lake Park and the San Joaquin River zone open space.

Selected Unincorporated Communities	Acres	No. Dwelling Units (Census 2000)	2000 Census Population	2007 LAFCO MSR Pop. Data	Population Density/Acre	Annual Growth Rate
Friant (Existing)	862	226	778	***	.90	***
Friant (Additional – Alt 3)	942	N/A (*2,500)	N/A (*4,842)	***	***	***
Auberry	**	791	2,053	***	***	***
Biola	242	241	1,037	1,100	4.54	0.85%
Caruthers	361	602	2,103	2,331	6.45	0.14%
Easton	701	648	1,966	1,966	2.8	0%
Laton (Existing)	479	373	1,500	***	3.13	***
Laton (Pending Addition)	106	N/A	N/A (*3,150)	***	***	***
Riverdale	424	773	2,416	2,416	5.69	0%
Squaw Valley	**	1,160	2,691	***	***	***
*Millerton Specific Plan	1,420	N/A (*3,499)	N/A (*8,000 to 10,000)	***	***	***

Selected Cities	Acres	No. Dwelling Units (2010 Dept. of Finance)	2010 Dept. of Finance Population Estimate	2007 LAFCO MSR Pop. Data	Population Density/Acre	Annual Growth Rate (2000-10)
Kerman, City of	2,061	4,038	14,381	***	6.97	6.8%
Mendota, City of	2,096	2,310	9,966	***	4.75	2.6%

Source: State of California Department of Finance
Source: United States Bureau of the Census
** Total Build-Out*
*** No Established Boundary*
**** No Data Available*

The proposed Land Use Plan provides a location for a new Friant Wastewater Treatment Plant. As originally proposed wastewater would be collected and treated at a new facility constructed on the site of the existing wastewater treatment plant located on the northern boundary of the Village Center (the existing plant serves only the Millerton Village Mobile Home Park. The Plan proposes that the existing wastewater treatment plant in Friant be replaced with an expanded plant to accommodate specific plan development). However, as noted in the Board packet and during the December 7th hearing, during the environmental/project evaluation process it was determined that an alternative WWTP location is environmentally superior to the proposed project WWTP location and is best accommodated on a parcel located adjacent to Lost Lake Park referred to as the Beck Property.

Specifically, effluent disposal on the Beck Property provides use of a former 150-acre CEMEX gravel extraction site southeast of Lost Lake Park which was in operation as a gravel extraction operation since the 1920's and was recognized, approved and modified through a number of Conditional Use Permit Applications with an approved Reclamation Plan requiring the site to be returned to an agricultural use. As the WWTP location, a pipeline from Friant Ranch to the site would be constructed adjacent to existing roads. The effluent will be treated to Title 22 requirements for unrestricted use of recycled water. The positive attributes of the alternative WWTP are noted below:

- The plant will be enclosed, automated and designed to fully contain potential noise and odors, reduce visual impact to that of an architecturally-enhanced building. Treatment capacity will be adequate for Friant Ranch at build-out, plus the Friant community at currently-planned build-out. Treatment level is "tertiary," with effluent meeting Title 22 requirements for unrestricted reuse, allowing the planned land disposal.
- Effluent storage available at the Beck property is adequate for Friant Ranch plus the Friant Community at currently-planned build-out. No additional storage space will be needed.
- Effluent disposal will be by land application, both to crops at the Beck property and to landscape within Friant Ranch. Disposal space will be adequate to fully dispose all recycled water at full build-out without need for additional disposal space or river discharge (it should be noted that the California Regional Water Quality Control Board [RWQCB] discourages discharge to the San Joaquin River when land is available for reuse of the treated wastewater).
- The site is downhill from the community of Friant and Friant Ranch and will allow a gravity flow system.
- Locating the WWTP on the Beck property is consistent with the Reclamation Plan approved in conjunction with the former gravel extraction site to restore the site to agricultural use.
- The Beck Ranch location is privately funded on private land, with no public or County cost issues that may occur at an alternative WWTP location.

If the alternative WWTP location is approved, the lands comprising the currently proposed WWTP location would be developed as additional landscaping to enhance the Village Center. No additional commercial square footage or parking would be proposed under this Alternative. Therefore, given the location, elevation and current technology available, there are a number of positive attributes to the location, including the fact that at this location, treated effluent will not be discharged to the river due to the on-site availability of storage and irrigation capacity.

reduced housing unit count will result in an even lower amount of daily trips. Accounting for trip-capture reduction the same way as the three Table's reference above, the resulting revised calculation is approximately 15,814 daily trips. The resulting combined total of the Friant Ranch Specific Plan (with Alternative No. 3) and the Depot Parcel is 18,971 daily trips.

Clarification regarding the assertion that wastewater will be dumped into the San Joaquin River:

The Specific Plan originally proposed that the existing WWTP in Friant be replaced with a new tertiary plant in the immediate vicinity of the existing WWTP plant to accommodate Specific Plan development. As originally proposed, this expansion would have occurred within the Community Plan boundary. The original proposal included a component that the new WWTP discharge treated effluent into the river during winter months. It should be noted that the quality of treated effluent allows unrestricted application of this water on all landscaping. In addition, special/specific Water Quality Studies were conducted to study the potential for discharge to the river, which concluded that discharge would have no significant impact on aquatic life in the river (including potential salmon populations) or to the river itself. However, as discussed in the Staff Report and during the December 7, 2010 hearing, during the environmental/project evaluation process it was determined that an environmentally superior WWTP location would be on a parcel located adjacent to Lost Lake Park referred to as the Beck Property. This site is located further from the river, downhill from the Project and the community (i.e. utilizing a gravity feed system for the Specific Plan Area and with the potential for gravity collection from the remaining Project Area), and contains approximately 120 acres on-site that will be used both for winter storage of effluent and as a spray field to dispose of the effluent, therefore not requiring/proposing any discharge into the river. As previously mentioned, the RWQCB discourages discharge to the San Joaquin River when land is available for reuse of the treated wastewater. Under the alternative WWTP location, as proposed by the Applicant and recommended by the Planning Commission, there will be no discharge to the river.

Clarification regarding source of water for project (ground water vs. surface water):

As explained in response to Comment 19.1 in the Final EIR, the source of water for the project is surface water stored behind Friant Dam, which the Lower Tule River Irrigation District (LTRID) is transferring to Water Works District 18 (WWD 18) for use within the project. As explained in responses to Comments 19.134 and 19.136, the proposed transfer will not result in any negative impacts to LTRID growers or their underlying groundwater basins. Rather, the LTRID proceeds from the transfer will be used to operate additional water distribution systems and additional groundwater recharge facilities, as well as to purchase short-term water from other Friant Division contractors on a year-to-year basis when needed. These additional facilities and potential short-term water purchases allow the District to take in more surface water in big water years and at flood times for groundwater recharge.

Analysis of the five policy points raised in the letter submitted by Friends of Lost Lake:

Prior to the December 7, 2010 hearing, staff received the proposed policy modifications and new proposed policy and met with the Friends of Lost Lake to discuss their proposed modifications/additions. As presented at the December 7th hearing, staff has reviewed the proposal and has concluded that the edits proposed for the four Policies noted by the Friends of Lost Lake are minor in nature and can be accommodated. Specifically (in the order presented in the letter to your Board [with proposed edits noted]):

511, Amendment to Text Application No. 363 and Amendment Application No. 3751 are not consistent with the General Plan, denial of the applications would then be appropriate citing the reasons for denial and the proposal's inconsistency with the Fresno County General Plan.

OTHER REVIEWING AGENCIES:

As indicated in the packet for the December 7, 2010 hearing, on October 3, 2007, the County distributed to public agencies and interested citizens a Notice of Preparation (NOP) of an EIR for the project. The NOP Scoping Meeting was held on October 17, 2007, at the Friant Elementary School. The notice of the Scoping Meeting was sent to residents of Friant and surrounding property owners. A Scoping Meeting, as recommended in Section 15083 of the California Environmental Quality Act (CEQA) Guidelines, was advertised in the Mountain Press. The purpose of the meeting was to receive input from the agencies and community residents on issues that should be addressed in the EIR, the Community Plan and the Specific Plan.

Fresno County, as the Lead Agency, circulated the Draft EIR for the project from October 30, 2009 through December 15, 2009. The Notice of Availability (NOA) for the Draft EIR was published in the Fresno Bee and posted at the Fresno County Clerk's Office on October 30, 2009. Pursuant to public notice, a Community Meeting was held on December 9, 2009 at the Friant Elementary School to receive input from the community residents on the Draft EIR, Specific and Community Plans.

REVERENCE MATERIAL:

Advanced Agenda Material, August 24, 2010

BAI #14, December 7, 2010

Fleming, Candace Lynn

From: Dan Pearce [danpearce@waterworksdist18.com]
Sent: Tuesday, August 02, 2011 10:09 AM
To: Fleming, Candace Lynn
Subject: RE: WWD #18 Annexation and SOI Revision

Dan Casas
Table Mountain Rancheria
8184 Table Mountain Rd
P.O. Box 445
Friant, CA 93626

Rena Ballew/George Bushard
USBR
1243 "N" Street
Fresno, CA 93721

Paulette Bianchi
P.O. Box 64
Friant, CA 93626

Jeff Roberts
PO Box 343
Friant, CA 93626

I will notify all the Water board members.

From: Fleming, Candace Lynn [mailto:CFleming@co.fresno.ca.us]
Sent: Tuesday, August 02, 2011 10:01 AM
To: 'Dan Pearce'
Cc: Witte, Jeff
Subject: WWD #18 Annexation and SOI Revision

Dan,

Jeff asked me to get a list of the names and addresses of people and agencies that you know may be concerned over the upcoming annexation and sphere revision. We have noticed our hearing in two newspapers and are sending out mailed notices to those we feel would be interested. Do you have a list you can send me to make sure nobody gets left out?

Candie Fleming
Clerk to the Commission
(559) 495-0604

Go to www.fresnolafco.org for agendas, staff reports, forms, and much more.

THIS IS A LEGAL NOTICE

NOTICE OF PUBLIC HEARING

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
FRESNO COUNTY, CALIFORNIA

NOTICE IS HEREBY GIVEN that the Fresno Local Agency Formation Commission (LAFCo) will consider the Municipal Service Review (MSR), Sphere of Influence Revision, and Extension of Powers Request for the Waterworks District No. 18 at a public hearing on August 24, 2011.

LAFCo is responsible for reviewing the adopted spheres of influence (SOI) for special districts in Fresno County (Government Code section 56425). Municipal Service Reviews involve analyzing an agency's services and making determinations. The Commission is required to adopt written determinations regarding six specific topics.

LAFCo has reviewed the SOI for the Waterworks District No. 18 in an MSR. The Commission will consider the information, recommendations, and determinations in this study at its August 24, 2011 hearing. At this hearing the Commission will consider adopting the MSR, with or without amendments and make determinations pursuant to California Government Code Section 56430(a).

The Commission will also consider a Sphere of Influence Revision for Waterworks District No. 18 that will add approximately 520 acres to its sphere of influence and an annexation of approximately 520 acres to the District for territory located adjacent to the Community of Friant.

The Commission will also consider a request from Waterworks District No. 18 to allow the District to provide wastewater collection and treatment services to their district.

THE PUBLIC HEARING will be held on Wednesday, August 24, 2011, at 1:30 p.m., or as soon thereafter, in the Fresno County Board of Supervisors' Chamber, Room 301, Hall of Records, Tulare and "M" Streets, in downtown Fresno. Interested agencies and individuals are invited to attend this meeting and give public testimony on this item. For information, please contact Jeff Witte, Executive Officer at Fresno LAFCo, 2115 Kern Street, Suite 310, Fresno, CA 93721, phone: (559) 495-0604, e-mail address: jewitte@co.fresno.ca.us.

Jeff Witte, LAFCo Executive Officer

Dated: August 1, 2011, File No. RSOI-156, AD-11-1, EP-11-1

(1) If you are an applicant for, or a participant in, any proceeding on the agenda for a **land use entitlement** and have made a **campaign contribution** of more than $250 to any member or alternative member of the Commission **within twelve (12) months prior to the Commission considering your application**, please immediately inform the Commission of your contribution. State law **disqualifies** each Commissioner and Alternative Commissioner from participating in and voting on land use entitlement decisions (which include changes of organization and reorganizations) if the Commissioner or Alternative Commissioner has received campaign contributions from (i) an applicant for a land use entitlement, (ii) someone who lobbies the Commission or LAFCo staff regarding an application for land use entitlement, (iii) someone who testifies in person before the Commission regarding an application for land use entitlement, or (iv) someone who otherwise acts to influence the outcome of an application for land use entitlement.

State law also prohibits applicants and participants from making campaign contributions to a Commissioner or Alternate Commissioner within three (3) months **after** the Commission's action. If you have any questions regarding these requirements which are contained within the **California Political Reform Act** (Government Code Section 84308 *et seq.*), please consult with Commission staff at 559/495-0604.

(2) In compliance with the Americans with Disabilities Act (**ADA**), if you need special assistance to participate at this meeting, please contact Ms. Candie Fleming, Clerk to the Commission at 559-495-0604. Notification 48 hours prior to the meeting will enable the Clerk to make reasonable arrangements to ensure accessibility to this meeting. Pursuant to the ADA, the meeting room is accessible to the physically disabled.

(3) A Staff report prepared for this item will be posted on the Fresno LAFCo Website: **www.fresnolafco.org.** five days prior to the public hearing.

Fresno Local Agency Formation Commission

July 25, 2011

CERTIFICATE OF FILING

Dan Pearce, Manager
Waterworks District No. 18
P.O. Box 92
Friant, CA 93626

Dear Mr. Pearce:

Subject: Waterworks District No. 18 "Sphere of Influence Revision" (RSOI-156), "Friant Ranch Annexation" (AD-11-1) and "Extension of Powers" (EP-11-1)

This notice certifies that on July 25, 2011, pursuant to Section 56658(g) of the Government Code, the proposed "Sphere of Influence Revision", "Friant Ranch Annexation" and "Extension of Powers" for Waterworks District No. 18 was accepted for filing with the Local Agency Formation Commission.

The time, date, and place for the Local Agency Formation Commission's consideration of the subject proposal is 1:30 p.m., Wednesday, August 24, 2011, in Room 301, Hall of Records, Tulare and "M" Streets, Fresno.

Sincerely,

JEFF WITTE, EXECUTIVE OFFICER
FRESNO LOCAL AGENCY FORMATION COMMISSION

JW:cf

cc: Commissioners
Neal Costanzo

NAMES OF LANDOWNERS OR PARTIES OF REAL INTEREST (Asterisk indicates consent):

Kristann Silkwood Mattes Franklin E. Bigelow SWD Investments-Friant Ranch Inc.
E. L. Silkwood James F. Wagner James Ray Costales, Jr. Jamie Marie Costales

Note: If you are an applicant for, or a participant in (actively supporting or opposing) any proceeding on the agenda and have made a campaign contribution of more than $250 to or for any of the Commission members, state law provides for disqualification of Commissioner voting, or even prohibition of such gifts. These restrictions also apply to agents of applicants or participants. Please consult with Commission staff as to the requirements of the Political Reform Act (Government Code Section 84308).

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone: (559) 495-0604 • Fax: (559) 495-0655 • E-mail: cfleming@co.fresno.ca.us

2910



DATE: June 13, 2011

TO: Dave King

FROM: Candie Fleming, Fresno LAFCo

SUBJECT: "Friant Ranch Annexation" and Waterworks District #18 "Sphere of Influence Revision"

Please review the attached revised map and/or legal description, and approve or notify us as to how it is insufficient. We would appreciate your comments as soon as possible.

Thank you.

cf

Attachment: Map/Legal Description

6-21-11

Map & Legal are Approved.

RMC

ANNEXATION NO. 2011-____
FRIANT RANCH ADDITION TO
FRESNO COUNTY WATERWORKS DISTRICT NO. 18
SPHERE OF INFLUENCE

GEOGRAPHIC DESCRIPTION

All that real property, being portions of Sections 7, 8, 17, and 18, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, according to the official government plats thereof, situate in the County of Fresno, State of California, described as follows:

Beginning at the Southwest corner of Section 8, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, said point also being on the existing service area boundary of Waterworks District No. 18;

The following eight courses are all based on or calculated from that Record of Survey map recorded in Book 51 of Record of Surveys at Pages 82 through 88, Fresno County Records:

Thence (1) North 01° 18' 37" East a distance of 903.81 feet along the West line of said Section 8, and along said existing District boundary, to a point that bears South 01° 18' 37" West a distance of 404.00 feet from the Northwest corner of Government Lot 13 in said Section 8;

Thence leaving said existing District boundary, (2) North 78° 15' 54" East a distance of 441.39 feet;

Thence (3) North 01° 18' 37" East a distance of 304.00 feet to a point on the North line of said Government Lot 13;

Thence (4) North 88° 38' 26" West a distance of 430.00 feet along said North line, to the Northwest corner of said Government Lot 13, said point being on the existing service area boundary of Waterworks District No. 18;

Thence (5) North 88° 47'38" West a distance of 35.00 feet along the North line of the South half of Government Lot 18 in said Section 7, and along said existing District boundary;

Thence leaving said North line, (6) North 00° 23' 22" East a distance of 10.10 feet continuing along said existing District boundary;

Thence (7) North 65° 35' 31" East a distance of 38.86 feet, continuing along said existing District boundary, to a point on the West line of said Section 8, said point bears North 00° 59' 34" East a distance of 26.90 feet from the Northwest corner of Government Lot 13 in said Section 8;

Thence (8) North 00° 59' 34" East a distance of 1522.82 feet along said West line and along said existing District boundary to a point on the centerline of Mono Street (Abandoned), according to the Map of Pollasky recorded in Volume 5 of Plats at page 5, Fresno County Records, said point also being the Northeasterly corner of Outlot "B" of Tract No. 3573, Millerton Lake Mobilehome Village, according to the map thereof recorded in Volume 41 of Plats at pages 63 and 64, Fresno County Records;

The following four courses are based on the map of Tract No. 3573, Millerton Lake Mobilehome Village, according to the map thereof recorded in Volume 41 of Plats at pages 63 and 64, Fresno County Records:

Thence leaving said existing District boundary, (9) South 67° 34' 25" East a distance of 178.48 feet along said centerline of Mono Street (abandoned);

Thence leaving said centerline, (10) North 18° 59' 00" East a distance of 886.39 feet;

Thence (11) North 73° 39' 54" East a distance of 128.28 feet;

Thence (12) South 16° 33' 53" East a distance of 1886.36 feet;

The remaining courses are all based on or calculated from that Record of Survey map recorded in Book 51 of Record of Surveys at Pages 82 through 88, Fresno County Records:

Thence (13) North 65° 39' 34" East a distance of 210.27 feet;

Thence (14) South 39° 35' 26" East a distance of 873.90 feet;

Thence (15) South 00° 55' 25" West a distance of 1309.92 feet to a point on the North line of the Northwest quarter of said Section 17, said point bears North 88° 30' 32" West a distance of 754.10 feet from the North quarter corner of said Section;

Thence (16) South 09° 37' 23" East a distance of 1167.73 feet;

Thence (17) South 23° 23' 02" East a distance of 478.47 feet;

Thence (18) South 06° 37' 02" East a distance of 741.61 feet;

Thence (19) South 31° 41' 02" East a distance of 1427.50 feet;

Thence (20) South 41° 49' 37" East a distance of 1182.02 feet to a point on the West line of the East half of the Southeast quarter of said Section 17;

Thence (21) North 00° 53' 38" East a distance of 13.07 feet, along said West line, to a point that bears North 00° 53' 38" East a distance of 925.10 feet from the Southwest corner of the East half of the Southeast quarter of said Section 17;

Thence leaving said West line, (22) South 71° 57' 22" East a distance of 780.40 feet;

Thence (23) South 00° 17' 37" West a distance of 701.91 feet to a point on the south line of the Southeast quarter of said Section 17, said point bears North 88° 34' 54" West a distance of 553.00 feet from the Southeast corner of said Section 17;

Thence (24) North 88° 34' 54" West a distance of 1062.85 feet along said South line;

Thence leaving said South line, (25) North 60° 20' 18" West a distance of 185.00 feet;

Thence (26) North 27° 49' 48" West a distance of 100.00 feet;

Thence (27) North 76° 15' 13" West a distance of 207.00 feet;

Thence (28) North 26° 42' 50" East a distance of 185.00 feet;

Thence (29) North 06° 00' 38" East a distance of 74.00 feet;

Thence (30) North 36° 51' 45" East a distance of 96.65 feet to a point on a curve, concave to the Northeast, with a radius of 740.00 feet, a radial to said point bears South 37° 30' 17" West;

Thence (31) Northwesterly a distance of 213.00 feet along said curve, through a central angle of 16° 29' 30";

Thence tangent to said curve, (32) North 36° 00' 13" West a distance of 333.31 feet;

Thence (33) South 53° 59' 47" West a distance of 6.00 feet;

Thence (34) North 41º 04' 20" West a distance of 50.00 feet;

Thence (35) South 86º 26' 46" West a distance of 70.00 feet;

Thence (36) South 38º 00' 03" West a distance of 227.00 feet;

Thence (37) South 48º 44' 43" West a distance of 220.00 feet;

Thence (38) South 69º 44' 30" West a distance of 180.00 feet;

Thence (39) North 76º 10' 05" West a distance of 367.00 feet;

Thence (40) North 38º 32' 16" West a distance of 315.00 feet;

Thence (41) North 24º 16' 00" West a distance of 166.00 feet;

Thence (42) North 58º 27' 34" East a distance of 507.00 feet;

Thence (43) North 33º 30' 00" West a distance of 189.00 feet;

Thence (44) North 27º 28' 50" East a distance of 98.00 feet;

Thence (45) North 46º 38' 55" East a distance of 227.00 feet;

Thence (46) North 02º 21' 49" West a distance of 96.00 feet;

Thence (47) North 36º 10' 03" West a distance of 235.00 feet;

Thence (48) North 54º 08' 22" West a distance of 180.00 feet;

Thence (49) North 59º 26' 31" West a distance of 245.00 feet;

Thence (50) North 46º 22' 28" West a distance of 285.00 feet;

Thence (51) North 15º 18' 18" West a distance of 138.00 feet;

Thence (52) North 40º 33' 15" West a distance of 187.00 feet;

Thence (53) North 50º 39' 24" West a distance of 173.00 feet;

Thence (54) North 13º 01' 35" West a distance of 296.00 feet;

Thence (55) North 14º 56' 52" West a distance of 206.00 feet;

Thence (56) North 48º 54' 02" West a distance of 318.00 feet;

Thence (57) South 88º 51' 25" West a distance of 310.00 feet;

Thence (58) North 06° 14' 30" West a distance of 126.00 feet;

Thence (59) North 27° 57' 53" West a distance of 260.00 feet;

Thence (60) South 79° 46' 22" West a distance of 338.00 feet;

Thence (61) North 21° 39' 07" West a distance of 52.00 feet;

Thence (62) South 83° 02' 53" West a distance of 165.00 feet;

Thence (63) South 36° 10' 15" West a distance of 45.35 feet to a point on the West line of the Northwest quarter of said Section 17, said point bears South 01° 20' 46" West a distance of 1540.67 feet from the Northwest corner of said Section 17;

Thence continuing (64) South 36° 10' 15" West a distance of 96.65 feet into said Section 18;

Thence (65) South 15° 27' 48" West a distance of 150.00 feet;

Thence (66) South 10° 12' 47" West a distance of 358.00 feet;

Thence (67) South 52° 58' 56" West a distance of 221.00 feet;

Thence (68) South 30° 13' 00" West a distance of 355.00 feet;

Thence (69) South 33° 41' 32" West a distance of 240.00 feet;

Thence (70) South 66° 19' 13" West a distance of 270.00 feet;

Thence (71) North 37° 13' 18" West a distance of 84.00 feet;

Thence (72) North 34° 43' 48" East a distance of 165.00 feet;

Thence (73) North 00° 31' 20" West a distance of 198.00 feet;

Thence (74) North 17° 26' 43" West a distance of 340.00 feet;

Thence (75) North 24° 11' 10" West a distance of 305.00 feet;

Thence (76) North 14° 30' 46" West a distance of 530.00 feet;

Thence (77) North 36° 54' 03" West a distance of 110.00 feet;

Thence (78) North 73° 47' 22" West a distance of 199.00 feet;

Thence (79) North 54° 57' 08" West a distance of 112.00 feet;

Thence (80) North 16º 43' 56" West a distance of 69.00 feet;

Thence (81) South 74º 38' 28" West a distance of 165.00 feet;

Thence (82) South 29º 09' 07" East a distance of 93.00 feet;

Thence (83) South 08º 28' 30" West a distance of 132.00 feet;

Thence (84) South 33º 06' 07" East a distance of 180.00 feet;

Thence (85) South 05º 27' 50" East a distance of 202.00 feet;

Thence (86) South 16º 37' 15" East a distance of 540.00 feet;

Thence (87) South 51º 22' 00" West a distance of 170.00 feet;

Thence (88) North 56º 11' 21" West a distance of 185.00 feet;

Thence (89) North 78º 58' 07" West a distance of 198.00 feet;

Thence (90) South 66º 52' 27" West a distance of 171.00 feet;

Thence (91) South 29º 01' 47" West a distance of 184.00 feet;

Thence (92) South 55º 28' 15" West a distance of 150.00 feet;

Thence (93) South 25º 21' 07" West a distance of 142.00 feet;

Thence (94) South 00º 12' 02" West a distance of 200.00 feet;

Thence (95) South 70º 29' 29" West a distance of 196.00 feet;

Thence (96) South 60º 53' 23" West a distance of 128.00 feet;

Thence (97) South 27º 27' 45" West a distance of 170.00 feet;

Thence (98) South 10º 03' 20" East a distance of 146.00 feet;

Thence (99) South 40º 36' 50" West a distance of 108.00 feet;

Thence (100) South 11º 59' 56" West a distance of 170.00 feet;

Thence (101) South 49º 53' 47" West a distance of 254.00 feet;

Thence (102) South 13º 36' 25" West a distance of 173.00 feet;

Thence (103) South 28º 33' 45" West a distance of 380.00 feet;

Thence (104) South 02º 09' 06" East a distance of 328.00 feet;

Thence (105) South 44º 56' 34" West a distance of 170.00 feet;

Thence (106) North 67º 53' 41" West a distance of 850.00 feet;

Thence (107) North 73º 01' 06" West a distance of 283.00 feet;

Thence (108) North 89º 57' 38" West a distance of 415.00 feet to the East line of Parcel Map No. 6646, recorded in Book 47 of Parcel Maps at page 98, Fresno County Records;

Thence (109) North 00º 02' 22" East a distance of 1144.66 feet, along said East line and its northerly projection, to its point of intersection with the Northwesterly right of way line of Friant Road, being a curve, concave to the Southeast, with a radius of 3053.00 feet, a radial to said point bears North 48º 08' 16" West;

Thence (110) Northeasterly a distance of 130.62 feet along said curve and said right of way line, through a central angle of 2º 27' 05":

Thence (111) North 44º 18' 49" East a distance of 2077.88 feet, continuing along said right of way line, to the beginning of a tangent curve, concave to the Northwest, with a radius of 947.00 feet;

Thence (112) Northeasterly a distance of 163.41 feet along said curve and continuing along said right of way line, through a central angle of 9º 53' 12", to its point of intersection with the North line of Government Lot 7 in said Section 18, said point being on the existing service area boundary of Waterworks District No. 18.

Thence (113) North 89º 41' 27" East a distance of 218.95 feet along said North line and along said existing District boundary to a point on the southeasterly right of way of the Southern Pacific Railroad (abandoned), said right of way being on a curve, concave to the northwest, with a radius of 5779.65 feet, a radial bearing to said point bears South 50º 14' 15" East;

Thence (114) Northeasterly a distance of 22.58 feet along said curve and right of way and continuing along said existing District boundary, through a central angle of 0º 13' 26";

Thence (115) North 39º 32' 19" East a distance of 1328.94 feet continuing along said right of way and along said existing District boundary;

Thence (116) North 39º 13' 44" East a distance of 120.75 feet continuing along said right of way and along said existing District boundary, to the point of beginning of a non-tangent curve, concave to the northwest, with a radius of 2914.93 feet, a radial to said point bears South 50º 46' 16" East;

Thence (117) Northeasterly a distance of 239.72 feet along said curve and continuing along said right of way, and along said existing District boundary, through a central angle of 4º 42' 43", to a point on the North line of the Northeast quarter of said Section 18;

Thence (118) North 89º 55' 00" East a distance of 563.07 feet along said North line, and continuing along said existing District boundary, to the Northwest corner of the Northeast quarter of the Northeast quarter of said Section 18;

Thence (119) North 89º 51' 12" East a distance of 1338.02 feet along the North line of said Section 18, and continuing along said existing District boundary, to the Point of Beginning.

Containing 519.70 acres, more or less.

For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.

Fresno Local Agency Formation Commission

April 5, 2011

Mr. Radley Reep
557 W. Escalon #101
Clovis, CA 93612

Dear Mr. Reep,

Subject: Waterworks District #18, Wastewater Treatment Facilities

After the last time we spoke, I met with representatives of the Friant Ranch Project and Waterworks District #18 about potential changes to the District's boundaries, sphere, and district powers. To date, Waterworks District #18 has not filed any applications and we do not have a copy of any new wastewater treatment facility plan in our office. Ultimately, LAFCO would be required to approve any expansion of the boundaries or any new powers for the District, but would not be involved in reviewing or approving plans for the technical portion of the water treatment process.

I would suggest you contact the Fresno County Public Works Department and ask them to keep you informed of any plans that are submitted for the wastewater treatment facility. I also understand permitting from the Regional Water Quality Board would be required for a new facility.

Yours truly,

Jeff Witte
Executive Officer

G:\LAFCO WORKING FILES\MISC LETTERS&MEMOS\reep2.docx

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone: (559) 495-0604 • Fax: (559) 495-0655 • E-mail: cfleming@co.fresno.ca.us



March 28, 2011

Jeff Witte, Executive Officer
Fresno Local Agency Formation Commission
2115 Kern Street, Suite 310
Fresno, CA 93721

Dear Mr. Witte,

On February 9, 2011, I attended a regular meeting of the Fresno Local Agency Formation Commission. I addressed you and the Commission regarding both the Municipal Service Review and the update of the Sphere of Influence (SOI) for Waterworks District 18.

Specifically, I asked this question: "Has Waterworks District 18 provided or is Waterworks District 18 providing any service to Table Mountain Rancheria or its casino? If so, what is the nature of this service?"

The maps provided by LAFco showed the Rancheria property to be outside the SOI for the District. The answer I received that day was that Waterworks District 18 was not providing any services outside its SOI nor was it providing any services to Table Mountain Rancheria.

I'd like to draw your attention to two documents written by Waterworks District 18. The first was submitted to the Fresno County Indian Gaming Local Community Benefit Committee in February of 2007 as part of a grant application for a portion of the Indian Gaming Special Distribution Funds. Part of that grant application reads as follows:

> "*Table Mountain Rancheria's impact to the community of Friant has been tremendous. Since the opening of Table Mountain, the community of Friant has been impacted by the increase in water usage and by the traffic that has been created. The District processes twenty (20) acre feet of water annually for the Rancheria in addition to the 150 acre feet of water processed for the existing community.*"

In February of 2011, the District submitted a similar application. A part of that application reads this way:

> "*The District is also in need of a looping waterline that would alleviate the strain on the current lines in certain portions of Friant. The waterlines are directly impacted by Table Mountain Casino that retrieves water from a connection on this line….Waterworks District #18 currently processes water for Table Mountain Casino and Table Mountain Rancheria with its non-ground water needs.*"

According to these two documents, Waterworks District 18 has provided and is providing water to Table Mountain Rancheria. If the SOI for Waterworks District 18 does not include the Rancheria property, please explain the incongruity.

Thank you so much.

Radley Reep

Fresno County Waterworks District 18
P.O. Box 92
Friant, California 93626-0092
(559) 822-3575 (559) 822-2533

NOTICE OF PUBLIC HEARING

Notice is hereby given that on March 29, 2011, a public hearing will be held beginning at 6:00 p.m. at the Friant Depot Development Office Complex located at 17836 N. Friant Rd., Suite B Friant, CA before the Board of Directors (Board) of the Fresno County Waterworks District #18 (District) to consider adoption of a Resolution of Application by the District to the Local Agency Formation Commission (LAFCo) for the revision of the District's sphere of influence and the annexation of territory to include the development approved by the Fresno County Board of Supervisors on February 2, 2011 commonly known as the Friant Ranch Development and to provide new or different classes of service within the expanded jurisdictional boundaries. All interested parties are invited to appear at this time to present testimony in regard to the proposed action on that resolution. Written comments may be submitted prior to the date of public hearing to the District, attention Dan Pearce, General Manager to P.O. Box 92, Friant, CA 93626-0092.

PUBLIC NOTICES

NOTICE OF PUBLIC HEARING

Notice is hereby given that on March 29, 2011, a public hearing will be held beginning at 6:00 p.m. at the Friant Depot Development Office Complex located at 17836 N. Friant Rd., Suite B Friant, CA before the Board of Directors (Board) of the Fresno County Waterworks District #18 (District) to consider adoption of a Resolution of Application by the District to the Local Agency Formation Commission (LAFCo) for the revision of the District's sphere of influence and the annexation of territory to include the development approved by the Fresno County Board of Supervisors on February 2, 2011 commonly known as the Friant Ranch Development and to provide new or different classes of service within the expanded jurisdictional boundaries. All interested parties are invited to appear at this time to present testimony in regard to the proposed action on that resolution. Written comments may be submitted prior to the date of public hearing to the District, attention Dan Pearce, General Manager to P.O. Box 92, Friant, CA 93626-0092. Dated: March 11, 2011. Published Mt. Press 3/16, 3/23/2011

Dear Readers: We welcome stories and photos about your achievements in areas such as sports, recognitions and awards, wedding and birth announcements, and obituary notices. There is no charge for these stories. Call 855-8100 for details.

Fresno County Waterworks District 18
P.O. Box 92
Friant, California 93626-0092
(559) 822-3575 (559) 822-2533

AGENDA

Tuesday, March 29, 2011 – Regular Meeting
6:00 P.M. – Friant Depot Shell

REGULAR MEETING 6:00 PM **Enclosure/Action**

1. CALL TO ORDER. No/No

2. PLEDGE OF ALLEGIANCE. No/Yes

3. ROLL CALL. Mark Sharer, Jim Carlton, Bert Tipton, Debra Hiner and Billy Newman

4. PUBLIC COMMENT: This portion of the meeting is reserved for the public to address the Board of Directors on items of interest to the public that are within the subject matter jurisdiction of our Agency. The public may request items to be placed on the Agenda for the following meeting, or address items not appearing on the current Agenda. No/No
**Attention is called to the fact that the Board is prohibited by law from taking any action on matters discussed that do not appear on the current Agenda and no adverse conclusions should be drawn if the Board does not respond to the public comment at this time.*

THIS PORTION OF THE BOARD MEETING IS FOR COMMENTS AND HEARING OF PROPOSED ANNEXATION AND ACTIONS FOR INCLUSION OF FRIANT RANCH INTO THE DISTRICT AND REVISION OF THE DISTRICT'S SPHERE OF INFLUENCE AND THE ANNEXATION OF TERRITORY TO INCLUDE FRIANT RANCH DEVELOPMENT.

5. CORRESPONDENCE – Fax sent to Mountain Press 3/11/2011. Letter from Meyers / Nave Attorneys

6. ADDITIONS TO THE AGENDA: Items identified after preparation of the Agenda for which there is a need to taken immediate action. Two-Thirds vote required for consideration. (Government Code {54954.2(g)(2).

7. APPROVAL OF MINUTES. February 22, 2011 Yes/Yes

8. APPROVAL OF BILLS. Yes/Yes

9. MANAGERIAL REPORT Yes/No

10. OPERATIONS REPORT. No/No

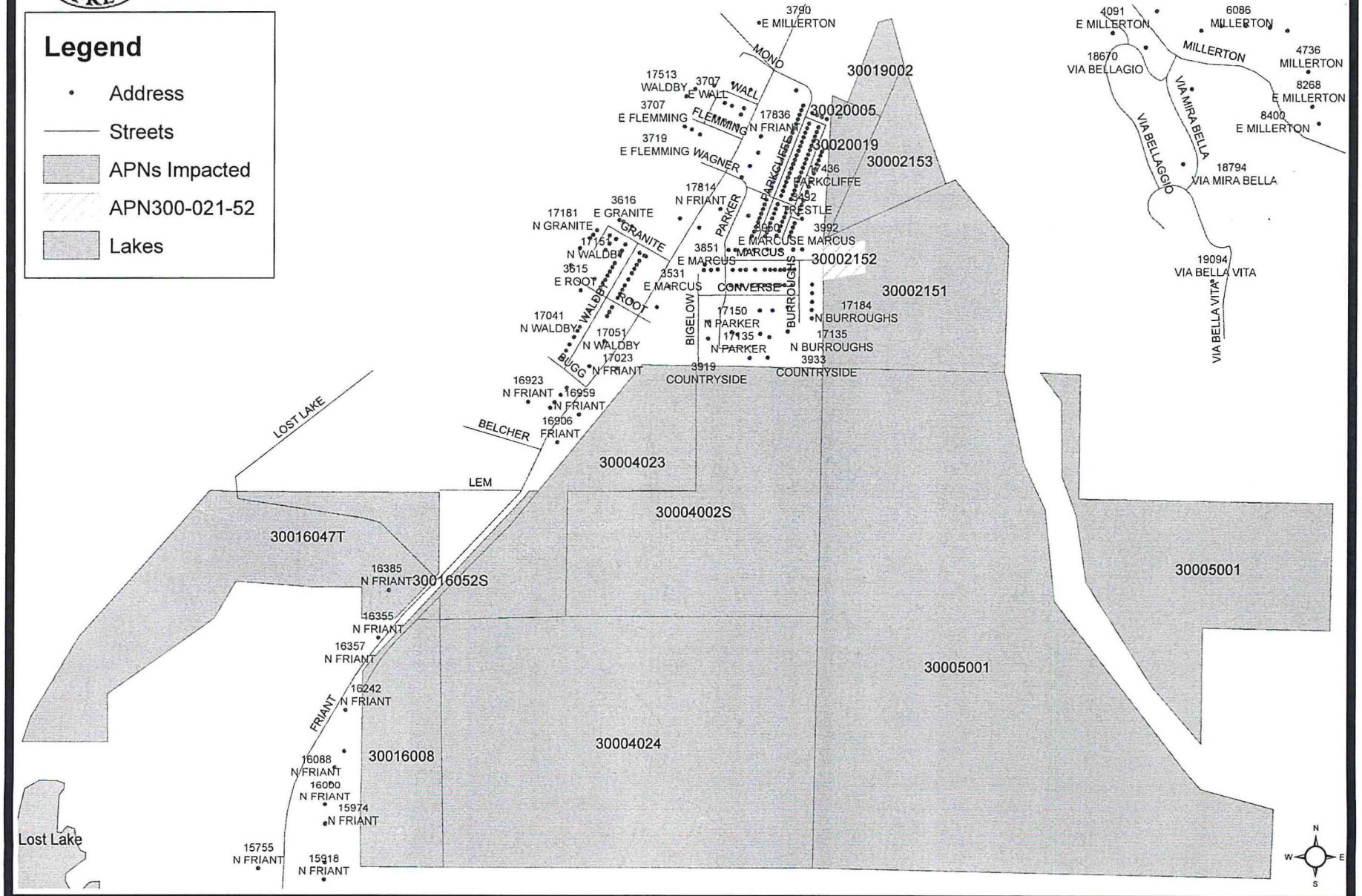
11. RESOLUTION 11-02. Consideration and necessary action on Resolution of Application Requesting Fresno County LAFCo to take proceedings for the Amendment or Revision of the Sphere of Influence of and Annexation of Territory to WWD No 18 and to Provide for New or Different Classes of Services to be Provided within Jurisdictional Boundaries. Yes/Yes

12. RESOLUTION 11-03 Consideration and necessary action on Resolution Approving Option and Long Term Water Transfer Agreement between Lower Tule River Irrigation District and Fresno County Water Works District #18 Yes/Yes

13. ADJOURN. No/Yes

Fresno County Clerk/Registrar of Voters

Friant Ranch Annexation AD-11-1



05/26/2011

ANNEXATION NO. 2011-___
FRIANT RANCH ADDITION TO
FRESNO COUNTY WATERWORKS DISTRICT NO. 18
SPHERE OF INFLUENCE

IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA

BEING PORTIONS OF SECTIONS 7, 8, 17, & 18,
TOWNSHIP 11 SOUTH, RANGE 21 EAST,
MOUNT DIABLO BASE & MERIDIAN

PORTIONS OF APNS:

300-021-51 300-021-53 300-040-02s 300-040-23 300-040-24
300-050-01 300-160-08 300-160-47T 300-160-52s 300-190-02
300-200-05 300-200-06 300-200-19

REVISED: JUNE 9, 2011

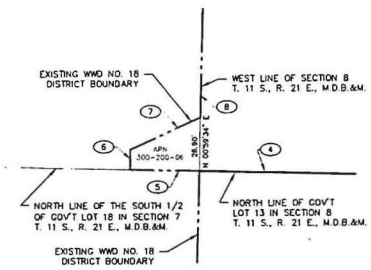
APPROVED 6-17-11

LEGEND

- EXISTING WATERWORKS DISTRICT NO. 18 BOUNDARY
- PROPOSED WATERWORKS DISTRICT NO. 18 BOUNDARY
- EXISTING PROPERTY LINES
- SECTION LINES – NOT DIVISION LINES
- 18 SECTION NUMBER (TYPICAL)

SCALE: 1" = 600'

0 300' 600' 1200'

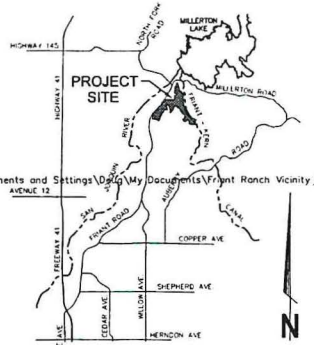


DETAIL A
SCALE: 1" = 30'

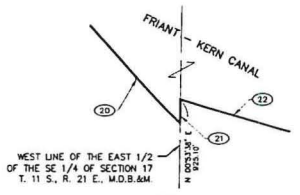
COURSES		
NUMBER	BEARING	LENGTH
1	N. 01°18'37" E.	903.81
2	N. 78°15'54" E.	441.29
3	N. 01°18'37" E.	304.00
4	N. 88°38'26" W.	430.00
5	N. 88°47'28" W.	35.00
6	N. 06°23'22" E.	10.10
7	N. 65°35'31" E.	38.86
8	N. 00°59'34" E.	1522.82
9	S. 82°14'25" E.	178.48
10	N. 18°53'00" E.	886.39
11	N. 77°19'54" E.	128.28
12	S. 16°33'55" E.	1986.39
13	N. 65°39'34" E.	210.27
14	S. 39°29'45" E.	873.50
15	S. 00°55'25" W.	1309.92
16	S. 09°57'23" E.	1167.73
17	S. 53°23'00" E.	478.47
18	S. 06°37'02" E.	741.65
19	S. 31°41'00" E.	1427.50
20	S. 41°49'37" E.	1182.02
21	N. 00°53'38" E.	13.07
22	S. 71°52'22" E.	760.40
23	S. 30°17'37" W.	701.91
24	N. 88°34'54" W.	1062.85
25	N. 60°20'18" W.	199.00
26	N. 27°49'48" W.	100.00
27	N. 76°15'13" W.	207.00
28	N. 26°42'50" E.	183.00
29	N. 06°00'18" E.	74.00
30	N. 36°51'43" E.	98.65
31	R=740.00, Δ=16°29'30"	213.00
32	N. 36°00'13" W.	333.31
33	N. 53°59'47" W.	6.00
34	N. 41°34'20" W.	50.00
35	S. 86°26'46" W.	70.00

COURSES		
NUMBER	BEARING	LENGTH
36	S. 36°00'03" W.	227.00
37	S. 48°44'43" W.	220.00
38	S. 59°44'30" W.	180.00
39	N. 76°10'05" W.	367.00
40	N. 34°32'16" W.	315.00
41	N. 24°16'00" W.	186.00
42	N. 58°27'34" E.	567.00
43	N. 33°30'00" W.	189.00
44	N. 27°28'50" E.	98.00
45	N. 46°38'55" E.	227.00
46	N. 02°21'42" W.	96.00
47	N. 26°10'03" W.	235.00
48	N. 54°08'22" W.	180.00
49	N. 59°26'41" W.	245.00
50	N. 40°22'28" W.	285.00
51	N. 15°58'18" W.	139.00
52	N. 40°33'15" W.	187.00
53	N. 50°39'24" W.	173.00
54	N. 13°01'36" E.	296.00
55	N. 14°56'52" W.	206.00
56	N. 48°54'02" W.	318.00
57	S. 88°52'53" W.	180.00
58	N. 06°14'30" W.	176.00
59	N. 27°57'53" W.	260.00
60	S. 78°46'22" W.	339.00
61	N. 21°39'07" W.	52.00
62	S. 83°02'53" W.	165.00
63	S. 36°08'53" W.	45.35
64	S. 36°19'15" W.	96.65
65	S. 15°57'48" W.	150.00
66	S. 10°12'47" W.	358.00
67	S. 52°58'56" W.	221.00
68	S. 30°13'00" W.	355.00
69	S. 33°41'32" W.	240.00
70	S. 66°19'13" W.	270.00
71	N. 37°31'16" W.	84.00
72	N. 34°43'48" E.	165.00
73	N. 00°31'20" W.	198.00
74	N. 17°26'43" W.	340.00
75	N. 24°11'19" W.	305.00
76	N. 14°39'46" W.	530.00
77	N. 36°54'03" W.	110.00
78	N. 73°47'22" W.	199.00
79	N. 34°57'08" W.	112.00
80	N. 18°43'56" W.	69.00
81	S. 74°36'28" W.	165.00
82	S. 29°09'07" E.	93.00
83	S. 06°28'30" W.	132.00
84	S. 13°06'07" E.	180.00
85	S. 00°37'10" E.	202.00
86	S. 16°37'15" E.	540.00
87	S. 51°22'00" W.	170.00
88	N. 38°17'25" W.	185.00
89	N. 78°58'07" W.	198.00
90	S. 66°52'27" W.	171.00
91	S. 23°01'47" W.	184.00
92	S. 55°28'.5" W.	150.00
93	S. 25°11'03" W.	142.00
94	S. 00°12'02" W.	200.00
95	S. 70°29'29" W.	195.00
96	S. 60°53'23" W.	128.00
97	S. 27°27'45" W.	176.00
98	S. 10°03'20" E.	146.00
99	S. 40°16'50" W.	108.00
100	S. 11°59'56" W.	170.00
101	S. 49°53'47" W.	254.00
102	S. 13°36'25" W.	173.00
103	S. 29°33'45" W.	350.00
104	S. 01°09'06" E.	328.00
105	S. 44°56'34" W.	170.00
106	N. 67°54'41" W.	850.00
107	N. 23°09'06" W.	263.00
108	N. 89°57'36" W.	415.00
109	N. 00°02'22" E.	1144.66
110	R=1053.00, Δ=07°07'05"	130.82
111	N. 44°18'49" E.	2077.88
112	R=942.00, Δ=9°53'12"	162.41
113	N. 89°41'27" E.	218.85
114	R=5772.65, Δ=0°13'26"	22.58
115	N. 39°32'19" E.	1328.94
116	N. 35°13'44" E.	120.75
117	R=2914.93, Δ=4°42'43"	239.72
118	N. 89°56'00" E.	583.07
119	N. 83°51'12" E.	1338.02

RADIAL BEARINGS	
NUMBER	BEARING
R1	S. 37°30'17" W.
R2	N. 48°08'16" W.
R3	S. 70°14'15" E.
R4	S. 71°41'16" W.



VICINITY MAP
NOT TO SCALE



DETAIL B
SCALE: 1" = 30'

Disclaimer:
"For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described."

LAFCO RESOLUTION NO. _____

DATE: _____

EST. 1968
PROVOST & PRITCHARD
CONSULTING GROUP
An Employee Owned Company
286 WEST CROMWELL AVENUE
FRESNO, CALIFORNIA 93711-6162
559/449-2700 FAX 559/449-2715
www.ppeng.com

JOB NO. 1328401
DWG NO. EXH FM

NEAL E. COSTANZO
MICHAEL G. SLATER

LAW OFFICES OF
COSTANZO & ASSOCIATES
A PROFESSIONAL CORPORATION
575 E. LOCUST AVENUE
SUITE 115
FRESNO, CALIFORNIA 93720-2928
(559) 261-0163

FAX (559) 261-0706

OUR FILE NO. 02880-001

May 18, 2011

HAND DELIVERED

Jeff Witte, Executive Officer
Fresno County Local Agency
Formation Commission (LAFCo)
2115 Kern Street, Suite 300
Fresno, CA 93721

Re: Friant Ranch Annexation and Waterworks District #18
Sphere of Influence Revision

Dear Mr. Witte:

This is in response to the Notice of Incomplete Applications we received concerning the referenced applications by the Fresno County Waterworks District #18 (Friant) which implements the Fresno County Board of Supervisors' approval of the Friant Community Plan Update and Friant Ranch Specific Plan Project. The documents requested to be included with the applications previously submitted are voluminous and/or oversized; but provided with this letter in as organized a fashion as is possible.

First, in a separate envelope marked "District Applications and Legal Indemnity Agreement" are an original and one copy each of (a) District Annexation Application for Urban Service District; (b) Revisions to Sphere of Influence Application in Rural Service Area; (c) District Application for New Services or Powers; (d) "Legal Indemnity" Agreement; and (e) Fresno Local Agency Formation Commission Landowner Consent Form executed by the affected landowners.

Second, enclosed in a separate envelope marked "Draft Environmental Impact Report" is one hard copy of the complete draft Environmental Impact Report for Friant Community Plan Update and Friant Ranch Specific Plan.

Third, included in a separate envelope marked "Final Environmental Impact Report" is a copy of the Final Environmental Impact Report and Final Environmental Impact Report Appendices for Friant Ranch Community Plan Update and Friant Ranch Specific Plan, together with a disc containing copies of the full draft and Final Environmental Impact Reports.

Fourth, enclosed in a separate envelope marked "Board of Supervisors Resolutions" is a copy, with an original certification by the Clerk of the Board of Supervisors, of (a) Resolution No. 11-031, a Resolution of the Board of Supervisors of the County of Fresno Certifying the Final Environmental Impact Report for the Friant Community Plan Update,

Friant Ranch Specific Plan, Amendment to Text Application No. 363 and Amendment Application No. 3751 (Sch. 2007101016); Adoption of CEQA Findings; Adoption of Mitigation Measures; Mitigation Monitoring Program and the Statement of Overriding Considerations and Approval of the Friant Ranch Community Plan Update and Friant Ranch Specific Plan (First Amendment cycle 2011); (b) Board of Supervisors' Ordinance No. 450-371, and Ordinance No. T-085-365, ordinances that change boundaries of certain zones and zoning districts of property affected and amending the County's zoning ordinance regarding the Friant Ranch zoning regulations, containing specific zoning districts for the Friant Ranch Specific Plan area; and (c) file conformed copies of the Notice of Determination filed February 3, 2011, and environmental filing fee cash receipt.

Fifth, in a separate envelope marked "Maps," we have included 10 colored copies of each and all of the maps that are attached to the original Sphere of Influence Expansion and Annexation Applications. Because the Notice of Incomplete Applications is vague as to what it is requesting in terms of "Supplemental Maps," we have included an additional 10 copies each of colored maps of the location, vicinity, water, sewer and zoning for this project. Included in the same envelope is a black and white reproducable map of the sphere of influence. I have included with the Maps a letter of transmittal from the engineer who prepared them that identifies each Map specifically.

Finally, the requested map and legal description acceptable for filing with the County Assessor and State Board of Equalization, which is an oversized document, accompanies this letter.

A copy of your Notice of Incomplete Applications dated April 21, 2011, it attached to this letter to assist you in verifying that each item requested is provided with this letter.

If you have any questions concerning any of the foregoing, please do not hesitate to contact either me or the General Manager of Fresno County Waterworks District #18, Dan Pearce. We look forward to your determination that the applications submitted are now complete.

Very truly yours,

COSTANZO & ASSOCIATES

Neal E. Costanzo

NEC/tm
Enc.
cc: Dan Pearce
Dennis Bacopulos
David McGlasson

NOTICE OF INCOMPLETE APPLICATIONS

DATE: April 21, 2011

TO: Dan Pearce, Manager, Waterworks District #18

FROM: Jeff Witte, Executive Officer

SUBJECT: "Friant Ranch Annexation" and Waterworks District #18 "Sphere of Influence Revision"

Please be informed that the Fresno Local Agency Formation Commission (LAFCo) received your application materials for the Proposal listed above on April 19, 011. Following a review of your application materials we find this application to be incomplete. We have provided a list of the items that are needed to complete your applications (see marked items below).

After receiving an application the Executive Officer is allowed 30 days to determine whether the application is complete and acceptable for filing or whether the application is incomplete. A "complete" application is one that has been submitted in the form prescribed by the Commission and containing all of the information and data required pursuant to State law.

When an application is accepted for filing, the Executive Officer issues a Certificate of Filing to the applicant. From the date of issuance of a Certificate of Filing an application shall be deemed filed. If an application is determined not to be complete, the Executive Officer is required to transmit that determination to the applicant specifying those parts of the application which are incomplete and the manner in which they can be made complete.

Following the issuance of the Certificate of Filing, the Executive Officer will proceed to set the Proposal for hearing and give published notice. The hearing must take place within 90 days after issuance of the Certificate of Filing. Gov. Code sections 56652, 56653, 56654, 56700 *et seq.*

☑ ☐ Environmental initial study and/or environmental documents were not included. **Documents should include one hard copy of the Draft and Final EIR and one copy on a CD, a Fresno County Board of Supervisor's resolution with an original clerk certification, certifying the EIR, and a copy of the Notice of Determination filed with the County Clerk's office.**

☑ ☐ Zoning Ordinance. **A copy of the Ordinance prezoning the area with an original Clerk Certification.**

☐ ☐ Map and Legal Description. **A map and legal description acceptable for filing with the County Assessor and State Board of Equalization was not attached. A black and white reproducible map of the sphere of influence revision must also be included.**

☑ ☐ Property owner consent forms were not included or are not complete. **Please obtain signatures from the property owners consenting to the annexation on the attached form.**

☑ ☐ Required supplemental maps not submitted or are not sufficient. Please either submit 10 colored copies of the Location, Vicinity, Water, Sewer, and Zoning maps or one black and white, reproducible copy of each.

☑ ☐ Applications. **The annexation and sphere of influence revision applications submitted were not signed. You will also need to submit an application to activate the latent powers of the District (see attached application).**

☑ ☐ Indemnification Agreement. **LAFCo now requires all applicants to sign an indemnification agreement (Please see attached).**

■ Comments:

You have indicated that the affected territory is uninhabited (under 12 registered voters). How this proposal is legally noticed and the statutes regulating Conducting Authority Proceedings (protests) may change should the Elections Division determine the territory to be inhabited.

Your application materials will be returned if we do not receive the necessary items listed above to complete your application in 30 days. The items needed to complete your application may change depending on comments from affected agencies and responses to requests for information from County departments, responsible and interested agencies. Regardless of the date of submission, this proposal will not be scheduled for public hearing until the Executive Officer issues a Certificate of Filing. In order to have your request considered by the Commission, your application must be determined to be complete before the date necessary for submission of the legal notice to the publisher. You will be scheduled for the next LAFCo hearing available following the issuance of a Certificate of Filing and required legal noticing.

Thank you.

JW:cf

Attachment

Cc: Neal Costanzo

DISTRICT ANNEXATION APPLICATION
For Urban Service District

CHANGE OF ORGANIZATION OR REORGANIZATION
CORTESE-KNOX LOCAL GOVERNMENT REORGANIZATION
(Government Code Sec. 56000, et seq.)

Proposals Initiated by Resolution or Petition

FRESNO LOCAL AGENCY FORMATION COMMISSION
2115 KERN STREET, SUITE 310
Fresno, CA 93721 PHONE: (559) 495-0604

Jeff Witte, Executive Officer
Candie Fleming, Commission Clerk

OFFICE USE ONLY:

LAFCo File No.

AD-11-1

Date Received



Name of Proposal Annexation to Include Friant Ranch Development Area

Changes of Organization listed in Resolution or Petition Amendment or revision of Sphere of Influence, annexation of territory to include above project area and to provide new or different class of services.

Signature of Chief Petitioner or
Representative of Initiating Agency

April 14, 2011
Date

Name Dan Pearce Title General Manager

Address P.O. Box 92, Friant, CA 93626

Phone (559) 822-3575 Fax (559) 822-3577 Cell

Email Address danpearce@waterworksdist18.com

This application and attached documents are complete and are in all respects true and correct to the best of my knowledge.

List the name and address of officers or persons, not to exceed three in number, who are to receive the notice of hearing and the Executive officer's Report.

Name	Address, Zip Code, Phone Number, and Email Address
Dan Pearce	P.O. Box 92, 93626, (559) 822-3575, danpearce@waterworksdist18.com
Neal E. Costanzo	575 E. Locust Ave., Ste. 115, 93720, (559)261-0163, ncostanzo@costanzolaw.com

1. List of Affected Landowners and Financial Interests/Political Reform Act Compliance

Please provide the names of all landowners, lessees, any parties with an option to purchase or lease the property, or any other parties having any ownership or financial interest in the property. If the interest is a corporation, LLC, or partnership entity, please list the names of all individuals or entities who are shareholders, members, or partners in the corporation, LLC or partnership. If the corporation has more than 50 fifty shareholders, please provide the names of those individuals or entities owning more than 25% of the corporation's shares. If the entity is a trust or non-profit organization, list any directors or trustees, trustors, or beneficiaries. Please use additional pages if necessary.

See Attachment 1

If an applicant for or participant of any proceeding has made a campaign contribution of more than $250 to or for any of the Commission members, state law provides for disqualification of Commissioner voting, or even prohibition of such gifts. These restrictions also apply to agents of applicants or participants. Please consult with Commission staff as to the requirements of the Political Reform Act (government Code Section 84308).

2. Reasons for Proposal

A. State the reasons for this change, and why the change is proposed at this time.
To provide water and wastewater service for Friant Ranch Development Area approved by County of Fresno.

B. Describe in detail any proposed development:

Development location and acreage 460 acres E. of Friant Rd. and W. of Kern/Friant Canal

Types of uses and number of units 2700 connections residential, commercial and industrial

Project file numbers and status

Other details: See municipal services review and plan accompanying application.

If already developed, describe in detail any added service and greater frequency or range of services to be provided to residents of this area.

What is the reason for the proposal boundaries? Describe any plan to annex any remaining substantially surrounded are created.
To provide for water and wastewater services for Friant Ranch Specific Plan Area.

3. Information on Proposal Area and Vicinity

A. Current Acreage 520 Current No. of Registered Voters

Current Population Est. 500 Current County Zoning Residential/Commercial

Proposed Zoning Residential/Commercial

B. List the uses of land in the affected area and give acreage for each.
460 acres, open space and grazing land

C. Is any of the affected territory in an agricultural preserve or under Land Conservation Contract?
No.

D. Does the proposed change of organization conform to the County General and Specific Plans (explain if not conforming)?
Yes.

What is the County plan designation?
Residential/Commercial

4. Information on Services

A. List below the names of agencies or companies now providing services to those proposed by district annexation. Include estimated date new service will begin (use "UA", if upon annexation, "UD" if upon development).

	Existing	Proposed Change	Date
Domestic Water		Additional 2700 connections	UD
Sewer Collection		Same	UD
Solid Waste Collection			
Street Lighting			
Parks and Recreation			
Fire Protection			
(station distance)			
Paramedic			
(station distance)			
Police			
Storm Drainage			
Elementary School			
High School			

B. Comment on the existing district or other public service facilities or improvements which will serve the affected territory after annexation (i.e. water or sewer lines or facilities, fire stations, school facilities). Are any of these services or facilities below standards, near or beyond their capacity to adequately serve the area?
Providing service to project area will require expansion of water treatment plant, installation of water lines, construction of wastewater treatment plant and installation of sewer lines.

Are there any notices or orders from state or federal agencies related to these services or facilities and their standards that would affect service?
No.

If yes, explain how these improvements/facilities will be upgraded, when and how financed, or how any deficiencies are being met.

5. Information on Costs and Revenue

A. Is there any outstanding general bonded indebtedness for any of the agencies whose boundaries are changed by this proposal?
No.

B. If so, give information listed below:

Name of Agency	Bond Tax Rate for Affected Territory	Date of Maturity	General Purpose of Bond

C. Is the affected territory to be subject to all of the above general bonded indebtedness upon annexation? _____

D. If any costs of services to be or already being received by residents within the affected territory will change as a result of this proposal, give breakdown of change for a typical residential landowner or resident in the affected territory for comparison purposes.
Existing and new residences and commercial development are to receive wastewater collection and treatment services. Charges not yet set.

E. If any resident or landowner in the affected area will be required to connect to sewer or water lines as a result of annexation or construct any other improvements (other than as a requirement for a proposed development), list requirements, when required, and any other special circumstances related. (A letter to residents and landowners should also indicate these requirements.)
Upon development, residents and landowners in the existing and annexed area will be required to connect to sewer lines as a result.

6. Information on Processing Change of Organization or Reorganization

A. Property Tax Exchange (Revenue & Tax Code 99 & 99.1) Check either:

☐ The Master Tax Agreement should apply to the change..

☒ Other agreement for change is to be negotiated (Explain other agreement)
District is a County Waterworks which will negotiate any revenue distribution changes with the County.

B. Compliance with California Environmental Quality Act. Check either:

☐ Project is Exempt and a Notice of Exemption, prepared in consultation with LAFCo, is included.

☐ An initial study is complete and a Negative Declaration prepared for the annexation in consultation with LAFCo and other affected agencies and is included.

☒ An EIR has been prepared for the annexation project and 10 copies are included.

C. Initiation of Application. A clear and reproducible legal description and map meeting Commission standards must be included, and a copy also attached to the resolution or petition. Check either:

☒ A certified resolution of application is included.

☐ A petition of landowners or registered voters is included.

D. Landowner Consent or Notice. Check either:

☒ 1. Signed LAFCo property owner consent forms for all landowners are included as shown on Assessor's roll.

☐ 2. Letter of Notification to Landowner and Residents (if no consent of all landowners).

a. All property owners and residents must be notified of the change and how to receive notice of LAFCo hearing.

b. For inhabited proposals, a City response to a neighborhood meeting, held for the annexation listing the issues and the City response.

E. District Service Plan. Check either:

☒ A Service Plan for the change is included.

☐ A Master Service Plan is filed with LAFCo and is current (updated in 1997 or later).

F. Waiver of Conducting Authority proceeding.

☒ Check if all landowners have consented in writing and there are less than twelve registered voters, and if all annexing agencies have consented in writing to waive further Conducting Authority proceeding. Include State Board of Equalization filing information and fees.

7. Supplementary Maps

A map(s) showing land use, water and sewer service lines, and City and County zoning for the affected area and vicinity.

8. Application Fees

A fee must accompany the application in accordance with the LAFCo fee schedule.

ATTACHMENT 1 TO DISTRICT ANNEXATION APPLICATION

The property to be annexed is owned by Friant Ranch LP, a limited partnership and Friant Ranch 2 LP, a limited partnership. The partners of Friant Ranch LP are as follows:

Kristann Silkwood Mattes
Franklin E Bigelow
SWD Investments- Friant Ranch, Inc.
E.L. Silkwood
James F Wagner and E.L. Silkwood as Trustees of the Jesse E. Bigelow Testamentary Trust, Trust B, for the benefit of E.L. Silkwood
James F. Wagner Trustee of the Lee R. Silkwood 2001 Trust Dated February 20, 2001
Franklin E Bigelow as Trustee of the Franklin E Bigleow Children's GST Exemption Trust for the benefit of Franklin E. Bigelow, Jr.
Franklin E Bigelow as Trustee of the Franklin E Bigleow Children's GST Exemption Trust for the benefit of Kasey Bigelow
Franklin E Bigelow as Trustee of the Franklin E Bigleow Children's GST Exemption Trust for the benefit of Matthew J Bigelow
Franklin E Bigelow as Trustee of the Mary E. Costales Children's GST Exemption Trust for the benefit of Julie Ann Tipton
Franklin E Bigelow as Trustee of the Mary E. Costales Children's GST Exemption Trust for the benefit of James Ray Costales, Jr.
Franklin E Bigelow as Trustee of the Mary E. Costales Children's GST Exemption Trust for the benefit of Jamie Marie Costales

The partners of Friant Ranch 2 LP are named above and include Jamie Marie Costales.

Fresno Local Agency Formation Commission
Landowner Consent Form

Name of Proposal: Annexation to include Friant Ranch Development Area and activation of wastewater service powe

Location of Proposal: Immediately adjacent to existing southern service boundary of WWD 18

Annex To: Fresno County Waterworks District 18

Detach From: _____

Each of the undersigned represents that they are a Landowner residing within the property described opposite their name and located within the territory described in the attached legal description, and hereby consent to the change of organization or reorganization as described above.

Name: Table Mountain Rancheria **Address:** PO Box 410 Friant CA 93626 **APN:** 300-021-52T

Signature: _____ **Date:** 08/02/2011

Name: _____ **Address:** _____ **APN:** _____

Signature: _____ **Date:** _____

Name: _____ **Address:** _____ **APN:** _____

Signature: _____ **Date:** _____

Name: _____ **Address:** _____ **APN:** _____

Signature: _____ **Date:** _____

Name: _____ **Address:** _____ **APN:** _____

Signature: _____ **Date:** _____

The legal description of the territory proposed for change of organization or reorganization must be attached at the time consent is signed. Each individual listed as a landowner must sign for the subject parcel(s). A current Assessor Parcel Number (APN) that may be obtained from your tax statement is sufficient to describe the property location.

Note: If you are an applicant for, or a participant in any proceedings on the agenda and have made a campaign contribution of $250 or more to or for any of the Commission members, state law provides for disqualification of Commissioner voting, or even prohibition of such gifts. These restrictions also apply to agents of applications or participants. Please consult with the Commission staff as to the requirements of the Political Reform Act (Government Code Section 84308).

Reference: Section 56837 Govt. Code.

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Signature: [signature] **Date:** 08/02/2011

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Reference: Section 56837 Govt. Code.

Fresno County Waterworks District 18
P.O. Box 92
Friant, California 93626-0092
(559) 822-3575 (559) 822-2533

RESOLUTION NO. 11-02

A RESOLUTION OF APPLICATION BY FRESNO COUNTY WATERWORKS DISTRICT #18 REQUESTING THE LOCAL AGENCY FORMATION COMMISSION TO TAKE PROCEEDINGS FOR THE AMENDMENT OR REVISION OF THE DISTRICT'S SPHERE OF INFLUENCE AND THE ANNEXATION OF TERRITORY TO INCLUDE THE PROJECT AREA FOR THE FRIANT RANCH DEVELOPMENT AND TO PROVIDE NEW OR DIFFERENT CLASS OF SERVICES WITHIN JURISDICTIONAL BOUNDARIES

WHEREAS, the Fresno County Waterworks District #18 (the "District") desires to initiate specific proceedings for reorganization pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with section 56000 of the California Government Code for a reorganization consisting of an amendment or revision of the District's sphere of influence, annexation and expansion of the District service area to include the project described below and authorizing the District to provide new or different functions or class of services within the sphere of influence and annexed territory, as amended, in accordance with sections 56425, 56427, 56428 and 56824.12 of the Government Code of the State of California; and

WHEREAS, the District is the owner and operator of a water treatment and delivery system within the County of Fresno, State of California, and is engaged in the distribution and sale of domestic water to customers; and

WHEREAS, the District is statutorily authorized to provide water, wastewater, and storm drainage services to persons and properties within its jurisdictional boundaries, but currently only provides water service within most of its jurisdictional boundaries; and

WHEREAS, on February 1, 2011, the Board of Supervisors of the County of Fresno did approve and certify an Environmental Impact Report, a Friant Community Plan Update, expanding the boundary thereof by 942.2 acres, the Friant Ranch Specific Plan, zoning regulations and ordinances as necessary to approve the proposed development by Friant Ranch LLC, a limited liability company ("Friant Ranch"), to develop a master planned residential community consisting of an active adult retirement village of approximately 2,500 units of age

restricted, single family housing and commercial and retail facilities on approximately 942 acres in Fresno County, located immediately adjacent to the current service area boundaries of the District (hereinafter referred to as the "Project"); and

WHEREAS, to implement the Project by Friant Ranch, and to provide for water, wastewater and storm water drainage needs for the Project, the District must expand its sphere of influence to include and annex the property comprising that part of the Project area to be developed which will require (1) acquisition and verification of additional water supply for the Project in accordance with State law, and as regulated and controlled by the United States, Department of the Interior, Bureau of Reclamation; (2) the construction of associated water lines for delivery of water and the expansion of the existing water treatment plant and; (3) the construction of a wastewater treatment plant with associated sewer trunk lines and related infrastructure; and

WHEREAS, to accommodate, provide services for and annex the Project, the District will be required to amend its sphere of influence so as to include the proposed Project area for Friant Ranch and must annex that part of the Project area which will receive water, and waste water services and secure authorization for activation of its latent powers to provide waste water and storm water drainage service .

NOW, THEREFORE, BE IT HEREBY RESOLVED as follows:

1. The District hereby requests, pursuant to Government Code section 56428, that the Local Agency Formation Commission amend or revise the sphere of influence of the District as established by this Commission's Resolution No. MSR-07-15 to include within the sphere of influence the territory, consisting of 520 acres as depicted in Exhibit A, attached hereto and incorporated by this reference. The District further requests pursuant to Government Code §§58525, and 58526 that the territory within the sphere of influence as depicted in Exhibit A be annexed to the District. The said real property is more specifically identified in documents referred to below required to accompany the submission of this application to LAFCo.

2. The territory proposed to be included in the sphere of influence, as amended, and that proposed to be annexed is uninhabited and on this day contains zero registered voters, and all of the real property to be included within the sphere of influence, as amended, is owned by Friant Ranch LP. The present uses of the land in the territory proposed to be included in the sphere of influence, as amended, is as open-space and/or grazing land. The proposed Project, once developed, will require public facilities and services consisting of the supply of domestic water to a total of approximately 2,700 additional connections, expansion of the water treatment system the construction of associated water lines, and the provision of wastewater treatment services by construction of a wastewater treatment plant along with associated sewer trunk lines and related infrastructure.

3. The services, infrastructure and improvements or facilities needed to provide public services to the territory included with the sphere of influence, as amended, are to be financed by the developer, Friant Ranch.

4. The District further requests pursuant to Government Code §§56824.12, 65824.10, and 56824.14 that the Local Agency Formation Committee grant the District authority to provide new and different classes of services within the jurisdictional boundaries included within the sphere of influence, as amended, to include wastewater and storm drainage services. These are services the District is empowered by statute to provide, but which it does not currently provide within its existing sphere of influence or the sphere of influence, as amended, all as is more fully described in this Commission's Resolution No. MSR-07-15.

5. Pursuant to the provisions of subdivision (c)(1) of section 56824.12, prior to submitting this Resolution and application, the legislative body of the District has conducted a public hearing on the Resolution having provided notice thereof pursuant to applicable law.

6. The General Manager is authorized and directed to submit this Resolution of Application to the Executive Officer of the Local Agency Formation Commission together with a plan for providing services and improvements to existing and future intended uses within the affected territory and completed applications in the form prescribed by Fresno County LAFCO, and all requested maps and information.

7. In connection with its consideration of this Resolution of Application, the Board of Directors has been provided with and has fully considered substantially completed applications in the forms prescribed by Fresno County LAFCo relating to the proposed changes of organization referred to herein, including, but not limited to:

A. A sphere of influence map of the District clearly showing the proposed revision;

B. A land use map showing the boundaries of the agency and proposed area, existing developed areas and areas proposed for development, vacant and agricultural areas;

C. A service map showing the existing agency's boundaries, any existing and proposed water and sewer lines, and existing and proposed public facilities;

D. A map showing prime agricultural lands, agricultural preserves and land conservation contracts related to the proposed revision.

E. A complete agency service plan for providing services and improvements to existing and future intended uses within the affected territory including a list and description of the services to be extended, the level of service to be provided, estimates on when each service can feasibly be extended, and an indication of improvements and upgrading of public facilities, structures, improvements, sewer, water and other facilities within the affected territory which would be necessary to provide the services. A description of how the services and improvements or facilities are to be financed and other pertinent information concerning the plan for providing services to the proposed expanded sphere and territory to be annexed into the District.

8. The District, in connection with its consideration of this Resolution of Application following its review and consideration of the foregoing documents referred to in paragraph 7, above, specifically approves each and all of the foregoing documents identified in paragraph 7 and authorizes the General Manager, as appropriate to include said documents with the applications on forms prescribed by Fresno County LAFCo to be submitted with a certified copy of this Resolution and further authorizes its General Manager to act as its representative concerning this proposal and to execute all required applications, forms, notices and other documents required by LAFCo for the processing of this resolution of application

* * * * * * * * *

PASSED AND ADOPTED by the Board of Directors of Fresno County Waterworks District #18 at their regular meeting thereof held on the 9th day of March 2011, by the following vote:

AYES: 5 BOARD MEMBERS: Sharer, Carlton, Tipton, Hiner, Newman

NOES: 0 BOARD MEMBERS:

ABSENT: 0 BOARD MEMBERS:

ABSTAIN: 0 BOARD MEMBERS:

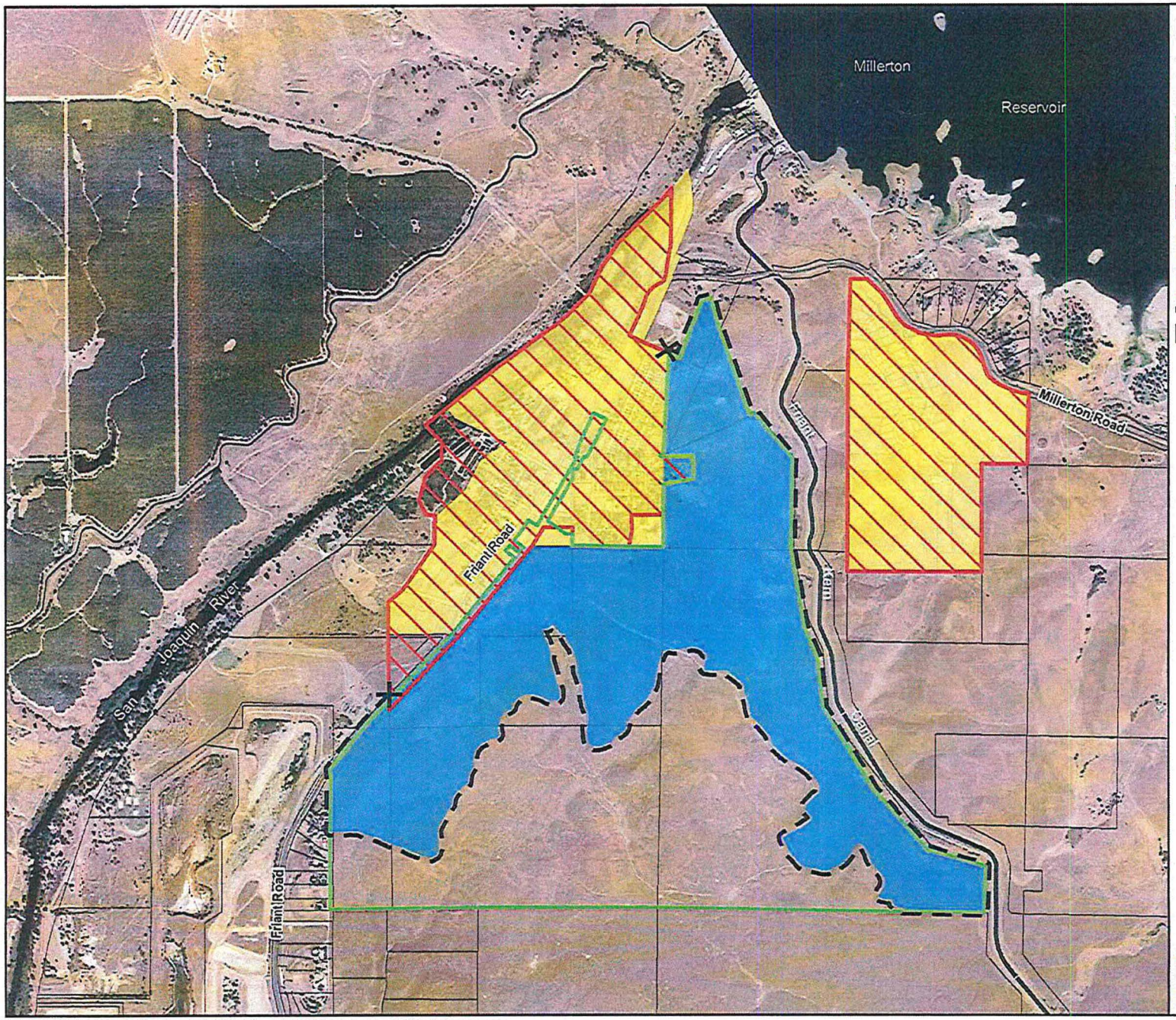
Mark A. Sharer

Mark A. Sharer, President
Board of Directors

ATTEST:

Darlene Storm

Darlene Storm, Clerk to the Board
of Directors



Legend

- Major Road
- Fresno Co. Parcel
- Friant Ranch Specific Plan Boundary

WWD 18

- Existing SOI
- Existing Boundary
- Proposed Boundary
- Proposed SOI

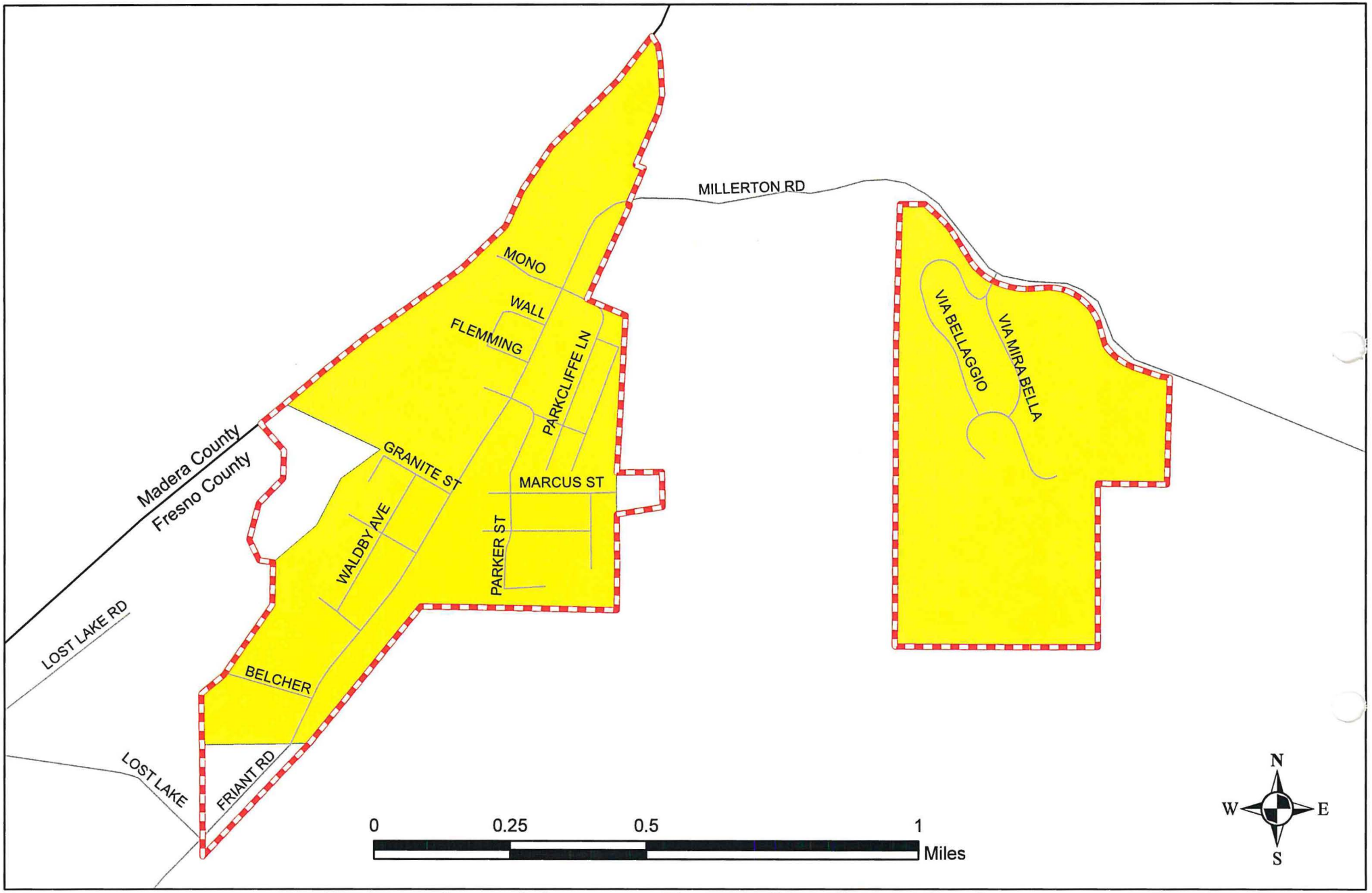
EXHIBIT

Conceptual Annexation Area For County Water Works District No. 18

0 250 500 1,000 1,500 Feet

PROVOST & PRITCHARD CONSULTING GROUP
286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

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Fresno Local Agency Formation Commission
Waterworks District No. 18 - Friant

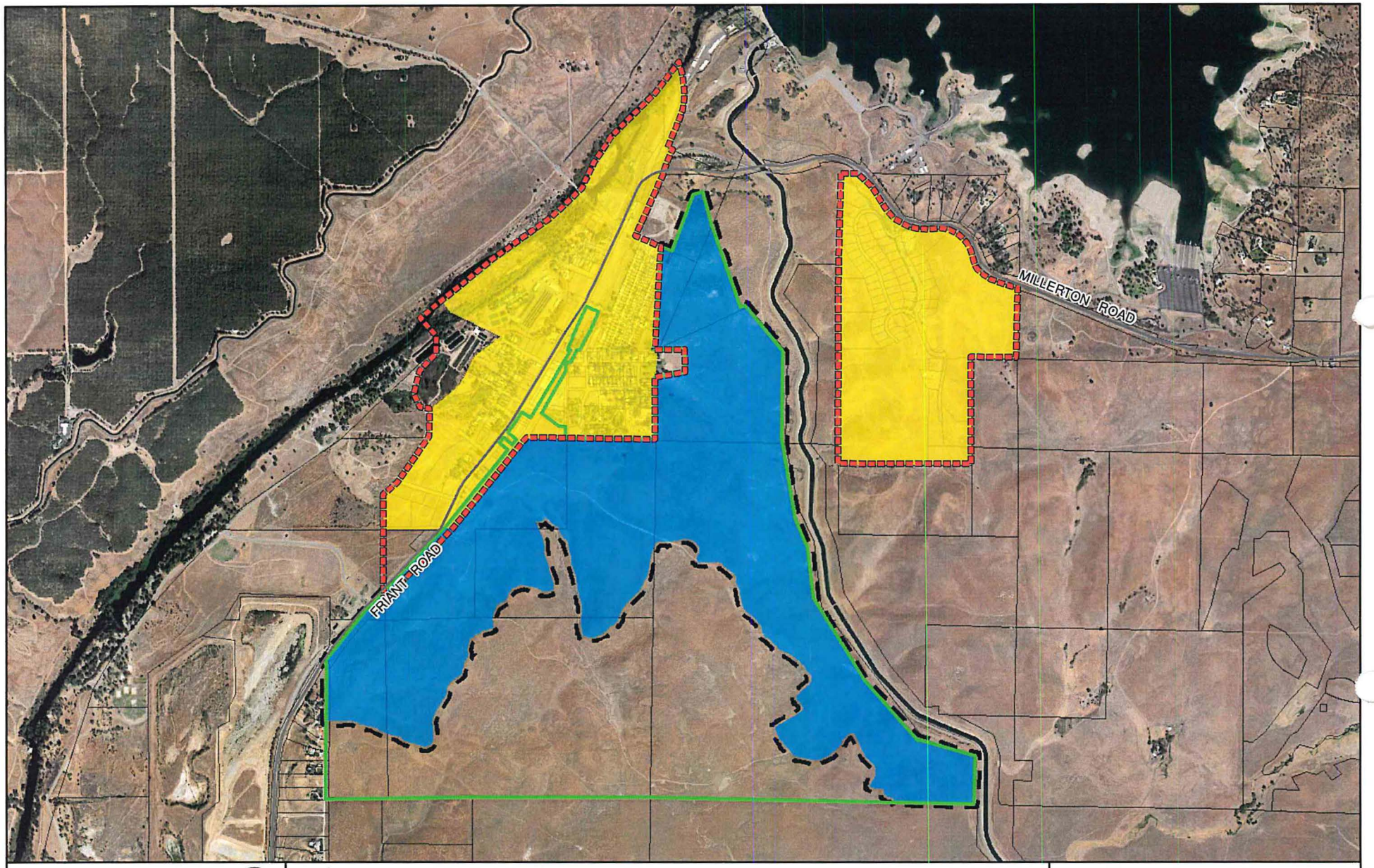
FIGURE 1
(EXISTING)

Legend

- District SOI
- District Area

District Formed: 1954
SOI Adopted: 6/25/1975
SOI Updated: 2/09/2011

Map Date: March 2011
District Area: 444 Acres
Sphere Area: 475 Acres



0 1,000 2,000 Feet

EST. 1868
PROVOST& PRITCHARD
CONSULTING GROUP
An Employee Owned Company
286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

Legend

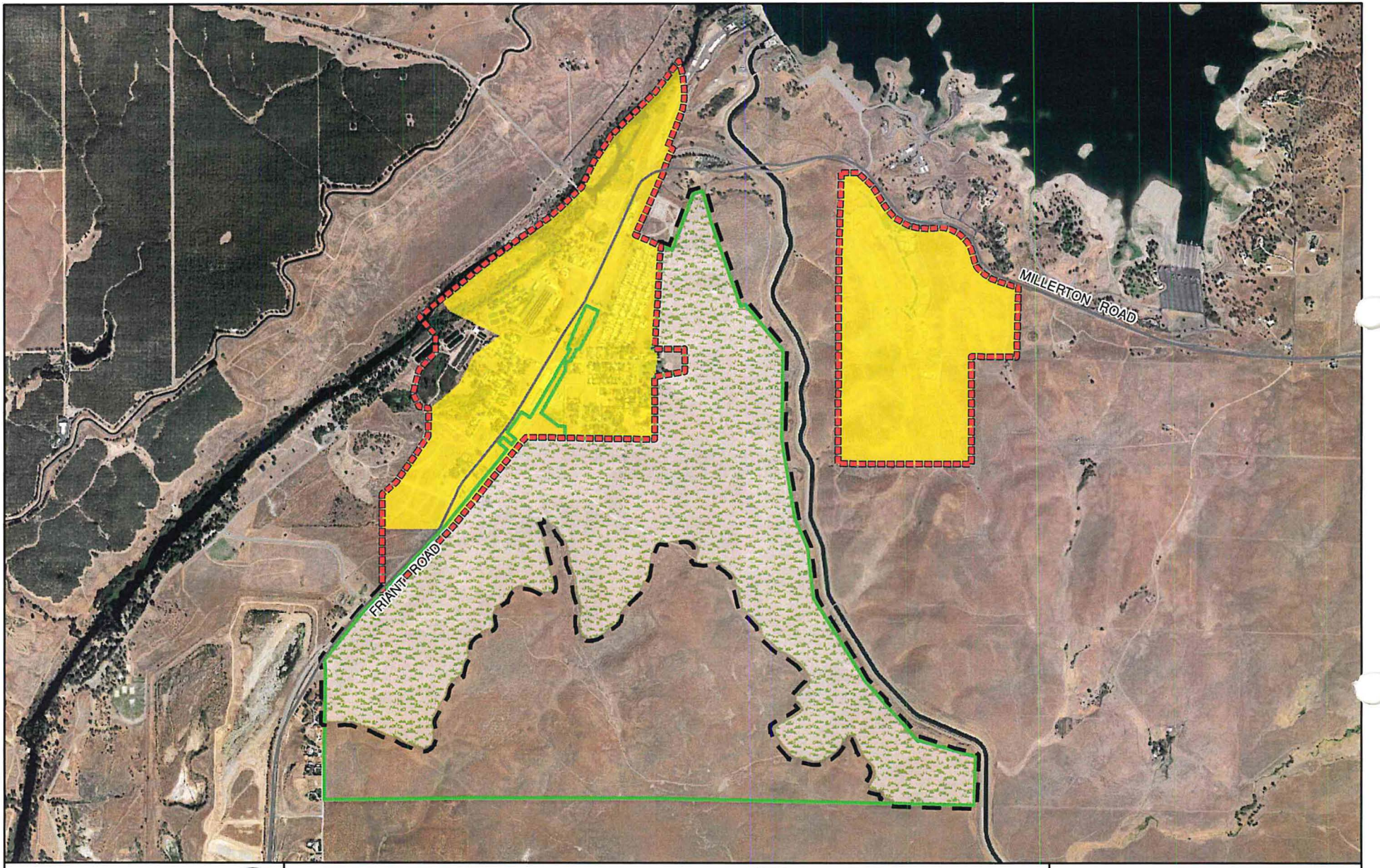
- District SOI
- District Area
- Proposed District Area Expansion
- Friant Ranch Specific Plan Boundary
- Proposed SOI Expansion

Figure 2

Proposed SOI Expansion

Waterworks District No. 18

3/17/2011 \\pineflat\dwg_dgn\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Boundary_Annexation.mxd



0 1,000 2,000 Feet

EST. 1968
PROVOST& PRITCHARD CONSULTING GROUP
An Employee Owned Company
286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

Legend

- District SOI
- District Area
- DWR 2000 Land Use
- Friant Ranch Specific Plan Boundary
- Proposed SOI Expansion

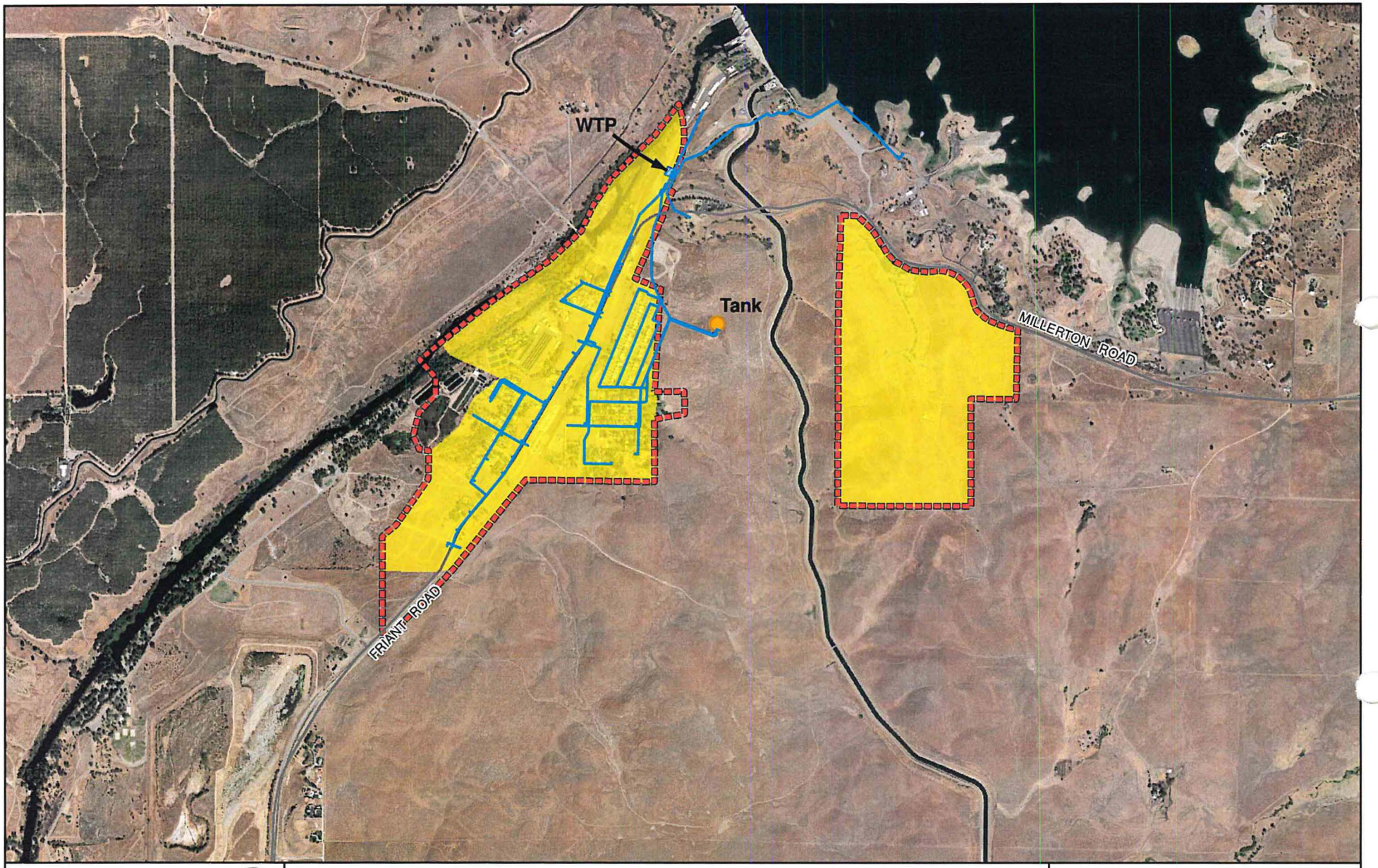
NOTE:
ALL LAND WITHIN THE PROPOSED SOI EXPANSION IS NATIVE VEGETATION ACCORDING TO THE LATEST DWR LAND USE SURVEY (FRESNO COUNTY, 2000)

Figure 3

Existing Land Use Within Proposed SOI Expansion

Waterworks District No. 18

3/17/2011 \\pineflat\dwg_dgn\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Boundary_Annexation_Landuse.mxd



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EST. 1966
PROVOST& PRITCHARD CONSULTING GROUP
An Employee Owned Company
286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

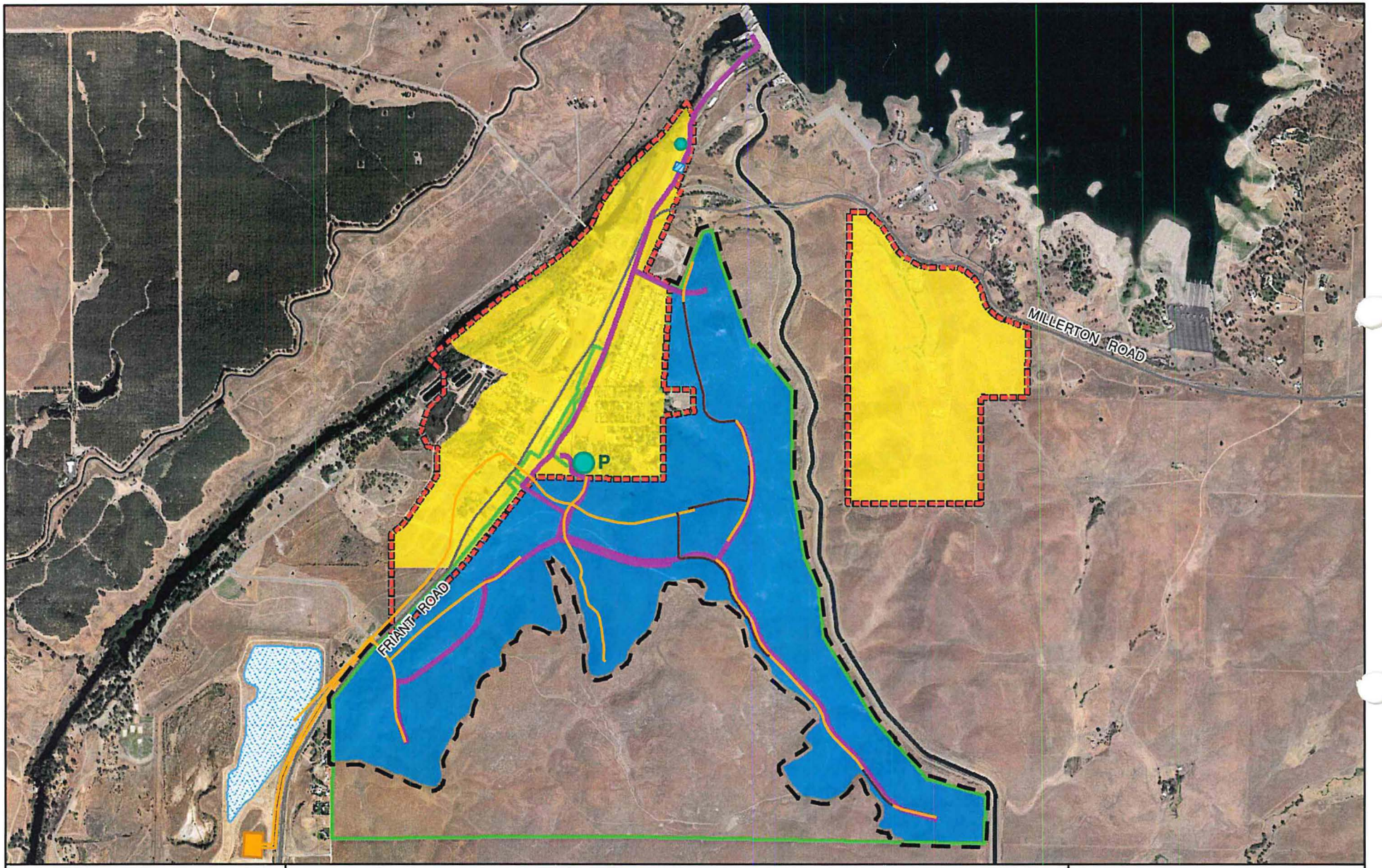
Legend

District SOI
District Area
Water Treatment Plant (WTP)
Existing Water Line
Tank

Figure 4
Proposed SOI Expansion
Existing Utilities

Waterworks District No. 18

3/17/2011 \\pineflat\dwg_dgn\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Utilities_Exist.mxd



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CONSULTING GROUP
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286 W. Cromwell Ave.
Fresno, CA 93711-6162
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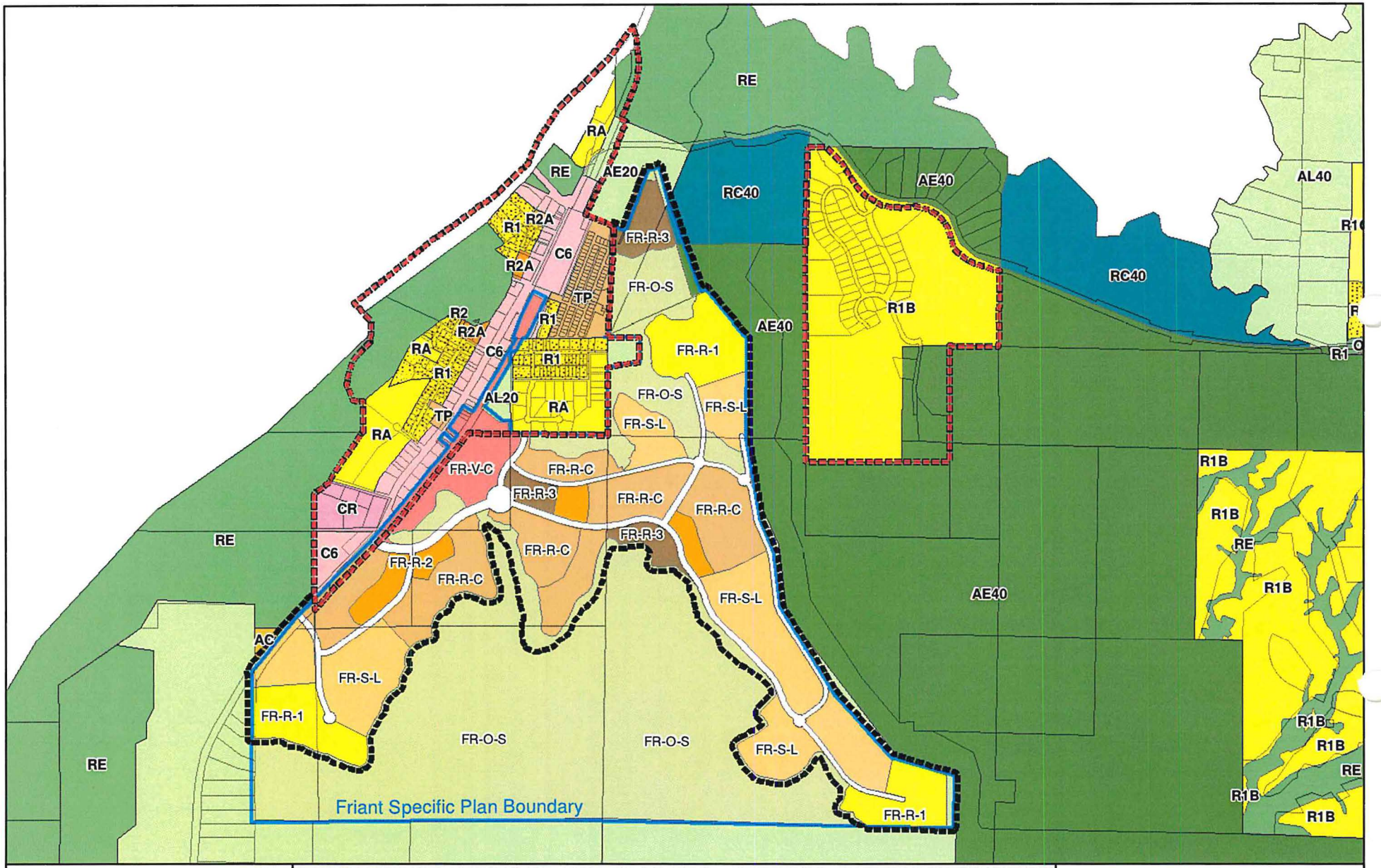
- District SOI
- District Area
- Specific Plan Boundary
- P Proposed Booster Pump
- Proposed SOI Expansion
- Proposed District Area Expansion
- Proposed WWTP
- Proposed Tank
- Proposed Water Line
- Proposed Sewer Force Main
- Proposed Sewer Main
- Water Treatment Plant (WTP)

Figure 5

Proposed SOI Expansion
Future Utilities

Waterworks District No. 18

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0 1,000 2,000 Feet

EST. 1968
PROVOST& PRITCHARD
CONSULTING GROUP
An Employee Owned Company
286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

WWD 18

District SOI

Proposed SOI Expansion

Fresno County Zoning

AC	AL40	R1	R2A	TP
AE20	C6	R1B	RA	
AE40	CR	R1C	RC40	
AL20	O	R2	RE	

Friant Ranch Zoning

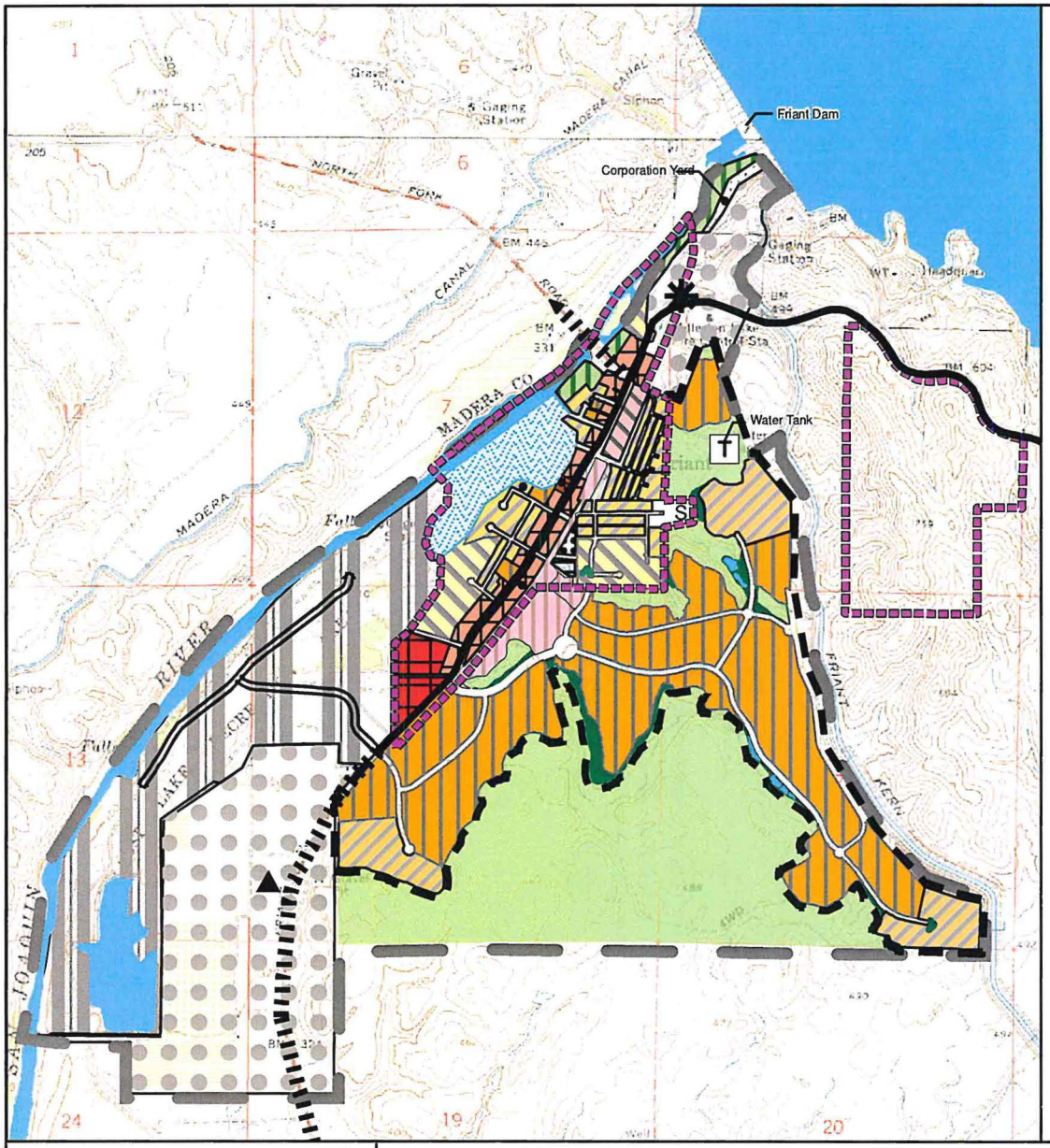
FR-R-1	FR-V-C	
FR-R-2	FR-O-S	
FR-R-3	FR-S-L	
FR-R-C	FR-Roads	

Figure

Proposed SOI Expansion

Waterworks District No. 18

G:\Clients\Friant Ranch - 1326\WWD18 Annexation\GIS\Map\WWD18_zoning.mxd



Legend

Land Use

Agriculture

Residential

- Low Density
- Medium Density
- Medium High

Commercial

- Highway
- Special
- Community
- Indicates change from Low Density Residential to Highway Commercial

Open Space

- Lost Lake Regional Park
- Floodplain
- Undisturbed Open Space
- Revegetated Slopes

Circulation

- Expressway
- Park Drive
- Arterial

Friant Community Plan Boundary

WWD 18

- Existing District SOI
- Proposed SOI Expansion

Public Facilities

- Sewage Treatment Plant
- Fish Hatchery
- Telephone Relay Station
- CY — Corporation Yard
- S — School
- P — Post Office
- Water Treatment Plant (WWD #18)
- T — Potable Water Tank (WWD #18)
- Proposed Sewage Treatment Plant

0 1,500 3,000 Feet

N

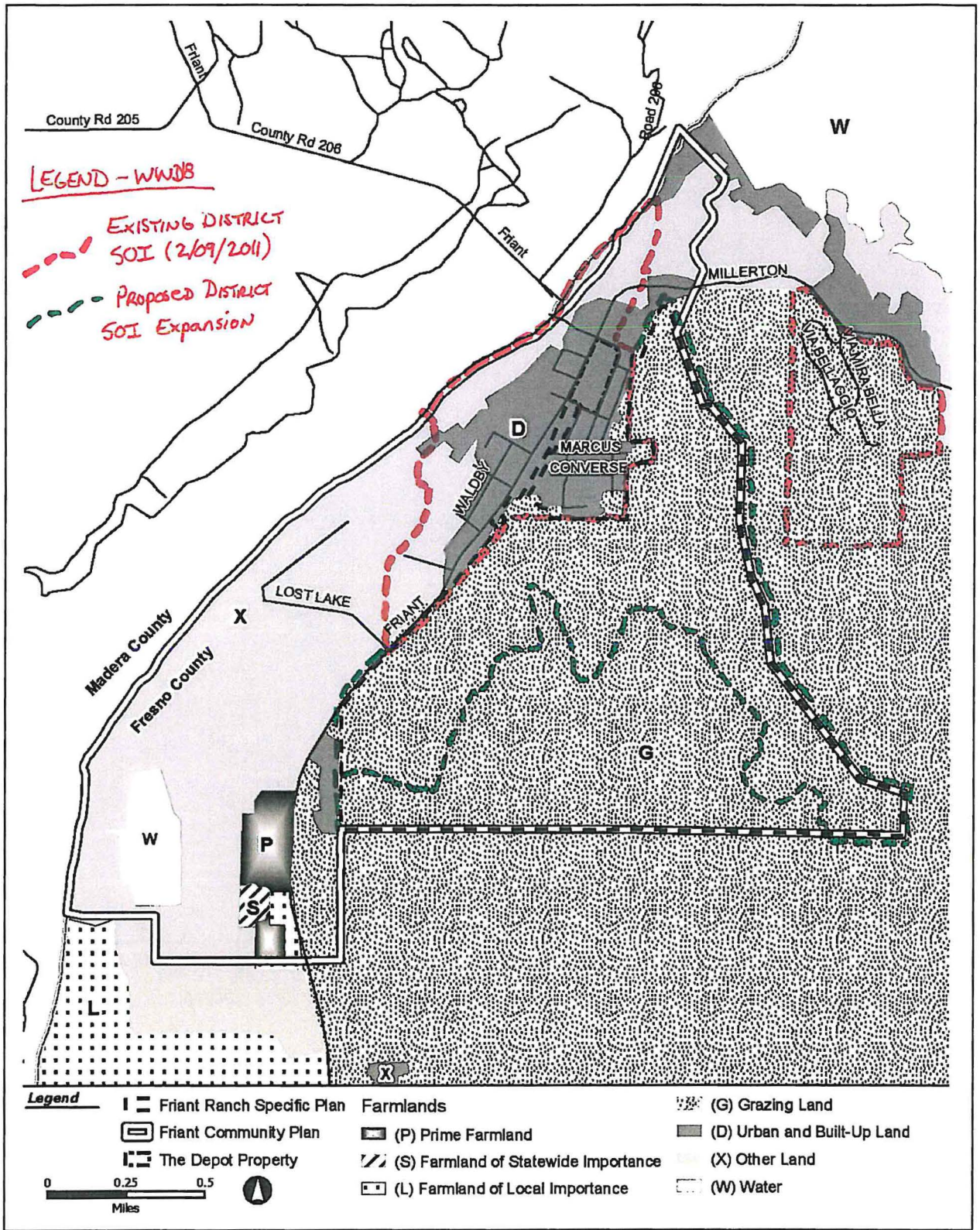
EST. 1968
PROVOST& PRITCHARD CONSULTING GROUP
An Employee Owned Company
286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

Figure

Proposed SOI Expansion
Friant Community Plan
Land Use Map (Feb. 2011)

Waterworks District No. 18

3/17/2011 G:\Clients\Friant Ranch - 1328\WWD18 Annexation\GIS\Map\WWD18_Comm_LUse.mxd



Quad Knopf

IMPORTANT FARMLANDS

Figure 3.2 - 2

Fresno Local Agency Formation Commission
Landowner Consent Form

Name of Proposal: WATER WORKS District 18 Sphere of Influence Annexation

Location of Proposal: FRIANT RANCH L.P.

Annex To: Water Works District 18

Detach From: N/A

Each of the undersigned represents that they are a Landowner residing within the property described opposite their name and located within the territory described in the attached legal description, and hereby consent to the change of organization or reorganization as described above.

Name: FRIANT RANCH L.P. **Address:** VACANT LAND **APN:** See Attached

Signature: Bryan N. Wagner, Secty SWD Investments - Friant Ranch, Inc., G.P. **Date:** 5/16/11

Name: Whispering Springs LLC **Address:** VACANT LAND **APN:** See Attached

Signature: Bryan N. Wagner, Secty SWD Investments, Inc. Owner **Date:** 5/16/11

Name: Depot Development **Address:** VACANT LAND **APN:** See Attached

Signature: Bryan N. Wagner, Secty. **Date:** 5/16/11

Name: _____ **Address:** _____ **APN:** _____

Signature: _____ **Date:** _____

Name: _____ **Address:** _____ **APN:** _____

Signature: _____ **Date:** _____

The legal description of the territory proposed for change of organization or reorganization must be attached at the time consent is signed. Each individual listed as a landowner must sign for the subject parcel(s). A current Assessor Parcel Number (APN) that may be obtained from your tax statement is sufficient to describe the property location.

Note: If you are an applicant for, or a participant in any proceedings on the agenda and have made a campaign contribution of $250 or more to or for any of the Commission members, state law provides for disqualification of Commissioner voting, or even prohibition of such gifts. These restrictions also apply to agents of applications or participants. Please consult with the Commission staff as to the requirements of the Political Reform Act (Government Code Section 84308).

Reference: Section 56837 Govt. Code.

Land Owner Consent Form APN #

Please see the following APN numbers that correspond to the Friant Ranch Annexation Map expanding the WWD No. 18 Sphere of Influence boundary to include the development areas of the Friant Ranch Project.

Friant Ranch L.P..
300-021-51 (all)
300-040-02S (portion)
300-040-23 (portion)
300-040-24 (portion)
300-050-01 (portion)
300-160-08 (portion)

Whispering Springs LLC
300-021-53 (all)
300-190-02 (all)
300-200-19 (all)

Depot Development Inc.
300-160-52S (all)

Friant Ranch L.P.
Depot Development
Whispering Springs LLC
1322 E. Shaw Avenue #340
Fresno, CA 93710-7918
c/o Bryan Wagner

LEGAL INDEMNITY

Should the Fresno Local Agency Formation Commission ("Fresno LAFCo") be named as a party in any litigation (including a "validation" action under CCP 860 *et seq.*) or administrative proceeding in connection with the Applicant's proposal, Applicant agrees to indemnify, hold harmless, and promptly reimburse Fresno LAFCo for:

1) All reasonable expenses and attorney's fees in connection with the defense of Fresno LAFCo; and

2) Any damages, penalties, fines or other costs imposed upon or incurred by Fresno LAFCo, its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application *or* adoption of the environmental document, which accompanies it. The Fresno LAFCo Executive Officer may require a deposit of funds sufficient to cover estimated expenses of the litigation. Applicant agrees that Fresno LAFCo shall have the right to appoint its own counsel to defend it and conduct its own defense in the manner it deems in its best interest, and that such actions shall not relieve or limit Applicant's obligations to indemnify and reimburse defense costs.

Applicant may be required by Fresno LAFCo to execute an additional indemnity agreement as a condition of approval for this application. Such an agreement in no way limits the effect of obligations provided for herein.

City or District Application -or- **Land Owner Petition Application**

City/District Representative Signature

Print Name: DAN L PEARCE

Date: May 13, 2011

Land Owner Signature

Print Name

Date.

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF FRESNO
STATE OF CALIFORNIA
ORDINANCE NO. T-085-363

AN ORDINANCE AMENDING THE ZONING PROVISIONS OF THE ORDINANCE CODE OF THE COUNTY OF FRESNO BY ADDING SECTIONS 840.B THROUGH 840.B (h) REGARDING THE FRIANT RANCH ZONING REGULATIONS, CONTAINING SPECIFIC ZONING DISTRICTS FOR THE FRIANT RANCH SPECIFIC PLAN AREA;

The Board of Supervisors of the County of Fresno ordains as follows:

Section 1: The Ordinance Code of the County of Fresno is hereby amended by adding Section of 840.B through 840.B (h), pertaining to Amendment to Text No. 363 thereof to read as set forth in Exhibit "1" attached hereto and incorporated herein by reference.

Section 2: This Ordinance shall take effect and be in force thirty (30) days from and after its passage.

THE FOREGOING ORDINANCE was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno this 1st day of February 2011, to-wit:

AYES: **SUPERVISORS PEREA, POOCHIGIAN, LARSON**
NOES: **SUPERVISOR ANDERSON**
ABSENT: **SUPERVISOR CASE**

Phil Larson

CHAIR, Board of Supervisors
Fresno County, California

ATTEST:

BERNICE SEIDEL
Clerk to the Board of Supervisors

By: _____, Deputy

STATE OF CALIFORNIA
COUNTY OF FRESNO
I, Bernice E. Seidel, Clerk to the Board of Supervisors, do hereby certify the foregoing to be a full, true and correct copy of the original Ord. T-085-363 Adopted on file in my office. Witness my hand and seal of the Board of Supervisors. This 9th day of May 2011.
BERNICE E. SEIDEL
Clerk to the Board of Supervisors
By: _____ Deputy

AGENDA ITEM NO 9

EXHIBIT 1

SECTION 840.B

FRIANT RANCH ZONING REGULATIONS

Section 840.B(a).1 - INTENT AND PURPOSE

The purpose and intent of the Friant Ranch Zoning Regulations are to classify and regulate the highest and best use of buildings, structures and land located in the adopted Friant Ranch Specific Plan Area of the County of Fresno in a manner consistent with the Friant Ranch Specific Plan and the Fresno County General Plan and all applicable state and federal laws, including but not limited to the Fair Housing Act, 42 U.S.C. §§ 3601 et seq., Housing for Older Persons Act, 42 U.S.C. § 3607(b), Americans With Disabilities Act, 42 U.S.C. §§ 12202 et seq., Fair Employment and Housing Act, Government Code § 12900 et seq., and the Unruh Civil Rights Act, Civil Code, § 51. The Friant Ranch Zoning Standards are created to facilitate the development of a master planned active adult (ages 55 plus age restriction) community consistent with the Friant Ranch Specific Plan and all provisions of the aforementioned state and federal laws. The land use regulations and development standards contained in these Regulations shall apply only to development within the adopted Friant Ranch Specific Plan Area. Where this document is silent, then the standards and provisions contained in the Division VI, of the Fresno County Zoning Ordinance shall apply.

SECTION 840.B(a).2 - ESTABLISHMENT OF THE FRIANT RANCH ZONING DISTRICTS AND REGULATIONS APPLICABLE THEREIN

For the purpose related to the orderly development of the Friant Ranch Specific Plan Area in the County of Fresno and in order to carry out the provisions of this Division, the Friant Ranch Specific Plan area is hereby divided into the following zoning districts.

SECTION	SYMBOL	DISTRICT NAME
840.B(b)	"FR-R-1'	Friant Ranch Single-Family Residential District
840.B(c)	"FR-R-2"	Friant Ranch Two-Family Residential District
840.B(d)	'FR-S-L"	Friant Ranch Small-Lot Residential District
840.B(e)	"FR-R-C"	Friant Ranch Cluster Residential District
840.B(f)	"FR-R-3"	Friant Ranch Medium-Density Multiple-Family Residential District
840.B(g)	"FR-V-C"	Friant Ranch Mixed-Use Village Center District
840.B(h)	"FR-O-S"	Friant Ranch Open Space District

SECTION 840.B(a).3 – DEFINITIONS

For the purpose of carrying out the intent of the Friant Ranch Specific Plan the construction and definitions of words, phrases, and terms used in the Friant Ranch Zoning Regulations shall be deemed to have the meaning ascribed to them as described in Section 803 of the Division VI, of the Fresno County Zoning Ordinance and the additional definitions as described below. If a word is not defined in this Section, or in other provisions of the Zoning Ordinance of the County of Fresno, the Director shall determine the appropriate meaning of words, phases, and terms used in the Friant Ranch Zoning Regulations.

Director. The word "Director" shall mean the Director of that Department charged with the responsibility of administering the Zoning Ordinance of the County of Fresno as defined in Section 803.1-I of the Fresno County Zoning Ordinance.

Life Work Residential Unit shall mean a building, part of a building, or structure designed and used for joint residential occupancy and commercial uses including retail and office uses, but not including hotels, motels, boarding or lodging houses, or trailers.

Mixed-Use shall mean a development consisting of one or more lots developed as a cohesive project and designed with a blend of various compatible uses such as commercial retail, retail service, office, residential, civic and institutional. The uses may be located vertically in the same building or horizontally in separate buildings.

Paseo shall mean a public or private open space area between buildings, designed with a pedestrian walkway.

Pocket Parks shall mean small passive landscaped areas oriented to the neighborhood surrounding them as an image element or character defining feature.

SECTION 840.B(b)

"FR-R-1" – FRIANT RANCH SINGLE-FAMILY RESIDENTIAL DISTRICT

The "FR-R-1" District is intended to provide for the development of single family residential homes within the Friant Ranch Specific Plan Area at urban standards on lots not less than six thousand (6,000) square feet in area, with not more than one (1) primary dwelling unit permitted on any lot. Second dwelling units, not more than one per lot, are also permitted subject to the provisions of Section 855-N of the Division VI, of the Fresno County Zoning Ordinance as described below in Section 840.B(b).2, of the Friant Ranch Zoning Regulations. All regulations for this District are deemed to be necessary for the protection of the quality of the residential environment and for the securing of the health, safety and general welfare of the residents.

Section 840.B(b).1 – USES PERMITTED

The following uses shall be permitted in the "FR-R-1" District subject to the Property Development Standards in Section 840.B(b).5 of the Friant Ranch Zoning Regulations and those in Section 855 of the Division VI, of the Fresno County Zoning Ordinance.

A. One family dwelling unit, not more than one (1) dwelling per lot.

B. Accessory buildings, including garages and uses customarily incidental to any of the above uses, when located on the same lot and not involving the conduct of a business.

C. Private greenhouses and horticultural collections, flower and vegetable gardens.

D. Home Occupations, Class I, in conjunction with a detached single family residential unit, subject to the provisions of Section 866-N of the Fresno County Zoning Ordinance.

E. Signs, subject to the provisions of Section 840.B(b).5-K of the Friant Ranch Zoning Regulations.

F. Low and moderate intensity parks, pocket parks and playgrounds including but not limited to; gardens, picnic facilities, paved trails and drives, private or public parks, pocket parks, open spaces and paseos, playground equipment, game playing areas, and park administration and service buildings and yards, restrooms facilities as defined in Section 855-N.21 of the Fresno County Zoning Ordinance.

G. Private recreation buildings and facilities, pools, spas, club-houses, meeting rooms, craft rooms, and rental offices.

H. Private roads and drives.

I. Temporary tract offices and model homes, in the tract being developed.

J. Until a change of use and development occurs consistent with the Friant Ranch Specific Plan, temporary agricultural uses such as grazing and crop farming

K. Irrigation use/disposal with reclaimed water, treated effluent, water harvested from precipitation, and/or grey water within common landscaping areas, parks and parkways and agricultural lands

within the Friant Ranch area is a permitted use consistent with Title 22 of the California Code of Regulations, the Regional Water Quality Control Board, and the County of Fresno Water Efficient Landscape Standards, Title 13, Chapter 12 of the Fresno County Ordinance.

Section 840.B(b).2 – USES PERMITTED SUBJECT TO DIRECTOR REVIEW AND APPROVAL

The following uses shall be permitted subject to review and approval by the Director as provided for in Section 872 of the Fresno County Zoning Ordinance.

A. Home Occupations, Class II, in conjunction with a detached single family residential unit, subject to the provisions of Section 855-N of the Division VI, Zoning Division of the Ordinance Code of the County of Fresno.

B. Microwave relay structures.

C. Second dwelling units, not more than one per lot, subject to the provisions of Section 855-N of the Division VI, of the Fresno County Zoning Ordinance.

D. Temporary construction materials storage yards in the tract being developed.

G. Yard setback reductions for energy conservation purposes on single lots, subject to the provisions of Section 855-N of the Division VI, Zoning Division of the Ordinance Code of the County of Fresno.

E. Water pump stations.

F. Rest home or day care for the elderly with only limited medical care not involving a physician residing on the premises of the home and no surgery of other similar activities are provided such as are customarily provided in hospitals.

Population Density – The population density standards of the district in which such a rest home facility is proposed shall apply. For this purpose the residential family and six (6) persons residing in such a facility shall be counted as one (1) family in determining the required lot area. The maximum number of persons calculated above shall apply regardless of the number of the licensee's family, or persons employed as facility staff shall not be included in determining the number of residents.

Section 840.B(b).3 – USES PERMITTED SUBJECT TO CONDITIONAL USE PERMIT

The following uses shall be permitted subject to Conditional Use Permit as provided in Section 853 of the Fresno County Zoning Ordinance.

A. Civic and Social Clubs of 250 or fewer members.

C. Electric distribution substations.

D. Higher intensity private or public parks and recreation facilities with outdoor night lighting, general stores for use only by park users, marinas, and sauna/bath houses provided such uses are for recreation.

E. Off-site subdivision signs, subject to the conditions of Section 840.B(b).5-K of the Friant Ranch Zoning Regulations.

F. Reduced property development standards for affordable housing subject to the provisions of Section 855-N of the Division VI, of the Fresno County Zoning Ordinance.

Section 840.B(b).4 – USES EXPRESSLY PROHIBITED

The following uses are expressly prohibited in the "FR-R-1" District.

A. Commercial uses.

B. Industrial uses.

C. Multi-family uses except secondary uses as permitted by Section 840.B(b).2 above.

D. Agricultural uses not specifically listed as permitted above in Section 840.B(b).1 of the Friant Ranch Zoning Regulations.

E. Poultry and rabbit raising.

F. Mobile home parks.

G. Advertising structures.

H. Recreational Vehicle Storage

The on-street and off-street yard parking, storage, keeping or maintaining of vehicles of more than one ton rating, including recreational vehicles, boats and trailers except for temporary overnight parking of recreational vehicles of not more than seventy-two (72) hours within a one week period, for the purposes of loading, unloading, or visitor parking, so long as parking, storage, keeping, or maintaining does not occur on front lawns.

SECTION 840.B(b).5 – PROPERTY DEVELOPMENT STANDARDS

The following property development standards and those in Section 855 of the Fresno County Zoning Ordinance shall apply to all lands and structures in the "FR-R-1" District.

A. LOT AREA

Each lot shall have a minimum net area of six thousand (6,000) square feet.

B. LOT DIMENSIONS

All lots hereafter created shall comply with the following minimum standards and lots now existing may not be reduced below these standards. Each dimension is a minimum only. One or both may be increased to attain the minimum lot area required.

1. Width

a. Interior lots shall have a minimum width of fifty (50) feet.

b. Corner lots shall have a minimum width of fifty-five (55) feet.

c. Reversed corner lots shall have a minimum width of fifty-five (55) feet.

d. Curve lots and cul-de-sac lots shall have a minimum street frontage width of thirty-five (35) feet.

2. Depth

a. Lots facing on public or private streets shall have a minimum depth of ninety (90) feet.

B. POPULATION DENSITY

None except as provided above in Section 840.B(b).5 Lot Area.

D. BUILDING HEIGHT

1. No main building or structure erected in this District shall have a height exceeding twenty-eight (28) feet.

2. No accessory building erected in this District shall have a height exceeding twenty-eight (28) feet.

E. YARDS

1. General Yard Requirements

a. All required yards shall be extended the full width or depth of the lot and shall be open from the ground to the sky, except as hereinafter provided.

b. Aggregate area of accessory buildings permitted in the required yards on any one lot shall not exceed eight hundred (800) square feet except that additional area may be approved subject to Director Review and Approval Procedure of Section 872.

c. Swimming Pools

i) Swimming pools shall not be located in any required front yard or side yard abutting a street.

ii) Swimming pools, outdoor hot-tub, jacuzzi, or wading pools may be located in any required rear or interior side yard; provided that a space of not less than four (4) feet is maintained from the side and rear property lines to the edge of the pool or hot-tub for pedestrian access around the pool or tub.

d. Garages or carports shall be located not less than twenty (20) feet from any street frontage where the garage door or carport opening faces the street. Garages or carports may be located not less than four (4) feet from any alley provided the door or carport opening faces the alley and the combined alley width and setback width provides a minimum twenty-four (24) feet clear back-up space for auto access.

2. Front Yard

   a. Each lot shall have a front yard of not less than twenty (20) feet in depth, measured from the front property line, extending across the full width of the lot.

3. Side Yard

   a. Each lot shall have a side yard on each side of not less than five (5) feet except for special conditions treated below.

   b. Corner Lots

      On corner lots, unless otherwise specified in this District, the side yard abutting the street shall be not less than ten (10) feet in width.

   c. Reversed Corner Lots

      On reversed corner lots, the side yard abutting the street shall be not less than ten (10) feet in width.

   d. Accessory Buildings in Side Yard

      (1) Any accessory building located less than sixty (60) feet from the front property line shall have the same minimum side yard as that required for the main building, regardless of whether or not said accessory building is attached to the main building.

      (2) An accessory building may be located on a side property line when said building is located sixty (60) feet or more from the front property line, except that no structure shall be permitted in a required yard that abuts a street.

      (3) An accessory building having an opening on an alley shall be located not less than twenty-four (24) feet from the opposite side of the alley; provided, however, that no such accessory building shall be located less than four (4) feet from the property line abutting the alley.

4. Rear Yard

   a. Each lot shall have a rear yard of not less than fifteen (15) feet.

   b. Accessory Buildings

      Non-residential accessory buildings may be permitted in a required rear yard, except that portion which is an extension of a required street side yard, in accordance with Section 855-N of the County of Fresno Zoning Ordinance and as follows:

      (1) Any accessory building may be located on the rear property line when said building is not abutting an alley, except that the required setback for accessory structures on reversed corner lots shall be not less than the required side yard for the District.

(2) An accessory having a garage door opening on an alley shall be located not less than twenty-four (24) feet from the opposite side of the alley, or not less than four (4) feet from the property line.

(3) Any accessory building permitted on a rear or side property line shall have provisions for all roof drainage to be taken care of on the subject lot.

5. Exceptions: Permitted Projections into Required Yards

a. Cornices, eaves, belt courses, sills, fireplace chimneys and other similar architectural features may extend or project into a required side yard not more than thirty (30) inches.

b. Uncovered, unenclosed porches, platforms or landing places which do not extend above the level of the first floor of the building may extend into any front yard a distance of not more than six (6) feet, and such features may not extend into a court more than twenty (20) percent of the width of said court and in no case more than six (6) feet, and may extend into any side yard not more than thirty (30) inches. An open work railing may be installed or constructed on any such porch, platform or landing place provided it does not exceed the requirements of the Building Code.

c. Open, unenclosed stairways or balconies not covered by a roof or canopy may extend or project into a required front yard not more than thirty (30) inches.

d. Uncovered, unenclosed porches, decks, platforms or landing places which do not extend above the level of the first floor of the building may extend into any rear yard provided the platform, deck, or landing maintains a five (5) foot setback from the rear property line. An open work railing may be installed or constructed on any such porch, platform or landing place provided it does not exceed the requirements of the Building Code.

F. SPACE BETWEEN BUILDINGS

The minimum distance between buildings shall be as follows:

1. Accessory buildings shall be a minimum of ten (10) feet from the main building. Accessory buildings connected to the main building by a breezeway roof shall maintain a minimum six (6) foot separation.

2. Where an accessory building is used for garage purposes and where said garage is located within the area defined by the projection of the side lines of any main building, and where vehicular access to said garage faces any main building and falls entirely or in part, within said area, the garage shall be not less than twenty-five (25) feet from the main building.

G. LOT COVERAGE

Maximum lot coverage by buildings and structures shall not exceed fifty (50) percent of the total lot area.

H. FENCES, HEDGES AND WALLS

This section is intended to provide for the regulation of the height and location of fences, hedges and walls for the purpose of providing for light, air and privacy, and safeguarding the public welfare by preventing visual obstructions at street and highway intersections.

1. Required Fences and Walls

a. Screen Fences and Walls

Where a commercial district abuts a residential district, a solid screen wall or fence shall be constructed along rear and side property lines of not more than six (6) feet in height within a landscape planter to serve as a screen with pedestrian access maintained between the districts through walkways, roads, and open space corridors consistent with the Friant Ranch Specific Plan and provided in Section 840.B(g).5-H.

b. Swimming Pools

Swimming pools shall be entirely enclosed by fences or walls, in accordance with the specification and standards of the Fresno County Ordinance Code, Title 15, Buildings and Construction, except as hereinafter provided.

(1) Swimming pool enclosures shall not be required when there exists a natural barrier restricting physical access to the swimming pool that is essentially equivalent in effect to the required enclosures as determined by the Director.

(2) The required enclosure shall be in place and approved by the Building Official before water is run into the pool.

2. Corner Cut-off Area

The following regulations shall apply to all intersections of streets, alleys, and private driveways in order to provide adequate visibility for vehicular traffic. There shall be no visual obstruction within the cut-off areas established herein.

a. There shall be a corner cut-off area at all intersecting and intercepting streets within Friant Ranch area. The cut-off line shall be in a horizontal plane, making an angle of forty-five (45) degrees with the side, front or rear property line, as the case may be. It shall pass through the points located on both the side and front (or rear) property lines at a distance of ten (10) feet from the intersection of such lines at the corner of a street within Friant Ranch area.

b. There shall be a corner cut-off on each side of any private driveway intersecting a street or alley. The cut-off lines shall be in a horizontal plane, making an angle of forty-five (45) degrees with the side, front or rear property lines, as the case may be. They shall pass through a point not less than ten (10) feet from the edges of the alley where it intersects the street or alley right-of-way.

c. There shall be a corner cut-off on each side of any alley intersecting a street or alley. The cut-off lines shall be in a horizontal plane, making an angle of forty-five (45) degrees with the side, front or rear property lines, as the case may be. They shall pass through a point not less than ten (10) feet from the edges of the alley where it intersects the street or alley right-of-way.

d. Where, due to an irregular lot shape, slope or change of grade, a line at a forty-five (45) degree angle does not provide for intersection visibility, said corner cut-off shall be reviewed and approved by the Director as part of the final map review process.

3. Permitted Fences, Hedges and Walls

a. Fences and hedges and walls not greater than six (6) feet in height shall be permitted on or within all rear and side property lines on interior lots and on or to the rear of all front yard setback lines.

b. No fence, wall or hedge over three (3) feet in height shall be permitted in any required front yard, or in the required side yard on the street side of a reversed corner lot.

c. Fences or structures over six (6) feet in height to enclose tennis courts, or other game areas shall be permitted to the rear of required front yard subject to the Director Review and Approval.

d. Special fence or wall structures over six (6) feet in height, such as but not limited to entry gateways, arbors, trellis, or screen landscaping may be permitted subject to the review and approval of the Director.

I. OFF-STREET PARKING

1. For Residential Uses

There shall be at least one (1) parking space in a garage or carport for every dwelling unit. These spaces shall be on the same lot with the main building which they are intended to serve and located to the rear of the required front yard.

2. Guest Parking

There shall be no requirement for guest parking for single family homes in the "FR-R-1" District. Guest parking may be provided on street, in guest parking lots of the street, or on the driveways on the same lot as the residential units in the front of a garage provided in a tandem parking space entirely in the front and or side yard space.

3. For Non-residential Uses and Uses Permitted by Conditional Use Permit

The provisions of the General Conditions, Section 855-I of the Fresno County Zoning Ordinance, shall apply for off-street parking requirements.

J. ACCESS

1. Vehicular access shall be provided from a dedicated and improved street, recognized private road, alley or driveway with a mutual access agreement to off-street parking facilities on the property requiring off-street parking.

2. Pedestrian access may be provided from a dedicated and improved street or recognized private road, alley, common open space or paseo to property used for residential purposes.

K. OUTDOOR ADVERTISING

1. The provisions of the "R-1-A" District, Section 822.5-K.1, 2, 3, 4, 5, and 6 of the Fresno County Zoning Ordinance, shall apply.

2. Off site Identification signs for Residential Dwellings in a subdivision or tract shall be permitted subject to the following conditions:

   a. Two (2) freestanding or face-mounted signs will be allowed for each subdivision or tract for purposes of identification of the residential area or neighborhood name.

   b. The sign(s) shall contain only the name and/or address of the subdivision, tract or neighborhood for which the sign represents.

   c. Not more than two (2) such identification signs per subdivision or tract shall be permitted in any subdivision less than forty (40) acres in size. In any subdivisions involving more than forty (40) acres, one (1) additional sign shall be permitted for each additional twenty (20) acres.

   d. Each sign shall be a maximum of sixteen (16) square feet in area, including architectural features. Larger signs, not exceeding twenty-five (25) square feet may be permitted subject to Director Review and Approval as set forth in Section 872 of the Fresno County Zoning Ordinance.

   e. The sign face shall not be internally illuminated but may be flood-lit.

SECTION 840.B(c)

"FR-R-2" – FRIANT RANCH TWO-FAMILY RESIDENTIAL DISTRICT

The "FR-R-2" District of the Friant Ranch Zoning Regulations are intended to provide for the development of two family residential structures where such buildings are located on the same lot and designed to provide for light, privacy, air, safety and insulation against transmission of sound, on a single lot of not less than five thousand (5,000) square feet in area. Two-family residential structures include building designs with individual units adjacent to one another or designed as stacked flats.

SECTION 840.B(c).1 – USES PERMITTED

The following uses shall be permitted in the "FR-R-2" District subject to the Property Development Standards in Section 840.B(c).5 of the Friant Ranch Zoning Regulations and those in Section 855 of the Division VI, of the Fresno County Zoning Ordinance.

A. Those uses listed in Section 840.B(b).1 of the "FR-R-1" District of the Friant Ranch Zoning Regulations shall be permitted.

B. Multiple family dwellings when no more than two (2) units are placed on a lot, either adjacent to one another or in stacked flats.

SECTION 840.B(c).2 – USES PERMITTED SUBJECT TO DIRECTOR REVIEW AND APPROVAL

The following uses shall be permitted subject to review and approval by the Director as provided for in Section 872 of the Fresno County Zoning Ordinance.

A. Identification signs for multiple-family dwellings subject to the criteria set forth in the Property Development Standards of Section 840.B(c).5-K of the Friant Ranch Zoning Regulations.

B. Microwave relay structures.

C. Off-site directional signs for major recreational uses subject to the provisions of Section 855-K of the Fresno County Zoning Ordinance.

D. Temporary construction materials storage yards in the tract being developed.

E. Water pump stations.

F. Home Occupations, Class II, in conjunctions with a residential unit, subject to the provisions of Section 866-N of the Fresno County Zoning Ordinance.

G. Rest home or day care for the elderly with only limited medical care not involving a physician residing on the premises of the home and no surgery of other similar activities are provided such as are customarily provided in hospitals.

   Population Density – The population density standards of the district in which such a rest home facility is proposed shall apply. For this purpose the residential family and six (6) persons residing in such a facility shall be counted as one (1) family in determining the required lot area. The

maximum number of persons calculated above shall apply regardless of the number of the licensee's family, or persons employed as facility staff shall not be included in determining the number of residents.

H. Development standards reductions including yard setback reductions, lot dimensions modifications, for energy conservation purposes on single or multiple lots in conformance with Section 855-N.12 of the Fresno County Zoning Ordinance.

SECTION 840.B(c).3 – USES PERMITTED SUBJECT TO CONDITIONAL USE PERMIT

The following uses shall be permitted subject to Conditional Use Permit as provided in Section 853 of the Fresno County Zoning Ordinance.

A. Civic and Social Clubs of 250 or fewer members

C. Electric distribution substations.

D. Higher intensity private or public parks and recreation facilities with outdoor night lighting.

E. Off-site subdivision signs, subject to the conditions of Section 840.B(c).5-K of the Friant Ranch Zoning Regulations.

F. Reduced property development standards for affordable housing subject to the provisions of Section 855-N of the Division VI, of the Fresno County Zoning Ordinance.

SECTION 840.B(c).4 – USES EXPRESSLY PROHIBITED

The following uses are expressly prohibited in the "FR-R-2" District.

A. Commercial uses, including commercial uses such as hotels, apartment hotels, motor courts, motel or other buildings wherein housing facilities are furnished to transient boarders and roomers.

B. Industrial uses.

C. Agricultural uses not specifically listed as permitted above in Section 840.B(c).1 of the Friant Ranch Zoning Regulations.

D. Advertising structures.

G. Mobile home parks

H. The on-street and off-street yard parking, storage, keeping or maintaining of vehicles of more than one ton rating, including recreational vehicles, boats and trailers except for temporary overnight parking of recreational vehicles of not more than seventy-two (72) hours within a one week period, for the purposes of loading, unloading, or visitor parking, so long as parking, storage, keeping, or maintaining does not occur on front lawns.

SECTION 840.B(c).5 – PROPERTY DEVELOPMENT STANDARDS

The following property development standards and those in Section 855 of the Fresno County Zoning Ordinance shall apply to all lands and structures in the "FR-R-2" District.

A. LOT AREA

Each lot shall have a minimum net area of five thousand (5,000) square feet in the "FR-R-2" District.

B. LOT DIMENSIONS

All lots hereafter created shall comply with the following minimum standards, and lots now existing may not be reduced below these standards. Each dimension is minimum only. One or both lot dimensions shall be increased to attain the minimum lot area required.

1. Width

   a. Interior lots shall have a minimum width of fifty (50) feet in the "FR-R-2" District.

   b. Corner lots shall have a minimum width of fifty-five (55) feet in the "FR-R-2" District.

   c. Reversed corner lots shall have a minimum width of fifty-five (55) feet in the "FR-R-2" District.

   d. Curve lots and cul-de-sac lots shall have a minimum street frontage width of thirty-five (35) feet.

2. Depth

   a. Lots facing on local streets shall have a minimum depth of seventy (70) feet in the "FR-R-2" District.

C. POPULATION DENSITY

There shall be a minimum of two-thousand five-hundred (2,500) square feet of lot area for each dwelling unit for all lots in the "FR-R-2" District.

D. BUILDING HEIGHT

1. No main building or structure shall have a height greater than two and one-half (2 1/2) stories, not to exceed thirty-five (35) feet in the "FR-R-2" District.

2. No accessory building erected in either the "FR-R-2" District shall have a height greater than two (2) story, not to exceed twenty-five (25) feet.

E. YARDS

1. General Yard Requirements

   The provisions of the "FR-R-1" District, Section 840.B(b).5-E of the Friant Ranch Zoning Regulations shall apply.

2. Front Yard

a. Each lot shall have a front yard of not less than ten (10) feet deep, extending across the full width of the lot.

3. Side Yard

a. Each lot shall have a side yard on each side of not less than five (5) feet except for units sharing a common wall or party wall and for the special conditions for encroachments treated below.

b. Corner Lots

On corner lots, the side yard abutting the street shall be not less than ten (10) feet in width.

c. Reversed Corner Lots

On reversed corner lots, the side yard abutting the street shall be not less than ten (10) feet in width.

d. Side Yard Driveways

When a side yard is used for a driveway access to serve parking facilities:

(1) The minimum side yard space shall be twelve (12) feet wide allowing for a ten (10) foot wide driveway and a minimum two (2) foot planter space.

(2) If pedestrian access is required to a rear dwelling, or dwellings, and said access is to be by means of a driveway, then said space shall be increased to fifteen (15) feet, three (3) feet of which shall be a paved walk for the pedestrian access.

4. Rear Yard

a. Each lot shall have a rear yard of not less than fifteen feet (15) feet in depth.

b. The rear yard setback requirements may be reduced to a minimum of four (4) feet if the lot is accessible by an alley; and, a minimum eighty (80) square foot private, outdoor open space is provided for each unit in the form of a ground floor patio, porch, or upper floor deck accessible from the living space of the unit being served.

5. Exceptions: Permitted Projections into Required Yards

a. Cornices, eaves, belt courses, sills, fireplace chimneys and other similar architectural features may extend or project into a required side yard not more than thirty (30) inches.

b. Uncovered, unenclosed porches, deck, platforms or landing places that do not extend above the level of the first floor of the building may extend into any front yard a distance of not more than three (3) feet, and such features may not extend into a court more than twenty (20) percent of the width of said court and in no case more than six (6) feet, and may extend into any side yard not more than thirty (30) inches. An open work railing may be installed or constructed on any such porch, deck, platform or landing place provided it does not exceed the height requirements of the building code.

c. Open, unenclosed stairways or balconies not covered by a roof or canopy may extend or project into a required front yard not more than thirty (30) inches.

F. SPACE BETWEEN BUILDINGS

1. The minimum distance between buildings shall be as follows:

   a. There shall be a minimum of ten (10) feet between buildings. Accessory buildings connected to the main building by a breezeway roof shall maintain a minimum six (6) foot separation.

   b. Where an accessory building is used for garage purposes and where said garage is located within the area defined by the projection of the side lines of any main building, and where vehicular access to said garage faces any main building and falls entirely or in part within said area, the garage shall be not less than twenty-five (25) feet from the main building to allow for backup space.

2. Minimum Space Between Exterior Walls of Main Buildings and Accessory Buildings on the Same Lot

   a. All structures shall be located not less than ten (10) feet from one another unless such structure is attached to the main building with a common wall or party wall.

   b. Where main structures or accessory structures are attached by a breezeway roof, the structures shall be located not less than (6) feet from one another.

   c. Where a garage is located within the area defined by the projections of the side lines of any main building, and where said garage faces and is detached from any main building and the vehicular access to said garage falls entirely or in part within said area, the garage shall be not less than twenty-five (25) feet from the main building or buildings.

   d. The minimum distance between accessory buildings shall be not less than ten (10) feet unless said buildings have a common or party wall which is defined as a partition erected on a property boundary, partly on the land of one owner and partly on the land of another, to provide common support to the structures on both sides of the boundary.

G. LOT COVERAGE

Maximum lot coverage by buildings and structures shall not exceed seventy (70) percent of the total lot area.

H. FENCES, HEDGES AND WALLS

1. For residential uses, the provisions of the "FR-R-1" District, Section 840.B(b).5-H. shall apply.

2. For non-residential uses, the provisions in the General Conditions, Section 855-I.3 of the Fresno County Zoning Ordinance, shall apply.

I. OFF-STREET PARKING

The following provisions shall apply, subject to the General Conditions, Section 855-I of the Fresno County Zoning Ordinance.

1. There shall be at least one (1) parking space in a garage or carport for every dwelling unit. These spaces shall be on the same lot with the main building which they are intended to serve and located to the rear of the required front yard.

2. Guest parking shall be required for two family dwelling units at a rate of no less than one half (1/2) of a guest parking space for each unit on a two-family residential lot. Street Parking on public and private streets and guest parking lots off the street may be counted toward the guest parking requirements. Required guest parking may be provided on the driveways on same lot as the residential units or driveways in front of a garage may also meet the requirements for quest parking.

3. For non-residential uses, the off-street parking provisions in the General Conditions, Section 855-I of the Fresno County Zoning Ordinance, shall apply.

J. ACCESS

1. There shall be vehicular access from a dedicated and improved street, recognized private road, alley, or drive way with a mutual access agreement to off-street parking facilities on the property requiring off-street parking.

2. Lots in the Friant Ranch "FR-R-2" District may be located on a public or private street or alley, or accessible from a private driveway with a recognized access easement.

3. There shall be pedestrian access from a dedicated and improved street or recognized private road, alley, parking court, common open space, courtyard or paseo to property used for residential purposes.

4. If vehicle access is by way of a driveway parallel with a side lot line, there shall be an access way of ten (10) feet from the street or alley to the building site, said way to be for both pedestrian and vehicular access.

K. OUTDOOR ADVERTISING

The provisions of the "R-1-A" District, Section 822.5-K.1, 2, 3, 4, 5, 6, and 7 of the Fresno County Zoning Ordinance, shall apply.

1. Identification signs for Two Family Dwellings in a subdivision or tract shall be permitted subject to the following conditions:

   a. Two (2) freestanding or face-mounted signs will be allowed for each subdivision or tract for purposes of identification of the residential area or neighborhood name.

   b. The sign(s) shall contain only the name and/or address of the subdivision, tract or neighborhood for which the sign represents.

   c. Not more than two (2) such identification signs per subdivision or tract shall be permitted in any subdivision less than forty (40) acres in size. In any subdivisions involving more than forty (40) acres, one (1) additional sign shall be permitted for each additional twenty (20) acres.

d. Each sign shall be a maximum of sixteen (16) square feet in area, including architectural features. Larger signs, not exceeding twenty-five (25) square feet may be permitted subject to Director Review and Approval as set forth in Section 872 of the Fresno County Zoning Ordinance.

e. The sign face shall not be internally illuminated but may be flood-lit.

SECTION 840.B(c).6 – SITE PLAN REVIEW

Before any building or structure is erected on any lot in the "FR-R-2" District, a site plan shall have been submitted to and approved by the Director pursuant to the provisions of Section 874 of the Fresno County Zoning Ordinance, and deemed consistent with the Friant Ranch Specific Plan.

SECTION 840.B(d)

"FR-S-L" – FRIANT RANCH SMALL LOT RESIDENTIAL DISTRICT

The "FR-S-L" District of the Friant Ranch Zoning Regulations are intended to provide for the development of a variety of small lot, single family residential structures where such buildings are designed to provide for light, privacy, air, safety and insulation against transmission of sound, on a single lot of not less than three thousand (3,000) square feet in area. Small lot single family residential development standards are intended to allow for flexibility in site and building design solutions and provide for a range of lot and building types and configurations such as, but not limited to: courtyard homes, zero-lot-line homes, Z-lot (zipper-lot) homes, townhomes, and other alternative site and building designs that meet the intent of the Friant Ranch Specific Plan.

SECTION 840.B(d).1 – USES PERMITTED

The following uses shall be permitted in the "FR-S-L" District subject to the Property Development Standards in Section 840.B(c).5 of the Friant Ranch Zoning Regulations and those in Section 855 of the Division VI, of the Fresno County Zoning Ordinance.

A. Those permitted uses in the "FR-R-1", "FR-R-2" and the "FR-R-C" Districts of the Friant Ranch Zoning Regulations shall be permitted.

B. Residential clustered buildings types, typically, but not exclusively, in groups of three to eight attached or detached dwelling units arranged around a common parking court or common open space.

C. Attached or detached small-lot, single family dwellings, in a variety of site and building design configurations.

D. Accessory buildings and uses customarily incidental to any of the above uses, when located on the same lot.

SECTION 840.B(d).2 – USES PERMITTED SUBJECT TO DIRECTOR REVIEW AND APPROVAL

The following uses shall be permitted subject to review and approval by the Director as provided for in Section 872 of the Fresno County Zoning Ordinance.

A. Off-site directional signs for major recreational uses, hospitals and colleges subject to the provisions of Section 855-K of the Fresno County Zoning Ordinance.

B. Microwave relay structures.

C. Temporary construction materials storage yards in the tract being developed.

D. Water pump stations.

E. Home Occupations, Class II, in conjunctions with a residential unit, subject to the provisions of Section 866-N.14 of Fresno County Zoning Ordinance.

F. Rest home or day care for the elderly with only limited medical care not involving a physician residing on the premises of the home and no surgery of other similar activities are provided such as are customarily provided in hospitals.

   Population Density – The population density standards of the district in which such a rest home facility is proposed shall apply. For this purpose the residential family and six (6) persons residing in such a facility shall be counted as one (1) family in determining the required lot area. The maximum number of persons calculated above shall apply regardless of the number of the licensee's family, or persons employed as facility staff shall not be included in determining the number of residents.

G. Development standards reductions including yard setback reductions, lot dimensions modifications, for energy conservation purposes on single or multiple lots in conformance with Section 855-N.12 of the Fresno Zoning Ordinance.

SECTION 840.B(d).3 – USES PERMITTED SUBJECT TO CONDITIONAL USE PERMIT

The following uses shall be permitted subject to Conditional Use Permit as provided in Section 853 of the Fresno County Zoning Ordinance.

A. Civic and Social Clubs of 250 or fewer members

B. Electric distribution substations.

C. High intensity private or public parks and recreation facilities with outdoor night lighting.

D. Off-site subdivision signs, subject to the conditions of Section 826.5-K of the Fresno County Zoning Ordinance.

E. Reduced property development standards for affordable housing subject to the provisions of Section 855-N of the Fresno County Zoning Ordinance.

SECTION 840.B(d).4 – USES EXPRESSLY PROHIBITED

The following uses are expressly prohibited in the "FR-S-L" District.

A. Commercial uses, including commercial uses such as hotels, apartment hotels, motor courts, motel or other buildings wherein housing facilities are furnished to transient boarders and roomers.

B. Industrial uses.

C. Agricultural uses not specifically listed as permitted use in the above Section 840.B(d).3 of the Friant Ranch Zoning Regulations.

D. Advertising structures.

E. Mobile home parks.

F. The on-street and off-street yard parking, storage, keeping or maintaining of vehicles of more than one ton rating, including recreational vehicles, boats and trailers except for temporary overnight parking of recreational vehicles of not more than seventy-two (72) hours within a one week period,

for the purposes of loading, unloading, or visitor parking, so long as parking, storage, keeping, or maintaining does not occur on front lawns.

SECTION 840.B(d).5 – PROPERTY DEVELOPMENT STANDARDS

The following property development standards and those in Section 855 of the Fresno County Zoning Ordinance shall apply to all lands and structures in the "FR-S-L" District.

A. LOT AREA

Each lot shall have a minimum net area of three thousand (3,000) square feet in the "FR-S-L" District.

B. LOT DIMENSIONS

All lots hereafter created shall comply with the following minimum standards, and lots now existing may not be reduced below these standards. Each dimension is a minimum only. One or both lot dimensions shall be increased to attain the minimum lot area required.

1. Width

   a. Interior lots shall have a minimum width of forty (40) feet in the "FR-S-L" District.

   b. Corner lots shall have a minimum width of fifty (50) feet in the "FR-S-L" District.

   c. Reversed corner lots shall have a minimum width of fifty (50) feet in the "FR-S-L" District.

   d. Curve lots and cul-de-sac lots shall have a minimum street frontage width of thirty (30) feet.

2. Depth

   a. Lots shall have a minimum depth of seventy (70) feet in the "FR-S-L" District.

C. POPULATION DENSITY

There shall be a minimum of two-thousand five-hundred (2,500) square feet of lot area for each dwelling unit for all lots in the "FR-S-L" District.

D. BUILDING HEIGHT

1. No main building or structure shall have a height greater than two and one-half (2 1/2) stories, not to exceed thirty-five (35) feet in the "FR-S-L" District.

2. No accessory building erected in either the "FR-S-L" District shall have a height greater than two (2) story, not to exceed twenty-five (25) feet.

E. YARDS

1. General Yard Requirements

The provisions of the "FR-R-1" District, Section 840.B(b).5-E, of the Friant Ranch Zoning Regulations shall apply.

2. Front Yard

   a. Each lot shall have a front yard of not less than ten (10) feet deep, extending across the full width of the lot.

3. Side Yard

   a. Interior Side Yards

      Interior side yards shall be not less than five (5) feet except for structures attached with a common wall or party wall and for special conditions for encroachments treated below.

   b. Corner Lots

      On corner lots, the side yard abutting the street shall be not less than ten (10) feet in width.

   c. Reversed Corner Lots

      On reversed corner lots, the side yard abutting the street shall be not less than ten (10) feet in width.

   d. Zero-side Yard Lots

      On lots with zero-side yard configurations, one side yard may be zero (0) feet, with the opposite side yards shall be not less than ten (10) feet in width between buildings. A dedicated access easement shall be provided along the side yard on the adjoining zero side yard lots for maintenance of the common wall.

   e. When an interior side yard is used for a driveway access to serve parking facilities:

      (1) The minimum space shall be twelve (12) feet allowing for a ten (10) foot driveway and two (2) foot planter area.

      (2) If pedestrian access is required to a rear dwelling, or dwellings, and said access is to be by means of a driveway, then said space shall be increased to fifteen (15) feet, three (3) feet of which shall be a paved walk for the pedestrian access.

4. Rear Yard

   a. Each lot shall have a rear yard of not less than ten feet (10) feet in depth.

   b. The rear yard setback requirements may be reduced to a minimum of four (4) feet provided that:

      (1) the lot is accessible by an alley or public or private open space, courtyard, or paseo; and,

      (2) a minimum eighty (80) square feet of private, outdoor open space is provided for each unit in the form of a ground floor patio, deck, porch or upper floor deck

accessible from the living space of the unit being served, and said private outdoor open space shall be a minimum eight (8) feet in any direction.

5. Exceptions: Permitted Projections into Required Yards

   a. Cornices, eaves, belt courses, sills, fireplace chimneys and other similar architectural features may extend or project into a required side yard not more than thirty (30) inches.

   b. Uncovered, unenclosed porches, deck, platforms or landing places that do not extend above the level of the first floor of the building may extend into any front yard a distance of not more than three (3) feet, and such features may not extend into a court more than twenty (20) percent of the width of said court, and may extend into any side yard not more than thirty (30) inches. An open work railing may be installed or constructed on any such porch, deck, platform or landing place provided it does not exceed the height requirements of the building code.

   c. Open, unenclosed stairways or balconies not covered by a roof or canopy may extend or project into a required front yard not more than thirty (30) inches.

   d. A covered entry porch or stoop may extend into a required front yard space not more than three (3) feet.

F. SPACE BETWEEN BUILDINGS

1. Minimum Space Between Exterior Walls of Main Buildings.

   The minimum distance between buildings shall be as follows:

   a. All buildings located adjacent to one another side to side shall be a minimum of ten (10) feet between buildings. Accessory buildings connected to the main building by a breezeway roof shall maintain a minimum six (6) foot separation.

   b. Where an accessory building is used for garage purposes and where said garage is located within the area defined by the projection of the side lines of any main building, and where vehicular access to said garage faces any main building and falls entirely or in part, within said area, the garage shall be not less than twenty-five (25) feet from the main building.

   c. For buildings located adjacent to one another rear to side, front to side, with entries or exits into the space, the minimum space between the buildings shall be fifteen (15) feet.

   d. For buildings located adjacent to one another front to rear, rear to front with entries or exits into the space, the minimum space between buildings shall be twenty (20) feet.

   e. For buildings about an interior court accessed by a ten (10) foot wide driveway into the said interior court, said driveway being access to parking area or building, the minimum space between buildings shall be a minimum of twenty-five (25) feet measured in any direction.

   f. For buildings located adjacent to one another front to front about an interior court, paseo or open space without a driveway, said space between buildings shall be a minimum twenty-five (25) feet in width.

2. Minimum Space Between Exterior Walls of Main Buildings and Accessory Buildings on the Same Lot

   a. Garages and other non-dwelling structures shall be located not less than six (6) feet from any main building unless such structure is attached to the main building with a common wall or party wall.

   b. Where a garage is located within the area defined by the projections of the side lines of any main building, and where said garage faces and is detached from any main building and the vehicular access to said garage falls entirely or in part within said area, the garage shall be not less than twenty-five (25) feet from the main building or buildings.

   c. Where accessory buildings are attached to a main building by a breezeway roof, the provisions of paragraph "a" shall apply.

   d. The minimum distance between accessory buildings shall be not less than six (6) feet unless said buildings have a common or party wall which is defined as a partition erected on a property boundary, partly on the land of one owner and partly on the land of another, to provide common support to the structures on both sides of the boundary.

G. LOT COVERAGE

Maximum lot coverage by buildings and structures shall not exceed seventy-five (75) percent of the total lot area.

H. FENCES, HEDGES AND WALLS

1. For residential uses, the provisions of the "FR-R-1" District, Section 840.B(b).5-H shall apply.

2. For non-residential uses, the provisions in the General Conditions, Section 855-I.3 of the Fresno County Zoning Ordinance, shall apply.

I. OFF-STREET PARKING

The following provisions shall apply, subject to the General Conditions, Section 855-I of the Fresno County Zoning Ordinance.

1. There shall be at least one (1) parking space in a garage or carport for every dwelling unit. These spaces shall be on the same lot with the main building which they are intended to serve and located to the rear of the required front yard.

2. Guest parking shall be provided at a rate of no less than one-third (1/3) of a guest parking space for each unit.

   a) Street Parking on public and private streets and guest parking lots off the street or alley may be counted toward the guest parking requirements.

   b) Required guest parking may be provided on the driveways on same lot as the residential units. Parking on driveways in front of a garage may also meet the requirements for guest parking if the guest parking space is entirely on the lot and does not extend over a sidewalk or pedestrian path along the street.

3. For non-residential uses, the off-street parking provisions in the General Conditions, Section 855-I of the Fresno County Zoning Ordinance, shall apply.

J. ACCESS

1. There shall be vehicular access from a dedicated and improved public or private street, recognized private road, driveway with a recognized access easement or alley to all lots and to off-street parking facilities on the property requiring off-street parking.

2. Lots in the Friant Ranch Small Lot District may be located on a public or private street or alley, or accessible from a private driveway with a recognized access easement.

3. There shall be pedestrian access from a dedicated and improved street, recognized private road, alley, common court, open space or paseo to property used for residential purposes.

4. If vehicle access is by way of a driveway, there shall be an access way of ten (10) feet from the street or alley to the building site, said way to be for both pedestrian and vehicular access.

K. OUTDOOR ADVERTISING

1. The provisions of the "R-1-A" District, Section 822.5-K.1, 2, 3, 4, 5, and 6 of the Fresno County Zoning Ordinance, shall apply.

2. Identification signs for Small-lot Family Dwellings in a subdivision or tract shall be permitted subject to the following conditions:

   a. Two (2) freestanding or face-mounted signs will be allowed for each subdivision or tract for purposes of identification of the residential area or neighborhood name.

   b. The sign(s) shall contain only the name and/or address of the subdivision, tract or neighborhood for which the sign represents.

   c. Not more than two (2) such identification signs per subdivision or tract shall be permitted in any subdivision less than forty (40) acres in size. In any subdivisions involving more than forty (40) acres, one (1) additional sign shall be permitted for each additional twenty (20) acres.

   d. Each sign shall be a maximum of sixteen (16) square feet in area, including architectural features. Larger signs, not exceeding twenty-five (25) square feet may be permitted subject to Director Review and Approval as set forth in Section 872 of the Fresno County Zoning Ordinance.

   e. The sign face shall not be internally illuminated but may be flood-lit.

SECTION 840.B(d).6 – SITE PLAN REVIEW

Before any building or structure is erected on any lot in the "FR-S-L" District, a site plan shall have been submitted to and approved by the Director pursuant to the provisions of Section 874 of the Fresno County Zoning Ordinance, and deemed consistent with the Friant Ranch Specific Plan.

SECTION 840.B(e)

"FR-R-C" – FRIANT RANCH CLUSTER RESIDENTIAL DISTRICT

The "FR-R-C" District of the Friant Ranch Zoning Regulations are intended to provide for the development of multiple family, residential cluster building types where such buildings are reasonably spaced on the lot to provide for light, privacy, air, safety and insulation against transmission of sound, on lots not less than two thousand (2,000) square feet in area. Residential cluster district is intended to allow for flexibility in site and building design solutions and includes a range of clustered residential lot and building type configurations of attached and detached units, typically, but not exclusively, in groups of three to eight units such as, but not limited to; clustered court yard homes, town-homes or town-houses, row-houses, zero-lot-line homes, and z-lot (zipper-lot) homes in keeping with the goals and intent of the Friant Ranch Specific Plan.

SECTION 840.B(e).1 – USES PERMITTED

The following uses shall be permitted in the "FR-R-C" District subject to the Property Development Standards in Section 840.B(e).5 of the Friant Ranch Zoning Regulations and those in Section 855 of the Fresno County Zoning Ordinance.

A. Those uses permitted in the "FR-R-1", "FR-R-2" and "FR-S-L" Districts of the Friant Ranch Zoning Regulations apply.

B. Multiple family dwellings when no more than two (3) units are placed on a lot, either adjacent to one another or in stacked flats to allow for clustered residential lots and building configurations in groups of three to eights attached and detached units.

SECTION 840.B(e).2 – USES PERMITTED SUBJECT TO DIRECTOR REVIEW AND APPROVAL

The following uses shall be permitted subject to review and approval by the Director as provided for in Section 872 of the Fresno County Zoning Ordinance.

A. Identification signs for multiple family dwellings subject to the criteria set forth in the Property Development Standards of Section 840.B(e).5-K of the Friant Ranch Zoning Regulations.

B. Microwave relay structures.

C. Off-site directional signs for major recreational uses, hospitals and colleges subject to the provisions of Section 855-K of the Fresno County Zoning Ordinance.

D. Temporary construction materials storage yards in the tract being developed.

E. Water pump stations.

F. Development standards reductions including yard setback reductions, lot dimensions modifications, for energy conservation purposes on single or multiple lots in conformance with Section 855-N.12 of the Fresno County Zoning Ordinance.

SECTION 840.B(e).3 – USES PERMITTED SUBJECT TO CONDITIONAL USE PERMIT

The following uses shall be permitted subject to Conditional Use Permit as provided in Section 853 of the Fresno County Zoning Ordinance.

A. Civic and Social Clubs of 250 or fewer members.

B. Higher intensity private or public parks and recreation facilities with outdoor night lighting.

C. Electric distribution substations.

D. Off-site subdivision signs, subject to the conditions of Section 826.5-K of the Fresno County Zoning Ordinance.

E. Reduced property development standards for affordable housing subject to the provisions of Section 855-N of the Division VI, of the Fresno County Zoning Ordinance.

SECTION 840.B(e).4 – USES EXPRESSLY PROHIBITED

The following uses are expressly prohibited in the "FR-R-C" District.

A. Commercial uses, including commercial uses such as hotels, apartment hotels, motor courts, motel or other buildings wherein housing facilities are furnished to transient boarders and roomers.

B. Industrial uses.

C. Professional offices.

D. Advertising structures.

E. Agricultural uses except as permitted above in Section 840.B(e).3 of the Friant Ranch Zoning Regulations.

F. Mobile home parks.

G. The on-street and off-street yard parking, storage, keeping or maintaining of vehicles of more than one ton rating, including recreational vehicles, boats and trailers except for temporary overnight parking of recreational vehicles of not more than seventy-two (72) hours within a one week period, for the purposes of loading, unloading, or visitor parking, so long as parking, storage, keeping, or maintaining does not occur on front lawns.

SECTION 840.B(e).5 – PROPERTY DEVELOPMENT STANDARDS

The following property development standards and those in Section 855 of the Fresno County Zoning Ordinance shall apply to all lands and structures in the "FR-R-C" District. If a difference or a conflict may exist between this Section of the Friant Ranch Zoning Regulations and Section 855 of the Fresno County Zoning Ordinance and the provisions of Section 840.B(e).5 of the Friant Ranch Zoning Regulations shall apply.

A. LOT AREA

Each individual lot in a cluster of three or more dwelling units shall have a minimum net area of two thousand (2,000) square feet.

B. LOT DIMENSIONS

All lots hereafter created shall comply with the following minimum standards, and lots now existing may not be reduced below these standards. The lot dimension standards are intended to allow for a variety of innovative cluster lot configurations and sizes, including but not limited to zero-lot-line configurations, zipper-lots, townhomes, court-yard housing clusters, and shallow-wide lots. Each dimension is a minimum only.

1. Width

   Each unit in a residential cluster of three or more units shall have a minimum lot width of twenty (20').

2. Depth

   There is no minimum lot depth for each unit in a residential cluster of three or more units.

C. DENSITY

The density shall not exceed two thousand (2,000) square feet of lot area for each dwelling unit.

D. BUILDING HEIGHT

1. No main building or structure erected in the "FR-R-C" District shall have a height greater than two and one-half (2 ½) stories, not to exceed thirty-five (35) feet.

2. No accessory building erected in the "FR-R-C" District shall have a height greater than one (1) story, not to exceed sixteen (16) feet to plate height.

E. YARDS

1. General Yard Requirements

   The provisions of the "FR-R-1" District, Section 840.B(b).5-E of the Friant Ranch Zoning Regulations shall apply.

2. Front Yard

   a. Each lot abutting a street shall have a front yard of not less than ten (10) feet deep extending across the full width of the lot except for special conditions provided for in section 840.B(e).5-E5 below.

   b. For lots facing onto a common open space or parking court, no minimum set back is required.

3. Side Yard

   a. Each lot shall have a side yard on each side of not less than five (5) feet except for attached structures with a common wall or party wall.

b. Corner Lots

Corner lots abutting a street shall be not less than ten (10) feet in width.

c. Reversed Corner Lots

On reversed corner lots, the side yard abutting the street shall be not less than ten (10) feet in width.

4. Rear Yard

a. Each lot shall have a rear yard width of not less than ten (10) feet that may be reduced to four (4) feet when accessed by a rear alley.

5. Exceptions: Permitted Projections into Required Yards

a. Cornices, eaves, belt courses, sills, fireplace chimneys and other similar architectural features may extend or project into a required side yard not more than thirty (30) inches.

b. Uncovered, unenclosed porches, platforms, decks or landing places which do not extend above the level of the first floor of the building may extend into any front yard a distance of not more than three (3) feet. Such features may not extend into a court more than twenty (20) percent of the width of said court and in no case more than six (6) feet, and may extend into any side yard not more than thirty (30) inches. An open work railing may be installed or constructed on any such porch, deck, platform or landing place provided it does not exceed the requirements of the building code.

c. Open, unenclosed stairways or balconies not covered by a roof or canopy may extend or project into a required front yard not more than thirty (30) inches.

F. SPACE BETWEEN BUILDINGS

1. Minimum Space Between Exterior Walls of Main Buildings

a. For buildings side to side the minimum space shall be ten (10) feet unless attached with a common wall or party wall.

b. For buildings located adjacent to one another rear to side, front to side, with entries or exits into space, the minimum space shall be fifteen (15) feet.

c. For buildings located adjacent to one another front to rear, rear to front with entries or exits into space, the minimum space shall be twenty (20) feet.

d. For buildings located adjacent to one another front to front arranged about interior court permitting a ten (10) foot wide driveway in said interior court, said driveway being access to parking area or building, the minimum space shall be twenty-five (25) feet in any direction. Without said driveway, said space shall be twenty-five (25) feet.

e. A covered porch or entry facilities may extend into a required front or rear yard or space not more than three (3) feet. A cover porch may extend into a side yard space not more than eighteen (18) inches.

2. Minimum Space Between Exterior Walls of Main Buildings and Accessory Buildings on the Same Lot

   a. Garages and other non-dwelling structures shall be located not less than six (6) feet from any main building unless such structure is attached to the main building with a common wall or party wall.

   b. Where a garage is located within the area defined by the projections of the side lines of any main building, and where said garage faces and is detached from any main building and the vehicular access to said garage falls entirely or in part within said area, the garage shall be not less than twenty-five (25) feet from the main building or buildings.

   c. Where accessory buildings are attached to a main building by a breezeway roof, the provisions of paragraph "a" shall apply.

   d. The minimum distance between accessory buildings shall be not less than six (6) feet unless said buildings have a common or party wall which is defined as a partition erected on a property boundary, partly on the land of one owner and partly on the land of another, to provide common support to the structures on both sides of the boundary.

G. LOT COVERAGE

Maximum lot coverage by buildings and structures shall not exceed seventy-five (75) percent of the total lot area.

H. FENCES, HEDGES AND WALLS

1. For residential uses, the provisions of the "FR-R-1" District, Section 840.B(b).5, shall apply.

2. For non-residential uses, the provisions in the General Conditions, Section 855-I.3 of the Fresno County Zoning Ordinance, shall apply.

I. OFF-STREET PARKING

The following provisions shall apply, subject to the General Conditions, Section 855-I of the Fresno County Zoning Ordinance.

1. There shall be at least one (1) parking space in a garage or carport for every dwelling unit. These spaces shall be on the same lot with the main building which they are intended to serve and shall not be located in the required front yard.

2. Guest parking shall be required for cluster dwelling units at a rate of no less than one third (1/3) of a guest parking space for each unit subject to the following conditions:

   a. Street parking on public and private streets, alleys, and guest parking lots off the street or alley may be counted toward the guest parking requirements.

   b. Required guest parking may be provided on the driveways on same lot as the residential units or driveways in front of a garage as long as the guest parking is not located in a parking court in a manner that blocks access to the required parking spaces of the units in a clustered residential project.

3. For non-residential uses, the off-street parking provisions in the General Conditions, Section 855-I of the Fresno County Zoning Ordinance, shall apply.

J. ACCESS

1. There shall be vehicular access from a dedicated and improved street, recognized private road or alley, or a drive way with a recognized access easement to off-street parking facilities on the property requiring off-street parking.

2. Lots in the Friant Ranch Small Cluster Residential District may be located on a public or private street or alley, or accessible from a private driveway with a recognized access easement.

3. There shall be pedestrian access from a dedicated and improved street, recognized private road, alley or driveway, or a common courtyard, open space or paseo to property used for residential purposes.

4. If vehicular access is by way of a driveway, there shall be an access way a minimum of ten (10) feet in width, extending from the street or alley to the building site or parking court, said way to be for both pedestrian and vehicular access.

K. OUTDOOR ADVERTISING

1. The provisions of the "R-1-A" District, Section 822.5-K.1, 2, 3, 4, 5, and 6 of the Fresno County Zoning Ordinance, shall apply.

2. Identification signs for Cluster Residential dwellings in a subdivision or tract shall be permitted subject to the following conditions:

   a. Two (2) freestanding or face-mounted signs will be allowed for each subdivision or tract for purposes of identification of the residential area or neighborhood name.

   b. The sign(s) shall contain only the name and/or address of the subdivision, tract or neighborhood for which the sign represents.

   c. Not more than two (2) such identification signs per subdivision or tract shall be permitted in any subdivision less than forty (40) acres in size. In any subdivisions involving more than forty (40) acres, one (1) additional sign shall be permitted for each additional twenty (20) acres.

   d. Each sign shall be a maximum of sixteen (16) square feet in area, including architectural features. Larger signs, not exceeding twenty-five (25) square feet may be permitted subject to Director Review and Approval as set forth in Section 872 of the Fresno County Zoning Ordinance.

   e. The sign face shall not be internally illuminated but may be flood-lit.

SECTION 840.B(e).6 – SITE PLAN REVIEW

Before any building or structure is erected on any lot in the "FR-R-C" District, a site plan shall have been submitted to and approved by the Director pursuant to the provisions of Section 874 of the Fresno County Zoning Ordinance, and deemed consistent with the Friant Ranch Specific Plan.

SECTION 840.B(f)

"FR-R-3" – FRIANT RANCH MEDIUM DENSITY MULTIPLE FAMILY RESIDENTIAL DISTRICT

The "FR-R-3" District of the Friant Ranch Zoning Regulations are intended to provide for the development of attached multiple family residential building types where such buildings and units are reasonably spaced on the lot to provide for light, privacy, air, safety and insulation against transmission of sound, on lots not less than six thousand (6,000) square feet in area.

SECTION 840.B(f).1 – USES PERMITTED

The following uses shall be permitted in the "FR-R-3" District subject to the Property Development Standards in Section 840.B(f).5 of the Friant Ranch Zoning Regulations and those in Section 855 of the Fresno County Zoning Ordinance.

A. In addition to those uses permitted in the "FR-R-1", "FR-R-2", "FR-S-L", and the "FR-R-C" Districts of the Friant Ranch Zoning Regulations, attached building configurations which adhere to the Section 840.B(f).5 property development standards herein.

SECTION 840.B(f).2 – USES PERMITTED SUBJECT TO DIRECTOR REVIEW AND APPROVAL

The following uses shall be permitted subject to review and approval by the Director as provided for in Section 872 of the Fresno County Zoning Ordinance.

A. Off-site directional signs for major recreational uses subject to the provisions of Section 855-K of the Fresno County Zoning Ordinance.

B. Microwave relay structures.

C. Temporary construction materials storage yards in the tract being developed.

D. Water pump stations.

E. Property development standards reductions including yard setback reductions, lot dimensions modifications, for energy conservation purposes on single or multiple lots in conformance with Section 855-N.12 of the Fresno Zoning Ordinance.

SECTION 840.B(f).3 – USES PERMITTED SUBJECT TO CONDITIONAL USE PERMIT

The following uses shall be permitted subject to Conditional Use Permit as provided in Section 853 of the Fresno County Zoning Ordinance.

A. Civic and Social Clubs of 250 or fewer members.

B. Country Club, spa and golf courses.

C. Higher intensity private or public parks and recreation facilities with outdoor night lighting.
D. Electric distribution substations.

E. Off-site subdivision signs, subject to the conditions of Section 826.5-K of the Fresno County Zoning Ordinance.

F. Property development standards reductions for affordable housing subject to the provisions of Section 855-N of the Division VI, of the Fresno County Zoning Ordinance.

SECTION 840.B(f).4 – USES EXPRESSLY PROHIBITED

The following uses are expressly prohibited in the "FR-R-3" District.

A. Commercial uses, including commercial uses such as hotels, apartment hotels, motor courts, motel or other buildings wherein housing facilities are furnished to transient boarders and roomers.

B. Industrial uses.

C. Professional offices.

D. Advertising structures.

E. Agricultural uses except for private greenhouses and horticultural collections, flower and vegetable gardens as permitted above in Section 840.B(f).2 of the Friant Ranch Zoning Regulations.

F. Mobile home parks.

G. The on-street and off-street yard parking, storage, keeping or maintaining of vehicles of more than one ton rating, including recreational vehicles, boats and trailers except for temporary overnight parking of recreational vehicles of not more than seventy-two (72) hours within a one week period, for the purposes of loading, unloading, or visitor parking, so long as parking, storage, keeping, or maintaining does not occur on front lawns.

SECTION 840.B(f).5 – PROPERTY DEVELOPMENT STANDARDS

The following property development standards and those in Section 855 of the Fresno County Zoning Ordinance shall apply to all lands and structures in the "FR-R-3" District.

A. LOT AREA

Each lot shall have a minimum net area of six thousand (6,000) square feet.

B. LOT DIMENSIONS

All lots hereafter created shall comply with the following minimum standards, and lots now existing may not be reduced below these standards. Each dimension is a minimum only. One or both shall be increased to attain the minimum lot area required.

1. Width

a. Interior lots shall have a minimum width of sixty (60) feet.

b. Corner lots shall have a minimum width of sixty-five (65) feet.

c. Reversed corner lots shall have a minimum width of seventy (70) feet.

e. Curve lots and cul-de-sac lots shall have a minimum street frontage width of forty-five (45) feet.

2. Depth

a. Lots facing on local streets shall have a minimum depth of one hundred (100) feet.

C. DENSITY

The density shall not exceed fifteen hundred (1,500) square feet of lot area for each dwelling unit.

D. BUILDING HEIGHT

1. No main building or structure erected in the "FR-R-3" District shall exceed forty (40) feet.

2. No accessory building erected in the "FR-R-3" District shall exceed sixteen (16) feet to plate height.

E. YARDS

1. General Yard Requirements

The provisions of the "FR-R-1" District, Section 840.B(b).5-E of the Friant Ranch Zoning Regulations shall apply.

2. Front Yard

a. Each lot shall have a front yard of not less than fifteen (15) feet deep extending across the full width of the lot except for special conditions provided for below.

3. Side Yard

a. Each lot shall have a side yard on each side of not less than five (5) feet for one story buildings, ten (10) feet for two or more story buildings except for attached structures with a common wall or party wall.

b. Corner Lots

Corner lots abutting a street shall be not less than ten (10) feet in width.

c. Reversed Corner Lots

On reversed corner lots, the side yard abutting the street shall be not less than ten (10) feet in width.

d. When side yard is used for driveway access to serve parking facilities:

(1) The minimum yard width shall be not less than twelve (12) feet. The minimum driveway width shall be ten (10) feet allowing for a two (2) foot width landscaping buffer between the driveway and property line.

(2) If pedestrian access is required to a rear dwelling, or dwellings, and said access is to be by means of a driveway, then said yard space shall be increased to fifteen (15) feet, three (3) feet of which shall be a paved walk for such pedestrian access.

4. Rear Yard

a. Each lot shall have a rear yard width of not less than ten (10) feet and may be reduced to a minimum of four (4) feet when accessed by a rear alley.

5. Exceptions: Permitted Projections into Required Yards

a. Cornices, eaves, belt courses, sills, fireplace chimneys and other similar architectural features may extend or project into a required side yard less than ten (10) feet wide not more than thirty (30) inches; and into a side yard equal to or greater than ten (10) feet a maximum of three (3) feet.

b. Uncovered, unenclosed porches, platforms, decks or landing places that do not extend above the level of the first floor of the building may extend into any front or rear yard six (6) feet, and such features may not extend into a court more than twenty (20) percent of the width of said court and in no case more than six (6) feet, and may extend into any side yard less than ten (10) feet wide not more than thirty (30) inches. An open work railing may be installed or constructed on any such porch, deck, platform or landing place provided it does not exceed the requirements of the building code.

c. Open, unenclosed stairways or balconies not covered by a roof or canopy may extend or project into a required front yard not more than three (3) feet.

F. SPACE BETWEEN BUILDINGS

1. Minimum Space Between Exterior Walls of Main Buildings on the Same Lot

a. For buildings located next to one another side to side the minimum space shall be ten (10) feet unless attached with a common wall or party wall which is defined as a partition erected on a property boundary, partly on the land of one owner and partly on the land of another, to provide common support to the structures on both sides of the boundary.

b. For buildings located next to one another rear to side or front to side, with entries or exits into the space, the minimum space shall be fifteen (15) feet.

c. For buildings located next to one another front to rear or rear to front with entries or exits into the space, the minimum space shall be twenty (20) feet.

d. For buildings located next to one another front to front arranged about interior court permitting a ten (10) foot wide driveway in said interior court, said driveway being access to parking area or building, the minimum space shall be thirty (30) feet. Without said driveway, said space shall be twenty-five (25) feet.

2. Minimum Space Between Exterior Walls of Main Buildings and Accessory Buildings on the Same Lot

a. Garages and other non-dwelling structures shall be located not less than six (6) feet from any main building unless such structure is attached to the main building with a common wall or party wall.

b. Where a garage is located within the area defined by the projections of the side lines of any main building, and where said garage faces and is detached from any main building and the vehicular access to said garage falls entirely or in part within said area, the garage shall be not less than twenty-five (25) feet from the main building or buildings.

c. Where accessory buildings are attached to a main building by a breezeway roof, the provisions of paragraph "a" shall apply.

d. The minimum distance between accessory buildings shall be not less than six (6) feet unless said buildings have a common or party wall which is defined as a partition erected on a property boundary, partly on the land of one owner and partly on the land of another, to provide common support to the structures on both sides of the boundary.

G. LOT COVERAGE

Maximum lot coverage by buildings and structures shall not exceed seventy (70) percent of the total lot area.

H. FENCES, HEDGES AND WALLS

1. For residential uses, the provisions of the "FR-R-1" District, Section 840.B(b).5-H, shall apply.

2. For non-residential uses, the provisions in the General Conditions, Section 855-I.3 of the Fresno County Zoning Ordinance, shall apply.

I. OFF-STREET PARKING

The following provisions shall apply, subject to the General Conditions, Section 855-I of the Fresno County Zoning Ordinance.

1. There shall be at least one (1) parking space in a garage or carport for every dwelling unit. These spaces shall be on the same lot with the main building which they are intended to serve and located to the rear of the required front yard.

2. Guest parking shall be required for cluster dwelling units at a rate of no less than one third (1/3) of a guest parking space for each unit subject to the following conditions:

   a. Street parking on public and private streets, alleys, and guest parking lots off the street or alley may be counted toward the guest parking requirements.

   b. Required guest parking may be provided on the driveways on same lot as the residential units if not blocking access to a required parking space in a garage or carport and as long as the guest parking is not located in a parking court in a manner that blocks access to the required parking spaces of the units.

J. BICYCLE PARKING:

1. Short-term and long-term bicycle parking shall be made available for users, messengers, employees, residents, and visitors to all multi-family residential sites in bicycle racks, located in a visible and safe place.

2. Bicycle parking shall be provided for all non-residential uses at a ratio of five (5%) percent of the required off-street automobile parking requirements or one (1) bicycle parking space for each twenty (20) required off-street auto parking spaces.

3. Bicycle parking for multi-family residential developments of twenty (20) units or more shall provide one (1) bicycle parking space for each twenty (20) residential units, and a minimum of two (2) bicycle parking spaces for residential developments with twenty (20) required off-street auto parking spaces or less.

4. Short-term bicycle parking shall consist of bicycle parking racks, either covered or uncovered and shall be shall be located within fifty (50) feet of main entries.

5. Long-term bicycle parking spaces may be provided inside of buildings, under roof overhangs or awnings, or in an enclosed area with a locked gate; within view of an attendant or security guard, in an area monitored by a security camera; within a dwelling unit; or in an apartment complex lobby.

K. ACCESS

1. There shall be vehicular access from a dedicated and improved street, recognized private road or alley, or driveway with a recognized access easement to off-street parking facilities on the property requiring off-street parking.

2. All lots shall have access from a public or private street or alley, recognized private road, or driveway with a recognized access easement.

3. There shall be pedestrian access from a dedicated and improved street, alley, a recognized private road, driveway with a recognized access easement, common courtyard, open space or paseo to property used for residential purposes.

3. If vehicular access is by way of a driveway parallel with a side lot line, there shall be an access way a minimum of ten (10) feet in width, extending from the street or alley to the building site, said way to be for both pedestrian and vehicular access.

K. OUTDOOR ADVERTISING

1. The provisions of the "R-1-A" District, Section 822.5-K.1, 2, 3, 4, 5, and 6 of the Fresno County Zoning Ordinance, shall apply.

2. Identification signs for Multi-Family Dwellings shall be permitted subject to the following conditions:

   a. One (1) freestanding or face-mounted sign will be allowed for each multifamily project on a single lot for purposes of identification of the residential area or neighborhood name.

   b. The sign(s) shall contain only the name and/or address of the multifamily dwelling or multifamily residential neighborhood which the sign represents.

c. Not more than one (1) such identification signs per multifamily dwelling shall be permitted in any multifamily dwelling less than forty (40) units in size. In any multifamily dwelling more than forty (40) units in size, one (1) additional sign shall be permitted for each additional twenty (20) units.

d. Each sign shall be a maximum of sixteen (16) square feet in area, including architectural features. Larger signs, not exceeding twenty-five (25) square feet may be permitted subject to Director Review and Approval as set forth in Section 872 of the Fresno County Zoning Ordinance.

e. The sign face shall not be internally illuminated but may be flood-lit.

SECTION 840.B(f).6 – SITE PLAN REVIEW

Before any building or structure is erected on any lot in the "FR-R-3" District, a site plan shall have been submitted to and approved by the Director pursuant to the provisions of Section 874 of the Fresno County Zoning Ordinance, and deemed consistent with the Friant Ranch Specific Plan.

SECTION 840.B(g)

"FR-V-C" – FRIANT RANCH MIXED-USE VILLAGE CENTER DISTRICT

The "FR-V-C" District of the Friant Ranch Zoning Regulations are intended to serve as the commercial and retail center of Friant Ranch and allows for flexible, mixed-use development in keeping with the intent of the Friant Ranch Specific Plan. The retail and office uses in the "FR-V-C" District are intended to be compatible with the residential development. The following regulations are intended to protect the residential environment and shall apply to all uses in the "FR-V-C" District.

SECTION 840.B(g).1 – USES PERMITTED

The following uses shall be permitted in the "FR-V-C" District. All uses shall be subject to the Property Development Standards in Section 840.B(g).5 of the Friant Ranch Zoning Regulations and Section 874 of the Fresno County Zoning Ordinance.

A. COMMERCIAL USES PERMITTED:

All retail commercial uses serving the residential neighborhoods of the Friant area including the following:

1. Restaurants, cafes, fast food franchises, cafeterias, lunch rooms, and similar shops serving food and beverages, including outdoor dining areas, outdoor cafes, and sidewalk dining services in conjunction with a restaurant or café.

2. Offices including but not limited to public and private administrative offices, banks, savings and loan; professional offices and general business offices.

3. Medical and dental offices and clinics such as but not limited to; elder care facilities, nursing homes, and convalescent and skilled nursing facility, chiropractic and massage offices.

4. Bars, wine shops, liquor stores and cocktail lounges.

5. Public uses including but not limited to private and public parks, open spaces, paseos and recreation facilities, post office, libraries, schools, police, fire and public offices.

6. Private schools, churches, and religious facilities.

7. Food markets, grocery stores, mini-marts, supermarkets, health food stores, fruit and vegetable stores, meat and dairy products, delicatessens, and specialty food stores less than seventy-five thousand (75,000) square feet in gross floor area.

8. Drug stores and pharmacies less than twenty thousand (20,000) square feet in gross floor area.

9. Department stores, shoe stores and clothing stores less than twenty thousand (20,000) square feet in gross floor area.

10. General merchandise stores including but not limited to hardware stores, furniture stores, appliances, electronic stores, garden supplies and dry goods less than fifteen thousand (20,000) square feet in gross floor area.

11. Neighborhood commercial services such as but not limited to barber shops, nail shops, beauty shops, laundry and dry cleaning, shoe repair shops, bakeries, florist shops, and video rental stores.

12. Specialty retail stores such as but not limited to book stores, gift shops, bicycle shops, toy stores, jewelry stores, music stores, and pet shops.

B. RESIDENTIAL USES PERMITTED:

1. Multiple family dwellings and uses permitted in the FR-R-2, FR-R-C, and the FR-R-3 Districts of the Friant Ranch Zoning Regulations.

2. Residential structures accommodating either vertically-aligned mixed uses with residential units or office uses above ground floor commercial or office uses on the same lot, or horizontally-aligned mixed-uses with multifamily residential uses adjacent to commercial and office uses on the same lot or adjacent lots.

3. Structures accommodating "live-work" arrangements with commercial and office space located on the ground floor of residential units.

4. Home Occupations, Class I, in conjunctions with a residential unit, subject to the provisions of Section 866-N of the Of the Fresno County Zoning Ordinance.

5. Accessory buildings, including garages, carports, and parking lots.

C. OTHER USES PERMITED

1. Private greenhouses, and horticultural collections, flower and vegetable gardens.

2. Temporary tract offices and model homes in a project being developed.

3. Recreation buildings and facilities including but not limited to; pools, spas, club-houses, meeting rooms, gyms and exercise facilities.

4. Civic and social clubs.

5. Private roads, alley and drives.

6. Signs, subject to the provisions of Section 840.B(g).5-K of the Friant Ranch Zoning Regulations.

7. Electric distribution substations.

8. Until a change of use and development occurs consistent with the Friant Ranch Specific Plan, temporary agricultural uses such as grazing and crop farming, except feedlots, Dairy farm, or agricultural facilities or structures for the boarding of hogs, chickens, rabbits, and other fur-bearing animals, and provided that no residential dwellings, barn, silo or other farm structures either temporary or permanent, be permitted in relation thereto.

SECTION 840.B(g).2 – USES PERMITTED SUBJECT TO DIRECTOR REVIEW AND APPROVAL

The following uses shall be permitted subject to review and approval by the Director as provided for in Section 872 of the Fresno County Zoning Ordinance.

A. Automobile parking lot or structure, subject to the provisions of Sections 834.5 and 855-I of the Fresno County Zoning Ordinance.

B. Outdoor ice and food products dispensing machine.

C. Microwave relay structures.

D. Higher intensity private or public parks and recreation facilities with outdoor night lighting, general stores for use only by park users, marinas, and bath houses provided such uses.

E. Water pump stations.

F. Drive-through commercial establishments such as restaurants, coffee shops, banks, dry cleaners, and other commercial services.

SECTION 840.B(g).3 – USES PERMITTED SUBJECT TO CONDITIONAL USE PERMIT

The following uses shall be permitted subject to Conditional Use Permit as provided in Section 853 of the Fresno County Zoning Ordinance.

A. Hospital.

B. Recreational vehicle storage lots and automobile parking garages.

C. Small animal veterinary hospitals or clinics within a completely enclosed building, with no boarding, subject to Sections 853 and 855-N.

D. Small animal boarding kennels within a completely enclosed building, subject to Sections 853 and 855-N.

E. Automobile service stations.

F. Grocery stores, food markets or supermarkets equal to or in excess of Seventy-Five thousand (75,000) square feet in gross floor area.

G. Drug stores, department stores, clothing stores, hardware stores, building supply stores, electronic stores, furniture stores and garden supplies equal to or in excess of twenty thousand (20,000) square feet in gross floor area.

H. Mechanical car wash when operated incidental to an in conjunction with an automobile service station.

I. Public and private utilities and facilities including but not limited to electrical substations, waste water treatment facilities, storm-water drainage facilities, gas, phone and telecommunication, utility or public corporation yards, facilities, buildings, storage, and maintenance yards.

SECTION 840.B(g).4 – USES EXPRESSLY PROHIBITED

The following uses shall are expressly prohibited in the "FR-V-C" District.

A. Industrial uses.

B. Advertising structures.

C. Agricultural uses except for private greenhouses and horticultural collections, flower and vegetable gardens as permitted above in Section 840.B(g).1 of the Friant Ranch Zoning Regulations.

D. Mobile Home Parks.

E. The on-street and off-street yard parking, storage, keeping or maintaining of vehicles of more than one ton rating, including recreational vehicles, boats and trailers except for temporary overnight parking of recreational vehicles of not more than seventy-two (72) hours within a one week period, for the purposes of loading, unloading, or visitor parking, so long as parking, storage, keeping, or maintaining does not occur on front lawns.

SECTION 840.B(g).5 – PROPERTY DEVELOPMENT STANDARDS

The following property development standards and those in Section 855 of the Fresno County Zoning Ordinance shall apply to all land and structures in the "FR-V-C" District.

A. LOT AREA

The minimum amount of land area that may be zoned for "FR-V-C" purposes is one (1) acre minimum.

B. LOT DIMENSIONS

No requirements.

C. POPULATION DENSITY

There shall be a minimum of one thousand two hundred (1,200) square feet of lot area for each dwelling unit.

D. BUILDING HEIGHT

1. No building or structure erected in this District shall have a height greater than four (4) stories, not to exceed forty-five (45) feet; provided, however, that towers and domes and other architectural features are permitted up to fifty (50) feet in height.

2. Roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, church steeples, flagpoles, chimneys, water tanks or wireless masts or similar structures, when approved by the Commission, may be erected above the height limits herein prescribed; provided that the same may be safely erected and maintained at such height in view of the surrounding conditions and circumstances. No roof structures or any space above the height limit shall be allowed for the purpose of providing additional habitable floor space.

E. YARDS

No requirements except where a "FR-V-C" District abuts any Friant Ranch Residential District, the requirements of the rear and side yard requirements shall be a minimum of ten (10) feet.

F. SPACE BETWEEN BUILDINGS

No requirements.

G. LOT COVERAGE

The maximum coverage of the lot by buildings or structures shall not exceed fifty-five (55) percent of the total lot area, including easements. In calculating lot area, one-half (1/2) of the width of all abutting alleys may be included in the "FR-V-C" District.

H. FENCES AND WALLS

1. General Yard Requirements

   The provisions of the "FR-R-1" District, Section 840.B(b).5-E of the Friant Ranch Zoning Regulations shall apply.

2. Screen Fences and Walls

   A solid masonry wall or fence not less than six (6) feet and no more than eight (8) feet in height may be erected as necessary along the district boundary between the "FR-V-C" District and the "FR-R-1", "FR-R-2", "FR-S-L", "FR-C-R", "FR-R-3" Districts.

   a. Where the "FR-V-C" District boundary is at a rear lot line which is not adjacent to a street, the wall shall be on that line and included in a landscape buffer area planted with landscaped screening of trees, shrubs and ground cover.

   b. Where the "FR-V-C" District boundary is on a side lot line abutting a residential district, which is not on a street, the required wall shall be on, or parallel with, said lot line. Said wall shall be reduced in height to three (3) feet if located within the front yard area or an area equal to the front yard required in the abutting residential district.

   c. Where the district boundary is a street, a wall is only required to screen service areas visible from the street. Said screen wall shall be constructed along said street in either a front yard or side yard and shall be set back from the property line a distance of a minimum of ten (10) feet, the space between the wall and the property line to be landscaped and maintained.

3. All walls shall be developed subject to the General Conditions in Section 855-H of the County's Municipal Code.

I. OFF-STREET PARKING

1. The following off-street parking requirements, subject to the General Standards contained in Section 855-I, shall apply to all new buildings and to increased floor area in existing buildings. For non-residential uses, there shall be a minimum of one (1) parking space provided for every two hundred fifty (250) square feet of gross floor space.

a. Up to 15% of these required parking spaces may be constructed to accommodate Neighborhood Electric Vehicles with dimensions of not less than seven (7) feet in width by fourteen (14) feet in depth.

b. Up to twenty (20%) percent of the required off-street parking spaces may be constructed to accommodate compact vehicles with dimensions of not less than eight feet (8) in width by fifteen (15) feet in depth.

2. For residential uses, there shall be at least one (1) parking space in a garage or carport for every dwelling unit.

3. Shared Parking

a. Allowance for Shared Parking

Residential and commercial facilities within the Mixed-use Village Center may reduce the total amount of required parking if shared parking facilities are arranged between facilities.

1) Shared parking facilities require a mutual access easement over shared parking spaces and parking lots, and must provided internal access to all shared parking spaces on adjoining lots.

2) Shared parking is allowed between two or more uses to satisfy all or a portion of the minimum off-street parking requirement.

3) Shared parking is permitted between different categories of uses or uses with different hours of operation.

4) A use for which an application is being made for shared parking shall be located within (800) feet of the parking facility.

5) The reductions to parking permitted through shared use of parking shall be determined as a percentage of the minimum-parking requirement as modified by the reductions permitted in other sections of this ordinance.

6) An agreement providing for the shared use of parking executed by the parties involved shall be filed with the Director. Shared parking privileges shall continue in effect only as long as the agreement, biding on all parties, remains in effect. If the agreement is no longer in effect, paring shall be provided as otherwise required by this section.

b. Calculation of Parking Requirements for Shared Parking

Where shared parking arrangement are proposed, the Director shall determine the number of parking spaces that may be shared based on a shared parking feasibility study prepared by the applicant using approved sources and procedures for conducting shared parking studies such as the Urban Land Institute Shared Parking Standard Procedures, the American Planning Association Shared parking Standards Procedures, or other sources for shared parking, standards and procedures approved by the Director.

c. Shared Parking Feasibility Study

A shared parking feasibility study shall:

1) Identify the properties and uses for the study (the study may include properties and uses not the subject to the application approval by the Director, provided that the applicant obtains a letter of authorization for the property owner or their agent);

2) Determine the number of parking space that would be required by applying the standard for the uses for all of the properties in section 2.a. above;

3) Determine the peak parking demand for the combined demand of all of the uses for all of the properties in section 2.a. above using standard parking generation rate in sources approved by the Director; and

4) Compare the results of b and c above.

5) If the Director finds that the shared parking feasibility study is consistent with guidelines described in section A above, the lesser of the two parking demand calculated in section 2.d. above may be used as the minimum number of parking spaces to be provided for all the properties and uses in the study;

6) If standard parking generation rates for any of the uses in the study are not available, the applicant may collect data at similar sites to establish local parking demand rates.

7) If the shared parking feasibility study assumes use of an existing parking facility, the applicant shall conduct field surveys to determine actual parking rates within the existing parking facility.

8) The shared parking study and calculations may include different categories of uses, uses with different hours of operation, and uses of the same type.

d. Written Agreement between Property Owners to Share Parking

1) Where an application for a Conditional Use Permit or a Directors Review and Approval which shared parking is proposed includes two or more separately owned properties and the Director has made a determination of the minimum number of required parking space for each of the applicable properties and uses, the Director shall require that the owners of the properties enter into a legal agreement guaranteeing access to, use of, and management of the designated shared parking spaces. The agreement shall be in a form approved by the Director, included as a condition of the zoning permit, and enforceable by the County.

2) Where an application for a Conditional Use Permit or a Directors Review and Approval for which shared parking is proposed includes two or more properties owned by the same property owner and the Director has made a determination of the minimum number of required parking space for he applicable properties and uses, the Director shall require that he owner of the properties shall enter into a legal agreement with the County guaranteeing access to, use of, and management of designated shared parking space between all users. The agreement shall be in a form approved by the Director, included as a condition of the zoning permit, and enforceable the County.

4. Guest parking for residential uses shall be required for residential dwelling units at a rate of no less than one third (1/3) of a guest parking space for each unit subject to the following conditions:

   a. Street parking on public and private streets, alleys, and guest parking lots off the street or alley may be counted toward the guest parking requirements.

   b. Required guest parking may be provided on the driveways on same lot as the residential units if not blocking access to a required parking space in a garage or carport and as long as the guest parking is not located in a parking court in a manner that blocks access to the required parking spaces of the units.

5. Required off-street parking in the "FR-V-C" District shall be provided:

   (1) On the lot with the use served, or

   (2) On a contiguous lot in the "FR-V-C" District within 300 feet of the property served.

J. BICYCLE PARKING:

1. Short-term and long-term bicycle parking shall be made available for shoppers, customers, messengers, employees, residents, and visitors to all sites in bicycle racks, located in a visible and safe place.

2. Bicycle parking shall be provided for all uses including residential, commercial, office and public uses at a ratio of five (5%) percent of the required off-street automobile parking requirements or a minimum of One (1) bicycle parking space for each twenty (20) required off-street auto parking spaces.

3. Bicycle parking for residential developments of twenty (20) units or more shall provide a minimum of one (1) bicycle parking space for each twenty (20) residential units.

4. Short-term bicycle parking for visitors of commercial retail and office uses shall consist of bicycle parking racks, either covered or uncovered and shall be shall be located within fifty (50) feet of main entries of the retail and office uses.

5. Long-term bicycle parking spaces for employees and residents in a mixed-use center may be provided inside of buildings, under roof overhangs or awnings, or in an enclosed area with a locked gate; within view of an attendant or employees work, security guards, in an area monitored by a security camera; in a dwelling unit, or an office or apartment complex lobby.

K. ACCESS

1. There shall be adequate vehicular access from a dedicated and improved public or private street, service road, alley, or driveway with a recognized access easement to off-street parking facilities on the property and shall conform to the Friant Ranch Specific Plan.

2. All lots shall have access from a public or private street or alley, recognized private road, or driveway with a recognized access easement.

3. There shall be pedestrian access from a dedicated and improved street, alley, recognized private road, driveway with a recognized access easement, common courtyard, open space or paseo to property used for residential purposes.

4. If vehicular access is by way of a driveway to a residential use, there shall be an access way a minimum of ten (10) feet in width, extending from the street or alley to the building site.

L. OUTDOOR ADVERTISING

The provisions of the "C-1" District, Section 833.5-K.1, 2, and 3 of the Fresno County Zoning Regulations, shall apply, with the following exception:

Free-standing signs provided that one (1) free-standing sign for each street frontage shall be allowed subject to the following regulation:

1. The sign shall contain thereon only the name of the buildings, occupants or groups thereof. Time, temperature, and weather information may also be included.

2. The sign shall not exceed two hundred (200) square feet in area.

3. The sign shall not exceed forty-five (45) feet in height.

M. LOADING

1. The following off-street loading spaces shall be provided for all commercial uses:

Total Square Feet of Building Space (Gross Floor Area)	Loading Spaces Required
a. Commercial Buildings	
3,500 – 15,000	1
15,001 – 45,000	2
45,001 – 75,000	3
75,001 – 105,000	4
105,001 – and over	5
b. Office Buildings	
3,500 – 50,000	1
50,001 – 100,000	2
100,001 – and over	3

2. Size, Location, Treatment and Maintenance for Loading Area.

   a. The loading spaces shall not be less than twelve (12) feet in width, forty (40) feet in length, and with fourteen (14) feet of vertical clearance.

b. When the lot upon which the loading space is located abuts upon an alley, such loading space shall adjoin or have access from said alley. The length of the loading space may be measured perpendicular to or parallel with the centerline of the alley.

   Where such loading space is parallel with the alley, the loading space shall extend across the full width of the lot, except that if only two (2) spaces are required, the length of the loading area need not exceed ninety (90) feet.

c. Where the loading area abuts a street, the front yard required in the district may be used in calculating the area required for loading, provided that there be no more than one (1) entry or exit to sixty (60) feet of lot frontage or fraction thereof.

d. Loading space required by this Division may occupy a required rear yard, but in no case shall any part of an alley be used for computing required loading space or spaces.

e. Where a loading area abuts a residential district, loading shall be done between the hours of 6 a.m. and 9 p.m.; otherwise, such area shall be located not less than one hundred (100) feet from such district or be completely enclosed.

SECTION 840.B(g).6 – SITE PLAN REVIEW

Before any parcel is created or any structure temporary or permanent is erected within this "FR-V-C" District, a site plan shall have been submitted to and approved by the Director, pursuant to the provisions of Section 874 of the Fresno County Zoning Ordinance, and deemed consistent with the Friant Ranch Specific Plan. Such site plan shall encompass all contiguous property within the District and shall show the shopping center's ultimate development which shall be in conformity with the intent and purpose of the Friant Ranch Specific Plan.

SECTION 840.B(h)

"FR-OS" – FRIANT RANCH OPEN SPACE DISTRICT

The "FR-OS" Open Space District of the Friant Ranch Zoning Regulations are intended to provide for permanent open spaces in the community and to safeguard the health, safety and welfare of the community by limiting developments in areas where police and fire protection, protection against flooding by storm water and dangers from excessive erosion are not possible without excessive costs to the community.

SECTION 840.B(h).1 – USES PERMITTED

The following uses shall be permitted in the "FR-OS" District. All uses shall be subject to the Property Development Standards in Section 840.B(h).4 the Friant Ranch Zoning Regulations.

A. Agricultural and grazing uses, except feedlots, Dairy farm, or agricultural facilities or structures for the boarding of hogs, chickens, rabbits, and other fur-bearing animals, and provided that no residential dwellings, barn, silo or other farm structures either temporary or permanent, be permitted in relation thereto.

B. Biological and wildlife preserves.

C. Flood control channels, drainage swales, settling basins, rivers and creeks.

D. Parkways and park drives.

E. Pedestrian and bicycle trails, and multi-purpose and nature trails.

F. Signs subject to provisions of Section 840.B(h).4-I of the Friant Ranch Zoning Ordinance.

SECTION 840.B(h).2 – USES PERMITTED SUBJECT TO DIRECTOR REVIEW AND APPROVAL

The following uses shall be permitted subject to review and approval by the Director as provided for in Section 872 of the Fresno County Zoning Ordinance.

A. Microwave relay structures.

SECTION 840.B(h).3 – USES PERMITTED SUBJECT TO CONDITIONAL USE PERMIT

The following uses shall be permitted subject to Conditional Use Permit as provided in Section 853 of the Fresno County Zoning Ordinance.

A. Parks and recreation facilities other than pedestrian and bicycle trials, and multi-purpose and nature trails.

B. Stormwater management facilities and structures.

C. Utility lines including but not limited to gas lines, water and sewer lines, electrical lines, telephone and communications lines, and pumping stations.

SECTION 840.B(h).4 – USES EXPRESSLY PROHIBITED

The following uses are expressly prohibited in the "FR-OS" District.

A. Advertising structures.

B. Commercial uses other than those related to and under the regulations of parks or city, county, State, Federal recreational agencies.

C. Industrial uses, excepting as listed in Sections 840.B(h).1, 840.B(h).2, and 840.B(h).3 above.

D. Residential uses.

E. Parking of any motor vehicles.

SECTION 840.B(h).5 – PROPERTY DEVELOPMENT STANDARDS

The following property development standards and those in Section 855 of the Fresno County Zoning Ordinance shall apply to all land and structures in the "FR-OS" District.

A. LOT AREA

No requirements

B. LOT DIMENSIONS

No requirements.

C. BUILDING HEIGHT

No building or structure erected in this District shall have a height greater than one (1) story, not to exceed thirty-five (35) feet, with the following exceptions:

a. Microwave relay structures.

b. Utility structures.

c. All other exceptions shall be subject to review and approval by the Director.

D. SPACE BETWEEN BUILDINGS

No requirements.

E. LOT COVERAGE

Permitted building and structures shall not to exceed ten (10) percent of the total lot area.

F. FENCES AND WALLS

A fence or wall along open spaces within in Friant Ranch Specific Plan area are intended to be low, unobtrusive features in keeping with the character and quality identified in the Friant Ranch Specific Plan.

1. A fence or wall shall be constructed along the perimeter of all areas designated by the Commission to be dangerous to the health, safety and general welfare.

2. A fence or wall is permitted around areas used for agriculture or grazing.

3. A fence or wall is permitted around biological and wildlife preserves to minimize intrusion by humans and domestic pets.

G. OFF-STREET PARKING

No requirement, except that where a congregation of people is intended, there shall be one (1) parking space for each five (5) persons which the facility is intended or designed to serve.

H. ACCESS

No requirements other than where a congregation of people is intended, in which case access to parking areas shall be from a dedicated and improved street or by way of an easement legally established for vehicular traffic.

I. OUTDOOR DIRECTION AND INSTRUCTIONAL SIGNAGE

Directional or instructional signs shall be permitted subject to the following standards:

1. No sign shall endanger the health and safety by causing distractions to operators of motor vehicles on the streets or highways, nor shall any sign be designated and located so as to be confused with traffic signs and signals.

2. The sign shall advertise only the name of the operation, simple directions to its location, and slogan, if any.

3. The sign shall not exceed fifty (50) square feet in area and nine (9) feet in height.

4. The sign shall be set back not less than five (5) feet from the street or highway right-of-way.

5. Signs shall not exceed thirty-five (35) feet.

6. Signs shall be located at intervals of not less than one-half (1/2) mile, provided, however, that this shall not be so interpreted to prohibit neighboring property owners or lessees located at less than one-half (1/2) mile intervals from erecting permitted signs on each property.

CERTIFICATE OF DELIVERY OF DOCUMENT

I am employed by the County of Fresno as a Deputy Clerk of the Board of Supervisors. On **February 1, 2011** I delivered a copy of **Ordinance No. T-085-363 (Item no. 9)** to the Chairman of the Fresno County Board of Supervisors.

Sherrie Evans
Deputy Clerk

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF FRESNO
STATE OF CALIFORNIA
ORDINANCE NO. R- 450 -3751

AN ORDINANCE TO CHANGE THE BOUNDARIES OF CERTAIN ZONES AND THE ZONING DISTRICT OF PROPERTY THERBY AFFECTED IN ACCORDANCE WITH THE PROVISIONS OF THE ZONING DIVISION OF THE ORDINANCE CODE OF THE COUNTY OF FRESNO, AND TO AMEND THE ZONE MAP ESTABLISHED BY SAID DIVISION ACCORDINGLY.

The Board of Supervisors of the County of Fresno does ordain as follows:

Section 1. All that portion of the unincorporated area of the County of Fresno consisting of Friant Ranch Specific Plan area from AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) District to the various Specific Plan area zone districts, specifically the FR-R-1(Friant Ranch Single-Family Residential) District, FR-R-2 (Friant Ranch Two-Family Residential) District, FR-S-L (Friant Ranch Small-Lot Residential) District, FR-R-C (Friant Ranch Cluster Residential) District, FR-R-3 (Friant Ranch Medium Density Multiple-Family Residential) District, FR-V-C (Friant Ranch Mixed-Use Village Center) District, FR-O-S (Friant Ranch Open Space) District.

Also included are three parcels located within the Friant Community Plan area, specifically a 7.19-acre portion of the "Depot Parcel" from R-A (Single-Family Residential Agricultural) District to C-6 (General Commercial) District, and two parcels totaling 6.6 acres from R-A and C-6 to Open Space (OS), and a 106-acre parcel from AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District to OS.

These sites are more particularly displayed as shown in Exhibits "A", "B" and "C".

AMENDMENT APPLICATION NO. 3751

See Attached Map for location.

Section 2. This Ordinance shall take effect and be in force thirty (30) days from and after its passage.

STATE OF CALIFORNIA
COUNTY OF FRESNO
I, Bernice E. Seidel, Clerk to the Board of Supervisors, do hereby certify the foregoing to be a full, true and correct copy of the original Ord. R-450-3751 on file in my office. Witness my hand and seal of the Board of Supervisors. This 4th day of May, 2011.
BERNICE E. SEIDEL
Clerk to the Board of Supervisors
By: _____ Deputy

THE FOREGOING was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno this 1ST day of February, 2011, to-wit:

AYES: SUPERVISORS PEREA, POOCHIGIAN, LARSON

NOES: SUPERVISOR ANDERSON

ABSENT: SUPERVISOR CASE

CHAIRMAN, Board of Supervisors

ATTEST:

BERNICE E. SEIDEL

Clerk, Board of Supervisors

By

Deputy

AGENDA NO.: 9
ORDINANCE NO.: R-450-3751

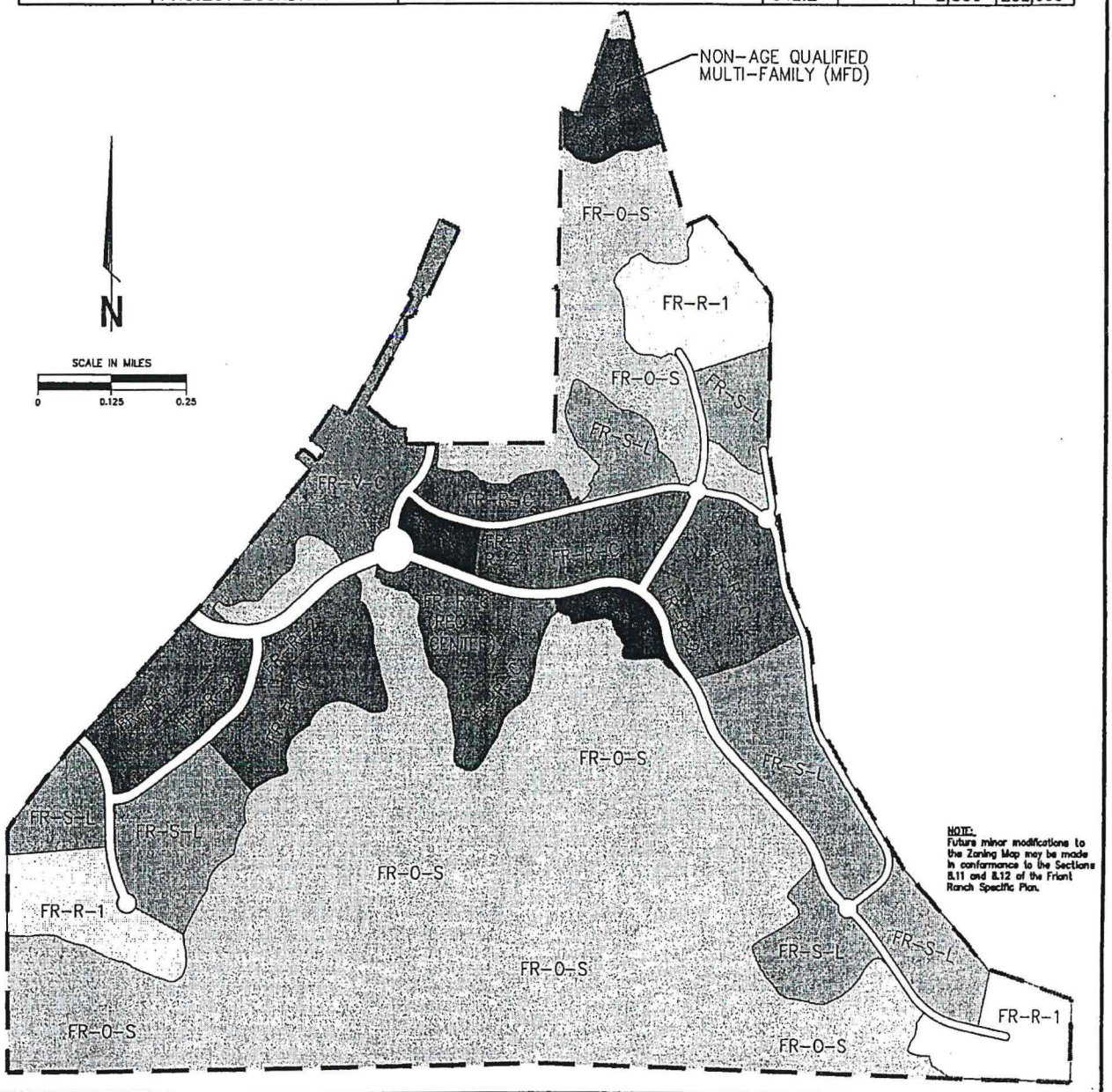
CERTIFICATE OF DELIVERY OF DOCUMENT

I am employed by the County of Fresno as a Deputy Clerk of the Board of Supervisors. On **February 1, 2011** I delivered a copy of **Ordinance No. R-450-3751 (Item no. 9)** to the Chairman of the Fresno County Board of Supervisors.

Sherrie Evans
Deputy Clerk

EXHIBIT 'A'

	ZONING DISTRICT	LAND USE DESIGNATION	SPECIFIC LAND USE DESCRIPTION	ACRES	DENSITY RANGE (DU/AC)	MAXIMUM TOTAL UNITS	MAXIMUM TOTAL SQ.FT.
COMMERCIAL							
	FR-V-C	COMMUNITY COMMERCIAL	VILLAGE CENTER (MIXED USE)	36.6	--	50	250,000
RESIDENTIAL							
	FR-R-1	MEDIUM DENSITY RES	SINGLE-FAMILY ONE (SFD-1)	69.4	2-5	290	--
	FR-S-L	MEDIUM HIGH DENSITY RES	SINGLE-FAMILY TWO (SFD-2)	131.5	5-8	745	--
	FR-R-2	MEDIUM HIGH DENSITY RES	SINGLE-FAMILY THREE (SFD-3)	22.2	8-12	1,069	--
	FR-R-C	MEDIUM HIGH DENSITY RES	SINGLE-FAMILY THREE (SFD-3)	108.7			--
	FR-R-3	MEDIUM HIGH DENSITY RES	MULTI-FAMILY (MFD)	13.3	12-18	166	--
			ACTIVE ADULT TOTAL	345.1	--	2,270	--
	FR-R-C	MEDIUM HIGH DENSITY RES	ACTIVE ADULT RECREATION CENTER	16.1	--	--	42,000
	FR-R-3	MEDIUM HIGH DENSITY RES	NON-AGE QUALIFIED MULTI-FAMILY (MFD)	14.3	12-18	180	--
OPEN SPACE							
	FR-O-S	OPEN SPACE	UNDISTURBED OPEN SPACE AND REVEGETATED SLOPES	482.4	--	--	--
TRANSPORTATION AND CIRCULATION							
	N/A	N/A	ROADS	47.7			
— — —		PROJECT BOUNDARY	TOTAL	942.2	--	2,500	292,000



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CONSULTING GROUP
An Employee Owned Company

FRIANT RANCH – PRELIMINARY ZONING MAP

MAP 2

DESIGN ENGINEER: ABL
DATE: 9-8-2010
JOB NO: 13280401
SHEET 1 OF 1

9/9/2010 9:12 AM G:\Clients\Friant Ranch - 1328\13280401-CCS3 GRD\Civil\Zoning Map\Zoning Map 2010-8-7.dwg - Adam Lee

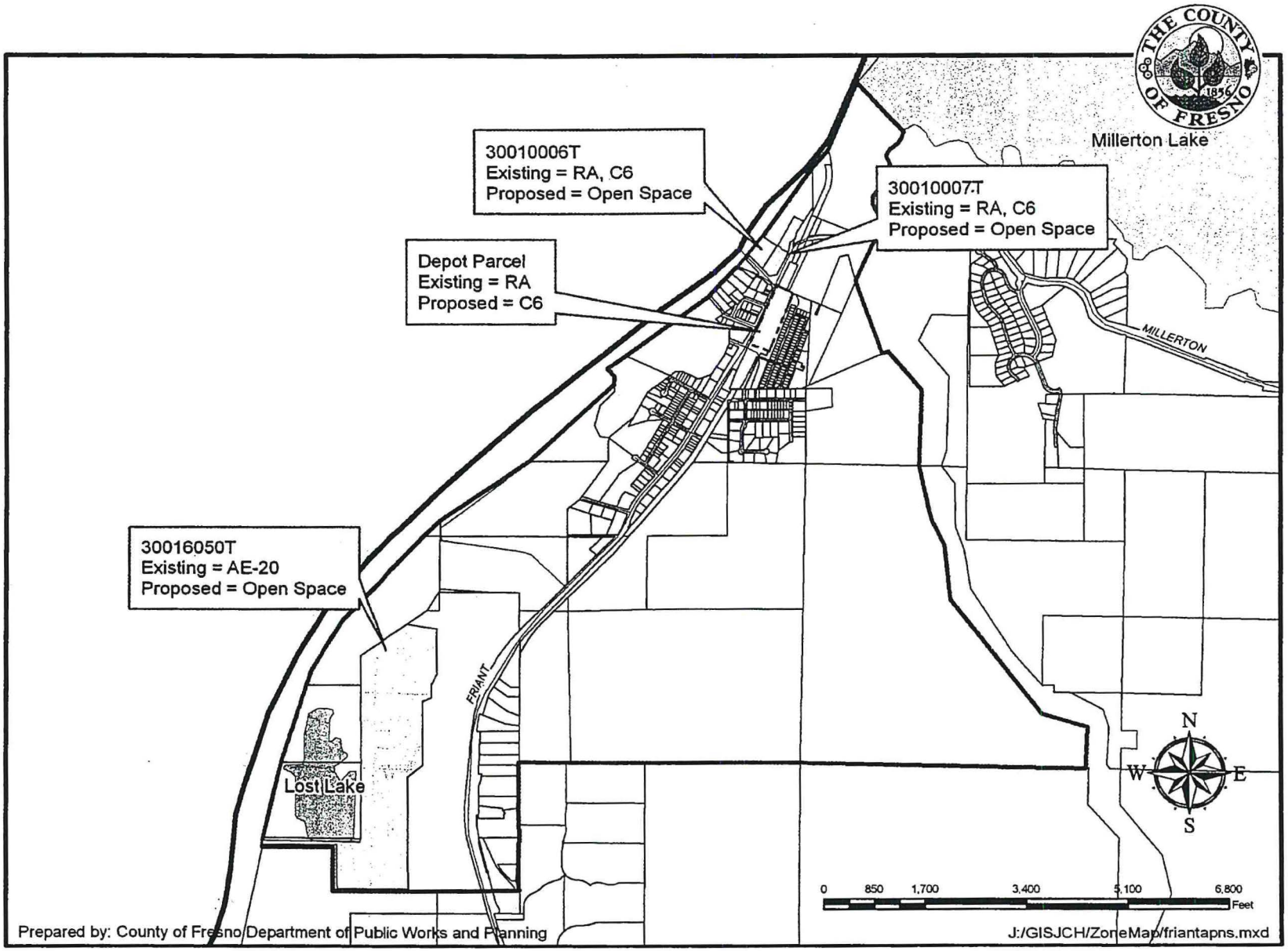
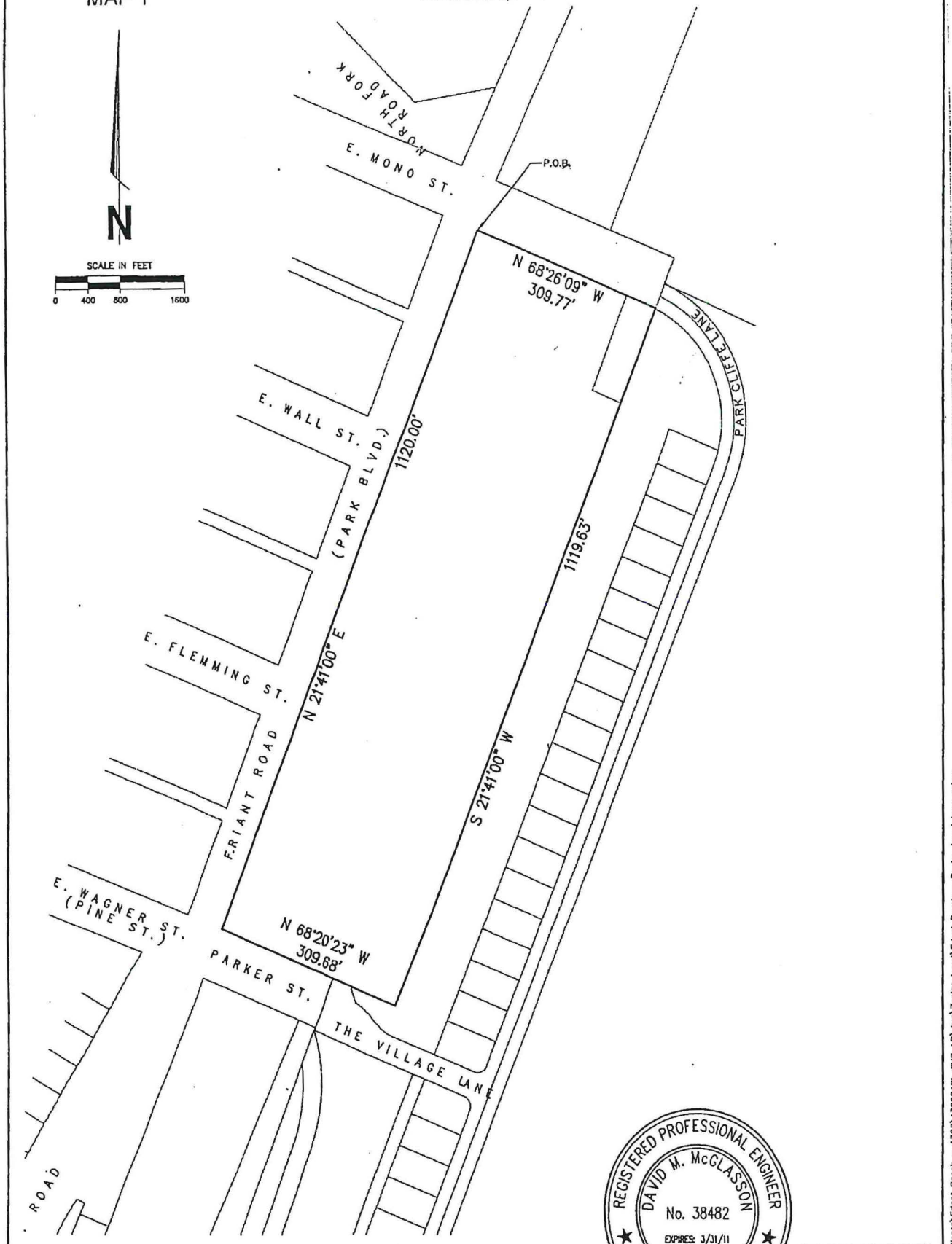

THE COUNTY OF FRESNO
1856
Millerton Lake
30010006T
Existing = RA, C6
Proposed = Open Space
30010007T
Existing = RA, C6
Proposed = Open Space
Depot Parcel
Existing = RA
Proposed = C6
MILLERTON
30016050T
Existing = AE-20
Proposed = Open Space
FRIANT
Lost Lake
N
W
E
S
0 850 1,700 3,400 5,100 6,800
Feet
Prepared by: County of Fresno Department of Public Works and Planning
J:/GISJCH/ZoneMap/friantapns.mxd

EXHIBIT 'B'

MAP 1

EXHIBIT 'C'



LOCATION MAP
DEPOT PARCEL
BOUNDARY

LOCATION : T 11S. R 21 E.

REGISTERED PROFESSIONAL ENGINEER
DAVID M. McGLASSON
No. 38482
EXPIRES: 3/31/11
Civil
STATE OF CALIFORNIA

DATE SIGNED: _____

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FRESNO, CALIFORNIA 93711-6162
559/449-2700 FAX 559/449-2715
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County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER
DIRECTOR

Notice of Determination E201110000023

To: (x) Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

(x) County Clerk
County of Fresno
2221 Kern Street
Fresno, CA 93721

From: County of Fresno
2220 Tulare Street, Suite "A"
Fresno, CA 93721

FILED
FEB 03 2011
FRESNO COUNTY CLERK
By Blanca H. Avelos DEPUTY

Subject Filing of Notice of Determination in compliance with Section 21152 of the Public Resource Code.

Project Title: ENVIRONMENTAL IMPACT REPORT NO. 5481, FRIANT COMMUNITY PLAN UPDATE AND FRIANT RANCH SPECIFIC PLAN (GENERAL PLAN AMENDMENT NO. 511, AMENDMENT TO TEXT 363, AND AMENDMENT APPLICATION 3751)

State Clearinghouse Number: *(If submitted to Clearinghouse)*	Contact Person	Area Code/Telephone/Extension
SCH# 2007101016	Briza Sholars	(559) 600-4207

Project Location: *(include County)* The project area is located on lands in and adjacent to the unincorporated community of Friant in north-central Fresno County, north of the cities of Fresno and Clovis. The project area is located just east of the San Joaquin River, approximately nine miles north of the Fresno City limits and 21 miles east of the City of Madera. The Friant Community Plan Update expands the existing Friant Community Plan Area boundaries to encompass a total area of approximately 1,804 acres, including the 942-acre Friant Ranch Specific Plan Area. Included in the project is the Friant "Depot Parcel" which is located on the east side of Friant Road, just below the intersection with Road 206 and Bugg Street. The project area is further described as within Township 11S, Range 21E, Sections 8, 17 and 18, Mount Diablo Base and Meridian. See attached map identifying project area.

Project Description: General Plan Amendment No. 511 expands the Friant Community Plan Area to include the 942-acre Friant Ranch Specific Plan Area, updates the policies for the Community Plan Area, re-designates land in the Friant Ranch Specific Plan Area from primarily agriculture to various commercial, residential, and open space designations, and establishes policies for the Friant Ranch Specific Plan Area. The Friant Ranch Specific Plan provides for a master planned community incorporating age-restricted (ages 55+) and non-age restricted

single-family and multi-family residential units, a commercial Village Center, a recreation center, trails, open space, and parks and parkways.

The Zoning Ordinance amendments create implementing zone districts and associated development standards for the Friant Ranch Specific Plan Area and rezone the land within the Friant Ranch Specific Plan Area and four other parcels including the Depot Parcel to commercial, residential, and open space uses.

This is to advise that the County of Fresno has approved the above-described projects on

(X) *Lead Agency ( ) Responsible Agency*

February 1, 2011 and has made the following determination regarding the above described project(s).

1. The project [(x) will ( ) will not] have a significant effect on the environment.

2. (x) An Environmental Impact Report was prepared and certified for this project pursuant to the provisions of the California Environmental Quality Act (CEQA).
   ( ) A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.

3. Mitigation Measures [(x) were ( ) were not] made a Condition of the Approval of the project.

4. A mitigation monitoring and reporting plan was adopted for this project.

5. A statement of Overriding Consideration [(x) was ( ) was not] adopted for this project.

6. Findings were made pursuant to the provisions of Section 15091 of CEQA.

This is to certify that the Final EIR with comments and responses and record of project approval is available to the General Public at Fresno County Department of Public Works and Planning, 2220 Tulare Street, Street Level, Fresno, CA 93721.

Signature	2-3-11 Date	MANAGER Title

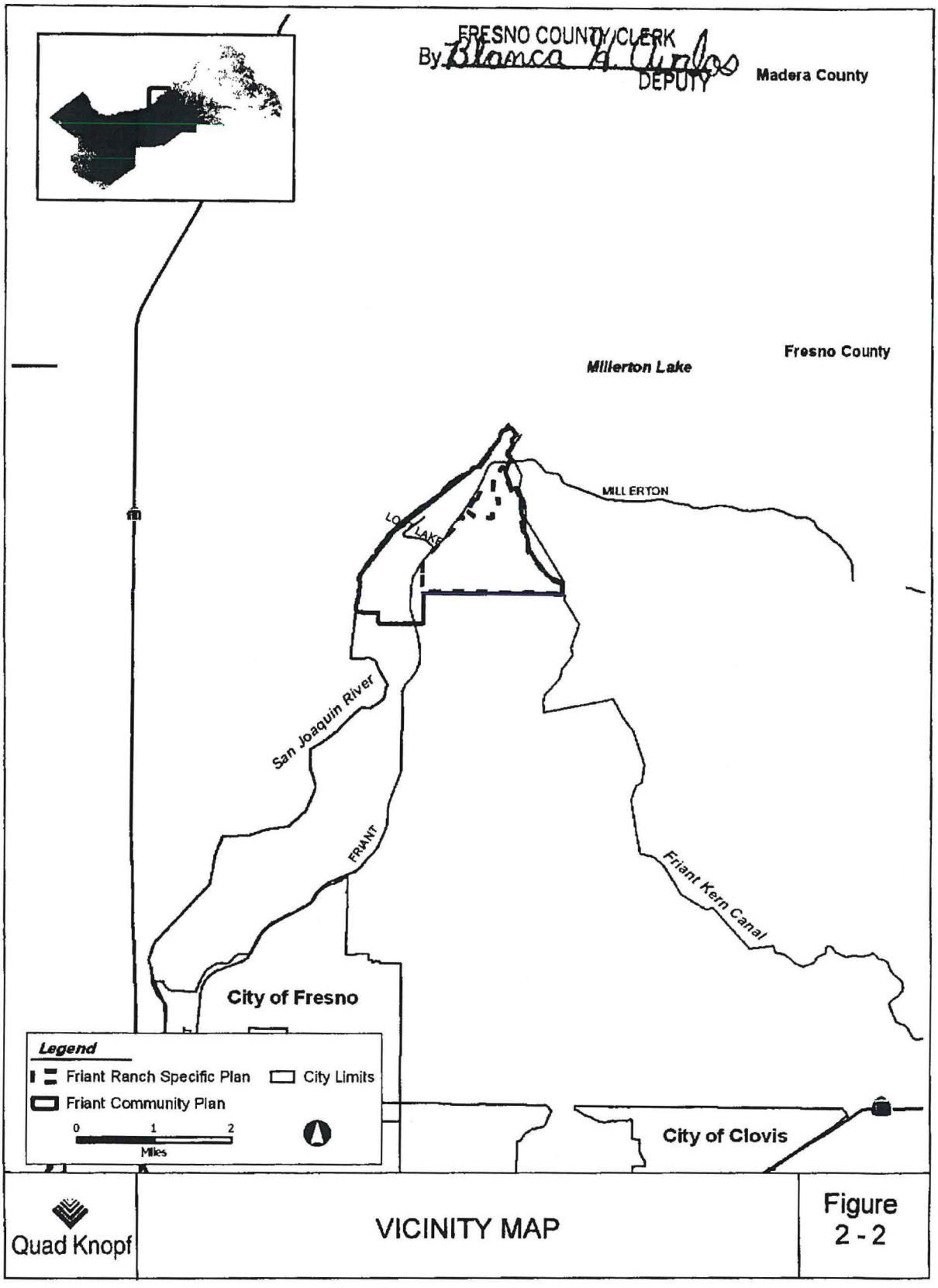
FILED

FEB 03 2011

FRESNO COUNTY CLERK

By Bianca M. Avalos DEPUTY

FILED
E201110000023
FEB 03 2011
FRESNO COUNTY CLERK
By Blanca A. Avalos
DEPUTY



STATE OF CALIFORNIA - THE RESOURCES AGENCY
DEPARTMENT OF FISH AND GAME

ENVIRONMENTAL FILING FEE CASH RECEIPT

Receipt # E201110000023

Lead Agency: COUNTY OF FRESNO Date: 02/03/2011

County Agency of Filing: FRESNO COUNTY CLERK Document No: E201110000023

Project Title: EIR NO. 5481, FRIANT COMMUNITY PLAN UPDATE AND FRIANT RANCH SPECIFIC

Project Applicant Name: COUNTY OF FRESNO/BRIZA SHOLARS Phone Number: (559) 600-4207

Project Applicant Address: 2220 TULARE ST. STE. #A, FRESNO, CA 93721

Project Applicant: LOCAL PUBLIC AGENCY

NOTICE OF DETERMINATION		$	0.00
NOTICE OF DETERMINATION		$	0.00
ENVIRONMENTAL IMPACT STATEMENT		$	0.00
ADMINISTRATION FEE		$	50.00
ADMINISTRATION FEE		$	0.00
	Total Received	$	**50.00**

Signature and title of person receiving payment: Blanca H. Avalos

Inter Office Memo

MEMORANDUM

DATE: February 3, 2011

TO: County Clerk's Office

FROM: Briza Sholars, Development Services

Subject: Notice of Determination

Please file the attached Notice of Determination for the Friant Ranch Environmental Impact Report project. A check for $2,889.25 is attached, $2,839.25 to be forwarded to the California Department of Fish & Game and $50.00 to defray County handling costs.

Please return a stamped "filed" copy of the documents to my attention at Stop No. 214. Thank you for your assistance.

If you have any questions, please call me at 600-4207.

14

Inter Office Memo

DATE: December 7, 2010

TO: Board of Supervisors

FROM: Alan Weaver, Director
Department of Public Works and Planning

SUBJECT: General Plan Amendment No. 511 (Friant Community Plan Update, Friant Ranch Specific Plan) Amendment to Text Application No. 363 and Amendment Application No. 3751 and Associated Draft and Final Environmental Impact Reports.

RECOMMENDED ACTION:

1. **Certify the Environmental Impact Report prepared for the project and adopt the Statement of Fact, Findings and Overriding Considerations and the Mitigation Monitoring and Reporting Plan; and**
2. **Approve the Friant Community Plan Update by expanding the boundary by adding the 942.2-acre Friant Ranch Specific Plan Area proposing to designate the Specific Plan Area (Alternative No. 3) for a variety of residential, commercial, and open space uses including the alternative wastewater treatment plant location (General Plan Amendment No. 511) as the second amendment of the Fresno County General Plan of 2010; and**
3. **Approve adoption of the Friant Ranch Specific Plan (Alternative No. 3) containing goals, policies, implementation measures and development standards for the Specific Plan area (General Plan Amendment No. 511); and**
4. **Adopt Amendment to Text Application No. 363 - Friant Ranch Zoning Regulations, containing specific zoning districts for the Friant Ranch Specific Plan; and**
5. **Adopt Ordinance approving Amendment Application No. 3751 to rezone the project site to the various proposed zone districts, rezone the 7.19-acre "Depot Parcel" from Single-Family Residential Agricultural District (R-A) to General Commercial (C-6), rezone two parcels totaling 6.6 acres from R-A and C-6 to Open Space (OS), and rezone a 106-acre parcel from AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District to OS.**

The Friant Community Plan Update ("Update") proposes to increase the boundary by adding the 942.2-acre Friant Ranch Specific Plan Area and designate the Specific Plan Area for a variety of residential, commercial, and open space uses. The Specific Plan is proposed as a predominately active adult community. The Community Plan Update proposes revision to existing policies and inclusion of new policies to include provisions consistent with the policies of the 2000 General Plan Update.

The community of Friant is located in and adjacent to the unincorporated community of Friant approximately nine miles north of the cities of Fresno and Clovis and adjacent on the west to the

San Joaquin River which forms the boundary between Fresno and Madera Counties. (SUP. DIST. 5)

BACKGROUND/DISCUSSION:

This item comes before your Board because the proposed General Plan Amendment (GPA), Amendment to Text (AT) and Amendment (Rezone) Applications are legislative actions requiring final approval by your Board. Consequently, a final action by your Board is also required on the environmental documents prepared for the project, including certification of the Final Environmental Impact Report (EIR) and adoption of the Statement of Fact, Findings, and Overriding Considerations and the Mitigation Monitoring Program. Approval of the GPA and rezone would become effective 30 days after the Board's approval.

The Planning Commission considered this item at its public hearings of October 7, 2010 and October 21, 2010. Upon consideration of the project information and the public testimony, the Planning Commission voted seven to one to recommend to the Board of Supervisors certification of the Final EIR and adoption of the Mitigation Monitoring Program (MMP) and recommend to the Board of Supervisors approval of General Plan Amendment No. 511 updating the Friant Community Plan and approval of the Friant Ranch Specific Plan (Alternative 3) and the Alternative Waste Water Treatment Plant location, recommend approval of AT Application No. 363 and Amendment Application (AA) No. 3751 and directed the Secretary to prepare a Resolution documenting the Commission's action.

The Draft EIR includes a project description and information regarding the environmental setting, a discussion of potential environmental impacts, and an examination of project alternatives. The Draft EIR identified potentially significant environmental impacts in the following areas: Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Public Services and Recreation, Transportation/Traffic, Utilities and Service Systems, and Greenhouse Gases/Global Climate Change. While most of the impacts above can be mitigated to a level that is less than significant through Mitigation Measures included in the Draft EIR, the following impacts are considered significant and unavoidable:

- Agricultural Resources - The proposed re-designation of 900 acres of grazing land within the Friant Ranch Specific Plan Area currently zoned for agriculture is a significant and unavoidable impact. The proposed conversion of approximately 700 acres, including roads and trails (approximately 482 acres under Alternative 3) will conflict with the existing agricultural zoning.
- Air Quality - Emissions during Phases 1 and 2 of the Friant Ranch Specific Plan will exceed San Joaquin Valley Air Pollution Control District (SJVAPCD) thresholds. At build-out of the Friant Ranch Specific Plan and Community Plan Update, the primary source of emissions will be from vehicles. Impacts will be lessened by policies of the Specific Plan and Community Plan that promote alternative transportation, air quality mitigation for new development, and strategies to minimize vehicle trips. However, there are no known additional feasible Mitigation Measures that will reduce the impact to a less than significant level.
- Traffic – Multiple road segments and intersections will be impacted by the proposed development resulting in a Level of Service (LOS) below the adopted standards.

- Noise – The project will result in significant and unavoidable off-site traffic related noise impacts to existing homes.
- Aesthetics – The project will have a cumulatively considerable contribution to the overall aesthetic impact of past, present and foreseeable development in the surrounding area.

As previously noted, GPA, AT and AA applications are legislative actions requiring final approval by your Board on these applications including the associated environmental documents.

If your Board determines that the EIR prepared for the project is complete and complies with the requirements of CEQA, your Board should make a motion to certify the Final EIR, adopt the Statement of Facts, Findings and Overriding Considerations and the Mitigation Monitoring Program. If your Board determines that the proposed GPA, AT and AA to update/rezone the Friant Community Plan and Friant Specific Plan are consistent with the General Plan, a motion to approve of General Plan Amendment No. 511 (as the second amendment of the Fresno County General Plan of 2010), Amendment to Text Application No. 363 and Amendment Application No. 3751.would be appropriate. If your Board determines that General Plan Amendment No. 511, Amendment to Text Application No. 363 and Amendment Application No. 3751 is not consistent with the General Plan, denial of the applications would then be appropriate citing the reasons for denial and the proposal's inconsistency with the Fresno County General Plan.

OTHER REVIEWING AGENCIES:

On October 3, 2007, the County distributed to public agencies and interested citizens a Notice of Preparation (NOP) of an EIR for the project. The NOP scoping meeting was held on October 17, 2007, at the Friant Elementary School. The notice of the scoping meeting was sent to residents of Friant and surrounding property owners. A scoping meeting, as recommended in Section 15083 of the California Environmental Quality Act (CEQA) Guidelines, was advertised in the Mountain Press. The purpose of the meeting was to receive input from the agencies and community residents on issues that should be addressed in the EIR, the Community Plan and the Specific Plan.

Fresno County as the Lead Agency, circulated the Draft EIR for the project from October 30, 2009 through December 15, 2009. The Notice of Availability (NOA) for the Draft EIR was published in the Fresno Bee and posted at the Fresno County Clerk's office on October 30, 2009. Pursuant to public notice, a community meeting was held on December 9, 2009 at the Friant Elementary School to receive input from the community residents on the Draft EIR, Specific and Community Plans.

REVERENCE MATERIAL:

Advanced Agenda Material – August 24, 2010

Agenda Item 14

DATE: December 7, 2010

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: Resolution No. 12218 – General Plan Amendment No. 511 (Friant Community Plan Update, Friant Ranch Specific Plan), Amendment to Text Application No. 363 and Amendment Application No. 3751 and Associated Draft and Final Environmental Impact Reports.

APPLICANT: Bigelow Silkwood Friant Ranch LP

PROPOSAL:

- Update the Friant Community Plan and expand the boundary by adding the 942.2-acre Friant Ranch Specific Plan Area and designate the Specific Plan Area for a variety of residential, commercial, and open space uses (General Plan Amendment No. 511);
- Adopt the Friant Ranch Specific Plan containing goals, policies, implementation measures and development standards for the Specific Plan Area (General Plan Amendment No. 511);
- Adopt Amendment to Text Application No. 363 - Friant Ranch Zoning Regulations, containing specific zoning districts for the Friant Ranch Specific Plan Area;
- Adopt Amendment Application No. 3751 to rezone the project site to the various proposed zone districts, rezone the 7.19-acre "Depot Parcel" from Single-Family Residential Agricultural District (R-A) to General Commercial (C-6), rezone two parcels totaling 6.6 acres from R-A and C-6 to Open Space (OS), and rezone a 106-acre parcel from AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District to OS.

ADMINISTRATIVE OFFICE REVIEW Brandi Otto

BOARD ACTION: DATE December 7, 2010 APPROVED AS RECOMMENDED _____ OTHER X

Official Action of Board of Supervisors

Deputy

CONTINUED ITEM TO FEBRUARY 1, 2011, AT 2:00 P.M.

UNANIMOUS X ANDERSON _____ CASE _____ LARSON _____ PEREA _____ POOCHIGIAN _____

FC-017 (eForms-0904)

LOCATION: The project area is located in and adjacent to the unincorporated community of Friant approximately nine miles north of the cities of Fresno and Clovis and adjacent on the west to the San Joaquin River which forms the boundary between Fresno and Madera Counties. (SUP. DIST. 5)

PLANNING COMMISSION ACTION:

On October 7, 2010, the Fresno County Planning Commission, at a public hearing, considered the proposed Community Plan Update (Update), associated land use applications and environmental documents. Following presentation by County staff and the consultant, and the resulting discussion (summarized in Exhibit "A"), the public testimony portion of the hearing was closed at 11:55 a.m. so as to vacate the hearing chambers, as it was only available until 12:00 p.m.

A motion was made by Commissioner Ferguson and seconded by Commissioner Niswander to continue the item to the Commission hearing of October 21, 2010 and to allow the Applicant additional time to continue with and complete their presentation.

This motion passed on the following vote:

VOTING:	Yes:	Commissioners Ferguson, Niswander, Gill, Mendes, Niswander, Rocca, Woolf, Goodman
	No:	None
	Absent:	Commissioner Abrahamian
	Abstain:	None

On October 21, 2010, the Fresno County Planning Commission, at a public hearing, considered the proposed Community Plan Update (Update), associated land use applications and associated environmental documents. Following presentation by County staff and the consultant, and the resulting discussion (summarized in Exhibit "B"), the Planning Commission took the following actions:

A motion was made by Commissioner Ferguson and seconded by Commissioner Borba to recommend the following to the Board of Supervisors:

- Certification of the Final Environmental Impact Report;
- Adoption of the Mitigation Monitoring Program (MMP);
- Approval of General Plan Amendment No. 511 updating the Friant Community Plan and authorizing the Friant Ranch Specific Plan (Alternative 3) and the Alternative Wastewater Treatment Plant location;
- Approval of Amendment to Text Application No. 363;
- Approval of Amendment Application No. 3751; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

This motion passed on the following vote:

VOTING:	Yes:	Commissioners Ferguson, Borba, Gill, Mendez, Niswander, Rocca, Woolf
	No:	Commissioner Goodman
	Absent:	Commissioner Abrahamian
	Abstain:	None

ALAN WEAVER, DIRECTOR
Department of Public Works and Planning
Secretary-Fresno County Planning Commission

By: _____
Bernard Jimenez, Manager
Development Services Division

Attachments

FRIANT RANCH INFRASTRUCTURE MASTER PLAN

For the
Environmentally-Superior Alternative

February 2011
~~May 2010~~

Adopted by the Board of Supervisors, 2/1/2011

(Board of Supervisors clarifications shown with redlines)

Prepared by

www.ppeng.com

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PROVOST & PRITCHARD INC
ENGINEERING GROUP
An Employee Owned Company

286 W. Cromwell Avenue
Fresno, California 93711-6162
(559) 449-2700
(559) 449-2715 (FAX)

F. Effluent Disposal and Reclamation 29
G. ~~Effluent Disposal (Alternative Plan)~~ [INTENTIONALLY OMITTED] 33
H. Biosolids Disposal 34
I. Treatment Plant Phasing 34
J. Environmentally-Beneficial Project Features 34

VI. GRADING, DRAINAGE, STORM WATER DETENTION AND DISPOSAL 36
A. Introduction 36
B. Low-Impact Development (LID) 36
C. Grading Design 37
D. Existing Drainages 37
E. Storm Drainage Design and Hydrology 39
F. National Pollution Discharge Elimination System (NPDES) 41
G. Permit Requirements 42
H. Flood Routing Drainage Concept 42
I. Interim Facilities 43
J. Facility Design Criteria 43
K. Environmentally - Beneficial Project Features 45

VII. PROJECT WATER BALANCE 46
A. General 46
B. Consumptive Water Use 46
C. Effluent Reclamation 46

VIII. STREET AND CIRCULATION SYSTEM 47
A. General 47
B. Existing Road System 49
C. Layout and Designation of Proposed Streets 49
D. Roundabouts 50
E. Proposed Street Sections 50
F. Trail System 55
G. Landscaping 55
H. Phasing of Roadway Construction 55
I. Environmentally-Beneficial Project Features 56

IX. OTHER UTILITIES 57
A. Electric Power and Natural Gas/Propane 57
B. Telephone 57

The Project has committed to replacing the function of the present CSA 44 facility by providing treatment and disposal facilities of sufficient size to serve both the Project and the present CSA 44 service area. In order to do so, CSA 44 would need to be reorganized, subject to LAFCo approval, and the boundaries of its sewer service area incorporated into the service area boundary of the district serving the Project. This operating entity is planned to be WWD No. 18.

Proponents of the Project propose to construct the following wastewater service infrastructure as a part of the development process:

- A new wastewater treatment facility, sized to treat and dispose of flows from the Project, the existing uses and planned future uses within the Friant Community Plan area and the existing sewered area of the Millerton Lake Village MHP.

  Though the new facility will have treatment capacity sufficient to serve the Friant Community Plan area, the Friant Ranch Specific Plan only includes a stub connection from the Friant community to the new WWTP; it does not provide a collection system outside the Project. Funding sources and plans for the collector systems necessary to connect the plant to the non-Project areas will need to be identified, and are not included within the Friant Ranch Specific Plan process. Construction of sewer collection systems, pump stations, and other infrastructure for non-Project uses within the Friant Community Plan area would be subject to various factors including voter approval and funding.

  The preferred location for the new WWTP is on a 151-acre parcel on the west side of Friant Road opposite the south end of the Project, known as the Beck property, which was recently acquired by the project proponents. Alternatively, a parcel adequate for the WWTP has been designated within the Project boundary. The Beck location is preferred for several reasons including land use compatibility and topography. It also provides a more convenient future hook-up for the Friant community should the decision be made to construct a sewer collection system.

- Disposal facilities, which will be sized to handle the flows from all of the uses identified above.

  The preferred disposal alternative is by land application to the developed landscape areas within the Project, with the balance of the recycled effluent applied to agricultural crops at the Beck property. This alternative is preferred by both the project proponent, and by the Regional Water Quality Control Board in their letter commenting on the Project DEIR.

  ~~While no insurmountable problems are apparent with this preferred alternative, should an insolvable issue arise the Project may implement~~

~~discharge of treated effluent to the San Joaquin River, subject to all appurtenant permits and regulations.~~

B. Public Safety and Fire Protection

Public safety and fire protections services will be provided through the Fresno County Sheriff's Department and the California Division of Forestry, respectively. These services will be added incrementally as the project grows and demand for additional service appears.

V. WASTEWATER COLLECTION, TREATMENT, AND DISPOSAL

A. General

Project wastewater will be collected and treated at a new wastewater treatment facility to be constructed at a site shown on **Figure 5**. Treated effluent (recycled water) is planned to be used for irrigation of landscaped open spaces within the Project, and for agricultural irrigation on nearby parcels including the Beck property.

Effluent produced during months with limited or no irrigation demand (typically October through April) will be stored in the 600-AF pond that exists at the Beck property. This over-winter effluent will be consumed by irrigation demands during the other months of the year, providing a water balance and a sustainable system for water reuse.

~~An alternative plan for disposal of winter effluent, should it be required, involves discharge of the recycled water to the San Joaquin river during October through April, and is discussed in Section G, below.~~

The Friant Ranch Specific Plan contemplates a population of approximately 4,842 at build-out, and a specific wastewater production of 80 gallons per capita-day[3]. The population is based upon 1.9 persons per unit[4] for 2,270 active-adult units and 2.3 persons per unit for the 230 non-age qualified units. This equates to a total residential flow of 387,400 gallons per day. In addition, the Project is committed to providing treatment capacity for the existing and planned future uses of the Friant Community Plan area, which has a projected peak flow of 165,000 gallons per day.[5] Including estimated commercial and industrial flows; total wastewater production is expected to be between 625,000 and 725,000 gallons per day (gpd), at buildout, or as much as 815 AF per year.

---

[3] Standard wastewater production for a residence fully equipped with low-flow fixtures.

[4] Based upon the "American Housing Survey", by the US Census Bureau and the Department of Housing & Urban Development, 2001. The value 1.9 persons per dwelling unit is based upon the combined demographic for the 55-64 and 65-74 age categories.

[5] There is a minor Change of Zone application pending for six acres along the east side of Friant Road known as the Depot property. Currently zoned for Low Density Residential, the proposal would change the zoning to Commercial. The associated increase in projected sewer flows would be approximately 6 Equivalent Dwelling Units, or 1,440 gallons per day, which would not change the projections in this section in any meaningful way.

In the early phases of the project, quantities of effluent available for use as recycled water will be quite limited. Only as the number of completed dwelling units increases will the quantity of recycled water become large enough to irrigate major landscape areas. Nothing in this IMP shall be construed as requiring use of recycled water for irrigation of any particular part of the open spaces within the project area, but all wastewater effluent produced during the irrigation season shall to the maximum extent practical be conjunctively reused for landscape irrigation.

The preferred alternative for winter effluent disposal is by storage in the existing pond at the Beck property shown in **Figure 7**. The existing size of the large pond at the north end of the property is more than adequate to provide 100-day storage of over-winter effluent. With a total available capacity of approximately 600 ac-ft, at project build-out, this pond actually provides for over a year of storage of effluent. The water stored in the months with limited to no irrigation demand (typically October through April) will be consumed by irrigation demands during the other months of the year, providing a sustainable water balance.

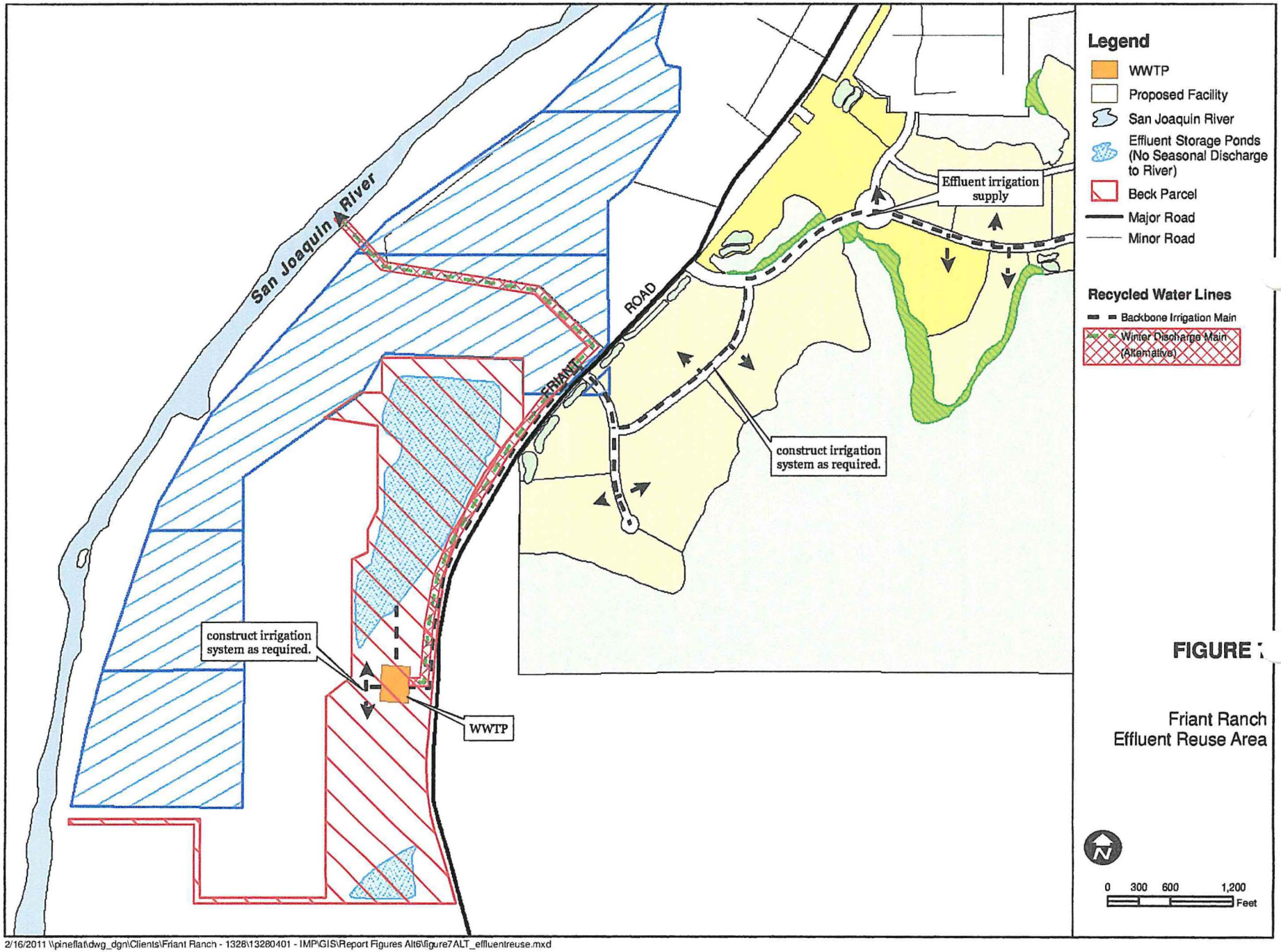
Water balance calculations have been prepared, demonstrating a balance between effluent production and available reclamation areas, allowing application of all effluent in a manner that does not exceed the agronomic demand of the receiving lands. The calculations take into account the effects of a wet (100-year recurrence interval) rainfall year.

Because the bottom of this pond has been excavated to bedrock, there is no opportunity for water in the pond to migrate downward. As well, the hydraulic gradeline available from the top surface of the pond to the San Joaquin river is not adequate to create lateral groundwater movement, and it is therefore physically impossible for water in this pond to reach the San Joaquin river.

All lands used for effluent reclamation must be permitted by the Regional Water Quality Control Board and the Department of Public Health prior to commencement of reclamation activities. These permits will be applied for concurrently with the filing of the Report of Waste Discharge.

G. ~~Effluent Disposal (Alternative Plan)~~ [INTENTIONALLY OMITTED]

~~If for some reason land application and recycled water reclamation is not feasible or permissible as discussed in the section above, the alternative for winter effluent disposal will be to discharge treated effluent to the San Joaquin River during months when effluent production exceeds the agronomic water demand of the landscaped areas within the Project. River discharge would be generally limited to the months of October through April. A study of the effects of this proposed discharge was prepared by Larry Walker Associates and is presented in a November 28, 2007 technical memorandum entitled *"Mixing Zone and Dilution Study for Proposed Discharge of Treated Effluent to the San Joaquin River,"* which is appended to the Project EIR. An NPDES permit will be required~~



2/16/2011 \\pinefla\dwg_dgn\Clients\Friant Ranch - 1328\13280401 - IMP\GIS\Report Figures Alt6\figure7ALT_effluentreuse.mxd

~~for this release, and would be applied for concurrently with the filing of the Report of Waste Discharge.~~

H. Biosolids Disposal

Disposal of biosolids generated by the Project WWTP will be in accordance with regulations contained in EPA 40 CFR 503, and State Water Resources Control Board Water Quality Order 2000-01-DWQ, "*General Waste Discharge Requirements for the Discharge of Biosolids to Land fur Use as a Soil Amendment in Agricultural, Silvicultural, Horticultural, and Land Reclamation Activities (General Order).*"

All disposal operations will operate under the permitting authority of the Regional Water Quality Control Board (RWQCB) and the Department of Public Health, and shall comply with any future Fresno County ordinance which regulates land application of treated municipal sludge.

I. Treatment Plant Phasing

Wastewater treatment facilities will be constructed in multiple phases, as the Project is built out. WWTP phases are lettered, to differentiate them from the numbered Project phases which are not the same. While the final decision on the capacity of each phase will be made as development proceeds and absorption rates are better known, the Phase A facilities will be designed to handle 0.25 MGD. At the design rate of 80 gpcd and assuming 1.9 persons per household, 0.25 MGD will support about 1,600 Equivalent Dwelling Units (EDUs).

A second phase (Phase B) of approximately 0.25 MGD capacity will be constructed as demand warrants; the resulting capacity of 0.50 MGD will be sufficient to serve the entire Project, including an allowance for commercial flows at the low end of industry standard projection ranges for the expected land uses and acreages.

A third phase (Phase C) would be constructed if Project wastewater demand exceeds 0.50 MGD. The WWTP site shown on **Figure 6** and **Figure 6-ALT** is large enough to accommodate facilities to treat approximately 0.80 MGD. This capacity would be more than sufficient for all of the Project as well as existing and planned future uses within the Friant Community Plan area, so that treatment capacity would be available should the citizens of the community choose to address the need for a collection system to allow for treatment at the WWTP.

J. Environmentally-Beneficial Project Features

- The design plans for the WWTP will incorporate appropriate and cost-effective odor and noise reduction measures, to the satisfaction of the Fresno County Planning and Public Works Departments.

BIGELOW-SILKWOOD FRIANT RANCH
A LIMI[illegible]D PARTNERSHIP

[illegible]. 559-224-0871
1322 E SHAW AVE STE 340
FRESNO, CA 93710

2682

90-4327/1211
01

DATE 4-19-11

PAY TO THE ORDER OF CAFCo $14,375 50/100

Fourteen Thousand Three Hundred Seventy Five and 50/100 DOLLARS

Security feature are included. Details on back

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8355 North Fresno Street
Fresno, California 93720

FOR Application fee re WCO #18

⑈002682⑈ ⑆121143273⑆ 0103006342⑈

MP

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ANNEXATION NO. 2011-___
FRIANT RANCH ANNEXATION TO
FRESNO COUNTY WATERWORKS DISTRICT NO. 18

IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA

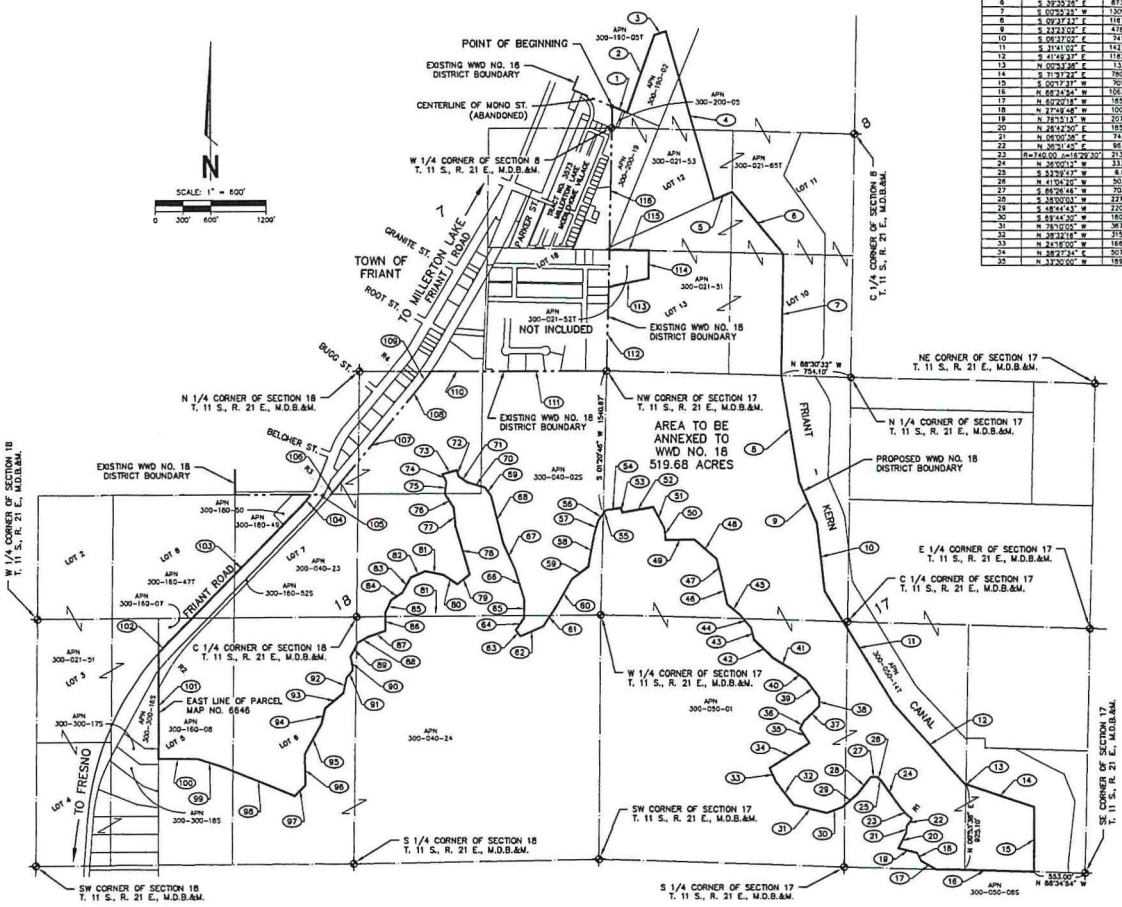
BEING PORTIONS OF SECTIONS 8, 17, & 18,
TOWNSHIP 11 SOUTH, RANGE 21 EAST,
MOUNT DIABLO BASE & MERIDIAN

PORTIONS OF APNS:

300-021-51 300-021-52T 300-021-53
300-040-02s 300-040-23 300-040-24
300-050-01 300-160-08 300-160-52s
300-190-02 300-200-05 300-200-19
300-160-47T

LEGEND

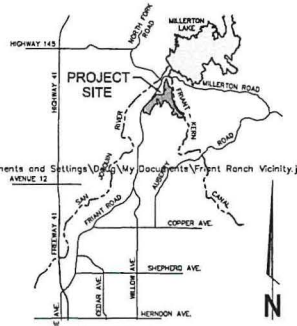
- EXISTING WATERWORKS DISTRICT NO. 18 BOUNDARY
- PROPOSED WATERWORKS DISTRICT NO. 18 BOUNDARY
- EXISTING PROPERTY LINES
- SECTION LINES – NOT DIVISION LINES
- 18 SECTION NUMBER (TYPICAL)



COURSES		
NUMBER	BEARING	LENGTH
1	S 67°34'25" E	178.48
2	N 18°51'00" E	856.32
3	N 73°39'54" E	128.28
4	S 18°32'33" E	1886.36
5	N 63°29'24" E	210.27
6	S 29°33'26" E	873.90
7	S 60°55'25" W	1309.92
8	S 09°37'22" E	1167.73
9	S 21°23'02" E	478.47
10	S 08°37'02" E	741.61
11	S 31°41'02" E	1427.50
12	S 41°48'32" E	1182.02
13	N 00°53'38" E	13.07
14	S 31°37'22" E	780.40
15	S 00°17'37" W	701.91
16	N 88°34'54" W	1062.85
17	N 60°20'18" W	185.00
18	N 27°48'48" W	100.00
19	N 76°15'13" W	207.00
20	N 26°42'50" E	185.00
21	N 08°00'38" E	74.00
22	N 36°01'45" E	98.65
23	R=740.00 ,l=15°29'30"	213.00
24	N 35°00'15" W	333.31
25	S 53°59'47" W	6.00
26	N 41°04'20" W	50.00
27	S 89°26'48" W	70.00
28	S 38°00'03" W	227.00
29	S 48°44'43" W	220.00
30	S 69°44'30" W	180.00
31	N 78°10'05" W	367.00
32	N 36°32'18" W	315.00
33	N 24°58'00" W	166.00
34	N 38°27'34" E	507.00
35	N 33°30'00" W	189.00

COURSES		
NUMBER	BEARING	LENGTH
36	N 27°25'50" E	98.00
37	N 40°58'55" E	227.00
38	N 07°21'48" W	96.00
39	N 36°10'03" W	235.00
40	N 54°06'22" W	180.00
41	N 78°26'31" W	245.00
42	N 46°22'28" W	285.00
43	N 13°18'18" W	138.00
44	N 40°33'15" W	187.00
45	N 50°39'24" W	173.00
46	N 13°01'35" W	296.00
47	N 11°36'52" W	206.00
48	N 48°54'02" W	318.00
49	S 88°21'25" W	310.00
50	N 06°14'30" W	128.00
51	N 27°37'37" W	260.00
52	S 79°46'22" W	338.00
53	N 21°39'07" W	53.00
54	S 67°02'53" W	185.00
55	S 36°10'15" W	45.35
56	S 36°10'15" W	98.65
57	S 15°27'48" W	150.00
58	S 19°12'47" W	358.00
59	S 32°38'56" W	227.00
60	S 30°13'00" W	355.00
61	S 33°41'32" W	240.00
62	S 60°13'13" W	270.00
63	N 37°13'18" W	84.00
64	N 24°13'48" E	185.00
65	N 00°31'20" W	188.00
66	N 17°26'43" W	340.00
67	N 24°11'10" W	305.00
68	N 14°30'46" W	530.00
69	N 36°54'03" W	110.00
70	N 73°17'22" W	193.00
71	N 54°57'08" W	112.00
72	N 16°43'56" W	69.00
73	S 74°38'28" W	185.00
74	S 23°09'07" E	93.00
75	S 08°28'30" W	132.00
76	S 33°06'07" E	180.00
77	S 05°27'50" E	202.00
78	S 16°37'15" E	540.00
79	S 51°22'00" W	170.00
80	N 56°11'21" W	185.00
81	N 78°58'07" W	168.00
82	S 66°52'27" W	171.00
83	S 29°01'47" W	184.00
84	S 53°28'13" W	150.00
85	S 28°21'07" W	142.00
86	S 00°12'02" E	200.00
87	S 70°29'29" W	198.00
88	S 60°53'23" W	128.00
89	S 27°27'45" W	170.00
90	S 10°03'20" E	146.00
91	S 40°36'50" W	108.00
92	S 11°39'56" W	175.00
93	S 49°52'47" W	254.00
94	S 12°36'25" W	173.00
95	S 28°33'45" W	380.00
96	S 02°09'08" E	328.00
97	S 44°56'31" W	170.00
98	N 67°37'41" W	850.00
99	N 73°01'08" W	283.00
100	N 89°37'38" W	415.00
101	N 00°02'22" E	1144.66
102	R=3053.00 ,l=2°27'05"	130.82
103	N 44°18'49" E	2077.88
104	R=947.00 ,l=9°53'12"	163.41
105	N 89°41'27" E	216.95
106	R=3779.65 ,l=0°13'28"	23.56
107	N 39°32'19" E	1328.94
108	N 39°13'44" E	120.75
109	R=2914.93 ,l=1°42'43"	239.72
110	N 89°35'00" E	363.07
111	N 89°31'12" E	1338.02
112	N 01°18'37" E	903.81
113	N 78°12'24" E	441.39
114	N 01°18'37" E	304.00
115	N 88°36'26" W	430.00
116	N 00°59'24" E	1549.72

RADIAL BEARINGS	
NUMBER	BEARING
R1	S 37°30'17" W
R2	N 48°09'16" W
R3	S 50°14'15" E
R4	S 50°46'16" W



C:\Documents and Settings\Data\My Documents\Friant Ranch Vicinity.jpg

VICINITY MAP
NOT TO SCALE

Disclaimer:
"For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described."

LAFCO RESOLUTION NO. _____

DATE: _____

PROVOST & PRITCHARD
CONSULTING TEAM EXPERTISE
An Employee Owned Company
286 WEST CROMWELL AVENUE
FRESNO, CALIFORNIA 93711-6162
559/448-3700 FAX 559/448-2715
www.provprit.com

JOB NO. 13280401
DWG NO. ESN-PN

ANNEXATION NO. 2011-____
FRIANT RANCH ANNEXATION TO
FRESNO COUNTY WATERWORKS DISTRICT NO. 18

GEOGRAPHIC DESCRIPTION

All that real property, being portions of Sections 8, 17, and 18, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, according to the official government plats thereof, situate in the County of Fresno, State of California, described as follows:

Beginning at the Northeasterly corner of Outlot "B" of Tract No. 3573, Millerton Lake Mobilehome Village, according to the map thereof recorded in Volume 41 of Plats at pages 63 and 64, Fresno County Records, said point also being the point of intersection of the centerline of Mono Street (Abandoned), according to the Map of Pollasky recorded in Volume 5 of Plats at page 5, Fresno County Records, with the West line of the Northwest quarter of Section 8, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, said point also being on the existing service area boundary of Waterworks District No. 18;

The following four courses are based on the map of Tract No. 3573, Millerton Lake Mobilehome Village, according to the map thereof recorded in Volume 41 of Plats at pages 63 and 64, Fresno County Records:

Thence (1) leaving said existing District boundary, South 67º 34' 25" East a distance of 178.48 feet along said centerline of Mono Street (abandoned);

Thence (2) leaving said centerline, North 18º 59' 00" East a distance of 886.39 feet;

Thence (3) North 73º 39' 54" East a distance of 128.28 feet;

Thence (4) South 16º 33' 53" East a distance of 1886.36 feet;

The remaining courses are all based on or calculated from that Record of Survey map recorded in Book 51 of Record of Surveys at Pages 82 through 88, Fresno County Records:

Thence (5) North 65º 39' 34" East a distance of 210.27 feet;

Thence (6) South 39º 35' 26" East a distance of 873.90 feet;

Thence (7) South 00º 55' 25" West a distance of 1309.92 feet to a point on the North line of the Northwest quarter of said Section 17, said point bears

North 88º 30' 32" West a distance of 754.10 feet from the North quarter corner of said Section;

Thence (8) South 09º 37' 23" East a distance of 1167.73 feet;

Thence (9) South 23º 23' 02" East a distance of 478.47 feet;

Thence (10) South 06º 37' 02" East a distance of 741.61 feet;

Thence (11) South 31º 41' 02" East a distance of 1427.50 feet;

Thence (12) South 41º 49' 37" East a distance of 1182.02 feet to a point on the West line of the East half of the Southeast quarter of said Section 17;

Thence (13) North 00º 53' 38" East a distance of 13.07 feet, along said West line, to a point that bears North 00º 53' 38" East a distance of 925.10 feet from the Southwest corner of the East half of the Southeast quarter of said Section 17;

Thence (14) leaving said West line, South 71º 57' 22" East a distance of 780.40 feet;

Thence (15) South 00º 17' 37" West a distance of 701.91 feet to a point on the south line of the Southeast quarter of said Section 17, said point bears North 88º 34' 54" West a distance of 553.00 feet from the Southeast corner of said Section 17;

Thence (16) North 88º 34' 54" West a distance of 1062.85 feet along said South line;

Thence (17) leaving said South line, North 60º 20' 18" West a distance of 185.00 feet;

Thence (18) North 27º 49' 48" West a distance of 100.00 feet;

Thence (19) North 76º 15' 13" West a distance of 207.00 feet;

Thence (20) North 26º 42' 50" East a distance of 185.00 feet;

Thence (21) North 06º 00' 38" East a distance of 74.00 feet;

Thence (22) North 36º 51' 45" East a distance of 96.65 feet to a point on a curve, concave to the Northeast, with a radius of 740.00 feet, a radial to said point bears South 37º 30' 17" West;

Thence (23) Northwesterly a distance of 213.00 feet along said curve, through a central angle of 16º 29' 30";

Thence (24) tangent to said curve, North 36º 00' 13" West a distance of 333.31 feet;

Thence (25) South 53º 59' 47" West a distance of 6.00 feet;

Thence (26) North 41º 04' 20" West a distance of 50.00 feet;

Thence (27) South 86º 26' 46" West a distance of 70.00 feet;

Thence (28) South 38º 00' 03" West a distance of 227.00 feet;

Thence (29) South 48º 44' 43" West a distance of 220.00 feet;

Thence (30) South 69º 44' 30" West a distance of 180.00 feet;

Thence (31) North 76º 10' 05" West a distance of 367.00 feet;

Thence (32) North 38º 32' 16" West a distance of 315.00 feet;

Thence (33) North 24º 16' 00" West a distance of 166.00 feet;

Thence (34) North 58º 27' 34" East a distance of 507.00 feet;

Thence (35) North 33º 30' 00" West a distance of 189.00 feet;

Thence (36) North 27º 28' 50" East a distance of 98.00 feet;

Thence (37) North 46º 38' 55" East a distance of 227.00 feet;

Thence (38) North 02º 21' 49" West a distance of 96.00 feet;

Thence (39) North 36º 10' 03" West a distance of 235.00 feet;

Thence (40) North 54º 08' 22" West a distance of 180.00 feet;

Thence (41) North 59º 26' 31" West a distance of 245.00 feet;

Thence (42) North 46º 22' 28" West a distance of 285.00 feet;

Thence (43) North 15º 18' 18" West a distance of 138.00 feet;

Thence (44) North 40º 33' 15" West a distance of 187.00 feet;

Thence (45) North 50º 39' 24" West a distance of 173.00 feet;

Thence (46) North 13º 01' 35" West a distance of 296.00 feet;

Thence (47) North 14º 56' 52" West a distance of 206.00 feet;

Thence (48) North 48º 54' 02" West a distance of 318.00 feet;

Thence (49) South 88º 51' 25" West a distance of 310.00 feet;

Thence (50) North 06º 14' 30" West a distance of 126.00 feet;

Thence (51) North 27º 57' 53" West a distance of 260.00 feet;

Thence (52) South 79º 46' 22" West a distance of 338.00 feet;

Thence (53) North 21º 39' 07" West a distance of 52.00 feet;

Thence (54) South 83º 02' 53" West a distance of 165.00 feet;

Thence (55) South 36º 10' 15" West a distance of 45.35 feet to a point on the West line of the Northwest quarter of said Section 17, said point bears South 01º 20' 46" West a distance of 1540.67 feet from the Northwest corner of said Section 17;

Thence (56) continuing South 36º 10' 15" West a distance of 96.65 feet into said Section 18;

Thence (57) South 15º 27' 48" West a distance of 150.00 feet;

Thence (58) South 10º 12' 47" West a distance of 358.00 feet;

Thence (59) South 52º 58' 56" West a distance of 221.00 feet;

Thence (60) South 30º 13' 00" West a distance of 355.00 feet;

Thence (61) South 33º 41' 32" West a distance of 240.00 feet;

Thence (62) South 66º 19' 13" West a distance of 270.00 feet;

Thence (63) North 37º 13' 18" West a distance of 84.00 feet;

Thence (64) North 34º 43' 48" East a distance of 165.00 feet;

Thence (65) North 00º 31' 20" West a distance of 198.00 feet;

Thence (66) North 17º 26' 43" West a distance of 340.00 feet;

Thence (67) North 24º 11' 10" West a distance of 305.00 feet;

Thence (68) North 14º 30' 46" West a distance of 530.00 feet;

Thence (69) North 36º 54' 03" West a distance of 110.00 feet;

Thence (70) North 73º 47' 22" West a distance of 199.00 feet;

Thence (71) North 54º 57' 08" West a distance of 112.00 feet;

Thence (72) North 16º 43' 56" West a distance of 69.00 feet;

Thence (73) South 74º 38' 28" West a distance of 165.00 feet;

Thence (74) South 29º 09' 07" East a distance of 93.00 feet;

Thence (75) South 08º 28' 30" West a distance of 132.00 feet;

Thence (76) South 33º 06' 07" East a distance of 180.00 feet;

Thence (77) South 05º 27' 50" East a distance of 202.00 feet;

Thence (78) South 16º 37' 15" East a distance of 540.00 feet;

Thence (79) South 51º 22' 00" West a distance of 170.00 feet;

Thence (80) North 56º 11' 21" West a distance of 185.00 feet;

Thence (81) North 78º 58' 07" West a distance of 198.00 feet;

Thence (82) South 66º 52' 27" West a distance of 171.00 feet;

Thence (83) South 29º 01' 47" West a distance of 184.00 feet;

Thence (84) South 55º 28' 15" West a distance of 150.00 feet;

Thence (85) South 25º 21' 07" West a distance of 142.00 feet;

Thence (86) South 00º 12' 02" West a distance of 200.00 feet;

Thence (87) South 70º 29' 29" West a distance of 196.00 feet;

Thence (88) South 60º 53' 23" West a distance of 128.00 feet;

Thence (89) South 27º 27' 45" West a distance of 170.00 feet;

Thence (90) South 10º 03' 20" East a distance of 146.00 feet;

Thence (91) South 40º 36' 50" West a distance of 108.00 feet;

Thence (92) South 11º 59' 56" West a distance of 170.00 feet;

Thence (93) South 49º 53' 47" West a distance of 254.00 feet;

Thence (94) South 13º 36' 25" West a distance of 173.00 feet;

Thence (95) South 28º 33' 45" West a distance of 380.00 feet;

Thence (96) South 02º 09' 06" East a distance of 328.00 feet;

Thence (97) South 44º 56' 34" West a distance of 170.00 feet;

Thence (98) North 67º 53' 41" West a distance of 850.00 feet;

Thence (99) North 73º 01' 06" West a distance of 283.00 feet;

Thence (100) North 89º 57' 38" West a distance of 415.00 feet to the East line of Parcel Map No. 6646, recorded in Book 47 of Parcel Maps at page 98, Fresno County Records;

Thence (101) North 00º 02' 22" East a distance of 1144.66 feet, along said East line and its northerly projection, to its point of intersection with the Northwesterly right of way line of Friant Road, being a curve, concave to the Southeast, with a radius of 3053.00 feet, a radial to said point bears North 48º 08' 16" West;

Thence (102) Northeasterly a distance of 130.62 feet along said curve and said right of way line, through a central angle of 2º 27' 05":

Thence (103) North 44º 18' 49" East a distance of 2077.88 feet, continuing along said right of way line, to the beginning of a tangent curve, concave to the Northwest, with a radius of 947.00 feet;

Thence (104) Northeasterly a distance of 163.41 feet along said curve and continuing along said right of way line, through a central angle of 9º 53' 12", to its point of intersection with the North line of Government Lot 7 in said Section 18, said point being on the existing service area boundary of Waterworks District No. 18.

Thence (105) North 89º 41' 27" East a distance of 218.95 feet along said North line and along said existing District boundary to a point on the southeasterly right of way of the Southern Pacific Railroad (abandoned), said right of way being on a curve, concave to the northwest, with a radius of 5779.65 feet, a radial bearing to said point bears South 50º 14' 15" East;

Thence (106) Northeasterly a distance of 22.58 feet along said curve and right of way and continuing along said existing District boundary, through a central angle of 0º 13' 26";

Thence (107) North 39º 32' 19" East a distance of 1328.94 feet continuing along said right of way and along said existing District boundary;

Thence (108) North 39º 13' 44" East a distance of 120.75 feet continuing along said right of way and along said existing District boundary, to the point of

beginning of a non-tangent curve, concave to the northwest, with a radius of 2914.93 feet, a radial to said point bears South 50º 46' 16" East;

Thence (109) Northeasterly a distance of 239.72 feet along said curve and continuing along said right of way, and along said existing District boundary, through a central angle of 4º 42' 43", to a point on the North line of the Northeast quarter of said Section 18;

Thence (110) North 89º 55' 00" East a distance of 563.07 feet along said North line, and continuing along said existing District boundary, to the Northwest corner of the Northeast quarter of the Northeast quarter of said Section 18;

Thence (111) North 89º 51' 12" East a distance of 1338.02 feet along the North line of said Section 18, and continuing along said existing District boundary, to the Southwest corner of said Section 8;

Thence (112) North 01º 18' 37" East a distance of 903.81 feet along the West line of said Section 8, and continuing along said existing District boundary, to a point that bears South 01º 18' 37" West a distance of 404.00 feet from the Northwest corner of Government Lot 13 in said Section 8;

Thence (113) leaving said existing District boundary, North 78º 15' 54" East a distance of 441.39 feet;

Thence (114) North 01º 18' 37" East a distance of 304.00 feet to a point on the North line of said Government Lot 13;

Thence (115) North 88º 38' 26" West a distance of 430.00 feet along said North line, to the Northwest corner of said Government Lot 13, said point being on the existing service area boundary of Waterworks District No. 18;

Thence (116) North 00º 59' 34" East a distance of 1549.72 feet along the West line of said Section 8, and along said existing District boundary, to the Point of Beginning.

Containing 519.68 acres, more or less.

For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.

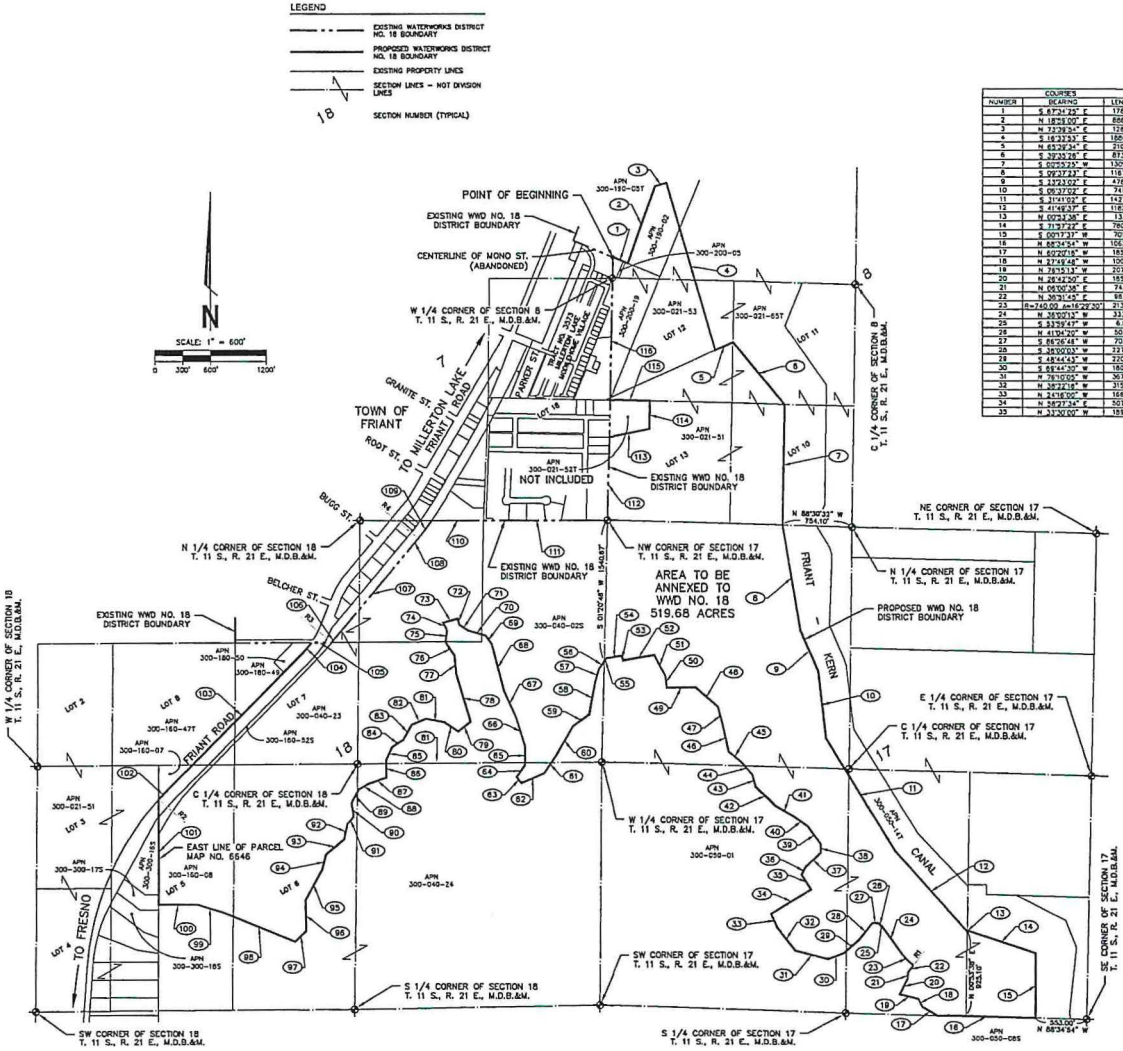
ANNEXATION NO. 2011-___
FRIANT RANCH ANNEXATION TO
FRESNO COUNTY WATERWORKS DISTRICT NO. 18

IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA

BEING PORTIONS OF SECTIONS 8, 17, & 18,
TOWNSHIP 11 SOUTH, RANGE 21 EAST,
MOUNT DIABLO BASE & MERIDIAN

PORTIONS OF APNS:

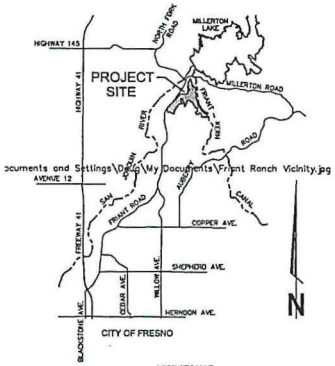
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300-040-02s 300-040-23 300-040-24
300-050-01 300-160-06 300-160-52s
300-190-02 300-200-05 300-200-19
300-160-47T



COURSES		
NUMBER	BEARING	LENGTH
1	S 67°34'25" E	178.48
2	N 18°58'00" E	866.39
3	N 73°28'34" E	126.28
4	S 16°33'53" E	1866.36
5	N 65°28'34" E	210.27
6	S 30°35'28" E	873.90
7	S 00°55'25" W	1309.93
8	S 09°37'23" E	1187.73
9	S 23°23'02" E	478.47
10	S 09°37'02" E	741.61
11	S 21°41'02" E	1427.52
12	S 41°48'37" E	1162.02
13	N 00°53'36" E	13.07
14	S 71°37'22" E	780.40
15	S 00°17'37" W	701.91
16	N 88°34'54" W	1062.85
17	N 60°26'16" W	183.00
18	N 27°48'48" W	100.00
19	N 76°15'13" W	207.00
20	N 28°42'50" E	185.00
21	N 06°00'36" E	74.00
22	N 30°31'45" E	88.65
23	R=740.00 an=16°29'30"	213.00
24	N 38°00'13" W	333.31
25	S 83°59'47" W	6.00
26	N 41°04'20" W	50.00
27	S 86°06'48" W	70.00
28	S 36°00'03" W	221.00
29	S 48°44'43" W	220.00
30	S 85°44'20" W	180.00
31	N 76°10'05" W	367.00
32	N 38°22'18" W	315.00
33	N 24°18'00" W	166.00
34	N 58°27'34" E	507.00
35	N 33°30'00" W	189.00

COURSES		
NUMBER	BEARING	LENGTH
36	N 27°28'50" E	98.00
37	N 46°38'55" E	227.00
38	N 02°21'48" W	86.00
39	N 36°10'03" W	235.00
40	N 54°05'22" W	180.00
41	N 59°28'31" W	245.00
42	N 46°22'28" W	285.00
43	N 15°18'18" W	138.00
44	N 40°33'15" W	187.00
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49	S 88°31'25" W	310.00
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52	S 79°46'22" W	338.00
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54	S 81°02'53" W	183.00
55	S 36°10'15" W	45.35
56	S 36°10'15" W	95.65
57	S 15°27'48" W	150.00
58	S 10°12'43" W	358.00
59	S 32°58'56" W	221.00
60	S 20°33'00" W	355.00
61	S 37°41'32" W	240.00
62	S 56°19'12" W	270.00
63	N 27°37'18" W	84.00
64	N 34°43'48" E	165.00
65	N 00°31'20" W	195.00
66	N 17°28'43" W	340.00
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70	N 73°47'22" W	193.00
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74	S 29°59'07" E	93.00
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76	S 33°06'01" E	180.00
77	S 05°27'00" E	202.00
78	S 16°37'15" E	540.00
79	S 51°27'00" W	170.00
80	N 56°11'21" W	185.00
81	N 78°56'07" W	188.00
82	S 66°52'27" W	171.00
83	S 29°01'47" W	184.00
84	S 27°28'15" W	150.00
85	S 25°21'07" W	142.00
86	S 00°12'02" W	200.00
87	S 70°59'29" W	198.00
88	S 60°53'23" W	128.00
89	S 27°27'45" W	170.00
90	S 10°03'20" E	146.00
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95	S 28°33'45" W	380.00
96	S 01°09'08" E	328.00
97	S 44°56'24" W	170.00
98	N 67°31'41" W	850.00
99	N 73°01'06" W	283.00
100	N 89°27'28" W	415.00
101	N 00°02'22" E	1144.66
102	R=3053.00 a=2°22'05"	130.82
103	N 45°18'49" E	2077.89
104	R=947.00 a=9°33'12"	163.41
105	N 89°41'12" E	318.85
106	R=5779.65 a=0°13'28"	22.58
107	N 36°32'16" E	1328.84
108	N 36°13'44" E	120.75
109	R=2014.93 a=4°42'43"	239.72
110	N 89°55'00" E	563.07
111	N 89°51'12" E	1338.02
112	N 01°18'37" E	903.81
113	N 78°13'34" E	441.30
114	N 01°19'37" E	304.00
115	N 88°38'26" W	430.00
116	N 00°59'24" E	1549.72

RADIAL BEARINGS	
NUMBER	BEARING
R1	S 37°30'19" W
R2	N 48°08'16" W
R3	S 50°14'15" E
R4	S 50°46'18" W



VICINITY MAP
NOT TO SCALE

Disclaimer:
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LAFCO RESOLUTION NO. _____

DATE: _____

EST. 1988
PROVOST& PRITCHARD
CONSULTING ENGINEERS
An Employee Owned Company
286 WEST CROMWELL AVENUE
FRESNO, CALIFORNIA 93711-6162
559/448-2700 FAX 559/448-2715
www.ppeng.com

JOB NO. 12280401
DWG NO. EXH-PH

ANNEXATION NO. 2011-____
FRIANT RANCH ANNEXATION TO
FRESNO COUNTY WATERWORKS DISTRICT NO. 18

GEOGRAPHIC DESCRIPTION

All that real property, being portions of Sections 8, 17, and 18, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, according to the official government plats thereof, situate in the County of Fresno, State of California, described as follows:

Beginning at the Northeasterly corner of Outlot "B" of Tract No. 3573, Millerton Lake Mobilehome Village, according to the map thereof recorded in Volume 41 of Plats at pages 63 and 64, Fresno County Records, said point also being the point of intersection of the centerline of Mono Street (Abandoned), according to the Map of Pollasky recorded in Volume 5 of Plats at page 5, Fresno County Records, with the West line of the Northwest quarter of Section 8, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, said point also being on the existing service area boundary of Waterworks District No. 18;

The following four courses are based on the map of Tract No. 3573, Millerton Lake Mobilehome Village, according to the map thereof recorded in Volume 41 of Plats at pages 63 and 64, Fresno County Records:

Thence (1) leaving said existing District boundary, South 67º 34' 25" East a distance of 178.48 feet along said centerline of Mono Street (abandoned);

Thence (2) leaving said centerline, North 18º 59' 00" East a distance of 886.39 feet;

Thence (3) North 73º 39' 54" East a distance of 128.28 feet;

Thence (4) South 16º 33' 53" East a distance of 1886.36 feet;

The remaining courses are all based on or calculated from that Record of Survey map recorded in Book 51 of Record of Surveys at Pages 82 through 88, Fresno County Records:

Thence (5) North 65º 39' 34" East a distance of 210.27 feet;

Thence (6) South 39º 35' 26" East a distance of 873.90 feet;

Thence (7) South 00º 55' 25" West a distance of 1309.92 feet to a point on the North line of the Northwest quarter of said Section 17, said point bears

North 88º 30' 32" West a distance of 754.10 feet from the North quarter corner of said Section;

Thence (8) South 09º 37' 23" East a distance of 1167.73 feet;

Thence (9) South 23º 23' 02" East a distance of 478.47 feet;

Thence (10) South 06º 37' 02" East a distance of 741.61 feet;

Thence (11) South 31º 41' 02" East a distance of 1427.50 feet;

Thence (12) South 41º 49' 37" East a distance of 1182.02 feet to a point on the West line of the East half of the Southeast quarter of said Section 17;

Thence (13) North 00º 53' 38" East a distance of 13.07 feet, along said West line, to a point that bears North 00º 53' 38" East a distance of 925.10 feet from the Southwest corner of the East half of the Southeast quarter of said Section 17;

Thence (14) leaving said West line, South 71º 57' 22" East a distance of 780.40 feet;

Thence (15) South 00º 17' 37" West a distance of 701.91 feet to a point on the south line of the Southeast quarter of said Section 17, said point bears North 88º 34' 54" West a distance of 553.00 feet from the Southeast corner of said Section 17;

Thence (16) North 88º 34' 54" West a distance of 1062.85 feet along said South line;

Thence (17) leaving said South line, North 60º 20' 18" West a distance of 185.00 feet;

Thence (18) North 27º 49' 48" West a distance of 100.00 feet;

Thence (19) North 76º 15' 13" West a distance of 207.00 feet;

Thence (20) North 26º 42' 50" East a distance of 185.00 feet;

Thence (21) North 06º 00' 38" East a distance of 74.00 feet;

Thence (22) North 36º 51' 45" East a distance of 96.65 feet to a point on a curve, concave to the Northeast, with a radius of 740.00 feet, a radial to said point bears South 37º 30' 17" West;

Thence (23) Northwesterly a distance of 213.00 feet along said curve, through a central angle of 16º 29' 30";

Thence (24) tangent to said curve, North 36º 00' 13" West a distance of 333.31 feet;

Thence (25) South 53º 59' 47" West a distance of 6.00 feet;

Thence (26) North 41º 04' 20" West a distance of 50.00 feet;

Thence (27) South 86º 26' 46" West a distance of 70.00 feet;

Thence (28) South 38º 00' 03" West a distance of 227.00 feet;

Thence (29) South 48º 44' 43" West a distance of 220.00 feet;

Thence (30) South 69º 44' 30" West a distance of 180.00 feet;

Thence (31) North 76º 10' 05" West a distance of 367.00 feet;

Thence (32) North 38º 32' 16" West a distance of 315.00 feet;

Thence (33) North 24º 16' 00" West a distance of 166.00 feet;

Thence (34) North 58º 27' 34" East a distance of 507.00 feet;

Thence (35) North 33º 30' 00" West a distance of 189.00 feet;

Thence (36) North 27º 28' 50" East a distance of 98.00 feet;

Thence (37) North 46º 38' 55" East a distance of 227.00 feet;

Thence (38) North 02º 21' 49" West a distance of 96.00 feet;

Thence (39) North 36º 10' 03" West a distance of 235.00 feet;

Thence (40) North 54º 08' 22" West a distance of 180.00 feet;

Thence (41) North 59º 26' 31" West a distance of 245.00 feet;

Thence (42) North 46º 22' 28" West a distance of 285.00 feet;

Thence (43) North 15º 18' 18" West a distance of 138.00 feet;

Thence (44) North 40º 33' 15" West a distance of 187.00 feet;

Thence (45) North 50º 39' 24" West a distance of 173.00 feet;

Thence (46) North 13º 01' 35" West a distance of 296.00 feet;

Thence (47) North 14º 56' 52" West a distance of 206.00 feet;

Thence (48) North 48º 54' 02" West a distance of 318.00 feet;

Thence (49) South 88º 51' 25" West a distance of 310.00 feet;

Thence (50) North 06º 14' 30" West a distance of 126.00 feet;

Thence (51) North 27º 57' 53" West a distance of 260.00 feet;

Thence (52) South 79º 46' 22" West a distance of 338.00 feet;

Thence (53) North 21º 39' 07" West a distance of 52.00 feet;

Thence (54) South 83º 02' 53" West a distance of 165.00 feet;

Thence (55) South 36º 10' 15" West a distance of 45.35 feet to a point on the West line of the Northwest quarter of said Section 17, said point bears South 01º 20' 46" West a distance of 1540.67 feet from the Northwest corner of said Section 17;

Thence (56) continuing South 36º 10' 15" West a distance of 96.65 feet into said Section 18;

Thence (57) South 15º 27' 48" West a distance of 150.00 feet;

Thence (58) South 10º 12' 47" West a distance of 358.00 feet;

Thence (59) South 52º 58' 56" West a distance of 221.00 feet;

Thence (60) South 30º 13' 00" West a distance of 355.00 feet;

Thence (61) South 33º 41' 32" West a distance of 240.00 feet;

Thence (62) South 66º 19' 13" West a distance of 270.00 feet;

Thence (63) North 37º 13' 18" West a distance of 84.00 feet;

Thence (64) North 34º 43' 48" East a distance of 165.00 feet;

Thence (65) North 00º 31' 20" West a distance of 198.00 feet;

Thence (66) North 17º 26' 43" West a distance of 340.00 feet;

Thence (67) North 24º 11' 10" West a distance of 305.00 feet;

Thence (68) North 14º 30' 46" West a distance of 530.00 feet;

Thence (69) North 36º 54' 03" West a distance of 110.00 feet;

Thence (70) North 73º 47' 22" West a distance of 199.00 feet;

Thence (71) North 54º 57' 08" West a distance of 112.00 feet;

Thence (72) North 16º 43' 56" West a distance of 69.00 feet;

Thence (73) South 74º 38' 28" West a distance of 165.00 feet;

Thence (74) South 29º 09' 07" East a distance of 93.00 feet;

Thence (75) South 08º 28' 30" West a distance of 132.00 feet;

Thence (76) South 33º 06' 07" East a distance of 180.00 feet;

Thence (77) South 05º 27' 50" East a distance of 202.00 feet;

Thence (78) South 16º 37' 15" East a distance of 540.00 feet;

Thence (79) South 51º 22' 00" West a distance of 170.00 feet;

Thence (80) North 56º 11' 21" West a distance of 185.00 feet;

Thence (81) North 78º 58' 07" West a distance of 198.00 feet;

Thence (82) South 66º 52' 27" West a distance of 171.00 feet;

Thence (83) South 29º 01' 47" West a distance of 184.00 feet;

Thence (84) South 55º 28' 15" West a distance of 150.00 feet;

Thence (85) South 25º 21' 07" West a distance of 142.00 feet;

Thence (86) South 00º 12' 02" West a distance of 200.00 feet;

Thence (87) South 70º 29' 29" West a distance of 196.00 feet;

Thence (88) South 60º 53' 23" West a distance of 128.00 feet;

Thence (89) South 27º 27' 45" West a distance of 170.00 feet;

Thence (90) South 10º 03' 20" East a distance of 146.00 feet;

Thence (91) South 40º 36' 50" West a distance of 108.00 feet;

Thence (92) South 11º 59' 56" West a distance of 170.00 feet;

Thence (93) South 49º 53' 47" West a distance of 254.00 feet;

Thence (94) South 13º 36' 25" West a distance of 173.00 feet;

Thence (95) South 28º 33' 45" West a distance of 380.00 feet;

Thence (96) South 02º 09' 06" East a distance of 328.00 feet;

Thence (97) South 44º 56' 34" West a distance of 170.00 feet;

Thence (98) North 67º 53' 41" West a distance of 850.00 feet;

Thence (99) North 73º 01' 06" West a distance of 283.00 feet;

Thence (100) North 89º 57' 38" West a distance of 415.00 feet to the East line of Parcel Map No. 6646, recorded in Book 47 of Parcel Maps at page 98, Fresno County Records;

Thence (101) North 00º 02' 22" East a distance of 1144.66 feet, along said East line and its northerly projection, to its point of intersection with the Northwesterly right of way line of Friant Road, being a curve, concave to the Southeast, with a radius of 3053.00 feet, a radial to said point bears North 48º 08' 16" West;

Thence (102) Northeasterly a distance of 130.62 feet along said curve and said right of way line, through a central angle of 2º 27' 05":

Thence (103) North 44º 18' 49" East a distance of 2077.88 feet, continuing along said right of way line, to the beginning of a tangent curve, concave to the Northwest, with a radius of 947.00 feet;

Thence (104) Northeasterly a distance of 163.41 feet along said curve and continuing along said right of way line, through a central angle of 9º 53' 12", to its point of intersection with the North line of Government Lot 7 in said Section 18, said point being on the existing service area boundary of Waterworks District No. 18.

Thence (105) North 89º 41' 27" East a distance of 218.95 feet along said North line and along said existing District boundary to a point on the southeasterly right of way of the Southern Pacific Railroad (abandoned), said right of way being on a curve, concave to the northwest, with a radius of 5779.65 feet, a radial bearing to said point bears South 50º 14' 15" East;

Thence (106) Northeasterly a distance of 22.58 feet along said curve and right of way and continuing along said existing District boundary, through a central angle of 0º 13' 26";

Thence (107) North 39º 32' 19" East a distance of 1328.94 feet continuing along said right of way and along said existing District boundary;

Thence (108) North 39º 13' 44" East a distance of 120.75 feet continuing along said right of way and along said existing District boundary, to the point of

beginning of a non-tangent curve, concave to the northwest, with a radius of 2914.93 feet, a radial to said point bears South 50º 46' 16" East;

Thence (109) Northeasterly a distance of 239.72 feet along said curve and continuing along said right of way, and along said existing District boundary, through a central angle of 4º 42' 43", to a point on the North line of the Northeast quarter of said Section 18;

Thence (110) North 89º 55' 00" East a distance of 563.07 feet along said North line, and continuing along said existing District boundary, to the Northwest corner of the Northeast quarter of the Northeast quarter of said Section 18;

Thence (111) North 89º 51' 12" East a distance of 1338.02 feet along the North line of said Section 18, and continuing along said existing District boundary, to the Southwest corner of said Section 8;

Thence (112) North 01º 18' 37" East a distance of 903.81 feet along the West line of said Section 8, and continuing along said existing District boundary, to a point that bears South 01º 18' 37" West a distance of 404.00 feet from the Northwest corner of Government Lot 13 in said Section 8;

Thence (113) leaving said existing District boundary, North 78º 15' 54" East a distance of 441.39 feet;

Thence (114) North 01º 18' 37" East a distance of 304.00 feet to a point on the North line of said Government Lot 13;

Thence (115) North 88º 38' 26" West a distance of 430.00 feet along said North line, to the Northwest corner of said Government Lot 13, said point being on the existing service area boundary of Waterworks District No. 18;

Thence (116) North 00º 59' 34" East a distance of 1549.72 feet along the West line of said Section 8, and along said existing District boundary, to the Point of Beginning.

Containing 519.68 acres, more or less.

For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.

CITY OF CLOVIS

CITY HALL • 1033 FIFTH STREET • CLOVIS, CA 93612

DEC 2009

COPY

December 24, 2009

Briza Sholars, Planner
Fresno County Department of Public Works and Planning
2220 Tulare Street, 7th Floor
Fresno, California 93721

SUBJECT: COMMENTS ON THE DRAFT EIR FOR THE PROPOSED FRIANT COMMUNITY PLAN UPDATE AND FRIANT RANCH SPECIFIC PLAN

Dear Ms. Sholars:

We appreciate the opportunity to meet with you and your staff on this project and the opportunity to provide our late comment letter. Our concerns with the Draft EIR are provided below.

ITE Code May Underestimate Trips Generated

The traffic generation for the detached housing is based on ITE code 251 (Senior Adult Housing). It is our opinion that the traffic generation rates for this land use code underestimate the traffic that may be generated by the proposed Specific Plan. As we have pointed out in previous communications to County staff regarding the project, the ITE trip generation manual recognizes that the data set supporting this should not be relied upon at face value because it represents too wide a range of project types, age groups, and geographical settings. The analysis of potential traffic impacts is therefore defective.

It is our opinion that the Specific Plan trip generation is substantially different than the uses employed by ITE, because, though restricted to "active adults," the project exists in a setting and distance from Fresno and Clovis and is more likely to generate vehicle trips closer to single family detached housing. Many of the residents in the target age group will likely have occupations that will take them to Fresno or Clovis on a daily basis. Also, residents who are apt to live in such a setting would not be averse to traveling to the "City" for services that are not offered in the mixed use development. The viability and sustainability of the services provided would certainly play a role, but the DEIR fails to demonstrate or adequately explain how such services would not only support the population, but be supported by the population.

The small sample size in the ITE manual and the fact that the project is remote from urban type facilities such as medical facilities, banks, employment, entertainment, etc. should be accounted for in the TIS. We do not have confidence that the trip generation data set used in the DEIR can accurately reflect potential trips or impacts.

If an ITE code other than Single Family Detached is to be used for the detached product under the premise that it is senior housing, there would need to be some surety that there's a market for a restricted senior housing development of this size and there will not be opportunity for the project to cater to other demographics under market pressure unless there is further evaluation and mitigation. It is our understanding that the age restriction cannot be made a condition of the County's approval of the project. We therefore recommend that the worst case (or highest possible traffic generator) should be evaluated as the basis for establishing project mitigations. At a minimum, the traffic generation should be estimated based on 80% age restricted units and 20% non-age restricted units.

The Traffic Impact Study (TIS) and DEIR Analysis May Underestimate the Project's Cumulative Traffic Impacts and Clearly Avoids Feasible Mitigation Measures

The TIS and DEIR fail to analyze the impacts from the *entire* Friant Community Plan Area. The DEIR states that "this EIR also analyzes the potential impacts associated with the future buildout of vacant lands within the Existing Friant Community Plan Area according to the proposed land use designations (DEIR, p. 2-8)." Even with this statement in the project description, there is a failure to provide the analysis in the TIS and DEIR's Transportation/Traffic Section. CEQA Guidelines advise the lead agency to consider the whole of an action, not simply its constituent parts, when determining whether it will have a significant environmental effect." The traffic impacts from the Friant Community Plan Area are relevant and must be analyzed in the TIS and DEIR. Failure to do so does not provide a complete analysis of the impacts and can lead to unidentified impacts.

The TIS and DEIR also fail to provide a complete and accurate cumulative project list resulting in an underestimation of cumulative impacts. Both project lists fail to list projects within the City of Clovis. Examples include projects that have regional impacts such as the Clovis-Herndon Shopping Center, Clovis Community Medical Center Expansion, and the Central Valley Research and Technology Business Park Expansion and other smaller projects. Pursuant to CEQA Guidelines Section 15130 (b) (1), the analysis for both individual and cumulative impacts essentially depends on a list of "past, present, and probable future projects" causing related impacts. Not including a complete cumulative list severely limits the cumulative analysis, may lead to unidentified impacts, and thwarts public review and comment of the Project's ultimate cumulative impacts.

The DEIR inaccurately concludes that the improvements to intersections and roadways within Clovis' sphere of influence and within Clovis' boundaries are fully funded and assumes on that basis that the project has no obligation to participate in the mitigation of its impacts. The mitigation measures neglect to assign a fair share contribution from the Friant Ranch development to the improvements that will mitigate the impact of the

increased traffic. While the Clovis development impact fee program is fairly comprehensive, it does not fully fund the improvements and relies on other sources of revenue including grants, tax measures, and projects outside the City's sphere. There are many other examples of traffic from projects within the County that impact Clovis' street system. In these projects, the impacts are normally mitigated by a fair share contribution from the development as identified in the CEQA document based on the proportionate share of traffic generated by the project.

As identified in Section 3.13 of the DEIR, including Impacts 3.13-7, a through f, and Table 3.13-19, which assumes that the traffic signals are in place at all the intersections on Willow Avenue between Copper and Shepherd, the proposed project contributes to or exacerbates LOS problems along the Willow Avenue corridor and should contribute a fair share toward the improvements at each intersection and on each road segment, including:

Intersections
- Willow/Copper
- Willow/International
- Willow/Perrin
- Willow/Nees
- Willow/Herndon – Quadrant Intersection
- Willow/Bullard

Road Segments
- Willow – Copper to International
- Willow – International to Behymer
- Willow – Behymer to Perrin
- Willow – Perrin to Shepherd
- Willow – Shepherd to Herndon

The DEIR inaccurately indicates that there are no feasible mitigations to address the LOS deficiency at the Herndon/Willow intersection. This conclusion does not reflect the record: for example, the 2002 Herndon Corridor Study identified a quadrant intersection design to improve LOS at this intersection by relocating left turns at the main intersection. This improvement scheme is feasible and was approved by the City council and planned for future implementation. Portions of the infrastructure have already been built and are not fully funded. The EIR fails to identify this feasible mitigation measure. The Friant Ranch development should contribute a fair share toward this improvement and other intersections/segments that it impacts.

In dismissing feasible mitigation measures, the EIR mischaracterizes the Measure C funding capacity. The measure does not fully fund the Willow Avenue corridor, but will require a minimum 20% match from the local agencies. This match is to be made up from developer contributions, not from the RTMF, but from projects within Clovis and/or from

projects outside the City sphere, such as Friant Ranch, that add to the traffic on Clovis streets.

Water Demand Estimations

Table 3.14-6 does not appear to accurately estimate acre feet/year demand figure for the MFD (Apartments, etc.). Based on a density of 15.6 units per acre (83 units divided by 5.3 acres), and using Clovis' water use data of 5.1 acre feet/acre of similar development, the average day demand (ADD), should be 4,553 gpd/ac, the demand should be 24,131 gpd or .074 AF/day:

	Number of units	Acres	Density	ADD gpd/ac	Demand gpd	Demand AF/day	Demand AF/yr
MFD (DEIR)	83	5.3	15.7	3035	16085	0.05	18
MFD (Clovis' revision)	*83*	*5.3*	*15.7*	*4553*	*24131*	*0.07*	*27*

Also, the demand for landscaped slopes seems underestimated. By our calculations it should be at least 258 acre feet/year which would be comparable to water demand for our parks. If the DEIR assumes lower demand by use of drip irrigation this number may be correct, but the assumption should be clear to the reader.

As we understand the analysis, the DEIR includes the total recycled water output from the sewage treatment plant in its supply calculations in the main body of the report; although in the executive summary it indicates only 50%. This apparent discrepancy should be clarified.

While the project's overall supply appears to exceed its demand, it is difficult to ascertain the precise water balance due to this apparent discrepancy. In any case, our experience is that it is not reasonable to consider that 100% of the recycled water produced will be available for supply. Fall through early spring demands for landscape irrigation will likely be substantially less than the recycled water produced during those time periods. The applicant should prepare a water balance which compares recycled water produced and recycled water demand on a monthly basis. This should then be used to identify how much of the recycled water can be used in meeting the overall water demand.

The DEIR indicates that during critical dry year(s) they will use the Lower Tule River Irrigation District's historic Tule River allocation, and that LTRID users will use groundwater to make up the shortage. Given CEQA's direction to address all reasonably foreseeable impacts of supplying water to the project, the DEIR should discuss and analyze the potential impact to that groundwater basin and whether the normal reallocation of 2000 AF will also be offset by groundwater extractions.

Thank you for the opportunity to participate on this project. If you have any questions or comments, please contact David Fey, Deputy City Planner, at 324-2338.

Sincerely,

Kathy Millison
City Manager

cc: Dwight Kroll, AICP, Director of Planning and Development Services
Steven White, P.E., Assistant Director of Planning and Development Services
Mike Leonardo, P.E., Director of Public Utilities
Lisa Koehn, P.E., Assistant Director of Public Utilities
David Fey, AICP, Deputy City Planner
Executive Officer, LAFCO of Fresno County
John Duggan, Director of Planning and Development, City of Fresno

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Tweedie, Jeff

To: Ramirez, Ray
Subject: RE: WWD 18 and csa 44-A

Ray:

1. Dissolution can be initiated by the Commission following a study by the Commission, by the Board of Supervisors, or by a petition of registered voters or landowners. A registered voter petition must be signed by at least 5% of the voters, a landowner petition must be signed by at least 5% of the number of owners who own at least 5% if the assessed value of land (not land and improvements).

2. If LAFCo approves a dissolution, an election may be required if at least 25% of the voters or 25% of the landowners owning 25% of the land so request. However, no election will be required if the dissolution was initiated by the Commission, or if the governing bodies of all affected districts consent to the proposal by majority vote of the Board of Directors.

Jeff

-----Original Message-----
From: Ramirez, Ray
Sent: Monday, July 10, 2000 8:23 PM
To: Tweedie, Jeff
Subject: WWD 18 and csa 44-A

At a meeting today, discussing the proposal by WWD 18 to build a regional sewer treatment/disposal plant at Friant, it was mentioned that the proponents needed the residents currently served by CSA 44-A to participate and use their sewer facility. I told them that I thought that CSA 44-A would need to be dissolved. However , 1) I was not sure who would apply that it be dissolved and 2) if there was a dissolution hearing and the residents did not vote for it to be dissolved, could the Board override it, and allow WWD 18 to take over the CSA service area. Can you provide answers to my two questions?

CERTIFICATE OF COMPLETION
FRESNO COUNTY LOCAL AGENCY FORMATION COMMISSION

The Fresno Local Agency Formation Commission waived the Conducting Authority Proceedings.

The names of the agencies whose territory is changed and the type of change for each are:

Annexation to the Watereworks District No. 18.

The county in which the entire boundary change occurred is Fresno County.

The short title of the annexation proceeding is "Friant Ranch Annexation", LAFCo File AD-11-1.

The affected territory is uninhabited.

The change of organization was ordered without an election, and Resolution No. AD-11-1 ordering the change of organization was adopted by the Fresno Local Agency Formation Commission on September 28, 2011.

A map and legal description of the territory affected by the reorganization is set forth in the attached Exhibit "A".

The conditions of approval for the annexation have been complied with as follows:

A. The Applicant has executed an indemnification agreement with the Commission, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter.

B. Waterworks District No. 18 and the County of Fresno have each provided LAFCo with assurances, sufficient to the Executive Officer, that: (1) Waterworks District No. 18 shall provide wastewater services to the Millerton Lake Village Mobile Home Park currently served by CSA 44A; and (2) the new wastewater treatment plant, once fully permitted and operational, shall be used to provide such service.

C. The territory is liable for existing or authorized taxes, charges, fees or assessments comparable to properties presently in the District.

I, Jeff Witte, Executive Officer of the Fresno County Local Agency Formation Commission, hereby certify that the attached legal description, map, and terms and conditions of the change of organization do comply with the Commission's resolution of approval.

JEFF WITTE
EXECUTIVE OFFICER

Dated: February 27. 2012

"EXHIBIT A"

Revised: 6/09/11

ANNEXATION NO. 2011-____
FRIANT RANCH ADDITION TO
FRESNO COUNTY WATERWORKS DISTRICT NO. 18
SPHERE OF INFLUENCE

GEOGRAPHIC DESCRIPTION

All that real property, being portions of Sections 7, 8, 17, and 18, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, according to the official government plats thereof, situate in the County of Fresno, State of California, described as follows:

Beginning at the Southwest corner of Section 8, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, said point also being on the existing service area boundary of Waterworks District No. 18;

The following eight courses are all based on or calculated from that Record of Survey map recorded in Book 51 of Record of Surveys at Pages 82 through 88, Fresno County Records:

Thence (1) North 01º 18' 37" East a distance of 903.81 feet along the West line of said Section 8, and along said existing District boundary, to a point that bears South 01º 18' 37" West a distance of 404.00 feet from the Northwest corner of Government Lot 13 in said Section 8;

Thence leaving said existing District boundary, (2) North 78º 15' 54" East a distance of 441.39 feet;

Thence (3) North 01º 18' 37" East a distance of 304.00 feet to a point on the North line of said Government Lot 13;

Thence (4) North 88º 38' 26" West a distance of 430.00 feet along said North line, to the Northwest corner of said Government Lot 13, said point being on the existing service area boundary of Waterworks District No. 18;

Thence (5) North 88º 47'38" West a distance of 35.00 feet along the North line of the South half of Government Lot 18 in said Section 7, and along said existing District boundary;

Thence leaving said North line, (6) North 00º 23' 22" East a distance of 10.10 feet continuing along said existing District boundary;

APPROVED
LAFCO RES. # 11-10-1
September 28, 2011
DATE

Thence (7) North 65º 35' 31" East a distance of 38.86 feet, continuing along said existing District boundary, to a point on the West line of said Section 8, said point bears North 00º 59' 34" East a distance of 26.90 feet from the Northwest corner of Government Lot 13 in said Section 8;

Thence (8) North 00º 59' 34" East a distance of 1522.82 feet along said West line and along said existing District boundary to a point on the centerline of Mono Street (Abandoned), according to the Map of Pollasky recorded in Volume 5 of Plats at page 5, Fresno County Records, said point also being the Northeasterly corner of Outlot "B" of Tract No. 3573, Millerton Lake Mobilehome Village, according to the map thereof recorded in Volume 41 of Plats at pages 63 and 64, Fresno County Records;

The following four courses are based on the map of Tract No. 3573, Millerton Lake Mobilehome Village, according to the map thereof recorded in Volume 41 of Plats at pages 63 and 64, Fresno County Records:

Thence leaving said existing District boundary, (9) South 67º 34' 25" East a distance of 178.48 feet along said centerline of Mono Street (abandoned);

Thence leaving said centerline, (10) North 18º 59' 00" East a distance of 886.39 feet;

Thence (11) North 73º 39' 54" East a distance of 128.28 feet;

Thence (12) South 16º 33' 53" East a distance of 1886.36 feet;

The remaining courses are all based on or calculated from that Record of Survey map recorded in Book 51 of Record of Surveys at Pages 82 through 88, Fresno County Records:

Thence (13) North 65º 39' 34" East a distance of 210.27 feet;

Thence (14) South 39º 35' 26" East a distance of 873.90 feet;

Thence (15) South 00º 55' 25" West a distance of 1309.92 feet to a point on the North line of the Northwest quarter of said Section 17, said point bears North 88º 30' 32" West a distance of 754.10 feet from the North quarter corner of said Section;

Thence (16) South 09º 37' 23" East a distance of 1167.73 feet;

Thence (17) South 23º 23' 02" East a distance of 478.47 feet;

APPROVED
LAFCO RES. # 11-10-1
September 28, 2011
DATE

Thence (18) South 06º 37' 02" East a distance of 741.61 feet;

Thence (19) South 31º 41' 02" East a distance of 1427.50 feet;

Thence (20) South 41º 49' 37" East a distance of 1182.02 feet to a point on the West line of the East half of the Southeast quarter of said Section 17;

Thence (21) North 00º 53' 38" East a distance of 13.07 feet, along said West line, to a point that bears North 00º 53' 38" East a distance of 925.10 feet from the Southwest corner of the East half of the Southeast quarter of said Section 17;

Thence leaving said West line, (22) South 71º 57' 22" East a distance of 780.40 feet;

Thence (23) South 00º 17' 37" West a distance of 701.91 feet to a point on the south line of the Southeast quarter of said Section 17, said point bears North 88º 34' 54" West a distance of 553.00 feet from the Southeast corner of said Section 17;

Thence (24) North 88º 34' 54" West a distance of 1062.85 feet along said South line;

Thence leaving said South line, (25) North 60º 20' 18" West a distance of 185.00 feet;

Thence (26) North 27º 49' 48" West a distance of 100.00 feet;

Thence (27) North 76º 15' 13" West a distance of 207.00 feet;

Thence (28) North 26º 42' 50" East a distance of 185.00 feet;

Thence (29) North 06º 00' 38" East a distance of 74.00 feet;

Thence (30) North 36º 51' 45" East a distance of 96.65 feet to a point on a curve, concave to the Northeast, with a radius of 740.00 feet, a radial to said point bears South 37º 30' 17" West;

Thence (31) Northwesterly a distance of 213.00 feet along said curve, through a central angle of 16º 29' 30";

Thence tangent to said curve, (32) North 36º 00' 13" West a distance of 333.31 feet;

Thence (33) South 53º 59' 47" West a distance of 6.00 feet;

APPROVED
LAFCO RES. # A 11-1
September 28, 2011
DATE

Thence (34) North 41º 04' 20" West a distance of 50.00 feet;

Thence (35) South 86º 26' 46" West a distance of 70.00 feet;

Thence (36) South 38º 00' 03" West a distance of 227.00 feet;

Thence (37) South 48º 44' 43" West a distance of 220.00 feet;

Thence (38) South 69º 44' 30" West a distance of 180.00 feet;

Thence (39) North 76º 10' 05" West a distance of 367.00 feet;

Thence (40) North 38º 32' 16" West a distance of 315.00 feet;

Thence (41) North 24º 16' 00" West a distance of 166.00 feet;

Thence (42) North 58º 27' 34" East a distance of 507.00 feet;

Thence (43) North 33º 30' 00" West a distance of 189.00 feet;

Thence (44) North 27º 28' 50" East a distance of 98.00 feet;

Thence (45) North 46º 38' 55" East a distance of 227.00 feet;

Thence (46) North 02º 21' 49" West a distance of 96.00 feet;

Thence (47) North 36º 10' 03" West a distance of 235.00 feet;

Thence (48) North 54º 08' 22" West a distance of 180.00 feet;

Thence (49) North 59º 26' 31" West a distance of 245.00 feet;

Thence (50) North 46º 22' 28" West a distance of 285.00 feet;

Thence (51) North 15º 18' 18" West a distance of 138.00 feet;

Thence (52) North 40º 33' 15" West a distance of 187.00 feet;

Thence (53) North 50º 39' 24" West a distance of 173.00 feet;

Thence (54) North 13º 01' 35" West a distance of 296.00 feet;

Thence (55) North 14º 56' 52" West a distance of 206.00 feet;

Thence (56) North 48º 54' 02" West a distance of 318.00 feet;

Thence (57) South 88º 51' 25" West a distance of 310.00 feet;

APPROVED
LAFCO RES. # 10-11-1
September 28, 2011
DATE

Thence (58) North 06º 14' 30" West a distance of 126.00 feet;

Thence (59) North 27º 57' 53" West a distance of 260.00 feet;

Thence (60) South 79º 46' 22" West a distance of 338.00 feet;

Thence (61) North 21º 39' 07" West a distance of 52.00 feet;

Thence (62) South 83º 02' 53" West a distance of 165.00 feet;

Thence (63) South 36º 10' 15" West a distance of 45.35 feet to a point on the West line of the Northwest quarter of said Section 17, said point bears South 01º 20' 46" West a distance of 1540.67 feet from the Northwest corner of said Section 17;

Thence continuing (64) South 36º 10' 15" West a distance of 96.65 feet into said Section 18;

Thence (65) South 15º 27' 48" West a distance of 150.00 feet;

Thence (66) South 10º 12' 47" West a distance of 358.00 feet;

Thence (67) South 52º 58' 56" West a distance of 221.00 feet;

Thence (68) South 30º 13' 00" West a distance of 355.00 feet;

Thence (69) South 33º 41' 32" West a distance of 240.00 feet;

Thence (70) South 66º 19' 13" West a distance of 270.00 feet;

Thence (71) North 37º 13' 18" West a distance of 84.00 feet;

Thence (72) North 34º 43' 48" East a distance of 165.00 feet;

Thence (73) North 00º 31' 20" West a distance of 198.00 feet;

Thence (74) North 17º 26' 43" West a distance of 340.00 feet;

Thence (75) North 24º 11' 10" West a distance of 305.00 feet;

Thence (76) North 14º 30' 46" West a distance of 530.00 feet;

Thence (77) North 36º 54' 03" West a distance of 110.00 feet;

Thence (78) North 73º 47' 22" West a distance of 199.00 feet;

Thence (79) North 54º 57' 08" West a distance of 112.00 feet;

APPROVED
LAFCO RES. # A-11-1
September 28, 2011
DATE

Thence (80) North 16º 43' 56" West a distance of 69.00 feet;

Thence (81) South 74º 38' 28" West a distance of 165.00 feet;

Thence (82) South 29º 09' 07" East a distance of 93.00 feet;

Thence (83) South 08º 28' 30" West a distance of 132.00 feet;

Thence (84) South 33º 06' 07" East a distance of 180.00 feet;

Thence (85) South 05º 27' 50" East a distance of 202.00 feet;

Thence (86) South 16º 37' 15" East a distance of 540.00 feet;

Thence (87) South 51º 22' 00" West a distance of 170.00 feet;

Thence (88) North 56º 11' 21" West a distance of 185.00 feet;

Thence (89) North 78º 58' 07" West a distance of 198.00 feet;

Thence (90) South 66º 52' 27" West a distance of 171.00 feet;

Thence (91) South 29º 01' 47" West a distance of 184.00 feet;

Thence (92) South 55º 28' 15" West a distance of 150.00 feet;

Thence (93) South 25º 21' 07" West a distance of 142.00 feet;

Thence (94) South 00º 12' 02" West a distance of 200.00 feet;

Thence (95) South 70º 29' 29" West a distance of 196.00 feet;

Thence (96) South 60º 53' 23" West a distance of 128.00 feet;

Thence (97) South 27º 27' 45" West a distance of 170.00 feet;

Thence (98) South 10º 03' 20" East a distance of 146.00 feet;

Thence (99) South 40º 36' 50" West a distance of 108.00 feet;

Thence (100) South 11º 59' 56" West a distance of 170.00 feet;

Thence (101) South 49º 53' 47" West a distance of 254.00 feet;

Thence (102) South 13º 36' 25" West a distance of 173.00 feet;

Thence (103) South 28º 33' 45" West a distance of 380.00 feet;

APPROVED
LAFCO RES. # 11-11
September 28, 2011
DATE

Thence (104) South 02º 09' 06" East a distance of 328.00 feet;

Thence (105) South 44º 56' 34" West a distance of 170.00 feet;

Thence (106) North 67º 53' 41" West a distance of 850.00 feet;

Thence (107) North 73º 01' 06" West a distance of 283.00 feet;

Thence (108) North 89º 57' 38" West a distance of 415.00 feet to the East line of Parcel Map No. 6646, recorded in Book 47 of Parcel Maps at page 98, Fresno County Records;

Thence (109) North 00º 02' 22" East a distance of 1144.66 feet, along said East line and its northerly projection, to its point of intersection with the Northwesterly right of way line of Friant Road, being a curve, concave to the Southeast, with a radius of 3053.00 feet, a radial to said point bears North 48º 08' 16" West;

Thence (110) Northeasterly a distance of 130.62 feet along said curve and said right of way line, through a central angle of 2º 27' 05":

Thence (111) North 44º 18' 49" East a distance of 2077.88 feet, continuing along said right of way line, to the beginning of a tangent curve, concave to the Northwest, with a radius of 947.00 feet;

Thence (112) Northeasterly a distance of 163.41 feet along said curve and continuing along said right of way line, through a central angle of 9º 53' 12", to its point of intersection with the North line of Government Lot 7 in said Section 18, said point being on the existing service area boundary of Waterworks District No. 18.

Thence (113) North 89º 41' 27" East a distance of 218.95 feet along said North line and along said existing District boundary to a point on the southeasterly right of way of the Southern Pacific Railroad (abandoned), said right of way being on a curve, concave to the northwest, with a radius of 5779.65 feet, a radial bearing to said point bears South 50º 14' 15" East;

Thence (114) Northeasterly a distance of 22.58 feet along said curve and right of way and continuing along said existing District boundary, through a central angle of 0º 13' 26";

Thence (115) North 39º 32' 19" East a distance of 1328.94 feet continuing along said right of way and along said existing District boundary;

APPROVED
LAFCO RES. # 11-4
September 28, 2011
DATE

Thence (116) North 39º 13' 44" East a distance of 120.75 feet continuing along said right of way and along said existing District boundary, to the point of beginning of a non-tangent curve, concave to the northwest, with a radius of 2914.93 feet, a radial to said point bears South 50º 46' 16" East;

Thence (117) Northeasterly a distance of 239.72 feet along said curve and continuing along said right of way, and along said existing District boundary, through a central angle of 4º 42' 43", to a point on the North line of the Northeast quarter of said Section 18;

Thence (118) North 89º 55' 00" East a distance of 563.07 feet along said North line, and continuing along said existing District boundary, to the Northwest corner of the Northeast quarter of the Northeast quarter of said Section 18;

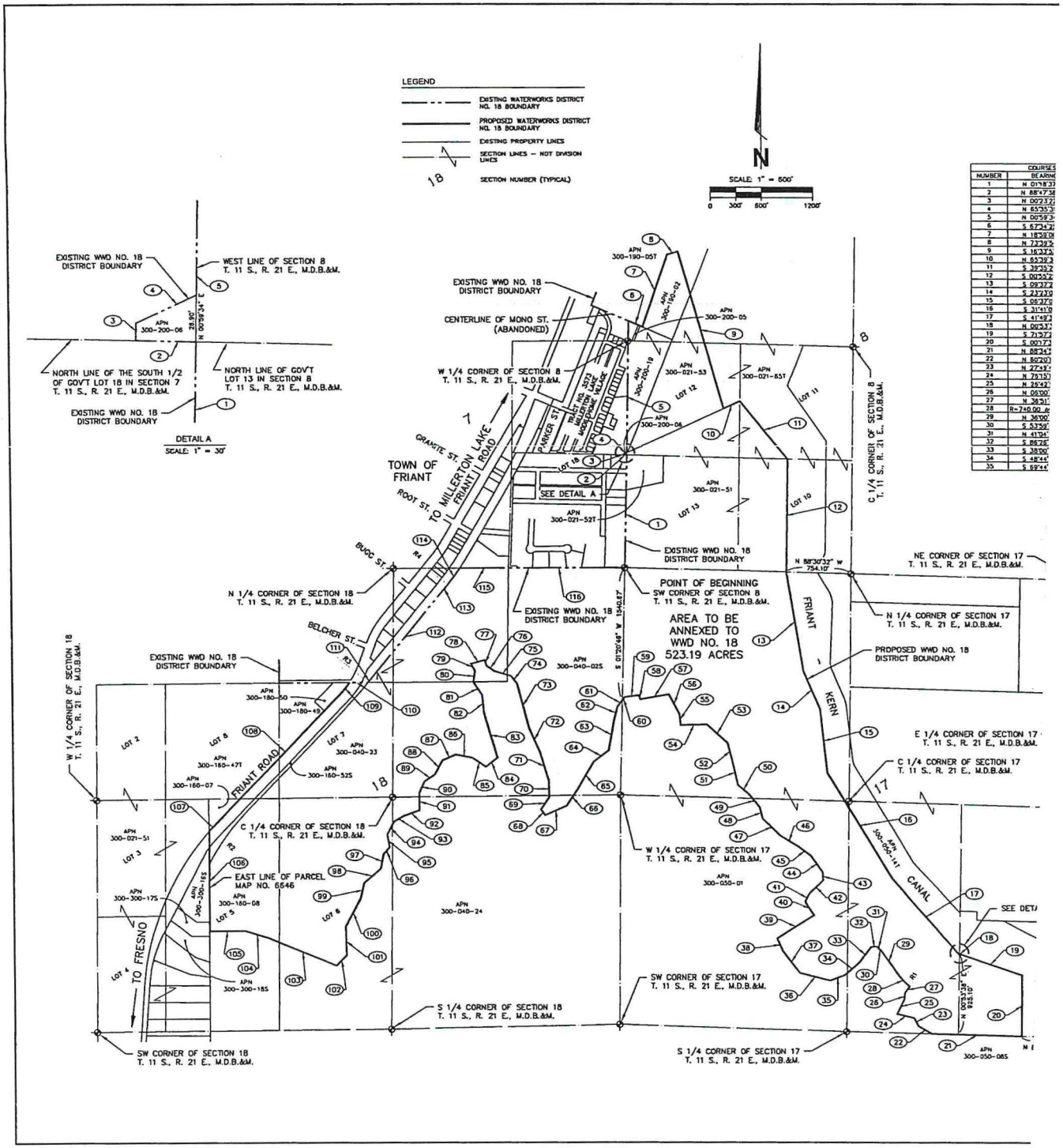
Thence (119) North 89º 51' 12" East a distance of 1338.02 feet along the North line of said Section 18, and continuing along said existing District boundary, to the Point of Beginning.

Containing 519.70 acres, more or less.

For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.

APPROVED
LAFCO RES. # AD-11-1
September 28, 2011
DATE

"EXHIBIT A"



COURSES	
NUMBER	BEARING
1	N 01°18'33"
2	N 88°47'38"
3	N 00°23'27"
4	N 85°35'5
5	N 00°59'3
6	S 67°34'2
7	N 18°58'0
8	N 72°39'5
9	S 16°37'5
10	N 65°39'3
11	S 39°35'2
12	S 00°55'2
13	S 09°37'2
14	S 23°23'0
15	S 08°37'0
16	S 31°41'0
17	S 41°49'2
18	N 00°53'1
19	S 71°57'2
20	S 00°17'0
21	N 88°34'4
22	N 80°20'0
23	N 27°49'2
24	N 75°15'0
25	N 28°49'2
26	N 05°00'0
27	N 38°51'1
28	R=740.00 A
29	N 36°09'0
30	S 53°59'0
31	N 41°04'1
32	S 86°26'0
33	S 38°09'0
34	S 48°44'0
35	S 69°44'0

12

RECORDING REQUESTED BY AND MAIL TO

NAME FRESNO LAFCO

STREET 2607 FRESNO STREET, SUITE B

CITY & STATE FRESNO, CA 93721

ATTN: CANDIE

FRESNO County Recorder
Paul Dictos, C.P.A.
DOC- 2012-0028024
Monday, FEB 27, 2012 09:55:15
Ttl Pd $0.00 Nbr-0003611356
JZG/R3/1-12

"FRIANT RANCH ANNEXATION"



CERTIFICATE OF COMPLETION
FRESNO COUNTY LOCAL AGENCY FORMATION COMMISSION

The Fresno Local Agency Formation Commission waived the Conducting Authority Proceedings.

The names of the agencies whose territory is changed and the type of change for each are:

Annexation to the Watereworks District No. 18.

The county in which the entire boundary change occurred is Fresno County.

The short title of the annexation proceeding is "Friant Ranch Annexation", LAFCo File AD-11-1.

The affected territory is uninhabited.

The change of organization was ordered without an election, and Resolution No. AD-11-1 ordering the change of organization was adopted by the Fresno Local Agency Formation Commission on September 28, 2011.

A map and legal description of the territory affected by the reorganization is set forth in the attached Exhibit "A".

The conditions of approval for the annexation have been complied with as follows:

A. The Applicant has executed an indemnification agreement with the Commission, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter.

B. Waterworks District No. 18 and the County of Fresno have each provided LAFCo with assurances, sufficient to the Executive Officer, that: (1) Waterworks District No. 18 shall provide wastewater services to the Millerton Lake Village Mobile Home Park currently served by CSA 44A; and (2) the new wastewater treatment plant, once fully permitted and operational, shall be used to provide such service.

C. The territory is liable for existing or authorized taxes, charges, fees or assessments comparable to properties presently in the District.

I, Jeff Witte, Executive Officer of the Fresno County Local Agency Formation Commission, hereby certify that the attached legal description, map, and terms and conditions of the change of organization do comply with the Commission's resolution of approval.

JEFF WITTE
EXECUTIVE OFFICER

Dated: February 27. 2012

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCO)
EXECUTIVE OFFICER'S REPORT

AGENDA ITEM NO. 14

DATE: **September 28, 2011**

TO: **Fresno Local Agency Formation Commission**

FROM: **Jeff Witte, Executive Officer** JW

SUBJECT: **Consider Approval:**

1. **Consider Adoption: "Municipal Service Review".** A request to Adopt the Municipal Service Review for Waterworks District No. 18. **(LAFCo File No. MSR-11-6)**

2. **Consider Approval. "Sphere of Influence Revision".** A request to revise Waterworks District No. 18's sphere of influence by adding approximately 520 acres of territory located adjacent to the Community of Friant **(LAFCo File No. RSOI-156).**

3. **Consider Approval: Waterworks District No. 18 "Friant Ranch Annexation".** A proposed annexation that would add approximately 520 acres for territory located adjacent to the Community of Friant **(LAFCo File No. AD-11-1).**

4. **Consider Approval: Waterworks District No. 18 "Extension of Powers (sewer)".** A proposal by Waterworks District No. 18 to activate their latent powers to enable them to provide sewer service to the Friant Ranch Annexation area located adjacent to the Community of Friant **(LAFCo File No. EP-11-1).**

Applicant: **Waterworks District No. 18**

THE STAFF REPORT FOR THE ABOVE ITEMS WILL BE MAILED FRIDAY UNDER SEPARATE COVER.

FRESNO LOCAL AGENCY FORMATION

2115 KERN STREET, SUITE #310

ATTN: CANDIE FLEMING

FRESNO , CA 93721

PROOF OF PUBLICATION

NOTICE OF PUBLIC HEARING

FRESNO LOCAL AGENCY FORMATION COMMISSION

NOTICE IS HEREBY GIVEN that the Fresno Local Agency Formation Commission (LAFCo) will consider the following "Proposal" at a public hearing on **September 28, 2011.**

Waterworks District #18.

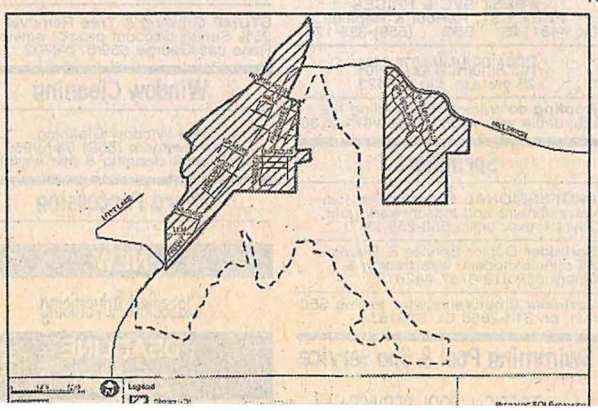
1. A request to Adopt the Waterworks District #18 Municipal Service Review **(MSR-11-7).**
2. A request to Revise Waterworks District #18 Sphere of Influence by adding approximately 520 acres of territory located adjacent to the Community of Friant **(RSOI-156).**
3. A request to annex approximately 520 acres of territory located adjacent to the Community of Friant **(AD-11-1).**
4. A request to activate latent powers of Waterworks District #18 to enable the District to provide wastewater treatment and collection service to their District area, including the approximately 520 acres of territory located adjacent to the Community of Friant **(EP-11-1).**

A Final Environmental Impact Report (FEIR) has been prepared by the Lead Agency, County of Fresno, for a project that includes consideration of the above projects by LAFCo. The Fresno County Board of Supervisors certified the FEIR on February 10, 2011. (SCH# 2007101016). Acting as Responsible Agency under the California Environmental Quality Act (CEQA) the Commission will consider the information in the FEIR, the findings made by the Lead Agency regarding the significant environmental impacts, and the Statement of Overriding Considerations adopted by the County of Fresno, then will independently consider the project's significant environmental impacts prior to making a decision on this proposal.

PLEASE BE INFORMED THAT the public hearing to consider this Proposal will be held at 1:30 p.m., or soon thereafter, on September 28, 2011, in Room 301, Hall of Records, Tulare and "M" Streets, Fresno. All interested parties are invited to attend this hearing and present testimony on these matters. For additional information contact the Fresno LAFCo Commission Office at 2115 Kern Street, Suite 310, Fresno, CA 9372. Telephone: (559) 495-0604, e-mail: jewitte@co.fresno.ca.us.

DATED: September 5, 2011

Z46187



O

IIA

The undersigned states:

McClatchy Newspapers in and on all dates herein stated was a corporation, and the owner and publisher of The Fresno Bee.

The Fresno Bee is a daily newspaper of general circulation now published, and on all-the-dates herein stated was published in the City of Fresno, County of Fresno, and has been adjudged a newspaper of general circulation by the Superior Court of the County of Fresno, State of California, under the date of November 22, 1994, Action No. 520058-9.

The undersigned is and on all dates herein mentioned was a citizen of the United States, over the age of twenty-one years, and is the principal clerk of the printer and publisher of said newspaper; and that the notice, a copy of which is hereto annexed, marked Exhibit A, hereby made a part hereof, was published in The Fresno Bee in each issue thereof (in type not smaller than nonpareil), on the following dates.

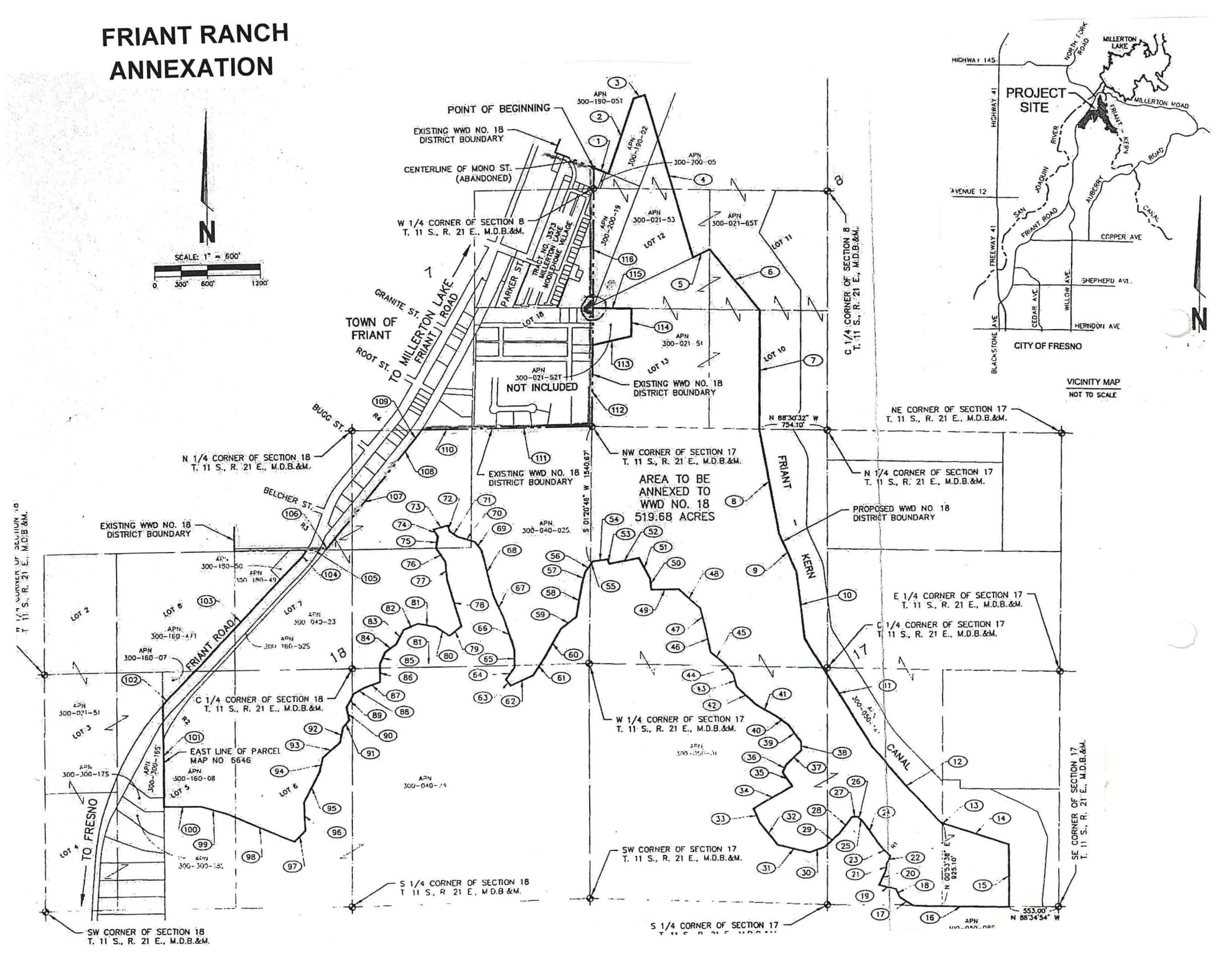
Sept 05 - 2011

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated SEPTEMBER 6, 2011

Cindia Tejeda

FRIANT RANCH ANNEXATION



VICINITY MAP
NOT TO SCALE

PROPERTY DESCRIPTION

That portion of Section 7, Township 11 South, Range 21 East, M.D.B. & M., County of Fresno, State of California, more particularly described as follows:

COMMENCING at the Southeast corner of said Section 7; thence N 00° 52' 00" E, along the East line of the Southeast 1/4 of the Southeast 1/4 of said Section 7, a distance of 1308.10 feet to the Northeast corner of the Southeast 1/4 of the Southeast 1/4 of said Section 7; thence N 00° 37' 52" E, along the East line of said Section 7, a distance of 26.91 feet to the TRUE POINT OF BEGINNING; thence S 65° 17' 35" W, a distance of 38.87 feet; thence South a distance of 10.10 feet to a point on the North line of the Southeast 1/4 of the Southeast 1/4 of said Section 7, said line also being the existing boundary of Fresno County Waterworks District No. 18; thence along said district boundary the following courses; N 89° 07' 53" W, along the North line of the Southeast 1/4 of the Southeast 1/4 of said Section 7, a distance of 992.39 feet; thence N 21° 39' 27" E, a distance of 655.93 feet; thence S 68° 20' 45" E, a distance of 50.02 feet; thence N 21° 41' 00" E, a distance of 1159.61 feet; thence leaving said district boundary line, S 67° 34' 25" E, a distance of 354.13 feet to a point on the East line of said Section 7; thence S 00° 37' 52" W, along the East line of said Section 7, a distance of 1522.41 feet to the TRUE POINT OF BEGINNING.

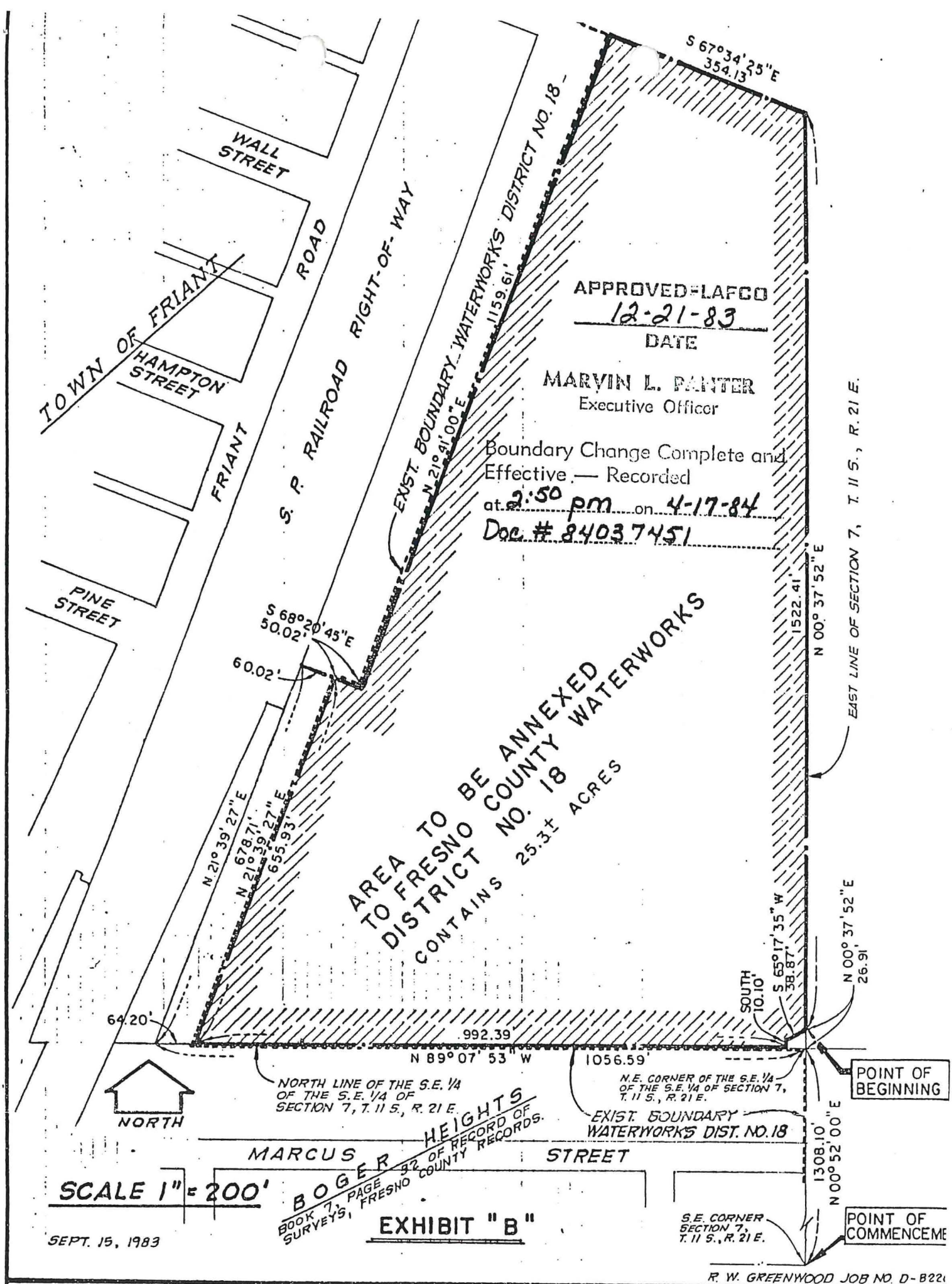
Said property contains 25.3 acres, more or less.

December 2, 1983
DEW:hah
Ref: D 82261

APPROVED-LAFCO
12-21-83
DATE

MARVIN L. PANTER
Executive Officer

EXHIBIT "A"


S 67°34'25"E
354.13'
WALL STREET
ROAD
TOWN OF FRIANT
HAMPTON STREET
FRIANT
S. P. RAILROAD RIGHT-OF-WAY
EXIST. BOUNDARY WATERWORKS DISTRICT NO. 18
N 21°41'00"E
1159.61'
APPROVED-LAFCO
12-21-83
DATE
MARVIN L. PAINTER
Executive Officer
Boundary Change Complete and Effective — Recorded
at 2:50 pm on 4-17-84
Doc. # 8403 7451
PINE STREET
S 68°20'45"E
50.02'
60.02'
AREA TO BE ANNEXED TO FRESNO COUNTY WATERWORKS DISTRICT NO. 18
CONTAINS 25.3± ACRES
N 21°39'27"E
678.71'
N 21°39'27"E
655.93'
1522.41'
N 00°37'52"E
EAST LINE OF SECTION 7, T. 11 S., R. 21 E.
S 65°17'35"W
38.87'
SOUTH
10.10'
N 00°37'52"E
26.91'
64.20'
992.39'
N 89°07'53"W
1056.59'
POINT OF BEGINNING
NORTH LINE OF THE S.E. 1/4 OF THE S.E. 1/4 OF SECTION 7, T. 11 S., R. 21 E.
N.E. CORNER OF THE S.E. 1/4 OF THE S.E. 1/4 OF SECTION 7, T. 11 S., R. 21 E.
NORTH
EXIST. BOUNDARY WATERWORKS DIST. NO. 18
MARCUS STREET
BOGER HEIGHTS
BOOK 7, PAGE 92 OF RECORD OF SURVEY'S, FRESNO COUNTY RECORDS.
1308.10'
N 00°52'00"E
S.E. CORNER SECTION 7, T. 11 S., R. 21 E.
POINT OF COMMENCEME
SCALE 1" = 200'
EXHIBIT "B"
SEPT. 15, 1983
R. W. GREENWOOD JOB NO. D-822

FILE No.

Fresno Local Agency Formation Commission

DATE: May 23, 2011

TO: Elections Division

FROM: Jeff Witte, Executive Officer JW

SUBJECT: "Friant Ranch Annexation", AD-11-1; "Sphere of Influence Revision" for the Waterworks District #18, RSOI-156; and "Extension of Powers" (Sewer) EP-11-1

The attached application has been filed for processing with the Local Agency Formation Commission (LAFCo) office. In accordance with Government Code Section 56386, your agency's assistance in reviewing and commenting on this application is requested. At this time we are requesting the following information indicated by an "X":

A. _____ Please furnish a list of all registered voters along with their address as shown upon the most recent assessment roll being prepared by the County within 300 feet of the exterior boundary of the property.

B X Number of registered voters in the area. 0

C. X If more than 11 registered voters, for notification purposes please furnish a list of all registered voters along with their address as shown upon the most recent assessment roll being prepared by the County. Also please furnish a list of registered voters along with their addresses for the territory within 300 feet of the exterior boundary of the property.

D. _____ What percent of the registered voters in the proposal area does the attached petition represent? _____

E. X Will the proposal adversely affect precinct boundaries or the conduct of elections? No

F. _____ Other comments:

In order to proceed with the processing of this application, your comments need to be returned to this office by **June 10, 2011.** Your assistance is greatly appreciated. Thank you.

JW:cf

Attachments: Map, Legal description

Jean Witte DN: cn=Jean Witte, o=County Clerk/Registrar of Voters, ou=Systems and Procedures Manager, email=jwitte@co.fresno.ca.us, c=US Date: 2011.05.20 10:51:16 -07'00'

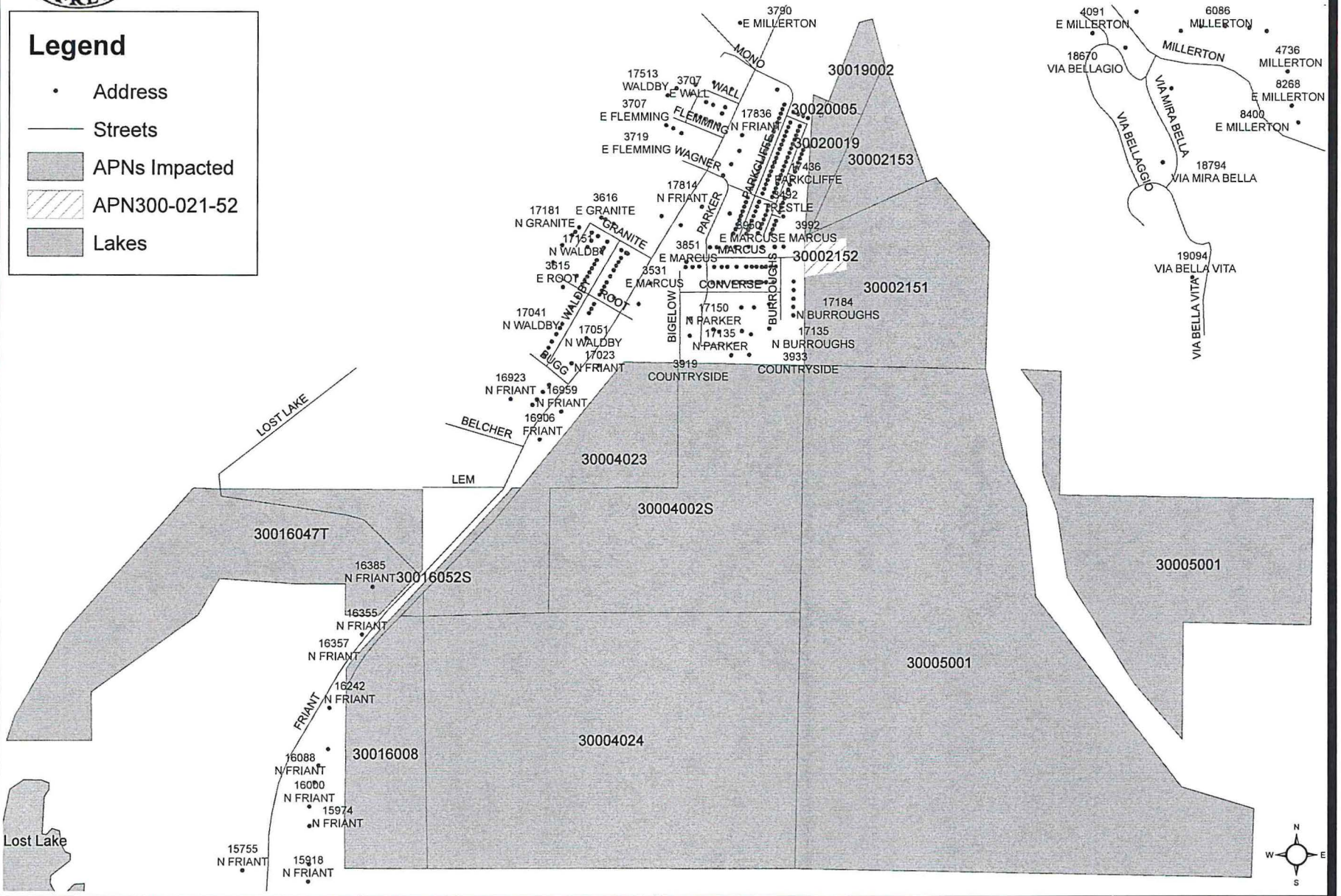
Signature and Title

Date

LAFCo Office: 2115 Kern Street, Suite 310, Fresno, CA 93721
Phone (559) 495-0604 ☎ Fax (559) 495-0655 ✉ cfleming@co.fresno.ca.us

Fresno County Clerk/Registrar of Voters

Friant Ranch Annexation AD-11-1



05/26/2011

RESOLUTION NO. AD-11-1A

FRESNO LOCAL AGENCY FORMATION COMMISSION
FRESNO COUNTY, CALIFORNIA

A REQUEST BY THE WATERWORKS DISTRICT NO 18 FOR APPROVAL OF THE "FRIANT RANCH ANNEXATION"	)))	**APPROVED THE "FRIANT RANCH ANNEXATION"**

WHEREAS, preliminary proceedings were initiated by the Waterworks District No. 18 to annex approximately 520 acres of territory located adjacent to the Community of Friant, as shown within Exhibit "A", attached hereto and by this reference incorporated herein; and

WHEREAS, said proposal was accepted for filing by the Executive Officer and set for hearing on the 24th day of August, 2011, at the hour of 1:30 p.m.; and

WHEREAS, all owners of land within the territory proposed to be annexed have given written consent to such proposal; and

WHEREAS, notice of said hearing was given as required by State Law; and

WHEREAS, this Commission continued the item to the September 28, 2011 hearing to allow the Executive Officer time to review and respond to additional information that was received after the staff report was completed and distributed; and

WHEREAS, notice of the September 28, 2011 hearing was duly given by mail, posting, and newspaper publication as required by State law; and

WHEREAS, the Executive Officer reviewed said application and prepared a report, including a recommendation, said report having been mailed to and considered by this Commission; and

WHEREAS, the County of Fresno, acting as "Lead Agency" pursuant to California Environmental Quality Act (CEQA) Guidelines, prepared an Environmental Impact Report (EIR) for the Friant Community Plan Update and the Friant Ranch Specific Plan, and certified the Final EIR on February 1, 2011; and

WHEREAS, as the "Responsible Agency" pursuant to CEQA Guidelines, the Commission independently reviewed and considered the environmental effects of the project as presented in the adopted Final EIR for the Friant Ranch Community Plan Update and Friant Ranch Specific Plan prepared by the Lead Agency, the County of Fresno, prior to reaching a decision on the project (Section 15096 *et seq.*); and

WHEREAS, this Commission considered all relevant factors and heard all interested parties wishing to speak on said application; and

NOW, THEREFORE, BE IT RESOLVED that the Local Agency Formation Commission of the County of Fresno does HEREBY STATE, FIND, RESOLVE, DETERMINE, AND ORDER as follows:

Section #1. Acting as Responsible Agency pursuant to CEQA Guidelines, this Commission finds that the environmental effects of the project as shown in the Final EIR prepared and certified by the County as Lead Agency and adopted by the Board of Supervisors, were reviewed and considered and complies with the requirements of CEQA Guidelines section 15096.

Section #2. This Commission finds that the proposed annexation is consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, including, but not limited to, section 56668 and Fresno LAFCo adopted Policies, Standards and Procedures, including, but not limited to, section 220, Standards for District Annexation, and that this action carries out LAFCo's purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities.

Section #3. This Commission finds that approval of the proposed annexation is based on sufficient information including the Executive Officer's report to the Commission and all other testimony and information provided by persons and interested agencies, and is in compliance with state law, including, but not limited to, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, CEQA and Commission Policies, Standards and Procedures.

Section #4. This Commission finds and determines pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that:

(1) The territory is uninhabited.

(2) All landowners and affected agencies have consented to the annexation.

Section #5. This Commission approves the annexation and assigns the distinctive short-form designation "Friant Ranch Annexation to Waterworks District No. 18" and approves the 520-acre annexation, subject to the following terms and conditions:

A. Applicant shall execute an indemnification agreement with the Commission, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter.

B. Waterworks District No. 18 and the County of Fresno shall each provide LAFCo with assurances, sufficient to the Executive Officer, that: (1) Waterworks District No. 18 shall provide wastewater services to the Millerton Lake Village Mobile Home Park currently served by CSA 44A; and (2) the new wastewater treatment plant, once fully permitted and operational, shall be used to provide such service.

C. The territory is liable for existing or authorized taxes, charges, fees or assessments comparable to properties presently in the District.

Section #6. Waive further Conducting Authority Proceedings and order the annexation subject to requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and the 30-day reconsideration period.

Section #7. Direct the staff to initiate and conduct subsequent proceedings in compliance with the decision of the Local Agency Formation Commission only upon the signing of the resolution by the Chair.

Section #8. The Executive Officer is hereby authorized and directed to mail certified copies of this Resolution as provided in Government Code Section 56882 and to file, as appropriate, in the Office of the Fresno County Clerk all environmental documents, if any, pertaining to the approval of this Proposal, as required by State law.

* *

ADOPTED THIS 28th DAY OF SEPTEMBER 2011, BY THE FOLLOWING VOTE:

AYES: **COMMISSIONERS PEREA, SILVA, ANDERSON, FORTUNE, LOPEZ**

NOES: **NONE**

ABSENT: **NONE**

STATE OF CALIFORNIA)
COUNTY OF FRESNO)

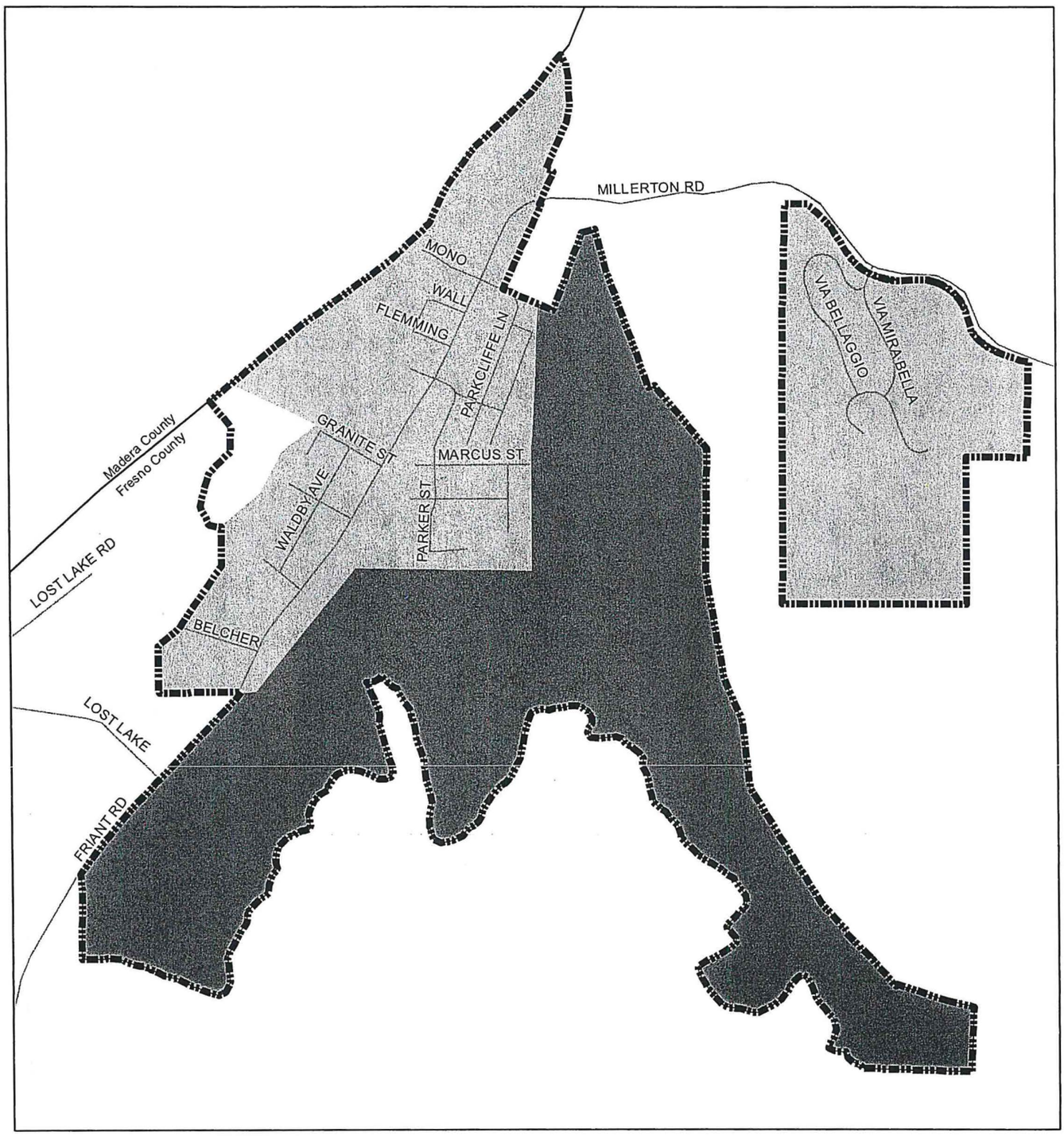
CERTIFICATION

I, Jeff Witte, Executive Officer of the Fresno Local Agency Formation Commission (LAFCo), Fresno County, State of California, hereby certify that the foregoing resolution was adopted by the Commission on the 28th day of September, 2011.



Jeff Witte, Executive Officer
Fresno Local Agency Formation Commission

EXHIBIT "A"



Legend

- District SOI
- District Area
- Affected Territory

Waterworks District No. 18 "Sphere of Influence Revision", "Friant Ranch Annexation", and "Extension of Wastewater Services" (LAFCo File Nos. RSOI-156, AD-11-1, and EP-11-1)

0 0.5 1 Miles

N W E S

Revised: 6/09/11

BOUNDARY CHANGE RECORDED
TIME 9:55 a.m. DATE 2/27/12
DOCUMENT # 20120029024
EFFECTIVE February 27, 2012

ANNEXATION NO. 2011-____
FRIANT RANCH ADDITION TO
FRESNO COUNTY WATERWORKS DISTRICT NO. 18
SPHERE OF INFLUENCE

GEOGRAPHIC DESCRIPTION

All that real property, being portions of Sections 7, 8, 17, and 18, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, according to the official government plats thereof, situate in the County of Fresno, State of California, described as follows:

Beginning at the Southwest corner of Section 8, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, said point also being on the existing service area boundary of Waterworks District No. 18;

The following eight courses are all based on or calculated from that Record of Survey map recorded in Book 51 of Record of Surveys at Pages 82 through 88, Fresno County Records:

Thence (1) North 01º 18' 37" East a distance of 903.81 feet along the West line of said Section 8, and along said existing District boundary, to a point that bears South 01º 18' 37" West a distance of 404.00 feet from the Northwest corner of Government Lot 13 in said Section 8;

Thence leaving said existing District boundary, (2) North 78º 15' 54" East a distance of 441.39 feet;

Thence (3) North 01º 18' 37" East a distance of 304.00 feet to a point on the North line of said Government Lot 13;

Thence (4) North 88º 38' 26" West a distance of 430.00 feet along said North line, to the Northwest corner of said Government Lot 13, said point being on the existing service area boundary of Waterworks District No. 18;

Thence (5) North 88º 47'38" West a distance of 35.00 feet along the North line of the South half of Government Lot 18 in said Section 7, and along said existing District boundary;

Thence leaving said North line, (6) North 00º 23' 22" East a distance of 10.10 feet continuing along said existing District boundary;

APPROVED
LAFCO RES. # AD-11-1
DATE September 28, 2011

Thence (7) North 65º 35' 31" East a distance of 38.86 feet, continuing along said existing District boundary, to a point on the West line of said Section 8, said point bears North 00º 59' 34" East a distance of 26.90 feet from the Northwest corner of Government Lot 13 in said Section 8;

Thence (8) North 00º 59' 34" East a distance of 1522.82 feet along said West line and along said existing District boundary to a point on the centerline of Mono Street (Abandoned), according to the Map of Pollasky recorded in Volume 5 of Plats at page 5, Fresno County Records, said point also being the Northeasterly corner of Outlot "B" of Tract No. 3573, Millerton Lake Mobilehome Village, according to the map thereof recorded in Volume 41 of Plats at pages 63 and 64, Fresno County Records;

The following four courses are based on the map of Tract No. 3573, Millerton Lake Mobilehome Village, according to the map thereof recorded in Volume 41 of Plats at pages 63 and 64, Fresno County Records:

Thence leaving said existing District boundary, (9) South 67º 34' 25" East a distance of 178.48 feet along said centerline of Mono Street (abandoned);

Thence leaving said centerline, (10) North 18º 59' 00" East a distance of 886.39 feet;

Thence (11) North 73º 39' 54" East a distance of 128.28 feet;

Thence (12) South 16º 33' 53" East a distance of 1886.36 feet;

The remaining courses are all based on or calculated from that Record of Survey map recorded in Book 51 of Record of Surveys at Pages 82 through 88, Fresno County Records:

Thence (13) North 65º 39' 34" East a distance of 210.27 feet;

Thence (14) South 39º 35' 26" East a distance of 873.90 feet;

Thence (15) South 00º 55' 25" West a distance of 1309.92 feet to a point on the North line of the Northwest quarter of said Section 17, said point bears North 88º 30' 32" West a distance of 754.10 feet from the North quarter corner of said Section;

Thence (16) South 09º 37' 23" East a distance of 1167.73 feet;

Thence (17) South 23º 23' 02" East a distance of 478.47 feet;

BOUNDARY CHANGE RECORDED
TIME 9:55 a.m. DATE 2/27/12
DOCUMENT # 20120028024
EFFECTIVE February 27, 2012

APPROVED
LAFCO RES. # 11-11-1
September 28, 2011
DATE

Thence (18) South 06º 37' 02" East a distance of 741.61 feet;

Thence (19) South 31º 41' 02" East a distance of 1427.50 feet;

Thence (20) South 41º 49' 37" East a distance of 1182.02 feet to a point on the West line of the East half of the Southeast quarter of said Section 17;

Thence (21) North 00º 53' 38" East a distance of 13.07 feet, along said West line, to a point that bears North 00º 53' 38" East a distance of 925.10 feet from the Southwest corner of the East half of the Southeast quarter of said Section 17;

Thence leaving said West line, (22) South 71º 57' 22" East a distance of 780.40 feet;

Thence (23) South 00º 17' 37" West a distance of 701.91 feet to a point on the south line of the Southeast quarter of said Section 17, said point bears North 88º 34' 54" West a distance of 553.00 feet from the Southeast corner of said Section 17;

Thence (24) North 88º 34' 54" West a distance of 1062.85 feet along said South line;

Thence leaving said South line, (25) North 60º 20' 18" West a distance of 185.00 feet;

Thence (26) North 27º 49' 48" West a distance of 100.00 feet;

Thence (27) North 76º 15' 13" West a distance of 207.00 feet;

Thence (28) North 26º 42' 50" East a distance of 185.00 feet;

Thence (29) North 06º 00' 38" East a distance of 74.00 feet;

Thence (30) North 36º 51' 45" East a distance of 96.65 feet to a point on a curve, concave to the Northeast, with a radius of 740.00 feet, a radial to said point bears South 37º 30' 17" West;

Thence (31) Northwesterly a distance of 213.00 feet along said curve, through a central angle of 16º 29' 30";

Thence tangent to said curve, (32) North 36º 00' 13" West a distance of 333.31 feet;

Thence (33) South 53º 59' 47" West a distance of 6.00 feet;

BOUNDARY CHANGE RECORDED
TIME 9:55 a.m DATE 2/27/12
DOCUMENT # 20120028024
EFFECTIVE February 27, 2012

APPROVED
LAFCO RES. # 11-11-1
September 28, 2011
DATE

Thence (34) North 41º 04' 20" West a distance of 50.00 feet;

Thence (35) South 86º 26' 46" West a distance of 70.00 feet;

Thence (36) South 38º 00' 03" West a distance of 227.00 feet;

Thence (37) South 48º 44' 43" West a distance of 220.00 feet;

Thence (38) South 69º 44' 30" West a distance of 180.00 feet;

Thence (39) North 76º 10' 05" West a distance of 367.00 feet;

Thence (40) North 38º 32' 16" West a distance of 315.00 feet;

Thence (41) North 24º 16' 00" West a distance of 166.00 feet;

Thence (42) North 58º 27' 34" East a distance of 507.00 feet;

Thence (43) North 33º 30' 00" West a distance of 189.00 feet;

Thence (44) North 27º 28' 50" East a distance of 98.00 feet;

Thence (45) North 46º 38' 55" East a distance of 227.00 feet;

Thence (46) North 02º 21' 49" West a distance of 96.00 feet;

Thence (47) North 36º 10' 03" West a distance of 235.00 feet;

Thence (48) North 54º 08' 22" West a distance of 180.00 feet;

Thence (49) North 59º 26' 31" West a distance of 245.00 feet;

Thence (50) North 46º 22' 28" West a distance of 285.00 feet;

Thence (51) North 15º 18' 18" West a distance of 138.00 feet;

Thence (52) North 40º 33' 15" West a distance of 187.00 feet;

Thence (53) North 50º 39' 24" West a distance of 173.00 feet;

Thence (54) North 13º 01' 35" West a distance of 296.00 feet;

Thence (55) North 14º 56' 52" West a distance of 206.00 feet;

Thence (56) North 48º 54' 02" West a distance of 318.00 feet;

Thence (57) South 88º 51' 25" West a distance of 310.00 feet;

BOUNDARY CHANGE RECORDED
TIME 9:55 a.m. DATE 2/27/12
DOCUMENT # 20120029024
EFFECTIVE February 27, 2012

APPROVED
LAFCO RES. # 10-11-1
September 28, 2011
DATE

Thence (58) North 06º 14' 30" West a distance of 126.00 feet;

Thence (59) North 27º 57' 53" West a distance of 260.00 feet;

Thence (60) South 79º 46' 22" West a distance of 338.00 feet;

Thence (61) North 21º 39' 07" West a distance of 52.00 feet;

Thence (62) South 83º 02' 53" West a distance of 165.00 feet;

Thence (63) South 36º 10' 15" West a distance of 45.35 feet to a point on the West line of the Northwest quarter of said Section 17, said point bears South 01º 20' 46" West a distance of 1540.67 feet from the Northwest corner of said Section 17;

Thence continuing (64) South 36º 10' 15" West a distance of 96.65 feet into said Section 18;

Thence (65) South 15º 27' 48" West a distance of 150.00 feet;

Thence (66) South 10º 12' 47" West a distance of 358.00 feet;

Thence (67) South 52º 58' 56" West a distance of 221.00 feet;

Thence (68) South 30º 13' 00" West a distance of 355.00 feet;

Thence (69) South 33º 41' 32" West a distance of 240.00 feet;

Thence (70) South 66º 19' 13" West a distance of 270.00 feet;

Thence (71) North 37º 13' 18" West a distance of 84.00 feet;

Thence (72) North 34º 43' 48" East a distance of 165.00 feet;

Thence (73) North 00º 31' 20" West a distance of 198.00 feet;

Thence (74) North 17º 26' 43" West a distance of 340.00 feet;

Thence (75) North 24º 11' 10" West a distance of 305.00 feet;

Thence (76) North 14º 30' 46" West a distance of 530.00 feet;

Thence (77) North 36º 54' 03" West a distance of 110.00 feet;

Thence (78) North 73º 47' 22" West a distance of 199.00 feet;

Thence (79) North 54º 57' 08" West a distance of 112.00 feet;

BOUNDARY CHANGE RECORDED
TIME 9:55 a.m. DATE 3/27/12
DOCUMENT # 2012000018024
EFFECTIVE February 27, 2012

APPROVED
LAFCO RES. # AD-11-1
September 28, 2011
DATE

Thence (80) North 16º 43' 56" West a distance of 69.00 feet;

Thence (81) South 74º 38' 28" West a distance of 165.00 feet;

Thence (82) South 29º 09' 07" East a distance of 93.00 feet;

Thence (83) South 08º 28' 30" West a distance of 132.00 feet;

Thence (84) South 33º 06' 07" East a distance of 180.00 feet;

Thence (85) South 05º 27' 50" East a distance of 202.00 feet;

Thence (86) South 16º 37' 15" East a distance of 540.00 feet;

Thence (87) South 51º 22' 00" West a distance of 170.00 feet;

Thence (88) North 56º 11' 21" West a distance of 185.00 feet;

Thence (89) North 78º 58' 07" West a distance of 198.00 feet;

Thence (90) South 66º 52' 27" West a distance of 171.00 feet;

Thence (91) South 29º 01' 47" West a distance of 184.00 feet;

Thence (92) South 55º 28' 15" West a distance of 150.00 feet;

Thence (93) South 25º 21' 07" West a distance of 142.00 feet;

Thence (94) South 00º 12' 02" West a distance of 200.00 feet;

Thence (95) South 70º 29' 29" West a distance of 196.00 feet;

Thence (96) South 60º 53' 23" West a distance of 128.00 feet;

Thence (97) South 27º 27' 45" West a distance of 170.00 feet;

Thence (98) South 10º 03' 20" East a distance of 146.00 feet;

Thence (99) South 40º 36' 50" West a distance of 108.00 feet;

Thence (100) South 11º 59' 56" West a distance of 170.00 feet;

Thence (101) South 49º 53' 47" West a distance of 254.00 feet;

Thence (102) South 13º 36' 25" West a distance of 173.00 feet;

Thence (103) South 28º 33' 45" West a distance of 380.00 feet;

BOUNDARY CHANGE RECORDED
TIME 9:55a.m. DATE 2/3/12
DOCUMENT # 2012003804
EFFECTIVE February 27, 2012

APPROVED
LAFCO RES. # 11-11-1
September 28, 2011
DATE

Thence (104) South 02º 09' 06" East a distance of 328.00 feet;

Thence (105) South 44º 56' 34" West a distance of 170.00 feet;

Thence (106) North 67º 53' 41" West a distance of 850.00 feet;

Thence (107) North 73º 01' 06" West a distance of 283.00 feet;

Thence (108) North 89º 57' 38" West a distance of 415.00 feet to the East line of Parcel Map No. 6646, recorded in Book 47 of Parcel Maps at page 98, Fresno County Records;

Thence (109) North 00º 02' 22" East a distance of 1144.66 feet, along said East line and its northerly projection, to its point of intersection with the Northwesterly right of way line of Friant Road, being a curve, concave to the Southeast, with a radius of 3053.00 feet, a radial to said point bears North 48º 08' 16" West;

Thence (110) Northeasterly a distance of 130.62 feet along said curve and said right of way line, through a central angle of 2º 27' 05":

Thence (111) North 44º 18' 49" East a distance of 2077.88 feet, continuing along said right of way line, to the beginning of a tangent curve, concave to the Northwest, with a radius of 947.00 feet;

Thence (112) Northeasterly a distance of 163.41 feet along said curve and continuing along said right of way line, through a central angle of 9º 53' 12", to its point of intersection with the North line of Government Lot 7 in said Section 18, said point being on the existing service area boundary of Waterworks District No. 18.

Thence (113) North 89º 41' 27" East a distance of 218.95 feet along said North line and along said existing District boundary to a point on the southeasterly right of way of the Southern Pacific Railroad (abandoned), said right of way being on a curve, concave to the northwest, with a radius of 5779.65 feet, a radial bearing to said point bears South 50º 14' 15" East;

Thence (114) Northeasterly a distance of 22.58 feet along said curve and right of way and continuing along said existing District boundary, through a central angle of 0º 13' 26";

Thence (115) North 39º 32' 19" East a distance of 1328.94 feet continuing along said right of way and along said existing District boundary;

BOUNDARY CHANGE RECORDED
TIME 9:55 a.m. DATE 2/27/12
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EFFECTIVE February 27, 2012

APPROVED
LAFCO RES. # 11-1
September 28, 2011
DATE

Thence (116) North 39º 13' 44" East a distance of 120.75 feet continuing along said right of way and along said existing District boundary, to the point of beginning of a non-tangent curve, concave to the northwest, with a radius of 2914.93 feet, a radial to said point bears South 50º 46' 16" East;

Thence (117) Northeasterly a distance of 239.72 feet along said curve and continuing along said right of way, and along said existing District boundary, through a central angle of 4º 42' 43", to a point on the North line of the Northeast quarter of said Section 18;

Thence (118) North 89º 55' 00" East a distance of 563.07 feet along said North line, and continuing along said existing District boundary, to the Northwest corner of the Northeast quarter of the Northeast quarter of said Section 18;

Thence (119) North 89º 51' 12" East a distance of 1338.02 feet along the North line of said Section 18, and continuing along said existing District boundary, to the Point of Beginning.

Containing 519.70 acres, more or less.

For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.

BOUNDARY CHANGE RECORDED
TIME 9:55 am DATE 2/22/12
DOCUMENT # 2012 0028024
EFFECTIVE February 27, 2012

APPROVED
LAFCO RES. # AD-11-1
September 28, 2011
DATE

RESOLUTION NO. AD-11-1A

FRESNO LOCAL AGENCY FORMATION COMMISSION
FRESNO COUNTY, CALIFORNIA

A REQUEST BY THE WATERWORKS DISTRICT NO 18 FOR APPROVAL OF THE "FRIANT RANCH ANNEXATION"	)))	**APPROVED THE "FRIANT RANCH ANNEXATION"**

WHEREAS, preliminary proceedings were initiated by the Waterworks District No. 18 to annex approximately 520 acres of territory located adjacent to the Community of Friant, as shown within Exhibit "A", attached hereto and by this reference incorporated herein; and

WHEREAS, said proposal was accepted for filing by the Executive Officer and set for hearing on the 24th day of August, 2011, at the hour of 1:30 p.m.; and

WHEREAS, all owners of land within the territory proposed to be annexed have given written consent to such proposal; and

WHEREAS, notice of said hearing was given as required by State Law; and

WHEREAS, this Commission continued the item to the September 28, 2011 hearing to allow the Executive Officer time to review and respond to additional information that was received after the staff report was completed and distributed; and

WHEREAS, notice of the September 28, 2011 hearing was duly given by mail, posting, and newspaper publication as required by State law; and

WHEREAS, the Executive Officer reviewed said application and prepared a report, including a recommendation, said report having been mailed to and considered by this Commission; and

WHEREAS, the County of Fresno, acting as "Lead Agency" pursuant to California Environmental Quality Act (CEQA) Guidelines, prepared an Environmental Impact Report (EIR) for the Friant Community Plan Update and the Friant Ranch Specific Plan, and certified the Final EIR on February 1, 2011; and

WHEREAS, as the "Responsible Agency" pursuant to CEQA Guidelines, the Commission Independently reviewed and considered the environmental effects of the project as presented in the adopted Final EIR for the Friant Ranch Community Plan Update and Friant Ranch Specific Plan prepared by the Lead Agency, the County of Fresno, prior to reaching a decision on the project (Section 15096 *et seq.*); and

WHEREAS, this Commission considered all relevant factors and heard all interested parties wishing to speak on said application; and

NOW, THEREFORE, BE IT RESOLVED that the Local Agency Formation Commission of the County of Fresno does HEREBY STATE, FIND, RESOLVE, DETERMINE, AND ORDER as follows:

Section #1. Acting as Responsible Agency pursuant to CEQA Guidelines, this Commission finds that the environmental effects of the project as shown in the Final EIR prepared and certified by the County as Lead Agency and adopted by the Board of Supervisors, were reviewed and considered and complies with the requirements of CEQA Guidelines section 15096.

Section #2. This Commission finds that the proposed annexation is consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, including, but not limited to, section 56668 and Fresno LAFCo adopted Policies, Standards and Procedures, including, but not limited to, section 220, Standards for District Annexation, and that this action carries out LAFCo's purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities.

Section #3. This Commission finds that approval of the proposed annexation is based on sufficient information including the Executive Officer's report to the Commission and all other testimony and information provided by persons and interested agencies, and is in compliance with state law, including, but not limited to, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, CEQA and Commission Policies, Standards and Procedures.

Section #4. This Commission finds and determines pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that:

(1) The territory is uninhabited.

(2) All landowners and affected agencies have consented to the annexation.

Section #5. This Commission approves the annexation and assigns the distinctive short-form designation "Friant Ranch Annexation to Waterworks District No. 18" and approves the 520-acre annexation, subject to the following terms and conditions:

A. Applicant shall execute an indemnification agreement with the Commission, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter.

B. Waterworks District No. 18 and the County of Fresno shall each provide LAFCo with assurances, sufficient to the Executive Officer, that: (1) Waterworks District No. 18 shall provide wastewater services to the Millerton Lake Village Mobile Home Park currently served by CSA 44A; and (2) the new wastewater treatment plant, once fully permitted and operational, shall be used to provide such service.

C. The territory is liable for existing or authorized taxes, charges, fees or assessments comparable to properties presently in the District.

Section #6. Waive further Conducting Authority Proceedings and order the annexation subject to requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and the 30-day reconsideration period.

Section #7. Direct the staff to initiate and conduct subsequent proceedings in compliance with the decision of the Local Agency Formation Commission only upon the signing of the resolution by the Chair.

Section #8. The Executive Officer is hereby authorized and directed to mail certified copies of this Resolution as provided in Government Code Section 56882 and to file, as appropriate, in the Office of the Fresno County Clerk all environmental documents, if any, pertaining to the approval of this Proposal, as required by State law.

* *

ADOPTED THIS 28th DAY OF SEPTEMBER 2011, BY THE FOLLOWING VOTE:

AYES: **COMMISSIONERS PEREA, SILVA, ANDERSON, FORTUNE, LOPEZ**

NOES: **NONE**

ABSENT: **NONE**

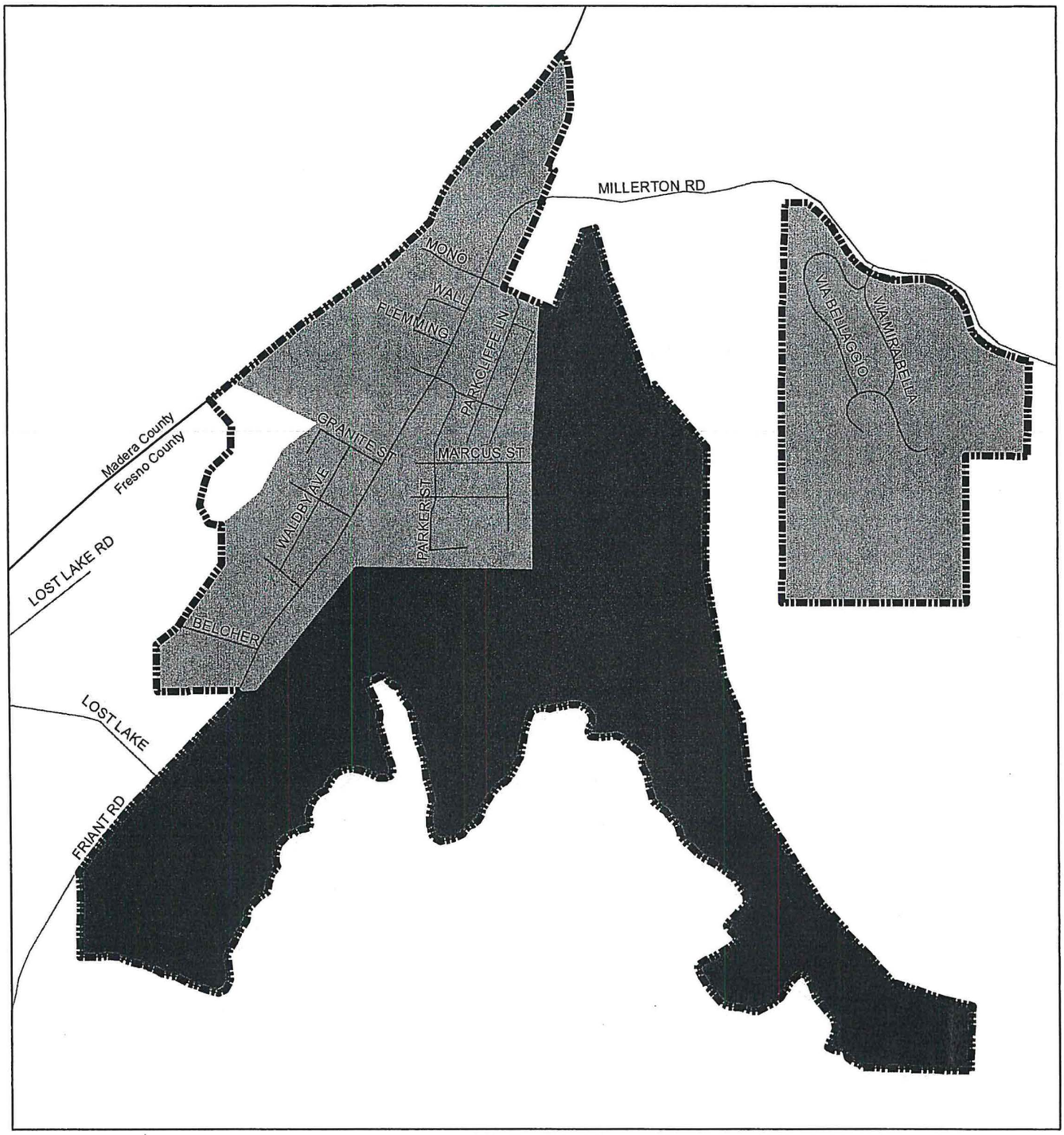
STATE OF CALIFORNIA)
COUNTY OF FRESNO)

CERTIFICATION

I, Jeff Witte, Executive Officer of the Fresno Local Agency Formation Commission (LAFCo), Fresno County, State of California, hereby certify that the foregoing resolution was adopted by the Commission on the 28th day of September, 2011.

Jeff Witte, Executive Officer
Fresno Local Agency Formation Commission

EXHIBIT "A"



Waterworks District No. 18 "Sphere of Influence Revision", "Friant Ranch Annexation", and "Extension of Wastewater Services" (LAFCo File Nos. RSOI-156, AD-11-1, and EP-11-1)

Legend

- District SOI
- District Area
- Affected Territory

N
W E
S

0 0.5 1 Miles

BOUNDARY CHANGE RECORDED

TIME 9:55 a.m. DATE 2/27/12

DOCUMENT # 20120028024

EFFECTIVE February 27, 2012

ANNEXATION NO. 2011-___
FRIANT RANCH ANNEXATION TO FRESNO COUNTY WATERWORKS DISTRICT NO. 18 SERVICE AREA

IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA

BEING PORTIONS OF SECTIONS 7, 8, 17, & 18.
TOWNSHIP 11 SOUTH, RANGE 21 EAST.
MOUNT DIABLO BASE & MERIDIAN

PORTIONS OF APNS:

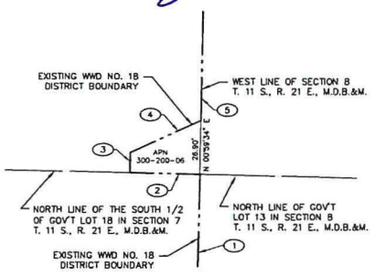
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300-050-01 300-160-08 300-160-47T 300-160-52s 300-190-02
300-200-05 300-200-06 300-200-19

REVISED: JUNE 9, 2011

LEGEND

- EXISTING WATERWORKS DISTRICT NO. 18 BOUNDARY
- PROPOSED WATERWORKS DISTRICT NO. 18 BOUNDARY
- EXISTING PROPERTY LINES
- SECTION LINES - NOT DIVISION LINES
- 18 SECTION NUMBER (TYPICAL)

SCALE: 1" = 600'
0 300' 600' 1200'

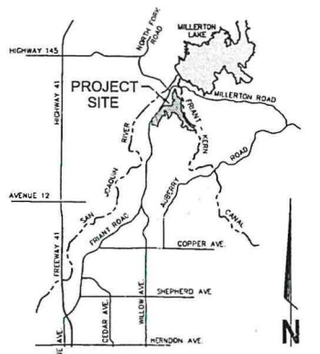


DETAIL A
SCALE: 1" = 30'

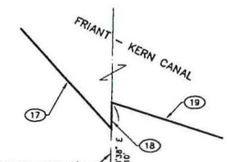
COURSES		
NUMBER	BEARING	LENGTH
1	N 01°18'37" E	1307.81
2	N 88°47'38" W	35.00
3	N 00°33'22" E	1010
4	N 63°55'31" E	38.86
5	N 00°59'34" E	1522.82
6	S 67°34'25" E	178.48
7	N 15°52'00" E	886.39
8	N 73°39'54" E	128.28
9	S 16°32'53" E	1886.36
10	N 85°30'34" E	210.27
11	S 39°35'26" E	873.90
12	S 00°55'25" W	1309.92
13	S 09°37'23" E	1167.73
14	S 23°23'02" E	478.47
15	S 06°37'02" E	741.61
16	S 31°41'02" E	1427.50
17	S 41°49'37" E	1182.02
18	N 00°53'38" E	13.07
19	S 21°57'23" E	780.40
20	S 00°17'37" W	701.91
21	N 88°24'54" W	1062.85
22	N 60°20'18" W	185.00
23	N 27°49'48" W	100.00
24	N 76°15'13" W	207.00
25	N 26°42'50" E	185.00
26	N 08°00'39" E	74.00
27	N 39°51'45" E	98.65
28	R=740.00 Δ=15°29'30"	213.00
29	N 39°07'37" W	333.31
30	S 53°59'47" W	6.00
31	N 41°04'26" W	50.00
32	S 86°26'46" W	70.00
33	S 38°00'03" W	227.00
34	S 48°44'43" W	220.00
35	S 69°44'30" W	180.00

COURSES		
NUMBER	BEARING	LENGTH
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37	N 38°32'16" W	315.00
38	N 24°16'00" W	165.00
39	N 58°27'34" E	567.00
40	N 33°30'00" W	189.00
41	N 27°28'50" E	98.00
42	N 48°38'55" E	227.00
43	N 02°21'49" W	98.00
44	N 36°10'03" W	235.00
45	N 54°58'22" W	180.00
46	N 59°26'31" W	245.00
47	N 46°22'28" W	285.00
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58	N 21°39'07" W	52.00
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112	N 39°32'19" E	1328.94
113	N 39°32'44" E	120.75
114	R=2914.93 Δ=4°42'43"	239.72
115	N 89°55'00" E	563.07
116	N 89°51'12" E	1338.02

RADIAL BEARINGS	
NUMBER	BEARING
R1	S 37°10'37" W
R2	N 48°08'16" W
R3	S 50°14'15" E
R4	S 50°46'16" W



VICINITY MAP
NOT TO SCALE



DETAIL B
SCALE: 1" = 30'

Disclaimer:
"For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described."

LAFCO RESOLUTION NO. _____

DATE: _____

EST. 1986
PROVOST& PRITCHARD
CONSULTING GROUP
An Employee Owned Company
286 WEST CROMWELL AVENUE
FRESNO, CALIFORNIA 93711-6162
559/449-2700 FAX 559/449-2715
www.ppeng.com

JOB NO. 13280401
DWG NO. EBM-PM

APPROVED
LAFCO RES. # AD-11-1
September 28, 2011
DATE

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCO)
EXECUTIVE OFFICER'S REPORT

AGENDA ITEM NO. 9

DATE: **August 24, 2011**

TO: **Fresno Local Agency Formation Commission**

FROM: **Jeff Witte, Executive Officer**

SUBJECT: **Consider Approval:**

1. **Consider Adoption: "Municipal Service Review".** A request to Adopt the Municipal Service Review for Waterworks District No. 18.

2. **Consider Approval. "Sphere of Influence Revision".** A request to revise Waterworks District No. 18's sphere of influence by adding approximately 520 acres of territory located adjacent to the Community of Friant **(LAFCo File No. MSR-11-6. RSOI-156).**

3. **Consider Approval: Waterworks District No. 18 "Friant Ranch Annexation".** A proposed annexation that would add approximately 520 acres for territory located adjacent to the Community of Friant **(LAFCo File No. AD-11-1).**

4. **Consider Approval: Waterworks District No. 18 "Extension of Powers (sewer)".** A proposal by Waterworks District No. 18 to activate their latent powers to enable them to provide sewer service to the Friant Ranch Annexation area located adjacent to the Community of Friant **(LAFCo File No. EP-11-1).**

Applicant: Waterworks District No. 18

RECOMMENDATIONS – APPROVE BY TAKING THE FOLLOWING ACTIONS:

As indicated below, staff recommends that each action be conditioned on the Petitioner signing an indemnification agreement, acceptable to the Executive Officer and LAFCo Counsel, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter.

1. **Municipal Service Review**

A. Acting as Lead Agency pursuant to California Environmental Quality Act (CEQA) Guidelines, find that prior to adopting the written determinations, the Municipal Service Reviews and Sphere of Influence determinations under consideration are Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15306, "Information Collection" and Section 15320, "Changes in Organization of Local Agencies".

B. Find that the Municipal Service Review prepared for the Waterworks District No. 18 is complete and satisfactory.

C. Find that the written determinations within the Municipal Service Review satisfies State Law.

D. Pursuant to Government Code Sections 56425 and 56430 make the required determinations for the Municipal Service Review and adopt the Municipal Service Review prepared for Waterworks Districts No. 18 with the following condition:

The applicant shall execute an indemnification agreement with the Commission, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter.

2. **Sphere of Influence Revision (RSOI-156)**

A. Prior to taking its action the Commission finds that a Municipal Service Review has been prepared for the Waterworks District No. 18 that was approved and adopted, pursuant to California Government Code Section 56430.

B. Find that approval of the requested sphere of influence revision for the Waterworks District No. 18 is based on sufficient information that was provided to the Commission in the Municipal Service Review, the Executive Officer's Report to the Commission, and all other testimony, evidence and information provided by persons and interested agencies, and is in compliance with State law, including, but not limited to, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

C. Acting as Responsible Agency pursuant to California Environmental Quality Act (CEQA) Guidelines, find that prior to approving the proposed Sphere of Influence Revision the environmental effects of the project as

shown in the CEQA documents prepared by Fresno County as the Lead Agency, and adopted by the Fresno County Board of Supervisors were reviewed and considered, and determine these documents to be adequate pursuant to CEQA Guidelines Section 15096.

D. Find that the proposed Waterworks District No. 18 "Sphere of Influence Revision" is consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and Fresno LAFCo adopted Policies, Standards and Procedures, including, but not limited to, Sections 100, 200, and 330, and that this action carries out LAFCo's purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities.

E. Adopt the required written determinations for the Sphere of Influence Revision and determine that these written determinations have been prepared pursuant to California's Government Code, Section 56425(e) (See Exhibit "A").

F. Find that all public notices of this Commission's hearing of this matter were duly given in accordance with State law.

G. Approve the proposed "Sphere of Influence Revision" (RSOI-154), adding approximately 520 acres to the Waterworks District No. 18 located adjacent to the Community of Friant (Exhibit "B") with the following condition:

The applicant shall execute an indemnification agreement with the Commission, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter.

3. **Friant Ranch Annexation" (AD-11-1)**

A. Acting as Responsible Agency pursuant to California Environmental Quality Act (CEQA) Guidelines, find that prior to approving the proposed Sphere of Influence Revision the environmental effects of the project as shown in the CEQA documents prepared by Fresno County as the Lead Agency, and adopted by the Fresno County Board of Supervisors were reviewed and considered, and determine these documents to be adequate pursuant to CEQA Guidelines Section 15096

B. Find that the proposed annexation is consistent with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and Fresno

LAFCo adopted Policies, Standards and Procedures including but not limited to Section 220, Standards for District Annexation, and that this action carries out LAFCo's purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities.

C. Find that approval of the proposed annexation is based on sufficient information was provided to the Commission, the Executive Officer's report to the Commission, and all other testimony and information provided by persons and interested agencies, and is in compliance with state law, including, but not limited to, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and Commission Policies, Standards and Procedures.

D. Find and determine pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 that:

1. The territory is uninhabited.

2. All landowners and affected agencies have consented to the annexation.

E. Assign the distinctive short form designation "Friant Ranch Annexation" and approve the 520-acre annexation with the following conditions of approval as shown on Exhibit "B".

1. The applicant shall execute an indemnification agreement with the Commission, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter.

2. Waterworks District No. 18 shall fund the cost of dissolving County Service Area No. 44A at such time as the wastewater facility constructed by the District is fully approved by all respective governmental agencies and is operational.

F. Waive further Conducting Authority Proceedings and order the annexation subject to the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and the 30-day reconsideration period.

4. Extension of Powers (EP-11-1)

A. Acting as Responsible Agency pursuant to California Environmental Quality Act (CEQA) Guidelines, find that prior to approving the proposed Sphere of Influence Revision the environmental effects of the project as shown in the CEQA documents prepared by Fresno County as the Lead Agency, and adopted by the Fresno County Board of Supervisors were reviewed and considered, and determine these documents to be adequate pursuant to CEQA Guidelines Section 15096

B. Find that the proposed "Extension of Powers" is consistent with LAFCo Policies, Standards and Procedures Sections 100 and 200, and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

C. Approve the extension of powers to authorize the Waterworks District No. 18 to provide wastewater collection and treatment services with the following condition:

The applicant shall execute an indemnification agreement with the Commission, agreeing to defend, indemnify, and hold harmless the Commission from and against any claims, actions (including those filed by any state or governmental agency), costs, or damages arising out of or in connection with the Commission's actions related to this matter.

D. Assign the distinctive short form designation "Extension of Powers" for the Waterworks District No. 18.

E. Inasmuch as there are no protest proceedings in conjunction with the establishment of a new service, direct staff to complete the proceeding.

EXECUTIVE SUMMARY

On February 1, 2011, the Fresno County Board of Supervisors approved the Friant Community Plan and Friant Ranch Specific Plan that includes plans for a 460-acre senior village.

This proposal includes adoption of a municipal services review and approval of a sphere of influence revision, annexation, and request for activation of latent powers for Waterworks District No. 18.

Waterworks District No. 18 is authorized to provide water, wastewater, and storm drainage services to the properties within the district's boundaries; however, the District currently only provides water service within most of its boundary.

The sphere of influence must be considered together with the Municipal Service Review, and if approved, the proposed annexation and extension of powers can be considered.

ANALYSIS AND DISCUSSION

Waterworks District No. 18 serves approximately 234 residential, commercial, and industrial connections in the Community of Friant. Waterworks District No. 18 is proposing to revise its sphere of influence and add approximately 520 acres to provide services to the Friant Ranch Project, located east of Friant Road and west of the Friant-Kern Canal. The Friant Ranch Project is a mixed-use development that will consist of approximately 2,500 dwelling units, of which 2,270 will be age-qualified units (55 years and older) and 230 will be non-age-qualified units. The development also includes 250,000 square feet of commercial space. To serve this new development, the District proposes to activate its latent powers to provide wastewater collection, treatment, and disposal.

Waterworks District No. 18 obtains their water from Millerton Lake via a contract with the United States Bureau of Reclamation. The existing water treatment plant and water supply system uses a clarification and filtration process designed to treat the water from Millerton Lake and currently serves the Community of Friant. The District also contracts with Table Mountain Rancheria to treat water for the Rancheria casino.

The Friant Ranch Specific Plan developers plan to construct a new wastewater treatment system that will be owned, operated, and maintained by Waterworks District No. 18, with no capital costs to the District. A point of connection would be provided for a future wastewater collection system serving the Friant Community; however the Friant Ranch Specific Plan development is not committed to construct a collection system for the community as the decision to do so would rest with the citizens of the Friant Community.

Treated water for the initial development at Friant Ranch can be produced by the existing water system. The District will condition the Project to expand the present water treatment plant in phases to accommodate the needs of the Project. The District represents that the expansion required of Friant Ranch will fully supply the water needs of the Project, and at full build-out, the District will be left with the same amount of capacity to serve the their current customers.

Municipal Service Review

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCo to review and update, as necessary, special district spheres of influence (SOIs) every five years. Prior to, or in conjunction with an agency's SOI update, LAFCo is required to conduct a *Municipal Service Review* (MSR) for each agency.

Municipal Service Reviews provide a comprehensive review of the services provided by a city or district and present recommendations with regard to the condition and

adequacy of these services and whether or not modifications to a city or district's SOI are necessary. MSRs can be used as informational tools by LAFCo and local agencies in evaluating the efficiencies of current district operations and may suggest changes in order to better serve the public.

Sphere of Influence updates may involve an affirmation of the existing SOI boundaries or recommend modifications to the SOI boundaries. LAFCo is not required to initiate changes to an SOI based on findings and recommendations of the service review, although it does have the power to do so.

State law requires that the Commission adopt written MSR determinations for each of the six criteria:

Written Determinations for the Friant Ranch Municipal Service Review

1. **Growth and population projections for the affected area.**

   Waterworks District No. 18 currently serves 500 residents. The proposed Friant Ranch project will be constructed in four phases over a period of approximately 10 years and will ultimately increase to 2,500 service connections for a building out to support approximately 5,765 residents

2. **Present and planned capacity of public facilities and adequacy of public services including infrastructure needs or deficiencies.**

   The project would include expansion of water service and acquisition of new water sources as defined in their land use permits with the County of Fresno and development of a new wastewater treatment facility. The District would become responsible for treatment of wastewater generated by an area now within County Service Area No.44A. Additionally, Waterworks District No.18 would be responsible for dissolution of County Service Area No. 44A at such time as the new wastewater treatment facility is constructed by the District and is operational.

3. **Financial ability of agencies to provide series**

   Waterworks District No. 18 has provided plans to support their financial ability to provide services for the expanded area. However, a collection system for wastewater for the Friant area would continue to be the responsibility of the Friant community and not included in the project. The wastewater treatment facility is however designed to be available to treat wastewater for the Friant community via a connection point that would be placed in the new system. The District has provided information as to the method of financing these improvements.

4. **Status of, and opportunities for, shared facilities.**

While there are other CSAs in this portion of the County, the proximity of these CSAs to each other does not easily provide for shared facilities. The District has however included in their proposal the ability to eliminate the services provided by County Service Area #44A and upgrade the service presently received by these residents.

5. **Accountability for communities services needs, including governmental structure and operational efficiencies**.

Waterworks District No. 18 is presently organized under the California Water Code Section 64400 and has a five member Board of Directors to oversee the District's operations. The District has provided information to support the adequacy of staffing to oversee needed services.

6. **Any other matter related to effective or efficient service delivery, as required by commission policy.**

Waterworks District No. 18 has provided information to support their ability to provide for expanded water service and wastewater service for the expanded area in addition to the area now known as County Service Area No. 44A.

Sphere of Influence Revision

The proposed SOI revision and annexation are consistent with LAFCo Policies, Standards and Procedures Section 210 - Standards for Annexation to Cities and Urban Service Districts (01-13), Section 330 - Sphere of Influence Updates and Revisions, and the "Act".

The proposal does not conflict with the goals and policies of the Commission to oversee and promote logical formations, planned, well ordered, efficient development patterns and service areas, and orderly urban development.

The sphere of influence revision is first necessary to allow the annexation of the Friant Ranch Project that was approved by the County of Fresno in February, 2011.

Friant Ranch Annexation

The Friant Ranch Project site comprises a total of 942 acres, with 460 acres proposed for development and 482 proposed for dedicated on-site open space. Portions of the open space necessary to provide a contiguous service area are included in the annexation, bringing the total area to approximately 520 acres. The remainder of the open space area is not proposed for annexation into the District as no services will be required or provided.

County Service Area No. 44A owns and operates the Millerton Lake Village Wastewater Treatment Plant, which serves the Millerton Lake Village Mobile Home Park, which is located directly north of the Friant Ranch Project. Waterworks District No. 18 currently provides water service to the mobile home park which is also located within their service area. When the Friant Ranch wastewater treatment plant is constructed and begins serving the Friant Ranch Specific Plan area, County Service Area No. 44A's wastewater treatment responsibilities will be taken over by Waterworks District No. 18, and the existing County Service Area No. 44A wastewater plant, will be decommissioned.

The District proposes to assume the responsibility for wastewater services that is presently being provided by County Service Area No. 44A and the Millerton Lake Village Wastewater Treatment Plant will be abandoned.

Extension of Services

Waterworks District No. 18 currently provides water service within most of its jurisdictional boundaries but is statutorily authorized to provide water, wastewater, and storm drainage. Pursuant to Government Code section 56824.10, Waterworks District No. 18 is requesting LAFCo to activate their latent powers to also provide wastewater and storm drainage services to the areas within their service boundaries.

Role of LAFCo

Although there are a series of actions before LAFCo with respect to Waterworks District No. 18, the actual role of LAFCo is focused on issues associated with the expansion of the District and the additional services that the District can provide. The LAFCo Law requires LAFCOs to conduct a service review of the municipal services provided in the County or other appropriate area designated by the Commission. The MSR looks at how effective and efficient the operation of the district is and the regulatory aspect of the water and sewer system lay within the preview of the County of Fresno and the Regional Water Quality Control Board in the case of the proposed water treatment facility.

Specifically, LAFCo is not reviewing or granting approvals of any land use permits previously approved by the County of Fresno or which may be approved in the future.

Other Nearby Districts and MSR Discussion

Currently, County Service Area No. 44A provides wastewater service to the Millerton Lake Mobile Home Village which is within the Sphere of Influence of Waterworks District No. 18. Once the Friant Ranch wastewater treatment plant is constructed, County Service Area No. 44A's wastewater treatment responsibilities will be taken over by Waterworks District No. 18.

County staff has indicated that it is interested in exploring at some future time whether it would be beneficial to consolidate County Service Area No. 34 with a portion of County

Service Area No. 44, Waterworks District No. 38, and Waterworks District No. 18. Waterworks District No. 18 would become the service provider for these districts, but may be dependent on the proposed Friant Ranch annexation.

Other special districts in the Friant area includes the Fresno County Library District, Clovis Cemetery District, County Service Area No. 35, Fresno County Fire Protection District, Consolidated Mosquito Abatement District, Clovis Unified School District, State Center Community College District, and West Fresno County Red Scale Protective District.

Environmental Determination

The County of Fresno completed an environmental impact report (EIR) that covered the actions now before LAFCo in respect to the expansion of powers, annexation of new area, and sphere of influence revision. The County of Fresno, acting as lead agency per CEQA requirements, prepared a Program Draft Environmental Impact Report (EIR) for the Friant Community Plan Update and Friant Ranch Specific Plan. The County of Fresno made necessary findings and certified the Final EIR and adopted the Statement of Facts, Findings and Overriding Considerations and the Mitigation Monitoring and Reporting Plan on December 7, 2010. The Draft EIR, Final EIR, Notice of Determination, and supporting resolutions can be found on our website at HYPERLINK "http://www.fresnolafco.org/"www.fresnolafco.org.

As the "Responsible Agency" pursuant to California Environmental Quality Act (CEQA) Guidelines, the Commission is required to independently review and consider the environmental effects of the project as presented in the adopted Final EIR for the Friant Community Plan Update and Friant Ranch Specific Plan prepared by the Lead Agency, the County of Fresno, prior to reaching a decision on the project (Section 15096 *et seq.*).

After such review the Commission is required to determine if there are any feasible alternatives or mitigation measure(s) within the Commission's power that would substantially lessen or avoid any significant effect the Project would have on the environment identified in the adopted EIR. Prior to reaching a decision on the Project, the Commission is also required to make findings pursuant to the Sections 15091, 15093, 15096(g)(1) and 15096(h) of the CEQA Guidelines.

SUMMARY OF AGENCY RESPONSES RECEIVED BY LAFCO

Clovis unified School District responded that their attendance boundaries would include Liberty Elementary, Kastner Intermediate, Clovis West High School. In respect to the potential for overcrowding conditions the District responded that it would depend on the type of development (this is a senior age restricted community for the most part).

Caltrans had no additional comments other than those submitted to the County in their response to the Draft Environmental Impact Report.

Fresno County Library – Sites EIR for this proposal as a disposition of cultural resources found other property.

The Bureau of reclamation responded that the sphere of influence revision would allow federal water to be applied to the newly annexed lands. The Bureau said the project would require approval of the long-term water transfer to Fresno County Waterworks District No. 18 from the Lower Tule River Irrigation District and issuance of a right-of-way permit/license for construction or modification of pipelines on Reclamation-owned lands.

The Fresno County Department of Public Heath's comments were related to the County's procedure for abandonment of wells. The Health Department said that that wells must be properly destroyed and the applicant shall first apply for and obtain a permit for the destruction of the well from the Fresno County Department of Health, Environmental Health Division. The Health Department suggests that upon availability, any existing rural residential parcel be required to connect to Waterworks District No. 18's community sewer system in the event of a failure of the existing sewage system, and that no building permits be issued for repair of such a system whether or not the mandatory three year connection requirement has expired.

The County of Fresno has determined that the sphere of influence revision, annexation, and extension of powers for sewer service is consistent with the Friant Community Plan, the Friant Ranch Specific Plan, and the Fresno County General Plan.

The State Department of Health Services expressed their concern that Waterworks District No. 18 did not have an adequate water source and treatment capacity to serve the proposed development and said the District must significantly increase its water source and treatment capacity before expanding its service area. Staff feels that with approval of the sphere of influence revision, annexation and extension of powers, the District will be able to provide the services for the project.

EXHIBIT "A"

WRITTEN DETERMINATIONS

Support for these determinations is contained within the EIR prepared for the project.

1. **The present and planned land uses in the area, including agricultural and open-space lands.**

   The applicant has an approved plan that provides for open space and retains view cape areas and other natural features on the site within the expanded sphere of influence

2. **The present and probable need for public facilities and services in the area.**

   The District's application includes the approved plans for a development that provides services via homeowners associations and various privately funded and maintained facilities. The District also includes information indicating their ability to provide for ended water service via plant expansions and water capacity acquisitions

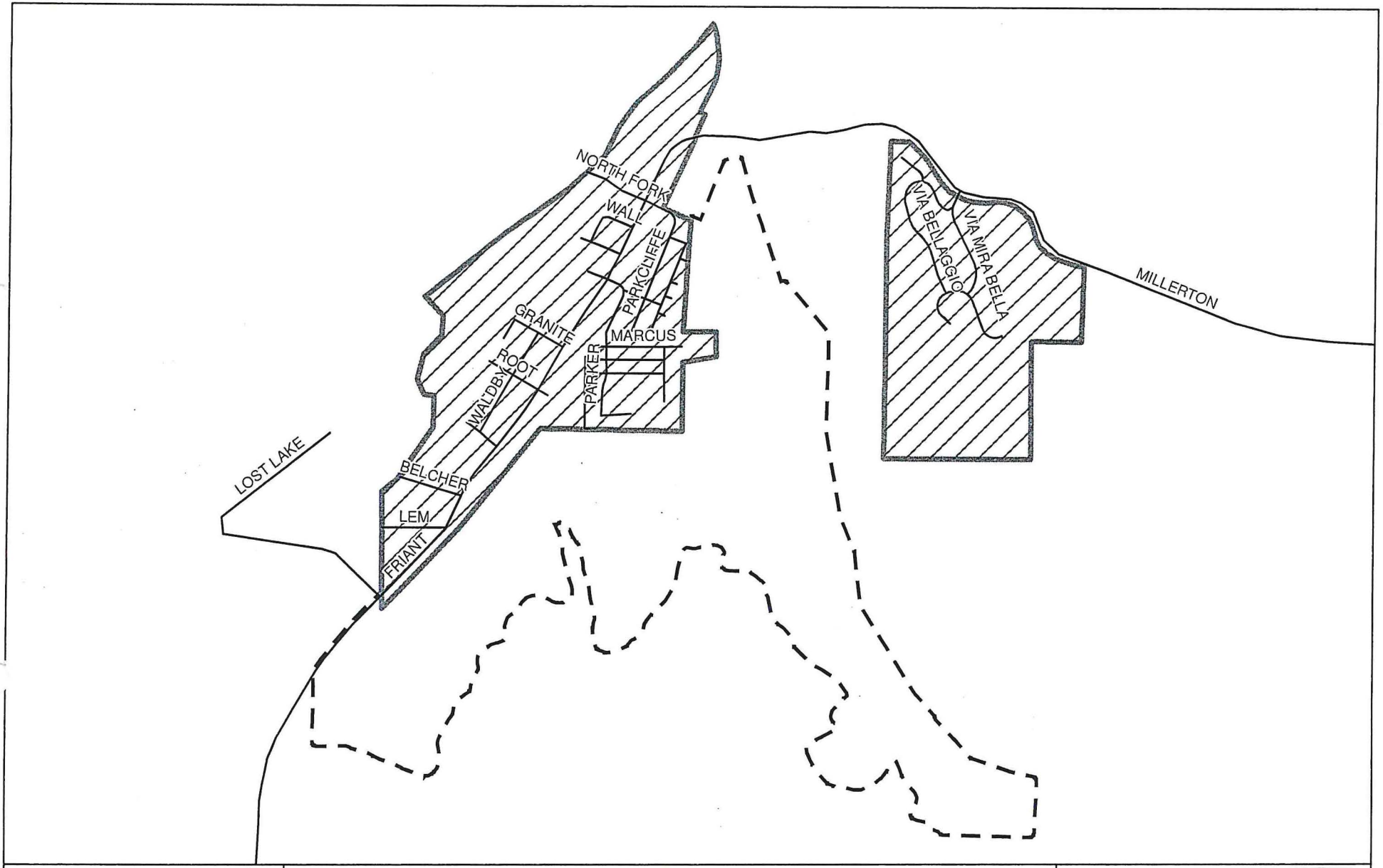
3. **The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.**

   Presently Waterworks District No. 18 provides water service to 234 residential, commercial, and industrial connections in Friant that are adequate to meet the service needs at this time.

4. **The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.**

   Waterworks District No. 18 did not indicate any specific additional communities of interest within the District's present or proposed boundaries. However, the approved land use land does preserve aspects of the site that constitute natural features, viewscapes, and other aspects of the site.

EXHIBIT "B"



0 1,000 2,000 Feet

EST. 1868
PROVOST & PRITCHARD CONSULTING GROUP
An Employee Owned Company

286 W. Cromwell Ave.
Fresno, CA 93711-6162
(559) 449-2700

Legend

District SOI

Proposed SOI Expansion

Proposed SOI Expansion

Waterworks District No. 18

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WORD_DESCR	TAX_AREA_C	LOT_WIDTH	LOT_DEPTH	LOT_AREA	TOTAL_ASSE	LAST_RECOR	ASSESS_LA	ASSESS_IM	TFI_VALUE	PERS_PROF	MOBILE_HO	HOMEOWNER_
68 AC IN SW1/4 SEC 8 T11R21	76068	6800.000	1.000	68.000	57720	10/12/1995	57720	0	0	0	0	0
20.11 AC IN GOVT LTS 5 & 12 SEC 8 T11R21	76086	2011.000	1.000	20.110	672755	8/31/2004	672755	0	0	0	0	0
SUR RTS 120 AC IN NE1/4 SEC 18 T11R21	76068	12000.000	1.000	120.000	106423	3/17/1994	106423	0	0	0	0	0
58.61 AC IN N1/2 OF SEC 18 T11R21	76086	5861.000	1.000	58.610	70286	10/12/1995	70286	0	0	0	0	0
234.21 AC IN S1/2 OF SEC 18 T11R21	76068	23421.000	1.000	234.210	280896	10/12/1995	280896	0	0	0	0	0
457.97 AC IN SEC 17 T11R21	76068	45797.000	1.000	457.970	430086	10/12/1995	430086	0	0	0	0	0
47 AC IN GOVT LOT 5 SEC 18 T11R21 SE OF FRIANT RD	76068	4700.000	1.000	47.000	56584	10/12/1995	56584	0	0	0	0	0
	76068											
2.24 AC PAR IN N 1/2 SEC 18 T11R21	76086	224.000	1.000	2.240	26488	10/29/1993	26488	0	0	0	0	0
7.33 AC IN BLKS 4 5 & 8 POLLASKY	76086	733.000	1.000	7.330	245127	8/31/2004	245127	0	0	0	0	0
LOT 3 BLK 9 POLLASKY & ABANDONED RDS	76086	25.000	190.000	0.110	513	6/17/1964	513	0	0	0	0	0
8.13 AC LYG IN 5 BLKS IN SEC 8 POLLASKY	76086	813.000	1.000	8.130	272124	8/31/2004	272124	0	0	0	0	0

	2910		Friant Ranch Annex				
	TOTAL_ASSE	APN	NAME1	NAME2	ADDRESS1	ADDRESS2	ADDRESS3
	57720	30002151	BIGELOW-SILKWOOD FRIANT RANCH		% E L SILKWOOD	P O BOX 22	O NEALS CA 93645
	672755	30002153	WHISPERING SPRINGS LLC		% B WAGNER	7110 N FRESNO #340	FRESNO CA 93720
	106423	30004002S	BIGELOW-SILKWOOD FRIANT RANCH NO 2		% E L SILKWOOD	P O BOX 22	O NEALS CA 93645
	70286	30004023	BIGELOW-SILKWOOD FRIANT RANCH		% E L SILKWOOD	P O BOX 22	O NEALS CA 93645
	280896	30004024	BIGELOW-SILKWOOD FRIANT RANCH		% E L SILKWOOD	P O BOX 22	O NEALS CA 93645
	430086	30005001	BIGELOW-SILKWOOD FRIANT RANCH		% E L SILKWOOD	P O BOX 22	O NEALS CA 93645
	56584	30016008	BIGELOW-SILKWOOD FRIANT RANCH		% E L SILKWOOD	P O BOX 22	O NEALS CA 93645
	0	30016047T	COUNTY OF FRESNO				
	26488	30016052S	DEPOT DEVELOPMENT INC		7110 N FRESNO #340	FRESNO CA 93720	
	245127	30019002	WHISPERING SPRINGS LLC		% B WAGNER	7110 N FRESNO #340	FRESNO CA 93720
	513	30020005	TOMSIC LORRAINE K	GIULIANI COLLEEN R	1218 26TH AVE #202	SAN FRANCISCO CA 94122	
	272124	30020019	WHISPERING SPRINGS LLC		% B WAGNER	7110 N FRESNO #340	FRESNO CA 93720
total ==>	2219002						