

# **EXHIBIT G**

# Final Environmental Impact Report for the City of El Centro Change of Zone 05-02, Tentative Subdivision Map and Annexation EC-8-04 (Miller Burson)

State Clearinghouse Number 2006081078

November 20, 2008



Prepared for:



**City of El Centro**  
Planning Department  
1275 Main Street  
El Centro, CA 92243  
Contact: Norma Villacana, Planning Director



Prepared by:



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340 S. Farrell Drive, Suite A210  
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Contact: Nancy F. Ferguson, Regional Manager



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for the City of El Centro  
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Michael Brandman Associates

Report Date: November 20, 2008

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## SECTION 1: INTRODUCTION

### 1.1 - Purpose

In accordance with Section 15088 of the State of California Environmental Quality Act (CEQA) Guidelines, the City of El Centro, as the lead agency, has evaluated the comments received on the Draft Environmental Impact Report (EIR) and the Recirculated Draft EIR. The Responses to the Comments, revisions to the Draft EIR and Recirculated Draft EIR, in response to comments received, along with the two draft documents comprise the Final EIR.

The Final EIR document is organized as follows:

- **Section 1 - Introduction.**
- **Section 2 - List of Commentors.** Provides a list of the agencies, organizations, and individuals that commented on the Draft EIR and the Recirculated Draft EIR.
- **Section 3 - Responses to Comments on the Draft EIR.** Includes a copy of all of the letters received and provides responses to comments on environmental issues describing the disposition of the issues, explaining the EIR analysis, supporting the EIR conclusions, and/or providing information or corrections as appropriate. This section is organized with a copy of the comment letter followed with the corresponding responses.
- **Section 4 - Response to Comments on the Recirculated Draft EIR.** Includes a copy of all of the letters received on the Recirculated Draft EIR and provides responses to comments on environmental issues describing the disposition of the issues, explaining the EIR analysis, supporting the EIR conclusions, and/or providing information or corrections as appropriate. This section is organized with a copy of the comment letter followed with the corresponding responses.
- **Section 5 – Revisions to the Draft EIR.** Includes a compilation of the revisions made to the Draft EIR after circulation for public review.
- **Section 6 – Revisions to the Recirculated Draft EIR.** Includes a compilation of all changes that were made to the Recirculated Draft EIR after circulation for public review.
- **Section 7 – Mitigation, Monitoring and Reporting Program.** Includes an introduction to the MMRP, a compilation of all the mitigation measures that apply to the project, the entity responsible for monitoring or reporting on the status of the measure, and the date of implementation of the measure.



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## 1.2 - Context of the Final EIR

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The project description has evolved in the year since recirculation of the Draft EIR. While overall, the project remains a residential subdivision with an elementary school, park features, and stormwater basins, various components of the projects have received additional consideration, in response to comments received, and have been refined to provide, what the applicant and the City believe, is a project that better addresses some of the environmental issues associated with the development of the project. The site plan has been revised and is presented here. The project has been revised as follows:

- The number of residential lots has been reduced from 494 to 485 in order to provide additional area for stormwater retention.
- The size of the elementary school site has been reduced from 11.77-acres to 9.96-acres to reflect the District's decision to provide a facility for 450 students rather than 600 students, as originally envisioned. In addition, the new site plan shows two residential streets bounding the school site rather than the four shown in the original site plan. The District expressed concern that, as originally proposed, the elementary school was surrounded on all four sides by streets.
- The proposed neighborhood park has been relocated and is no longer proposed as a joint use with the elementary school. Due to the adjustment in the number of residential lots from 494 to 485 and revision of the residential population generation factor from 3.5 residents per dwelling unit (2004) to 3.23 residents per dwelling unit (2008), the park land requirement has changed from 5.19 acres to 4.70 acres. The size of the park in the site plan has also been reduced by 1 acre from 5.18-acres to 4.18-acres. An additional 0.44 acre pocket park is included in the site plan, for a total of 4.62 acres of parkland. This represents a shortfall of 0.08 acre of parkland, and the applicant has agreed to pay the City's in-lieu of a park fee to make up the difference.
- The original site plan showed one 8.78-acre detention basin. During review of the site plan and supporting data on hydrology and stormwater retention requirements, the site plan was revised to provide 15.49-acres in two retention basins. All changes were in response to comments from municipal planning agencies including the City, County and Local Agency Formation Commission (LAFCO).

Specific revisions to the Draft and/or Recirculated Draft to address comments received are included in the Response to Comments sections of the Final EIR (Sections 3 and 4), and Revisions to the EIR (Sections 5 and 6).

Notably, the level of impact to Agricultural Resources has also been revised. Since the inception of the environmental planning process for the project, planners have been debating different

interpretations of agricultural policies. The County of Imperial has added clarification to agricultural land use policies and is promoting consistency among development projects in the Imperial Valley.

Both the Draft EIR and the Recirculated Draft EIR concluded that the loss of active agricultural lands as a result of the proposed project would be a Significant and Unavoidable Impact; however, comments received from appropriate municipal agencies indicated that this conclusion was inaccurate. One reason stated is that according to policy, a loss of prime farmland less than 40 acres is not considered significant by the County. Another reason is that because of the County designation of A2U – Agricultural/Urban Overlay (essentially an “urban” category) and the City designation as R1 - Low Density Residential within its Tier II Sphere of Influence (also urban) the impacts to the site have already been planned for and covered by the Findings of the respective General Plans, and the project would not contribute more impacts.





**Summary:**  
 485 residential lots  
 4.62-acres (2)parks  
 9.98-acre (1)school site  
 15.49-acres (2)retention basins

Source: Development, Design and Engineering, November 7, 2008.



Michael Braudman Associates  
 2799.0003 • 11/2008 | Ex 1-1 FEIR Revised TM.cdr

Exhibit 1-1  
 Revised Tract Map

Miller-Burson Residential Subdivision Final EIR  
 City of El Centro



**SECTION 2: LIST OF COMMENTORS**

Listings of public agencies, organizations, and individuals that provided comments on the Draft Environmental Impact Report (EIR) and Recirculated Draft EIR are presented below. Each comment has been assigned a code. Individual comments within each communication have been numbered so comments can be cross-referenced with responses. The list of commentors also designates which document the commentor responded to. Section 3, Responses to Comments to the Draft EIR and Section 4, Responses to Comments on Recirculated Draft EIR, includes the text of the communication followed by the corresponding response.

**DRAFT EIR COMMENTORS**

**CODE**

**State Agencies**

State Clearinghouse January 12,, 2007 (DEIR).....	SCH I
Department of Fish and Game, January 2007 (DEIR) .....	CDFG
Department of Transportation, January 11, 2007 (DEIR) .....	DOT
Native American Heritage Commission December 12, 2006 (DEIR) .....	NAHC I

**Regional Agencies**

Regional Water Quality Board, January 5, 2007 (DEIR).....	RWQB
Imperial County Air Pollution Control District, January 10, 2007 (DEIR) .....	APCD I
Southern Association of Governments, October 8, 2007 (DEIR) .....	SCAG

**County Agencies**

Imperial County Planning & Development Services, January 10, 2007 (DEIR) .....	ICPDS
County of Imperial Public Works Department, January 6, 2006 (DEIR) .....	CIPWD

**Local Agencies**

Local Agency Formation Commission, November 16, 2007 (DEIR).....	LAFCO
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**Private Organizations and Persons**

G-MAC Development Company, January 17, 2007 (DEIR) .....	GMAC
Sempra Energy, December 6, 2006 (DEIR) .....	SE
Robert Harrold, January 11, 2007 (DEIR) .....	RH
Charles Newton, January 10, 2007 (DEIR).....	CN
Tract 833 and Tract 879 Landowners’s Association January 12, 2007 (DEIR).....	LA

**RECIRCULATED DRAFT EIR COMMENTORS**

**CODE**

**State Agencies**

State Clearinghouse October 30, 2007 (RDEIR).....	SCH II
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State Clearinghouse October 31, 2007 (RDEIR).....	SCH III
Department of Toxic and Substances Control, October 17, 2007 (RDEIR) .....	DTSC
Native American Heritage Commission September 19, 2007 (RDEIR) .....	NAHC II

**Regional Agencies**

Imperial County Air Pollution Control District, October 29, 2007 (RDEIR) .....	APCD II
--	---------

**Local Agencies**

McCabe Union Elementary School District, October 28, 2007 (RDEIR).....	MUSD
Central Union High School District, October 28, 2007 (RDEIR) .....	CUSD

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## **SECTION 3: RESPONSES TO COMMENTS TO DRAFT EIR**

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### **3.1 - Introduction**

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In accordance with Section 15088 of the California Environmental Quality Act (CEQA) Guidelines, the City of El Centro as the lead agency evaluated the comments received on the Draft Environmental Impact Report (EIR) (State Clearinghouse No. 2006081078) for the Zone Change 05-02, Tentative Subdivision Map and Annexation EC-8-04 Miller Burson Project. Following are the responses to the comments received. This Response to Comments document becomes part of the Final EIR for the project in accordance with Section 15132 of the CEQA Guidelines.

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### **3.2 - Draft EIR Comment Letters and Responses**

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The comment letters reproduced in the following pages follow the same organization as used in Sections 2's List of Commentors. Due to modifications to the conclusions of some of the environmental issues within the Recirculated Draft EIR, some of the responses in this section will refer the reader to responses in Section 4, Responses to Comments on Recirculated Draft EIR.







Arnold Schwarzenegger  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Cynthia Bryant  
Director

January 12, 2007

Oliver M. Alvarado  
City of El Centro  
1275 Main Street  
El Centro, CA 92243

Subject: City of El Centro Zone Change 05-02 and Tentative Subdivision Map (Miller Burson)  
SCH#: 2006081078

Dear Oliver M. Alvarado:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on January 11, 2007, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

SCHI - 1

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

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

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

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

Sincerely,

Terry Roberts  
Director, State Clearinghouse

Enclosures

cc: Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044  
TEL (916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2006081078  
**Project Title** City of El Centro Zone Change 05-02 and Tentative Subdivision Map (Miller Burson)  
**Lead Agency** El Centro, City of

**Type** EIR Draft EIR  
**Description** Project implementation includes annexation, a zone change from County zoning, General Agriculture/Urban Overlay (A2U) to City zoning Single Family Residential (R-1). Project implementation will result in the subdivision of approximately 160 acres of farmland into 496 lots, which will allow for the development of 494 single-family residences on an average lot size of 7,200 square foot lots, 8.78 acre detention basin, and the dedication of approximately 11.77 acres for a future elementary school (with a proposed joint use school/park). Project implementation will also require the extension and/or upgrade of public services and utilities and the internal circulation system.

**Lead Agency Contact**

**Name** Oliver M. Alvarado  
**Agency** City of El Centro  
**Phone** (760) 337-4545 **Fax**  
**email**  
**Address** 1275 Main Street  
**City** El Centro **State** CA **Zip** 92243

**Project Location**

**County** Imperial  
**City** El Centro  
**Region**  
**Cross Streets** Ross Road and Austin Road  
**Parcel No.**  
**Township** 16S **Range** 13E **Section** 74 **Base**

**Proximity to:**

**Highways** 86  
**Airports**  
**Railways** SPRR  
**Waterways** Lotus, Evergreen, and Central Canals  
**Schools**  
**Land Use** Z: General Agriculture/Urban Overlay (A2U)

**Project Issues** Agricultural Land; Air Quality; Archaeologic-Historic; Cumulative Effects; Forest Land/Fire Hazard; Geologic/Seismic; Growth Inducing; Noise; Public Services; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Supply; Wildlife

**Reviewing Agencies** Resources Agency; Regional Water Quality Control Board, Region 7; Department of Parks and Recreation; Native American Heritage Commission; Department of Housing and Community Development; Department of Health Services; Office of Historic Preservation; Department of Fish and Game, Region 6; Department of Water Resources; Department of Conservation; California Highway Patrol; Caltrans, District 11; Department of Toxic Substances Control

**Date Received** 11/28/2006 **Start of Review** 11/28/2006 **End of Review** 01/11/2007

### **3.2.1 - State Agencies**

#### **State Clearinghouse January 12, 2007 (SCH I)**

##### *Response to Comment SCH I-1*

The comment is noted that the State Clearinghouse received the Draft EIR. No specific comments were made on the document. No further response is required.





DEPARTMENT OF FISH AND GAME

Inland Deserts Region

78078 Country Club Dr., Ste. 109

Bermuda Dunes, CA 92203

DFG  
Page 1 of 7



RECEIVED

JAN 16 2007

PLANNING  
CITY OF EL CENTRO

January 5, 2007

Oliver Alvarado  
Planning Director  
City of El Centro  
1275 Main Street  
El Centro, CA 92243

Subject: Draft Environmental Impact Report for City of El Centro Change of Zone 05-02,  
Tentative Subdivision Map and Annexation EC-8-04

Dear Mr. Alvarado:

The California Department of Fish and Game (Department) has reviewed the Draft Environmental Impact Report for the City of El Centro Change of Zone 05-02, Tentative Subdivision Map and Annexation EC-8-04. Project implementation includes annexation, a zone change from County zoning, General Agriculture/Urban Overlay (A2U) to City zoning, Single Family Residential (R-1). Project implementation will result in the subdivision of approximately 160 acres of farmland into 496 lots, which will allow for the development of 494 single-family residences on an average lot size of 7,200 square feet, an 8.78 acre detention basin, and the dedication of approximately 11.77 acres for a future elementary school (with a proposed joint use school/park). Project implementation will also require the extension and/or upgrade of public services, utilities, and the internal circulation system. In addition 42 acres will be annexed into the City of El Centro. The project site is located in the County of Imperial, within the Sphere-of-Influence of the City of El Centro, California. The project site currently consists of undeveloped agricultural land. Agricultural lands border to the west and south, and housing developments border to the north and east. The additional 42 acres to be annexed currently supports 30 residential units.

DFG - 1

This project has the potential to impact the Western Burrowing Owl (*Athene cunicularia*), a California Species of Special Concern. During a field survey in November 2005 Michael Brandman Associates identified two pairs of burrowing owls. Section 15380 of the California Environmental Quality Act (CEQA) requires the lead agency to treat sensitive species as though they were listed, if the species meets the criteria for listing described in the section. The Department believes that the proposed project could further the decline of the Western Burrowing Owl a sensitive species. This species must be treated as though they were listed and appropriate avoidance, mitigation and compensation for impacts need to be identified. Unavoidable impacts should be mitigated through acquisition and protection, in perpetuity, of high quality biological habitat. In addition, surveys and mitigation should be consistent with the 1995 Department Staff Report on Burrowing Owl Mitigation (attached).

Thank you for the opportunity to comment on this document. If you have any questions please contact Mr. Craig Weightman, Environmental Scientist, at (760) 200-9394.

Sincerely,

Kimberly Nicol  
Senior Environmental Scientist  
Inland Desert Region

*Conserving California's Wildlife Since 1870*

## Memorandum

:"Div. Chiefs - IFD, BDD, NED, & WMD  
Reg. Mgrs. - Regions 1, 2, 3, 4, & 5

Date : October 17, 1995

From : Department of Fish and Game

Subject : Staff Report on Burrowing Owl Mitigation

I am hereby transmitting the Staff Report on Burrowing Owl Mitigation for your use in reviewing projects (California Environmental Quality Act [CEQA] and others) which may affect burrowing owl habitat. The Staff Report has been developed during the last several months by the Environmental Services Division (ESD) in cooperation with the Wildlife Management Division (WMD) and regions 1, 2, and 4. It has been sent out for public review and redrafted as appropriate.

Either the mitigation measures in the staff report may be used or project specific measures may be developed. Alternative project specific measures proposed by the Department divisions/regions or by project sponsors will also be considered. However, such mitigation measures must be submitted to ESD for review. The review process will focus on the consistency of the proposed measure with Department, Fish and Game Commission, and legislative policy and with laws regarding raptor species. ESD will coordinate project specific mitigation measure review with WMD.

If you have any questions regarding the report, please contact Mr. Ron Rempel, Supervising Biologist, Environmental Services Division, telephone (916) 654-9980.

**COPY** Original signed by  
C.F. Raysbrook

C. F. Raysbrook  
Interim Director

Attachment

cc: Mr. Ron Rempel  
Department of Fish and Game  
Sacramento

## STAFF REPORT ON BURROWING OWL MITIGATION

### Introduction

The Legislature and the Fish and Game Commission have developed the policies, standards and regulatory mandates to protect native species of fish and wildlife. In order to determine how the Department of Fish and Game (Department) could judge the adequacy of mitigation measures designed to offset impacts to burrowing owls (*Speotyto cunicularia*; A.O.U. 1991) staff (WMD, ESD, and Regions) has prepared this report. To ensure compliance with legislative and commission policy, mitigation requirements which are consistent with this report should be incorporated into: (1) Department comments to Lead Agencies and project sponsors pursuant to the California Environmental Quality Act (CEQA); and (2) other authorizations the Department gives to project proponents for projects impacting burrowing owls.

This report is designed to provide the Department (including regional offices and divisions), CEQA Lead Agencies and project proponents the context in which the Environmental Services Division (ESD) will review proposed project specific mitigation measures. This report also includes preapproved mitigation measures which have been judged to be consistent with policies, standards and legal mandates of the Legislature, the Fish and Game Commission and the Department's public trust responsibilities. Implementation of mitigation measures consistent with this report are intended to help achieve the conservation of burrowing owls and should compliment multi-species habitat conservation planning efforts currently underway. The *Burrowing Owl Survey Protocol and Mitigation Guidelines* developed by The California Burrowing Owl Consortium (CBOC 1993) were taken into consideration in the preparation of this staff report as were comments from other interested parties.

A range-wide conservation strategy for this species is needed. Any range-wide conservation strategy should establish criteria for avoiding the need to list the species pursuant to either the California or federal Endangered Species Acts through preservation of existing habitat, population expansion into former habitat, recruitment of young into the population, and other specific efforts.

California's burrowing owl population is clearly declining and, if declines continue, the species may qualify for listing. Because of the intense pressure for urban development within suitable burrowing owl nesting and foraging habitat (open, flat and gently rolling grasslands and grass/shrub lands) in California, conflicts between owls and development projects often occur. Owl survival can be adversely affected by disturbance and foraging habitat loss even when impacts to individual birds and nests/burrows are avoided. Adequate information about the presence of owls is often unavailable prior to project approval. Following project approval there is no legal mechanism through which to seek mitigation other than avoidance of occupied burrows or nests. The absence of standardized survey methods often impedes consistent impact assessment.



## Legal Status

The burrowing owl is a migratory species protected by international treaty under the Migratory Bird Treaty Act (MBTA) of 1918 (16 U.S.C. 703-711). The MBTA makes it unlawful to take, possess, buy, sell, purchase, or barter any migratory bird listed in 50 C.F.R. Part 10, including feathers or other parts, nests, eggs, or products, except as allowed by implementing regulations (50 C.F.R. 21). Sections 3505, 3503.5, and 3800 of the California Department of Fish and Game Code prohibit the take, possession, or destruction of birds, their nests or eggs. To avoid violation of the take provisions of these laws generally requires that project-related disturbance at active nesting territories be reduced or eliminated during the nesting cycle (February 1 to August 31). Disturbance that causes nest abandonment and/or loss of reproductive effort (e.g., killing or abandonment of eggs or young) may be considered "take" and is potentially punishable by fines and/or imprisonment.

The burrowing owl is a Species of Special Concern to California because of declines of suitable habitat and both localized and statewide population declines. Guidelines for the Implementation of the California Environmental Quality Act (CEQA) provide that a species be considered as endangered or "rare" regardless of appearance on a formal list for the purposes of the CEQA (Guidelines, Section 15380, subsections b and d). The CEQA requires a mandatory findings of significance if impacts to threatened or endangered species are likely to occur (Sections 21001 (c), 2103; Guidelines 15380, 15064, 15065). To be legally adequate, mitigation measures must be capable of "avoiding the impact altogether by not taking a certain action or parts of an action"; "minimizing impacts by limiting the degree or magnitude of the action and its implementation"; "rectifying the impact by repairing, rehabilitating or restoring the impacted environment"; "or reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action" (Guidelines, Section 15370). Avoidance or mitigation to reduce impacts to less than significant levels must be included in a project or the CEQA lead agency must make and justify findings of overriding considerations.

## Impact Assessment

### Habitat Assessment

The project site and a 150 meter (approximately 500 ft.) buffer (where possible and appropriate based on habitat) should be surveyed to assess the presence of burrowing owls and their habitat (Thomsen 1971, Martin 1973). If occupied habitat is detected on or adjacent to the site, measures to avoid, minimize, or mitigate the project's impacts to the species should be incorporated into the project, including burrow preconstruction surveys to ensure avoidance of direct take. It is also recommended that preconstruction surveys be conducted if the species was not detected but is likely to occur on the project site.

- Date and time of visit(s) including name of the qualified biologist conducting surveys, weather and visibility conditions, and survey methodology;
- Description of the site including location, size, topography, vegetation communities, and animals observed during visit(s);
- Assessment of habitat suitability for burrowing owls;
- Map and photographs of the site;
- Results of transect surveys including a map showing the location of all burrow(s) (natural or artificial) and owl(s), including the numbers at each burrow if present and tracks, feathers, pellets, or other items (prey remains, animal scat);
- Behavior of owls during the surveys;
- Summary of both winter and nesting season surveys including any productivity information and a map showing territorial boundaries and home ranges; and
- Any historical information (Natural Diversity Database, Department regional files? Breeding Bird Survey data, American Birds records, Audubon Society, local bird club, other biologists, etc.) regarding the presence of burrowing owls on the site.

### **Mitigation**

The objective of these measures is to avoid and minimize impacts to burrowing owls at a project site and preserve habitat that will support viable owls populations. If burrowing owls are detected using the project area, mitigation measures to minimize and offset the potential impacts should be included as enforceable measures during the CEQA process.

Mitigation actions should be carried out from September 1 to January 31 which is prior to the nesting season (Thomsen 1971, Zam 1974). Since the timing of nesting activity may vary with latitude and climatic conditions, this time frame should be adjusted accordingly. Preconstruction surveys of suitable habitat at the project site(s) and buffer zone(s) should be conducted within the 30 days prior to construction to ensure no additional, burrowing owls have established territories since the initial surveys. If ground disturbing activities are delayed or suspended for more than 30 days after the preconstruction survey, the site should be resurveyed.

Although the mitigation measures may be included as enforceable project conditions in the CEQA process, it may also be desirable to formalize them in a Memorandum of Understanding (MOU) between the Department and the project sponsor. An MOU is needed when lands (fee title or conservation easement) are being transferred to the Department.

### **Passive Relocation - With One-Way Doors**

Owls should be excluded from burrows in the immediate impact zone and within a 50 meter (approx. 160 ft.) buffer zone by installing one-way doors in burrow entrances. One-way doors (e.g., modified dryer vents) should be left in place 48 hours to insure owls have left the burrow before excavation. Two natural or artificial burrows should be provided for each burrow in the project area that will be rendered biologically unsuitable. The project area should be *monitored daily for one week* to confirm owl use of burrows before excavating burrows in the immediate impact zone. Whenever possible, burrows should be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible plastic pipe should be inserted into the tunnels during excavation to maintain an escape route for any animals inside the burrow.

### **Passive Relocation - Without One-Way Doors**

Two natural or artificial burrows should be provided for each burrow in the project area that will be rendered biologically unsuitable. The project area should be *monitored daily until the owls have relocated to the new burrows*. The formerly occupied burrows may then be excavated. Whenever possible, burrows should be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible plastic pipe should be inserted into burrows during excavation to maintain an escape route for any animals inside the burrow.

### **Projects Not Subject to CEQA**

The Department is often contacted regarding the presence of burrowing owls on construction sites, parking lots and other areas for which there is no CEQA action or for which the CEQA process has been completed. In these situations, the Department should seek to reach agreement with the project sponsor to implement the specific mitigation measures described above. If they are unwilling to do so, passive relocation without the aid of one-way doors is their only option based upon Fish and Game Code 3503.5.

# Reproductive Success of Burrowing Owls Using Artificial Nest Burrows in Southeastern Idaho

by Bruce Olenick

Artificial nest burrows were implanted in southeastern Idaho for burrowing owls in the spring of 1986. These artificial burrows consisted of a 12" x 12" x 8" wood nesting chamber with removable top and a 6 foot corrugated and perforated plastic drainage pipe 6 inches in diameter (Fig. 1). Earlier investigators claimed that artificial burrows must provide a natural dirt floor to allow burrowing owls to modify the nesting tunnel and chamber. Contrary to this, the artificial burrow introduced here does not allow owls to modify the entrance or tunnel. The inability to change the physical dimensions of the burrow tunnel does not seem to reflect the owls' breeding success or deter them from using this burrow design.

In 1936, 22 artificial burrows were inhabited. Thirteen nesting attempts yielded an average clutch size of 8.3 eggs per breeding pair. Eight nests successfully hatched at least 1 nestling. In these nests, 67 of 75 eggs hatched (59.3%) and an estimated 61 nestlings (91.0%) fledged. An analysis of the egg laying and incubation periods showed that incubation commenced well after egg lay-

ing began. Average clutch size at the start of incubation was 5.6 eggs. Most eggs tended to hatch synchronously in all successful nests.

Although the initial cost of constructing this burrow design may be slightly higher than a burrow consisting entirely of wood, the plastic pipe burrow offers the following advantages: (1) it lasts several field seasons without rotting or collapsing; (2) it may prevent or retard predation; (3) construction time is min-

imal; (4) it is easy to transport, especially over long distances; and (5) the flexible tunnel simplifies installation. The use of this artificial nest burrow design was highly successful and may prove to be a great resource technique for future management of this species.

For additional information on constructing this artificial nest burrow, contact Bruce Olenick, Department of Biology, Idaho State University, Pocatello, ID 83209.

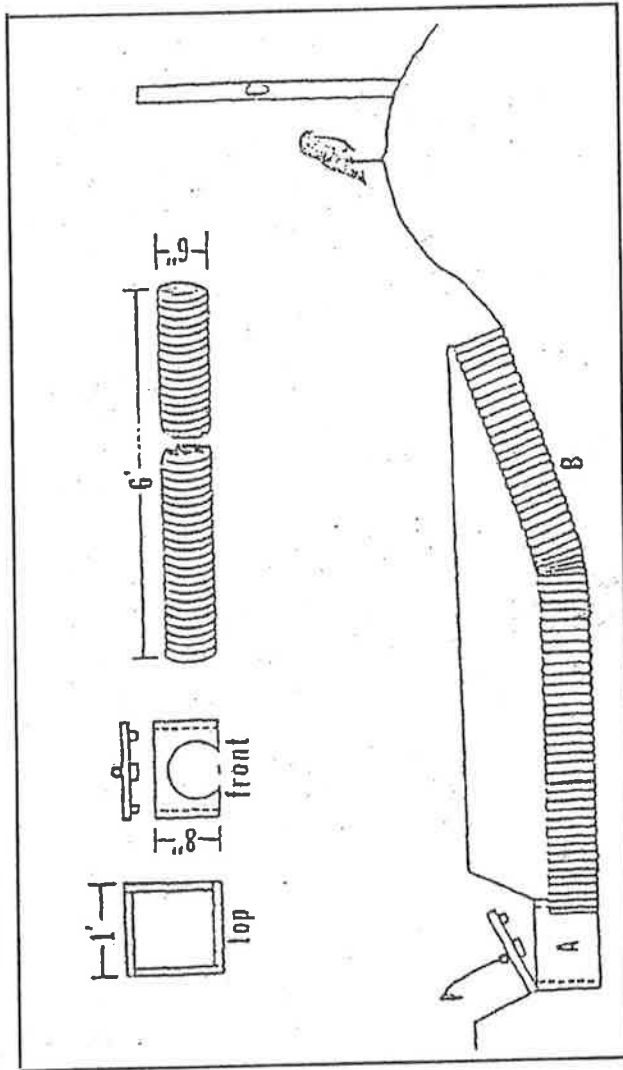


Fig. 1 Artificial nest burrow design for burrowing owls. Entire unit (including nest chamber) is buried 12" - 18" below ground for maintaining thermal stability of the nest chamber. A = nest chamber, B = plastic pipe, C = perch.



## California Department of Fish and Game, January 16, 2007 (CDFG)

Response to Comment CDFG-1

### On-site impact mitigation

Mitigation Measure BR 5.3-3 in the DEIR states that "burrowing owls inside the project site shall be actively or passively relocated prior to construction activity in order to avoid direct impacts of burrow destruction". These two options were provided because at the writing of the DEIR, the Fish and Wildlife Service (FWS) and California Department of Fish and Game (CDFG) had different recommendations in regards to relocation of burrowing owl (*Athene cunicularia*) (BUOW). At the time, the FWS was enforcing and prosecuting under the Migratory Bird Treaty Act (MBTA) those who destroyed occupied BUOW burrows year-round. In late 2006 (after the Draft EIR was circulated for review) this conflict was resolved and the FWS began enforcing the MBTA from February 1 through August 31. CDFG informally approve active relocation of BUOW on a case by case basis when it is determined that passive relocation is not feasible (i.e. the site is surrounded by development). The mention of both passive and active relocation of BUOWs leaves the door open for either option; actual on-site mitigation will be performed to the satisfaction of the CDFG. The project biologist will consult with the CDFG after the completion of a focused survey, and develop an adaptive management strategy with more specific protocols.

### Off-site impact mitigation

Mitigation Measures BR 5.3-5 and BR 5.3-6 of the Draft EIR meet the criteria specified in the CDFG comment letter for off site mitigation. The basic elements were included in revised mitigation measures in the RDEIR; however, as indicated above, the wording has been revised in the RDEIR to better respond to CDFG comments. An MOU between the project sponsor and the CDFG will be enacted, as required by law, for a fee title or conservation easement transfer. These measures would reduce potential impacts to BUOWs to less than significant.

### Revised mitigation measures in the Recirculated Draft EIR

In response to CDFG comments, the Mitigation Measures for the RDEIR were modified to read as follows:

- BR 5.3-1.** Pre-construction surveys for BUOW shall be conducted within 30 days of proposed grading to determine the number of BUOWs that are resident on site immediately prior to construction.
- BR 5.3-2.** Resident owls will be passively relocated in accordance with CDFG's Burrowing Owl Survey Protocol and Mitigation Guidelines (1993) to ensure compliance with the federal Migratory Bird Treaty Act and the California Fish and Game Code.
- BR 5.3-3** An adaptive management strategy for on-site mitigation will be developed in consultation with the CDFG and the FWS. The applicant will mitigate impacts to

each BUOW pair or solitary owl through preservation of 6.5 acres of suitable habitat in conformance with California Department of Fish and Game's Burrowing Owl Survey Protocol and Mitigation Guidelines (1993). Preservation can be satisfied through on-site or off-site habitat preservation. On-site preservation may include preservation and management of retention basins or other open space areas as long as they provide suitable habitat constituents for BUOWs. Off-site preservation would consist of dedication of an easement that will ensure preserved lands will provide long-term value for BUOW preservation.

- BR 5.3-4.** If neither on- nor off-site preservation is feasible to mitigate impacts to BUOW in accordance with CDFG's Burrowing Owl Survey Protocol and Mitigation Guidelines (1993), the applicant will contribute funds to the City in order to develop a comprehensive mitigation program for cumulative loss of BUOW habitat in the region. The fee will be calculated according to the following formula: number of acres required to mitigate BUOW habitat at \$1,000/acre.

Conclusion

As specified in the comment letter, the treatment of the BUOW species must be consistent with the treatment of a listed threatened species, because although they are not listed at the time of this writing, BUOW populations and habitat are considered to be in decline. All surveys and mitigation will be done in consultation with the CDFG and FWS. Section 3 of the Recirculated Draft EIR contains the applicable mitigation measures that have been significantly revised from the previous Draft EIR. They are more feasible and they render project related impacts to biological resources less than significant.

**DEPARTMENT OF TRANSPORTATION**

District 11  
 4050 Taylor Street, MS 240  
 San Diego, CA 92110  
 PHONE (619) 688-6003  
 FAX (619) 688-4299

DOT  
 Page 1 of 2



*Flex your power!  
 Be energy efficient!*

January 11, 2007

11-IMP-08  
 PM 33.99  
 DEIR (SCH 2006081078)  
 Miller Burson

Ms. Norma M. Villicana  
 City of El Centro  
 1275 W. Main Street  
 El Centro, CA 92243

Dear ~~Mr.~~ Alvarado:

The California Department of Transportation (Caltrans) received a copy of the Draft Environmental Impact Report (DEIR – SCH 2006081078) for the Miller Burson residential project located on the west side of State Route 86 (SR-86), north of Interstate 8 (I-8). Caltrans has the following comments:

DOT -1

The list of Cumulative projects identified in the analysis for the Miller Burson development does not include the Las Aldeas development project.

The Horizon Year analysis is not consistent with the City's Circulation Element Future Road Network for Austin Road and I-8. The Future network identifies an interchange at Austin Road and I-8. The Austin Road/I-8 interchange should be analyzed in the Horizon Year scenario. Long Term Fair Share should be calculated and identified for a future interchange facility.

DOT -2

The new developer equitable share of responsibility is 5.0% due to long term impacts at Forrester Road between I-8 westbound ramps and Ross Avenue. This fair share calculation is based on Caltrans Guide for the Preparation of Traffic Impact Studies, dated December 2002.

DOT -3

All lighting within this project should be placed and/or shielded so as not to be hazardous to vehicles traveling on I-8.

DOT -4

Caltrans will not be held responsible for any noise impacts to this development, including from the ultimate configuration of I-8.

DOT -5

All signs visible to traffic on I-8 need to be constructed in compliance with County and State regulations.

DOT -6

Any mitigation work performed within Caltrans right of way will require an encroachment permit. Additional information regarding encroachment permits may be obtained by contacting our Permits Office at (619) 688-6158. Early coordination with our agency is strongly advised for all encroachment permits.

DOT -7

*"Caltrans improves mobility across California"*



Ms. Norma M. Villicana  
January 11, 2007  
Page 2

If a developer proposes any work or improvements within the Caltrans right of way, the projects environmental studies must include such work. The developer is responsible for quantifying the environmental impacts of the improvements (project level analysis) and completing all appropriate mitigation measures for the impacts. The developer will also be responsible for procuring any necessary permits or approvals from the regulatory and resource agencies for the improvements.

DOT -8

If you have any questions, please contact Jacob Armstrong, Development Review Branch, at (619) 688-6960.

Sincerely,

A handwritten signature in black ink, appearing to read 'Al Cox', with a small flourish at the end.

Al Cox, Chief  
Development Review Branch

Cc: Scott Morgan, State Clearinghouse (SCH)  
Elizabeth Shoemaker, DD&E

## Department of Transportation, January 11, 2007 (DOT)

### *Response to Comment DOT-1*

Please see Section 4, Cumulative Impacts, Transportation and Traffic of the Recirculated Draft EIR. As shown in Table 4-1, Lerno-Verhaegen Specific Plan (Las Aldeas) is included in the revised Traffic Impact Study.

### *Response to Comment DOT-2*

The City of El Centro expects to collect funding for the interchange between Austin Rd. and I-8 from developers in the City through a new transportation impact fee program. While the study doesn't explicitly identify this yet-to-be studied and approved interchange in the long term scenario, the newly adopted circulation system for the City does anticipate it. As such, the City would be conditioning this development to participate in that fee program.

### *Response to Comment DOT-3*

Please see Section 4 Cumulative Impacts, Transportation and Traffic (Mitigation Measure TT 3-3) of the Recirculated Draft EIR. The applicant will contribute a fair share contribution of 5.5 percent along this roadway segment

### *Response to Comment DOT-4*

Residential uses are proposed adjacent to I-8 and as noted in Mitigation Measure N 5.7-2 in the DEIR, a 10-foot high sound wall will be placed on the project site adjacent to the I-8 right-of-way. Residential uses do not typically have substantial light sources in back yards. In addition, the presence of a 10-foot high sound wall will further reduce light spill from the residences adjacent to I-8. Lighting effects from the residences onto I-8 are expected to be less than significant.

### *Response to Comment DOT-5*

It is noted that Caltrans will not be responsible for noise impacts as a result of the development. Section 5.7 and Section 6 of the Draft EIR discusses potential noise impacts and offers mitigation.

### *Response to Comment DOT-6*

The proposed project does not include the placement of signs that are visible from I-8.

### *Response to Comment DOT-7*

If it is determined that work is need to be performed within the Caltrans right-of-way, the project applicant will be required to obtain an encroachment permit from Caltrans.

### *Response to Comment DOT-8*

The proposed project does not proposed any improvements within the Caltrans right-of-way.



STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

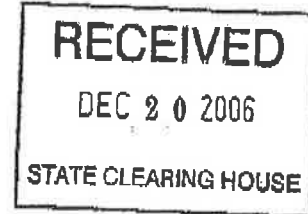
**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 364  
SACRAMENTO, CA 95814  
(916) 653-6261  
Fax (916) 657-5390  
Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
e-mail: [de\\_nahc@pacbell.net](mailto:de_nahc@pacbell.net)



clear  
1-11-07  
Q

December 12, 2006



Mr. Oliver Alvarado, Planning Director  
**City of El Centro**  
1275 Main Street  
El Centro, CA 92243

Re: SCH#2006081078; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for Zone Change 05-02; Tentative Subdivision Map and Annexation EC-8-04 (Miller Burson); City of El Centro; Imperial County, California

Dear Mr. Alvarado:

Thank you for the opportunity to comment on the above-referenced document. The Native American Heritage Commission is the state's Trustee Agency for Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per CEQA guidelines § 15064.5(b)(c). In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

- ✓ Contact the appropriate California Historic Resources Information Center (CHRIS). The record search will determine:
  - If a part or the entire APE has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded in or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological information center.
- ✓ Contact the Native American Heritage Commission (NAHC) for:
  - A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity who may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section.
  - The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American Contacts on the attached list to get their input on potential project impact, particularly the contacts of the on the list.
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
- ✓ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.

NAHCI - 1

NAHCI - 2

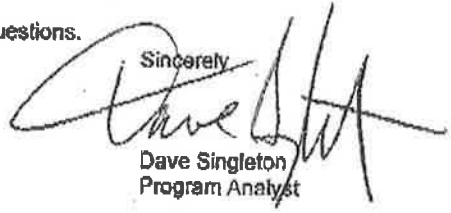
NAHCI - 3

NAHCI - 4

NAHCI - 5

- \* CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens. NAHCI - 5 CONT.
- √ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the CEQA Guidelines mandate procedures to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery. NAHCI - 6
- √ Lead agencies should consider avoidance, as defined in § 15370 of the CEQA Guidelines, when significant cultural resources are discovered during the course of project planning. NAHCI - 7

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely  
  
 Dave Singleton  
 Program Analyst

Cc: State Clearinghouse

Attachment: List of Native American Contacts

**Native American Heritage Commission December 12, 2006(NAHC I)**

*Response to Comment NAHC I-1*

As noted on page 5.4-5 of the DEIR, as part of the Phase I Cultural Resources Survey, Michael Brandman Associates (MBA) contracted with Karen Collins of the Southeastern Information Center to conduct a cultural resources records search.

*Response to Comment NAHC I-2*

As stated in Appendix E, Cultural Resources Assessment of the Draft EIR, at the request of the City of El Centro Planning Department, MBA conducted a cultural resource block-transect survey for the proposed development.

The purpose of this report is to delineate the location of the project area, identify all potentially significant cultural and paleontological resources located within the project area, evaluate any detected cultural resources and, if they will be impacted by the proposed development, then propose recommendations for mitigation. Completion of this investigation fulfills the requirements of the CEQA, the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA) as Amended, and Executive Order 11593 requirements. Published California State Office of Historic Preservation (OHP) procedures for cultural resource surveys, as found on their website, and the Archaeological Resource Management Reports (ARMR) reporting format were followed.

*Response to Comment NAHC I-3*

A sacred lands search with the Native American Heritage Commission (NAHC) has taken place as part of this study, but this was associated with fact-finding only. We note that the City may be required to undertake Native American consultations to fulfill processes associated with SB18 (Burton).

*Response to Comment NAHC I-4*

No significant impact on cultural resources is expected to occur based on the cultural resources assessment prepared for the project; however in the event that previously unknown archaeological resources are discovered, the project applicant is required to comply with CEQA Guidelines Section 15064.5.

*Response to Comment NAHC I-5*

Please see Mitigation Measures CR 5.4-1 and CR 5.4-2 on page 5.4-10 of the Draft EIR for a discussion of discovering human remains during construction.

*Response to Comment NAHC I-6*

Please see Response to Comment NAHC I-5.

*Response to Comment NAHC I-7*

As required, if in the event that previously unknown cultural resources are discovered during the course of project planning, the City of El Centro will adhere to Section 15370 of the CEQA Guidelines.



**California Regional Water Quality Control Board  
Colorado River Basin Region**

71-720 Fred Waring Drive, Suite 100, Palm Desert, California 92260  
(760) 341-7491 • Fax: (760) 341-6920  
<http://www.waterboards.ca.gov/colorriver>



**RECEIVED**

JAN 08 2007

PLANNING DEPT.  
CITY OF EL CENTRO

January 5, 2007

Oliver Alvarado  
City of El Centro Planning Department  
1275 Main Street  
El Centro, CA 92243

**RE: CITY OF EL CENTRO ZONE CHANGE 05-02 AND TENTATIVE SUBDIVISION  
MAP/SCH #2006081078 (Miller Burson)**

The Regional Board reviews the submitted CEQA documents generated by lead agencies and provides comments regarding overall adequacy of the document, water quality impacts that need to be addressed or are inadequately addressed, and the need for permits, certification, or mitigation from the Regional Board.

The following comments are in response to the submitted above referenced project dated November 28, 2006.

The following permits may be needed:

**A. CONSTRUCTION ACTIVITIES (STORM WATER AND 401 WATER QUALITY CERTIFICATION)**

1. Storm Water Construction General Permit 99-08-DWD. Dischargers whose projects disturb 1 or more acres of soil or whose projects disturb less than 1 acre but are part of a larger common plan of development that in total disturbs 1 or more acres, are required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity. Here is the website hyperlink - <http://www.waterboards.ca.gov/stormwtr/construction.html>
2. Industrial Stormwater Permit 97-03-DWQ. A National Pollutant Discharge Elimination System (NPDES) storm water permit that regulates discharges associated with 10 broad categories of industrial activities is required. The General Industrial Permit requires the implementation of management measures that will achieve the performance standard of best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT).

RWQCB- 1

RWQCB - 2

*California Environmental Protection Agency*





Oliver Alvarado  
City of El Centro Planning Department

- 2 -

January 5, 2007

3. 401 Water Quality Certification. If appropriate, an application for water quality certification for this project needs to be filed with this Regional Board. Before anyone can obtain a federal permit for any activity that may result in a discharge to a surface water of the United States, they must obtain certification from the appropriate state pursuant to Section 401 of the Clean Water Act. Section 401 provides the states with a mechanism to ensure that federally permitted activities meet state requirements to protect water quality. If the United States Army Corp of Engineers (USACE) has determined the project is outside federal jurisdiction and a 404 permit is not needed, provide a copy of the USACE jurisdictional disclaimer letter. Here is the website hyperlink - <http://www.waterboards.ca.gov/coloradriver/regulatory2/401Cert.html>

RWQCB - 3

If have any questions concerning this matter, please contact me at (760) 340-4521.



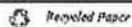
JOHN CARMONA  
Senior Water Resources Control Engineer

JC/cml

File: ER IMP ED

cc: Theresa Illare, Jay Mirpour, Suhas Chakraborty

*California Environmental Protection Agency*



### **3.2.2 - Regional Agencies**

#### **Regional Water Quality Control Board (RWQCB)**

##### *Response to Comment RWQCB-1*

As discussed in the Notice of Preparation released August 14, 2006, the proposed project will be implemented in accordance with all applicable water quality standards and waste discharge requirements, which will ensure that the quality and quantity of surface water flowing from the site would not be substantially affected.

##### *Response to Comment RWQCB-2*

The proposed project will not require an industrial stormwater permit because the project will not discharge industrial stormwater.

##### *Response to Comment RWQCB-3*

The proposed project will not require a 401 Water Quality Certification because a federal permit for the project construction activities is not required.



150 SOUTH NINTH STREET  
EL CENTRO, CA 92243-2850



January 10, 2007

Norma Villacaña, Interim  
Planning and Zoning Director  
City of El Centro  
1275 Main Street  
El Centro, CA 92243-2816

RECEIVED  
JAN 10 2007  
PLANNING DEPT.  
CITY OF EL CENTRO

SUBJECT: Draft EIR for the Change of Zone, Tentative Subdivision Map and  
Annexation for Miller Burson

Dear Ms Villacaña:

The review of the Draft EIR for the Miller Burson project has been finalized. The project covers 6,969,600 square feet or approximately 160 acres plus an additional 1,829,520 which is approximately 42 acres. The DEIR explains that the annexation of the additional 42 acres is only for the extension and/or upgrade of public utility services. The intention of the project proponent is to build 494 single-family residential units an 8.78-acre detention basin with the dedication of approximately 11.77 acres for a future elementary school and joint use school/park. The overall determination of the analysis is that the construction phase will have short-term air quality impacts which will be reduced to insignificant with the application of mitigation measures. In addition, long term the project related impacts will be significant and unavoidable. The Air District disagrees with the statement that "[t]here are no feasible mitigation measures available for the project applicant to reduce this impact to less than significant."

**Table 2-1: Summary of Project Impacts and Mitigation Measures**

Under the column for Mitigation Measures:

AQ 5.2-4: Providing a "traffic control plan" is a prudent and customary safety measure which it is assumed will be supplied to construction workers and related employees. However, how does this mitigation improve on construction emissions since its main priority is safety. This is somewhat unclear. For example, imposing speed limits within the construction site has been known to help reduces PM emissions.

AQ 5.2-5 limits idling to 10 minuets however without enforcement this is somewhat of an illusion. Perhaps adding language in addition to the 10 minuet idling limitation that when equipment is not in operation all equipment will be turned off would be more suitable.

ACPMI - 1

AQ 5.2-8 references a dust control plan based on the mitigation measures found in the Imperial County CEQA Handbook. The Air District would like to clarify that Regulation VIII requires the development of a dust control plan based on Regulation VIII requirements specifically section F of Rule 801. This dust control plan is to be made available to the Air District upon request and in addition there is a notification requirement that the construction company must adhere to. The Air District recommends that the project proponent when developing their dust control plan comply with the requirements as found in Regulation VIII.

ACPCI - 1  
CONT.

AQ 5.2-14 this measure is only a presumption and not a true measure. Because there is no commitment to signalization this perhaps would have a better place in the substance of the EIR and not as a mitigation measure. However, if signalization becomes a commitment then synchronization of the signal lights would be considered a mitigation measure.

ACPCI - 2

## SECTION 5.2 – AIR QUALITY

### Subsection 5.2.1 – Existing Conditions: Imperial County Air Pollution Control District Regulations pg 5.2-4

ACPCI - 3

This section briefly describes the conditions and requirements of Regulation VIII. As stated above under AQ5.2-8 the Air District recommends that the requirements of section F Rule 801 be implemented into the dust control plan. As a point of clarification, the Air District by the language in Rule 801 may request a copy of the dust plan even if an on site inspection is not occurring. Please be aware that the Air District need only request the dust control plan. It is highly recommended that the project proponent consult with the Air District regarding the development of a dust plan. In addition, as stated above there are notification requirements that must be met prior to construction.

### Subsection 5.2.2 – Project Impacts: Long-term Operational Emissions Impacts pg 5.2-11

ACPCI - 4

The first paragraph in this section describes the operational emissions considered for the project buildout. What is unclear is the statement that the URBEMIS model was modified to reflect a higher trip generation as demonstrated in the traffic analysis. However, review of the technical data found in appendix C revealed that the default values under URBEMIS for trip generation was actually higher than the edited generation used by the project proponent. A brief review of the traffic analysis gave no insight or explanation.

### Subsection 5.2.2 – Project Impacts: Carbon Monoxide Hotspot Analysis pg 5.2-12

ACPCI - 5

As stated above a brief review of the traffic analysis was conducted. When the traffic analysis was compared to the intersections chosen for the CO hotspot analysis it is unclear why Ross & La Brucherie was not included in the analysis. It is reasonable to assume that Ross & La Brucherie will be impacted. The only difference the Air District can see according to the traffic analysis is that Imperial Avenue & Ocotillo Drive has an improvement from LOS C to LOS B. Please justify and explain the choice.

**Subsection 5.2.3 – Level of Significance After Mitigation pg 5.2-19**

As stated in the introduction the mitigated long term emissions even with recommended feasible mitigation measures will have a significant and unavoidable impact. While, this may be true the Imperial County CEQA Handbook also explains that “[f]or large development projects in which emissions cannot adequately be mitigated solely with on-site mitigation measures, the project developer should propose to implement off-site mitigation measures in order to reduce potential air quality impacts to a level of insignificance.” According to this analysis no off-site mitigation measures have been proposed. Therefore, the Air District does not agree with the final analysis that there are no feasible mitigation measures available. It is highly recommended that the lead agency consult with the Air District concerning these off-site mitigation options.

ACPCI - 6

**CUMULATIVE ANALYSIS**

Within this analysis only those projects found within a one mile radius were evaluated. Furthermore, many of the conclusions were based on the single project analysis and as such the Air District reiterates its standing that off-site mitigation is available and consultation with the Air District is highly recommended.

ACPCI - 7

In closing, the Air District would like to reiterate that while the data exemplifies that the air quality impacts may be significant they are not unavoidable. The Air District stands on the principle of 100% mitigation by onsite and offsite measures.

If you have any questions regarding this letter, please contact Brad Poiriez, Reyes Romero or Monica Soucier of my staff at (760) 482 4606.

Sincerely,



Brad Poiriez  
Assistant Air Pollution Control Officer (for)

Stephen L. Birdsall  
Air Pollution Control Officer

CC: Reyes Romero  
Jurg Heuberger, AICP, CEP, CBO



## Imperial County Air Pollution Control District, January 10, 2007 (APCD I)

### *Response to Comment APCD I-1*

Mitigation Measures AQ 5.2-4, AQ 5.2-5, AQ 5.2-8 are three of the nine mitigation measures recommended to reduce air emissions generated by project construction activities. Each of these measures provides some level of air emission reduction. Together, the nine construction mitigation measures would reduce air emissions during construction activities to less than significant.

### *Response to Comment APCD I-2*

Mitigation Measure AQ 5.2-14 is recommended to reduce long-term air emissions. This was one of seven mitigation measures to reduce long-term emissions. The conclusion in the Draft EIR was that the project's long-term emissions would be significant and unavoidable. After discussions with the Imperial County Air Pollution Control District, the City determined that an additional mitigation measure to reduce operational emissions by 100 percent was appropriate and would be included in the Recirculated Draft EIR. New Mitigation Measure AQ 5.2-17 was included in the Recirculated Draft EIR. After the close of the public review period of the Recirculated Draft EIR, the City of El Centro had discussions with the District to resolve the language of the mitigation measure to reduce the project's operational emissions by 100 percent. The resolution was to provide the following revised Mitigation Measure AQ 5.2-17. The following revision would still result in the reduction of the project's operational emissions by 100 percent.

Delete: "AQ 5.2-17

Prior to the issuance of the first building permit, the applicant will prepare an Air Quality Mitigation Plan to the satisfaction of the City of El Centro. The Plan will establish an Operational Air Quality Mitigation Protocol to be reviewed and approved by the City of El Centro and APCD, to choose measures that will implement the Plan that results in the maximum cost-effective air quality benefits for the project and the community. This Plan will require implementation of discretionary and off-site mitigation measures sufficient to reduce emissions by 100 percent of the project operational emissions. These requirements may be satisfied by means of payment of an in-lieu fee at the current Imperial County average cost effectiveness rate (fixed at \$12,336 per ton), in the event the Plan demonstrates how these fees will be used to meet these emission reduction standards. The mitigation fee shall be submitted to the City of El Centro prior to the first building permit. The City shall hold and not release the mitigation fees until the Imperial County APCD adopts a CEQA Mitigation Measure Program and provides a nexus for the mitigation fees. If the Imperial County APCD does not adopt the CEQA Mitigation Measure Program prior to the issuance of the first building permit, then the City will use the mitigation funds for the implementation of an Air Quality Mitigation Plan."



Add: "AQ 5.2-17

In agreement with the Air District, the City of El Centro will impose Rule 310 which was recently adopted by the Air Pollution Control District. Prior to the issuance of a building permit, the project applicant shall comply with the Imperial County Air Pollution Control District's Rule 310 by either implementing a project specific Alternative Emission Reduction Plan to reduce emissions by 100 percent, pay the District's Operational Development Fee, or a combination of the two. The total amount of the Operational Development Fee will be determined by the District's fee schedule, and will be reduced proportionally to whatever reduction is achieved by the measures set forth in the Alternative Emission Reduction Plan."

*Response to Comment APCD I-3*

It is noted that the District may request a copy of the dust plan in accordance with the District's Rule 801.

*Response to Comment APCD I-4*

The URBEMIS model was modified to reflect the traffic volumes of the proposed project that were determined through the use of the Institute of Transportation Engineers (ITE) Trip Generation, 7<sup>th</sup> edition (2003) and the SANDAG (Not So) Brief Guide of Vehicular Traffic Generation Rates for the San Diego Region (2002).

*Response to Comment APCD I-5*

The intersections that were evaluated for the CO hotspot analysis included those that had the greatest project increase in traffic volumes.

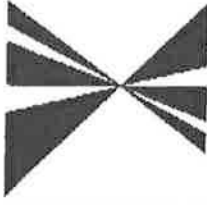
*Response to Comment APCD I-6*

Please see Response to Comment APCD I-2 regarding the addition and modification of a new mitigation measure to reduce project operational emissions by 100 percent.

*Response to Comment APCD I-7*

Please see Response to Comment APCD I-2 regarding the addition and modification of a new mitigation measure to reduce project operational emissions by 100 percent.

SOUTHERN CALIFORNIA



**ASSOCIATION of  
GOVERNMENTS**

**Main Office**

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**Tribal Government Representatives:** Andrew Mauld Sr., Perrigo Band of Luiseño Indians

**Ventura County:** Linda Parks, Ventura County - Glen Becker, Simi Valley - Carl Monrohouse, San Buenaventura - Tom Young, Port Hueneeme

**Orange County Transportation Authority:** Art Brown, Buena Park

**Riverside County Transportation Commission:** Robin Lowe, Hemet

**Ventura County Transportation Commission:** Keith Millhouse, Moorpark

October 8, 2007

Ms. Norma M. Villicaña  
Interim Planning Director  
City of El Centro, Planning Department  
1275 Main Street  
El Centro, CA 92243

RECEIVED

OCT 15 2007

PLANNING DEPT.  
CITY OF EL CENTRO

**RE: SCAG Clearinghouse No. I 20070581 Conditional Use Permit No. 07-05/Negative Declaration No. 07-16; SCAG No. I 20070584 Change of Zone 05-02, Tentative Subdivision Map and Annexation EC-8-04 (Miller Burson); SCAG No. I 20070608 Conditional Use Permit No. 07-07**

Dear Ms. Villicaña:

Thank you for submitting the projects for review and comment:

- **Conditional Use Permit No. 07-05/Negative Declaration No. 07-16**
- **Change of Zone 05-02, Tentative Subdivision Map and Annexation EC-8-04 (Miller Burson)**
- **Conditional Use Permit No. 07-07**

As areawide clearinghouse for regionally significant projects, SCAG reviews the consistency of local plans, projects and programs with regional plans. This activity is based on SCAG's responsibilities as a regional planning organization pursuant to state and federal laws and regulations. Guidance provided by these reviews is intended to assist local agencies and project sponsors to take actions that contribute to the attainment of regional goals and policies.

We have reviewed the proposed projects and have determined that the Projects are not regionally significant per SCAG Intergovernmental Review (IGR) Criteria and California Environmental Quality Act (CEQA) Guidelines (Section 15206). Therefore, the proposed Projects do not warrant comments at this time. Should there be a change in the scope of the proposed Project, we would appreciate the opportunity to review and comment at that time.

A description of the proposed Project was published in SCAG's September 18-30, 2007 Intergovernmental Review Clearinghouse Report for public review and comment.

The project title and SCAG Clearinghouse number should be used in all correspondence with SCAG concerning this Project. Correspondence should be sent to the attention of the Clearinghouse Coordinator. If you have any questions, please contact Laverne Jones at (213) 236-1857. Thank you.

Sincerely,

HUASHA LIU, Manager  
Program Development and Evaluation Division

SCAG - 1



**Southern California Association of Governments (SCAG)**

*Response to Comment SCAG-1*

The comment is noted. There are no specific comments on the Draft EIR and no further response is required.





IMPERIAL COUNTY

# PLANNING & DEVELOPMENT SERVICES

PLANNING / BUILDING INSPECTION / ECONOMIC DEVELOPMENT / PLANNING COMMISSION / A.L.U.C.

January 4, 2007

**JURG HEUBERGER, AICP, CEP, CBO**  
PLANNING & DEVELOPMENT SERVICES DIRECTOR

Norma Villicana, Associate Planner  
City of El Centro  
1275 W. Main street  
El Centro, CA 92243

**RECEIVED**

JAN 10 2007

PLANNING DEPT.  
CITY OF EL CENTRO

SUBJECT: Comments on DEIR for Miller Burson Project

Dear Ms. Villicaña:

We have reviewed the *Draft Environmental Impact Report for City of El Centro Change of Zone 05-02, Tentative Subdivision Map and Annexation EC-8-04 (Miller Burson)* and have the following comments (in addition to those already submitted on September 14, 2006 in response to the NOP) for your consideration.

- 1) Due to the magnitude of the Miller Burson project at approximately 160 acres [plus the 42 acre Lotus Avenue site] and its fiscal ramifications, which clearly impact various public service areas and many of the proposed mitigation measures, a comprehensive Fiscal Impact Analysis needs to be prepared as part of the Final EIR. Many of the Public Services, Utility and Service System issues would be better understood in an all-inclusive consideration of what's needed, how much will it cost, who pays (including on-going maintenance of facilities such as parkland), how will it be financed, and when would it be paid. Discussion should include consideration of "fair share contributions" for all improvements mentioned in the DEIR. What model or formula would be used to calculate such costs to the applicant? ICPDS-1
- 2) The existing northern subdivision has four intersecting roads to Ross Road, while the proposed Miller Burson Subdivision proposes two new intersecting roads along the south side of Ross Road. None of these intersecting roads line up and this creates six access points resulting in potentially significant emergency and circulation assess issues. It is requested that the proposed Miller Burson Subdivision realign their two proposed access points to Ross Road with two of the existing northern subdivision access points. ICPDS-2
- 3) We continue to be concerned about the condition of W. Ross Road and the intersection of Ross and Austin Roads. Not only is Ross Rd. already dangerous, but so is the intersection. An analysis of this intersection needs to be included. ICPDS-3
- 4) What provisions are there for the eventuality of an overflow of the Central Main Canal, such as from a 100 year storm, and how would surrounding development be protected? ICPDS-4

Imperial County Planning and Development Services January 4 2007.pdf

- 5) As part of the 496 single family residences proposed, how will the City insure the inclusion of affordable housing for low-income households in accordance with both the County and City General Plans' *Housing Elements* as well as SCAG's affordable housing goals. ICPDS-5
- 6) Is the development of this project to proceed in phases? If, so, definitive phasing boundaries need to be shown, discussed, and factored into the environmental analysis as appropriate. ICPDS-6
- 7) Further detail needs to be provided on offsetting educational costs associated with additional students in the event that the state mandated school impact fees together with a reduction in proposed housing units do not fully cover projected costs. ICPDS-7

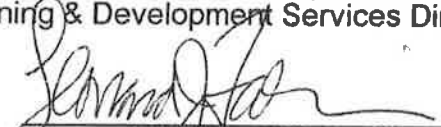
We appreciate the opportunity to review the Draft EIR document for the Miller Burson Project and look forward to your response as part of the CEQA process.

If you have any questions on the above, please contact me at (760) 482-4236, ext. 4310, or at [jurgheuberger@imperialcounty.net](mailto:jurgheuberger@imperialcounty.net).

Sincerely,

**JURG HEUBERGER, AICP, CEP**  
Planning & Development Services Director/Executive Officer to LAFCO

By:

  
Leonard Fabian, Planner III

cc: Darrell Gardner, Asst. Planning & Dev. Services Director  
Jim Minnick, county Planning Division Manager  
Joanne L. Yeager, Asst. County Counsel  
William S. Brunet, Director, Public Works Dept.  
Steve Birdsall, Agriculture Commissioner/APCO  
Fred Nippins, Fire/Office of Emergency Services  
Mark Johnston, Environmental Health Services/Health  
File: 10.101, 10.102, 10.105, 10.130, 10.124, 10.134, 10.142

JH/LF/./S:/LAFCO/EI Centro/ Las Aldeas/DEIR Response Letter Finalized MS

### 3.2.3 - County Agencies

#### Imperial County Planning and Development Services Department, January 4, 2007 (ICPDS)

##### *Response to Comment ICPDS-1*

Although a Fiscal Impact Analysis (FIA) may provide additional information related to public services, the DEIR includes an adequate analysis of potential environmental impacts to existing public services.

##### *Response to Comment ICPDS-2*

A traffic report was prepared by Katz Okitsu in March 2006, which analyzed traffic and circulation impacts. Associated with the existing and proposed street network and no significant traffic impacts would remain after implementation of the recommended mitigation measures. Additionally, the project applicant is required prior to the final recordation of the final map to enter into an agreement with the Fire Services Department, which will in part address and pay for any emergency access issues.

##### *Response to Comment ICPDS-3*

As noted on page 5.9-9, Table 5.9-10, the intersection of Ross Road and Austin Drive shows the intersection as LOS A prior to project implementation and as LOS B at year 2008, project buildout. Based on the revised cumulative traffic evaluation in the Recirculated DEIR (see Table 4-5 on page 4-12), the cumulative traffic volumes at the Ross Avenue and Austin Road would result in a LOS C which is considered acceptable.

##### *Response to Comment ICPDS-4*

The project includes 15.65-acres of retention basin that is designed to capture project surface flows. As noted in the Notice of Preparation (NOP), released August 16, 2006, a Master Drainage Study was prepared to document the existing hydrology and drainage conditions, perform hydraulic calculations and determine the appropriate size of the retention basins, which will contain project runoff from a 100 year/24 hour-storm event. The retention basins will discharge into the Imperial Irrigation District Lotus Drain via 12' pipe located in Ocotillo Street. Additionally, as stated in the NOP, substantial improvements to the stormwater and drainage collection systems are under construction in the southern portion of the City in order to modernize the system and create additional capacity to accommodate existing flows.

##### *Response to Comment ICPDS-5*

The City's goals for affordable housing are City-wide goals and are not necessarily implemented for each residential development project. The City will determine appropriate projects for the inclusion of affordable housing; however, the City has not identified a requirement for the proposed project to include affordable housing at this time.



*Response to Comment ICPDS-6*

The proposed project includes mass grading of the entire project site over an approximately 1.2-month period.

*Response to Comment ICPDS-7*

Payment of fees in accordance with Senate Bill 50 is considered adequate mitigation for potential school impacts.

## County of Imperial Public Works Department, December 18, 2006 (PWD)

### *Response to Comment PWD-1*

The comment is noted. Katz Okitsu prepared a Traffic Impact Study and a supplemental study re-examining cumulative impacts within the Recirculated Draft EIR. The project applicant will pay a fair share fee for all impacts.

### *Response to Comment PWD-2*

As identified in the Draft EIR, there are no project only traffic impacts. However, the re-examination of cumulative traffic, as discussed in the Recirculated Draft EIR, the project will contribute to cumulative impacts. Mitigation Measures TT 3-1 through TT 3-4 of the Recirculated Draft EIR identify the project's fair share fees.

### *Response to Comment PWD-3*

It is noted that any fair share calculation shall be reviewed by the County for any roadway within the County's jurisdiction. All roadway improvements shall be in compliance with City and County standards.

### *Response to Comment PWD-4*

The Recirculated Draft EIR Mitigation Measure TT 3-2 requires that the project applicant pay a fair share fee (18.7 percent) towards improvements at this intersection, which will improve the LOS from LOS F to LOS C.

### *Response to Comment PWD-5*

Please see Response to Comment PWD-4 regarding the project's fair share payment toward the intersection of Forrester Road and Ross Avenue.

### *Response to Comment PWD-6*

The Draft EIR and Recirculated Draft EIR identified mitigation for Forrester Road between Interstate 8 Westbound Ramps and Ross Avenue. The mitigation includes the project's fair share contribution to improve the roadway segment from LOS F to LOS A.

### *Response to Comment PWD-7*

The City Engineer would need to consult with the County Director of Public Works to ensure that the improvements are required. As identified on page 4-14 in the Recirculated Draft EIR (Mitigation Measure TT 3-3), the fair share contribution is 5.5 percent). Please also see Response to Comment PWD-3.

### *Response to Comment PWD-8*

The intersection of Ross Avenue and Austin Road will operate at LOS C or better as shown in Table 4-5 in the Recirculated Draft EIR.

*Response to Comment PWD-9*

According to the City of El Centro General Plan, the project frontage along Ross Avenue would be constructed as a 2-lane collector. Based on the traffic analysis provided in the Draft EIR and Recirculated Draft EIR, the General Plan designated collector road along Ross Avenue is adequate to accommodate project and cumulative traffic.

*Response to Comment PWD-10*

As identified in the Traffic Impact Study prepared by Katz Okitsu Associates and approved by Caltrans and the City of El Centro, the project does not contribute enough traffic to those intersections and per the standards outlined by the City, Caltrans, and the Traffic Highway Manual, such analysis is not warranted.

*Response to Comment PWD-11*

Mitigation Measure TT 3-2 in the Recirculated Draft EIR provides fair share contribution toward improvements to the Forrester Road and Ross Avenue intersection. The intersection of Forrester Road and Evan Hewes Highway was not evaluated because the project does not contribute enough traffic to this intersection.

*Response to Comment PWD-12*

The intersection of McCabe Road and La Brucherie Road was not evaluated because the project does not contribute enough traffic to this intersection.

*Response to Comment PWD-13*

The provision of bike improvements along La Brucherie Road has not been identified as a mitigation measure for the proposed project; however as identified in Mitigation Measure AQ 5.2-13, the project roadways on the project site will include bicycle lanes.

*Response to Comment PWD-14*

A bus turnout along the project frontage has not been identified for the proposed project.

*Response to Comment PWD-15*

Based on the traffic evaluation in the Draft EIR and Recirculated Draft EIR, Ross Road between Austin Road and Forrester Road would operate at LOS B or better under project and cumulative conditions. Therefore, no improvements to this roadway segment are required.

*Response to Comment PWD-16*

The roadway segment of Austin Road between Ross Road and Evan Hewes Highway was not evaluated because the project does not contribute enough traffic to this roadway segment.

# LOCAL Agency Formation Commission

IMPERIAL COUNTY EXECUTIVE OFFICER - JURG HEUBERGER, CEP

VIA FACSIMILE (714)-508-4110

November 17, 2006

Michael Brandman Associates  
220 Commerce, Suite 200  
Irvine, CA 92602

City of El Centro  
1275 Main St  
El Centro, Ca. 92243

Attention: Kara E. Palm, Project Manager & Norma Villanueva, City Planner

Subject: Admin Draft DEIR for the El Centro Zone Change 05-02 and Tentative  
Subdivision Map (Miller Burson) EC 8-04

Dear Ms. Palm & Ms. Villanueva:

Thank you for the opportunity to review the Administrative Draft of the above project also shown as SCH 2006081078. I have reviewed the document per your request and have the following comments and/or suggestions:

- 1. Page 2-5: Section 5.1 indicates that it is unavoidable and not mitigable. While we agree that mitigation in terms of providing alternate farm ground might be difficult at best, the fact is that there are some mitigation measures that would assist in the future protection of other ag land and make agriculture a more economically viable option, which includes among other the placement of land into the Williamson Act. We would request that this be considered. LAFCO - 1
- 2. Page 2-5: Section 5.2 indicates Significant unavoidable and unmitigable impacts. We are not the air specialists, however given that the County APCD has determined that 100% offsets or mitigation measures are required on new projects we strongly suggest that this be addressed in the document and that meetings with the APCD occur in order to address this prior to the Land Use Hearings. LAFCO - 2
- 3. Page 2-12: Section 5.5 concerns groundwater as well as soils and geology. Given the Central Main is adjacent to this project we would suggest that a complete analysis be done should this canal rupture during a major earth quake and also in terms of liquefaction for structures adjacent to the canal. LAFCO - 3

4. Page 2-13: Section 5.6 HM 5.5-2 Indicates an agricultural buffer zone of 100 feet. Typ8call this has been determined inadequate by the Ag Commissioner who has requested 300 feet or more. We suggest you review this. | LAFCO - 4
5. Page 2-13: Section 5.7, references a sound wall along the project. Is this intended all along the outside or only along I-8? Who will maintain this wall and what happens when this wall fails in an earthquake, will the City rebuild it? | LAFCO - 5
6. Page 2-13: Section 5.8 references an agreement to mitigate fire services impacts. This should be explained as to what the agreement will consist of, i.e. what solutions, costs etc. are the public expected to see City Hall impose? This is a question that will need to be answered before LAFCO hears this project! The same comments apply to all of 5.8. | LAFCO - 6
7. Page 2-14: Section 5.9 references traffic and we have some major concerns with this section. First we do not appear to have the traffic report which makes it somewhat difficult to comment. Second, Ross Rd. already is a major problem and numerous complaints are constantly being received about Ross and Austin. Additionally this analysis appears to be different from other projects analysis. Also, we are not clear what projects were included in the Cumulative Section. If only the projects listed on Table 6.1 are analyzed then the project has not completely considered all the traffic impacts from all of the projects. We would like to see the traffic report along with what projects and to what distance projects were considered. We also request a more thorough analysis of the design of the intersection to Ross and Austin as well as the various intersection from the project to the Ross Rd. Furthermore we would request a meeting between County Public Works, City Public Works, Caltrans and us before this section is completed for the DEIR comment period. | LAFCO - 7
8. Page 2-15: Section 6.0, we repeat our earlier comments about air quality issues, as well as Ag protection issues and options. | LAFCO - 8
9. Page 2-16: Section 6.0 referencing traffic we would also suggest that before LAFCO considers this the "fair share" must be quantified and the mitigation measures clearly stated. Also the level of service is LOS C and nothing less, yet your document seems to imply that LOS D and E are acceptable. Also, leaving the determinations to the "city engineer" according to our legal staff is not adequate given that the City Council sets the rules. Furthermore the citizens have a right to see what the mitigation measures are at the time the DEIR is published and not hidden to some later determination which is not made public. | LAFCO - 9

10. Page 2-17: Section 6.0 again with respect to fair share, it is requested that this be quantified. With regard to Ross Rd. mitigation we reiterate that the "solutions" need to be identified and mitigated now not by the City Engineer at a later date. Ross Rd. already is a disaster and it occurred as a disaster exactly for this reason, because some previous City Engineer apparently did not foresee the issues it created upon development. This section is entirely unacceptable and will be to LAFCO as it has been a major issue before the Commission. | LAFCO - 10
11. With regard to the subdivision design, is the area along the southwest side of the project designed to allow for a future interchange to I-8 from a six lane Austin Road configuration? | LAFCO - 11
12. Have the issues with the Lotus Rd. portion of this project been resolved? This DEIR seems to all but ignore an analysis of that portion of the project? | LAFCO - 12
13. Will this project have a development agreement? There is reference to a number of agreements so we must ask what these are and under what statute are they allowed? | LAFCO - 13
14. Page 5.8-1 the LAFCO is Local AGENCY (not area) Formation Commission! | LAFCO - 14
15. Page 5.8-10 with regard to the school, has there been a discussion that a school at this location is in fact needed? If not will this be changed to residential units and if so has this been included in the numerical analysis for the various section? IF it is to be a school, then why would it not be analyzed in this document as it most certainly will create impacts? We do not concur with the statement that the payment of mitigation fees and the dedication of school land are self mitigating features of the project! Please complete the analysis of this issue thoroughly and all inclusively! | LAFCO - 15
16. Page 5.8-15 regarding parks, it is not clear from the site plan where this 5.19 acre park will be located? There is no park design shown, so where is the parking to take place? Furthermore it sounds as if the proposed "joint use" park violates City standards, so how will this be addressed? | LAFCO - 16
17. With regard to "solid waste" starting with section 5.8.7 we have some concerns. The DEIR assumes that Allied will have adequate capacity until 2012 which we disagree with. However even if we were to accept that, what happens after 2012? Also, what happens if the information given to the City Planning Department, (which we do not feel is appropriate and mitigation measures need to be spelled out now) is inadequate? What makes one think that the Planning Department can or will stop the project? We know from experience this is an untenable position to put the department into. | LAFCO - 17

18. Where is the analysis for the Lotus Area, including the undergrounding of the canal, access, traffic etc.? Perhaps we missed it.

LAFCO - 18

Thank you for your attention in this matter. Should you have any questions or comments feel free to contact me at (760) 353-4115 or e-mail me at [jurgh@IVTN.com](mailto:jurgh@IVTN.com).

Sincerely,

~~JURGH HEUBERGER, AICP, CEP  
Executive Officer to LAFCO~~

Cc: Oliver Alvarado, City of El Centro Planning Director  
Darrell Gardner, Assistant Planning & Development Services Director  
Joanne Yeager, LAFCO Counsel  
10.105, 10.130, 10.130, 50.000, 50.004, 50.009, 50.018, EC 8-04

Jh/ca/LAFCO/EL CENTRO/EC 08-04/response to admin DEIR 11 7 06

### 3.2.4 - Local Agency

#### Local Agency Formation Commission, November 17, 2006 (LAFCO)

##### *Response to Comment LAFCO-1*

Presently, no formal program has been implemented in the County of Imperial to mitigation the conversion of agricultural lands through the purchase and/or dedication of agricultural land offsite to be placed in a Williamson Act trust or for the negotiation of a Williamson Act trust between a project applicant and a farmer not currently in a Williamson Act contract. As the LAFCO comment indicates, if such a purchase or dedication was required through mitigation measures, the impacts to agricultural lands could be reduced. While nothing has been finalized to date, Imperial County has been working toward this type of policy over the last few years. It is important for this project to be consistent with the future policy vision of the County and coordinating agencies such as LAFCO. LAFCO states that they will accept the aforementioned mitigation as being adequate to reduce agricultural impacts. After further consideration of this issue, and in light of the fact that the project site is designated for urban uses with an interim agricultural use until such time as the project is approved and the site annexed into the City of El Centro, the City determined that the proposed project would have less than significant impacts regarding agricultural resources and therefore no mitigation is necessary.

##### *Response to Comment LAFCO-2*

Please refer to Response to Comment APCD I-2 regarding the provision of 100 percent mitigation.

##### *Response to Comment LAFCO-3*

Landmark Consultants prepared a Geological Investigation for the proposed project. As noted in Section 5.5, Geology and soils, of the Draft EIR, there is potential for liquefaction at the project site associated with strong ground shaking. Landmark Consultants specified a series of recommendations (integrated as mitigation into the Draft EIR) that are included in Appendix F of the Draft EIR. As stated in mitigation measure GS 5.5-1, prior to the issuance of grading permits, Landmark Consultants or another qualified engineering geology firm approved by the City of El Centro shall review and approve all grading plans and earthwork operations in relation to the recommendations set forth in the Geotechnical Study. Please also refer to Mitigation Measures GS 5.5-2 through GS5.5-5.

##### *Response to Comment LAFCO-4*

Mitigation Measure HM 5.6-2 in Section 5.6 in the Draft EIR states that the buffer zone shall not be less than 300 feet. Mitigation Measure HM 5.6-2 on page 2-13 is revised to be consistent with the mitigation measure in Section 5.6.

##### *Response to Comment LAFCO-5*

As stated on page 5.7-8 of the Draft EIR. A 10-foot sound wall shall be constructed along the southern portion of the project site that is closest to I-8, as shown in Figure 4 on page 8 of the Noise Impact Assessment in Appendix H of the Draft EIR.



*Response to Comment LAFCO-6*

Mitigation Measure PF 5.8-1 requires the project applicant to enter into an agreement with the agency that will be providing fire services to the project site. This agreement is required prior to the recordation of the final map.

*Response to Comment LAFCO-7*

It is noted that LAFCO did not receive a copy of the Traffic Study at the time of the release of the Draft EIR. Copies are available at the City of El Centro City Hall Planning Desk. The Recirculated Draft EIR was distributed to LAFCO and addressed revised cumulative conditions. Please refer to the Recirculated Draft EIR.

*Response to Comment LAFCO-8*

Please refer to Response to Comments LAFCO-1 and LAFCO-2.

*Response to Comment LAFCO-9*

There are no traffic mitigation measures required for project buildout (2008); however as noted in the Recirculated Draft EIR, mitigation measures are required for both study area roadway intersections and roadway segments. Mitigation Measure TT 3-1 and TT 3-4 indicate the project's fair share contribution. As noted in the Draft EIR (page 5.8-6), to determine roadway segment and intersection impacts, Katz Okitsu (the project traffic engineer) in concert with the City of El Centro, developed a series of thresholds as shown in Table 5.9-7, Intersection Significance Criteria and Table 5.9-8 Roadway Segment Significance Criteria. The project will contribute a significant impact to roadway segments and intersections that operate at less than LOS C prior to project implementation only if the project contributes greater than 2.0 seconds of delay. If the project results in degrading a segment or intersection that currently operates at LOS C or better prior to project implementation but worse post project there is a direct impact.

*Response to Comment LAFCO-10*

Please see Response to Comment LAFCO-9

*Response to Comment LAFCO-11*

The project is designed to allow a future interchange to I-8 as per the requirements of Caltrans.

*Response to Comment LAFCO-12*

As stated in Section 2.1 of the Draft EIR, the 42-acre Lotus Avenue portion of the annexation does not include any physical development.

*Response to Comment LAFCO-13*

The project will have a development agreement.

*Response to Comment LAFCO-14*

The comment is noted that the correct reference is the Local Agency Formation Commission.

*Response to Comment LAFCO-15*

The project applicant has dedicated the land to the school district, and it is the decision of the district to accept this donation.

*Response to Comment LAFCO-16*

Please refer to Exhibit I-1 – *Revised Tract Map*, in Section I of the Final EIR for an illustration of the park locations. A 4.18-acre park will be located at the southwest corner of Ross Road and Haskell Road. A 0.44-acre pocket park will be located at the southeast corner of Haskell Drive and Ocotillo Drive. The project applicant has dedicated the park land to the City. Although the parking and facilities design are not shown on Exhibit I, the City will ensure that park design meets City standards. The project no longer proposes joint-use park facilities and the park locations are now separate from the school site, so the project will not be in conflict with City policy.

As noted on page 5.8-15 of the Draft EIR, the project is required to provide 3-acres of park land per 1,000 residents generated by the project. The original project would have required 5.19 acres of parks, based on the project population estimates. Revised project population estimates would require 4.70 acres of park land. The current tentative tract map provides 4.62 acres. The shortage of 0.08-acre of required parkland will be mitigated through the payment of park fees as allowed by the City of El Centro.

*Response to Comment LAFCO-17*

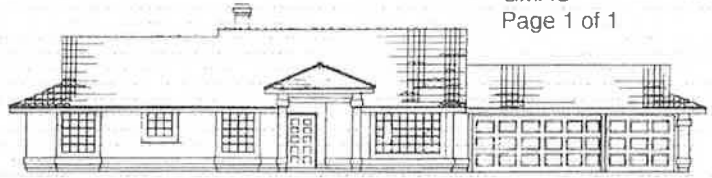
As identified on page 5.8-18 of the Draft EIR, Allied Landfill is a landfill that opened in January 2000 and has a closure date of 2012. An additional 160 acres have been purchased, 100 acres of which will be used as a landfill and 60 acres will be used as a buffer. This acreage has an additional 30-year capacity and will be able to accept 1,000 tons per day. The proposed project is to be built out by the year 2008 and as such it is well within the near term capacity factored into the landfill volumes.

*Response to Comment LAFCO-18*

Except for street utilities, no physical improvements are proposed within the 42-acre Lotus subdivision that is proposed to be annexed. Therefore, traffic and access associated with the Lotus subdivision does not change. As for the undergrounding of the canal, this may be required by the Imperial Irrigation District and environmental documentation associated with undergrounding canals would be under the purview of the Imperial Irrigation District.



# G-MAC DEVELOPMENT CO.



Gary McPhetridge  
Lic. No. 521809

January 12, 2007

City of El Centro  
Planning Department  
1275 Main Street  
El Centro, CA 92243

Attention: Norma Villicana

Re: DEIR for EC-8-04 (Miller Burson)

Dear Ms. Villicana:

While completing our final review of the DEIR for our project, Lotus Ranch, we have taken the time to review the DEIR for another project in the same general area currently in process with the City of El Centro, Miller Burson. As our focus was, of course, on reviewing the DEIR for Lotus Ranch and these two DEIRs were in their Public Review periods concurrently, we have not previously submitted comments on the DEIR for Miller Burson. Thank you for accepting these comments today.

GMAC-1

We will restrict our comments to one of the most sensitive areas of the document, traffic. The City is currently preparing a Traffic Impact Fee Study to assist it in its efforts to get a firm handle on current and future traffic issues in the City's Sphere of Influence. That process will include significant analysis and detail regarding traffic generation, distribution and the infrastructure required to support it.

The DEIR for Lotus Ranch includes a highly detailed traffic study prepared by a consultant very familiar with the City. It includes a spreadsheet that goes into great detail describing various direct and cumulative impacts and proposed mitigation. In addition to actual design and construction at various intersections and along several street sections, some quite a distance from Lotus Ranch, it also describes several "fair share" contributions for other improvements.

The DEIR for Miller Burson appears to include limited traffic analysis. It notes NO direct impacts from a project that includes 494 single family residences and an elementary school.

We ask only that the City of El Centro require your consultant for the Miller Burson DEIR provide the same level of detailed traffic analysis that is being required of Lotus Ranch and of the City's Traffic Impact Fee Study.

Sincerely,

A handwritten signature in cursive script that reads "Gary McPhetridge". The signature is written in dark ink and is positioned below the word "Sincerely,".



### **3.2.5 - Private Organizations and Persons**

#### **G-Mac Development Co., January 12, 2007 (GMAC)**


*Response to Comment GMAC-1*

A Recirculated Draft EIR was prepared in September 2007, which considers the Lotus Ranch project and the Miller Burson's cumulative impacts. Fair Share Calculations are provided in Section 4.3 of the Recirculated Draft EIR.





Southern California  
Gas Company  
1981 W. Lugonia Avenue  
Redlands, CA 92374-9720  
  
Mailing Address:  
PO Box 3003  
Redlands, CA 92373-0306

A  Sempra Energy® utility  
December 8, 2006

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CITY OF EL CENTRO**

**City of El Centro  
Planning Department  
1275 Main Street  
El Centro, CA 92243**

**Attention: Oliver Alvarado, Planning Director**

**Re: (EIR) Change of Zone 05-02, Tentative Subdivision Map and Annexation  
EC-8-04**

Thank you for the opportunity to respond to the above-referenced project. Please note that Southern California Gas Company has facilities in the area where the above named project is proposed. Gas service to the project could be provided without any significant impact on the environment. The service would be in accordance with the Company's policies and extension rules on file with the California Public Utilities Commission at the time contractual arrangements are made.

SE - 1

You should be aware that this letter is not to be interpreted as a contractual commitment to serve the proposed project, but only as an informational service. The availability of natural gas service, as set forth in this letter, is based upon present conditions of gas supply and regulatory policies. As a public utility, The Southern California Gas Company is under the jurisdiction of the California Public Utilities Commission. We can also be affected by actions of federal regulatory agencies. Should these agencies take any action, which affects gas supply, or the conditions under which service is available, gas service will be provided in accordance with revised conditions.

SE - 2

Typical demand use for:

- |    |                              |   |
|----|------------------------------|---|
| a. | Residential                  | (System Area Average/Use Per Meter) <u>Yearly</u> |
|    | Single Family                | 799 therms/year dwelling unit                     |
|    | Multi-Family 4 or less units | 482 therms/year dwelling unit                     |
|    | Multi-Family 5 or more units | 483 therms/year dwelling unit                     |

These averages are based on total gas consumption in residential units served by Southern California Gas Company, and it should not be implied that any particular home, apartment or tract of homes will use these amounts of energy.



December 8, 2006  
Page 2

b. Commercial

SE - 2  
CONT.

Due to the fact that construction varies so widely (a glass building vs. a heavily insulated building) and there is such a wide variation in types of materials and, a typical demand figure is not available for this type of construction. Calculations would need to be made after the building has been designed.

We have Demand Side Management programs available to commercial/industrial customers to provide assistance in selecting the most effective applications of energy of our energy conservation programs, please contact our Commercial/Industrial Support Center at 1-800-GAS-2000.

SE - 3

Sincerely,



Dick Gebhardt  
Technical Services Supervisor

**Sempra Energy, December 8, 2006 (SE)**

*Response to Comment SE-1*

The comment is noted that Sempra has facilities in the project area and would be the gas company to service the proposed project. It is noted that Sempra Energy has indicated that the company can provide service to the proposed project without significant impacts to existing service.

*Response to Comment SE-2*

It is noted that this comment letter does not constitute a contractual commitment to serve the site. The typical demand uses will be included in the public record as part of the FEIR.

*Response to Comment SE-3*

It is noted that Sempra Energy has Demand Side Programs for commercial/industrial projects. The proposed project is residential and does not include such uses.



EIR comments 20070112 by me.txt

To:  
City of El Centro  
Planning Department  
Oliver Alvarado, Planning Director  
1275 Main Street  
El Centro, CA 92243

From:  
Robert Harrold  
1704 Lotus Lane, El Centro, Ca.

Gentlemen/Genteelwomen:

Reference:

The Draft Environmental Impact Report (EIR) for [the] City of El Centro Change of Zone 05-02, Tentative Subdivision Map and Annexation EC-8-04 (Miller Burson) dated last November 28, 2006 State Clearinghouse Number 2006081078 due to close for review Friday, January 12, 2007 per the information on page 1-5 of the report:

Here's a quote re its closing date:

"1-7 Review of the Draft EIR

This Draft EIR was distributed to responsible and trustee agencies, other affected agencies, and other interested parties, as well as all parties requesting a copy of the Draft EIR in accordance with Public Resources Code 21-02(b)(3). The Notice of Completion of the Draft EIR was also distributed as required by CDQA. During the 45-day public review period, the EIR, including technical appendices, is available for review at the City of El Centro, Planning Department, 1275 Main Street, El Centro, California, 92243.

Written comments on the Draft EIR should be addressed to:

City of El Centro  
Planning Department  
Oliver Alvarado, Planning Director  
1275 Main Street  
El Centro, CA 92243

Upon completion of the 45-day review public review period, written responses to all significant environmental issues raised will be prepared and available for review at least 10 days prior to the public hearing before the El Centro City Council at which the certification of the Final EIR will be considered. These environmental comments and their responses will be included as part of the environmental record for consideration by decision-makers for the project."

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I want the traffic studies relating to the project to specify who did the studies, where and during what time periods/dates were the traffic studies done, what reasoning was used for the dates selected, and if they were done during school holidays or during other holiday periods when traffic counts would be skewed to unrealistic minimums what are the comparisons with non-holiday periods? Will the EIR be re-visited to include traffic counts for periods during which area schools are open and be re-done to include peak-traffic

Page 1

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*10/11 RH*

EIR comments 20070112 by me.txt

flows on Ross between Austin and Lotus, flows at the intersection of Ocotillo and Lotus plus westward traffic intersections fronting Southwest High School and the school north of the Ross/Lotus corner?

RH - 1  
CONT.

What would be traffic impacts be if there were access from the west and from the north sides of the project? What percent of and total traffic counts are be expected to enter/exit via the Ocotillo entrance to the project? (Assuming traffic counts are taken during peak traffic periods.)

RH - 2

Plus, the developer had made an oral agreements to provide all improvements that might be levied on or required of residents of Lotus Lane between Ross Avenue and I-8. Environmental impacts should include all impacts on any properties proposed to be annexed into the City. This should be done without consideration of future voting by either residents or the developer as to annexation. The impacts, at a minimum, include providing continuity of IID water for continued agricultural and outside non-human drinking use, all city water, sewage, and lighting issues, sidewalking, backfilling / work cleanup, connection of any new services to homes, curbing, street improvements to accommodate increased traffic, main sewer/water lines, maintain a green zone between the development and adjacent private properties, and several other issues addressed to the developer in writing, to which to date, replies have not been received.

RH - 3

Environmental impacts should address these very real pre-annexation issues especially in view of the costs being levied property owners in other areas recently annexed into the city who did not act in concert to protect their interests. Any impacts that have the potential to cost me money should be absorbed by developer seeking profit.

RH - 4

Sincerely;

Robert Harrold

1704 Lotus Lane, El Centro, California 92243-9505

(760) 352-4516

rharrold@harrold.org



**Robert Harrold, January 11, 2007 (RH)**

*Response to Comment RH-1*

The Traffic Impact Study and supplemental study prepared by Katz Okitsu Associates are included in Appendix I and Appendix C in the Draft EIR and Recirculated Draft EIR, respectively. The studies fully outline the study methodology, which was approved by the City of El Centro and Caltrans and is in accordance the Institute of Engineers Transportation Highway Manual. Peak hour counts were recorded during both the AM and PM and were not done during holidays or non-school days. The cumulative analysis presented in the Recirculated Draft EIR considers the project plus cumulative project traffic for both buildout year 2008 and future year 2025. The applicant will pay a fair share fee for all impacts that the project contributes to within the defined study area, which was determined per professional standards. Please refer to Appendix I of the Draft EIR and Appendix C of the Recirculated DEIR.

*Response to Comment RH-2*

That design was not considered within the scope of the traffic study and would require an additional analysis that is not within the scope of this project. As identified in both the Draft EIR and the Recirculated Draft EIR, all project impacts are mitigated to less than significant.

*Response to Comment RH-3*

Except for street utilities, no physical improvements are proposed within the 42-acre Lotus subdivision that is proposed to be annexed. Therefore, traffic and access associated with the Lotus subdivision dos not change. As for the undergrounding of the canal, this may be required by the Imperial Irrigation District and environmental documentation associated with undergrounding canals would be under the purview of the Imperial Irrigation District.

*Response to Comment RH-4*

Please see Response to Comment RH-3 regarding proposed improvements.



## Response to Miller Burson EIR

To : El Centro Planning Dept

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CITY OF EL CENTRO

The EIR for the Miller Burson Project has several inconsistencies starting with the traffic studies not being done properly, also the cultural aspect of the report is incomplete in its study of the Historic Water Systems and the study of the land is flawed. Also the City of El Centro's Notice of Availability has an incorrect wording that changes the scope of what is said in the EIR.

CN - 1

The traffic study fails to study the flow of traffic on Lotus Ave. This area will be heavily impacted with traffic going to the Miller Burson Project and this will further congest the already congested roadway. The traffic study also does not properly study the impact of traffic, as the second part was done during the week of Thanksgiving and the flow rate is considerably less by  $\frac{3}{4}$  traffic flow. This study does not show the true day to day traffic flow but merely represents what is needed to satisfy EIR. What happens down the road in 10 maybe 20 years as traffic flows increase and this study is kept without properly addressing the true impact?

CN - 2

The Cultural Study merely addresses the water history without properly examining documents that they claim are in IID's care and they improperly assume that these documents may show relevance to this study.

CN - 3



The Field Study also lacks in that the person or company that did the study does not know the difference between a field irrigation gate, a field drain gate or an IID head gate. They assume that since one gate does not have a ratchet that it is not currently in use or has never been in use.

The copies attached also show the inconsistencies with the Cities letter.

Thank you, Charles Newton

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## **SECTION 2: EXECUTIVE SUMMARY**

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### **2.1 - Proposed Project**

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Project implementation includes annexation, a zone change from County zoning, General Agriculture/Urban Overlay (A2U) to City zoning Single Family Residential (R-1). Project implementation will result in the subdivision of approximately 160 acres of farmland into 496 lots, which will allow for the development of 494 single-family residences on an average lot size of 7,200 square foot lots, an 8.78-acre detention basin, and dedication of approximately 11.77 acres for a future elementary school with a proposed joint use school/park (Exhibit 3-3). Project implementation will also require the extension and/or upgrade of public services and utilities and the internal circulation system. Access to the project is proposed via the extension of Ocotillo Drive, east of the project site and from Ross Avenue along the north.

It is the intent of the City of El Centro to annex the project site into the City's incorporated boundaries.

In addition, the proposed project includes the annexation of an additional 42 acres that supports 30 residential units along Lotus Avenue adjacent to the 160 acres to be subdivided. Exhibit 3-4 identifies the entire annexation area, collectively referred to as Tract 74. Project implementation will not include the subdivision of this 42-acre portion of the project site; however, it does include the extension and/or upgrade of public services and/or utilities. Once annexed into the City of El Centro, this portion of the project site will be zoned as Rural-Residential (R-R). However, for purposes of discussing project-related and cumulative impacts, the impact analysis is solely in relation to the 160-acre of the project site, the only portion of the project site that will be physically developed.

The proposed project will require the following City approvals: zone change, annexation, tentative subdivision maps, grading permits, and building permits. The project will also require approvals from the Local Formation Commission (LAFCO) (annexation) and the Imperial Irrigation District (IID) (retention basin, flood control, and storm water measures).

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### **2.2 - Areas of Controversy/Issues To Be Resolved**

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The potential areas of controversy and issues to be resolved through the EIR process are derived from the Initial Study/Notice of Preparation (NOP), dated August 14, 2006; and the Revised NOP, dated September 22, 2006, (Appendix A) and responses thereto. These areas are summarized as follows:

- The project site currently supports agricultural production and has supported agricultural production since at least 1949. Additionally, the project site is zoned for agricultural land uses. Project implementation will result in the conversion of the project site from agricultural land uses to urban uses (Section 5.1, Agricultural Resources).



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PLANNING DEPT.  
CITY OF EL CENTRO

November 28, 2006

To: All Interested Parties

**SUBJECT: NOTICE OF AVAILABILITY of a Draft Environmental Impact Report (DEIR) for the Change of Zone 05-02, Tentative Subdivision Map, and Annexation EC-8-04 (Miller Burson).**

**The City of El Centro has completed the Draft Environmental Impact Report (DEIR) for the subject project. The DEIR discusses the potential environmental effects attributable to the project, which is generally described and located as follows:**

- 1. Project Description:** Project implementation includes annexation, a zone change from County zoning, General Agriculture/Urban Overlay (A2U) to City zoning Single Family Residential (R-1). Project implementation will result in the subdivision of approximately 160 acres of farmland into 496 lots, which will allow for the development of 494 single-family residences on an average lot size of 7,200 square foot lots, 8.78 acre detention basin, and the dedication of approximately 11.77 acres for a future elementary school (with a proposed joint use school/park). Project implementation will also require the extension and/or upgrade of public services and utilities and the internal circulation system. Access to the project is proposed via the extension of Ocotillo Drive, east of the project site and from Ross Avenue along the north.

It is the intent of the City of El Centro to annex the project site into the City's incorporated boundaries.

In addition, the proposed project includes the annexation of an additional 42 acres that supports 30 residential units along Lotus Avenue adjacent to the 160 acres to be subdivided. The entire annexation area is collectively referred to as Tract 74. Project implementation will not include the subdivision of or the extension and/or upgrade public services and/or utilities to this 42 acre portion of the project site. Once annexed into the City of El Centro, this portion of the project site will be zoned as Rural-Residential (R-R).

**Charles Newton, January 10, 2007 (CN)**

*Response to Comment CN-1*

The comment does not outline the specific flaws of the traffic study; however, a supplemental Traffic Impact Study was prepared for the Recirculated Draft EIR that expanded the cumulative impact analysis. Mitigation measures are provided that lessen all project related and project cumulative impacts to less than significant. Additionally, the comment does not identify why the study of historic water systems and the land are flawed. The 42-acres adjacent to the project site, on which the Mr. Newton resides, will not be subdivided; however, the 42-acre annexation site will receive infrastructure upgrades and extensions of infrastructure.

*Response to Comment CN-2*

As stated on page 5.9-4 of the Draft EIR, traffic counts were conducted during October and November 2005. Traffic distribution is based upon observed traffic patterns and the experience of Katz Okitsu Associates and City traffic engineers. The Recirculated DEIR re-examined and expanded the cumulative traffic impact analysis for both near year 2008 and future year 2025, which analyzes the future traffic impacts. Mitigation measures TT 3-1 through TT 3-4 fully mitigate the project's contribution to cumulative traffic impacts

*Response to Comment CN-3*

The Evergreen Canal and Lotus Drain segment were evaluated to determine their historical significance. Based on a review of the available information, both segments are not architecturally significant and does not embody characteristics of a significant type, period, or method of construction. They do not contribute to a cohesive neighborhood. Thus, both segments fail to qualify for the California Register of Historical Resources.

*Response to Comment CN-4*

The apparent expectation with this comment is that the cultural resource author should be an expert on the technical names used by local farmers and irrigation workers. This is not the case. The author is not claiming to be an expert in the details associated with operations, gate technology, and irrigation tool names. The archaeologist has tried to the best of his ability to call objects in report photographs using layman's terms because the document is being written to fulfill CEQA guidelines and not for irrigation specialists. The description of the physical qualities of the objects seen in the document's photographs merely augments the historical analysis for the whole.



***Tract 833 and Tract 879 Landowner's Association  
1723 Lotus Avenue  
El Centro, CA 92243***

January 11, 2007

Ms. Norma Villicaña  
Acting Planning Director  
City of El Centro  
1275 Main Street  
El Centro, CA 92243

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**PLANNING DEPT.  
CITY OF EL CENTRO**

**Subject:       Comments to DEIR Change of Zone 05-02,  
                  Tentative Subdivision Map and Annexation EC-8-04  
                  (Miller Burson)**

Dear Ms. Villicaña:

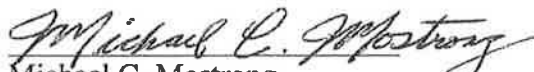
The DEIR for the Miller Burson project states that 30 residential lots along Lotus Avenue adjacent to the proposed 160 acre project will be annexed. In August 2005, the Tract 833/879 Landowner's Association provided a letter to Mr. Steve Hyman (project proponent), care of the project engineer (Development Design & Engineering), detailing the requirements for Annexation of the Lotus Avenue properties (copy attached). This letter was also provided to the City of El Centro (Oliver Alvarado, Planning Director) and LAFCO (Jurg Heuberger, Executive Director).

We would like to reiterate that the requirements for annexation are to place all street, alley and utility improvements within the Tract 833/879 areas to current city standards as well as connections to all residential units, including payment of applicable connection or capacity fees. Additionally, the Tract 833/879 landowners are to continue to receive raw (untreated) irrigation water. The detailed improvements are indicated on the August 15, 2005 letter to Mr. Hyman.

LA - 1

The opportunity to comment on the DEIR is appreciated.

Sincerely,

  
Michael C. Mostrong  
for Tract 833/879 Landowner's Assoc.

**Tract 833 and Tract 879 Landowner's Association  
1723 Lotus Avenue  
El Centro, CA 92243**

August 15, 2005

Mr. Steve Hyman  
c/o Development Design & Engineering  
1122A State Street  
El Centro, CA 92243

**Subject: Annexation of Lotus Avenue Properties**

Dear Mr. Hyman:

In the past few months there have been meetings and inquiries into the requirements for including the 30 lots along the east and west sides of Lotus Avenue into annexation applications to the City of El Centro. At one time, there was a request to acquire property within the Imperial Irrigation District right-of-way for the Lotus Canal and Lotus Drain from the landowners along the west side of Lotus Avenue, but we understand that this request has been withdrawn.

As landowners, we understand that there will be certain improvements that will be required by the City of El Centro to make additions or modifications to our homes in the future. Also, there are benefits that we currently have in receiving non-potable irrigation water from the Lotus Canal. In order for us to continue to receive current benefits and to offset the costs of future improvements that the City of El Centro will inevitably require, we will require the following to be completed or bonded prior to annexation of our properties:

1. Our properties will continue to receive raw (untreated) irrigation water from the Imperial Irrigation District or other public entity which is established by the City for continuance of raw irrigation water deliveries.
2. Lotus Avenue, Ross Avenue, Ocotillo Avenue, and the alley east of Lotus Avenue will be improved to meet city standards. This will include the following:
  - a. Install 8-inch sewer main and manholes in Lotus Avenue with 4-inch laterals connected to each house .
  - b. Install 8-inch (minimum) water main in Lotus Avenue with 1-inch copper service and meter connected to each house.
  - c. Install fire hydrants along Lotus Avenue at 300 ft. spacing.

- d. Install curb inlet catch basins and connect to existing storm drain piping in Ross Avenue and Ocotillo Avenue.
  - e. Install concrete curb/gutter and 5 ft. wide sidewalk (adjacent to curb) along Ross, Lotus and Ocotillo Avenues. Relocate existing block wall and landscape along north side of Lot 1, Block 1, Tract 833 (southwest corner of Ross and Lotus) to ultimate width of Ross Avenue.
  - f. Install asphaltic concrete and aggregate base as necessary to provide full width pavement to concrete curb/gutter along Ross, Lotus and Ocotillo Avenues. Provide traffic signage and pavement markings as required by the City.
  - g. Install street lights at 300 ft. spacing and electrical conduit in accordance with IID drawings to operate street lights.
  - h. Provide 16 ft. wide asphaltic concrete pavement per city standards in alley east of Lotus Avenue.
3. Pay city sewer and water capacity fees for 30 new connections.
4. Pay annexation fee to LAFCO.

In agreement hereof, we as landowners attach our signatures:

<u>1728</u>	Lotus Avenue	<u>Jim Okland</u>
<u>1723</u>	Lotus Avenue	x <u>[Signature]</u>
<u>1752</u>	Lotus Avenue	<u>[Signature]</u>
<u>1701</u>	Lotus Avenue	<u>[Signature]</u>
<u>1737</u>	Lotus Avenue	<u>[Signature]</u>
<u>1778</u>	Lotus Avenue	<u>[Signature]</u>
<u>1744</u>	Lotus Avenue	<u>[Signature]</u>



**LOTUS AVENUE  
ENGINEER'S COST ESTIMATE  
FOR IMPROVEMENTS**

ITEM	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL
	<b>General</b>				
	MOBILIZATION	LS	1	\$15,000.00	\$15,000.00
	TRAFFIC CONTROL	LS	1	\$8,000.00	\$8,000.00
					<b>\$23,000.00</b>
<b>1</b>	<b>Raw Water</b>				
	18" DIA. PVC PIPE	L.F.	3919.00	\$65.00	\$254,735.00
	MANHOLE	EA.	14.00	\$3,500.00	\$49,000.00
	INLET-OUTLET STRUCTURE	EA.	2.00	\$8,000.00	\$16,000.00
					<b>\$319,735.00</b>
<b>2</b>					
<b>a.</b>	<b>Sewer</b>				
	8" DIA. PVC SDR 35 PIPE	L.F.	2523.05	\$35.00	\$88,306.75
	SEWER SERVICE	EA.	30.00	\$600.00	\$18,000.00
	SEWER MANHOLE	EA.	5.00	\$3,500.00	\$17,500.00
					<b>\$123,806.75</b>
<b>b.</b>	<b>Water</b>				
	8" DIA. PVC PIPE	L.F.	2534.05	\$40.00	\$101,362.00
	8" VALVE	EA.	3.00	\$1,500.00	\$4,500.00
	WATER SERVICE	EA.	30.00	\$600.00	\$18,000.00
					<b>\$123,862.00</b>
<b>c.</b>	<b>Fire Hydrants</b>				
	FIRE HYDRANT ASSEMBLY	EA.	9.00	\$6,600.00	\$59,400.00
					<b>\$59,400.00</b>
<b>d.</b>	<b>Storm Drain</b>				
	18" DIA. PVC STORM DRAIN	L.F.	414.00	\$65.00	\$26,910.00
	SD MANHOLE	EA.	4.00	\$3,500.00	\$14,000.00
	SD CATCH BASIN	EA.	3.00	\$4,000.00	\$12,000.00
					<b>\$52,910.00</b>
<b>e.</b>	<b>Curb, Sidewalk &amp; Block Wall</b>				
	6" CURB & GUTTER	L.F.	7131.46	\$17.00	\$121,234.82
	SIDEWALK	SQ.FT.	35657.30	\$4.00	\$142,629.20
	CROSS GUTTER	SQ.FT.	480.00	\$6.00	\$2,880.00
	7-FT BLOCK WALL	SQ.FT.	430.00	\$70.00	\$30,100.00
					<b>\$296,844.02</b>
<b>f.</b>	<b>A.C. Pavement, signs</b>				

CUT	CYD	2353.29	\$2.00	\$4,706.58
PAVEMENT SAW CUT	FT	7093.19	\$2.00	\$14,186.38
REMOVE BASE AND SURFACING	CYD	262.71	\$5.00	\$1,313.55
12" SUBGRADE PREP.	CYD	1600.02	\$1.30	\$2,080.03
9" CLASS II AG. BASE	TON	2268.03	\$22.50	\$51,030.68
3" ASPHALT CONCRETE	TON	810.01	\$54.50	\$44,145.55
STREET SIGNS	EA	3.00	\$305.00	\$915.00
STOP SIGNS	EA	3.00	\$305.00	\$915.00
				<u>\$119,292.76</u>
<b>g. <u>Electrical</u></b>				
STREET LIGHTS	EA.	9.00	\$3,500.00	\$31,500.00
				<u>\$31,500.00</u>
<b>h. <u>Alley A.C. Pavement</u></b>				
6" SUBGRADE PREP.	CYD	850.47	\$1.30	\$1,105.61
6" CLASS II AG. BASE	TON	1607.38	\$22.50	\$36,166.05
2" ASPHALT CONCRETE	TON	574.06	\$54.50	\$31,286.27
				<u>\$68,557.93</u>
<b>3 <u>City Sewer &amp; Water Fees</u></b>				
Sewer Capacity		30.00	\$4,900.00	\$147,000.00
Water Capacity		30.00	\$4,200.00	\$126,000.00
				<u>\$273,000.00</u>

- 4 Note: The Lotus Subdivision will be annexed as part of the Miller Burson annexation application. There will be no additional costs to the Lotus Subdivision residents after they are annexed as part of the Miller Burson annexation. The developer of Miller Burson will incur all annexation costs.

<b>SUB-TOTAL</b>	<b>\$1,491,908.46</b>
<b>15% CONTINGENCY</b>	<b>\$223,786.27</b>
<b>TOTAL</b>	<b>\$1,715,694.73</b>

**NOTES:**

Since the engineer has no control over the cost of labor, materials, or equipment, or over the contractor's methods of determining prices, or over competitive bidding or market conditions, our opinions of probable project cost or construction cost provided for herein are to be made on the basis of our experience and qualifications and represent our best judgment as design professionals familiar with the construction industry, but the engineer cannot, and does not, guarantee that proposals, bids, or the construction cost will not vary from opinions of probable cost prepared by the firm.

**Tract 833 and Tract 879 Landowner's Association, January 21, 2007 (LA)**

*Response to Comment LA-1*

It is acknowledged that the Landowner's Association (LA) reiterates its requirements for annexation that all street, alley, and utility standards within Tracts 833 and 879 are implemented in accordance with the most recent City standards as well as connections to all residential units, including payment of applicable connection fees. It is also acknowledged that LA is requesting the continuance of untreated irrigation water.

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## **SECTION 4: RESPONSES TO COMMENTS ON RECIRCULATED DRAFT EIR**

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### **4.1 - Introduction**

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In accordance with Section 15088 of the California Environmental Quality Act (CEQA) Guidelines, the City of El Centro as the lead agency evaluated the comments received on the Recirculated Draft Environmental Impact Report (EIR) (State Clearinghouse No. 2006081078) for the Zone Change 05-02, Tentative Subdivision Map and Annexation EC-8-04 Miller Burson Project and has prepared the following responses to the comments received. This Response to Comments document becomes part of the Final EIR for the project in accordance with Section 15132 of the CEQA Guidelines.

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### **4.2 - Comment Letters and Responses**

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The comment letters reproduced in the following pages follow the same organization as used in Sections 2's List of Commentors.





ARNOLD SCHWARZENEGGER  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



CYNTHIA BRYANT  
DIRECTOR

October 30, 2007

Oliver M. Alvarado  
City of El Centro  
1275 Main Street  
El Centro, CA 92243

Subject: City of El Centro Zone Change 05-02 and Tentative Subdivision Map (Miller Burson)  
SCH#: 2006081078

SCH II - 1

Dear Oliver M. Alvarado:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on October 29, 2007. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2006081078) when contacting this office.

Sincerely,

Terry Roberts  
Senior Planner, State Clearinghouse

Enclosures  
cc: Resources Agency

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2006081078  
**Project Title** City of El Centro Zone Change 05-02 and Tentative Subdivision Map (Miller Burson)  
**Lead Agency** El Centro, City of

**Type** EIR Draft EIR  
**Description** Project implementation includes annexation, a zone change from County zoning, General Agriculture/Urban Overlay (A2U) to City zoning Single Family Residential (R-1). Project implementation will result in the subdivision of approximately 160 acres of farmland into 496 lots, which will allow for the development of 494 single-family residences on an average lot size of 7,200 square foot lots, 8.78 acre detention basin, and the dedication of approximately 11.77 acres for a future elementary school (with a proposed joint use school/park). Project implementation will also require the extension and/or upgrade of public services and utilities and the internal circulation system.

**Lead Agency Contact**

**Name** Oliver M. Alvarado  
**Agency** City of El Centro  
**Phone** (760) 337-4545 **Fax**  
**email**  
**Address** 1275 Main Street  
**City** El Centro **State** CA **Zip** 92243

**Project Location**

**County** Imperial  
**City** El Centro  
**Region**  
**Cross Streets** Ross Road and Austin Road  
**Parcel No.**  
**Township** 16S **Range** 13E **Section** 74 **Base**

**Proximity to:**

**Highways** 86  
**Airports**  
**Railways** SPRR  
**Waterways** Lotus, Evergreen, and Central Canals  
**Schools**  
**Land Use** Zoning: General Agriculture/Urban Overlay (A2U)

**Project Issues** Air Quality; Archaeologic-Historic; Cumulative Effects; Forest Land/Fire Hazard; Geologic/Seismic; Growth Inducing; Noise; Public Services; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Supply; Wildlife

**Reviewing Agencies** Resources Agency; Regional Water Quality Control Board, Region 7; Department of Parks and Recreation; Native American Heritage Commission; Public Utilities Commission; Department of Health Services; Department of Housing and Community Development; Office of Historic Preservation; Department of Fish and Game, Region 6; Department of Water Resources; Department of Conservation; California Highway Patrol; Caltrans, District 11; Colorado River Board; Department of Toxic Substances Control

**Date Received** 09/14/2007 **Start of Review** 09/14/2007 **End of Review** 10/29/2007

#### **4.2.1 - State Agencies**

##### **State Clearinghouse October 30, 2007 (SCH II)**

###### *Response to Comment SCH II-1*

The comment is noted that the State Clearinghouse received the Recirculated Draft EIR. No specific comments were made on the document and no further response is warranted.







ARNOLD SCHWARZENEGGER  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



CYNTHIA BRYANT  
DIRECTOR

October 31, 2007

Oliver M. Alvarado  
City of El Centro  
1275 Main Street  
El Centro, CA 92243

Subject: City of El Centro Zone Change 05-02 and Tentative Subdivision Map (Miller Burson)  
SCH#: 2006081078

Dear Oliver M. Alvarado:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on October 29, 2007, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

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

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

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

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

Sincerely,

Terry Roberts  
Director, State Clearinghouse

Enclosures

cc: Resources Agency

SCH III - 1

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2006081078  
**Project Title** City of El Centro Zone Change 05-02 and Tentative Subdivision Map (Miller Burson)  
**Lead Agency** El Centro, City of

**Type** EIR Draft EIR  
**Description** Project implementation includes annexation, a zone change from County zoning, General Agriculture/Urban Overlay (A2U) to City zoning Single Family Residential (R-1). Project implementation will result in the subdivision of approximately 160 acres of farmland into 496 lots, which will allow for the development of 494 single-family residences on an average lot size of 7,200 square foot lots, 8.78 acre detention basin, and the dedication of approximately 11.77 acres for a future elementary school (with a proposed joint use school/park). Project implementation will also require the extension and/or upgrade of public services and utilities and the internal circulation system.

**Lead Agency Contact**

**Name** Oliver M. Alvarado  
**Agency** City of El Centro  
**Phone** (760) 337-4545 **Fax**  
**email**  
**Address** 1275 Main Street  
**City** El Centro **State** CA **Zip** 92243

**Project Location**

**County** Imperial  
**City** El Centro  
**Region**  
**Cross Streets** Ross Road and Austin Road  
**Parcel No.**  
**Township** 16S **Range** 13E **Section** 74 **Base**

**Proximity to:**

**Highways** 86  
**Airports**  
**Railways** SPRR  
**Waterways** Lotus, Evergreen, and Central Canals  
**Schools**  
**Land Use** Zoning: General Agriculture/Urban Overlay (A2U)

**Project Issues** Air Quality; Archaeologic-Historic; Cumulative Effects; Forest Land/Fire Hazard; Geologic/Seismic; Growth Inducing; Noise; Public Services; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Supply; Wildlife

**Reviewing Agencies** Resources Agency; Regional Water Quality Control Board, Region 7; Department of Parks and Recreation; Native American Heritage Commission; Public Utilities Commission; Department of Health Services; Department of Housing and Community Development; Office of Historic Preservation; Department of Fish and Game, Region 6; Department of Water Resources; Department of Conservation; California Highway Patrol; Caltrans, District 11; Colorado River Board; Department of Toxic Substances Control

**Date Received** 09/14/2007 **Start of Review** 09/14/2007 **End of Review** 10/29/2007

**State Clearinghouse October 31, 2007 (SCH III)**

*Response to Comment SCH III-1*

The comment is noted that the State Clearinghouse received the Draft EIR. No specific comments were made on the document. No further response is required.



STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

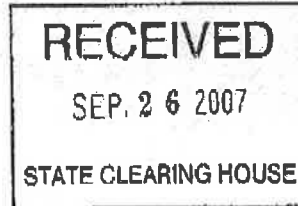
**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 264  
SACRAMENTO, CA 95814  
(916) 653-6251  
Fax: (916) 657-5390  
Web Site [www.nahc.ca.gov](http://www.nahc.ca.gov)  
e-mail: [ds\\_naho@pacbell.net](mailto:ds_naho@pacbell.net)

Clear  
10-29-07  
e



September 19, 2007



Mr. Oliver Alvarado  
**CITY OF EL CENTRO**  
1275 Main Street  
El Centro, CA 92243

Re: SCH#2006081076; CEQA Notice of Completion; draft Environmental Impact Report (DEIR) for Zone Change 05-02 and Tentative Tract map (Miller-Burseon); City of El Centro; Imperial County, California

Dear Mr. Alvarado:

The Native American Heritage Commission is the state's Trustee Agency for Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per CEQA guidelines § 15064.5(b)(c). In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

- ✓ Contact the appropriate California Historic Resources Information Center (CHRIS). Contact information for the Information Center nearest you is available from the State Office of Historic Preservation (916/853-7278)/ <http://www.ohp.parks.ca.gov/1068/files/IC%20Roster.pdf> The record search will determine:
  - If a part or the entire APE has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded in or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ Contact the Native American Heritage Commission (NAHC) for:
  - A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity that may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section.
  - The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American Contacts on the attached list to get their input on potential project impact (APE). In some cases, the existence of a Native American cultural resources may be known only to a local tribe(s).
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
- ✓ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.
  - CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the Initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave lens.

NAHCII - 1

NAHCII - 2

NAHCII - 3

NAHCII - 4

NAHCII - 5

√ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the CEQA Guidelines mandate procedures to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

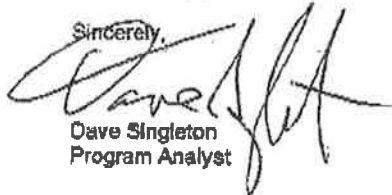
NAHCII - 6

√ Lead agencies should consider avoidance, as defined in § 15370 of the CEQA Guidelines, when significant cultural resources are discovered during the course of project planning and implementation.

NAHCII - 7

Please feel free to contact me at (916) 853-6251 if you have any questions.

Sincerely,



Dave Singleton  
Program Analyst

Attachment: List of Native American Contacts

**Native American Heritage Commission December 12, 2006 (NAHC II)**

*Response to Comment NAHC II-1*

As noted on page 5.4-5 of the DEIR, as part of the Phase I Cultural Resources Survey, Michael Brandman Associates (MBA) contracted with Karen Collins of the Southeastern Information Center to conduct a cultural resources records search.

*Response to Comment NAHC II-2*

As stated in Appendix E, Cultural Resources Assessment of the Draft EIR, at the request of the City of El Centro Planning Department, MBA conducted a cultural resource block-transect survey for the proposed development.

The purpose of this report is to delineate the location of the project area, identify all potentially significant cultural and paleontological resources located within the project area, evaluate any detected cultural resources and, if they will be impacted by the proposed development, then propose recommendations for mitigation. Completion of this investigation fulfills the requirements of the CEQA, the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA) as Amended, and Executive Order 11593 requirements. Published California State Office of Historic Preservation (OHP) procedures for cultural resource surveys, as found on their website, and the Archaeological Resource Management Reports (ARMR) reporting format were followed.

*Response to Comment NAHC II-3*

A sacred lands search with the Native American Heritage Commission (NAHC) has taken place as part of this study, but this was associated with fact-finding only. We note that the City may be required to undertake Native American consultations to fulfill processes associated with SB18 (Burton).

*Response to Comment NAHC II-4*

No significant impact on cultural resources is expected to occur based on the cultural resources assessment prepared for the project; however in the event that previously unknown archaeological resources are discovered, the project applicant is required to comply with CEQA Guidelines Section 15064.5.

*Response to Comment NAHC II-5*

Please see Mitigation Measures CR 5.4-1 and CR 5.4-2 on page 5.4-10 of the Draft EIR for a discussion of discovering human remains during construction.

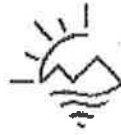
*Response to Comment NAHC II-6*

Please see Response to Comment NAHC II-5.



*Response to Comment NAHC II-7*

As required, if in the event that previously unknown cultural resources are discovered during the course of project planning, the City of El Centro will adhere to Section 15370 of the CEQA Guidelines.



Linda S. Adams  
Secretary for  
Environmental Protection

## Department of Toxic Substances Control

Maureen F. Gorsen, Director  
5796 Corporate Avenue  
Cypress, California 90630



Arnold Schwarzenegger  
Governor

October 17, 2007

**RECEIVED**

OCT 22 2007

PLANNING DEPT.  
CITY OF EL CENTRO

Mr. Oliver M. Alvarado  
Planning Director  
City of El Centro  
1275 Main Street  
El Centro, California 92243

**NOTICE OF COMPLETION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE CITY OF EL CENTRO ZONE CHANGE 05-02 AND TENTATIVE SUBDIVISION MAP & ANNEXATION (SCH # 2006081078)**

Dear Mr. Alvarado:

The Department of Toxic Substances Control (DTSC) has received your submitted EIR document for the above-mentioned project. As stated in your document: "Project implementation includes annexation, a zone change from County zoning, General Agriculture/Urban Overlay (A2U) to City Project implementation includes annexation, a zone change from County zoning, General Agriculture/Urban Overlay (A2U) to City zoning Single Family Residential (R-1). Project implementation will result in the subdivision of approximately 160 acres of farmland into 496 lots, which will allow for the development of 494 single-family residences on an average lot size of 7,200 square foot lots, 8.78 acre detention basin, and the dedication of approximately 11.77 acres for a future elementary school (with a proposed joint use school/park). Project implementation will also require the extension and/or upgrade of public services and utilities and the internal circulation system. Access to the project is proposed via the extension of Ocotillo Drive, east of the project site and from Ross Avenue along the north".

Based on the review of the submitted Notice of Preparation DTSC has the following comments:

1. The draft EIR needs to identify and determine whether current or historic uses at the Project site have resulted in any release of hazardous wastes/substances at the Project area.

DTSC-1

Mr. Oliver M. Alvarado  
October 17, 2007  
Page 2

2. The draft EIR needs to identify any known or potentially contaminated sites within the proposed Project area. For all identified sites, the draft EIR should evaluate whether conditions at the site pose a threat to human health or the environment. Following are the databases of some of the regulatory agencies:
- National Priorities List (NPL): A list is maintained by the United States Environmental Protection Agency (U.S.EPA).
  - CalSites: A Database primarily used by the California Department of Toxic Substances Control.
  - Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
  - Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
  - Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
  - Leaking Underground Storage Tanks (LUST) / Spills, Leaks, Investigations and Cleanups (SLIC): A list that is maintained by Regional Water Quality Control Boards (RWQCBs).
  - Local County and City maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
3. The draft EIR should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If hazardous materials or wastes were stored at the site, an environmental assessment should be conducted to determine if a release has occurred. If so, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. It may be necessary to determine if an expedited response action is required to reduce existing or potential threats to public health or the environment. If no immediate threat exists, the final remedy should be implemented in compliance with state laws, regulations and policies.

DTSC-2

DTSC-3

Mr. Oliver M. Alvarado  
October 17, 2007  
Page 3

4. If the subject property was previously used for agriculture, or if weed abatement occurred, onsite soils could contain pesticide or herbicide residues. Proper investigation and remedial action may be necessary to ensure the site does not pose a risk to the future residents. DTSC-4
5. All environmental investigations, sampling and/or remediation should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous waste cleanup. The findings and sampling results from the subsequent report should be clearly summarized in the EIR. DTSC-5
6. Proper investigation, sampling and remedial actions, if necessary, should be conducted at the site prior to the new development or any construction, and overseen by a regulatory agency. DTSC-6
7. If any property adjacent to the project site is contaminated with hazardous chemicals, and if the proposed project is within 2,000 feet from a contaminated site, then the proposed development may fall within the "Border Zone of a Contaminated Property." Appropriate precautions should be taken prior to construction if the proposed project is within a "Border Zone Property" DTSC-7
8. Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. A study of the site overseen by the appropriate government agency might have to be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment. DTSC-8
9. If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If so, the facility should obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. DTSC-9
10. If hazardous wastes are (a) stored in tanks or containers for more than ninety days, (b) treated onsite, or (c) disposed of onsite, then a permit from DTSC may be required. If so, the facility should contact DTSC at (818) 551-2171 to initiate pre application discussions and determine the permitting process applicable to the facility. DTSC-10
11. Certain hazardous waste treatment processes may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA. DTSC-11

Mr. Oliver M. Alvarado  
October 17, 2007  
Page 4

12. If the project plans include discharging wastewater to a storm drain, you may be required to obtain a wastewater discharge permit from the overseeing Regional Water Quality Control Board. DTSC-12
13. If during construction/demolition of the project, soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented. If it is determined that contaminated soil and/or groundwater exist, the EIR should identify how any required investigation and/or remediation will be conducted, and the appropriate government agency to provide regulatory oversight. DTSC-13
14. If structures on the Project Site contain potentially hazardous materials, such as; asbestos-containing material, lead-based paint, and mercury- or PCB-containing material, such materials should be removed properly prior to demolition, and disposed of at appropriate landfills or recycled, in accordance with the regulatory guidance provided in California Code of Regulation (CCR) and following the requirements of the Universal Waste Rule (40 CFR part 9). DTSC-14
15. In future CEQA documents please provide the following additional contact information: contact person, title and e-mail address.

If you have any questions regarding this letter, please contact Mr. Al Shami, Project Manager, at (714) 484-5472 or at "ashami@dtsc.ca.gov".

Sincerely,



Greg Holmes  
Unit Chief

Southern California Cleanup Operations Branch - Cypress Office

cc: Governor's Office of Planning and Research  
State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812-3044

Mr. Guenther W. Moskat, Chief  
Planning and Environmental Analysis Section  
CEQA Tracking Center/ Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, California 95812-0806

CEQA # 1869

**Department of Toxic Substances Control, October 22, 2007 (DTSC)**

*Response to Comment DTSC-1*

As discussed in Section 5.6, Hazards and Hazardous Materials in the Draft EIR, GS Lyons prepared a Phase I Environmental Site Assessment (ESA) for the project site in August 2005, which was prepared in accordance with the American Society for Testing Materials (ASTM) Standard E1527-00 Guidelines, the professionally recognized standard for the performance of an ESA. Additionally, GS Lyons prepared a Pesticide Scan to test the presence of pesticides on site soils.

As discussed in Section 5.6 of the Draft EIR, the ESA included a visual site reconnaissance of the site and adjoining properties to obtain information indicating the likelihood of identifying recognized environmental hazards and/or hazardous materials (including petroleum) in connection of the property. The site reconnaissance also included site observations for the presence of polychlorinated biphenyls (PCBs) and asbestos containing materials (ACM), indications of surface or subsurface hydrocarbon or pesticide contamination the presence of on-site groundwater wells, pits, sumps, wastewater discharge practices, and water drainage patterns. The observations of this reconnaissance are presented in Section 5.6 of the Draft EIR.

Laboratory analytical testing conducted during the Pesticide Scan indicated that there is the presence of pesticides in the near surface soils, particularly DDE in eight soils samples. Other pesticides that were tested for were either below detectible limits or non-existent in samples. Analysis determined that the levels of DDE in the soils encountered at the site are below the current threshold (action) limits (Preliminary Remediation Goals) as determined by the DTSC.

The Environmental Regulatory Records Review did not reveal any onsite or adjoining offsite recognized environmental hazards, including underground or aboveground storage tanks.

As noted in Section 5.6, Mitigation Measures 5.6-1 through 5.6-3, prior to the issuance of the grading permit, the applicant shall coordinate with DTSC to review and approve the results of the Pesticide Scan, a map shall be prepared to establish a buffer zone to prevent the drift of pesticides or other harming agricultural chemicals onto the site and that the proper authorities be contacted in the result of the discovery of unknown hazardous materials, leaks, or potential groundwater contamination and the proper actions be taken to remediate any potential environmental hazard.

As required, the project will be in compliance with all regulations in relation to the use, disposal, and transport of hazardous wastes and/or materials.

*Response to Comment DTSC-2*

Please refer to Response to Comment DTSC-1 regarding no onsite recognized environmental hazards.

*Response to Comment DTSC-3*

Please refer to Response to Comment DTSC-1 regarding no onsite recognized environmental hazards as stated in the Phase I ESA and supported by a Pesticide Scan.

*Response to Comment DTSC-4*

Please refer to Response to Comment DTSC-1 regarding the negative findings of Pesticide Scan.

*Response to Comment DTSC-5*

Please refer to Response to Comment DTSC-1 Mitigation Measure HM 5.6-1 states that the project applicant is required to provide DTSC with the results for review and verification that no further action is required.

*Response to Comment DTSC-6*

Please refer to Response to Comment DTSC-1 regarding the negative findings of the onsite investigations.

*Response to Comment DTSC-7*

Please refer to Response to Comment DTSC-1 regarding the negative findings of the offsite investigations.

*Response to Comment DTSC-8*

Please refer to Response to Comment DTSC-1 regarding the negative findings of the onsite investigations.

*Response to Comment DTSC-9*

The proposed project is a residential subdivision. Residents' activities may result in the use, disposal, and transport of hazardous materials; however, the amount is expected to be nominal. Hazardous waste typical of residential subdivisions include household cleaning and janitorial products, herbicides, insecticides, solvents, and fuel.

*Response to Comment DTSC-10*

Please refer to Response to Comment DTSC-9 regarding the use, disposal, and transport of hazardous materials associated with residential subdivisions.

*Response to Comment DTSC-11*

The proposed project does not include hazardous waste treatment processes.

*Response to Comment DTSC-12*

The project includes retention basins that will only discharge during very high flow events, such as a large rainstorm. It will include discharging stormwater to a storm drain that leads to an agricultural drain. This wet pond system is designed to improve water quality and is a common Best Management Practices (BMP) recommended by the Regional Water Quality Control Board

(RWQCB). Appropriate permits will be sought from the RWQCB as that is a standard condition of project approval.

*Response to Comment DTSC-13*

The onsite soils were evaluated through a Pesticide Scan that determined that there was a very low probability that the site had been contaminated by the use of pesticides and/or chemical products. The Pesticide Scan is required to be reviewed by DTSC for verification that no further action is required. If unknown soil and/or groundwater contamination is suspected or found during grading operations, the project applicant will be required to be in compliance with existing local, state, and federal regulations.

*Response to Comment DTSC-14*

The project site does not contain structures that contain potentially hazardous materials.







October 29, 2007

Norma Villacaña, Interim  
Planning and Zoning Director  
City of El Centro  
1275 Main Street  
El Centro, CA 92243-2816

RECEIVED

OCT 29 2007

PLANNING DEPT.  
CITY OF EL CENTRO

**SUBJECT:** Recirculated Portion of the Draft Environmental Impact Report (EIR) for the Change of Zone, Tentative Subdivision Map and Annexation for the Miller Burson Project.

Dear Ms Villacaña:

The review of the Recirculated Portion of the Draft EIR for the Miller Burson project has been finalized. The Lead Agency for the Miller Burson project decided to re-circulated the Draft EIR upon a determination that "there were additional cumulative development projects that needed to be included in the traffic analysis..." The document further explains that the new cumulative traffic information affects noise and air quality. The original document circulated in November 2006 found that the proposed project with mitigation would exceed significance thresholds during the operational phase of the project. The analysis concluded that the impacts were significant and unavoidable requiring a Statement of Overriding Considerations. The Air District responded disagreeing with the conclusions of the analysis and as a consequence the Air District continues to disagree with the need for a Statement of Overriding Considerations. Specifically, the Air District believes that when individual projects commit to on-site and off-site mitigation measures the level of significance is typically reduced to insignificance or avoided.

APCDII -1

CEQA requires an analysis of cumulative impacts to be assessed when an individual project's incremental effects are significant when past projects, current projects and probable future projects are considered connectively, this is described in CEQA as "Cumulatively considerable."<sup>1</sup> In addition, CEQA allows for the evaluation of each individual project in a cumulative analysis by examining each projects commitment to requirements of a previously approved plan or a mitigation program effectively demonstrating that those specific requirements will avoid or substantially lessen the cumulative problem.<sup>2</sup> However, CEQA does not allow for simple reiteration of requirements or mitigation measures without some commitment in language such as specification in law or as an adoption by the public agency as a condition of approval.

APCDII -2

<sup>1</sup> CEQA Guidelines section 15064 subsection (h)(1).

<sup>2</sup> CEQA Guidelines section 15064 subsection (h)(3).

Therefore, as stated in the prior comment letter the Air District believes that with clarification on identified mitigation measures as proposed by the Draft EIR, commitment to off-site mitigation as per policy #5 as adopted by the Imperial County Air Pollution Control District this project may reduce is significant project impacts individually and therefore contributing to the a reduction in the cumulative impact.

APCDII -2  
CONT.

### SECTION 3.1 – Project Air Quality

As part of its final review of the re-circulated Draft EIR for the Miller Burson project the Air District reviewed the added mitigation measure AQ5.2-17. The Air District does not agree with the conclusion that the mitigation measure AQ 5.2-17 is a mitigation measure as per CEQA. The language of the mitigation measure begins with what seems to be a commitment to full mitigation but then conditions the mitigation on unacceptable terms that contradict currently existing and approved mitigation measures by the Imperial County Air Pollution Control District.<sup>3</sup> For clarification, the Air District has the following two documents which clearly identify feasible mitigation measures and the manner in which they should be applied to constitute a commitment and a reduction in significance.

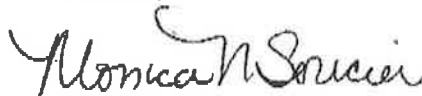
APCDII -3

1. The approved Air Quality Mitigation Protocol was adopted February 2005 and is titled the Imperial County Air Pollution Control District CEQA Air Quality Handbook.
2. Policy #5 clearly states the manner of application and payment of in-lieu fees.

Therefore, any deviation from these protocol's and policies is considered as not committing to any mitigation and therefore not reducing the impacts or avoiding the impacts as required by CEQA. It is in the best interest of the project proponent and the Lead Agency to contact the Air District to further explore the options available and the procedures that are currently in place to effectively reduce the projects impacts and any incremental impacts caused cumulatively.

In closing, the Air District would like to reiterate its stand on the principle of 100% mitigation by onsite and offsite measures. If you have any questions regarding this letter, please contact Brad Poiriez or Reyes Romero at (760) 482 4606.

Sincerely,



Monica N. Soucier  
Environmental Coordinator

CC: Stephen L. Birdsall, Air Pollution Control Officer  
Brad Poiriez, Assistant Air Pollution Control Officer  
Reyes Romero, Division Manager  
Jurg Heuberger, AICP, CEP, CBO

<sup>3</sup> Authority granted by the State Legislature in Health and Safety Code Division 26 Part 1 sections 39000, 39001, 39002, 40716 *et al.*

**Air Pollution Control District October 29, 2007 (APCD II)**

*Response to Comment APCD II-1*

Please see Response to Comment APCD I-2 (Final EIR Section 3) regarding the modification to Mitigation Measure AQ 5.2-17 to address the APCD's concerns.

*Response to Comment APCD II-2*

Please see Response to Comment APCD I-2 (Final EIR Section 3) regarding the modification to Mitigation Measure AQ 5.2-17 to address the APCD's concerns.

*Response to Comment APCD II-3*

Please see Response to Comment APCD I-2 (Final EIR Section 3) regarding the modification to Mitigation Measure AQ 5.2-17 to address the APCD's concerns.



## Community Systems Associates, Inc.

"the leader in facilitating community facilities consensus"

3367 Corte Levanto, Costa Mesa, California 92626

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[ecomunitysys@earthlink.net](mailto:ecomunitysys@earthlink.net)

October 28, 2007

Ms. Norma M. Villicana  
Acting Planning Director  
**City of El Centro**  
1275 Main Street  
El Centro, California 92243

Subject: **Comments of the McCabe Union School District**

Notice of Availability of the Recirculated Portion of the  
Draft Environmental Impact Report  
Miller Burson Tentative Subdivision Map,  
Change of Zone and Annexation

Development, Design & Engineering - Applicant

Dear Ms. Villicana;

This letter is submitted by Community Systems Associates, Inc. on behalf of the McCabe Union School District ("MUSD" or "District"), and is presented as the formal position of the District on the proposal as described herein. Community Systems Associates, Inc. is the retained consultant of the McCabe Union School District and this letter has been authorized to be presented to the City of El Centro.

The District is in receipt of the City of El Centro ("City") Notice of Availability ("Notice") of Recirculated Portion of the Draft Environmental Impact Report ("Draft EIR") dated September 14, 2007 with regards to the proposed **Miller Burson Tentative Subdivision Map, Change of Zone, Annexation**, and subsequent development ("Proposal" or "Project"). The District understands that there has been circulated a Draft EIR on the Project dated November 28, 2006 and that the recirculated portion of the Draft EIR only addresses certain specific topics. The Proposal includes the following applications which have been filed with the City and are being considered in the Draft EIR:

1. Annexation from County of Imperial to City of El Centro, subject to LAFCO approval (Annexation EC-8-04);
2. Change of Zone from County of Imperial General Agriculture/Urban Overlay (A2U) to City of El Centro Single Family Residential (R-1); and

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3. Tentative Subdivision Map approval.

The proposed Project site or area ("Project Site" or "Project Area") is within the City's adopted Sphere of Influence boundaries and located in the County of Imperial ("County"). The Project Site is located north of Interstate 8, south of Ross Road, east of Austin Road and the Evergreen and Central Main Canals, and west of the Desert Estates Subdivision and Tract 62 (City of El Centro Annexation 04-86) and consists of 160 acres.

The Project is described as follows in the In the Draft EIR:

"Project Description: Project implementation includes annexation, a zone change from County zoning, General Agricultural Urban Overlay (A2U) to City zoning Single Family Residential (R-I). Project implementation will result in the subdivision of approximately 160 acres of farmland into 496 lots, which will allow for the development of 494 single-family residences on an average lot size of 7,200 square foot lots, 8.78 acre detention basin, and the dedication of approximately 11.77 acres for a future elementary school (with a proposed joint use school/park). Project implementation will also require the extension and/or upgrade of public services and utilities and the internal circulation system. Access to the project is proposed via the extension of Ocotillo Drive, east of the project site and from Ross Avenue along the north.

It is the intent of the City of El Centro to annex the project site into the City's incorporated boundaries.

In addition, the proposed project includes the annexation of an additional 42 acres that supports 30 residential units along Lotus Avenue adjacent to the 160 acres to be subdivided. The entire annexation area is collectively referred to as Tract 74. Project implementation will not include the subdivision of or the extension and/or upgrade public services and/or utilities to this 42 acre portion of the project site. Once annexed into the City of El Centro, this portion of the project site will be zoned as Rural-Residential (RR)."

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The Notice provides that the City of El Centro is the Lead Agency and has prepared the Recirculated Draft EIR on the Proposal. The Notice provides that there is a 45-day review period beginning September 14, 2007 and ending on October 29, 2007.

The City seeks the comments of the District as to adequacy of the content of the Draft EIR in connection with the Proposal. The Notice provides that the responses are to be sent to the City no later than October 29, 2007.

The District notes the provisions of Section 15088.5 (f) states:

“(f) The lead agency shall evaluate and respond to comments as provided in Section 15088. Recirculating an EIR can result in the lead agency receiving more than one set of comments from reviewers. The following are two ways in which the lead agency may identify the set of comments to which it will respond. This dual approach avoids confusion over whether the lead agency must respond to comments which are duplicates or which are no longer pertinent due to revisions to the EIR. In no case shall the lead agency fail to respond to pertinent comments on significant environmental issues.

- (1) When an EIR is substantially revised and the entire document is recirculated, the lead agency may require reviewers to submit new comments and, in such cases, need not respond to those comments received during the earlier circulation period. The lead agency shall advise reviewers, either in the text of the revised EIR or by an attachment to the revised EIR, that although part of the administrative record, the previous comments do not require a written response in the final EIR, and that new comments must be submitted for the revised EIR. The lead agency need only respond to those comments submitted in response to the recirculated revised EIR.
- (2) When the EIR is revised only in part and the lead agency is recirculating only the revised chapters or portions of the EIR, the lead agency may request that reviewers limit their comments to the revised chapters or portions of the recirculated EIR. The lead agency need only respond to (i) comments received during the initial circulation period that relate to chapters or portions of the document that were not revised and recirculated, and (ii) comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated. The lead agency's request that reviewers limit the scope of their comments shall be included either within the text of the revised EIR or by an attachment to the revised EIR.
- (3) As part of providing notice of recirculation as required by Public Resources Code Section 21092.1, the lead agency shall send a notice of recirculation to every agency, person, or organization that commented on the prior EIR. The notice shall indicate, at a minimum, whether new comments may be submitted only on the recirculated portions of the EIR or on the entire EIR in order to be considered by the agency.”

In particular Section 15088.5 (f) (3) provides that as part of providing notice of recirculation, the City shall send a notice of recirculation to every agency, person, or organization that commented on the prior EIR and that the notice shall indicate, at a

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minimum, whether new comments may be submitted only on the recirculated portions of the EIR or on the entire EIR in order to be considered by the City.

The District further notes that the Notice describes the Recirculated Draft EIR as "RDEIR") and that the Draft EIR is "DEIR". The Notice further states that "This RDEIR is hereby made available for public review and comment. The public review period for said document has duration of 45 days beginning September 14, 2007, and ending on October 29, 2007. You are invited to submit written comments on the DEIR to the City's contact person at the address provided below by October 29, 2007." As such, the Notice appears to indicate that comments can be submitted on the entire Draft EIR ("DEIR") and that comments are not limited to the Recirculated Draft EIR ("RDEIR"). Therefore, the District comments provided herein refer to both the Draft EIR and the Recirculated Draft EIR.

The District notes that there is an inconsistency between the Notice and the content of the Recirculated Draft EIR. Section 1.3 of the Recirculated Draft EIR states in part:

"1.3 - Circulation of New Information

Under the California Environmental Quality Act (CEQA) Guidelines Section (§) 15088.5(c), if a revision to an EIR is limited to a few chapters or portion of the EIR, the City need only circulate the chapters or portions that have been modified. Additionally, the City requests, pursuant to the CEQA Guidelines § 15088.5(f)(2), that reviewers of this document limit their comments to the new material that has been included in this recirculation document, and not make new comments on matters not included in this document, such as any of the material included in the November 28, 2006 Draft EIR..."

Although the Recirculated Draft EIR states that reviewers are limited to a review of the "new materials" and that reviewers should not make new comments on matters not included in the Recirculated Draft EIR, including comments on the November 28, 2006 Draft EIR, this comment is not included in the Notice as provide for in Section 15088 (f) (3) which requires the limitation of review to be included in the Notice.

The District provided responses to the Notice of Preparation of August 14, 2006 on September 12, 2006. The City then issued a revised Notice of Preparation of September 22, 2006 which the District responded to on October 9, 2006. The District's September 12, 2006 letter is contained in Appendix "A" of the Draft EIR. However, the District letter of October 9, 2006 is not contained in the Draft EIR Appendix "A". The District's letter of September 12, 2006 sets forth the comments of the District at that time and requested a meeting with the City to discuss how the City could assist the District in mitigation associated with the proposed development. It is noted that the City did not

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respond to this request for a meeting. The CEQA Guidelines require the Draft EIR to contain all letters of comments with appropriate responses.

The District is a local and public agency that will be affected by the impacts of the adoption and implementation of the Project. This letter is intended to be entered into the public record of the City on the Project, and is further intended to present the District's comments with regards to the impacts and consequences that should be contemplated in the Draft EIR and the Recirculated Draft EIR (collectively referred to herein as "Draft EIR"), in order to protect the District's administrative and legal remedies. It further provides the District's comments as to the inadequacies of the Draft EIR and the need to revise the Draft EIR and re-circulate it for further review and comments.

It is recommended that these comments not be considered in a "piecemeal" fashion, but instead be considered as a comprehensive analysis which when the individual comments are combined and consolidated they provide evidence that the Draft EIR is inadequate and does not comply with the intent and requirements of the CEQA Guidelines. Correction of the inadequacies will require that the Draft EIR be revised and re-circulated for an additional 45-day review period to solicit comments.

The District has concluded that the Draft EIR does not comply with the CEQA Guidelines or the California Environmental Quality Act, and requires substantial revisions and re-writing to address the concerns raised and comments offered by the District. This conclusion has been reached and is based on the comments of the District as are set forth herein in Attachment "A".

These attached comments are intended to insure that the District exhausts all of its administrative remedies that it has available at this point in the processing of the Draft EIR in order to transparently disclose and offer its comments with regards to the Project. These comments are focused on the direct and indirect, project-specific and cumulative effects of the Project on the District. They also address other impacts and consequences on the constituents of the District and on those components of the Project which may have a "cause-and-effect" on the District, its students, its employees, and its constituents. The comments are offered in compliance with the procedures, intention, and spirit of the California Environmental Quality Act and the CEQA Guidelines, and are intended to offer transparency that will enable the Draft EIR and subsequently the Final EIR to offer full and complete disclosures in accordance with State law.

It is recommended that the revisions requested by the District be completed by the City and that the Draft EIR as revised be re-circulated for a further 45-day review period to permit additional comments on the re-drafted Draft EIR. In addition, the District recommends that the mitigated measures offered herein by the District be incorporated into the Draft EIR and that the Project be revised accordingly.

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The City is required to re-circulate an EIR when significant new information is added to the environmental impact report after public notice is given of the availability of the Draft EIR for public review. The District suggests that if the City responds in a complete and accurate way to the comments contained herein, there will be additional data and other information added to the Draft EIR that will require additional review. This new information will be "significant". Failure to offer it for public review will deprive the public of a meaningful opportunity to comment on the aspects of the Project that will further identify substantial adverse environmental effects of the Project and feasible ways to mitigate or avoid such an effects (including additional feasible project alternatives) that the Applicant has declined to consider and implement if the materials is not made available for public review.

The District suggests that the significant new information, which requires recirculation, includes further disclosures which will show that a) new significant environmental impacts would result from the Project or from a new mitigation measure proposed to be implemented; b) substantial increases in the severity of an environmental impacts will result from the Project unless mitigation measures are adopted that reduce the impacts to a level of insignificance; c) feasible project alternatives or mitigation measure considerably different from others previously analyzed in the Draft EIR will clearly lessen the environmental impacts of the Project, but that the Applicant has declined to adopt them; and d) the contents of the Draft EIR does not comply with the CEQA Guidelines and in the District's judgment, precludes the meaningful public review and full disclosure of the impacts and mitigation measures that are required by the Project.

As part of the re-circulation process, the District requests that the City within the revised Draft EIR or by an attachment to the revised Draft EIR, summarize the specific revisions made to the Draft EIR.

After the review of the District's comments, should the City choose not to re-circulate the Draft EIR, the District requests that the City's decision be supported by substantial evidence in the administrative record and that this evidence is provided to the District prior to the certification of the Final EIR.

Following the revision of the Draft EIR and/or the responses to the District's comments, the District does hereby request that it be provided 30-days to review the responses to comments prior to any public hearings to consider the Final EIR.

We hereby request that a copy of the revised Draft EIR, along with the response to comments of the District be forwarded to the following for further review:

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Ms. Norma M. Villicana  
Acting Planning Director  
**City of El Centro**  
October 28, 2007  
Page 7 of 154

Ms. Amanda Brooke, Superintendent  
**McCabe Union School District**  
701 W. McCabe Road  
El Centro, California 92243

Mr. Marshall B. Krupp  
**Community Systems Associates, Inc.**  
3367 Corte Levanto  
Costa Mesa, California 92626

In addition we hereby request that all further public hearings and public meeting notices also be issued to the above addresses, and that any scheduled public hearings be deferred until the Draft EIR is brought into compliance with the CEQA Guidelines, revised accordingly, and re-circulated for further review and comments.

The District's comments on the Draft EIR as contained herein are offered to the City in conjunction with the continuing entitlement process of the Project. The District would encourage the Applicant and the City to meet and confer with the District with regards to these concerns and discuss revisions, amendments, and adjustments to the Project that would address the District's concerns before the Project proceeds to Planning Commission and the City Council public hearings on this matter. This request to meet and confer is pursuant to Section 65352.2 as further discussed in the attached comments.

In conclusion, the District wants the City to understand the formal position of the District with regards to this Project and other development proposals within the District. This position is consistent with the intent of the constituents of the District. First, the District is fully committed to the collaboration and negotiation of implementation and financing agreements with developers to address the school facilities, interim facilities, District-wide support facilities, and student transportation requirements that are and will be required by new development. To this end, the District is open to all creative financing and implementation tools that developers or their consultants may offer. However, the District will not place itself or its general fund at risk, or compromise its financial, operational, or school facility design requirements or policies at an unnecessary risk, nor will it allow the financing of facilities for projects or the impacts of those projects on the McCabe Union School District's operations or facilities to be placed on the backs of existing constituents of the District.

Second, although the District wants to work expeditiously towards agreements with developers, the District must also protect the District's interest in the legal entitlement processes, and as such, will be responding to all notices issued by the City and will be participating in all public hearings so that the District does not jeopardize or compromise any remedy options should the District not reach agreements with developers.

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Ms. Norma M. Villicana  
Acting Planning Director  
**City of El Centro**  
October 28, 2007  
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These two processes may appear to be conflicting. The District is committed to doing everything possible to work in good faith towards a solution to the issues that the District and the development community face with regards to development impacts.

The District reserves the right to provide additional comments to the Draft EIR and the Project in conjunction with the processing of such approvals by the City, including comments, testimony, or evidence referring to any of the entitlement documents and reports, findings, and resolutions and ordinances that may be considered and adopted by the City.

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Thank you for your assistance and consideration.

Sincerely,

Community Systems Associates, Inc.  
on behalf of the  
**McCabe Union School District**

*Marshall Krupp*

Mr. Marshall B. Krupp  
President

MBK:mbk  
El Centro – Miller Burson Draft EIR Notice of Availability 10-25-07 MUSD

Cc: Ms. Amanda Brooke, Superintendent  
**McCabe Union School District**  
701 W. McCabe Road  
El Centro, California 92243

Attachment "A"

**Comments of the McCabe Union School District  
Miller Burson  
Draft Environmental Impact Report dated November 28, 2006  
and  
Recirculated Draft Environmental Impact Report dated September 14, 2007  
SCH #2006081078**

Applicable Provisions of the CEQA Guidelines

This District review of the Draft EIR is based on particular provisions of the California Environmental Quality Act and the CEQA Guidelines. Some of these provisions are set forth herein.

Section 15200 of the CEQA Guidelines, states:

“The purposes of review of EIR's and Negative Declarations include:

- (a) Sharing expertise,
- (b) Disclosing agency analyses,
- (c) Checking for accuracy,
- (d) Detecting omissions,
- (e) Discovering public concerns, and
- (f) Soliciting counter proposals.”

Section 15368 defines a “local agency” as follows:

“ ‘Local agency’ means any public agency other than a state agency, board, or commission. Local agency includes but is not limited to cities, counties, charter cities and counties, districts, school districts, special districts, redevelopment agencies, local agency formation commissions, and any board, commission, or organizational subdivision of a local agency when so designated by order or resolution of the governing legislative body of the local agency.

The District is a local agency under the provisions of the CEQA Guidelines.

Section 15379 defines a “public agency” as follows:

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“ ‘Public agency’ includes any state agency, board, or commission and any local or regional agency, as defined in these Guidelines. It does not include the courts of the state. This term does not include agencies of the federal government.”

Section 15381 of the Guidelines define “responsible agency” as follows:

" ‘Responsible Agency’ means a public agency which proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. For the purposes of CEQA, the term "Responsible Agency" includes all public agencies other than the Lead Agency which have discretionary approval power over the project.”

Section 10544 of the CEQA Guidelines states:

“Any person or entity other than a Responsible Agency may submit comments to a Lead Agency concerning any environmental effects of a project being considered by the Lead Agency.”

Section 15086 of the CEQA Guidelines states in part:

(a) The Lead Agency shall consult with and request comments on the draft EIR from:

(1) Responsible Agencies...

(3) Any other state, federal, and local agencies which have jurisdiction by law with respect to the project or which exercise authority over resources which may be affected by the project, including water agencies consulted pursuant to section 15083.5....

(4) Any city or county which borders on a city or county within which the project is located....

(b) The lead agency may consult directly with:

(1) Any person who has special expertise with respect to any environmental impact involved,

(2) Any member of the public who has filed a written request for notice with the lead agency or the clerk of the governing body.

(3) Any person identified by the applicant whom the applicant believes will be concerned with the environmental effects of the project.

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

Although the District is a public agency and a local agency, it does not have “discretionary approval power over the Project”. As a public agency and a local agency, the District suggests that the comments contained herein are within the expertise of the District and are relevant to the District’s responsibility of providing school facilities, education, and District operations in a coordinated and acceptable level based upon the needs and requirements of the District’s jurisdiction.

Section 15204 of the CEQA Guidelines, states in part:

“(a) In reviewing draft EIR’s, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR...”

(c) Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence.

(d) Reviewing agencies or organizations should include with their comments the name of a contact person who would be available for later consultation if necessary. Each responsible agency and trustee agency shall focus its comments on environmental information germane to that agency's statutory responsibility.

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(e) This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section.

(f) Prior to the close of the public review period for an EIR or mitigated negative declaration, a responsible or trustee agency which has identified significant effects on the environment may submit to the lead agency proposed mitigation measures which would address those significant effects. Any such measures shall be limited to impacts affecting those resources which are subject to the statutory authority of that agency. If mitigation measures are submitted, the responsible or trustee agency shall either submit to the lead agency complete and detailed performance objectives for the mitigation measures, or shall refer the lead agency to appropriate, readily available guidelines or reference documents which meet the same purpose.”

Section 15384 of the Guidelines defines “Substantial Evidence” as follows:

“(a) ‘Substantial evidence’ as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.”

The Guidelines go on to further discuss substantial evidence as follows:

“ ‘Substantial evidence’ as used in the Guidelines is the same as the standard of review used by courts in reviewing agency decisions. Some cases suggest that a higher standard, the so called ‘fair argument standard’ applies when a court is reviewing an agency's decision whether or not to prepare an EIR.

Public Resources Code Section 21082.2 was amended in 1993 (Chapter 1131) to provide that substantial evidence shall include ‘facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.’ The statute further provides that ‘argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence.’ ”

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Section 15064 of the CEQA Guidelines states:

“(a) Determining whether a project may have a significant effect plays a critical role in the CEQA process.

(1) If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, the agency shall prepare a draft EIR.

(2) When a final EIR identifies one or more significant effects, the Lead Agency and each Responsible Agency shall make a finding under Section 15091 for each significant effect and may need to make a statement of overriding considerations under Section 15093 for the project.

(b) The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area.

(c) In determining whether an effect will be adverse or beneficial, the Lead Agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency. Before requiring the preparation of an EIR, the Lead Agency must still determine whether environmental change itself might be substantial.

(d) In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project.

(1) A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the project. Examples of direct physical changes in the environment are the dust, noise, and traffic of heavy equipment that would result from construction of a sewage treatment plant and possible odors from operation of the plant.

(2) An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect

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physical change in the environment. For example, the construction of a new sewage treatment plant may facilitate population growth in the service area due to the increase in sewage treatment capacity and may lead to an increase in air pollution.

(3) An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable.

(e) Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect.

(f) The decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency.

(1) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68).

(2) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment but the lead agency determines that revisions in the project plans or proposals made by, or agreed to by, the applicant would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur and there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment then a mitigated negative declaration shall be prepared.

(3) If the lead agency determines there is no substantial evidence that the project may have a significant effect on the environment, the lead agency shall prepare a negative declaration (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App. 3d 988).

(4) The existence of public controversy over the environmental effects of a project will not require preparation of an EIR if there is no substantial evidence before the agency that the project may have a significant effect on the environment.

(5) Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts and expert opinion support by facts.

(6) Evidence of economic and social impacts that do not contribute to or are not caused by physical changes in the environment is not substantial evidence that the project may have a significant effect on the environment.

(7) The provisions of sections 15162, 15163, and 15164 apply when the project being analyzed is a change to, or further approval for, a project for which an EIR or negative declaration was previously certified or adopted (e.g. a tentative subdivision, conditional use permit). Under case law, the fair argument standard does not apply to determinations of significance pursuant to sections 15162, 15163, and 15164.

(g) After application of the principles set forth above in Section 15064(f)(g), and in marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

(h) (1) When assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

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(2) A lead agency may determine in an initial study that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. When a project might contribute to a significant cumulative impact, but the contribution will be rendered less than cumulatively considerable through mitigation measures set forth in a mitigated negative declaration, the initial study shall briefly indicate and explain how the contribution has been rendered less than cumulatively considerable.

(3) A lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program which provides specific requirements that will avoid or substantially lessen the cumulative problem (e.g., water quality control plan, air quality plan, integrated waste management plan) within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding that the project complies with the specified plan or mitigation program addressing the cumulative problem, an EIR must be prepared for the project.

(4) The mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project's incremental effects are cumulatively considerable."

Section 15143 of the CEQA Guidelines states:

"The EIR shall focus on the significant effects on the environment. The significant effects should be discussed with emphasis in proportion to their severity and probability of occurrence. Effects dismissed in an Initial Study as clearly insignificant and unlikely to occur need not be discussed further in the EIR unless the Lead Agency subsequently receives information inconsistent with the finding in the Initial Study. A copy of the Initial Study may be attached to the EIR to provide the basis for limiting the impacts discussed."

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Section 15144 of the CEQA Guidelines states:

"Drafting an EIR or preparing a Negative Declaration necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can."

Section 15145 of the CEQA Guidelines states:

“If, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.”

Section 15146 of the CEQA Guidelines states:

“The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.

(a) An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy.

(b) An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow.”

Section 15147 of the CEQA Guidelines states:

“The information contained in an EIR shall include summarized technical data, maps, plot plans, diagrams, and similar relevant information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public. Placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR. Appendices to the EIR may be prepared in volumes separate from the basic EIR document, but shall be readily available for public examination and shall be submitted to all clearinghouses which assist in public review.”

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Section 15088 of the CEQA Guidelines states:

“(a) The lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response. The Lead Agency shall respond to comments received during the noticed comment period and any extensions and may respond to late comments.

(b) The lead agency shall provide a written proposed response to a public agency on comments made by that public agency at least 10 days prior to certifying an environmental impact report.

(c) The written response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). 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. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.

(d) The response to comments may take the form of a revision to the draft EIR or may be a separate section in the final EIR. Where the response to comments makes important changes in the information contained in the text of the draft EIR, the Lead Agency should either:

- (1) Revise the text in the body of the EIR, or
- (2) Include marginal notes showing that the information is revised in the response to comments.”

Section 15088.5 of the CEQA Guidelines states:

“(a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation include, for example, a disclosure showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

(3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.

(4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043)

(b) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

(c) If the revision is limited to a few chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified.

(d) Recirculation of an EIR requires notice pursuant to Section 15087, and consultation pursuant to Section 15086.

(e) A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.

(f) The lead agency shall evaluate and respond to comments as provided in Section 15088. Recirculating an EIR can result in the lead agency receiving more than one set of comments from reviewers. The following are two ways in which the lead agency may identify the set of comments to which it will respond. This dual approach avoids confusion over whether the lead agency must respond to comments which are duplicates or which are no longer pertinent due to revisions to the EIR. In no case shall the lead agency fail to respond to pertinent comments on significant environmental issues.

(1) When an EIR is substantially revised and the entire document is recirculated, the lead agency may require reviewers to submit new comments and, in such cases, need not respond to those comments received during the earlier circulation period. The lead agency shall advise reviewers, either in the text of the revised EIR or by an attachment to the revised EIR, that although part of the administrative record, the previous comments do not require a written response in the final EIR, and that new comments must be submitted for the revised EIR. The lead agency need only respond to those comments submitted in response to the recirculated revised EIR.

(2) When the EIR is revised only in part and the lead agency is recirculating only the revised chapters or portions of the EIR, the lead agency may request that reviewers limit their comments to the revised chapters or portions of the recirculated EIR. The lead agency need only respond to (i) comments received

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during the initial circulation period that relate to chapters or portions of the document that were not revised and recirculated, and (ii) comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated. The lead agency's request that reviewers limit the scope of their comments shall be included either within the text of the revised EIR or by an attachment to the revised EIR.

(3) As part of providing notice of recirculation as required by Public Resources Code Section 21092.1, the lead agency shall send a notice of recirculation to every agency, person, or organization that commented on the prior EIR. The notice shall indicate, at a minimum, whether new comments may be submitted only on the recirculated portions of the EIR or on the entire EIR in order to be considered by the agency.

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(g) When recirculating a revised EIR, either in whole or in part, the lead agency shall, in the revised EIR or by an attachment to the revised EIR, summarize the revisions made to the previously circulated draft EIR.”

The Draft EIR defines the environmental document as a “project EIR”. Section 151.61 of the CEQA Guidelines describes a Project EIR as follows:

“The most common type of EIR examines the environmental impacts of a specific development project. This type of EIR should focus primarily on the changes in the environment that would result from the development project. The EIR shall examine all phases of the project including planning, construction, and operation.”

The Draft EIR further states the purpose of the Draft EIR as follows:

“This Draft Environmental Impact Report (EIR) has been prepared in accordance with the California Environmental Quality Act (CEQA) to evaluate the potential environmental impacts associated with the development of the Miller Burson project. The City of El Centro (City) is the lead agency for the preparation of the EIR. This document is a project-level EIR and has been prepared in conformance with CEQA, California Public Resources Code Section 2100 et. seq.; the California CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.); and the rules, regulations, and procedures for implementing CEQA as adopted by the City of El Centro.

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This Draft EIR is intended to serve as an informational document for the public agency decision makers and the public regarding the objectives and components of the proposed project. This document will address the potentially significant adverse environmental impacts that may be associated with the planning, construction, or operation of the project, as well as identify appropriate feasible mitigation measures



and alternatives that may be adopted to reduce or eliminate these impacts. This EIR considers a series of actions that are needed to achieve development of the proposed project. The actions currently being requested include approval of project components, a zone change, an annexation, and a tentative tract map. Additional approvals (i.e., grading permits and building permits) may be needed. In addition to the City, other public agencies (i.e., responsible and trustee agencies) will also use the information in the EIR in their decision-making process as well as additional information that may be presented during the CEQA process. A more detailed discussion of the potential project approvals is located in EIR Section 3.4, Intended Use of this EIR, Responsible Agencies, and Approvals Needed.

This EIR is the primary reference document for the formulation and implementation of a mitigation monitoring program for the proposed project. It is not always possible to mitigate environmental impacts to a level that is considered less than significant. In accordance with Section 15093(b) of the CEQA Guidelines, if a lead agency approves a project that has significant impacts that are not substantially mitigated (i.e. significant unavoidable impacts), the agency shall state in writing the specific reasons for approving the project, based on the final CEQA documents and any other information in the public record for the project. This is termed, per Section 15093 of the CEQA Guidelines, "a statement of overriding considerations."

The intent of this project EIR is to provide a comprehensive single environmental document that will allow the City to carry out the proposed project. This EIR provides a reasonably anticipated scope of the project. This EIR will also be used to determine whether subsequent environmental documentation will be required. Subsequent actions on the project site may include, but is not limited to, the consideration of conditional use permits, grading permits, building permits, etc. The lead agency can approve subsequent actions without additional environmental documentation unless as otherwise required by Public Resources Code Section 21166, and the CEQA Guidelines Sections 15162 and 15163.1."

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The Draft EIR further states:

"2.6 - Summary of Significant Environmental Impacts and Mitigation Measures  
Table 2-1 summarizes the potential environmental effects of the proposed project, the recommended mitigation measures, and the level of significance after mitigation. Impacts that are noted in the summary as "significant" after mitigation will require the adoption of a statement of overriding considerations, if the project is approved as proposed (CEQA Section 15903).

Impacts of the project are classified as (1) Less than Significant, adverse effects that are not substantial according to CEQA or adverse effects that have been mitigated to levels that are considered less than significant or (2) Significant and Unavoidable,

substantial changes in the environment that cannot be avoided even with feasible mitigation. Mitigation measures are listed, when feasible for each impact. The EIR also identifies other effects, which are either not considered significant or are beneficial effects of the proposed project; such effects are not the focus of the following summary. The reader is referred to the full text of this EIR for a description of the environmental effects of the proposed project and feasible mitigation measures recommended to reduce these effects to a level considered less than significant.”

The District notes also that the Draft EIR identifies the areas of controversy and issues to be resolved as follows;

#### “2.2 - Areas of Controversy/Issues To Be Resolved

The potential areas of controversy and issues to be resolved through the EIR process are derived from the Initial Study/Notice of Preparation (NOP), dated August 14,2006; and the Revised NOP, dated September 22,2006, (Appendix A) and responses thereto. These areas are summarized as follows:

- The project site currently supports agricultural production and has supported agricultural production since at least 1949. Additionally, the project site is zoned for agricultural land uses. Project implementation will result in the conversion of the project site from agricultural land uses to urban uses (Section 5.1, Agricultural Resources).
- The proposed project will have air quality impacts in the short-term during the mass grading of the site, the construction of the residential units, and associated infrastructure and in the long term as vehicular traffic increases in the project area (Section 5.2, Air Quality).
- The project site is known to provide dispersing, foraging, and nesting habitat for the borrowing owl and there are four known burrowing owls (two pairs) that are located onsite. The project site also contains suitable habitat for nesting birds (Section 5.3, Biological Resources).
- Project implementation will result in directly impacting the adjacent drain and canal system, which is part of a greater system that is considered an historic district and in the event that there are unknown cultural resources below grade, these resources could be disturbed during trenching for utilities (Section 5.4, Cultural Resources).
- The project site is located in an area that is seismically active and may experience primary and secondary seismic activity. The site may be

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subject to geological constraints including but not limited to, ground shaking, liquefaction and expansive soils (Section 5.5, Geology and Soils).

- The project site historically supported agricultural land uses, which may have involved the application of pesticides or herbicides. There is the potential for pesticide residues in onsite soils. Project implementation will increase the use of what the US Environmental Protection Agency terms Household Hazardous Wastes in the project area (Section 5.6, Hazards and Hazardous Materials).
- The proposed project will result in the generation of noise in the short-term during construction and in the long term as vehicular traffic increases in the project area (Section 5.7, Noise).
- The proposed project will result in generating an increased demand for public services and require the extension of services to the project site. (Section 5.8, Public Services).
- The proposed project will introduce 5,868 daily vehicle trips to the project area circulation system, of which 732 trips will be during the AM peak hour and 573 will be during the PM peak hour. Additionally, the project will result in the addition and/or reconfiguration of roadways within the project area (Section 5.9, Transportation and Traffic)."
- The proposed project will result in generating demand for domestic water and require the extension and/or upgrades of water supply to the site (Section 5.10, Utility Service Systems)."

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The District fully agrees that the proposed Project will result in generating an increased demand for public services and require the extension of services to the Project site, particularly on the availability of school facilities and the District's ability to provide educational services and operations.

The Recirculated Draft EIR states:

"On November 28, 2006, the Draft Environmental Impact Report (Draft EIR) for the Change of Zone 05-02, Tentative Subdivision Map and Annexation EC-8-04 (Miller Burson) project (State Clearinghouse Number 2006081078) was circulated by the Lead Agency, the City of El Centro, for comments. The comment period ended on January 11, 2007. Substantive comments were received on several issues addressed in the Draft EIR. After review of the comments, the City of El Centro decided to recirculate portions of the EIR that resulted in new significant information in accordance with Section 15088.5 of the California Environmental Act Guidelines.

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Therefore, portions of the EIR are being distributed for public review. The recirculated document will provide the public and agencies the opportunity to review and comment on the significant new information. Specifically, the project site is located north of Interstate 8, south of Ross Road, east of Austin Road and the Evergreen and Central Main Canals, west of the Desert Estates Subdivision and Tract 62 (City of El Centro Annexation 04-86) (Exhibit 2).”

The Recirculated Draft EIR further states:

“After the close of the public review period for the Draft EIR for the Miller Burson project (January 11, 2007), it was determined that there were additional cumulative development projects that needed to be included in the traffic analysis to adequately analyze cumulative traffic impacts. Based on the revised traffic impact study (Appendix C), the traffic findings presented in the Draft EIR are substantially changed, and new mitigation measures are required to reduce traffic impacts to a level of less than significant.

As a result of this new information, both air quality and noise impacts required re-examining to determine the extent to which the cumulative air quality and noise environments would be altered, based upon the findings of the revised traffic study. It was determined that no other environmental issue areas would be affected by the new traffic information provided in the April 2007 Revised Traffic Study, provided in Appendix C.

In addition to new cumulative traffic, air quality, and noise information, the City of El Centro determined that an additional cumulative air quality mitigation measure would be feasible to implement to reduce a significant and unavoidable project level impact to less than significant (see Section 3, Project Impacts). Furthermore, the City of El Centro also revised project level burrowing owl mitigation measures; however, as with the Draft EIR (November 28, 2006), the impacts to burrowing owls remain less than significant.

Finally, due to a revision to the project and cumulative air quality findings, as discussed in Section 3.1, Project Air Quality and Section 4.3 (Cumulative Air Quality) in this Recirculated Draft EIR, Section 8.1, Significant Unavoidable Impacts, requires revision. The Draft EIR (November 28, 2006) included a significant unavoidable impact finding for air quality. In this Recirculated Draft EIR, a new air quality mitigation measure was added to reduce air quality impacts to less than significant.”

It is noted that the Recirculated Draft EIR does not address project-specific or cumulative impacts and mitigation measures which address the availability of school facilities and

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ability of the District to provide school educational and operations provided by the District to serve the Project.

Section 15370 of the CEQA Guidelines defined mitigation as follows:

“ ‘Mitigation’ includes:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.”

Section 15126.4 of the CEQA Guidelines states, in part:

“(a) Mitigation Measures in General.

(1) An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.

(A) The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures proposed by the lead, responsible or trustee agency or other persons which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

(B) Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.

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(C) Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix "F".

(D) If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed. (*Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986.)

(2) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.

(3) Mitigation measures are not required for effects which are not found to be significant.

(4) Mitigation measures must be consistent with all applicable constitutional requirements, including the following:

(A) There must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); and

(B) The mitigation measure must be "roughly proportional" to the impacts of the project. *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Where the mitigation measure is an *ad hoc* exaction, it must be "roughly proportional" to the impacts of the project. *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854.

(5) If the lead agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed. Instead, the EIR may simply reference that fact and briefly explain the reasons underlying the lead agency's determination...."

The District suggests that the Draft EIR is not in compliance with the CEQA Guidelines in that it is not a complete and accurate document addressing all of the impacts on the District and other environmental areas of concern, and does not provide the qualitative and quantitative analysis substantiated by data to support the conclusions set forth in the Draft EIR. It further does not comply with the applicable provisions of the CEQA Guidelines in terms of the content that is required by State law. The District suggests that

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the Draft EIR be revised to address the comments contained herein and recirculated for further review and comment.

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**Description of Proposal**

Section 15124 of the CEQA Guidelines sets forth the following items that need to be included in the description of the Project in the Draft EIR:

“The description of the project shall contain the following information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.

(a) The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map.

(b) A statement of objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project.

(c) A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.

(d) A statement briefly describing the intended uses of the EIR.

(1) This statement shall include, to the extent that the information is known to the Lead Agency,

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(A) A list of the agencies that are expected to use the EIR in their decision-making, and

(B) A list of permits and other approvals required to implement the project.

(C) A list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements.

(2) If a public agency must make more than one decision on a project, all its decisions subject to CEQA should be listed, preferably in the order in which they will occur. On request, the Office of Planning and Research will provide assistance in identifying state permits for a project.”

The Draft EIR is required to provide a statement of objectives sought by the proposed Project. The statement of objectives is required to include the underlying purpose of the Project. Section 3.3 of the Draft EIR provides the Project Objectives as follows:

“3.3 - Project Objectives

- Supply single-family housing that is contiguous with the similar development and within the City's Sphere-of-Influence;
- Supply single-family housing to meet the growth projections of the City of El Centro;
- Locating development to meet anticipated growth in areas of relatively lesser environmental sensitivity;
- Provide public infrastructure improvements for the orderly expansion of urban development; and
- Locate housing adjacent to a major highway arterial (Interstate-8) to better promote efficient traffic flows and minimize traffic demands on local and collective streets.”

The Draft EIR does not provide quantitative or qualitative analysis that supports the conclusion that the Project can meet these objectives, or that when developed the Project a) will provide a supply single-family housing that is contiguous with the similar development and within the City's Sphere-of-Influence; 2) will provide a supply single-family housing to meet the growth projections of the City of El Centro; 3) is locating development to meet anticipated growth in areas of relatively lesser environmental sensitivity; 4) provides public infrastructure improvements for the orderly expansion of urban development (specific including schools and school facilities; and 5) is locating housing adjacent to a major highway arterial to better promote efficient traffic flows and minimize traffic demands on local and collective streets. There is no data in the Draft EIR that supports these conclusions.

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Section 3.2 of the Draft EIR provides the Project Description as follows:

**“3.2 - Project Characteristics**

Project implementation includes annexation, a zone change from County zoning, General Agriculture/Urban Overlay (A2U) to City zoning Single Family Residential (R-1). Project implementation will result in the subdivision of approximately 160 acres of farmland into 496 lots, which will allow for the development of 494 single-family residences on an average lot size of 7,200 square foot lots, an 8.78-acre detention basin, and dedication of approximately 11.77 acres for a future elementary school with a proposed joint use school-park (Exhibit 3-3). Project implementation will also require the extension and/or upgrade of public services and utilities and the internal circulation system. Access to the project is proposed via the extension of Ocotillo Drive, east of the project site and from Ross Avenue along the north. It is the intent of the City of El Centro to annex the project site into the City's incorporated boundaries.

In addition, the proposed project includes the annexation of an additional 42 acres that supports 30 residential units along Lotus Avenue adjacent to the 160 acres to be subdivided. Exhibit 3-4 identifies the entire annexation area, collectively referred to as Tract 74. Project implementation will not include the subdivision of this 42-acre portion of the project site; however, it does include the extension and/or upgrade of public services and/or utilities. Once annexed into the City of El Centro, this portion of the project site will be zoned as Rural-Residential (R-R). However, for purposes of discussing project-related and cumulative impacts, the impact analysis is solely in relation to the 160 acre of the project site, the only portion of the project site that will be physically developed.

The proposed project will require the following City approvals: zone change, annexation, tentative subdivision maps, grading permits, and building permits. The project will also require approvals from the Local Formation Commission (LAFCO) (annexation) and the Imperial Irrigation District (IID) (retention basin, flood control, and storm water measures).”

The Project Description as set forth in Section 3.2 of the Draft EIR does not provide a general description of the Project's “economic characteristics” considering the principal engineering proposals and the required supporting public service facilities.

Section 3.4 describes the Project's intended use of the EIR, responsible agencies, and approvals needed, as follows:

“3.4 - Intended Use of this EIR, Responsible Agencies, and Approvals Needed This EIR is being used by the City of El Centro to assess the potential environmental

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impacts that may arise in connection with the actions related to the implementation of the proposed project. The City of El Centro is the lead agency for the proposed project and the project approvals. Discretionary approvals include the following:

- Zone Change - The project applicant is required to obtain approval for a zone change on 160 acres from County zoning General Agricultural Urban Overlay (A2U) to City zoning Single-Family Residential (R-1) and a change of zone on the adjacent 42 acres to Rural Residential (RR) prior to subsequent approvals.
- Annexation - The project applicant is requesting that the 182-acre project site (160-acre development site plus the adjacent 42-acre site in Tract 74 that is to remain in its current state) within the City of El Centro's Sphere-of-Influence be annexed into the City's jurisdictional boundaries.
- Preliminary Project Review Map and Vesting Tentative Map - The project applicant is requesting to subdivide the 160 acre project site into 496.”

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These provisions are intended to comply with Section 15124 (d) (1) (A) (B) and (C) of the CEQA Guidelines.

The Draft EIR does not identify the District as an agency that is expected to use the Draft EIR in their decision-making with regards to the mitigation of impacts on the school facilities; the planning, design and development of schools; and the acquisition of school sites within the Project. There are other examples which would support that the Draft EIR has not complied with the provisions of Section 15124 of the CEQA Guidelines. This needs to be corrected and addressed in the Draft EIR.

#### **District Analysis and Review of Project Impacts**

The District responded to the Notice of Preparation (“NOP”) on September 12, 2006 and October 9, 2006.

The Draft EIR states the following Existing Conditions in Section 4.5.1 with regards to schools:

##### “5.8.3 - Public Education

##### Existing Conditions

##### *Regulatory Conditions*

Assembly Bill 2926, signed into law in September 1986, gave school district governing boards the authority to impose fees, charges, dedications or other form of

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requirement against any development project for the construction or reconstruction of school facilities. The State Allocation Board (SAB) adjusts the statutory fees that can be levied every two years.

In August 1998, Senate Bill 50 (SB 50) was signed into law, which includes, in part, the Leroy F. Greene School Facilities Act of 1998 (SFP). This bill made significant changes in the state school building program as well as addressing the level of permissible school fees assessed on construction.

#### Physical Conditions

Public education in the project area is provided by the McCabe Union Elementary School District and the Central Union High School District. A description of each district is provided below.

#### *McCabe Union Elementary School District*

The McCabe Union Elementary School District provides kindergarten through 8th grade education to the students that reside in the unincorporated areas surrounding El Centro and areas that have recently annexed into the City of El Centro. The Elementary School District operates one school: McCabe Elementary School. Table 5.8-7 provides a summary of McCabe Elementary School.

**Table 5.8-7: McCabe Elementary School Summary**

School	Location	Distance from Project Site	Enrollment	Capacity	% of Capacity
McCabe Elementary School	701 W. McCabe Road	3.6 miles	824	455	181%

Source: McCabe Union Elementary School District, 2005.

#### *Future School Facilities*

The Elementary School District has plans to build new and expand existing school facilities. A 900 student school adjacent to the existing school at 701 W. McCabe Road is under construction and scheduled to open in August 2007. Plans indicate that this school would ultimately become a middle school. In addition, a new 600-student school site is planned within the project site.

#### *Central Union High School District*

The Central Union High School District provides 9th through 12th grade education to the students that reside in the City of El Centro and the surrounding areas. Students

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from the El Centro Elementary School District, the Heber Elementary School District, the McCabe Union Elementary School District, the Meadows Elementary School District, and the Seeley Elementary School District attend the Central Union High School District for secondary education. The High School District operates two high schools and a continuation school. A summary of each school is provided in Table 5.8-8.

**Table 5.8-8: High School Summary**

School	Location	Distance from Project Site	Enrollment	Capacity	% of Capacity
Central Union High School	1001 Brighton Avenue	2.1 miles	1,740	1,440	121%
Southwest High School	2001 Ocotillo Drive	0.4 miles	2,147	2,200	98%
Desert Oasis High School (Continuation School)	1302 S. 3 <sup>rd</sup> Street	2.8 miles	N/A	N/A	N/A

N/A = Not Available  
 Source: Central Union High School District, November 17, 2005.

*Future School Facilities*

The High School District has plans to build new and expand existing school facilities. A School Facilities Needs Analysis, dated November 11, 2004, analyzed planned development projects with the district boundaries and detailed the High School District's anticipated facilities needs through 2010. Table 5.8-9 summarizes future enrollment growth and the facilities needed to accommodate these students.

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**Table 5.8-9: Anticipated Enrollment Growth and Facilities Needs**

Planned Dwelling Units	Student Generation Factor	Calculation	Total Student Generation	Site Factor	Calculation	New School Sites Needed
8,587 dwelling units	0.38 student / dwelling unit	(8,587 dwelling units) x (0.38 student / dwelling unit)	3,264 students	2,000 students / 1-school site	(3,264 students) / (2,000 students / 1 school site)	1.63 sites

Planned Dwellings Units are for years 2005-2010.  
 Source: Central Union High School District, School Facilities Needs Analysis, November 11, 2004.

As shown above, the High School District would need to acquire 1.63 new school sites to meet anticipated enrollment growth through 2010. The School Facilities Needs Analysis estimates that acquiring these sites and building school facilities will cost the High School District more than \$32 million.

## Project Impacts

### *Thresholds of Significance*

Appendix G of the CEQA Guidelines indicates that a project would result in a significant public education services impact if it would:

- Result in a substantial adverse physical impact associated with the provision of new or physically altered public education facilities; or
- Result in the need for new or physically altered public education facilities in order to maintain acceptable service ratios, response times, or other performance objectives, the construction of which could cause significant environmental impacts.

### *Impacts*

#### *McCabe Union Elementary School District*

The estimated student generation for the Elementary School District is summarized in Table 5.8-10.

**Table 5.8-10: McCabe Elementary School District Student Generation Estimate**

Student Generation Factor	Calculation	Estimated Student Generation
0.83 student per dwelling unit	(494 dwelling units) x (0.83 student per dwelling unit)	411 students

Source: McCabe Union Elementary School District, December 8, 2005.

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The proposed project is expected to add 411 students to the Elementary School District. The Elementary School District's existing school is already beyond capacity and new school facilities would be needed to serve the proposed project. This is a potentially significant impact.

The proposed project would dedicate 11.77 acres on the project site to the Elementary School District for a 600-student school. The 411 elementary school students from the proposed project would attend this school. (Note that this school site is not analyzed in this EIR and will be analyzed in a separate environmental document). In addition, the proposed project would be required to pay development fees to the Elementary School District to fund capital improvements at the time building permits are sought. In 2005, the Elementary School District prepared a School Facility Needs Analysis indicating that development fees are warranted.

The dedication of the school site and the payment of development fees are considered self-mitigating features of the project and would reduce potentially significant impacts to a level of less than significant.

*Central Union High School District*

The estimated student generation for the Central Union High School District is summarized in Table 5.8-11.

**Table 5.8-11: Central Union High School Student Generation Estimate**

Student Generation Factor	Calculation	Estimated Student Generation
0.358 student per single-family dwelling unit	(494 dwelling units) x (0.358 student per dwelling unit)	177 students
Source: Central Union High School District, November 17, 2005.		

The Central Union High School District's two existing mainstream high schools are at or above capacity and the addition of the proposed project's 177 students would require the construction or expansion of existing facilities. This is a potentially significant impact.

In accordance with SB 50, the project proponent will be required to pay a school impact fee to each affected school district, to help fund new and expanded classroom and support facilities. Currently the McCabe Union Elementary School District and Central Union High School District impose fees of \$2.57 and \$2.01 per square foot of residential development respectively; however impact fees are determined by the findings of the annual School Facilities Needs Analyses prepared by each school district throughout the State. Therefore, homebuilders will be required to pay the school impact fee as published at the time of issuance of building permits. As cited in the Government Code Section 65995, the payment of this statutory fee, "is deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization. Therefore, potential impacts on schools would be less than significant.

Mitigation Measures

No mitigation measures are required.

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**Level of Significance After Mitigation**

No mitigation is required for public education services; impacts are considered less than significant.”

There is considerable additional discussion that should be added to the Draft EIR which would provide an accurate accounting of the current conditions of the District. This is discussed herein.

This is an inadequate, incomplete, and factually inaccurate explanation of the existing conditions of the District.

It should be noted that McCabe Elementary School and Corfman Elementary School are located 2.0 miles south of the Project. McCabe Elementary School is the current primary school of the District with grades K-8. Corfman Elementary School is a grade 5-8 school

The District’s enrollment as of October 1, 2006 was 995 students housed in one (1) elementary school. This is an increase in enrollment over 2005 of 178 students or an increase of 21.79% over the 2005 enrollment. These enrollments are shown in the following tables.

School Name	K	1	2	3	4	5	6	7	8	9	10	11	12	Ungraded	Total	%
McCabe Elementary	91	103	112	104	119	126	122	108	113						995	100.00%
Corfman Elementary (New)															-	0.00%
<b>Total</b>	<b>91</b>	<b>103</b>	<b>112</b>	<b>104</b>	<b>119</b>	<b>126</b>	<b>122</b>	<b>108</b>	<b>113</b>						<b>995</b>	<b>100.00%</b>
%	9.15%	10.35%	11.26%	10.45%	11.96%	12.66%	12.28%	10.55%	11.36%						0.00%	100.00%

The District anticipates that the October 2007/2008 final enrollment calculations will show an additional increase in students over the 2006 enrollments.

The historical enrollments of the District from 2000-2006 is show in the following table:

School Name	Actual CBEDS						
	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007
McCabe Elementary	502	494	530	531	595	817	995
Corfman Elementary (New)	-	-	-	-	-	-	-
<b>Total</b>	<b>502</b>	<b>494</b>	<b>530</b>	<b>531</b>	<b>595</b>	<b>817</b>	<b>995</b>
% Annual Increase		-1.59%	7.29%	0.19%	12.05%	37.31%	21.79%

The District has a capacity that can house a total of 1,858 students with the addition of Corfman Elementary School. This will made up of permanent facilities of 1,026 (55.22%) seats and portable facilities of 832 (44.78%) seats, for a total current capacity of 1,026 seats. The capacity by schools is shown in the following table.

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McCabe Union Elementary School District																
District-wide Capacity																
October 1, 2006																
School Name	K-3			4-6			7-8			9-12			Total			%
	Perm.	Port.	Total	Perm.	Port.	Total	Perm.	Port.	Total	Perm.	Port.	Total	Perm.	Port.	Total	
McCabe Elementary	260.0	200.0	460.0	125.0	225.0	350.0	27.0	189.0	216.0				412.0	614.0	1,026.0	55.22%
Corfman Elementray (New)	-	-	-	400.0	-	400.0	432.0	-	432.0				832.0	-	832.0	44.78%
<b>Total</b>	<b>260.0</b>	<b>200.0</b>	<b>460.0</b>	<b>525.0</b>	<b>225.0</b>	<b>750.0</b>	<b>459.0</b>	<b>189.0</b>	<b>648.0</b>				<b>1,244.0</b>	<b>614.0</b>	<b>1,858.0</b>	<b>100.00%</b>
%	13.99%	10.76%	24.76%	28.26%	12.11%	40.37%	24.70%	10.17%	34.88%				66.95%	33.05%	100.00%	

McCabe Union Elementary School District				
Current District-wide Permanent and Portable Classrooms				
October 1, 2006				
	Classrooms			
	Permanent	Portable	Total	%
McCabe Elementary	19.00	26.00	<b>45.00</b>	58.44%
Corfman Elementray (New)	32.00	-	<b>32.00</b>	41.56%
<b>Total</b>	<b>51.00</b>	<b>26.00</b>	<b>77.00</b>	<b>100.00%</b>
%	66.23%	33.77%	100.00%	

McCabe Union Elementary School District				
Current District-wide Capacity				
October 1, 2006				
	Capacity			
	Permanent	Portable	Total	%
McCabe Elementary	412	614	<b>1,026</b>	55.22%
Corfman Elementray (New)	832	-	<b>832</b>	44.78%
<b>Total</b>	<b>1,244</b>	<b>614</b>	<b>1,858</b>	<b>100.00%</b>
%	66.95%	33.05%	100.00%	

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In order to accommodate the increasing enrollments the District will be completing the construction of the Corfman Elementary School which will add 832 additional seats to the District's capacity. This school will accommodate grades 5-8. McCabe Elementary School will be converted to grades K-4. This reconfiguration of the McCabe Elementary School in conjunction with the new classrooms at Corfman Elementary School will enable the District to replace aging portable classrooms seats with permanent seats, and to accommodate the immediate future growth of the District. However, it is noted that the projects which are in planning, together with currently approved projects which have not begun construction, will generate students that will absorb the projected capacity of these schools and will require additional school to accommodate the entire growth in enrollment. Additional elementary and middle schools will be required in the future. Based on the October 2006 CBED's enrollment and the current capacity, the District is at 96.98% capacity utilization District-wide (excluding the capacity of Corfman Elementary School). The percent capacity of each of the school facilities is set forth in the following table.



<b>McCabe Union Elementary School District</b>				
Capacity Utilization 2006/2007				
School Name	Enrollment	Capacity	Capacity Surplus/(Deficit)	% Capacity Surplus/(Deficit)
McCabe Elementary	995	1,026	31	96.98%
Corfman Elementray (New)	-	832	832	0.00%
<b>Total</b>	<b>995</b>	<b>1,858</b>	<b>863</b>	<b>53.55%</b>

The District is currently considered overcrowded. Based on the proposed planning of new residential development projects within the District and without substantial expansion of the District's schools and District-wide support facilities, the District will find itself in a condition of further overcrowding without the provisions of adequate facilities. Overcrowded schools have a variety of the consequences, which include, but are not limited to:

- 1) Deteriorated educational relationships between students and teachers resulting in reduced test scores;
- 2) Student emotional, social and psychological problems in the classroom, in the yards, and in the community;
- 3) Lower moral on the part of the teachers and employees and a lack of trust and confidence by the parents;
- 4) Inability to conduct some activities due to physical limitations or results in having to change normal operations of the school to abnormal operations;
- 5) Increased traffic and circulation problems around schools and increased bussing throughout the community;
- 6) Bussing results in the need for the District to spend educational funds on busses, bus operations, and bus drivers; and
- 7) The need to re-direct general funds revenues needed for salaries and employee benefits, and operational and administrative changes that are inefficient.

All of these are considered environmental impacts under CEQA and the CEQA Guidelines. Therefore, the Draft EIR should have reviewed the project-specific and cumulative impacts of the Project in conjunction with all formal and informal planning processes that are known by the County.

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Based on the Project description, the District has determined the student generation impacts on the District. These impacts should be evaluated in detail and with accuracy in the Draft EIR in order to offer a full and complete disclosure of the impacts of the Project and to enable the City to make a full and informed decision on the Project and the entitlement applications.

The District notes that the costs of facilities are increasing, land acquisition costs are increasing, and District-wide support facilities to accommodate existing students is inadequate and needs to be funded if the District is to continue to provide the quality of education, services and facilities that is desired by the constituents of the District. In addition, development fees funds and State School Facility Program financing is inadequate to fund the facilities review by the District. Therefore, Additional mitigation will be required in order to accommodate the students generated by the Project.

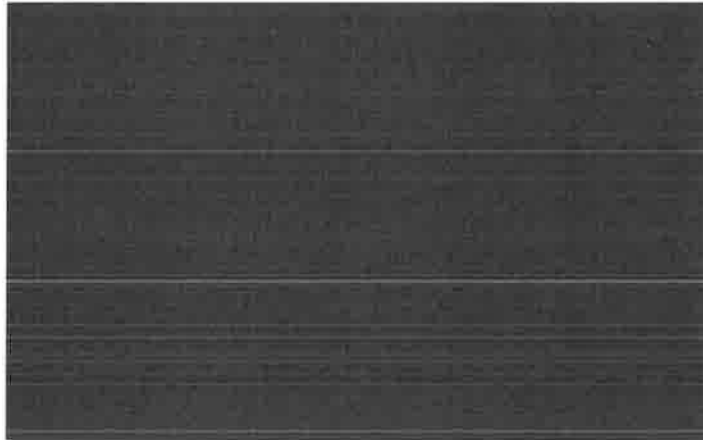
The following table indicates that the 494 units will generate 311.22 grade K-8 students consisting of 256.88 K-6 grade students and 54.34 7-8 grade students. These students are beyond the available seats at McCabe Elementary School and Corfman Elementary School. This does not take into account the cumulative impacts on these schools as a result of other projects which are currently being processed for entitlements and that would be served by that school. Currently there are over 12,400 single-family and multi-family residential units that are current being processed within the City of El Centro and the County of Imperial, and within the District.

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Miller Burson Projected Students							
Student Generation Rates	SFNA SGR's			Calculated SGR's Average			Central 9-12
	McCabe			Total K-8			
	K-6	7-8	Total	K-6	7-8	Total	
Single Family	0.520	0.110	0.630	0.567	0.100	0.667	0.354
Cluster	0.520	0.110	0.630	0.567	0.100	0.667	0.354
Townhomes	0.520	0.110	0.630	0.567	0.100	0.667	0.354
Multi-Family	0.400	0.100	0.500	0.460	0.147	0.607	0.190
<b>Units</b>							
	McCabe			Total K-8			Central 9-12
	K-6	7-8	Total	K-6	7-8	Total	
Single Family	494	494	494	494	494	494	494
Cluster	-	-	-	-	-	-	-
Townhomes	-	-	-	-	-	-	-
Multi-Family	-	-	-	-	-	-	-
Total	494	494	494	494	494	494	494
<b>Projected Students</b>							
	McCabe			Total K-8			Central 9-12
	K-6	7-8	Total	K-6	7-8	Total	
Single Family	256.88	54.34	311.22	256.88	54.34	311.22	174.88
Cluster	-	-	-	-	-	-	-
Townhomes	-	-	-	-	-	-	-
Multi-Family	-	-	-	-	-	-	-
Total	256.88	54.34	311.22	256.88	54.34	311.22	174.88

Source: Community Systems Associates, Inc.

The District current received development fees at \$2.73 per square foot of building area. Assuming that the units will have an average size of 2,000 square feet each, development fees per unit paid to eh District would equate to \$5,460.00.



The following table presents the calculated financial impact to the District for school facilities, interim facilities, and District-wide support facilities based on a cost per unit.

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Development Impact Mitigation Model								
Calculation of District Local Portion								
McCabe Union School District								
Central Union High School								
Cost per Elementary Student								\$36,892.26
Cost per Middle School Student								\$50,089.80
Cost per High School Student								\$82,541.89
Cost of Elementary School								\$22,135,356
Cost of Middle School								\$45,080,549
Cost per High School								\$125,081,784
Percent Local Share Elementary School								60.31%
Percent Local Share Middle School								65.93%
Percent Local Share High School								67.72%
Number of Elementary Students (Max.)								600
Number of Middle Students								900
Number of High Students								2,000
Elementary Student Gen. Rate								0.620
Middle Student Gen. Rate								0.110
High Student Gen. Rate								0.154
Elementary Students per Classroom								24
Middle Students per Classroom								27
High Students per Classroom								27
Average House Size (s.f.)								2,000

School Construction Component - Local Portion								
	Cost of School	Percent Local Share	Number of Students	Cost per Student	Student Generation Rate	Average House Size (s.f.)	Cost per House	Cost per Square Foot
Elementary	\$ 22,135,356	60.31%	600	\$ 22,250.69	0.620	2,000	\$ 11,570.36	\$ 5.79
Middle	\$ 45,080,549	65.93%	900	\$ 33,024.25	0.110	2,000	\$ 3,632.67	\$ 1.82
High	\$ 125,081,784	67.72%	2,000	\$ 42,354.00	0.354	2,000	\$ 14,691.31	\$ 7.33
<b>Total</b>							<b>\$ 30,196.34</b>	<b>\$ 15.10</b>

Interim Housing Component - 100% Local Portion								
	Students	Classrooms	Restrooms	Offices	Cost per Bldg	Cost per Student	Cost per House	Cost per Square Foot
	50%		0.10	0.05				
			per Classroom	per Classroom	\$ 150,000			
	Enrollment							
Elementary	300.00	12.50	1.25	0.63	\$ 7,156,250	\$ 7,187.50	\$ 3,737.50	\$ 1.87
Middle	450.00	16.67	1.67	0.83	\$ 2,875,000	\$ 6,388.89	\$ 702.78	\$ 0.35
High	1,000.00	37.04	3.70	1.85	\$ 6,388,889	\$ 6,388.89	\$ 2,261.67	\$ 1.13
<b>Total</b>							<b>\$ 8,701.94</b>	<b>\$ 3.35</b>

District Support Facilities Component - 100% Local Portion				
Sq. Ft. per House	2,000	Cost per School	Cost per Student	Cost per House
Elementary		\$ 1,050,000	\$ 1,750	\$ 910.00
Middle		\$ 1,350,000	\$ 1,500	\$ 165.00
High		\$ 4,000,000	\$ 2,000	\$ 700.00
<b>Total</b>				<b>\$ 1,783.00</b>

Total of All Components - Local Portion				
	Cost per House	Cost per Square Foot		
Elementary	\$ 18,217.86	\$ 8.11		
Middle	\$ 4,600.45	\$ 2.25		
High	\$ 17,892.98	\$ 8.89		
<b>Total</b>	<b>\$ 38,681.29</b>	<b>\$ 19.34</b>		

Level I and Level II Revenues							
Sq. Ft. per House	2,000	Level I		Level II		Total	
		Revenue Per House	Revenue per Square Foot	Revenue per House	Revenue per Square Foot	Revenue per House	Revenue per Square Foot
Elementary School District		\$ 3,640.00	\$ 1.82	\$ 1,820.00	\$ 0.91	\$ 5,460.00	\$ 2.73
High School District		\$ 1,620.00	\$ 0.81	\$ 3,800.00	\$ 1.90	\$ 5,420.00	\$ 2.71
<b>Total</b>		<b>\$ 5,260.00</b>	<b>\$ 2.63</b>	<b>\$ 5,620.00</b>	<b>\$ 2.81</b>	<b>\$ 10,880.00</b>	<b>\$ 5.44</b>

Revenue Surplus/(Deficit)			
Sq. Ft. per House	2,000	Per House	Per Square Foot
Elementary School District		\$ (15,258.30)	\$ (7.63)
High School District		\$ (12,542.98)	\$ (6.27)
<b>Total</b>		<b>\$ (27,801.29)</b>	<b>\$ (13.90)</b>

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Based on the current development fee structure of the District, the Project would generate \$2,697,240.00 (current 2007 dollars) assuming an average units size of 2,000 square feet. Based on the calculated financial impact on the District, the Project would have a cost to the District for permanent school facilities, interim school facilities, and District-wide support facilities of \$10,234,842.52 (current 2007 dollars). This would result in a net financial impact to the District of \$7,537,602.52 (current 2007 dollars).

In the event that the District is unable to fund the local share of the cost of school facilities, then the District will have to modify attendance area boundaries, program double-session schedules, load classrooms with students in excess of District and State standards, and house students in inadequate and inappropriate school facilities, etc. throughout the District. This will affect the overall operation and administration of the District and the students, employees, and constituents affected by such actions and needs to be addressed in the Draft EIR. This will have physical, social, financial, and psychological effects on the students, employees, and constituents of the District. These potential impacts need to be addressed in the EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.

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In addition, in the event that the impacts of the Project are not mitigated, students and employees will experience overcrowding conditions in the schools that are impacted by the Project. This may result in operational and administrative modifications that would be necessary to accommodate the increased overcrowded enrollments. This may have physical, social, financial, and psychological effects on the students, employees, and constituents of the District. These potential impacts need to be addressed in the Draft EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.

Finally, in order to accommodate students at current District schools, permanent and interim classrooms and support facilities may need to be installed, constructed, and developed on the school sites. The Draft EIR needs to address the impacts of these additional facilities on school site utilization, wastewater treatment, water and utility service increases, parking demands, traffic and circulation in an around the schools, loss of parking due to the utilization of these areas for structures, loss of open space, and field areas, and State site and design compliance. Mitigation measures need to be offered to reduce the impacts to a level of less than significant.

None of these direct and indirect impacts and effects were discussed in the Draft EIR. The Draft EIR needs to be revised to include the discussion as set forth above.

The Draft EIR states:

“Assembly Bill 2926, signed into law in September 1986, gave school district governing boards the authority to impose fees, charges, dedications or other form of requirement against any development project for the construction or reconstruction of school facilities. The State Allocation Board (SAB) adjusts the statutory fees that can be levied every two years.”

This is an incomplete discussion of the provisions of AB 2926 and does not provide an accurate understanding of the provisions, limitations, and authorizations contained in the legislation and which apply to school districts. The lack of full disclosure prevents decision-makers from having a clear understanding of how AB 2926 applies to the Project. This needs to be more fully addressed in the Draft EIR.

The Draft EIR states:

“In August 1998, Senate Bill 50 (SB 50) was signed into law, which includes, in part, the Leroy F. Greene School Facilities Act of 1998 (SFP). This bill made significant changes in the state school building program as well as addressing the level of permissible school fees assessed on construction.”

This is an incomplete discussion of the provisions of SB 50 and does not provide an accurate understanding of the provisions, limitations, and authorizations contained in the legislation and which apply to school districts. The lack of full disclosure prevents decision-makers from having a clear understanding of how SB 50 applies to the Project. This needs to be addressed more fully in the Draft EIR

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The Draft EIR states:

“Public education in the project area is provided by the McCabe Union Elementary School District and the Central Union High School District. A description of each district is provided below.”

This is acknowledged by the District.

The Draft EIR states:

“The McCabe Union Elementary School District provides kindergarten through 8th grade education to the students that reside in the unincorporated areas surrounding El Centro and areas that have recently annexed into the City of El Centro. The Elementary School District operates one school: McCabe Elementary School. Table 5.8-7 provides a summary of McCabe Elementary School.”