

6 RESPONSES TO COMMENTS

6.1 LIST OF COMMENTS RECEIVED

The Draft EIR for the Mariposa County General Plan was circulated for review by the public and agencies from September 16, 2005, through January 11, 2006. Written comments were submitted to the County during this review period.

Portions of the comments received are directed to the General Plan (text, goals, policies, implementation, diagrams). These comments are not considered in the Environmental Impact Report and are appropriately considered during the discussions on the General Plan. When a comment is made on the General Plan that is not relevant to the Environmental Impact Report, the Response To Comment identifies that the comment is a General Plan comment and that the comment will be presented to the County Planning Commission and Board of Supervisors for their consideration.

Individual comments within the letters and minutes have been enumerated and numbered as presented in the following text. The comments received are as follows:

Letter No.	Date of Letter	Commenter
1	11/01/05	Comments received during Public Hearing at Board of Supervisors Meeting
2	10/26/05	California Regional Water Quality Control Board-Central Valley
3	10/31/05	California Department of Conservation
4	10/31/05	California Department of Transportation (D. Maddox/T. Dumas)
5	10/31/05	Stevens Planning Group/Fortner Trust
6	11/01/05	Mariposans for the Environment and Responsible Government (Betty Boykin)
7	11/03/05	Tolley Gorham
8	11/07/05	Tolley Gorham
9	11/08/05	Jim and J.J. Gillispie
10	11/08/05	Stan and Sue Rudd
11	11/11/05	Daniel and Janet Rogers
12	11/11/05	Steve and Gayle Saunders
13	11/12/05	Ralph and Leona Burnside
14	11/13/05	James T. and Rita C. Kidd
15	11/14/05	Richard L. Uebner
16	11/14/05	Starchman & Bryant (Anita Starchman Bryant)
17	11/14/05	Stevens Planning Group/Fortner Trust
18	11/14/05	Debra and Paul Salonen
19	11/14/05	Yosemite Area Audubon
20	11/14/05	Mariposa Public Utility District
21	11/15/05	Mariposans for the Environment and Responsible Government (B.A. Brown)
22	11/15/05	Mariposans for the Environment and Responsible Government

Letter No.	Date of Letter	Commenter
		(Thomas Infusino and Laura Oberholtzer)
23	11/15/05	Ron and Linda Dinnel
24	12/01/05	Stanislaus County
25	12/02/05	Central Sierra Environmental Resource Center
26	12/13/05	Tuolumne County
27	12/21/05	Yosemite Area Audubon
28	12/22/05	Mariposa Public Utility District
29	12/27/05	Morrison Foerster/Reddington Ranch LLC
30	12/27/05	Southern Sierra Miwuk Nation
31	01/11/06	Jim and J.J. Gillispie
32	No date	Upper Merced River Watershed Council
33	10/14/05	Planning Commission Public Hearing

6.2 COMMENTS AND RESPONSES

This section includes a summary of the comments on the Environmental Impact Report followed by a response to the comment. Responses to Comments are individually numbered in sequence corresponding to the number assigned to each Comment Letter or Public Hearing Comment. A copy of the comment letters and public hearing notes are provided in Chapter 7.

COMMENT LETTER 1 - BOARD OF SUPERVISORS PUBLIC HEARING, NOVEMBER 1, 2005

Comment 1-1

Tolley Gorham is interested in the possibility of Catheys Valley not being changed, and the environmental impacts of this. Gorham reviewed the alternatives of the Draft EIR, but found little to help him understand the impacts of the “no change” alternative. If this is not in the Draft EIR and the Board wants to modify the General Plan document itself, so as to not change Catheys Valley, then this might be a stumbling block to this alternative.

Response

The No Project Alternative (Alternative 1) analyzes Catheys Valley with no change to the existing General Plan Land Use Designations. Since the meeting of November 1, 2005, the Board of Supervisors directed that the designation of “Planning Study Area” be used on the Land Use Diagram to designate areas that do not have an adopted Area Plan and that are to be considered during the development of an Area Plan. Section 5.4.01 of the Draft General Plan was modified to include Planning Study Areas.

Until an Area Plan is adopted, interim regulations in Planning Study Areas, which are based on the existing 1981 General Plan land use designations, will be adopted with the General Plan. This is discussed in section 5.4.01 I(2) of the draft General Plan. The land use diagrams for each planning area are included in Volume II of the General Plan.

There is no change from the existing General Plan for Catheys Valley. Environmental documentation will be required for the adoption of the Catheys Valley Area Plan to evaluate the environmental impacts of the Plan.

Comment 1-2

Kris Casto noted that on page 2-26, the bottom paragraph, under plans and policies that serve as mitigation, there is a sentence that refers to “all road improvements”. Road improvements should be defined, and not included under work defined as “road maintenance”. This should also include reference to preserving scenic vistas and rural character. Road improvement work and road maintenance work can significantly affect scenic values along roads.

Response

The statement in the EIR on page 2-26 discusses Policy 9-1e(1): Adopt comprehensive standards for all County roadways. The policy directs that the County develop standards that will define what the road improvement standards will be. The implementation measure provides the County guidance for drafting the standards which include requiring fire safe standards, all-weather surfaces, and other requirements. The road improvement standards will be developed after the General Plan is adopted in compliance with this implementation measure. By law, standards adopted by the County are required to comply with all the goals, policies and implementation measures of the adopted General Plan. For example, Draft General Plan Policy 11-1a requires the conservation of natural and scenic resources through programs and development standards, and includes implementation measures to protect scenic routes, vistas and viewsheds. The goals, policies and implementation measures of this General Plan place guidance for implementation of projects that are additional to the current 1981 General Plan.

Comment 1-3

Kris Casto referred to page 4-17, where there is a bullet about preparing a program to implement development impact fees. Hopefully, there will be public input and discussion on the importance of impact fees.

Response

This is not an environmental issue evaluated in an EIR. Development impact fees are established by the County Board of Supervisors who are required to obtain public input prior to establishing fees.

Comment 1-4

General comment on handicapped access – there is no reference about Mariposa County’s recognition of the importance of handicapped access issues with new construction. This could apply to new construction, remodeling, and even such activities as restriping downtown parking lots.

Response

This is not an environmental issue that is evaluated in an Environmental Impact Report; it is a policy issue that may be addressed in the General Plan.

Safe access is addressed in Chapter 9 of the General Plan; Circulation, Infrastructure and Services. Goal 9-1 states: All development shall have safe and adequate access. The County is required to comply with the Americans with Disabilities Act that requires public projects to provide access to all persons.

Comment 1-5

Dick Kunstman, noted there is talk about environmental protection being too aggressive; however he couldn’t find anything in the Draft EIR or the General Plan about these protections being too aggressive.

Response

The observation regarding the extent of environmental protection in the General Plan is acknowledged.

Comments1-6

Dick Kunstman found it difficult to separate comments on the Draft EIR and the General Plan, as the two documents are connected. He further stated that the Plan is a sprawl-master’s “wish list”.

Response

It is difficult to separate comments on the Draft General Plan and Draft EIR as they are interrelated. The General Plan Goals, Policies and implementation measures are the mitigation measures for environmental impacts created from the development of the County. A simple approach is to identify environmental impacts that may occur after the adoption of the Plan and provide specific recommendations for goals, policies and implementation measures that mitigate the identified impact (environmental mitigation).

Evidence, facts, or suggestions were not presented to demonstrate the Draft General Plan is a sprawl-master’s wish list.

Comment 1-7

Steve Fortner stated the Draft EIR includes alternatives that are unacceptable. The “no project” alternative says the County could go to 80,000 population. Where did all of these people go in the proposed project? The commenter believes they are on their properties. Instead of urban sprawl – with 5-acre parcels and barbed wire – one could have concentrated development in communities.

Response

The calculations of the project build-out population projections are provided in Section 1.9.02 of the General Plan and Section 2.2 of the Draft EIR. The build-out population for the County was established by calculating the total population that could be accommodated in Mariposa County if all the land was built upon, at the full densities allowed by the current 1981 General Plan (i.e., “built out”).

The build-out population does not forecast the time frame when build-out will occur. Based on the May 2004 and May 2006 California Department of Finance population projections build-out will not occur until an undetermined time after 2050.

Mr. Fortner did not provide a recommended alternative at this meeting. The goals, policies and implementation measures of the General Plan implement the Board of Supervisors Guiding Policy 3.2.06, Development Focus is Area-Centered.

Comment 1-8

Steve Fortner stated the Draft EIR doesn’t address wetlands and jurisdictional waters of the United States. For example, on commenter’s property, a large percentage is wetlands and not even in the jurisdiction of the County.

Response

Chapter 4 of the Draft EIR addresses wetlands and jurisdictional waters of the United States. Impact BR-8, Section 4.5, Biological Resources, analyzes the impact of the project on net loss of wetlands, vernal pools or other waters of the U.S. The EIR finds that a net loss of greater than zero acres of wetlands or other waters of the U.S. would be a significant impact.

Federal law, State law and the implementation measures supporting Policy 11-4 require site-specific surveys to determine if a project will impact a jurisdictional wetland or other waters of the U.S. If impacts occur, the project is in the jurisdiction of the U.S. Army Corps of Engineers and would be subject to Section 401 Water Quality Certification by the California Regional Water Quality Control Board. See Implementation measures 11-4a(1) and 11-4a(11)

Comment 1-9

Ken Baker doesn’t believe the alternatives are addressed as well as they could be. The alternatives should be expanded, and should include the possibility to make changes to the General Plan. Baker is interested in whether or not there is any latitude to suggest changes to the General Plan with the way the alternatives are worded. It appears that all of the decisions have been made. For example, what if the Catheys Valley TPA was left alone, and then the community plan is designated around the current TPA? Could this even be considered? Baker is here to support the General Plan moving forward as quickly as possible; however, he hopes that there is the possibility to have a good discussion regarding the policies in the General Plan and the ability to suggest changes to the General Plan, and not have the content of the Draft EIR affect the ability to consider these changes.

Response

The Board of Supervisors will consider changes to the General Plan prior to its adoption and up to four times per year after its adoption. The Board encourages recommendations for modifications to the General Plan and appreciates evidence and factual information to support the recommendation.

Regarding Catheys Valley, please read Response to Comment 1-1.

If the Board of Supervisors makes a change that results in impacts that have not been evaluated in this EIR, additional environmental review may be required as discussed in Section 1.5 of this document.

**COMMENT LETTER 2 - CALIFORNIA REGIONAL WATER QUALITY
CONTROL BOARD-CENTRAL VALLEY, OCTOBER 26, 2005**

Comment 2-1

The RWQCB is providing confirmation of what is assumed for the proposed project.

Response

No response is required.

Comment 2-2

The RWQCB recommends the County add that proponents of future projects that result in a net loss of wetlands or other waters of the U.S. greater than zero acres would also be subject to Section 401 Water Quality Certification by the RWQCB.

Response

The County complies with Federal and State law, requiring projects to comply with Section 401 Water Quality Certification by the RWQCB. Please read Section 4.2.02A(3) and Implementation Measures that support Policy 11-4 of the General Plan.

Comment 2-3

The RWQCB recommends the County reference in Policy 11-5a and Mitigation Measure HW-2 the requirement for construction projects to also comply with federal requirements pertaining to storm water construction discharges with text provided by commenter.

Response

The County complies with Federal and State law pertaining to storm water construction discharges. Please read Section 4.2.02A(3) and Implementation Measures that support Policy 11-4 of the General Plan.

Comment 2-4

The commenter encourages the County to maintain sufficient professional staff to review proposals for engineered systems for parcels with site-constraints to ensure that the proposed systems are protective of groundwater quality and do not pose a threat to public health.

Response

The Mariposa County Public Works Department, Engineering Division, is responsible for the Design and Planning of the County's infrastructure. The County Environmental Health Department oversees issues such as septic systems on ground water quality in order to protect public health.

Comment 2-5

The commenter states that the Draft EIR does not appear to identify how the County intends to comply with pending new State regulations concerning on-site sewage disposal systems (AB 885). E.g., once the regulations are finalized, the County will apply for formal approval as the *Authorized Local Agency* pursuant to Title 27, California Code of Regulations, Sections 22900-22955.

Response

The County complies with State law. Please read Section 4.2.02A(3).

Comment 2-6

The Draft EIR should indicate that community on-site sewage systems that exceed 5,000 gallons per day, or community systems that rely on advanced sewage treatment (e.g., via wastewater package plant), are potentially subject to RWQCB regulations.

Response

The following will be added to Impact HW-4 of the EIR:

...New parcels must have approved areas for onsite sewage disposal if sewer connections are not available and would be required to obtain an approval from the County Health Department. In addition, community on-site sewage systems that exceed 5,000 gallons per day, or community systems that rely on advanced sewage treatment (e.g., via wastewater package plant), are potentially subject to RWQCB regulations.

Comment 2-7

The Draft EIR does not address discharges of waste from wineries, gravel or mining operations or other non-domestic sources.

Response

The General Plan Draft EIR is a program level document and does not include analysis of specific design features of a project. As specific projects are brought forward, design requirements will be analyzed based on the specific project needs. In light of this, the following has been added to Impact HW- 4 of the EIR:

For non-domestic sources of waste discharges (i.e., wineries, gravel or mining operations), the County may approve projects that discharge waste to land that may degrade waters of the state for, at a minimum, salt constituents and potentially with pathogens, oxygen-demanding substances, nutrient waste constituents, metals, and other waste constituents. Projects that propose to discharge waste, pursuant to Section 13260 of the California Water Code, will comply with adopted California regulations.

**COMMENT LETTER 3 - CALIFORNIA DEPARTMENT OF CONSERVATION,
OCTOBER 31, 2005**

Comment 3-1

The Draft EIR refers to prohibition of residential development on historic vs. non-historic Williamson Act parcels. Please provide clarification on the meaning of “historic” and its relationship to Williamson Act contractual requirements.

Response

In a memorandum from the Planning Staff to the Mariposa Planning Commission dated July 18, 2003, the following explanation was provided:

“...The State and County did not regulate “minor” subdivisions, or the creation of 4 or less lots, prior to March 4, 1972. Thus, any grant deed recorded prior to March 4, 1972 created a legal parcel for which a Certificate of Compliance may be issued.

...U.S. Patent parcels are considered a deed conveying property from the Federal Government to an individual. For patents conveyed prior to March 4, 1972, the property described in the patent constitutes a single legally created parcel. The majority of the Certificate of Compliance applications submitted for recognition of historic parcels on large agricultural parcels in the county request recognition of U.S. Patents, which were recorded in the mid-1800’s.

...the owner of a property in a Williamson Act Contract requests certificates of compliance for legally conveyed U.S. Patent parcels “underlying” the contracted parcel, the county MUST recognize the parcels through the recordation of the certificate of compliance. The deeds were legally conveyed decades before the execution of the contract, and predate the contract. Although the contract use provisions still are in effect for each certificate of compliance parcel, the underlying parcels are legal. The county must issue the certificates, even if the parcels do not meet the minimum parcel size to be put in a contract initially.”

Comment 3-2

According to CEQA, cancellation of Williamson Act contracts for a parcel of 100 acres or more would be a significant impact on a statewide, regional or area-wide level.

Response

The EIR Evaluation Criteria with Points of Significance are stronger than the suggested language; cancellation and the non-renewal of a Williamson Act contract (LU-4) are significant impacts. The LU-3 point of significance is any net loss of Prime, Unique or Farmland of Statewide Importance.

Comment 3-3

The Division recommends that the Williamson Act’s land use compatibility provisions be referenced when amending policies for local Williamson Act implementation.

Response

Please read General Plan Implementation Measures 10-6a(1) and 10-6a(2).

**COMMENT LETTER 4 - CALIFORNIA DEPARTMENT OF TRANSPORTATION,
OCTOBER 31, 2005**

Comment 4-1

The comment states that Caltrans will need to review future plans for any proposed projects which generate traffic that affect the State Highway System.

Response

More specific environmental analyses will be required on future individual projects that are submitted for proposed development, which will include a traffic impact analysis. As a Responsible Agency, Caltrans, as well as other responsible agencies and interested parties, will be given the opportunity to review and comment on these future projects.

Comment 4-2

Caltrans Traffic Operations Unit needs to review the technical analysis report for the LOS values stated in the Draft EIR.

Response

The LOS values for this Draft EIR were obtained from the 2001 Mariposa County Regional Transportation Plan adopted by the County.

Comment 4-3

An Encroachment Permit, which could include technical studies such as biological resources, cultural resources, and hazardous wastes, will be required if work is done within Caltrans right-of-ways.

Response

When individual future projects are submitted to the County, all required permits and studies will apply as part of the project application process.

Comment 4-4

Engineering drawings or plans used as part of the permit application should be prepared in standard units.

Response

When individual future projects are submitted to the County, plans and drawings will be required to show standard units of measurements.

Comment 4-5

Caltrans supports “Fair Share Contributions” for future highway projects.

Response

Caltrans support for Fair Share Contributions for future highway projects is acknowledged.

**COMMENT LETTER 5 - STEVENS PLANNING GROUP (ON BEHALF OF
EUGENE AND DOLORES FORTNER TRUST), OCTOBER 31, 2005**

Comment 5-1

The Stevens Planning Group requests that proposed versions of documents be labeled as draft or preliminary to avoid confusion with other versions. The comment further states that this is not explained until Section 5.6 of the EIR.

Response

The General Plan documents are titled, include the word draft, and are dated. The cover of the referenced document is titled Draft Environmental Impact Report and is dated September 2005. This document is titled Draft Final Environmental Impact Report November 2006.

The first reference to the draft documents is discussed in Subsection 1.1, Purpose (page 1-1): “The County Board of Supervisors proposes to adopt the Mariposa County General Plan update. This General Plan update will replace the County’s current General Plan, which was prepared in 1981...” The last paragraph of Subsection 1.1 (page 1-2), states that “Volume I is the **draft** General Plan...”

Comment 5-2

A discussion should be included somewhere explaining that certain measures were identified and recommended in a report by Jones & Stokes to remedy perceived short-comings with the existing General Plan and its companion EIR.

Response

This is not an environmental issue that is evaluated in an Environmental Impact Report. The County Board of Supervisors edited the reference to studies leading to the update of the General Plan in Section I.6, History of General Planning in Mariposa, previously included in drafts of the General Plan.

The remainder of the letter is commenting on issues and concerns in the draft General Plan, not the EIR.

**COMMENT LETTER 6 - MARIPOSANS FOR THE ENVIRONMENT AND
RESPONSIBLE GOVERNMENT (B. BOYKIN), NOVEMBER 1, 2005**

Comment 6-1

The commenter supports the Enhanced Alternative #3 alternative, with incorporation of appropriate mitigation measures.

Response

Support of the Enhanced Alternative #3 is acknowledged.

The remainder of the letter is commenting on issues and concerns in the draft General Plan, not the EIR.

COMMENT LETTER 7 - TOLLEY GORHAM, NOVEMBER 3, 2005

Comment 7-1

The method of defining and quantifying the alternatives to any change in the general plan is unclear, and the alternatives were not easy to translate into specific actions.

Response

We acknowledge the difficulty in defining and quantifying the alternatives. The EIR evaluates the impacts of implementing the goals, policies, implementation measures and land use designations presented on the land use diagram of the General Plan. Mitigation measures included in the EIR recommend modifications to the goals, policies and implementation measures of the General Plan. To facilitate comparison of the differences in the alternatives, Section 2.4, Summary of Alternatives, has been modified. Table 2-5 has been added that compares the build-out population, acres by land use designation, and the Goals, Policies, and implementation measures of the Draft General Plan November 2006.

Comment 7-2

The EIR should be reviewed by the consulting firm prior to the close of the public comment window to address the probability that the Catheys Valley TPA will remain intact.

Response

Please read response to Comment 1-1 that responds to a similar comment by Tolley Gorham at the Board of Supervisors public hearing.

The remainder of the letter is commenting on issues and concerns in the draft General Plan, not the EIR.

COMMENT LETTER 8 - TOLLEY GORHAM, NOVEMBER 7, 2005

Comment 8-1

The EIR does not address the possibility of not changing the Catheys Valley plan from Town Planning Area to Community Planning Area. If the draft plan is changed to keep the TPA designation for Catheys Valley, will a re-write of the EIR be required?

Response

Please read Response to Comment 1-1 that responds to a similar comment made by Tolley Gorham at the Board of Supervisors hearing.

Comment 8-2

The EIR recommends policies to regulate airborne pollutants from various sources, and yet Mariposa County chooses to not participate in the California Smog Testing program required in many other counties.

Response

This is not an environmental issue that is evaluated in an Environmental Impact Report; it is a policy issue that may be addressed in the General Plan.

The remainder of the letter is commenting on issues and concerns in the draft General Plan, not the EIR.

COMMENT LETTER 9 - JIM AND J.J. GILLISPIE, NOVEMBER 7, 2005

Comment 9-1

There has been no environmental impact study done to determine what kind of impact the proposed build-out will have on the area. What are the impacts on water quality and supply/demand, traffic, air pollution, noise, natural resources, police services, and fire risk?

Response

This EIR evaluates the environmental impacts of the build-out of the area based on implementing the proposed General Plan. Please read the following sections of the EIR:

- Water supply and demand – Section 4.7 Hydrology and Water Quality and Section 4.4 Public Services and Utilities
- Traffic – Section 4.3 Traffic and Circulation
- Air Pollution – Section 4.8 Air Quality
- Noise – Section 4.10 Noise
- Natural resources – Section 4.5 Biological Resources
- Police services – Section 4.4 Public Services and Utilities
- Fire risk – Section 4.11 Public Health and Safety

The remainder of the letter is commenting on issues and concerns in the draft General Plan, not the EIR.

COMMENT LETTER 10 - STAN AND SUE RUDD, NOVEMBER 8, 2005

Comment 10-1

The impacts of the proposed General Plan will affect all of us who live in Bear Valley.

Response

This comment will be provided to the Board of Supervisors for their consideration.

The remainder of the letter is commenting on issues and concerns in the draft General Plan, not the EIR.

COMMENT LETTER 11 - DANIEL AND JANET ROGERS, NOVEMBER 11, 2005

Comment 11-1

The comments main concerns are water, traffic, noise, and crime. Well water is being degraded from an increase in pumping which increases the amounts of bacteria-laden iron, sulfur and manganese in the water. The increase in traffic on Highway 49 and Pendola Gardens Road and the noise levels would be unbearable. The already over-worked Sheriff's department would have difficulty in dealing with the increase in crime.

Response

The comment does not provide alternative evaluation criteria with points of significance for consideration. The Draft EIR addresses each of these concerns as follows:

- **Degraded groundwater supply:** In Section 4.7 Hydrology and Water Quality, Impact HW-3 cites that Policy 11-2c of the Draft General Plan and its supporting implementation measures provide for the preservation of existing or potential sources of a sustainable water supply through maintaining low intensities of development in order to protect the capacity of watersheds, and would designate watershed areas of surface water system where such systems and their proposed watershed areas serve, or are capable of serving, as a potable water source. The EIR cites that Policy 9-5a and Implementation Measure 9-5a(1) of the Draft General Plan that require new projects and subdivisions provide access to basic water and wastewater infrastructure, including a potable water supply meeting health department requirements and access to an approved source for wastewater treatment and disposal.
- **Traffic:** In Section 4.3. Traffic and Circulation, the EIR acknowledges that traffic impacts on state highways and County roads (Impact TT-1), as well as intersection levels of service (Impact TT-2) would be significant and unavoidable even after implementation of mitigation measures.
- **Noise:** In Section 4.11 Noise, the Draft EIR identifies Draft General Plan policies that reduce noise levels resulting from transportation facilities (Impact NO-1). The Draft EIR finds that implementation of these policies reduce noise impacts to less than significant levels.
- **Police Service:** In Section 4.4 Public Services and Utilities, the EIR cites that the demand generated by additional population and visitor growth under the draft General Plan would exceed the available capacity to provide law enforcement service, and in order to maintain service standards, up to 150 additional personnel would be required (Impact PS-1). The Draft EIR finds that implementation of draft General Plan Policy 9-9a and Implementation Measure 9-9a(1), which requires that the County develop a comprehensive plan with service standards to attain and maintain service delivery for emergency services, including fire protection, law enforcement and ambulance service. Implementing Measure 9-9a(2) requires that the County fully implement the services delivery plan. These policies and implementation measures reduce the impacts on emergency services including fire protection, law enforcement and ambulance services to a less than significant level.

The remainder of the letter is commenting on issues and concerns in the draft General Plan, not the EIR.

**COMMENT LETTER 12 - STEVE AND GAYLE SAUNDERS, NOVEMBER 11,
2005**

Comment 12-1

The 1981 TPA for Catheys Valley TPA should remain as is and become part of the new General Plan by including it into the Alternatives section.

Response

Please read Response to Comment 1-1 that discusses the changes made to the Draft General Plan by the Board of Supervisors.

**COMMENT LETTER 13 - RALPH AND LEONA BURNSIDE, NOVEMBER 12,
2005**

Comment 13-1

The concerns with the Draft EIR are traffic congestion, school overcrowding, increase in crime, air pollution, water shortages, and others.

Response

This EIR provides the environmental impact analysis on build-out of the Draft General Plan. Although the comments do not identify specific impacts, the Draft EIR analyzes these impacts in the following sections:

- Traffic – Section 4.3 Traffic and Circulation
- Schools – Section 4.4 Public Services and Utilities
- Police Services – Section 4.4 Public Services and Utilities
- Air Pollution – Section 4.8 Air Quality
- Water supply and demand – Section 4.7 Hydrology and Water Quality; Section 4.4 Public Services and Utilities

COMMENT LETTER 14 - JAMES T. AND RITA C. KIDD, NOVEMBER 13, 2005

Comment 14-1

The Draft EIR contains critical information about where the General Plan insufficiently mitigates the impact of its proposed land use policies. The General Plan's life is generally assumed to be 20 years. It is interesting to note that the Draft EIR cites raw numbers but does not directly comment on the percentage impact of population growth in each of the Alternatives.

Response

The General Plan does not set a date when it expires or when build-out will occur. As discussed in Section 4.2.02B, Review and Update of the General Plan, and Goal 4-2, the Plan is to be updated annually and to "step back" at intervals of 5 year and 20 year increments that evaluate the accomplishments and adjust the direction of the General Plan, if needed.

Section 5.6.2, Alternatives Impact Summary, does quote alternative growth impacts using percentages. The EIR evaluated impacts at build-out (the worst case) of the General Plan and did not make assumptions on the rate of growth or the time frame in which the growth impacts may occur. The General Plan Goal 4.2.02B requires the annual review of the General Plan to adjust goals, policies, and implementation measures up to four times a year in response to current events and growth.

The impact evaluation criteria with points of significance are described for each environmental topic in Chapter 4 of the EIR. The criteria are established to facilitate comment and debate. New or modified criteria, including percentage factors, were not submitted for consideration.

Comment 14-2

The Draft EIR does not identify that the General Plan fails to identify the existing number of already created buildable residential parcels, nor does it call for an inventory to be created of existing buildable parcels prior to approving additional parcels.

Response:

Section 2.2 of the EIR, Mariposa County General Plan build-out, and Section 1.9.02 of the General Plan, shows the acreages of available (vacant) residential buildable land in the County, and explains the methodology used in calculating available lands.

Comment 14-3

The Draft EIR should recognize that the development pressures are not on existing town planning areas with available services, but are significant on areas that will increase travel distances for work, school and public safety.

Response

This is not an environmental issue evaluated in an EIR, the "development pressures" are not a physical environmental impact.

The General Plan recognizes the pressures of growth on Mariposa County, as discussed in Chapter 3, Guiding Principles of the Board of Supervisors. The General Plan goals, policies, and implementation measures have been developed in compliance with the Guiding Principles.

The EIR evaluates the physical environmental impacts of the Draft General Plan and Alternatives, including the areas outside the Plan Areas.

Comment 14-4

The Draft EIR addresses the use of impact fees to mitigate the cost of services and infrastructure needed to support the proposed level of growth. Impact fees do not appear adequate to fully mitigate these impacts.

Response

The impact fees recommended in the EIR are to mitigate identified impacts to be less than significant. The determination of the fee amount is not a function of the General Plan, but will be determined after the General Plan is adopted.

Comment 14-5

The Draft EIR does not differentiate between impact fees that are typically for capital improvement projects and proffers that are intended to defray defined increased cost of government services.

Response

The Draft EIR discusses impact fees for facilities and the potential for project sponsor contributions. The commenter was unable to identify language in the General Plan or Draft EIR that links impact fees to support services. Impact fees can mitigate capital facilities linked to new population growth, but not employee services levels.

Comment 14-6

The Draft EIR acknowledges that such fees will not cover the whole cost of growth impacts, but does not provide enough information to judge how minimal this contribution might be. The comment cites examples of other areas that use measures such as distance-based fees, where impact fees for developments more than a mile from an established core are more than double that in the core.

Response

The commenter is correct that the level of funding of impact fees is not disclosed in the Draft EIR. Please read Response to Comment 14-4 that discusses when the funding level of impact fees will be determined. The EIR does indicate if impact fees would be adequate mitigation and identifies the sources of additional funding that can be expected. If the fees do not fully mitigate the impact, or absent a law that accepts payment of fees as full mitigation, the impact would be identified as significant and unavoidable. Due to the programmatic nature of this EIR, specific project impacts and applicable fees cannot be quantified at this time.

Comment 14-7

The mitigation measures in the Draft EIR do not in every case contain language sufficient to provide the level of mitigation needed to achieve the goals of the General Plan. Therefore, the commenters have recommended language that is more desirable, meaning more likely to maintain the quality of life in Mariposa.

Response

Comments and Response to Comments 14-8 through 14-37 address the recommended modification to the mitigation measures.

Comment 14-8

(Recommended language) – Impacts TT-1 and TT-2 should state that no new residential parcel development will be approved that will increase use of the State Highway for commuting to and from work, transporting students over long distances to and from school, or emergency responses via State highways, until the State has demonstrated that State planning and allocated funding are in place to improve highway capacity to handle the development’s level of traffic on the roadway and traffic pressure at intersections.

Response

The recommended language is a mitigation measure and not an impact. The measure is restrictive by prohibiting the Board of Supervisors from considering a project until the criteria is met, ceding the decision responsibility to another agency (Caltrans) over which the Board does not have authority, and by removing the Board of Supervisors responsibility for considering the merits of a project and the needs of the community as required by the General Plan. The recommended mitigation measure does not meet the Guiding Principles of this General Plan including the General Plan provides for flexible implementation and nexus between project conditions and impacts.

Mitigation measure TT-1 presented in the Draft Final EIR October 2006 has been added to the Draft General Plan November 2006, Implementation measure 9-1a(2) in addition to Implementation Measure 9-1c(3) that requires the capacity of a county road must be assessed for its capability to meet existing and new uses.

Comment 14-9

(Recommended language) – Impact PS-2 should state that no development beyond those residential parcels that already exist will be permitted until the Mariposa County School District can demonstrate that a plan is in place for elementary, middle and high school capacity and transportation, along with a short-term and longer-term financial plan for construction of those facilities. The plan must demonstrate that the educational capability (facilities and transportation) will not be diminished by meeting expansion demands.

Response

The recommended language is a mitigation measure and not an impact. The measure is unfeasible and restrictive by prohibiting the Board of Supervisors from considering a project until the criteria is met, by ceding the decision responsibility to another agency (Mariposa County School District) over which the Board does not have authority, and by removing the Board of Supervisors responsibility for considering the merits of a project and the needs of the community as required by the General Plan. The recommended mitigation measure does not meet the Guiding Principle of this General Plan-the General Plan provides for flexible implementation.

Implementation measure 9-7a(3) has been included in the Draft General Plan November 2006. The measure directs the County to work with the MUSD in developing facilities, obtaining funding, and securing project sponsored funding.

Comment 14-10

(Recommended language) – Impact AQ-2 should state that no development will be approved unless the Mariposa County Air Pollution Control District can stipulate unequivocally that the proposed density and travel distances will not impact air quality.

Response

The recommended language is a mitigation measure and not an impact. The measure is restrictive by prohibiting the Board of Supervisors from considering a project until the criteria is met, by ceding the decision responsibility to another agency (Mariposa County Air Pollution Control District), and by removing the Board of Supervisors responsibility for considering the merits of a project and the needs of the community as required by the General Plan. The recommended mitigation measure does not meet the Guiding Principle of this General Plan the General Plan provides for flexible implementation.

The Mariposa County Air Pollution Control District, nor any individual or agency, cannot stipulate **unequivocally** that a project's density and travel distances will not impact air quality.

Two new policies and implementation measures have been included in the Draft General Plan November 2006. These policies and measures address a number of air quality impacts. Please review policies 11-1c and 11-d with their associated implementation measures.

Comment 14-11

(Recommended language) – Impacts LU-3 and LU-4 should state that conversion of Agricultural/Working Landscape will be prohibited as follows: 1) The land is prime, unique or farmland of local significance; and 2) All existing residential buildable parcels have been built out.

Response

The recommended language is a mitigation measure and not an impact. The measure is unfeasible and restrictive by prohibiting the Board of Supervisors from considering a project until the criteria is met, and by removing the Board of Supervisors responsibility for considering the merits of a project and the needs of the community as required by the General Plan. The recommended mitigation measure does not meet the Guiding Principle of this General Plan- the General Plan provides for flexible implementation.

Comment 14-12

(Recommended language) – An additional mitigation should be added to the Section 4.1 Land Use stating that development of oak woodlands will not be permitted to reduce oak cover to less than 90% of existing cover on any parcel, and will not permit removal of oak trees more than 6 inches in diameter.

Response

The mitigation criteria recommended is appropriate for a County ordinance, not the policy plan of the County.

The County complies with Federal and State law. Please read Implementation Measure 11-4a(1) that requires a County Environmental Conservation Program that includes standards for significant and sensitive plant communities including oak woodlands and heritage trees.

Comment 14-13

(Recommended language) – An additional mitigation should be added that requires a deposit to ensure tree preservation during grading, and damage to trees to be retained will incur a financial penalty (see Placer County tree protection ordinance).

Response

The mitigation criteria recommended is appropriate for a County ordinance, not the policy plan of the County.

The County complies with Federal and State law. Please read Implementation Measure 11-4a(1) that requires a County Environmental Conservation Program that includes standards for significant and sensitive plant communities including oak woodlands and heritage trees.

Comment 14-14

(Recommended language) – Impacts BR-1, BR2, BR-3, BR-4, and BR-5 should state that no development will be approved until surveys and mapping of species and habitat have been completed for all areas of the County that the General Plan specifies for other than agriculture/working landscape use.

Response

The recommended language is a mitigation measure rather than an environmental impact evaluation criterion. For reference, the evaluation criteria for biological resources BR-1 through BR-5 are:

- BR-1: Will the Project cause a net loss of individuals, occupied habitat, or restrict the reproductive capacity of endangered, threatened, or rare wildlife or plant species?
- BR-2: Will the Project cause a net loss of individuals of CNPS List 2, 3, or 4 plant species?
- BR-3: Will the Project cause a net loss of active raptor nests, migratory bird nests, or native wildlife nursery sites?
- BR-4: Will the Project cause a permanent net loss of habitat for sensitive wildlife species?
- BR-5: Will the Project cause a permanent loss of sensitive native plant communities?

The measure is restrictive (no development will be approved) by prohibiting the Board of Supervisors from considering a project until the criteria is met, and by removing the Board of Supervisors responsibility for considering the merits of a project and the needs of the community as required by the General Plan. The recommended mitigation measure does not meet the Guiding Principle of this General Plan- the General Plan provides for flexible implementation.

CEQA does not require mapping of resources in order to conduct an environmental review of a project. CEQA does require the review to evaluate potential special status species that could occur within the proposed project area. Volume III of the Mariposa County General Plan (Technical Reports) describes potential habitat that may be found within and surrounding the County of Mariposa. The plant community descriptions and nomenclature used in Section 10.0 of Volume III are based on Holland's *Preliminary Descriptions of the Terrestrial Natural Communities of California* (Holland 1986) and *A Manual of California Vegetation* (Sawyer and Keeler-Wolf 1995). The project area supports 19 plant communities based on this nomenclature. Each of these plant communities is described in detail in Section 10.0 in Volume III.

The wildlife habitats in the project area are identified utilizing the habitat classification system developed by the California Department of Fish and Game for the California Wildlife Habitat Relationships (CWHR) program. Section 10.0 of Volume III identifies the CWHR habitat type that corresponds with each plant community found in the project area. The vegetative components of each wildlife habitat type generally correlate with the plant communities described above. The wildlife habitats in the project area are described in Volume III in terms of the assemblage of wildlife species that they typically support.

The General Plan Goal 11-4 “Conserve and enhance the ecosystems, plant communities, wildlife habitats, and the inherent diversity of both plant and animal species for the recreational, commercial, aesthetic, and basic ecosystems needs” with its accompanying policies and implementation measures requires the necessary information for project impacts to be evaluated.

Comment 14-15

(Recommended language) – Impacts BR-1, BR2, BR-3, BR-4, and BR-5 should state that the goal is prevention and that no development will be approved after mapping is completed that is projected to result in loss of habitat, species, sensitive native plant communities, wildlife migration and travel corridors or wetlands, vernal pools or other waters of the Mariposa County, Merced County or U.S.

Response

Please read response to comment 14-14. The recommendation to state the goal is prevention is appropriately addressed in discussions on the General Plan.

Comment 14-16

(Recommended language) – An additional mitigation measure should be added to Section 4.5, Biological Resources, stating that no development will be approved that introduces non-native vegetation to the specific ecosystem of the project site.

Response

The measure is restrictive (no development will be approved) by prohibiting the Board of Supervisors from considering a project until the criteria is met, and by removing the Board of Supervisors responsibility for considering the merits of a project and the needs of the community as required by the General Plan. The recommended mitigation measure does not meet the Guiding Principle of this General Plan- the General Plan provides for flexible implementation. The recommended language is restrictive by prohibiting non-native vegetation that is specific to the ecosystem of the project site. For example, the measure prohibits non-native agricultural crops and non-native vegetable gardens.

Please read the Draft General Plan November 2006 Implementation Measure 11-4a(3) and 11-4a(4). The measures require the County to reduce or eradicate invasive species and publish landscaping guidelines for planting appropriate native plant species.

Comment 14-17

(Recommended language) – Impact VR-1 in Section 4.12 should include potential impacts to State Highway 140 for its length.

Response

The Draft EIR is a programmatic document that does not evaluate site-specific impacts. The evaluation of site-specific impacts will be conducted at the time a project is proposed.

The Draft General Plan contains policies and implementation measures that provide for the establishment of measures for the protection of scenic routes, large-scale views, and viewsheds through comprehensive development standards to be adopted by the County. Policy 11-1a of the Draft General Plan requires conservation of natural and scenic resources through programs and development standards, while Implementation Measures 11-1a(1), (2), and (3) support this policy through establishing guidelines to ensure complementary development, taking into account the scenic aspects of the County; developing subdivision design standards for placement of structures

on ridgelines and open hillsides; and developing flexible site standards for clustering of new development to conserve designated scenic routes, views, and viewsheds.

The Draft EIR determined that with implementation of the General Plan policies and measures, impacts to scenic resources on Highway 140 and other scenic roads in the County would be less than significant.

Comment 14-18

(Recommended language) – Impact VR-2 in Section 4.12 should include restrictions on structure design, including paint colors.

Response

The recommendation is appropriate for an ordinance or development guideline, not the policy document of the County.

Comment 14-19

(Recommended language) – Impact VR-3 in Section 4.12 should include restriction on development that precludes nighttime lighting that degrades Mariposa County’s “starry sky.”

Response

Implementation Measure 11-1d(1) requires standards for development including lighting standards established by the International Dark Sky Association, and that all building materials have a low reflective index.

Comment 14-20

(Recommended language) – Impact PH-1 in Section 4.2 should state that provision of low- and moderate-income housing and density bonuses will be accomplished only through establishment of appropriate housing development in areas of the County currently served by both community water and community septic systems.

Response

The recommended impact criterion is not an evaluation criterion; it is appropriately a Housing Element policy of the General Plan. The Mariposa Housing Element was adopted January 23, 2004 and is not being considered at this time. The recommended language will be included in Appendix C, Wish List, of the General Plan for future Board of Supervisor consideration.

Comment 14-21

(Recommended language) – Impact PH-1 in Section 4.2 should state that mobile housing that does not meet certification criteria or is not on permanent foundations will not be permitted outside of town planning areas because of the increased cost to residents of both transportation and infrastructure. Restrictive covenants are limited on such low- and moderate-income housing only within the town planning areas where law enforcement and fire prevention services are within close proximity.

Response

Cost is not an environmental impact evaluated in the EIR.

The comment does not provide information for consideration that demonstrates a difference in transportation and infrastructure costs between mobile housing and other housing types.

Comment 14-22

(Recommended language) – Impact TT-5 in Section 4.3 should state that where the aggregate of potential development will increase the utilization of a County road by more than 25%, the capacity of the road in its existing condition must be assessed for its capability to meet both existing and new use.

Response

The recommended language is appropriately written as a mitigation measure rather than an environmental impact evaluation criterion.

The General Plan includes Implementation Measure 9-1c(3) which implements the suggested language

Comment 14-23

(Recommended language) – The County must be able to demonstrate that the roadway can be improved at a minimum to County standard to meet the demand, and the County and the developer must assure that there is no degradation of County road safety for existing residents/uses. In the absence of physical or economic capability for the County roadway to be improved to County standard for collector roads, no development will be approved.

Response

Policy 9-1b: “Road capacity shall be the basis for determining the adequacy of access for new development within the County” with its implementation measures requires projects to conform to County road policy that incorporates standards and specifications for new roads. In addition this policy and implementation measure requires road improvements based on road capacity if the traffic generated by a proposed project exceeds the capacity of the road system that provides access to it. These policies and implementation measures will result in new roads constructed to contemporary design standards and in existing roads being brought up to contemporary design standards where needed to provide adequate capacity. The County updates its Capital Improvement Program and development fee program each year in order to ascertain adequate levels of support for each project.

The measure is restrictive (no development will be approved) by prohibiting the Board of Supervisors from considering a project until the criteria is met, and by removing the Board of Supervisors responsibility for considering the merits of a project and the needs of the community as required by the General Plan. The recommended mitigation measure does not meet the Guiding Principle of this General Plan- the General Plan provides for flexible implementation.

Comment 14-24

(Recommended language) – The County must demonstrate that its Capital Improvement Program has a routine maintenance schedule that assures the County roadway will have an adequate and safe all-weather surface.

Response

Routine maintenance is an operational issue and not appropriate for inclusion in a capital improvement program. Implementation Measure 9-1e(1) of the General Plan requires that all roads serving road systems shall have an all-weather surface.

Comment 14-26

(Recommended language) – Impact TT-7 in Section 4.3 should state that the County must establish a Bicycle, Pedestrian and Equestrian Facilities Plan.

Response

The Draft General Plan includes implementation Measures 9-3a(1) and 9-3a(2). Policy 9-3a requires the County to adopt, implement, and update the Bicycle, Pedestrian, and Equestrian Facilities Plan to create a comprehensive system of transportation and recreation trails. This wording supports the recommended language.

Comment 14-27

(Recommended language) – Impact BR-7 in Section 4.5 should state that the County will not approve any development until development standards, habitat conservation programs, and mitigation measures for impacts on sensitive biological resources have been created and can be enforced.

Response

Read response to comment 14-4.

Comment 14-28

(Recommended language) – Impact HW-1 in Section 4.7 should state that the off-site runoff must be limited by restricting use of impermeable surfaces.

Response

Restricting the use of impermeable surfaces is one of many methods to reduce off-site runoff, and does not necessarily improve the quality of the runoff. Although reducing the amount of impervious surface will be part of development standards to retain groundwater recharge, Impact HW-1 in the Draft EIR cites implementation of General Plan Policy 16-5c requiring the construction of water retention facilities that would ensure that pre-development off- and on-site surface flows are maintained with no net increase in flow.

Comment 14-29

(Recommended language) – Impact HW-3 in Section 4.7 should be “significant and unavoidable.” In Mariposa County, water quantity is not determined by watersheds and surface water sources but from crystalline rock streams deep in bedrock. It is possible that development upstream would siphon off from cracks and crevices existing residents’ water supplies.

Response

The commenter does not provide factual information or other evidence that supports the conclusion.

As discussed in Impact HW-3 of the Section 4.7 of the Draft EIR, draft General Plan Policy 11-2c and its supporting implementation measures provide for the preservation of existing or potential sources of a sustainable water supply through maintaining low intensities of development in order to protect the capacity of watersheds and would designate watershed areas of surface water systems (where such systems and their proposed watershed areas serve or are capable of serving) as a potable water source. Policy 9-5a and Implementation Measure 9-5a(1) of the draft General Plan require that new projects and subdivisions in the County have access to basic water infrastructure, including a potable water supply meeting health department requirements. The

General Plan land use designations; Agriculture/Working Landscape, Natural Resources, and Residential establish low residential densities outside the adopted Area Plans. With the application of these policies, impact on available groundwater supply would be less than significant.

Comment 14-30

(Recommended language) – Impact HW-3 in Section 4.7 should state that new development will not be approved in areas that have existing supply of residential parcels until those parcels are built out, water impacts have been thoroughly assessed by Mariposa County, the State’s Water Resources Board, and USGS. These entities must be able to confirm that there is a steady and reliable supply of water to meet both existing and proposed new demands.

Response

As discussed in Impact HW-3 of the Section 4.7 of the Draft EIR, draft General Plan Policy 11-2c and its supporting implementation measures provide for the preservation of existing or potential sources of a sustainable water supply through maintaining low intensities of development in order to protect the capacity of watersheds and would designate watershed areas of surface water systems (where such systems and their proposed watershed areas serve or are capable of serving) as a potable water source. In addition, Policy 9-5a and Implementation Measure 9-5a(1) of the draft General Plan require that new projects and subdivisions in the County have access to basic water infrastructure, including a potable water supply meeting health department requirements. A future project that is unable to implement these policies would not be approved by the County, unless another source of potable water is identified and can be utilized by the Project. With the application of these policies, impact on available groundwater supply would be less than significant.

The measure is restrictive by prohibiting the Board of Supervisors to consider a project until the criteria is met, ceding the decision responsibility to another agency (State Water Resources Board and USGS) over which the Board does not have authority, and by removing the Board of Supervisors responsibility for considering the merits of a project and the needs of the community as required by the General Plan.

The recommended language is unrealistic because the State Water Resources Board and USGS cannot and will not confirm that there is a steady and reliable supply of water.

Comment 14-31

(Recommended language) – Impact HW-3 in Section 4.7 should state that any seller of a parcel of land in Mariposa County for any use must be required to certify adequacy of water for the approved land use, with buy back and lot merge requirements for any parcel that cannot produce a steady and reliable source of fresh, uncontaminated water to support the approved use over time.

Response

The recommended language is unreasonable because a seller of a parcel cannot certify the adequacy of water “over time”. Read response to comment 14-30.

Comment 14-32

(Recommended language) – Impact HW-4 in Section 4.7 should state that the County will develop standards for alternative septic and sewage disposal systems that acknowledge shallow

bedrock in Mariposa County, and the improbability that the percolation and sewage flow paths can be determined.

Response

The General Plan Land Use Element requires that sewage systems will obtain an approval from the Health Department. The Board of Supervisors discussed this topic at length and determined that no one standard approach or engineering solution can be applied countywide and that each proposed system should be evaluated by the Health Department. No change to the EIR is recommended.

Comment 14-33

(Recommended language) – Impact HW-4 in Section 4.7 should state that any developer must produce a complete sewage disposal study for each parcel within the proposed development and that the developer will provide certification to each buyer that the parcel can be served by standard or alternative sewage disposal systems. Developer will certify to all surrounding parcels that percolation paths will not harm fresh water sources.

Response

Please refer to Response to Comment 14-30, 14-31 and 14-32.

Comment 14-34

(Recommended language) – Impact PH-5 in Section 4.11 should include mitigation that states that sellers of property for residential use are required to provide vector control literature to new buyers unfamiliar with *Triatoma Protracta* and Chagas disease.

Response

The recommended education procedure is appropriately placed in the Mariposa County ordinances, regulations or development guidelines.

Comment 14-35

The Draft EIR does not identify that historically Mariposa County has approved lot splits and minor subdivision activities (four by fouring) without formal environmental review, even when side-by-side subdivisions collectively have significant impacts. Therefore, without marked deviation in governance from history, environmental constraints will have little effect in curtailing development impacts.

Response

This is not an environmental issue evaluated in an EIR. CEQA does not require environmental documentation for non-discretionary actions.

Please read Response to comment 3-1. Please read “Policy 10-2a: Agriculture lands should be retained” and its associated implementation measures in the Draft General Plan November 2006 which have been revised from the 2005 Draft General Plan.

Comment 14-36

The Draft EIR states that CEQA requires any growth inducing aspect of a project be discussed in an EIR. The Draft EIR does not define what constitutes a project and does not address the cumulative effects of several projects that might otherwise fall below the threshold generally assumed to trigger an EIR.

Response

The following definitions of a project will be added to Section 1.1 and Section 5.4 in the Draft EIR:

CEQA (Statute Section 21065) defines a project as “an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

- An activity directly undertaken by any public agency.
- An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance from one or more public agencies.
- An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.”

Section 5.5 Cumulative Impacts, states that an EIR on a comprehensive general plan constitutes an assessment of the cumulative impacts of development within the area covered by the plan, particularly in the case of a County general plan. The EIR evaluates the implications of build-out under proposed General Plan land uses.

Comment 14-37

There must be a requirement that the proposal of a land use designation is sufficient to trigger an environmental review before the land use is so assigned. It is the land use designation that creates the dilemma, not the development interest in the land.

Response

Under CEQA, environmental review of a project is required if a discretionary project would result in a physical change to the environment. If a proposed land use would or could potentially create impacts that would cause a physical change to the environment, an environmental review would be conducted for the project.

COMMENT LETTER 15 - RICHARD L. UEBNER, NOVEMBER 14, 2005

Comment 15-1

Development impact fees that are part of mitigation for Impact TT-1 regarding County arterial roads are not adequate to cover the real costs.

Response

The comment is correct in that development fees are usually not adequate in and of themselves to cover the entire costs of road improvements. However, development fees are not the only available resources for improving roadways, and developers are only required to pay fees for roadway improvements that are affected by their project. Other available funding sources, as identified in the Draft EIR, include roads and highways identified in the Regional Improvement Program (RIP) and the State Transportation Improvement Program (STIP). Even with funding from these sources, the Draft EIR acknowledges that the County is expected to experience a shortfall in funds for transportation improvements. Although the County Board of Supervisors has approved the preparation of a long-term Countywide Capital Improvements Program and Impact Fee analysis, this impact remains a significant and unavoidable impact, mainly because the ability to commit state funding for improvements under the STIP is beyond the control of the County.

Comment 15-2

State-mandated impact fees that are part of mitigation for Impact PS-2 regarding school mitigation are not adequate to cover the real costs.

Response

The comment is correct in that impact fees for schools will not be adequate to cover the costs of new school construction. Fees are capped at a maximum amount based on the number of residential units proposed, the type of dwelling units such as single family or multi-family, and the number of students the proposed project is expected to generate. It is a known fact that the state-mandated impact fees, which usually include developer fees and local assessments and/or taxes, are usually not adequate in and of themselves to cover the entire costs to mitigate school district impacts. For Impact PS-2, the Draft EIR discloses that even with the recommended mitigation, funding for future school facilities necessary to serve new development would not be assured. With limited state funds available for new school construction, the MUSD would have to rely on local funding sources to assure adequate school facilities. These sources might include voter-approved General Obligation bonds, Mello-Roos Bonds or Mello-Roos Community Facilities Districts, as well as developer impact fees.

State law restricts the ability of Mariposa County to mitigate for insufficient school facility capacity, even in consideration of permissible school impact fees that MUSD may charge developers and the potential availability of state funds for school construction. California Government Code section 65995 states that cities and counties may not condition approval of development on the payment of school impact fees in excess of the amount permissible under state law. This section of state law also prohibits cities and counties from requiring additional mitigation, such as the establishment of a community facilities district, to fund school facilities in excess of the permissible school impact fee.

The Legislature, in pre-empting additional mitigation measures, has determined that payment of the state-allowed school impact fee is full and complete mitigation, regardless of whether the fee provides sufficient funding for the construction of needed school facilities. Therefore, this impact remains a significant and unavoidable impact.

Comment 15-3

Mapping of biological resources should be conducted (Impacts BR-1, -2, -3, -4, -5, -6, and -8).

Response

CEQA does not require mapping of resources in order to conduct an environmental review of a project. CEQA does require the review of a list of potential special status species that could occur within the proposed project area. Volume III of the Mariposa County General Plan (Technical Reports) describes potential habitat that may be found within and surrounding the County of Mariposa. The plant community descriptions and nomenclature used in Section 10.0 of Volume III are based on Holland’s Preliminary Descriptions of the Terrestrial Natural Communities of California (Holland 1986) and A Manual of California Vegetation (Sawyer and Keeler-Wolf 1995). The project area supports 19 plant communities based on this nomenclature. Each of these plant communities is described in detail in Section 10.0 in Volume III.

The wildlife habitats in the project area are identified utilizing the habitat classification system developed by the California Department of Fish and Game for the California Wildlife Habitat Relationships (CWHR) program. Section 10.0 of Volume III identifies the CWHR habitat type that corresponds with each plant community found in the project area. The vegetative components of each wildlife habitat type generally correlate with the plant communities described above. The wildlife habitats in the project area are described in Volume III in terms of the assemblage of wildlife species that they typically support.

This is adequate data to conduct impact analyses for a programmatic level environmental document. When individual projects are submitted to the County, those projects would be subject to further environmental review of impacts to biological resources.

Comment 15-4

It does not seem correct that Impact HW-3, which addresses the potential for reduction of ground water availability, would be less than significant.

Response

As discussed in Impact HW-3 of the Section 4.7 of the Draft EIR, draft General Plan Policy 11-2c and its supporting implementation measures provide for the preservation of existing or potential sources of a sustainable water supply through maintaining low intensities of development in order to protect the capacity of watersheds and would designate watershed areas of surface water systems (where such systems and their proposed watershed areas serve or are capable of serving) as a potable water source. In addition, Policy 9-5a and Implementation Measure 9-5a(1) of the draft General Plan require that new projects and subdivisions in the County have access to basic water infrastructure, including a potable water supply meeting health department requirements. A future project that is unable to implement these policies would not be approved by the County, unless another source of potable water is identified and can be utilized by the Project. With the application of these policies, impact on available groundwater supply would be less than significant.

The remainder of the letter is commenting on issues and concerns in the draft General Plan, not the EIR.

COMMENT LETTER 16 - ANITA STARCHMAN BRYANT, NOVEMBER 14, 2005

Comment 16-1

The Draft EIR alternative analysis does not identify and document the potential environmental impacts of the “no project” alternative, nor is it required to do so under CEQA.

Response

Table 5-1 of the Draft EIR analyzes and compares the alternatives with the proposed project. CEQA Guidelines section 15126.6(d) allows a matrix displaying the major characteristics and significant environmental effects of each alternative. CEQA Guidelines section 15126.6(e) states that the no project alternative shall be evaluated along with its impact. When the project is the revision of an existing land use or regulatory plan, such as a general Plan update, the no project alternative is the continuation of the existing plan into the future. CEQA Guidelines section 15126.6(e)(3)(A). The lead agency should proceed to analyze the impacts of the no project alternative by projecting what would reasonably be expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services.

It is true in that CEQA allows the analysis of alternatives to be at a lesser degree of scrutiny than the analysis done for the Project. However, all impacts for each alternative are identified and evaluated in order to ascertain if the impact would be more or less significant than that for the project or other alternatives.

Comment 16-2

The Draft EIR does not address the environmental impacts of reinstating the former Catheys Valley Town Planning Area. It does not adequately evaluate the impacts of implementing the No Project Alternative such that it would serve as the environmental document for the reinstatement of the Catheys Valley Town Planning Area.

Response

Please read Response to Comment 1-1 that discusses the modifications to the General Plan that designate Planning Study Area boundaries which clarifies that the Land Use Classifications in the General Plan were not changed from the existing General Plan Land Use Designation within the Plan Areas. The Draft EIR assumed the existing land uses for both the adopted Plan Areas and the areas within the Plan Area boundary but not part of an adopted Area Plan, the currently designated Planning Study Areas. At the time an Area Plan is being prepared, environmental documentation will be required to disclose the effects of the proposed Area Plan.

Because the existing land use designations were used in the Draft Environmental Impact Report to calculate impacts, the Board of Supervisors can reinstate the former Catheys Valley Town Planning Area and not require further environmental documentation under CEQA.

The Draft EIR is a program-level document (as opposed to a project specific document such as an Area Plan) to evaluate the impacts of a series of actions that can be characterized as one large project. An EIR on a program action, such as the adoption and implementation of a local general plan, contains a less detailed assessment of impacts than would be provided by an EIR on a specific development. As individual activities under the General Plan are subsequently proposed,

additional environmental documentation will be undertaken at the project-specific level through a project EIR, supplemental EIR or Negative Declaration, as appropriate. For those areas of the County where area plans will be prepared in the future, the General Plan goals, policies and implementation measures apply until such time as the area plans are adopted. Please read the Section 5.4.01 of the Draft General Plan November 2006 for additional information on Planning Study Areas.

Comment 16-3

The Final EIR must clarify that upon the adoption of the Final EIR, that document does not address environmental impacts if the General Plan is amended subsequently to reinstate the former Catheys Valley Town Planning Area, which would require further environmental documentation under CEQA.

Response

Please read Response to Comment 16-2.

COMMENT LETTER 17 - STEVENS PLANNING GROUP (MICHAEL D. STEVENS), NOVEMBER 14, 2005

Comment 17-1

We hope the Board of Supervisors will consider all comments made in our previous letter dated October 31, 2005 together with the new comments herein.

Response

Pursuant to CEQA, all comments pertaining to the Draft EIR received within the public review period will be addressed and provided with a written response.

Comment 17-2

Missing from the EIR, Section 5.6.1 Description of Alternatives, is any explanation of how and where Alternative 3 reduces future County population from 80,000 down to 39,000. It is not clear from which properties this reduction of existing development capability is intended to be taken.

Response

As stated in the Draft EIR in Section 5.6.2 Alternatives Impact Summary, fourth paragraph (page 5-47), Alternative 3 converts the discretionary existing and proposed project General Plan policies into mandatory policies, resulting in enhanced environmental protection. This action would result in lower density development and limiting or restricting growth in certain areas. Therefore, build-out population would be less than with either the proposed project or with the No Project Alternative.

Please review Table 2-1 General Plan Alternatives located in Chapter 9 of this document that identifies land use designations and population forecasts for the October 2006 General Plan, Alternative 4 Suburbanization, and Alternative 5 Rural Character Protection.

Comment 17-3

A serious public controversy will exist, and one that is not mentioned in Section 2.3 Areas of Controversy, if the General Plan Update (GPU) seeks to down zone properties.

Response

The General Plan establishes Land Use Designations, not zoning. It is understood that changes in the uses allowed within a Land Use Designation may cause public controversy. The Draft General Plan November 2006 includes the following language in the Agriculture/Working Landscape, Natural Resources, Residential (Rural Residential) Land Use Designations in Chapter 5:

“The Board of Supervisors has determined that parcels within the Agriculture/Working Landscape land use designation on the Land Use Diagram, the existing zoning assigned to that parcel, as of December 1, 2006, is consistent with the Agriculture/Working Landscape land use classification.”

Comment 17-4

The No Project Alternative fails to acknowledge that Jones & Stokes consultants identified certain environmental impact report oversights and short-comings with the existing General Plan.

Response

This proposed General Plan is being prepared, in part, to the recommendations of the Jones and Stokes report. The Board of Supervisors edited Section I.6 of the General Plan and chose to not discuss previous reports and issues.

Comment 17-5

Alternative 2 Existing Conditions is apparently an undeclared moratorium on any further land use approvals or development. Adoption of a moratorium require special environmental considerations and findings, such as condition of urgency, lack of utility capacity, etc. that justifies the need for prohibiting development through such a moratorium.

Response

The comment is correct in that adoption of moratoriums on land use approvals and development would require further environmental review. The comment is incorrect that Alternative 2 Existing Conditions is an undeclared moratorium, CEQA requires the EIR to disclose the existing conditions and compare each alternative to the existing conditions so the reader understands the impacts of each action compared with the conditions that are existing.

This scenario is presented as an alternative to the proposed project. As stated in the Draft EIR in Section 5.6.1, page 5-2, CEQA (Public Resources Code Section 21000 et seq.) and State CEQA Guidelines (California Code of Regulations, Title 14, Section 15126.6(a)), an EIR is “required to describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project, and evaluate the comparative merits of the alternatives.” CEQA does not require that alternatives be evaluated at the same level of detail as the proposed project. It is acknowledged that if one of the alternatives is selected (or a compilation of components from one or more of the alternatives) as the project instead of the proposed project, then additional environmental review may be required.

Comment 17-6

The proposed EIR contains no reference to the existing allowance for clustering or lot-size averaging, even when clustering is required by law to preserve open space and protect sensitive resource areas.

Response

The Draft EIR evaluates the densities assigned to each land use designation. By its nature, clustering allows smaller parcel sizes but maintains the land use designation density. Specific impacts from clustering will be evaluated when specific development projects are submitted to the County.

The remainder of the letter is commenting on issues and concerns in the draft General Plan, not the EIR.

COMMENT LETTER 18 - DEBRA AND PAUL SALONEN, NOVEMBER 14, 2005

Comment 18-1

This [Draft EIR] document drastically underestimates the impact of proposed land use policies in several key areas and provides insufficient mitigations to protect our natural resources and safeguard the environment in years to come.

Response

The comment is general in nature and does not specify a particular item in the Draft EIR that can be evaluated; therefore, a specific response cannot be provided.

Comment 18-2

The money collected from impact fees from new construction will not be adequate to fund road improvements, new school construction, increased demand for police and fire protection and additional sources of a water supply.

Response

The comment is correct in that impact fees alone will not be able to fully fund most services. See Response to Comments 15-1, 15-2, and 15-4.

Comment 18-3

In Impact HW-3 (Water), the report states that the impact from projected growth is significant and unavoidable. Area water does not come from large underground aquifers or ground water sources, but from wells tapped into hard rock streams deep in the bedrock. New development should not be opened up until existing parcels are built out and then only when the developers have proven that a steady and reliable water supply that won't impact any neighboring wells is present.

Response

See Response to Comment 15-4.

Comment 18-4

In Impact HW-4 (septic), Please include requirements that in areas that do not meet viable standards for safe percolation, builders must install engineered septic systems to avoid detrimental environmental impact or possible ground water pollution.

Response

Impact HW-3 in Section 4.7 Hydrology and Water Quality, requires that new projects and subdivisions in the County have access to basic ...wastewater infrastructure, including ...access to an approved source for wastewater treatment and disposal. As discussed in the EIR under Impact HW-4, the draft General Plan addresses the constraints for on-site sewage disposal systems. Higher intensity uses are directed to develop within planning areas where access to public sewage systems would be available. Policy 5-4a and its associated implementation measures call for clustering of commercial and industrial developments in order to facilitate the use of small community disposal systems rather than individual septic fields. The EIR also states that the General Plan land use classifications outside the planning areas, where development would use on-site disposal systems, show that the minimum parcel sizes are intended to allow

adequate area to locate the disposal system in suitable soils. New parcels must have approved areas for onsite sewage disposal if sewer connections are not available, and would be required to obtain approval from the County Health Department.

Comment 18-5

Impact VR-3 – Nighttime light pollution. Please add restrictions on development to keep our night sky visible.

Response

Implementation Measure 11-1d(1) ensures that light sources in new developments are compatible with existing rural character and are designed to produce minimal glare. As part of the comprehensive development standards, implementation of the policy would include lighting standards established by the International Dark Sky Society Association and would require that all building materials have a low reflective index.

Comment 18-6

In Impact TT-5 (roads). No new development should be approved until the roads connecting to the development are brought up to uniform standards and the County has shown that its Capital Improvement Program will be able to maintain these roads adequately.

Response

Read Response to comment 14-23.

Comment 18-7

Please include in Impact TT-7 the requirement that the County establish a bicycle, pedestrian and equestrian facilities plan, especially in areas that connect to a school.

Response

The General Plan Implementation Measures 9-3a(1) and (2) requires that the County adopt, implement, and update the Bicycle, Pedestrian, and Equestrian Facilities Plan to create a comprehensive system of transportation and recreation trails.

Comment 18-8

Change the language of the DIER to read: conversion of Agricultural/Working Landscape parcels will be prohibited if the land is prime agricultural, unique or farmland of significance, and until all existing residential parcels have been built out.

Response

Please read Response to comment 14-11.

Comment 18-9

In Impact PH-1 (high density dwellings). Low to moderate income housing and high density dwellings such as apartment houses and trailer parks belong in areas that are already established with community water, sewer and infrastructure, along with availability of police and fire services.

Response

The General Plan includes policies that address the coordination of development with future provision of public services and utilities. Policy 5-2a and its Implementation Measures require

that development grows outward from where services are located in planning areas, and the regulations for performance standards for close-to-services development be established. Policy 5-9a and Implementation Measure 9-5a(1) require that new projects and subdivisions shall not be approved unless they have access to basic water and wastewater infrastructure.

Comment 18-10

In Impact AQ-2 (air quality). Please include regulations to restrict the proliferation of wood-burning stoves in new homes. Developers might be given incentives for building energy-efficient or alternative energy-conscious homes.

Response

Section 4.2.02 A(3) confirms that Mariposa County implements Federal and State law, further established by Implementation Measure 11-1c(1). During approvals of future projects, the County decision-makers can implement these policies as conditions of approval on future development projects.

The remainder of the comments pertains to general perceptions of the Draft EIR and does not specify any particular CEQA issue.

**COMMENT LETTER 19 - YOSEMITE AREA AUDUBON (“DRAFT”), NOVEMBER
14, 2005**

This comment letter is a draft and unfinished version of a complete and final letter that was sent to the County on December 21, 2005. Comments included in this draft version dated November 14, 2005 were included in the subsequent letter. All comments are addressed on the December 21, 2005 letter (Comment Letter 27).

**COMMENT LETTER 20 - MARIPOSA PUBLIC UTILITY DISTRICT,
NOVEMBER 14, 2005**

Comment 20-1

Please refer to previous comments MPUD has made dated December 3, 2003 and September 24, 2002.

Response

Comments on only this Draft EIR are considered. Because the documents are different, it is inappropriate to respond to comments on previous versions.

Comment 20-2

In Impact LU-1, page 4-5, the EIR should include a clearer definition of “area of use” in reference to Saxon Creek water allocation. If area is expanded, there are other significant issues that must be addressed such as storage and pumping restrictions. Please review my comments from September 24, 2002. It may be more appropriate to remove the reference to Saxon Creek water project from this section.

Response

The reference to Saxon Creek has been removed from the noted text.

Comment 20-3

The description of the MPUD Fire Department should be clarified.

Response

The EIR text in 4.4 Public Services, Impact PS-1, has been revised as follows:

Fire Protection. Fire protection services are provided in Mariposa County by 1) the California Department of Forestry (CDF), which operates five stations in the County and serves as the central dispatch agency for fire protection in the County; 2) the Mariposa County Fire Department, which operates 14 stations; and 3) the Mariposa Public Utility District (MPUD) Fire Department, which provides fire protection within the MPUD boundaries. The County Fire Department has over 165 trained personnel, with eleven volunteer fire departments operating under the Department’s direction. There are ~~14~~ 13 County fire stations Countywide and one fire station under construction; these include Co# 21 Midpines, ~~Co# 22 MPUD Mariposa~~, Co# 23 Catheys Valley, Co# 24 Don Pedro, Co# 25 Mt. Bullion Airport, Co# 26 Coulterville, Co # 27 Mormon Bar, Co# 28 Bridgeport (planning for construction, 2005), Co# 29 Lushmeadows, Co# 31 Greeley Hill, Co# 32 Ponderosa Basin, Co# 33 Fish Camp, Co# 34 El Portal, Co# 36 Hunters Valley, and Co# 37 Bootjack. In addition, the MPUD has two fire stations: Station #1 is located at 5271 Highway 49 North and houses two MPUD engines and one Mariposa County rescue vehicle; Station #2 is located at the MPUD administrative offices at 4992 Seventh Street and houses one fire engine.

Comment 20-4

There are central sanitary sewer collection and treatment systems in the County other than MPUD, including systems in Coulterville and Yosemite West. Contact Mariposa County Public Works for descriptions of these services (Impact PS-1, Sanitary Sewer, page 4-24).

Response

The General Plan Section 1.11.01 lists special districts in Mariposa which include the Lake Don Pedro Community Services District and the Yosemite-Alpine Community Services District. The Draft EIR Impact PS-1 Sanitary Sewer has been modified as follows:

~~The only~~ Central sanitary sewer collection and treatment systems in ~~the~~ Mariposa County ~~is~~ are operated by ~~the~~ Mariposa Public Utility District (MPUD) for their service area in the Town of Mariposa, Don Pedro Sewer Zone #1, Coulterville, Mariposa Pines Sewer Zone, Yosemite West Maintenance District, Wawona, and El Portal. All other parts of the County rely upon individual on-site systems (septic tanks or other systems) for sewage treatment and disposal.

Comment 20-5

MPUD will need to address sewer collection system infiltration from storm water before the full capacity of the treatment facility can be utilized by development.

Response

The County relies on the MPUD to determine available capacity.

Comment 20-6

Page 4-70, Impact PSH-4, Paragraph 4: “Co #22 MPUD Mariposa” is not a County fire station.

Response

See Response to Comment 20-3, above. The EIR text in Paragraph 4, has been revised as shown below:

Residential development needs to occur in areas where fire protection can be supplied. The County has standards of response time and coverage for fire protection. There are ~~44~~ 13 County fire stations Countywide and one fire station under construction; these include Co# 21 Midpines, ~~Co# 22 MPUD Mariposa~~, Co# 23 Catheys Valley, Co# 24 Don Pedro, Co# 25 Mt. Bullion Airport, Co# 26 Coulterville, Co # 27 Mormon Bar, Co# 28 Bridgeport (planning for construction, 2005), Co# 29 Lushmeadows, Co# 31 Greeley Hill, Co# 32 Ponderosa Basin, Co# 33 Fish Camp, Co# 34 El Portal, Co# 36 Hunters Valley, and Co# 37 Bootjack. In addition, the MPUD has two fire stations: Station #1 is located at 5271 Highway 49 North, and houses two MPUD engines and one Mariposa County rescue vehicle; Station #2 is located at the MPUD administrative offices at 4992 Seventh Street and houses one fire engine.

**COMMENT LETTER 21 - B.A. BROWN FOR MARIPOSANS FOR THE
ENVIRONMENT AND RESPONSIBLE GROWTH (MERG), NOVEMBER
15, 2005**

Comment 21-1

The Draft EIR does not adequately mitigate the potential impacts of the total amount or rate of growth. No alternative is provided which will responsibly reduce impacts to an acceptable level.

Response

The comment introduces a number of recommendations for modification of the General Plan and Draft EIR that follow. A number of the comments deal with build-out and growth rates. The following describes the approach taken in the General Plan and EIR.

The General Plan uses two population forecast methods to identify short-term and long-term issues and actions, a growth projection and a build-out projection. The growth projection is utilized to identify programs that need to occur in a short period of time, generally within a 15-year time frame. The build-out projection is utilized to anticipate programs and actions that will occur beyond a 15-year time frame but that need to be considered in any actions in the short-term period.

Please read Section 1.9.02 Build-Out Projections of the Draft General Plan November 2006 for a discussion on the calculation of the population at build-out.

Please Read Section 2.6 of this EIR November 2006 for a discussion of the Alternatives and Population at build-out.

Comment 21-2

Revise the land use map to: 1) return boundaries of Area Plans to existing limits to reduce sprawl and rapid growth; 2) maintain 160 acre minimum parcel size area designations; 3) require large parcel open space (160 acres where feasible) between the communities of Mt. Bullion, Bear Valley, and Mariposa to maintain historic separation; and 4) reduce residential designated areas outside area plan areas to existing distribution.

Response

This is not an environmental issue evaluated in an EIR. The General Plan has been modified in response to public input. Section 5.4.01 Planning Area Land Use Classification now includes Planning Study Areas. The Planning Study Area is to be considered during the development of an Area Plan but retain their existing land use classification until a new Area Plan is adopted. The Agriculture/Working Landscape designation, Section 5.4.04, retains a 160 acre minimum parcel size with exceptions for existing legal parcels and where existing land use designations as of December 1, 2006 would allow smaller parcels. Text was added to Section 5.4.01 B that states area plans should embody greenbelts and open space lands to preclude rural sprawl. The Planning Study Areas maintain existing land use designations until an Area Plan is adopted.

The Draft General Plan November 2006 Rural Character Protection reduces the Area Plan boundaries, confirms the 160 acre minimum parcel size in Agriculture/Working Landscape,

requires evaluation of the lands designated Planning Study Areas (between adopted Area Plans), and clarifies the existing land use designations outside adopted Area Plans.

Comment 21-3

Adopt Draft EIR and MERG Recommended mitigation measures.

Response

The comment refers to detailed mitigation measures that are discussed in Comment Letter 22. This comment does not refer to specific impacts or mitigation. Responses to comments on recommended measures are addressed in Responses to Comment Letter 22.

Comment 21-4

Eliminate the clustering allowance outside the community areas.

Response

This is not an environmental issue evaluated in an EIR.

Comment 21-5

Maintain the 5-acre minimum parcel size.

Response

This is not an environmental issue evaluated in an EIR.

Comment 21-6

Use a target level of service (LOS) C for traffic instead of LOS D.

Response

This is a policy established by the General Plan to be considered by the Board of Supervisors.

A standard of LOS C would result in less traffic congestion, but only if the County can feasibly maintain such a standard. The LOS data for the Draft EIR was obtained from the 2001 Mariposa County Regional Transportation Plan (RTP). The RTP is an approved plan, which has been reviewed and adopted by the County.

Comment 21-7

Adopt public facility and service standards and require that new development meet these standards and pay their fair share.

Response

Section 4.4, Public Services and Utilities, discusses public facility and service standards that would be implemented for new development. The Draft EIR states that the County will cooperate with agencies and districts to the extent feasible and permitted by state law to explore methods for securing adequate funding and implementing fair share costs that will be paid by developers.

Comment 21-8

Adopt a reasonable annual population growth rate of 1.5%.

Response

This is not an environmental issue evaluated in an EIR.

The California Department of Finance projects a growth rate for Mariposa County of 0.9%.

Comment 21-9

Provide for a method of offsetting residential increases in build-out as a result of future general plan amendments by decreasing units permitted elsewhere in the County.

Response

This is not an environmental issue evaluated in an EIR, this recommendation would be a policy of the General Plan.

Comment 21-10

Incorporation of the MERG recommendations (as described in Comment Letter 22) into the Draft EIR Enhanced General Plan Alternative (Alternative 3) would result in an alternative that MERG can support. The Draft EIR Alternative 3, alone, does not go far enough in mitigating impacts and does not provide a Land Use Map alternative.

Response

The Draft General Plan November 2006 Rural Character Protection includes goals, policies and implementation measures based on comments received on the General Plan and Draft EIR.

**COMMENT LETTER 22 - THOMAS INFUSINO AND LAURIE OBERHOLTZER
FOR MARIPOSANS FOR THE ENVIRONMENT AND RESPONSIBLE
GROWTH (MERG), NOVEMBER 15, 2005**

Comment 22-1

The Draft EIR notes numerous impacts that will occur as a result of build-out and implementation of the General Plan. There appear to be inadequacies under CEQA that must be rectified in a recirculated Draft EIR because new significant impacts have been identified and because of the magnitude of the revisions required. The County is urged to commit the resources necessary to allow the consultants to conduct the additional analysis and mitigation formulation which will be necessary to fully answer these comments. In preparing a recirculated Draft EIR, the commenter requests that a revised Draft EIR be prepared in legislative revision format so that the public and decision-makers can better understand the changes made.

Response

The comment does not specify the inadequacies under CEQA that need to be rectified; therefore, a specific response to this comment cannot be provided. The comment does not specify the new significant impacts that would require a recirculation of the Draft EIR, a specific response to this comment cannot be provided.

This Final EIR does not identify new significant environmental impacts associated with the General Plan adoption, nor does it identify a substantial increase in the severity of an environmental impact over that described in the Draft EIR. Recirculation is not required.

Comment 22-2

The Draft EIR does not fully disclose impacts, or under reports impacts because the location and extent of land uses within the community and town planning areas to be expanded is unclear. These areas must be decreased in size to their current boundaries.

Response

The comment does not identify specific information on what topic or impact is inadequately addressed; therefore, a specific response to this comment cannot be provided.

The General Plan Section 5.4.01 Planning Area Land Use Classifications has been modified to clarify the designated uses in the Planning Area Land Use Classification. Adopted Area Plans are designated on the Land Use Diagram and their land use classification has not been modified. Land within the Plan Area designation that does not have an adopted area plan are designated Planning Study Areas and retain their existing land use designation. At the time an area plan is to be developed, the Planning Study Areas must be considered in the process.

Comment 22-3

The Draft EIR drastically underestimates build-out potential.

Response

The comment does not provide factual information to support the statement which defines “drastically” and does not quantify what the build-out potential is, a specific response to this comment cannot be provided.

Please read Response to Comment 21-1.

The General Plan uses two population forecast methods to identify short-term and long-term issues and actions, a growth projection and a build-out projection. The growth projection is utilized to identify programs that need to occur in a short period of time, generally within a 15-year time frame. The build-out projection is utilized to anticipate programs and actions that will occur beyond a 15-year time frame but that need to be considered in any actions in the short-term period.

The growth projection is based on historic and projected growth rates to forecast the pace of growth within the County. The most recent growth forecast was issued by the State of California for a period through 2050. This forecast projects a population of approximately 25,500 in Mariposa County in the next 40+ years with an estimated growth rate of 0.9 percent.

The build-out population for Mariposa County was established by calculating the total population that could be accommodated if potential land uses were constructed (i.e., “built out”) in compliance with the General Plan. The build-out population does not forecast the time frame when build-out will occur. The Draft EIR accurately reflects the potential ultimate build-out of the General Plan.

Comment 22-4

The alternatives do not include a Phased Growth/Reduced Scale alternative which would substantially reduce impacts, particularly to traffic and to the County’s rural character, while providing more moderate, expected growth rates over the 20 year plan period. The revised Enhanced General Plan Alternative (Alternative 3) with full mitigation would meet this goal.

Response

A phased growth alternative does not eliminate an impact; it only delays the time when the impact occurs. CEQA does not require that an EIR consider every conceivable alternative to the project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. CEQA Guidelines section 15126.6(a).

An EIR should briefly describe the rationale for selecting the alternatives to be discussed. CEQA Guidelines section 15126.6(a). Section 5.6.4 “Alternatives Considered and Rejected” discusses how the alternatives were formulated and a Guiding Principles Matrix was used to determine which issues should be included in the alternatives. This is adequate under CEQA. The non-inclusion of the alternative is legally defensible.

This EIR evaluates the full impact of implementing the General Plan. The Planning Commission and Board of Supervisors discussed the option of setting limits on the rate of growth and determined that given the current low rate of growth that a limited growth policy is not needed or desirable.

The October 2006 Draft General Plan incorporated language from Alternative 3, modified the land use designations and added policy that reduced the project build out. A new Alternative 5, Rural Character Protection, was presented to the Board of Supervisors in October 2006 which implements policies that further reduce the scale of development. The Draft General Plan November 2006 reflects the Alternative 5 goals, policies and implementation measures.

Comment 22-5

The following key policy revisions are needed to mitigate impacts: 1) protection of the 160-acre minimum parcel size where it currently exists; 2) 160-acre parcel size minimums between Mt. Bullion and Bear Valley and between Mt. Bullion and Mariposa; 3) Elimination of the clustering allowance outside the community areas; 4) creation of design guidelines and a discretionary design review process; 5) use of a range of permitted densities in residential land use designations to provide for the potential to mitigate impacts on a case-by-case basis; 6) addition of greater definition to the Rural Economic Uses designation to reduce potential land use and scale incompatibility; 7) target roadway LOS C; and 8) scale residential designated area outside community and town planning areas back to existing areas in current general plan.

Response

The comment does not provide factual information or quantified evidence on how these policies would further mitigate impacts described in the Draft EIR.

The Draft General Plan November 2006 has been modified in response to public input. Section 5.4.01 Planning Area Land Use Classification includes Planning Study Areas. The Planning Study Area is to be considered during the development of an Area Plan but retain their existing land use classification until a new Area Plan is adopted. The Agriculture/Working Landscape designation, Section 5.4.04, retains a 160 acre minimum parcel size with exceptions for existing legal parcels and where existing land use designations as of December 1, 2006 would allow smaller parcels. Text was added to Section 5.4.01 B that states area plans should embody greenbelts and open space lands to preclude rural sprawl.

Comment 22-6

The comments provided in this letter are organized largely around the following critical CEQA elements: 1) Adequacy of Alternatives discussion; 2) Appropriateness of the standards of significance; 3) Adequacy of the impact discussions; 4) Adequacy of the mitigation measures.

Response

This comment refers to the more detailed comments in the following pages. Specific comments are addressed below.

Comment 22-7

Alternatives. A full range of alternatives, consistent with CEQA Guidelines Sections 15126, subd(f) and 15126.6, is needed which will produce information sufficient to permit a reasonable choice of alternatives.

Response

The comment does not provide a recommended alternative(s) to consider; a specific response to this comment cannot be provided.

The Final EIR analyzes five alternatives to the proposed project that include components that manage development, maintain existing plans, enhance environmental features, allow for either less or more build-out population, or allow for conversion of some agricultural lands for subdivisions. These alternatives provide a wide range of alternatives that are evaluated against the proposed project. CEQA requires only the evaluation of alternatives that would reduce or eliminate impacts that could occur with the proposed project.

Comment 22-8

Standards of Significance. Local environmental impact thresholds not utilized. Environmental thresholds which are appropriate to local conditions in Mariposa County should also be used.

Response

The comment does not provide a recommended set of evaluation criteria with points of significance for consideration; a specific response to this comment cannot be provided.

The EIR incorporates criteria that are drawn from local plans and CEQA requirements. The local plans are identified in each analysis section in the table titled, “Evaluation Criteria with Points of Significance.”

Comment 22-9

The EIR fails to take into account the significance of an activity may vary with the setting. Lack of locally appropriate standards can be found throughout the EIR and should be rectified. Examples are provided in later comments.

Response

Since this comment does not identify what part of the Draft EIR is lacking in locally appropriate standards, and the comment states that examples are provided in later comments, a response at this point cannot be provided. The commenter is referred to the response to comment 22-8 that indicates the Draft EIR has incorporated standards drawn from both local plans and CEQA requirements.

Comment 22-10

Impacts are overgeneralized; prefer that discussions be organized by subareas.

Response

The comment does not provide recommendations on what impacts are better evaluated by subareas, does not provide information on what subareas should be included and does not define what is intended by the word “overgeneralized”; a specific response to this comment cannot be provided.

The EIR is a program level document. As stated in Section 1, Introduction, of the EIR, “The EIR is a Program EIR under the provisions of CEQA Guidelines Section 15168. In accordance with the CEQA Guidelines, an EIR on a program action such as the adoption and implementation of a local general plan contains a less detailed assessment of impacts than would be provided by an EIR on a specific development project. CEQA Guidelines Section 15146(b) states that an EIR on the adoption or amendment of a 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.” Thus, this EIR provides the level of analysis necessary to comply with this provision of the CEQA Guidelines.

Comment 22-11

Impact discussion is not specific in many cases. Implementation success is often not measurable. Although the Draft EIR is a Program EIR, this does not dismiss the agency’s responsibility to address impacts in as great detail as possible given the action at hand or to create mitigation measures for which implementation success is measurable.

Response

The comment does not cite the impact discussions that are not specific and does not cite which implementation policies are not adequately evaluated or measured; a specific response to this comment cannot be provided.

The Draft EIR provides quantitative evaluation of impacts to level of detail appropriate for a General Plan Program EIR. The evaluation criteria with points of significance were placed prominently in the EIR so that comments would focus on the criteria and analysis in order to receive specific fact based recommendations and responses.

Comment 22-12

All available mitigation measures not explored.

Response

The comment does not recommend mitigation measures for consideration; a specific response to this comment cannot be provided. Specific suggestions regarding mitigation are addressed below.

Comment 22-13

Because it is a land use plan that is under consideration, changes to the draft land use map should be the first tier of mitigation attempted rather than reliance on other forms of regulation.

Response

The Draft General Plan November 2006 Land Use Diagrams were modified in response to public input.

Comment 22-14

In virtually all of the impact discussion and mitigation measure sections in the Draft EIR, adequate information is not given to evaluate whether or not a mitigation measure is capable of meeting the mandates of CEQA Guidelines section 15370. Evidence is not given that mitigation measures will be effective in many instances.

Response

The comment does not provide adequate information on what is suggested that will demonstrate that the mitigation measure is capable of meeting the mandates of CEQA, a specific response to this comment cannot be provided.

The mitigation measures are effective, implementable, have been used effectively in California, and meet the CEQA Guidelines.

Comment 22-15

Future study and ordinance creation does not assure mitigation. Where mitigation measures in the Draft EIR recommend further study or adoption of standards, ordinances, and fees, the Draft EIR has not demonstrated a commitment to mitigation below a level of significance.

Response

As stated in Response to Comment 22-10 and 22-14, the EIR is a program level document on a General Plan. The General Plan does not regulate; it provides the basis for the County to adopt regulation that implements the mitigation.

Section 1, Introduction, EIR, states, “The EIR is a Program EIR under the provisions of CEQA Guidelines Section 15168. In accordance with the CEQA Guidelines, an EIR on a program action such as the adoption and implementation of a local general plan contains a less detailed assessment of impacts than would be provided by an EIR on a specific development project. CEQA Guidelines Section 15146(b) states that an EIR on the adoption or amendment of a 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.” Adoption of standards, ordinances and fees is appropriate mitigation for program-level impacts of adoption of a General Plan. The General Plan states that “Implementation Measure 5-1a(3) provides that land development regulations should define thresholds within uses that are complementary to the concept of rural character as defined by the General Plan or in regulations in the Area Plans.” This measure is implementable and effective.

Comment 22-16

Plan policies and implementation measures within the Plan and Draft EIR mitigation measures are not assured of implementation because timing has not been assigned. Those that are expected to serve as mitigation must have timing assigned to assure mitigation effectiveness.

Response

Each implementation measure of the General Plan includes a time frame.

Comment 22-17

Overriding considerations not supported in Draft EIR. The Draft EIR does not include information that would substantiate the infeasibility of the proposed mitigation measures or the proposed environmentally superior alternative. There is no evidence to support a statement of overriding considerations in favor of the project.

Response

The comment does not provide adequate information on the information that needs to be included in the EIR that would substantiate the mitigation measures and that demonstrates that the mitigation measures are infeasible, a specific response to these comments cannot be provided. Overriding considerations, if required, are prepared at the time of Board of Supervisors adoption of the General Plan, not in the EIR.

The EIR provides Evaluation Criteria with Points of Significance and analysis that allow the Board of Supervisors to determine if impacts result in significant impacts that cannot be mitigated. Impacts that cannot be mitigated are designated “significant and unavoidable”. The Board of Supervisors are required to make the finding of “overriding considerations” at the time of adoption of the General Plan, if appropriate.

Comment 22-18

The Final EIR must respond to specific suggestions for mitigating significant impacts with good faith and reasoned analysis.

Response

This Final EIR responds to specific suggestions for mitigating significant impacts with good faith and reasoned analysis.

The courts have determined that it is the responsibility of a commenter to provide specific recommendations and suggestions supported by factual information and reasoned analysis.

Comment 22-19

The Draft EIR relies extensively on analysis in a number of community plans and town plan EIR which were prepared some time ago. Conditions have changed since these EIRs were adopted. In addition, the Draft EIR does not include a scoping document, which makes it clear how the analysis in these previous documents is applicable to the Draft EIR.

Response

The comment does not identify a specific impact or mitigation to which it refers. Section 15153 of the CEQA Guidelines provides guidance regarding “Use of an EIR from an Earlier Project”. This is not applicable to the current situation, as an EIR has been prepared to specifically address the Draft General Plan. While information from previous documents has been used, the County is not relying on a previous EIR to provide CEQA documentation for the General Plan. Section 15162 of the CEQA Guidelines discusses “Subsequent EIRs and Negative Declarations”. The Draft EIR is not a subsequent EIR.

The Area Plans previously adopted are not changed in this General Plan.

Comment 22-20

The Draft EIR needs to consider economic and social effects to the extent possible.

Response

CEQA does not require the consideration of economic and social effects in that they are not environmental impacts. The comment does not state the economic or social effects, a response cannot be provided.

Comment 22-21

Page 2-11 of the Draft EIR only lists a few general areas of controversy. In order to provide the required good faith effort at full disclosure, the Final EIR must provide a comprehensive list.

Response

Section 7.1 of this EIR includes the additional issues identified during the comment period. The following issues were identified during the comment period:

- a. Status of historic parcels
- b. Plan Area size
- c. Interim land use designations within Plan Areas
- d. Parcel size outside Plan Areas, 5 acres vs. 2.5 acres
- e. Agriculture protection
- f. Environmentally superior alternative
- g. Split parcel design
- h. Native American consultation

Comment 22-22

The County has not made an adequate attempt to mitigate the unavoidable impacts cited in the Draft EIR, nor demonstrated that the impact cannot be mitigated.

Response

This comment does not define what an “adequate attempt” is, it does not state what is required to demonstrate that the impact cannot be mitigated, and it does not recommend mitigation that will meet these requirements, a specific response to this comment cannot be provided. Where specific recommendations and comments are made they are addressed in this Final EIR.

Comment 22-23

In reference to Impact LU-6 in the Draft EIR, Build out of the proposed General Plan might impact the County’s mineral resource production industry. This would result in a significant and unavoidable impact. An adequate attempt has not been made to mitigate this impact, such as not including residential in mineral resource areas.

Response

Section 5.4.05 Natural Resource Land Use Classification, C. Zoning Consistency has been modified in the General Plan to identify Agriculture Exclusive, General Forest, Mountain General, Public Domain and Public Sites as consistent base zoning districts. Goal 5-6: Designate land areas and establish siting criteria for the management of natural resources with its associated policy and implementation measure. Land Use Policy 5-5a and Implementation Measure 5-5a(1) states that the General Plan Land Use Element will identify lands within the Agriculture/Working Landscape land use classification for the primary purpose of production, extraction or harvesting of food, fiber, timber, and minerals. Conservation and Open Space General Plan Policy 11-3a and implementation Measures 11-3a(1) and (2) provide for reasonable development of mineral resources with standards of use where sitings are compatible with adjoining uses. The EIR acknowledges that once these lands are committed to non-mineral producing uses, land containing mineral resources cannot be replaced.

Comment 22-24

The Draft EIR lists among significant and unavoidable impacts. Impact PS-2, “Build out of the proposed General Plan could create a demand for additional school capacity that cannot be met by existing or planned capacity, which would be a significant impact.” The County could consider providing an approval preference for projects proposed in school districts with existing capacity.

Response

The General Plan includes the following goals, policy, and implementation measure:

- Goal 5-2: Create land use density and development patterns to manage growth in patterns avoiding sprawl,
- Policy 5-2a: Ensure that development shall occur first where services are located, and
- Goal 9-7: Collaborate with the Mariposa County Unified School District.
- Implementation Measure 9-7a(3) expands on the need to secure funding and project-sponsored mitigation.

The above goals, policy and implementation measure establish that projects with adequate services, including schools, have a preference.

The Board of Supervisors must determine that a project complies with the General Plan.

Comment 22-25

The Draft EIR lists among significant and unavoidable impacts Impact AQ-2, “Build out of the proposed General Plan could create significant impacts to air quality from emissions greater than the listed significance thresholds would remain.” Please consider adding a detailed air quality section to the General Plan.

Response

This comment is a General Plan comment. The comment does not define the term “detailed” and what is recommended to be included in the General Plan, a specific response to this comment cannot be provided.

The EIR states that because of the unknown future parameters of detailed growth data, specified locations of future urban land uses, and detailed mobile and area source emission characteristics, the effectiveness of the recommended mitigation measures cannot be quantified with certainty. Analysis of impacts in the Draft EIR is based on available information and requirements under CEQA. Because the Draft EIR is a program-level document, specific air quality measures will not be known or be able to be implemented until specific projects are brought forward. Projected air emissions associated with Horizon Year 2040 are presented on page 4-54.

The County complies with Federal and State air quality laws. Policy 11-1c and its associated implementation measures require standards that minimize impacts on and/or improve air quality.

Comment 22-26

On Page 2-17 of the Draft EIR, the Draft EIR lists among the significant unavoidable impacts the conversion of Williamson Act agricultural lands to residential uses. The Draft EIR indicates that approximately 2,200 acres of Williamson Act lands (not protected by other conservation easements) are given residential land use designations under the proposed General Plan. However, the Draft EIR does not quantify the housing accommodated by those land use designations. There is no way to determine if the County could remove the residential land use designations from these Williamson Act lands and still have a General Plan that provides sufficient residential development to meet the demands of the foreseeable future. However, given the huge excess residential capacity in this plan, it is hard to believe that the Williamson Act lands need to be sacrificed to meet projected housing demand.

Response

Approximately 900 dwelling units, including mother-in-law units, could theoretically be constructed (5 units per acre plus one mother-in-law unit allowed by California law and with no constraints to development such as access, slope, etc.) on the 2,259 acres within the Residential Land Use Classification that currently have Williamson Act contracts but do not have other conservation easements.

The Draft EIR did not identify the impact as significant and unavoidable. As defined in the Draft EIR, Section 4.1, Land Use, Subsection 4.1.4 Environmental Consequences (Impacts) and Recommended Mitigation, Impact LU-4, the Williamson Act allows a private landowner and the County to enter into a long-term contract to preserve agricultural and open space lands from development. A contract runs for 20 years and is renewable annually at the County or property owner’s option. If a landowner wishes to not renew a contract, the contract would run for an additional 20 years from the year of that request, but would then be eligible for development.

Therefore, a Williamson Act contract, although encouraged by the County to be retained by landowners, is not a guarantee of agricultural lands and open space into perpetuity.

Comment 22-27

The Draft EIR on pages 2-17 through 2-20 describes significant and unavoidable impacts associated with biological resources. The comment cites available biological resource information. The comment recommends a General Plan implementation measure to conduct landscape level planning to protect critical wildlife corridors, roosting and nesting habitat, and rare plants; and to ensure healthy populations of fish and game species.

Response

The General Plan Goal 11-4 “Conserve and enhance the ecosystems, plant communities, wildlife habitats, and the inherent diversity of both plant and animal species for the recreational, commercial, aesthetic, and basic ecosystems needs” with its accompanying policies and implementation measures requires the necessary information for project impacts to be evaluated.

Implementation measures 11-4a(1 through 8) require site specific surveys for critical habitat, endangered, threatened, rare wildlife, rare plant species, breeding raptors, migratory birds, wildlife corridors and wetlands. The measures require a comprehensive vegetation community map be prepared.

CEQA does not require mapping of resources in order to conduct an environmental review of a project. CEQA does require the review of a list of potential special status species that could occur within the proposed project area. Volume III of the Mariposa County General Plan (Technical Reports) describes potential habitat that may be found within and surrounding the County of Mariposa. The plant community descriptions and nomenclature used in Section 10.0 of Volume III are based on Holland’s *Preliminary Descriptions of the Terrestrial Natural Communities of California* (Holland 1986) and *A Manual of California Vegetation* (Sawyer and Keeler-Wolf 1995). The project area supports 19 plant communities based on this nomenclature. Each of these plant communities is described in detail in Section 10.0 in Volume III.

The wildlife habitats in the project area are identified utilizing the habitat classification system developed by the California Department of Fish and Game for the California Wildlife Habitat Relationships (CWHR) program. Section 10.0 of Volume III identifies the CWHR habitat type that corresponds with each plant community found in the project area. The vegetative components of each wildlife habitat type generally correlate with the plant communities described above. The wildlife habitats in the project area are described in Volume III in terms of the assemblage of wildlife species that they typically support.

Comment 22-28

The Draft EIR does not provide sufficient information to determine the financial feasibility for increased demands on public services and utilities that would reduce impacts to less than significant levels.

Response

Financial feasibility is not required by CEQA.

The EIR states that the General Plan includes policies that address the coordination of development with future provision of public services and utilities (described on page 4-25 of the EIR). With implementation of the General Plan policies and implementing measures, the EIR

finds that impacts resulting from the proposed project would be less than significant, and therefore, does not require additional mitigation.

Comment 22-29

Current buildable lot policy allows the creation of a lot based upon only a paper study of water sources, not a definite identified water source.

Response

The EIR identifies policies and implementing measures in the General Plan that state that future projects must have physical access to basic water and wastewater infrastructure, including a potable water supply meeting health department requirements and access to an approved source for wastewater treatment and disposal. The EIR finds that with implementation of these policies, impacts to groundwater sources would be less than significant.

Comment 22-30

Impact HW-5 in the Draft EIR states that build-out of the proposed General Plan could result in placing housing within flood hazard areas. This is considered to be a less than significant impact as proposed plan policies would minimize impact potential. However, the policies still allow for non-river dependent development in the flood hazard zone. The commenter does not accept the conclusion that the impact is less than significant.

Response

The comment does not provide justification on why the proposed mitigation is not adequate, nor does the comment provide a recommendation for mitigation that would further reduce impacts to the flood zone. Because information was not provided for consideration, a specific response to this comment cannot be provided.

The EIR identifies policies and implementing measures in the General Plan that reduce impacts to flood hazards to less than significant levels. These policies include a Flood Protection Ordinance, and policies for control of development in flood hazard areas, flood-proofing of new construction and maintenance of flood flows.

Comment 22-31

The project description shall contain the precise location of the project on a detailed map, the objectives of the project, a description of the project's technical, economic and environmental characteristics, and a statement of the intended uses of the EIR.

Response

This comment quotes from the CEQA Guidelines and no response is required.

Comment 22-32

The Draft EIR is inaccurate because the build-out calculations are inaccurate and low, which is because the assumed residential densities were applied to the build-out total in the various Area Plan expansion areas. At a minimum, the Draft EIR should note that revised EIRS would be needed if uses were selected for these areas that are more intense than those shown on the Interim Land Use maps.

Response

A clarification of the plan area land use designations has been incorporated into the General Plan. Section 5.4.01, Planning Area Land Use Classification, was modified to include a description of

Planning Study Areas and Volume II now includes land use diagrams that show the land use designations for each Planning Study Area.

During the process to update an existing Area Plan or adopt a new Area Plan, the appropriate environmental documentation is required.

Table 2-5 General Plan Alternatives, presents land use designation acreage and population forecasts for the October 2006 General Plan, Alternative 4 Suburbanization and the Project, Draft General Plan November 2006 Rural Character Protection

Comment 22-33

The cumulative acreage totals for each land use designation are never specified in the General Plan or Technical Background Report which is normally given in chart form in General Plans.

Response

See Response to Comment 22-32.

Comment 22-34

The full build-out must assume build-out without the decreases applied for slope and topography in General Plan Table 1-3 (Draft EIR Table 2-2) because the clustering policy could allow for full density on each parcel, and there is very little real constraint to development on the relatively large parcel sizes permitted in the County.

Response

The clustering policy does not guarantee full density on each parcel, the policy places limits on the minimum building lot size. Further, the topography, soils, and access may limit the full development potential of a parcel.

The comment is incorrect in regards to what is being defined in the tables. The EIR states that in order to determine the potential residential build-out that reflects buildable land outside of the planning areas, the County has implemented a building density methodology that considers both slope and density in determining feasible developable acreage. Due to the varied sloping topography in the County, which creates constraints for development, it is unrealistic for the County to calculate residential build-out densities at 100 percent of a parcel's development potential. In other words, portions of a parcel with a certain amount of slope cannot feasibly be developed. The residential densities may not change, but those densities would be based on what percentage of the parcel is buildable (e.g., 90%, 60%).

Comment 22-35

Full extent of Rural Economic land use designations cannot be understood at this time since this designation has not been applied.

Response

The Land Use Diagram designates 180 acres of Rural Economic. Prior to the classification being applied to other lands, a general plan amendment and appropriate environmental documentation will be required.

Comment 22-36

The Draft EIR provides no explanation why a General Plan with a 20-year time horizon is trying to accommodate a population of over 50,000 with all the significant impacts associated therewith,

nor does the Draft EIR explain why the alternative accommodates a population of over 39,000 with all the significant impacts associated therewith. The Final EIR can and should consider an action alternative that actually reduces impacts relative to the project, while still accommodating Department of Finance projections for the next 20 years.

Response

The following modifications have been made to the General Plan and EIR to clarify that the General Plan does not establish a date upon which it terminates. It is the intent that the County reviews the General Plan annually or as often as four times a year to keep the plan current with the issues and priorities facing the County.

General Plan

12. General Plan Timelines

The General Plan is a timeless document; the goals, policies, implementation measures, and land use diagrams remain in effect until modified through a general plan amendment. To focus on current issues of importance and to facilitate the prioritization of staff assignments and funding, the General Plan establishes three timelines; short-term planning period, intermediate-term planning period, and long-term planning period. ~~To carry out the General Plan,~~ Certain implementation measures are prioritized to occur at certain times in the future....

Environmental Impact Report

2.2 Mariposa County General Plan Build-Out

The General Plan uses two population forecast methods to identify short-term and long-term issues and actions, a growth projection and a build-out projection. The growth projection is utilized to identify programs that need to occur in a short period of time, generally within a 15-year time frame. The build-out projection is utilized to anticipate programs and actions that will occur beyond a 15-year time frame but that need to be considered in any actions in the short-term period.

The growth projection is based on historic and projected growth rates to forecast the pace of growth within the County. The most recent growth forecast was issued by the State of California for a period through 2050. This forecast projects a population of approximately 25,500 in Mariposa County in the next 40+ years.

When creating its General Plan, Mariposa County developed a population build-out range for the ~~life of the Plan~~ complete development of the County (build-out) based on the General Plan, its goals, policies, implementation measures, and land use diagrams.

Comment 22-37

The proposed mitigation for Impact LU-1 in the Draft EIR has not demonstrated that it would be effective: 1) There is no assurance that the rural character regulations will be adopted; 2) there is the potential that the regulations will be developed in an “unaccountable arena” since it is unclear whether or not they will result from a discretionary approval. If staff creates the standards, there would be no public opportunity to review them for the ability to carry out the mitigation expectation; and 3) no performance criteria are established to guide development of the standards or against which implementation can be measured.

Response

The Draft EIR is a program level document and therefore, by virtue of that nature, cannot feasibly provide definitive standards or guidelines for future projects. 1) The County is required to implement the General Plan; there are no assurances of what the regulations will contain. They are approved by the Board of Supervisors and the General Plan does not dictate the decisions of the Board. 2) Regulations (including standards within the regulations) require public review prior to adoption by the Board of Supervisors. 3) The comment does not state which implementation measures cannot be measured. For example, implementation measure 5-3a(1) states “Prior to the consideration of an application to change a land use classification, the subject property shall front on or shall have direct access to a maintained road”, the standard is, “maintained road”, the success is measured by monitoring the Boards approval or denial of a project. Without knowing which implementation measures are referred to, specific response cannot be provided.

Comment 22-38

Section 5.5.03C of the draft General Plan discusses the various tiers of design review and notes that other elements of the General Plan make certain aspects of design review mandatory such as in Historic Districts. However, it is not clear how design review for commercial, industrial, and public buildings will be carried out and discussion of residential design guidelines is avoided. Discussion of landscaping and sign guidelines is vague. The following additional mitigation measures should be added:

- See Comment 93 (Visual Resources) calling for specific Design Guidelines and process.
- Policy 5-2a, Implementation Measure 5-2a(1); Policy 5-4a, Implementation Measures 5-4a(1), (2), and (3); and Policy 5-7a shall include the additional phrase: “...provided that significant environmental impacts are not identified by their locations.”

Response

The comment refers to General Plan policies. The comment will be presented to the Planning Commission and Board of Supervisors for their consideration.

Comment 22-39

A number of Community and Town Area boundaries have been expanded consistent with the General Plan and are not discussed in Section 4.1 Land Use of the Draft EIR. The following mitigation should be added:

- Reduce all expanded Community and Town Plan Areas to existing boundaries.

Response

The comment refers to General Plan policies. The comment will be presented to the Planning Commission and Board of Supervisors for their consideration.

Please read Response to Comment 1-1.

The Land Use Diagram reduces the Plan Area designation by 8,900 acres, from 71,100 to 62,200 acres.

Comment 22-40

There is a potential for the areas between Mt. Bullion and Bear Valley and Mariposa and Mt. Bullion areas to suburbanize under proposed land use designations, further decreasing the visual separation and character of these communities, resulting in significant impacts. This is not discussed in the Draft EIR. The following mitigation should be added:

- The area between Mt. Bullion and Bear Valley, defined by Highway 49 North and Pendola Garden South, shall be designated Agriculture/Working Landscape, 160 acre minimum parcel size.

Response

Regarding the areas between Mt. Bullion and Bear Valley and Mariposa and Mt. Bullion, The General Plan designates Planning Areas that include adopted area plans and Planning Study Areas. The land use designations within the Plan Areas have not changed from existing land use designations. Please read response to comment 1-1.

The Draft EIR states on page 4-5 that draft General Plan Land Use Policies 5-1a, 5-2a, 5-3a, 5-4a, 5-7a, 5-9a, and 5-10a, both separately and collectively, guide future residential, commercial and industrial development of established communities (which include Mt. Bullion and Bear Valley), reinforcing their viability and preserving outlying lands. Therefore, it was determined that the potential for suburbanization between the areas is low and the proposed project would not result in significant impacts in these areas.

Comment 22-41

The Natural Resources Land Use designation has been applied to areas which include many parcel sizes which are larger than its 40 acre minimum. The result will be further subdivision bringing with it loss of community character, and impact to locally important agriculture. These impacts are not discussed in the Draft EIR. The following mitigation should be added:

- The Natural Resources Land Use designation shall have a minimum parcel size of 160 acres.

Response

The comment does not state what impacts were not evaluated in the EIR and does not state what impacts would occur that have not been addressed in the EIR, a specific response to the comment cannot be provided.

Comment 22-42

Mitigation Measures LU-1a and LU-1b call for preventing premature urbanization of the Mariposa Expansion Area until a new Town Plan can be adopted. However, it has not been demonstrated how these measures will be effective. The only effective mitigation seems to be to reduce the boundaries of the Town Plan area. The following mitigation should be added:

- Reduce boundaries of the Mariposa Town Plan Area to existing boundaries.

Response

The mitigation proposed does not state how it would further reduce impacts identified in the EIR.

Please see Response to Comment 1-1 regarding Plan Areas.

The Land Use Diagram reduces the Plan Area designation by 8,900 acres, from 71,100 to 62,200 acres.

Comment 22-43

The Draft EIR concludes that Land Use Impact LU-3, conversion of agricultural lands, would be less than significant. This is an unlikely result – impacts of incremental urban conversion are likely unavoidable.

Response

The comment does not specify how the proposed mitigation in the Draft EIR would be inadequate in reducing impacts to less than significant. The conclusion that incremental urban conversions are likely unavoidable is speculative, with no supporting facts to support this conclusion, a specific response to this comment cannot be provided.

Comment 22-44

Standards of Significance Table 4.1-1 in the Draft EIR do not reflect local conditions relative to agriculture. They do not include the issues of farmland of local importance or the value of privately owned open space lands within the County which could be significantly reduced under build-out of the General Plan. The following standard of significance should be added:

- Conversion of unique farmland, farmland of local importance, or privately owned undeveloped or agricultural lands in ownership patterns of 20 acres or more.

Response

The Draft EIR includes Evaluation Criteria with Points of Significance for Prime, Unique or Farmland of Statewide Importance, with justification based on CEQA guidelines, the draft General Plan policies, and California Department of Conservation, and for private mineral-producing lands as justified by the General Plan. The Point of Significance is “no net loss,” a more rigorous standard than the proposed standard of significance.

Comment 22-45

Land use incompatibility was not discussed in the Draft EIR. The issue of community character is extremely important, as noted in the General Plan, and must be addressed with the following standard of significance and an impact discussion:

- Standard of significance: Introduction of land uses into an area, which are not normally expected in the prevailing land use of the area or change in the established character of a neighborhood.
- Mitigation should include the specific design guidelines wording provided in Comment 93 on Visual Resources.

Response

Land use compatibility is not a required environmental impact to be addressed by CEQA. The General Plan comprehensively addresses land use compatibility.

Comment 22-46

Impacts on community character are not discussed in the Draft EIR. The following mitigation should be added:

- Include proposed mitigation in Comment 22-45, above.
- All residential land use designations shall include a range of residential densities permitted, with the maximum firmly enforced. This will enable mitigation on a case-by-case basis to include reduction in maximum permitted densities of project specific impacts as they are identified.

Response

Land use compatibility is not a required environmental impact to be addressed by CEQA. The General Plan comprehensively addresses land use compatibility.

Section 5.4 of the General Plan describes the population density and building intensity for each land use classification. A minimum number of dwelling units, a minimum density for new subdivisions, a minimum building intensity and maximum parcel size are not described. By default, the minimum number of dwelling units is 0, the minimum density for new subdivisions is five parcels (state law), the minimum building intensity is 0, and the maximum parcel size is unlimited. The maximum density/intensity cannot be exceeded without a General Plan amendment and appropriate environmental documentation. The General Plan, provides the flexibility to include reduction in maximum permitted densities for project specific impacts; this is the basis upon which the General Plan policies and implementation measures have been written. To arbitrarily establish a range of densities/intensity will limit the flexibility the Board of Supervisors to adjust the size of a project based on the site characteristics and compliance with the General Plan.

By recognizing the existing zoned land uses within the General Plan land use classifications, the General Plan is providing for a range of permissible land use densities within a larger framework of 160 or 40-acre parcel sizes.

Comment 22-47

The impact on the rural character of the County by the future siting of Rural Economic Land Use designations has not been discussed. The following mitigation should be added:

- The Rural Economic Land Use designation shall be revised to prohibit commercial developments over 5 acres in size, with a 25% maximum building coverage. Commercial uses in this designation shall be sized to serve only the local population, defined by a market study when uses are proposed.

Response

The General Plan describes the Rural Economic Land Use designation. A general plan amendment and appropriate environmental documentation is required to have lands designated Rural Economic Character. It is at the time of a request for General Plan amendment that the environmental effects of the specific project will be evaluated.

The comment does not provide justification or factual information on why this measure is required or what impacts it is mitigating; a specific response to this comment cannot be given.

The recommendation is appropriately considered as a policy in the General Plan. The comment will be provided to the Planning Commission and Board of Supervisors for their consideration.

Comment 22-48

Loss of open space as the County urbanizes has not been discussed in the Draft EIR.

Response

The Draft EIR discusses open space issues in Section 4.5, Biological Resources. Analysis of open space impacts is presented in discussion for wildlife habitat (Impact BR-4), sensitive native plant communities (Impact BR-5), wildlife migration or travel corridors (Impact BR-6), and conflicts with adopted habitat conservation plans, natural community conservation plans or other approved local, regional, state or federal habitat conservation plans (Impact BR-7).

Comment 22-49

Impacts of the General Plan clustering policy are not discussed. This policy could result in development of residential clustering outside the Area plans. The following mitigation should be added:

- Eliminate clustering policy in residential designations outside Area Plan boundaries. Where clustering policy is used, require deed restrictions or other conservation easement to ensure remaining property does not receive development entitlements in the future.

Response

The EIR considered the effects of clustering as permitted and controlled by the General Plan. Section 5.4.02 E and F(5) have been modified to clarify that the maximum density allowed by the land use classification can not be exceeded and that lands used to achieve the density will be restricted from further development, enforceable by the County.

Comment 22-50

The traffic section of the Draft EIR is not based on factual analysis. A traffic study was not prepared for the Draft EIR. Impacts under full General Plan build-out are not determined.

Response

The traffic data used in the impact analysis of the EIR were obtained from the 2001 Mariposa County Regional Transportation Plan (RTP) and included data through General Plan build-out. This is an approved plan that has been reviewed and adopted by the County. A traffic study was prepared for the EIR to evaluate potential Level of Service (LOS) impacts on key roadways and intersections in the County. The study methodology and conclusions are included in Chapter 4.3 of the EIR. The analysis concludes that there are no anticipated significant impacts caused by implementation of the General Plan.

The comment does not provide factual information that supports the conclusion for consideration. A specific response cannot be provided.

Comment 22-51

Level of Service D is not an appropriate LOS for a rural area. LOS C is the common target in rural areas.

Response

The comment does not provide an explanation why LOS D is not appropriate for Mariposa County and does not provide factual information to justify this conclusion.

The recommendation is appropriately considered as a policy in the General Plan. The comment will be provided to the Planning Commission and Board of Supervisors for their consideration.

Comment 22-52

Traffic impacts to quality of life need standard of significance. Thresholds for traffic related quality of life impacts in rural neighborhoods must also be developed. Bypass roads, reduction in densities, deeper front yard setbacks on impacted roads, traffic calming features and other methods can be used to address traffic-related quality of life impacts.

Response

Quality of life issues are important to the County as reflected in the General Plan Guiding Principles, goals, policies and implementation measures. The comment does not provide recommendations for new or modified policies that can be considered.

The recommendation is appropriately considered as a policy in the General Plan. The comment will be provided to the Planning Commission and Board of Supervisors for their consideration.

Comment 22-53

Minimum road standards should be included in the Draft EIR to provide a measurable impact evaluation criterion for General Plan traffic impacts as well as future project level impacts since they are not included in the General Plan.

Response

Minimum road standards need to be developed and appropriately established by the implementing ordinances, not the General Plan, which is a policy document.

Specific recommendations for evaluation criteria with points of significance were not provided; a specific response to the comment cannot be provided.

Comment 22-54

Impacts TT-1 and TT-2, impacts to state highways, county roads and county intersections: All available traffic impact mitigation has not been explored fully in the Draft EIR. The following mitigation measures should be added:

- Scale back all Community and Town Plan areas which are proposed for enlargement to existing boundaries.
- Replace Policy 9-1c with “Standards for all County roadways shall be included within the General Plan.”
- Require that the Development Impact Fee system ensure that concurrent with development, developers will fully pay for road capacity improvements necessary to mitigate all direct and cumulative traffic impacts from new development on any highways, arterial roads, and their intersections during weekday peak periods and to meet County road standards. Development projects shall not result in or worsen LOS on any highways, arterial roads, or intersections above LOS C. In any location where the LOS is below LOS C at the time an application for a development project is submitted, mitigation measures shall be imposed on that development project to assure, at a minimum, that the level of traffic service is maintained at levels of service that are no worse than those existing at the time an application for development is filed. In order to

limit fiscal impacts, County tax revenues shall not be used to mitigate traffic impacts of new development projects.

- Policy F(2) on General Plan page 5-34 shall be revised to require use permits for all uses adding 15% to daily traffic.

Response

The recommendation is appropriately considered as a policy in the General Plan. The comment will be provided to the Planning Commission and Board of Supervisors for their consideration.

The Land Use Diagram reduced the Plan Area by 8,900 acres.

Regarding road standards, please read response to comment 22-53. Regarding LOS C please read response to comment 22-51.

The Draft EIR shows that Impacts TT-1 and TT-2 are significant and unavoidable even with mitigation. Impacts are significant and unavoidable because mitigation requires the efforts of other entities that are beyond the control of the County.

The LOS data for the Draft EIR was obtained from the 2001 Mariposa County Regional Transportation Plan (RTP). The RTP is an approved plan that has been reviewed and adopted by the County.

Comment 22-55

The General Plan does not establish LOS criteria or other service standards for the various public services and utilities.

Response

Level of service criteria for the various public services and utilities are included in Section 8.2 of Volume III, Technical Background Reports, on which the Draft EIR bases its analyses. In addition, the Draft EIR states that the County has an accepted standard of 5 acres parkland (i.e., recreation space) per 1,000 population served (page 4-25 of the Draft EIR). The EIR finds that with implementation of General Plan policies and implementation measures, impacts to public services and utilities would be less than significant. The comment is not clear how it would further reduce impacts than what is analyzed in the EIR.

Comment 22-56

Policy 9-5a and Implementation Measure 9-5a(1) use the term “should” in discussing water and sewer service mitigation. Wording should be changed to “shall” to ensure mitigation. In addition, the measure should specify that all mitigation for public services and facilities for new development shall be developer funded to ensure that fiscal impacts to the County are avoided.

Response

The recommendation refers to policies of the General Plan. The comment will be provided to the Planning Commission and Board of Supervisors for their consideration.

Comment 22-57

General plan policies on parks and recreation facilities (page 4-25 of the Draft EIR) do not provide assurance of mitigation at this time and do not provide a schedule for when the appropriate measures will be completed. The following mitigation should be added:

- Require inclusion of LOS criteria in the General Plan. Add performance criteria requiring that new development will pay for needed parks and recreation facilities concurrent with development and that all parks and recreation facilities for new development shall be developer funded to ensure that fiscal impacts to the County are avoided.

Response

The recommendation refers to policies of the General Plan. The comment will be provided to the Planning Commission and Board of Supervisors for their consideration.

Level of service criteria for the various public services and utilities are included in Section 8.2 of Volume III, Technical Background Reports, on which the EIR bases its analyses. The EIR states that the County has an accepted standard of 5 acres parkland (i.e., recreation space) per 1,000 population served. The EIR finds that with implementation of General Plan policies and implementation measures, impacts to public services and utilities would be less than significant.

The comment does not provide factual information on how it would further reduce impacts than what is analyzed in the EIR.

Comment 22-58

The General Plan should require that developers will pay for new fire protection service facilities concurrent with development.

Response

The recommendation refers to policies of the General Plan. The comment will be provided to the Planning Commission and Board of Supervisors for their consideration.

Comment 22-59

Impacts to General Government were not discussed in Draft EIR.

Response

The comment does not state what environmental impacts to general government require analysis in the EIR.

Each implementation measure of the General Plan identifies the timing, general government responsibility, fiscal impact and consequences. Without the identification of the issue and potential environmental impact, a specific response to this comment cannot be provided.

Comment 22-60

No biological inventory of any type was prepared for the General Plan. As a result, it is impossible to determine the actual potential for impacts.

Response

Mapping and development of an inventory is not required of a general plan EIR. CEQA does require the review of a list of potential special status species that could occur within a proposed project area. Volume III of the Mariposa County General Plan (Technical Reports) describes potential habitat that may be found within and surrounding the County of Mariposa. The plant community descriptions and nomenclature used in Section 10.0 of Volume III are based on Holland's *Preliminary Descriptions of the Terrestrial Natural Communities of California* (Holland 1986) and *A Manual of California Vegetation* (Sawyer and Keeler-Wolf 1995). The

project area supports 19 plant communities based on this nomenclature. Each of these plant communities is described in detail in Section 10.0 in Volume III.

The wildlife habitats in the project area are identified utilizing the habitat classification system developed by the California Department of Fish and Game for the California Wildlife Habitat Relationships (CWHR) program. Section 10.0 of Volume III identifies the CWHR habitat type that corresponds with each plant community found in the project area. The vegetative components of each wildlife habitat type generally correlate with the plant communities described above. The wildlife habitats in the project area are described in Volume III in terms of the assemblage of wildlife species that they typically support.

This is adequate data to conduct impact analyses for a programmatic level environmental document. When individual projects are submitted to the County, those projects would be subject to further environmental review of impacts to biological resources.

Comment 22-61

Mitigation measures and General Plan policies and implementation measures for biological resource impacts are not specific enough to ensure mitigation. There is no assurance that adequate mitigation will be adopted. Without specific and directive mitigation wording, impacts must still be assumed to be significant and unavoidable. The following text should be added to the Draft EIR:

- Specific performance criteria should be added to the General Plan in Policies 11-2d, 11-4a, and 11-5a, and associated implementation measures which will require that conservation standards, tree protection standards, erosion control standards and grading standards be adopted which will ensure that plant and wildlife impacts will be reduced below a significant level. Critical standards should be included in the General Plan at this time. Mitigation of impacts to streams and other waters could be assured by requiring the generally accepted 50-foot setback from the high water mark of intermittent water bodies and a 100-foot setback from perennial water bodies. A direct prohibition of construction on slopes over 30% should be added.

Response

The General Plan is a policy document that establishes the actions to be taken and does not legislate performance criteria. Performance criteria are appropriate in the implementing ordinances of the County.

The General Plan Implementation measure 11-4a(1) requires the preparation of a Mariposa County Environmental Conservation Program that should consider inclusion of the recommended performance criteria.

Implementation measures 11-4a(1 through 8) implement the mitigation measures recommended in the Draft EIR. As stated in the EIR, these implementation measures reduce the impacts to less than significant.

Comment 22-62

The site-specific biotic surveys called for in Mitigation Measure BR-1 apply only to discretionary projects. The impacts that will result from extensive development allowed on existing legal parcels and via non-discretionary projects have not been recognized, resulting in a significant and unavoidable impact.

Response

The impacts of development on existing legal parcels and non-discretionary projects exist with the no project alternative, thus there is no new impact. Development in the County must comply with existing regulations and ordinances. Even development on existing legal parcels require building permits that require compliance with grading policies and tree-removal measures.

Comment 22-63

The site-specific nesting surveys called for in Mitigation Measure BR-3 apply only to discretionary projects. The impacts that will result from extensive development allowed on existing legal parcels and via non-discretionary projects have not been recognized, resulting in a significant and unavoidable impact.

Response

Please refer to Response to Comment 22-62. Existing approved land use designations have been subject to environmental review, or were established before the inception of CEQA. It is not feasible for the County to require retroactive review of these projects. Existing legal parcels are considered in the cumulative analysis as part of the existing condition.

Comment 22-64

Mitigation Measure BR-4 inappropriately passes understanding of impacts on to future study, and there is no assurance that preparation of the map will result in mitigation. Wording in the measure related to its future is vague.

Response

The EIR states that in accordance with the CEQA Guidelines, an EIR on a program action such as the adoption and implementation of a local general plan contains a less detailed assessment of impacts than would be provided by an EIR on a specific development project. CEQA Guidelines (Section 15146[b]) states that an EIR on the adoption or amendment of a 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.

Comment 22-65

The site-specific sensitive plant surveys called for in Mitigation Measure BR-5 apply only to discretionary projects. The impacts that will result from extensive development allowed on existing legal parcels and via non-discretionary projects have not been recognized, resulting in a significant and unavoidable impact.

Response

Refer to Responses to Comments 22-62 and 22-63.

Comment 22-66

The site-specific wildlife travel corridor surveys called for in Mitigation Measure BR-6 apply only to discretionary projects. The impacts that will result from extensive development allowed on existing legal parcels and via non-discretionary projects have not been recognized, resulting in a significant and unavoidable impact.

Response

Refer to Responses to Comments 22-62 and 22-63.

Comment 22-67

The wording of Mitigation Measure BR-6 is vague. The assumption that 50% retention of a corridor will ensure mitigation has not been demonstrated. Therefore, impact should be significant and unavoidable.

Response

Implementation Measures 11-4a(6 through 8) and compliance with Federal and State law provide the necessary mitigation. The comment does not explain why 50% retention is not adequate mitigation. The comment does not provide suggested language to strengthen Mitigation BR-6 and does not provide justification that 50% is not adequate.

Comment 22-68

The site-specific wetland surveys called for in Mitigation Measure BR-8 apply only to discretionary projects. The impacts that will result from extensive development allowed on existing legal parcels and via non-discretionary projects have not been recognized, resulting in a significant and unavoidable impact.

Response

Any project that would result in fill of wetlands is, by definition, a discretionary project as it would require a 404 Permit from the U.S. Army Corps of Engineers. Federal and State law requires project proponents to work in conjunction with the U.S Army Corps of Engineers pursuant to the requirements of the Section 404 Permit if wetland areas are identified on a project site.

Comment 22-69

The impact of general loss of plant and wildlife habitat including overall tree canopy loss was not discussed in the Draft EIR.

Response

The comment does not provide a suggested evaluation criteria or point of significance for consideration. The comment does not provide language for a recommended mitigation measure. Implementation measures associated with Policy 11-4a and compliance with Federal and State law provide the necessary mitigation.

Comment 22-70

The erosion impacts that will result from extensive development allowed on existing legal parcels and via non-discretionary projects have not been recognized in this discussion.

Response

Refer to responses to comments 22-62 and 22-63. General Plan Implementation Measures 11-5a(1) and 11-5a(2) require the review and amendment of the County Grading ordinance.

The comment does not provide factual information to justify the position that erosion impacts will result from the development of existing legal parcels.

Comment 22-71

Implementation Measures 11-5a(1), 11-5a(2), and 11-2(d), which are all cited as mitigations, are vaguely written.

Response

The comment does not provide suggested language; a specific response cannot be provided.

Comment 22-72

The discussion for Impact HW-4 in the Draft EIR has not demonstrated that groundwater impacts will not occur as development proceeds with both individual and shared septic systems in Mariposa County. There is no evidence given that these shared systems, which are also septic systems as opposed to treatment plants, will be more effective in reducing impacts than individual systems.

Response

The comment has not demonstrated that groundwater impacts will occur as development proceeds. The comment does not provide recommended policy or implementation measures that address their concerns.

New development is required to obtain approval from the Health Department, which is responsible to assure sufficient protection against groundwater impacts. Shared systems can often be cited in areas more suitable than those available within individual parcels, and if maintained by a homeowners association may be operated more efficiently than individual systems for which maintenance is often not optimal.

Comment 22-73

The Draft EIR does not explore all available mitigation for Impact AQ-2. Eliminating the Community Plan and Town plan expansion areas will reduce overall urbanization and resulting traffic and air quality impacts. Please add the following text: Reduce all expanded Community and Town Plan Areas to existing boundaries.

Response

The Land Use Diagram reduces the Plan Area designation by 8,900 acres.

See Response to Comment 1-1 that discusses the Plan Area designation.

Comment 22-74

Implementation measures AQ-2b(5) and 2b(7) in Impact AQ-2 of the Draft EIR deal with reduction of dust from dirt roads in a very non-specific manner. The impacts of dust from dirt roads in rural areas are significant and are not specifically discussed in the Draft EIR. In particular, the impact of increasing densities in the areas outside the existing Area Plan areas where dirt roads are still permitted is not acknowledged.

Response

The comment does not state how further analysis of dust impacts would provide mitigation that reduce impacts to less than significant levels.

In accordance with the CEQA Guidelines, an EIR on a program action such as the adoption and implementation of a local General Plan contains a less detailed assessment of impacts than would be provided by an EIR on a specific development project.

Policy 11-c and Implementation Measures 11-1c(1 through 4) have been added to the General Plan that address this comment.

Comment 22-75

Impact HC-1 (Historic and Cultural Resources) is concluded to be less than significant in the Draft EIR because of a number of General Plan policies cited. However, the policies cited are neither specific nor directive; mitigation cannot be assured. There is no assurance that historic resources will actually be preserved and not demolished. All mitigating policies described in the Draft EIR shall be required to be mandatory. In addition, Policy 14-6a should be revised as follows: Demolition of all structures over 30 years shall be reviewed for local, Statewide, or National historic or cultural importance. If determined to be important, demolition shall not be permitted unless the structure is beyond repair.

Response

The recommendation refers to policies of the General Plan. The comment will be provided to the Planning Commission and Board of Supervisors for their consideration.

Public Resource Code 5024(b) states that review of structures for historical significance is required only on buildings that are 50 years of age or older.

Comment 22-76

Loss of structures that may be of local historic or cultural importance, but not necessarily eligible for state or National listing could result in significant impacts that are not discussed in the Draft EIR. Demolition standards should state that cost is not an issue, but focus on whether or not the structure can be repaired. The recommended mitigation presented in Comment 22-75 should be applied to this impact.

Response

The recommendation refers to policies of the General Plan. The comment will be provided to the Planning Commission and Board of Supervisors for their consideration.

Comment 22-77

Potential noise impacts due to build-out of the General Plan cannot be understood without preparation of a noise impact analysis.

Response

The comment does not identify a specific issue or impact in the Draft EIR or how this comment shows the analysis to be inadequate.

Volume III, Technical Background Reports, Section 14, states that a community noise survey was conducted to describe existing noise levels in noise-sensitive areas within the General Plan study area so that noise level performance standards may be developed to maintain an acceptable noise environment. The data presented in Section 14 of Volume III of the General Plan has been incorporated into the analysis in the Draft EIR.

Comment 22-78

Key policy and implementation measures which are intended to protect County residents from future noise impacts are vague. The Draft EIR should include a noise acceptability level chart.

Response

The comment does not provide direction on why the implementation measures are vague and it does not provide recommended language to consider. The noise implementation measures are appropriate for a General Plan policy document.

Comment 22-79

The noise acceptability chart should be adjusted to reflect the lower acceptable noise levels in rural Mariposa County. A 55 dB outdoor level would be more appropriate, less where ambient levels are lower.

Response

The comment provides no relevance or citation from adopted plans or guidelines for stipulating a 55 dB outdoor level or less. As stated in Volume III Technical Background Reports, Section 14, noise modeling techniques and noise measurements were used to develop generalized $L_{dn}/CNEL$ or L_{eq} noise contours for the major roadways in the County of Mariposa General Plan study area for existing conditions. Discussions on noise levels for fixed noise sources in the County General Plan study area are also provided. Noise levels associated with the airport are based upon the existing Comprehensive Land Use Plan (CLUP) developed for the Mariposa County Airport.

The modeling methods used in the technical report closely follow recommendations made by the State Office of Noise Control, and were supplemented, where appropriate, by field-measured noise levels to account for local conditions. The noise exposure contours are based upon annual average conditions. Because local topography, vegetation or intervening structures may significantly affect noise exposure at a particular location, the noise contours should not be considered site-specific.

The General Plan Noise Element is based upon recommendations by the California State Office of Noise Control as contained in the Guidelines for the Preparation and Content of Noise Elements of the General Plan. The standards for all noise sources are based upon the CNEL/ L_{dn} descriptor.

The Federal Highway Administration's (FHWA) Highway Traffic Noise Prediction Model (FHWA-RD 77-108) was used to develop L_{dn} (24-hour average) noise contours for all highways and major roadways in the General Plan study area.

Comment 22-80

Implementation 15-2c(1) states that update of the General Plan Noise Element or if additional noise studies need to be conducted, would be determined by development activities. The General Plan or Draft EIR should direct the decision to conduct studies, in order to adequately analyze noise impacts. The Noise Acceptability Levels chart should be included in the Draft EIR.

Response.

See Response to Comment 22-78.

Comment 22-81

Implementation Measures 11-1a(1), (2), and (3) for Visual Impact VR-1 are vague in their wording and avoid directing that design guidelines be established for critical issue areas and land use categories.

Response

The comment is not clear how defining design guidelines would provide mitigation that would further reduce impacts to scenic resources beyond what is stated in the EIR. Design guidelines are established in zoning ordinances, and specific development documents such as Master Plans and Specific Plans. Design guidelines are typically not evaluated under CEQA, except to the extent of impacts to scenic resources as is stated in the Draft EIR.

Comment 22-82

The Implementation Measures cited for mitigation in the Draft EIR under Impact VR-1 rely on future development of standards with no performance criteria given and thus, no mitigation is assured. Additionally, Implementation Measure 11-1a(2) does not prohibit development on 30% slopes.

Response

See Response to Comment 22-81. The implementation measures will support the County's policy of conserving natural resources.

The comment does not provide a reasoning or justification for the prohibition of development on 30% slopes for consideration; a specific response cannot be provided.

Comment 22-83

The added Mitigation Measure VR-1 does not add specificity other than providing for guidelines for which there are no clear performance criteria in the short term before a Scenic Highway Overlay Zone can be adopted.

Response

The comment does not explain how Mitigation Measure VR-1 is inadequate, nor does the comment provide recommendations for additional mitigation for consideration; no response can be provided. The guidelines provided in Mitigation Measure VR-1 are appropriate for a General Plan.

Comment 22-84

Impact VR-2 in the Draft EIR cites policies and implementation measures that are vague in wording and which lack performance criteria to ensure mitigation will occur.

Response

The comment is not clear as to how Mitigation Measure VR-2 is inadequate. Impact VR-2 is clear that impacts to visual character could occur as a result of recreation and resort use or use of public facilities. Analysis of Impact VR-2 in the Draft EIR found that application of the cited General Plan policies, together with their respective implementation measures, would reduce the potential impacts on the existing visual character and quality of the County. Implementation measures under Policy 5-4c provide that development standards be developed for recreation and resort development which reduce impacts to visual character to less than significant.

Comment 22-85

Policy 5-2a and associated Implementation Measure 5-2a(1) cited as mitigation for Impact VR-2 Visual Character, calls for development to occur outward from Area Plan boundaries, yet the Area Plans have been greatly expanded in the General Plan with significant potential for urban sprawl and associated visual impacts.

Response

See Response to Comment 1-1 that discusses the Area Plan designation. The purpose of the Planning Study Area is to evaluate the effects of proposed land use designations and to assure compliance with the General Plan.

Comment 22-86

Implementation Measure 11-2d cited as mitigation for Impact VR-2 in the Draft EIR does not specify setbacks to be required from streams and lakes, and Implementation Measure 11-4a(2) regarding the removal of trees, is vague with no ability to measure results and assure mitigation.

Response

A setback is a standard appropriate in an ordinance, not the General Plan.

Implementation Measure 11-4(2) requires site development and grading review to minimize the removal of native trees and groves of trees. A quantified measure is impractical due to the diverse landscape of Mariposa County and unique characteristics of each site. The comment does not provide suggested language for consideration.

Comment 22-87

Mitigation Measure VR-2 in the Draft EIR provides no performance criteria.

Response

See Response to Comment 22-84 above.

Comment 22-88

More specific mitigation is needed to address the overall visual impacts of build-out under the General Plan. In addition, the General Plan does not make it clear how the design review process will work in the County.

Response

The comment does not identify the visual impacts that will occur or provide the specific mitigation recommendations that address the issues identified.

The General Plan sets policy; County ordinances and regulations establish procedures, including the design review process.

Comment 22-89

Relative to visual impacts, mitigation must be specific, directive, and include appropriate performance criteria or mitigation cannot be assured. The following should be added as mitigation for Impacts VR-1 and VR-2:

Design guidelines shall be prepared for the County and within each Area Plan boundary and adopted by the Board of Supervisors within two years of General Plan adoption.

Guidelines shall include standards for all land use categories with the following exceptions:

- Agricultural structures – no guidelines
- Residential – guidelines within all Historic Districts shall be required.
- Design guidelines shall be developed in the following issue areas with performance criteria noted:
 - Site design. See E(3)(a), General Plan page 5-40
 - Viewshed. See E(3)(b), General Plan page 5-40
 - Structures, landscaping. See (E(3)(c)), General Plan page 5-40.
 - Grading. See E(3)(d), General Plan page 5-40. Add “Construction and grading shall not be permitted on 30% slopes.”
 - Site development. See E(3)(d), General Plan page 5-40. Add “Ridgeline development shall not be permitted.” And, “Structures shall individually not exceed 10,000 square feet in size outside the Area Plan boundaries and 20,000 square feet within the Area Plan boundaries.”
 - Lighting. See Mitigation VR-3. It should be made clear that “all new development includes all land uses – commercial, industrial, public, recreational, and residential.”
 - Signage. Signage standards shall be developed to comply with the overall goal or compatibility with rural character. Sign standards must, at a minimum include the following criteria:
 - Signs shall be designed to be an integral part of the structure.
 - Signage size standards shall be based on the minimal size needed to be read by passing motorists.
 - One sign per place of business shall be permitted.
 - No off-site signage shall be permitted.
 - No internally lit signage shall be permitted.
 - Temporary sign standards shall be developed and, at a minimum, shall be limited to no more than 60 days per year per parcel.

Design Review Process. The design guidelines shall be implemented via a discretionary design review process at the Planning Commission level for regions outside the Area Plan areas and by appointed community design boards within Area Plan boundaries.

Response

The recommended language is not appropriate for the General Plan, a policy document. The recommended language will be considered for inclusion in ordinances that implement the General Plan.

Comment 22-90

There is no explanation in the section on unavoidable adverse impacts (Section 5.1, Page 5-1, of the Draft EIR) on why the General Plan is being proposed despite the significant impacts listed. This is not a good faith effort at full disclosure.

Response

Section 2.5 Summary of Impacts and Mitigation Measures provides the reader with full disclosure and a good faith effort. Section 5.1 of the EIR clearly identifies the unavoidable adverse impacts resulting from implementation of the project.

To clarify this section the following text was added to Section 5.1 of the Draft EIR, following the list of unavoidable adverse impacts:

CEQA requires the decision-maker (Lead Agency), to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve a project. Where a decision on a project allows the occurrence of significant effects that are identified in an EIR but are not at least substantially mitigated, the Lead Agency is to state in writing through a Statement of Overriding Considerations the specific reasons to support its action based on the EIR and/or other information in the record. If a Lead Agency makes a Statement of Overriding Considerations, the Statement should be included in the record of the project approval (14 California Code of Regulations Section 15000, *et seq.*).

Comment 22-91

The four-paragraph analysis in Section 5.2 Irreversible Impacts and Section 5.3 Short-term uses versus Long-term Productivity is virtually devoid of any specificity with regard to the resource trade-offs. There is no quantification of the resources lands sacrificed to residential development, no mention of the forestlands and the mineral resources lands sacrificed to residential development, and no explanation that justifies the General Plan's sacrifice of these resources to so oversupply the market for residential development. This is not a good faith effort at full disclosure.

Response

The EIR provides full evaluation of each of these issues in Section 4 of the Draft EIR.

Comment 22-92

The Growth Inducing Impacts section of the Draft EIR (Section 5.4, page 5-2) merely discusses the theory of growth inducing impacts, while failing to evaluate the growth inducing impacts of the General Plan. There is no quantification of impacts and no real disclosure.

Response

The EIR provides full analysis of growth inducing impacts, where applicable, in the environmental topic sections contained in Section 4 of the EIR.

Comment 22-93

Commercial and industrial land uses in the Community Plans and Town Plan areas are permitted but the maximum extent is not defined at this time.

Response

The adopted specific plans indicate where the commercial and industrial uses are allowed. The areas without adopted plans (Planning Study Areas) are required to develop plans, and at that time these uses will be specified. Further environmental documentation will be required prior to adoption of specific plans for those areas that do not presently have adopted plans.

Comment 22-94

The General Plan calls for a build-out capacity that far exceeds the period of the plan (see General Plan page 1-17) and assumes a growth rate which has not been experienced over a continued span of time in Mariposa County. These assumptions and provisions must be considered growth inducing. The following text should be added to the Section 5.4, Growth Inducement, in the Draft EIR, as well as the recommended mitigation presented in the comment letter:

An adopted growth rate similar to that experienced over the past 20 years and a land use map that will not facilitate a build-out beyond what is needed over the next 20 to 30 years is needed to mitigate growth inducing impacts.

Response

The General Plan identifies a build-out capacity but does not identify the time frame in which the build-out will occur. The General Plan does not project a growth rate. Please read Response to Comment 21-1 and 22-37.

The General Plan is a timeless document, the goals, policies, implementation measures, and land use diagrams remain in effect until modified through a General Plan amendment. To focus on current issues of importance and to facilitate the prioritization of staff assignments and funding, the General Plan establishes three timelines: short-term planning period, intermediate-term planning period, and long-term planning period.

Comment 22-95

The three-paragraph discussion of cumulative impacts in the Draft EIR provides no quantification or detailed treatment of the impacts. It provides no frame of reference for the General Plan's cumulative impacts, when added to past impacts such as mineral resource lands, expected shortage of classrooms, decrease in LOS on roads and at intersections; air quality; and sustaining wildlife habitat. Instead of quantifying the impacts, the analysis uses vague terms.

Response

The EIR states in Section 5.5 Cumulative Impacts that “an EIR on a comprehensive General Plan constitutes an assessment of cumulative impacts of development within the area covered by the General Plan”. The EIR provides full analysis of cumulative impacts, where applicable, in each of the environmental topic sections contained in Section 4 of the EIR. Quantification is provided to the extent feasible, but further environmental review of specific area plans and specific projects would be required.

Comment 22-96

The cumulative impacts of General Plan build-out cannot be understood without understanding the impacts of build-out in the Town Plan and Community areas to be expanded.

Response

Please refer to Response to Comment 22-95 and Response to Comment 1-1. Environmental review will be conducted prior to adoption of area plans.

Comment 22-97

Economic uses in outlying areas are not well defined.

Response

The comment does not explain how defining economic uses will further mitigate cumulative impacts.

Comment 22-98

The cumulative impacts of the proposed plan combined with plans of other jurisdictions, such as the National Park Service, and individual area plans are not discussed. Further, the individual area plan EIRs have been referred to, but there is no discussion of the impacts of each plan combined together.

Response

Please refer to Response to Comment 22-95 for discussion on individual area plans. Environmental review will be conducted prior to adoption of area plans.

Comment 22-99

As demonstrated in the Draft EIR, the amount of growth that build-out of the General Plan will result in is expected to generate significant unmitigable impacts to the areas of traffic, schools, mineral production, and air quality. The various Town Plans and Specific Plan EIRs concluded that unavoidable impacts will also occur. CEQA requires that a full range of alternatives be presented with the intent of identifying alternatives which can mitigate otherwise significant impacts of the proposed project. Thus, an alternative must be devised which would reduce the significant, unavoidable impacts listed in the Draft EIR as well as those which the commenter believes will be identified in a revision of the Draft EIR.

Response

Section 5.6 of the EIR provides analysis of project alternatives, including a No Project Alternative. Each of the alternatives would have significant unmitigable impacts because some of those impacts require mitigation by other agencies from which the County has no authority to require implementation. However, some of the alternatives would result in less adverse impacts mainly as a result of reduced build-out). CEQA requires that an EIR describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives (CEQA Guidelines 15126.6(a)).

The Project, Draft General Plan November 2006 Rural Character, has been added to the EIR for consideration. This alternative includes some measures recommended in this comment letter.

Comment 22-100

A full range of alternatives is not outlined in the Draft EIR. Two of the three development alternatives (1 and 4) provide for a build-out greater than that of the proposed General Plan and thus are more impacting, which is not the intent of CEQA.

Response

See Response to Comment 22-99. In addition, Alternative 1, the No Project Alternative, is required to be evaluated pursuant to CEQA. Alternative 4, Suburbanization, was evaluated as part of the Draft EIR because of its potential to fulfill some of the project objectives; this alternative would provide for the conversion of agricultural land to enable the construction of tract housing to serve population growth taking place primarily in Merced County and commuting to destinations outside Mariposa County.

Comment 22-101

The General Plan Enhanced Alternative (Alternative 3) is still not an adequately mitigating alternative because 1) it has not been demonstrated that the working change (discretionary to mandatory) will translate to a lower build-out as claimed; 2) the expanded Mariposa Town Planning Area cannot be left without land use designations in order to comply with State General Plan law; 3) the expansion area boundary would still exist, keeping open the future possibility of urbanization of the entire area; 4) most of the policies in Alternative 3 are the same as those in the proposed General Plan (proposed project); and 5) Alternative 3 does not recognize the expansion proposed in a number of other Community and Town Planning areas. As currently written in the Draft EIR, Alternative 3 does not include substantial enough changes to the Land Use Map to provide for a wider range of build-out number for an adequate alternatives discussion.

Response

Evidence is not provided to demonstrate that the alternative will not achieve the lower density. The Mariposa planning area is a study area; it does include land uses, which have not changed from the existing designation.

Comment 22-102

It is recommended that another alternative be evaluated. This additional alternative would be a Phased Growth/Reduced Sprawl Alternative, which would have downscaled Community and Town Plan areas and a maximum growth rate of 1.5% per year (the recent statewide growth rate). Or, Alternative 3, Enhanced General Plan Alternative in the Draft EIR could be revised to include full mitigation as recommended herein, which would also achieve the same goals as a Phased Growth/Reduced Sprawl alternative.

Response

The October 2006 General Plan included additional policies and reduced the size of Plan Area designations. The Project, Draft General Plan November 2006 includes additional goals, policies and implementation measures that further enhance the protections to the County provided in the General Plan.

Please read Response to Comment 21-1, 22-4, and 27-2. These responses discuss growth rates.

Comment 22-103

The revised Enhanced General Plan with Full Mitigation would substantially reduce the following impacts identified as unavoidable in the Draft EIR as compared to the Draft EIR proposed

Alternative 3: traffic, schools, air quality, and mineral production. Unavoidable impacts identified in the various area plan EIRs would be reduced or eliminated in traffic, traffic safety, impacts to small town character, inadequate water supply for residential development and possibly impacts to Maxwell Creek and Big Creek. A revised Alternative 3 with Full Mitigation could be feasibly implemented and not remote and speculative. It would meet the project objectives stated in the Draft EIR and would reduce impacts to a greater degree than the Alternative 3 currently proposed in the Draft EIR.

Response

The comment provides no specific data or evidence on how the impacts listed would be reduced to less significant levels under a revised Alternative 3. The Project, Draft General Plan November 2006 includes some of the recommendations of this letter.

Comment 22-104

MERG supports adoption of the revised Enhanced General Plan Alternative with Full Mitigation (revised Alternative 3). The mitigating effect and build-out capacity of this revised alternative should be described in the Final EIR and in the Environmental Findings upon adoption of the General Plan.

Response

Alternative 5, Rural Character, which includes some of the recommendations of this comment letter will be considered by the Board of Supervisors.

Comment 22-105

If the revised Enhanced General Plan Alternative with Full Mitigation is rejected, the Draft EIR should include an explanation in Section 5.6.4, Alternatives Considered and Rejected, in the Draft EIR.

Response

The Board of Supervisors will consider alternatives suggested prior to taking action on the Final EIR. The minutes of the meeting will disclose the action taken by the Board of Supervisors.

Comment 22-106

Impacts have not been quantified under each Alternative discussion in the DEIR. An adequate analysis requires a map or some form of inventory which shows the differences between the proposal as well as the land proposed under each of the alternatives. A chart comparing acreage of various land use alternatives under each alternative is necessary to truly understand each proposal. This would allow quantification of a number of impacts which are discussed in a qualitative manner including loss of open space and agriculture. Quantification of impacts to all of the potentially impacted roadways is also needed under each of the alternatives to allow for a reasoned choice.

Response

According to CEQA on the evaluation of alternatives, an EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed project. The significant effects of the alternative shall be discussed, but in less detail than the significant effects of the proposed project (CEQA Guidelines 15126.6(d)). Table 5-1 in the EIR provides sufficient information on the alternatives to compare and evaluate each with the proposed project.

LETTER 23 - RON AND LINDA DINNEL, NOVEMBER 15, 2005

Comment 23-1

As per the commenters' presentation at the Supervisor's meeting on November 1, we would like to encourage you to add to the alternative section of the EIR: Keep the Catheys Valley Planning Area as it is.

Response

The No Project Alternative would keep the General Plan and the associated planning areas as they currently are, including Catheys Valley Town Planning Area. Please read Response to Comment 1-1.

COMMENT LETTER 24 - COUNTY OF STANISLAUS, DECEMBER 1, 2005

Comment 24-1

The Stanislaus County Environmental Review Committee has reviewed the subject project and has no comments at this time.

Response

The County of Mariposa appreciates Stanislaus County for reviewing the Draft EIR.

COMMENT LETTER 25 - CENTRAL SIERRA ENVIRONMENTAL RESOURCE CENTER, DECEMBER 2, 2005

Comment 25-1

It appears that basic baseline information has not been gathered or displayed during the General Plan update process. The completion of biological and habitat inventories is a critical and indispensable first step that needs to be completed *before* any EIR can adequately evaluate the scope and degree of potential environmental impacts resulting from approval of a General Plan update. At a minimum, the commenter asks that the County inventory and map all available information on wildlife habitat and sensitive species locations before any updated General Plan is approved. It is unclear how the Draft EIR can meet CEQA's requirement for locally appropriate thresholds of significance if the County lacks the baseline studies that establish the current conditions. Biological impacts are also needed to ensure that cumulative impacts to biological resources are thoroughly analyzed and properly mitigated in the EIR.

Response

The baseline information used in the General Plan and EIR is documented in Volume III Technical Background Report. Please read section 7 of the General Plan Introduction.

CEQA does not require mapping or inventorying of resources in order to conduct an environmental review of a project. CEQA does require the review of a list of potential special status species that could occur within the proposed project area. Volume III of the Mariposa County General Plan (Technical Reports) describes potential habitat that may be found within and surrounding the County of Mariposa. The plant community descriptions and nomenclature used in Section 10.0 of Volume III are based on Holland's *Preliminary Descriptions of the Terrestrial Natural Communities of California* (Holland 1986) and *A Manual of California Vegetation* (Sawyer and Keeler-Wolf 1995). The project area supports 19 plant communities based on this nomenclature. Each of these plant communities is described in detail in Section 10.0 in Volume III.

The EIR meets CEQA's requirements for thresholds of significance. The EIR provides quantitative evaluation of impacts to level of detail appropriate for a General Plan Program EIR. The evaluation criteria with points of significance were placed prominently in Chapter 4 of the EIR so that commenters would focus on the criteria and analysis in order to receive specific fact based recommendations.

Comment 25-2

The three-paragraph analysis of cumulative impacts presented in the EIR clearly does not meet the legal requirements of CEQA. This section lacks critical information and makes no attempt to specify or quantify the future foreseeable environmental impacts of the Draft General Plan. At a minimum, the environmental impacts assessment should examine recent land use trends over the past decade, evaluate the implication of the General Plan update on these trends and analyze the potential future environmental consequences in the context of past impacts.

Response

The EIR states in Section 5.5 Cumulative Impacts, "an EIR on a comprehensive General Plan constitutes an assessment of cumulative impacts of development within the area covered by the

General Plan.” The Draft EIR provides full analysis of cumulative impacts, where applicable, in each of the environmental topic sections contained in Chapter 4 of the EIR.

Comment 25-3

An adequate review of the cumulative impacts must also consider an evaluation of the synergistic effects of the proposed General Plan policies. The cumulative impacts section should determine how policies would interact and potentially exacerbate environmental issues during the entire 20 years covered by this update.

Response

See Response to Comment 25-2 above.

Comment 25-4

The Center is concerned that the EIR does not contain proposed mitigation measures to address the cumulative impacts of the growth and development generated by the General Plan update.

Response

Section 5.5 Cumulative Impacts of the EIR, page 5-2, states that an EIR on a comprehensive General Plan constitutes an assessment of the cumulative impacts of development within the area covered by the plan, particularly in the case of a county General Plan. Therefore, each environmental topic analyzed in Section 4 of the Draft EIR covers cumulative impacts.

The comment does not provide a list of impacts that have not been identified in the EIR or a list of mitigation measures that need to be considered. Please read Table 2-5 General Plan Alternatives. The goals, policies and implementation measures of the General Plan are the mitigation measures.

Comment 25-5

While proposed measures BR-1 through BR-8 may address site-specific concerns on a project-by-project basis, they will not mitigate cumulative and landscape level effects on plant and wildlife species. Therefore, the EIR needs to create additional mitigation in order to specifically address the potential for cumulative impacts to biological resources.

Response

Section 5.5 Cumulative Impacts of the EIR states that an EIR on a comprehensive General Plan constitutes an assessment of the cumulative impacts of development within the area covered by the plan, particularly in the case of a county General Plan. The comment is not clear as to why the proposed mitigation in Section 4.5 Biological Resources is not adequate.

Comment 25-6

Cumulative effects mitigation measures are also necessary because it appears that the draft General Plan lacks protection for habitat that is not directly linked to special status wildlife species, but which still provides essential services to wildlife, such as nesting/denning/roosting sites, key food resources, and wildlife movement corridors.

Response

See Response to Comment 25-5.

Comment 25-7

A mitigation measure similar to Tuolumne County’s Open Space policy – one that requires the protection of open space on all discretionary entitlements or a detailed site-specific plan developed in conjunction with CDFG – would not only help ensure that cumulative impacts on habitat are addressed in the EIR, but would also help protect other environmental resources such as water quality.

Response

General Plan Goal 11-1, along with its associated policies and implementation measures, requires the conservation of natural and scenic resources and open space lands to protect and enhance the County’s quality of life and character, and ensuring a viable economy.

New implementation measures (11-4a) are included in the General Plan that require site specific surveys for critical habitat, endangered, threatened, rare wildlife, rare plant species, breeding raptors, migratory birds, wildlife corridors and wetlands. The implementation measures require a comprehensive vegetation community map be prepared.

Comment 25-8

It is requested that the proposed policy to allow roughly 38,000 acres of rural land to be up-zoned from 160 to 40 acres per parcel be directly addressed in the biological resources section of the Draft EIR with an additional mitigation measure to correspond to the impacts of such broad conversion of currently large parcels.

Response

The General Plan does not “zone” properties. The Land Use Diagram displays Land Use Designations. Each land use designation in Chapter 5 of the General Plan provides a list of consistent zones that may be applied to land within the Land Use Designation. The process to change a zone within the Land Use Designation requires environmental documentation and Board of Supervisor approval.

The EIR biological resources section of the EIR addresses the build-out of the County. Mapping and an inventory are not required in a general plan EIR. The discussion of Impact BR-4 acknowledges that the General Plan allows additional development and that the development could result in a loss of greater than 25 percent of a given habitat type in a proposed project area.

Comment 25-9

An up-zoning policy would also likely lead to a four-fold increase in the number of residences in many rugged, rural areas and a dramatic increase in the number of residences in extremely high fire risk areas. Allowing more residences among dense brush and forested areas with moderate or steep slopes would substantially increase the fire risk and create an increased burden on existing fire suppression forces. It is unclear if Mariposa County has adequate fire services to permit any increase in vulnerability, and it is unclear whether additional residential development in such distant, risky locations would create an excessive burden on fire services in the event of a large fire.

Response

The comment does not provide information to support the estimate of a four-fold increase in residences in rugged and rural areas. The EIR estimates a reduction of residences through implementation of the General Plan goals, policies and implementation measures.

Please read Response to Comment 25-8. The General Plan is not a zoning document and does not contain or advocate an “upzoning policy”

Impact PSH-4 in Section 4.11, Public Health and Safety, addresses the risk of fire associated with proposed development. The General Plan includes policies and implementation measures that reduce impacts from fire risk to a less than significant level.

Comment 25-10

The EIR fails to discuss the growth inducement implications of large community centers (i.e., expanded boundaries on community and town plan areas) on the environment both inside and outside these designated areas.

Response

The EIR evaluates the impacts of the build-out of the General Plan, including the Plan Areas. As discussed in Response to Comment 1-1, the Planning Study Areas land use designation and underlying zoning does not change with the adoption of the General Plan. At the time an Area Plan is updated, environmental documentation will address the impacts of the proposed land use designations and zoning.

The comment does not provide a list of the “growth inducement implications” for consideration; a specific response cannot be provided.

Comment 25-11

The land use designation used in the Community Planning Areas also contains so much flexibility that it is difficult to ascertain how these areas will be developed. The specific locations and the amount of the proposed land uses needs to be further clarified if the County expects the environmental impacts of these areas to be effectively identified and mitigated. The commenter supports substantially reducing the size of these areas.

Response

The land use designations and zoning within adopted Area Plans are specific. The land use designations and zoning within the Planning Study Areas are specific. The Plan Areas are not changed with the adoption of this General Plan. During the process to adopt an Area Plan, additional details and specificity will be developed. The Area Plan will require the preparation of appropriate environmental documentation to be evaluated in the adoption process. Please read Response to Comment 1-1.

The General Plan has reduced the Plan Area land use designation by 8,900 acres.

Comment 25-12

The EIR cannot accurately predict and analyze the traffic impacts of the General Plan update without a more rigorous assessment and analysis tied to a comprehensive Traffic Study. Thus, prior to any approval of the EIR or General Plan update, the County should supplement the current analysis with a Traffic Study so that appropriate local standards and mitigation measures can be developed and implemented in accordance with CEQA requirements.

Response

The traffic data for this Draft EIR was obtained from the 2001 Mariposa County Regional Transportation Plan (RTP) and includes data through General Plan build-out. This is an approved plan, which has been reviewed and adopted by the County.

Impact TT-4 in the Draft EIR (Page 4-18) further states that Policy 9-1d and its implementation measure (9-1d[1]) require road improvements based on road capacity if the traffic generated by the proposed project (which includes future specific developments) exceeds the capacity of the road system that provides access.

Please read Response to Comment 22-50 that expands on the level of detail involved in the traffic analysis, including traffic studies.

Comment 25-13

A target LOS D is an inappropriate standard for a rural County's General Plan. A LOS of C would maintain the rural quality of life.

Response

Level of Service D is Implementation Measure 9-1a(1) of by the General Plan, established by the Planning Commission and Board of Supervisors as the appropriate standard to maintain Mariposa County's rural character.

The comment does not provide justification of why LOS D is not an appropriate or how a lower LOS would maintain the rural quality of life.

A standard of LOS C would result in less traffic congestion, but only if the County can feasibly maintain such a standard. The LOS data for the Draft EIR was obtained from the 2001 Mariposa County Regional Transportation Plan (RTP). The RTP is an approved plan, which has been reviewed and adopted by the County.

Comment 25-14

The County should retain the area between Mt. Bullion and Bear Valley in a natural resource land use designation without allowing the conversion of so much acreage to ranchette size parcels.

Response

This comment is a general plan comment for consideration by the Board of Supervisors and does not address an environmental impact evaluated in the EIR.

Comment 25-15

In summary, the commenter has major concerns regarding the EIR's specificity and has many issues with the adequacy of the current mitigation measures. The appropriateness of some of the General Plan update's policies is questioned due to their numerous cumulative as well as significant and unavoidable impacts. In the absence of adequate biological data and an adequate cumulative impacts analysis, the commenter states that the proposed General Plan and EIR do not satisfy or fully comply with CEQA. Therefore, it is requested that the County eliminate serious omissions in the EIR's analysis as identified in the comments stated in this letter (Letter 25) and scale down some of the expansive growth that would be allowed by the General Plan update.

Response

The comments stated here summarize previous comments provided in the letter. Responses to these comments can be found in Response to Comments 25-1 through 25-14. Further, the General Plan DEIR is a program level document. When specific projects are submitted to the County in the future, a project level environmental review will be performed at that time.

**COMMENT LETTER 26 - COUNTY OF TUOLUMNE BOARD OF SUPERVISORS,
DECEMBER 13, 2005**

Comment 26-1

Until area plans are developed for all Mariposa communities (in particular those closest to the Mariposa-Tuolumne County border), it remains difficult to assess the impact that future planning and development decisions may have on Tuolumne County.

Response

The Coulterville Town Plan is adopted. The General Plan states that the Lake Don Pedro Town Plan is “pending for completion in the short term.”

Comment 26-2

The development pressures that are being experienced by the Lake Don Pedro Area in both Tuolumne and Mariposa counties are significant and a comprehensive plan would be very helpful to identify and address some of the unique issues that this area faces.

Response

This is not an environmental impact evaluated in an EIR. The General Plan Table 5-1 states that the Lake Don Pedro Town Plan is pending for completion in the short term.

Comment 26-3

Tuolumne County encourages the recommended mitigation measures concerning biological resources as contained in the Draft EIR be included in the Mariposa General Plan. The mitigation measures outlined in the Biological Resources section of the Draft EIR (particularly BR4) to create a comprehensive vegetation community map, would assist Mariposa County in addressing the impacts of development on wildlife habitat and special status species. Tuolumne County extends an offer to assist Mariposa County by providing copies of its Wildlife Handbook or to further explain its benefits if Mariposa is interested.

Response

The mitigation measures identified in the Draft EIR, including those in Section 4.5 Biological Resources, have been incorporated into the Project, Draft General Plan November 2006 Rural Character Protection, for consideration by the Planning Commission and Board of Supervisors. Mariposa County appreciates the commenter’s offer of assistance.

COMMENT LETTER 27 - YOSEMITE AREA AUDUBON, DECEMBER 21, 2005

Comment 27-1

Although the County has requested that comments should be confined to the Draft EIR, it is difficult to do so because the document describes the General Plan as the proposed project.

Response

It is acknowledged that it is difficult to separate comments on the Draft EIR and the Draft General Plan as they are interrelated; the EIR mitigation measures are the General Plan implementation measures.

Comment 27-2

The Draft EIR is inadequate because it does not include an alternative that would result in the population growth predicted by the State Department of Finance (DOF) estimates. The public has not had the opportunity to review and comment on such an alternative, regardless of the fact that it would fall “within the range” from the Existing Conditions (Alternative 2) to the General Plan Enhanced (Alternative 3).

Response

CEQA does not require an alternative that meets the State Department of Finance 2050 forecast of population. The EIR complies with CEQA and provides the required range of alternatives.

The Project, Draft General Plan November 2006 has a reduced build-out population projection of 28,000. Please read Table 2-5, General Plan Alternatives.

Two population forecast methods are used in the General Plan and EIR, build-out and growth. The two methods identify short-term and long-term issues and actions. The growth projection is time dependent and is utilized to identify programs that need to occur in a short period of time, generally within a 15-year time frame. The build-out projection that is not time dependent is utilized to anticipate programs and actions that will occur beyond a 15-year time frame but that need to be considered when taking action in the short-term period.

The growth projection is based on historic and projected growth. The most recent growth forecast was issued by the State of California for a period through 2050. This forecast projects a population of approximately 25,500 in Mariposa County in the next 40+ years.

The build-out population for Mariposa County was established by calculating the total population that could be accommodated if the potential land uses were constructed (i.e., “built out”) in compliance with the General Plan. The build-out population does not forecast the time frame when build-out will occur.

The General Plan estimates population at build-out and makes no attempt to determine when that will occur. Build-out may, in fact, occur years after the end of the 20-year horizon of the General Plan.

Comment 27-3

In bypassing the “detailed assessment of impacts,” as mentioned in the Introduction of the Draft EIR (page 1-2, second paragraph), the Draft EIR provides no assurance that a negative

declaration for a future activity will include analysis to demonstrate that impacts – which are considered less than significant in the Draft EIR – will continue to be below the significant threshold level. There is also no assurance that future projects will be analyzed for their cumulative effects with respect to individual impacts. This avoidance of detailed assessments essentially excludes the public from the future decision-making process, by leaving the decision of appropriateness of analysis to the Planning Department.

Response

The EIR is a disclosure document, not a regulatory document. The commenter is raising concerns that future projects will be approved without adequate environmental review. Future projects will be required to comply with applicable land use and planning law as well as CEQA. The commenter may be misinformed as to CEQA's tiering process. Tiering refers to the coverage of general matter in broader EIRs (such as general plans) with subsequent narrow EIRs or ultimately site-specific EIRs incorporating by reference the general discussions and concentrating solely on the issues specific to the EIR subsequently prepared. CEQA guidelines section 15385. The later EIRs are excused by the tiering concept from repeating the analysis of broad environmental issues examined in the general plan EIR.

Tiering does not excuse the lead agency from adequately analyzing reasonably foreseeable significant environmental effects of the project and does not justify deferring such analysis to a later tier EIR or negative declaration. However, the level of detail contained in a first-tier EIR need not be greater than that of the program, plan, policy or ordinance being analyzed. CEQA Guidelines section 1512(b). Where a lead is using tiering in connection with an EIR for a large-scale planning approval, such as a general plan, the development of detailed, site-specific information may not be feasible but can be deferred, in many instances, until such time as the lead agency prepares a future environmental document in connection with a project of a more limited geographic scale, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand. CEQA Guidelines section 15152(c).

The commenter's concerns are addressed by CEQA, as not all future site-specific project can take advantage of tiering. To qualify, later project must: (1) be consistent with the program, plan, policy or ordinance for which an EIR has been prepared and certified; (2) be consistent with applicable local land use plans and zoning of the city, county or city and county in which the later project would be located (except where rezone is needed to achieve or maintain conformity with the general plan); and (3) not trigger the need for subsequent EIR or supplemental EIR.

The public must be informed that the lead agency is using tiering; identify the prior EIR upon which it is relying; and inform the public where the prior EIR can be found. An "initial study or another analysis" will be required to assist in determining whether the future project may cause any significant impacts not analyzed in the prior EIR. This, future project will not escape environmental review required by CEQA.

Comment 27-4

There is no evidence provided to support the assumption that the proposed General Plan policies would be implemented by the County.

Response

The EIR is a disclosure document, not a regulatory document as discussed in Response to Comment 27-3. By adopting the General Plan the County is obligated by State law to implement the goals, policies, and implementation measures contained in the Plan.

Comment 27-5

The Mitigation Monitoring Program should be done before the EIR is finalized. The public has no opportunity to comment on the adequacy of the MMPs (protocols, significance levels, thresholds, etc.) or the proposed corrective measures to be taken when an impact's threshold of concern is exceeded.

Response

CEQA does not require the mitigation monitoring program to be included in the Draft EIR. The public has the opportunity to comment on the adequacy of the mitigation measures. The EIR provide "thresholds/significance levels" for each EIR topic, these are the Evaluation Criteria with Points of Significance.

The mitigation measures are the goals, policies, and implementation measures of the General Plan. The public has been provided an opportunity to comment on the General Plan that exceeds the comment period established by state law.

Comment 27-6

The Mariposa Town Planning Area Specific Plan offers mitigation measures that reduce those significant impacts to a less than significant level. However, four significant and unavoidable impacts are identified with short term and full implementation of the Specific Plan. These include: 1) increase in traffic safety hazards at Highway 140/Smith Road and Highway 49/Smith Road; 2) increase in traffic and safety hazards on Smith Road; 3) increase in traffic, pedestrian activity, and safety hazards along Smith Road; and 4) inadequate water supply for residential development. The term "increase" is qualitative and provides no information on the degree or severity of the impact. What is the current safety hazard at these intersections (accidents per year and severity of those accidents)? How is this expected to increase as a function of increased population in the TPA specific area? Is this increase a result of build-out of the Mariposa TPA alone or does it include contributions from the remainder of the proposed Plan under build-out conditions?

Response

The Mariposa Town Planning Area Specific Plan is not being amended. At such time as the Area Plan is modified, the General Plan will be amended with the appropriate environmental documentation.

Comment 27-7

(In the Mariposa Town Planning Area Specific Plan regarding impacts identified from inadequate water supply for residential developments), Is the water supply inadequate for the Mariposa TPA as defined by the current boundaries, or does it imply that the boundaries will be as defined in the proposed Plan? Is this an unavoidable impact under all alternatives as well as those evaluated in the Draft EIR or only for the project alternative? What is the degree of inadequacy as a function of build-out level in the TPA for each alternative?

Response

The Mariposa Town Planning Area Specific Plan is not being amended. The base zoning for the Planning Study Areas has not changed. See Response to Comment 1-1. At the time an Area Plan is modified, the General Plan will be amended with the appropriate environmental documentation.

Comment 27-8

Two significant and unavoidable impacts are identified with full implementation of the Coulterville Town Planning Area Specific Plan. These impacts are Impacts to Maxwell Creek and Impacts to the Small Town Atmosphere. Are the impacts to Maxwell Creek to water quality, riparian habitat or both? Would restricting development to less than full implementation of the Specific Plan reduce these impacts? Is allowing development that results in these impacts in compliance with the Clean Water Act?

Response

The Coulterville Town Planning Area Specific Plan is not being amended. At the time the Area Plan is modified, the General Plan will be amended with the appropriate environmental documentation.

Comment 27-9

Does “small town atmosphere” in the Coulterville Town Planning Area Specific Plan refer to air quality or ambience? If the former, is there compliance with the Clean Air Act?

Response

The Coulterville Town Planning Area Specific Plan is not being amended. At the time the Area Plan is modified, the General Plan will be amended with the appropriate environmental documentation.

Comment 27-10

In the Fish Camp Town Planning Area Specific Plan, one significant unavoidable impact is identified with full implementation of the Specific Plan: Impacts to Big Creek. Are the impacts to Big Creek to water quality, riparian habitat or both? Would restricting development to less than full implementation of the Specific Plan reduce these impacts? Is allowing development that results in these impacts in compliance with the Clean Water Act?

Response

The Fish Camp Town Planning Area Specific Plan is not being amended. At the time the Area Plan is modified, the General Plan will be amended with the appropriate environmental documentation.

Comment 27-11

In the proposed General Plan, what justifies the 90% “feasible onsite density” regardless of slope? Are the effects of slope on road access and septic capabilities less adversely affected when the parcels are under 10 acres with under \$15,000 in existing improvements? What is the functional relationship between septic capability and slope?

Response

As stated in the EIR the feasible onsite building density does not mean that the site will have that percentage of density (i.e., 90%). To determine the potential residential build-out that reflects buildable land outside of the planning areas, the County implemented a building density methodology that considers both slope and density in determining probable developable acreage. Because the County has extensive and varied topography, it is unrealistic to calculate residential build-out densities at 100 percent of a parcel’s development potential.

The effects of slope on road access and septic capabilities are not less adversely affected with the parcels are under 10 acres with under \$15,000 in existing improvements. The higher density was assumed for the Class B1 parcels in the population calculations described in Section 1.9.02 of the General Plan because the property owner with the smaller parcel is more likely to invest the additional cost to engineer a septic system and other required improvements to utilize the owners existing investment in the parcel.

The septic capability is dependent on soil conditions and slope. Septic systems require a relatively level area of sufficient size for the leach field. It is more difficult to locate suitable leach fields steeply sloping land.

Comment 27-12

It appears that calculations for the projected number of dwelling units are incorrect and should show about 400 less dwelling units than what is in the Draft EIR.

Response

It is not clear from the comment what environmental impact needs to be addressed in the Draft EIR. The comment does not provide supporting information utilized to reach the conclusion of 400 less dwelling units. A specific response cannot be provided.

Comment 27-13

Why is there a compulsion to accommodate the stated number of dwelling units outside the planning areas?

Response

Comment noted: The comment raises a policy issue for consideration by the Board of Supervisors, but does not include a review as to the disclosure of impacts by the “EIR.”

The existing zoning establishes an expectation of use by property owners. The County Board of Supervisors has determined that existing zoning land use densities as of December 1, 2006 are consistent with the General Plan.

Comment 27-14

Why are comparisons made with other rural County’s population growth rates?

Response

The referenced section(s) were not cited in the comment. We believe this comment refers to a section in the Draft General Plan, not the Draft EIR. The General Plan Section 1.12 describes the setting of the County and the County’s adjacent neighboring jurisdictions. The current population for each jurisdiction is provided, not the growth rate.

Comment 27-15

At the Draft EIR hearing, it was stated that the Draft EIR covered the range of alternatives as required by CEQA. The alternatives described in the Draft EIR present a culmination of rural sprawl.

Response

This comment presents a statement of opinion regarding the proposed General Plan and does not indicate inadequacy with a specific mitigation measure or impact analysis of the EIR.

Comment 27-16

The Draft EIR provides data on the Department of Finance (DOF) estimates for growth, but makes no attempt to describe an alternative whose policies, goals, implementation measures, and mitigation measures would result in a population growth rate comparable to the DOF predictions. The failure to include an alternative that results in DOF predicted growth makes the DEIR inadequate since the public has no opportunity to comment on such an alternative and decision-makers do not have the potential for selecting this environmentally superior alternative.

Response

See Response to Comment 27-2.

Comment 27-17

The state must have a formula that generates a numerical statutory requirement for every County for dwelling units (housing). It is not clear how the figure for Mariposa County was calculated. The DOF was able to project only a 52.2% increase in the number of dwelling units expected in Mariposa County between 1990 and 2025, while the County's calculations show the increase to be 81.4% for the same period. Are Draft EIR reviewers to believe that the DOF is unaware of the statutory requirements?

Response

The Department of Finance projections are the estimated growth that will occur by the year 2050; they do not forecast the build-out of the County. The General Plan build-out projections forecast the full development of the County and do not establish a time frame for how fast or when build-out will occur. Please read Response to Comment 27-2.

Comment 27-18

The Draft EIR is supposed to provide decision-makers with possible alternatives. Based on the statutory requirements the County Board of Supervisors could not legally adopt Alternative 2 (Existing Conditions). Why is Alternative 2 being presented as an alternative in the Draft EIR?

Response

Alternative 2 would not meet the objectives of the project. CEQA requires the EIR to evaluate impacts of Alternatives with the existing conditions, a snapshot in time. Alternative 2 represents the existing conditions of Mariposa County.

Comment 27-19

Although the Draft EIR presents the impacts for a range of alternatives, that range is between the unrealistic Existing Conditions (Alternative 2) and the explosive growth alternatives (Alternatives 1, 3, and 4). There needs to be an alternative that is closer to the growth rate that corresponds to the DOF estimates.

Response

The alternatives evaluate the build-out (not time dependent) of the General Plan and do not forecast the rate of growth (time dependent), see Response to Comment 27-2. The Project estimates a build-out population of 28,000 which is close to the Department of Finance forecast of population of 25,456 in the year 2050.

Comment 27-20

What were the arguments both in favor of and against in the Areas of Controversy listed in the Draft EIR?

Response

The issues included in Section 2.3 Areas of Controversy in the Draft EIR are based on the General Plan hearings, workshops, and on comments submitted during the scoping process. The arguments in favor and against the issues are not required to be included in the EIR.

Comment 27-21

Section 2.4 of the Draft EIR provides no details on the Alternatives, except for Alternative 3, then concludes by stating that the proposed General Plan is not the environmentally superior alternative.

Response

The comment does not indicate issues or concerns regarding the contents of the Draft EIR; a response cannot be provided.

Chapter 2 (and Section 2.4 Summary of Alternatives) provides a summary of the contents that are in the EIR in subsequent chapters. In Section 2.4, the Draft EIR directs readers to Section 5.6, Alternatives, for detailed analysis comparisons of the alternatives.

Comment 27-22

In Section 2.4 of the Draft EIR, the paragraph identifying the selection of the Environmentally Superior Alternative is confusing. The comment states that Alternative 2 (Existing Conditions) is not the No Project Alternative, as the Draft EIR indicates. Therefore, if Alternative 2 is the environmentally superior alternative, the CEQA requirement is satisfied by this identification. Further, the Draft EIR identifies Alternative 3 as the environmentally superior alternative, which is not the proposed project. Therefore, the Draft EIR primarily analyzes an alternative that is environmentally inferior.

Response

Section 2.4 provides a summary of the contents of the EIR. Alternatives are discussed in detail in Section 5.6. In Section 5.6.3 of the EIR, it is noted that Alternative 2 is a “type of No Project.” Therefore, CEQA allows that another alternative be selected if a No Project Alternative is the superior alternative. The Project, Draft General Plan November 2006 is the environmentally superior alternative.

CEQA does not require that the environmentally superior alternative be adopted, only that it be identified as such in the document. The EIR is a disclosure document that is to analyze and evaluate the project and its alternatives. The decision lies with the lead agency (County Board of Supervisors) in determining which project or alternative to adopt and, if a project other than the environmentally superior project is selected, adopting a statement of overriding conditions.

Comment 27-23

Section 2.5.1 in the Draft EIR identifies five significant and unavoidable impacts. All of these are consequences of build-out of the proposed general plan. What is not explored in the Draft EIR is the degree of significance that would accompany build-out to the population predicted by the DOF. Would these impacts still be unavoidable under such an alternative? Please explain why and to what degree as compared to Alternative 3.

Response

The comment refers to text included in the Summary section of the Draft EIR. Full analysis of the impacts and mitigation measures to be implemented are provided in each of the environmental topic sections in Chapter 4 of the Draft EIR. Most of the significant and unavoidable impacts are a result of the fact that mitigation is the responsibility of another agency, such as Caltrans, over which the lead agency has no control or authority. Therefore, these impacts remain significant and unavoidable under any alternative.

As stated in Response to Comment 27-2, the comment does not show how evaluating another alternative with an intermediate population estimate would further reduce impacts as compared to those of the proposed project or Alternatives 2 or 3. It must be emphasized that DOF estimates growth rates and estimated population at intervals of time, not build-out populations; the General Plan does not project growth rates, but estimates an ultimate build-out population, which may occur years beyond the 20-year horizon of the plan.

Comment 27-24

When an impact is significant and the mitigation measure is feasible, that measure must be adopted. The inclusion of the 25 mitigation measures as “should be adopted” items in the Draft EIR implies that the measures are feasible.

Response

The EIR is a disclosure document; CEQA does not require that a mitigation measure be adopted. The decision to include mitigation is made by the Board of Supervisors. See Response to Comment 27-22.

Comment 27-25

In Section 2.5.2.8, Visual Resources (summary), under “Other Mitigation Measures” (page 2-24), it states that “Proposed mitigation measure VR-1 should be added to the Conservation and Open Space Element of the General Plan. Mitigation Measure VR-1 would require the development of interim guidelines for non-single family development within County highway corridors to preserve scenic resources. When it is deemed appropriate by the County Board of Supervisors, the guidelines will be developed into a scenic views plan for the preservation of visual quality along the County’s highways....

Response

This section of the EIR presents a summary of the topics that are evaluated in detail in later sections (Chapter 4) in the EIR. The text identified by the comment is not the actual verbiage of Mitigation Measure VR-1; the actual text of Mitigation Measure VR-1 is shown in Section 4.12.4, Mitigation Measure VR-1. The text in the comment referring to “when it is deemed appropriate by the County...” is referring to the creation of a set of guidelines into a scenic views plan. However, the mitigation measure would apply to the project when the mitigation measures are included in the General Plan and the General Plan is adopted.

Comment 27-26

The Draft EIR does not include analysis for impacts that would be a consequence of build-out to the population numbers predicted by the DOF.

Response.

Please refer to Response to Comment 27-2. The DOF does not project population at build-out.

Comment 27-27

The Draft EIR does not define the degree of significance or the thresholds that are used to determine “less than significant.”

Response

The comment refers to impacts presented in Chapter 2, which is a summary of the contents in the Draft EIR. Degrees of significance and thresholds (Evaluation Criteria with Points of Significance) are included for each environmental topic in Chapter 4 of the Draft EIR.

Comment 27-28

The Draft EIR also fails to explore an alternative that would change almost all significant impacts to less than significant and reduce the less than significant to an even lesser degree.

Response.

The comment is not clear as to how the alternatives evaluated in the Draft EIR are not adequate in providing a reasonable range of alternatives. A recommendation has not been provided for consideration; a specific response cannot be provided.

Comment 27-29

In Section 2.5.3.5, Impact BR-7, the Draft EIR uses the conditional would instead of the imperative will. The timing for preparation of the Conservation Program is not defined, and there is no assurance that the program will be adopted by the County. Nor is there assurance that the public will have an opportunity to review and comment on the adequacy of the proposed Program.

Response

The General Plan, will, shall, and must stipulates a mandatory action; can, should and may are conditional or passive actions. In Impact BR-7, the Draft EIR indicates that the preparation of the Conservation Program would occur during the intermediate term planning period. The State requires the County implement the adopted General Plan. The adoption of a Conservation Program is a discretionary decision of the County. Discretionary decisions require public input, including public input on the required environmental documentation.

Comment 27-30

The comment asks why the proposed review of the preparation of the Mariposa County Environmental Conservation Program is confined to sensitive species.

Response

As noted in the EIR, the program would address “significant and sensitive habitat including wildlife migration corridors” and “significant and sensitive plant communities”. The program would also address “breeding and nesting areas.” The Environmental Conservation Program is not confined to sensitive species.

Comment 27-31

The Draft EIR includes no baseline information on wildlife habitat requirements, the County areas that are needed for the various species occupying or utilizing such habitat and evades the need to disclose this information

Response

CEQA does not require mapping of resources in order to conduct an environmental review of a project. CEQA does require the review of a list of potential special status species that could occur within the proposed project area. Volume III of the Mariposa County General Plan (Technical Reports) describes potential habitat that may be found within and surrounding the County of Mariposa. The plant community descriptions and nomenclature used in Section 10.0 of Volume III are based on Holland's *Preliminary Descriptions of the Terrestrial Natural Communities of California* (Holland 1986) and *A Manual of California Vegetation* (Sawyer and Keeler-Wolf 1995). The project area supports 19 plant communities based on this nomenclature. Each of these plant communities is described in detail in Section 10.0 in Volume III.

The wildlife habitats in the project area are identified utilizing the habitat classification system developed by the California Department of Fish and Game for the California Wildlife Habitat Relationships (CWHR) program. Section 10.0 of Volume III identifies the CWHR habitat type that corresponds with each plant community found in the project area. The vegetative components of each wildlife habitat type generally correlate with the plant communities described above. The wildlife habitats in the project area are described in Volume III in terms of the assemblage of wildlife species that they typically support.

This is adequate data to conduct impact analyses for a programmatic level environmental document. When individual projects are submitted to the County, those projects would be subject to further environmental review of impacts to biological resources.

Comment 27-32

(Impact HW-3) Requiring that all new projects have access to basic water does not ensure that the utilization of this water by the new development will not negatively impact the water supply of downslope residents. Furthermore, protecting the capacity of watersheds does not ensure recharging of the fractured rock groundwater sources.

Response

The EIR states that existing or potential sources of sustainable water supply would be maintained "through maintaining low intensities of development in order to protect the capacity of watersheds." The EIR proposed to "designate watershed areas", which would maintain recharge capability. These provisions were deemed to reduce the potential for significant impact on groundwater quality to less than significant.

Comment 27-33

The statement in Impact HW-3 (in Section 2.5.3.5) "These policies would result in impacts that are less than significant" is subjective and qualitative. What is the level of significance? How is an objective and quantitative determination of significance made?

Response

The comment refers to text in the Summary section of the Draft EIR (Chapter 2). The level of significance is defined and identified in the analysis section (Section 4.7 for Hydrology and Water Quality) of the Draft EIR. Table 4.7-1 presents the evaluation criteria with point of significance and Section 4.7.4 presents the impacts and recommended mitigation measures for hydrology and water quality issues. Table 4.7-1 identified the threshold of significance for Impact HW-3 as "Conflict with Mariposa County Health Department standards for groundwater quantity or quality."

Comment 27-34

Can the County incur responsibility for the loss of a resident's water supply that results from granting a permit for an upslope subdivision? The County should adopt a policy that requires the use of tracer tests to identify communication between proposed groundwater wells and existing residential supply wells, and the policy should be in the General Plan.

Response

This comment refers to a policy or County issue for the General Plan. It does not identify an issue with the Draft EIR.

Comment 27-35

How does the project take into account the potential decreases in the Sierra Nevada snowpack, which could diminish future water supply?

Response

The EIR (Impact HW-3) cites Policy 11-2c of the draft General Plan and its supporting implementation measures as providing for the preservation of existing or potential sources of a sustainable water supply through maintaining low intensities of development in order to protect the capacity of watersheds and would designate watershed areas of surface water systems where such systems and their proposed watershed areas serve or are capable of serving as a potable water source. Application of the above policy and implementation measures, by preserving the function of watersheds and recharge areas to provide a groundwater supply, and by requiring that new development have a water supply system of proven quantity, will reduce impacts on groundwater quantity to less than significant.

The potential for future reductions in snowpack is speculative, and it is beyond the scope of this EIR to evaluate the impact of future climate change.

Comment 27-36

How will development within the 100-year floodplain avoid redirecting flood flows? Development within the flood plain will also affect the biological functions of ecosystems.

Response

The EIR (Impact HW-5) provides detail on how flood flows and development within flood plains will be considered. The General Plan policies and implementation measures that apply to the project (and that are identified in the analysis for HW-5 in the Draft EIR) include the following:

Implementation Measure 16-5a(1): During the short-term planning period, enact an ordinance to require a hydrologic evaluation for all subdivisions and development projects located within flood plains and drainage channels to ensure potential flood hazard is minimized.

Implementation Measure 16-5a(2): Subdivision parcel and final maps and building permit site plans shall provide for on-site detention for normal storm water flows in excess of the capacity of natural drainage courses receiving runoff from the development.

Policy 16-5c: Water retention facilities shall be constructed to prevent flooding and to ensure that pre-development off- and on-site surface flows are maintained with no net increase.

Implementation Measure 16-5c(1): During the short-term planning period, enact an ordinance requiring all ponds and facilities for retaining water to be designed to prevent downstream flooding.

Policy 16-6a: Retain flood plains within project design in such a way as to ensure that no net change occurs upstream or downstream.

Implementation Measure 16-6a(1): During the short-term planning period, amend Title 17 of the Mariposa County Code, Zoning, to require flood and drainage channels to be designed into landscaping plans.

Implementation Measure 16-6a(2): Land use maps shall maintain low intensity zoning in floodplain areas.

The EIR states that these policies reduce the impacts of development on flood hazard areas to a less than significant level, and therefore, no additional mitigation would be required.

Comment 27-37

With the effects of global warming affecting the climate, there is a potential for a flood plain to be larger than what is now defined as the 100 year area. There could be unanticipated, larger flood conditions that could damage structures. Are we unable to learn anything from Katrina, Rita, and Wilma?

Response

The comment does not identify how the mitigation measures in the Draft EIR are inadequate, nor is it clear how this comment applies to components of the proposed project.

The EIR provides detailed analysis of flood hazards in Section 4.7, Hydrology and Water Quality, Impact HW-5, on page 4-46.

It is beyond the scope of this EIR to evaluate the impact of future climate change. The purpose of the regular (up to 4 times per year) General Plan review is to update the General Plan in response to new information and changing conditions.

Comment 27-38

When will the County Flood Protection Ordinance be adopted? Will the public have an opportunity to comment on the proposed ordinance, or will the first and second readings be waived? What assurance will the public have that the Ordinance truly provides the needed protection?

Response

The General Plan indicates that the County Flood Protection Ordinance are to be adopted in the short-term planning phase.

The other two comments refer to County policy and procedures and do not address a specific impact or adequacy of a mitigation measure in the Draft EIR.

Comment 27-39

There should be no development allowed in the 100 year flood plain other than water related activities. The absence of such development contributes to the rural characteristics that Mariposa residents desire to preserve.

Response

The comment is a statement that does not address a specific impact or adequacy of a mitigation measure in the EIR. The recommended policy will be provided to the Planning Commission and Board of Supervisors for their consideration.

Comment 27-40

In Section 2.5.3.7 Hydrology and Water Quality, of the Draft EIR, under Impact HW-6 (page 2-29), in the paragraph “Plan Policies that Serve as Mitigation,” the use of the conditional “would” (in Draft General Plan Policy 16-4c and Implementation Measure 16-4c(1), would control development in dam inundation areas and would amend the County zoning ordinance to include a dam inundation overlay district. ...Implementation of these policies would result in impacts that are less than significant) provides no assurance that implementation will occur.

Response

The General Plan, will, shall, and must (and would is a derivative of will) stipulates a mandatory action; can, should and may are conditional or passive actions. The use of the words shall and will are included in the Project.

Comment 27-41

In Section 2.5.2.7 Public Health and Safety, of the Draft EIR, under Impact PHS-4 (page 2-22), in the paragraph “Other Mitigation Measures,” the use of the conditionals “should” and “would” provide no assurance that a Wildfire Hazard Safety Plan will be prepared and implemented in the foreseeable future. It is suggested that the General Plan incorporate the provisions for protection of communities from wildland fire that are embodied in the Sierra Nevada National Forest Plan Amendment of 2000.

Response

The General Plan, will, shall, and must (and would is a derivative of will) stipulates a mandatory action; can, should and may are conditional or passive actions.

The recommended policy will be provided to the Planning Commission and Board of Supervisors for their consideration.

Comment 27-42

In Section 2.5.3.8, Air Quality, at the proposed build-out, the emissions of smoke from fireplaces or woodburning stoves in new residences could have a significant effect. Mariposa is already considered a non-attainment area for particulate pollution. The Draft EIR’s failure to address this potential source of pollution is a portion of the document’s inadequacy.

Response

The comment refers to text in the Summary section of the EIR. Full analysis of the impacts for each environmental topic is included in Section 4 of the EIR.

The General Plan includes policies that address compliance with Federal and State law.

The EIR identifies impacts from pollutant emissions to be significant. In addition, the Draft EIR finds that Impact AQ-2, even with implementation of the proposed policies and measures, would still be significant and unavoidable. This is due to the unknown future parameters of detailed growth data, specified locations of future urban land uses, detailed mobile and area source emission characteristics, and the specifics of future mitigation measures, the effectiveness of the recommended mitigation measures cannot be quantified with certainty. Potential for significant impacts to air quality from emissions greater than the listed significance thresholds remain.

Comment 27-43

In Section 2.5.3.10, Noise, neither the Draft EIR nor the General Plan Update includes an analysis of the current noise levels for the various areas of the County. Without such an analysis, the impacts of the proposed build-out cannot be estimated. Thus, the County residents have no opportunity to comment on this potential impact. This is a significant defect in the Draft EIR.

Response

The comment refers to a section of text located in the Summary section of the EIR. The full analysis of noise impacts is presented in Section 4.10 of the EIR.

The EIR and General Plan state that this is an integrated General Plan and Program EIR which is comprised of Volumes I, II, III and IV of the General Plan Update 2005. Chapter 14 in Volume III of the General Plan includes an assessment of roadway noise levels; fixed noise sources; noise levels related to operations at the Mariposa-Yosemite Airport; and existing community noise levels, and provides a basis for evaluation of noise impacts used in the Draft EIR. Chapter 14 in Volume III provides information on the existing noise environment of Mariposa County.

Comment 27-44

The proposed community area boundaries need to be restored to the boundaries that existed before the previous draft General Plan endeavor.

Response

Please read Response to Comment 1-1.

Comment 27-45

The Draft EIR addresses the problem of declining energy resources only cursorily in the context of Air Quality and encouraging energy conservation. There is no assurance that the “encouragee” will respond positively to the conservation recommendations. A more aggressive posture is needed. The County should require all new permitted residences and commercial buildings to be constructed with solar collection equipment.

Response

The comment refers to a policy issue and not a CEQA issue or comment on the Draft EIR adequacy.

Implementation Measure 11-c(2): Implement a program that minimizes impacts on and/or improves air quality.

Comment 27-46

In general too many policies, implementation measures, and mitigation measures are left to future development with no defined timelines or assurances that they will be adopted. The use of “should” rather than “shall” makes the development of a mitigation measure or adoption of a

policy optional. Furthermore, because of a lack of quantitative support information, there is no assurance that a mitigation measure will mitigate the expected impact. Additionally, the postponement of development of such policies, mitigation measures, and implementation measures to some uncertain future time, denies the public its opportunity to review and critique the feature. These items should be quantitatively described and suggested ordinances should be adopted before a General Plan that relies for its enforcement on these items and ordinances is adopted.

Response

The comment presents a summary of the comments in submitted in the letter, with responses addressed in the preceding responses.

The recommended policy language will be provided to the Planning Commission and Board of Supervisors for their consideration.

Comment 27-47

The deplorable paucity of wildlife protective measures in the Draft EIR reflects contempt for the general public's concerns for protection of the County's wild populations. The proposal to reduce minimum parcel sizes from 160 acres to 40 acres and the accompanying increases in density will lead to fragmentation of habitat. There is an additional concern for exposure of privately-owned structures to the effects of wildland fire. In order to avoid wildlife fragmentation and to reduce the wildfire hazard, the minimum parcel size of 160 acres must be retained.

Response

The comment does not identify how the mitigation measures in Section 4.5 Biological Resources, are inadequate to mitigate the stated impacts. The discussion of Impact BR-4 acknowledges that the General Plan would allow additional development and that the development could result in loss of greater than 25 percent of a given habitat type in a proposed project area. Mitigation BR-4 is designed to provide for the mapping of habitat, tracking of habitat loss, and measures to protect, restore, or create replacement habitat. Mitigation is also included to ensure fire protection for new development.

**COMMENT LETTER 28 - MARIPOSA PUBLIC UTILITY DISTRICT, DECEMBER
22, 2005**

Comment 28-1

At the December 2005 meeting of the MPUD Board of Directors, the Board discussed some of the environmental impacts that the proposed General Plan will have on MPUD. Please add the following comments on the General Plan EIR to previous MPUD comments submitted November 14, 2005.

Response

Responses to these comments are in addition to the responses provided on November 14, 2005 and identified as Letter 20.

Comment 28-2

Section 4.1 Land Use in the Draft EIR does not address increased land use within the watershed for public water supplies. The District is especially concerned about the Stockton Creek watershed area. The District's public water supply permit requirements are partially determined by the watershed survey that the District must prepare and update. Reducing the development restrictions and requirements in the watershed will no doubt affect the water quality and required treatment technology for the public water supply. The General Plan EIR should evaluate the impacts on any land use change within a public water supply watershed.

Response

Impacts on the public water supply service within the proposed General Plan project area are discussed in Section 4.4, Public Services and Utilities, page 4-24, and on the groundwater quantity are discussed in Section 4.7, Hydrology and Water Quality, Impact HW-3 (Pages 4-45 through 4-46). Mitigation to these impacts includes the following draft General Plan policies:

Policy 11-2c of the draft General Plan and its supporting implementation measures provide for the preservation of existing or potential sources of a sustainable water supply through maintaining low intensities of development in order to protect the capacity of watersheds and would designate watershed areas of surface water systems where such systems and their proposed watershed areas serve or are capable of serving as a potable water source. . In addition, Policy 9-5a and Implementation Measure 9-5a(1) require that new projects and subdivisions in the County have access to basic water ..., including a potable water supply meeting health department requirements

Application of these policies and implementation measures, by preserving the function of watersheds and recharge areas to provide a groundwater supply, and by requiring that new development have a water supply system of proven quantity, will reduce impacts on groundwater quantity to less than significant.

**COMMENT LETTER 29 - MORRISON FOERSTER, ON BEHALF OF REDINGTON
RANCH, LLC, DECEMBER 27, 2005**

Comments on the Draft EIR in this letter begin on page 5 of the letter.

Comment 29-1

Implementation measure for Mitigation Measure LU-3 is vague and ambiguous, in direct conflict with other policies of the General Plan, and potentially not enforceable since it completely prohibits amendment of the General Plan. It is suggested to amend the mitigation measure to “discourage (instead of “prohibit”) the conversion of agricultural land in Mariposa County to suburban or urban uses.”

Response

The recommendation is a policy that will be presented to the Planning Commission and Board of Supervisors for their consideration.

Comment 29-2

The Draft EIR’s standard of significance for Impact LU-4 impermissibly benchmarks the significance of the environmental impact of the proposed amendment of the General Plan to “interference with” the existing zoning. The phrase “or interfere with existing zoning for agricultural uses” should be deleted from the standard of significance and the impact be reassessed in light of this change.

Response

The standard of significance, as shown in Impact LU-4 has been revised as follows:

Will the Project increase the potential for cancellation or non-renewal of any existing Land Conservation Act (Williamson Act) contracts ~~or interfere with existing zoning for agricultural use?~~

The revision to the impact statement does not require a change in the analysis.

Comment 29-3

The Draft EIR explains that County policies for implementing the Williamson Act in Mitigation Measure LU-4 will be amended to specifically address residential development on contracted lands (page 4-8). This mitigation measure is vague and ambiguous and fails to explain how County policies for implementing the Williamson Act will be amended. Mitigation Measure LU-4 should be amended to explain how County policies for implementing the Williamson Act will be amended to address residential development contracted lands.

Response

The Project includes the following goal, policy and implementation measures for implementing the Williamson Act in Mariposa County.

Goal 10-6: Preserve Agriculture lands to maintain County character.

Policy 10-6a: Maintain viability of agriculture lands when historic parcels are discovered.

Implementation Measure 10-6a(1): Prohibit the construction of residences on parcels that are subject to a Williamson Act contract unless they comply with the terms of a Williamson Act contract.

Implementation Measure 10-6a(2): Review enforcement of Williamson Act provisions requiring onsite residents to be actively performing qualifying agricultural activities on all contracted property, including historic parcels, and require one Williamson Act contract for each parcel or for each group of contiguous parcels that are owned and managed enforce-ably as one unit.

Comment 29-4

Mitigation Measure BR-3 (page 2-8 and 4-32) delegates control over adequacy of mitigation measures to the California Department of Fish and Game when impacts to nesting raptors are identified. Requiring consultation by the County with CDFG over the adequacy of mitigation is desirable but the County should retain the ultimate decision over the adequacy of mitigation. It is noted that the language of mitigation measure BR-3 on page 4-32 does not contain the requirement that “agreement by CDFG” be reached.

Response

The County agrees that it retain the ultimate decision over the adequacy of mitigation.

**COMMENT LETTER 30 - SOUTHERN SIERRA MIWUK NATION, DECEMBER
27, 2005**

Comment 30-1

The Draft EIR and Draft General Plan do not address the “Tribes” views and concerns of the Traditional Tribal Cultural Sites.

Response

The Draft General Plan November 2006, Section 1.8 and Chapter 14, have been modified to incorporate input received during consultations with the Southern Sierra Miwuk Nation of Mariposa County.

Comment 30-2

The Tribe has not been included in the development of the Draft General Plan or the Draft EIR. The Tribe has not received any letters asking for participation or consultation in this process by Mariposa County Planning, except for the Notice of Preparation which requests comments not consultation. The Southern Sierra Miwuk Nation is officially asking to enter into consultation with Mariposa County. Pursuant to CEQA, SB 18 and SB922 guidelines, State law requires 90 days for the Tribe to respond to consultation requests.

Response

The County has entered into consultation with the Southern Sierra Miwuk Nation. Numerous General Plan language and policy changes resulted from the consultations.

COMMENT LETTER 31 - JIM AND J.J. GILLISPIE, JANUARY 11, 2006

Comment 31-1

The number one concern is water. Some areas have much less water than other areas. Here, in the Mt. Bullion/Bear Valley area, will we have to dig much deeper wells in order to reach the aquifer that is being depleted by a potential of 1,000 homes?

Response

The EIR analyzes impacts on the public water supply service within the proposed General Plan project area in Section 4.4, Public Services and Utilities, page 4-24, and on groundwater quantity in Section 4.7, Hydrology and Water Quality, Impact HW-3 (Pages 4-45 through 4-46). The Draft General Plan November 2006 includes Policy 11-2b and its associated implementation measures.

The EIR finds that impacts on public water supply would be less than significant. Land use designations for the Mt. Bullion and Bear Valley Planning Study Areas do not change upon adoption of the General Plan.

Comment 31-2

There has been no environmental impact study done to determine what kind of impact large acreage that is changed to smaller parcels, like 5 acre parcels, will have on the environment.

Response

The comment does not identify a specific impact that it refers to, the EIR analyzes impacts of the build-out of the General Plan on proposed land uses in Section 4.1 of the DRAFT EIR. The General Plan policies and implementation measures reduce impacts on Land Use within the General Plan area to less than significant levels. The tauschea property does not receive increased land use designations or underlying zoning as a result of the General Plan update.

Comment 31-3

Traffic will greatly increase and bring environmental noise and air pollution.

Response

The comment does not indicate a specific issue or state how the mitigation measures included in the EIR are inadequate. No further response can be provided.

Comment 31-4

There will be a reduced LOS on state highways, county roads and at local intersections.

Response

The Draft EIR discusses traffic impacts in Section 4.3, and identifies long-term impacts on state highways as significant and unavoidable. Impacts on local roads and intersections were determined to be less than significant with implementation of proposed General Plan policies (see Impact TT-4 on page 4-18 of the Draft EIR).

Comment 31-5

There will be greater air quality emissions than listed in the significance thresholds. Will residents need to smog their cars?

Response

The comment does not state what the air quality emissions will be and does not provide justification of the statement; a specific response cannot be provided.

The State of California regulates vehicle emissions, not the County of Mariposa.

Comment 31-6

There will be impacts to public services and utilities: unmet demand for additional school capacity; fire department coverage will be hampered and will require an increase in personnel, equipment and public education on fire safety; the impact on water used in fire fighting; police and emergency services will require an increase in personnel and/or additional facilities.

Response

The comment is not clear as to how the proposed mitigation measures are not adequately addressed in the EIR. The EIR discusses impacts on public services in Section 4.4. The EIR finds that impacts to public services and utilities, except for school capacity would be reduced to less than significant levels with implementation of the stated General Plan policies and implementation measures. The EIR states that school capacity would remain significant and unavoidable even with available mitigation. Land development possibilities in the Mt. Bullion and Bear Valley communities are not changed substantially with the adoption of the General Plan.

Comment 31-7

Land zoned as 160-acre parcels has historically been in agricultural use. This loss of land will have a significant and irreversible effect.

Response

The comment is not clear as to how the impact analysis or proposed mitigation is not adequately addressed in the Draft EIR. The 160-acre agricultural parcels are not lost after adoption of the General Plan.

Comment 31-8

There will be a loss of non-renewable mineral resources.

Response

The comment is not clear as to how the impact analysis or proposed mitigation is not adequately addressed in the Draft EIR.

Comment 31-9

What will happen to Mariposa's natural resources?

Response

The comment is not clear as to how the impact analysis or proposed mitigation is not adequately addressed in the Draft EIR.

Comment 31-10

Where would birds and wildlife be displaced to?

Response

The comment is not clear as to how the impact analysis or proposed mitigation is not adequately addressed in the Draft EIR. The Draft EIR discusses impacts and mitigation measures to reduce impacts to biological resources in Section 4.5.

The remainder of the letter is commenting on issues and concerns in the draft General Plan or on General Plan policies, not issues in the EIR.

**COMMENT LETTER 32 - UPPER MERCED RIVER WATERSHED COUNCIL,
NOT DATED**

Comment 32-1

The Draft EIR does not adequately provide measures that maintain a commitment to programs for invasive species control. The following implementation measures are recommended to be added:

- Implement a proactive prevention and education program for all areas of the County, not just in the agricultural lands section.
- Address the spread of invasive species along county roads.
- Require equipment operators to wash their equipment before moving from one development site to another to prevent the spread of invasives like yellow star thistle.

Response

Policy 11-4c and its associated implementation measures are included in the draft General Plan that address these issues.

Comment 32-2

Further implementation measures would protect water quality and quantity and improve management of a limited resource. Threats to water quantity should be addressed in the following recommended implementation measures:

- Development: designs should be evaluated to be sure that sufficient setbacks are provided for all bodies of water.
- New developments should be able to prove that adequate water for current and projected needs can be provided without affecting the available water to neighboring properties.

Threats to water quality should be addressed in the following recommended implementation measures:

- Erosion from poorly sited or maintained dirt roads.
- Erosion from improperly prepared building pads.
- Stormwater runoff.
- Runoff from excessive use of fertilizers and herbicides.
- Runoff from “unofficial” dump sites.
- Runoff from abandoned mine sites.

Response

The Draft General Plan includes Goal 9-5 and its associated policy and implementation measure.

Development design standards are appropriately adopted in County regulation, not the General Plan.

**COMMENT LETTER 33 – PLANNING COMMISSION HEARING, OCTOBER 14,
2005**

Comment 33-1

Steve Saunders suggested that by making communities too large, there has to be some environmental impact. The proposed General Plan show much larger communities than currently exist. Doesn't know exactly how the documents are addressing these issues.

Response

Please read Response to Comment 1-1.

Comment 33-2

Dick Kunstman was concerned about DEIR, especially since the documents do not recognize that our society is facing a "long emergency". The documents assume that we will continue to be as mobile as we are now. Geologists have predicted that crude oil production in the United States and world will peak and then decline. Yet, society continues to use more crude oil each year. The reality is that our society will not be able to be as mobile in the future, when we run out of petroleum. This relates to the General Plan, as our mobility will most certainly be affected.

Response

The EIR evaluates the impacts of the General Plan at build-out. The EIR did not speculate on what may occur with oil prices, global warming, the economy or other events which could occur. The four General Plan updates allowed each year provide the County the opportunity to respond to future events.