



# TriCounty Watchdogs

*...protecting mountain resources and communities  
in Kern, Los Angeles, and Ventura Counties.*

Saturday, August 22, 2009

Attn: Donald Bedford  
Re: Newhall EIR/EIS  
California Dept. of Fish and Game  
4949 Viewridge Ave.  
San Diego, CA 92123

Attn: Aaron Allen  
Re: Newhall EIR/EIS  
US Army Corp  
2151 Alessandro Dr. Suite 110  
Ventura, CA 93001

Via US mail and email to: [newhallranch@dfg.ca.gov](mailto:newhallranch@dfg.ca.gov)

[Aaron.O.Allen@usace.army.mil](mailto:Aaron.O.Allen@usace.army.mil)

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[www.tcwdogs.org](http://www.tcwdogs.org)

**Re: Comments on the Newhall Ranch EIR/EIS for the 404 Permit and Streambed Alteration Agreement**

Dear Sirs:

The Tri-County Watchdogs is a non-profit conservation group headquartered in Frazier Park and focused on reviewing regional planning issues that affect the tri-county area of Kern, Ventura and Los Angeles Counties. We are especially concerned with the “newtown” projects of Tejon Ranch and Newhall Ranch because of the regional impacts they will have to air quality, water supply and the biological resources of our region.

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We wish to begin our comments by stating that we include by reference the comments of other environmental organizations concerned with this project.

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**Air Quality**

Santa Clarita has some of the worst air quality in the nation, comparable to that of the San Joaquin Valley. The Newhall Ranch project is in a Federal non-attainment zone for ozone and particulate matter. We therefore assert that this project cannot be compliant with the SIP for the area and should not receive regional transportation dollars to support it at taxpayer expense.

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Ozone pollution is particularly damaging to children’s lungs and may cause lifelong health problems. Thus, we believe that failing to address this critical issue by claiming that the air pollution is a result of regionally poor air quality and therefore cannot be addressed, is particularly egregious.

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This project should receive no further approvals without an adequate regional transportation solution. One suggestion might be to re-instate the railway right of way that was relinquished when the Specific Plan for this project was approved.

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**Water Supply**

Several Federal Court Decisions and Biological Opinions aimed at protecting listed endangered fish species from extinction in the Sacramento /San Joaquin Delta have recently been issued. These opinions will reduce the availability of state water project water back to the more rational and reasonable levels projected by the 1993 bulletin 160. Reduced pumping to the State Water Project Aqueduct will reduce both water available for storage and for unsustainable new town projects such as Newhall Ranch. This is new information subsequent to the last administrative

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review. Therefore, the whole issue of available water supply should be re-visited with these decisions in mind. | 7

These decisions have reduced the quantity of water available to all users south of the Delta. Cumulative impacts of this reduction and requests by other large development projects such as Tejon Ranch must be evaluated. | 8

Aqueduct capacity for cumulative wheeling agreements that affect the West Branch of the SWP aqueduct must be evaluated. Although the aqueduct itself may have adequate capacity to support these additional deliveries, bottlenecks such as the Oso pump station may not. | 9  
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It has come to our attention that no agreement with the Department of Water Resources (DWR) to move the Kern River water purchased from the Nickels family from the Tubman turnout in Kern County to Newhall Ranch exists.<sup>1</sup> | 11

A wheeling agreement must exist before water can be delivered to Newhall Ranch. Any such document should be disclosed in the EIR/EIS. |

## **Kern River Water Transfer**

We are particularly concerned that there is no environmental documentation disclosing and discussing the transfer of the 1603 AF of Lower Kern River Water to the Newhall Ranch project. It is our understanding that Kern County has a ground water ordinance prohibiting the transfer of ground water out of the Kern Basin, so we would like to understand exactly under what legal terms this transfer is taking place. | 12  
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The environmental documentation for the acquisition of this firm water supply by the Nickels family described a “Kern River Restoration and Water Supply Recovery Program”.<sup>2</sup> The environmental documentation did not describe the acquisition of water for transfer out of the Kern Basin for the Newhall Ranch project. Since CEQA is required at the time a contract is concluded, this documentation should already exist. We therefore request to be provided with a copy of the environmental review for this transfer of water to the Newhall Ranch area. | 14

## **Biology**

The Santa Clara River is a biology “hot sot” for endangered species and many of the most prominent of these, including the California Condor that is known to use the Newhall Ranch as a feeding ground, occur on this project. In 1994 much of the portion of the project adjacent to the Santa Clara River was classified as critical habitat for the Least Bell’s Vireo, a small migrating songbird. We believe that this plan is required by law to be protective to the greatest extent possible of all these endangered species. Such production can best be accomplished by moving any proposed development out of the five hundred-year flood plan. | 15  
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## **Loss of Farm Land**

This project proposes to pave over 1500 acres of prime farmland. We assert that such proposals are not sustainable. Continued loss of such farm acreage puts our nation’s food security at risk by reducing locally available farm produce and diminishing the viability of this important local economy. Moving development out of the floodplain will protect this prime farm acreage. | 17

## **Traffic**

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<sup>1</sup> Landmark Village DEIR, Volume VI, Appendix 4.10f, Nickels water contracts, Pages 2 and 5 of Contract between Nickels and NLF pdf pages 121,124

<sup>2</sup> *Ibid.*, Appendix 4.10g, Nickels Water Environmental documents

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The traffic impact reports by Austin-Foust are somewhat dated. Since the traffic situation in the area is changing rapidly, this is not really up to date. The reports on impacts in Ventura County (Piru and Fillmore) are from April 2006, and are more pertinent.

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Since TriCounty Watchdogs is focused on regional issues, we shall naturally concentrate on impacts on the I-5. This is also because the UCLA Center for Environmental Statistics is has done some work on I-5 traffic between SR-14 and SR-99, and the impact of current and future project developments in the corridor on traffic.

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The traffic section estimates that the Newhall Ranch project cumulatively will generate about 357,000 ADT's, of which about 30% would be internal trips. The Entrada and Valencia Commerce Center projects discussed in this document would bring that total to over 400,000 for Alternative 2. Added to many other developments in the corridor, that is an enormous number of additional trips.

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The DEIR assumes a growth factor of 2% for ambient traffic. That is not realistic for I-5 traffic. From 2004 to 2005 Average Annual Daily Traffic at the I-5 and SR-126 intersection, for instance, increased from 97,000 to 103,000, a 6% growth. Typical growth at other I-5 intersection in the Santa Clarita area is 4%, and the increase in truck traffic approaches 6%. See the Figure I at the end of this letter. Our information is based on Caltrans counts -- the Austin-Foust 2003 AADT figures, supposedly also from the Caltrans database) are considerably lower.

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In the cumulative traffic impact section the DEIR only pays attention to projects that are "reasonably expected to be in place in 2007" and that are in the Santa Clarita area. That seems short-sighted, both in time and space. The GIS map in Figure 2 at the end of this letter shows planned developments, some of it with approved specific plans, that will impact traffic in the corridor between Castaic and the North San Fernando Valley. Centennial, 30 miles north of the project, will generate 400,000 ADT's at buildout, and it seems reasonable to assume that at least 50,000 will head south on I-5, and all of these will cross the intersection with SR-126. It is true that Centennial and similar projects have not yet been approved, and will take 25 years to completion, but it is certainly not proper planning to act as if they do not exist. SCAG and MTA to some extent take these projects into account in their long-term plans for Northern LA County traffic.

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The mitigations and project improvements proposed by the project consist of modifications of interchanges, adding traffic lights, and build surface roads within Santa Clarita. It seems to us that those local improvements do not solve the basic problem, which is that 200,000 cars and 30,000 trucks have to go daily in both directions through the Santa Clara River Valley and the Newhall Pass. Every development, certainly every large de-

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velopment, will add substantially to this total. And past experience, in Valencia and Santa Clarita, shows that developers and consultants widely overestimate the percentage of internal trips.

More generally, it is well known that trip generation models have poor predictive power. To quote Niels Bohr: "Prediction is very difficult, especially of the future." We argued above that the short-term and local perspective of the models implies poor prediction. Do the traffic flow models that compute LOS take the mega-container ships into account that are flooding the harbors ? What will the influence be of Centennial, Northlake, San Emidio New Town, Los Lomas, Gates-King, Riverpark? What will happen to Magic Mountain? Do the consultants and developers know that SCAG/MTA in their long-range plans propose to widen the I-5 from SR-14 to SR-126 to a sixteen-lane freeway ? What will then happen to the fancy new Newhall interchanges?

Even if, and it's a big if, we take the trip generation and traffic prediction models seriously, they are clearly extremely localized in time and space, and they do not acknowledge that traffic flow on I-5 is both a large-scale and a long-term problem. And, as any commuter can testify, it is getting worse every year.

Last, do the traffic models and analysis comply with the SIP for the LA Region? Does this project comply with SB375 and AB32? There should be a discussion of these two laws in the "Legal Structure" section. The DEIR/EIS should discuss consistency with these laws.

Thank you for your attention to these concerns.



Sincerely  
Jan de Leeuw, Ph.D.  
Distinguished Professor and Chair, UCLA Department of Statistics

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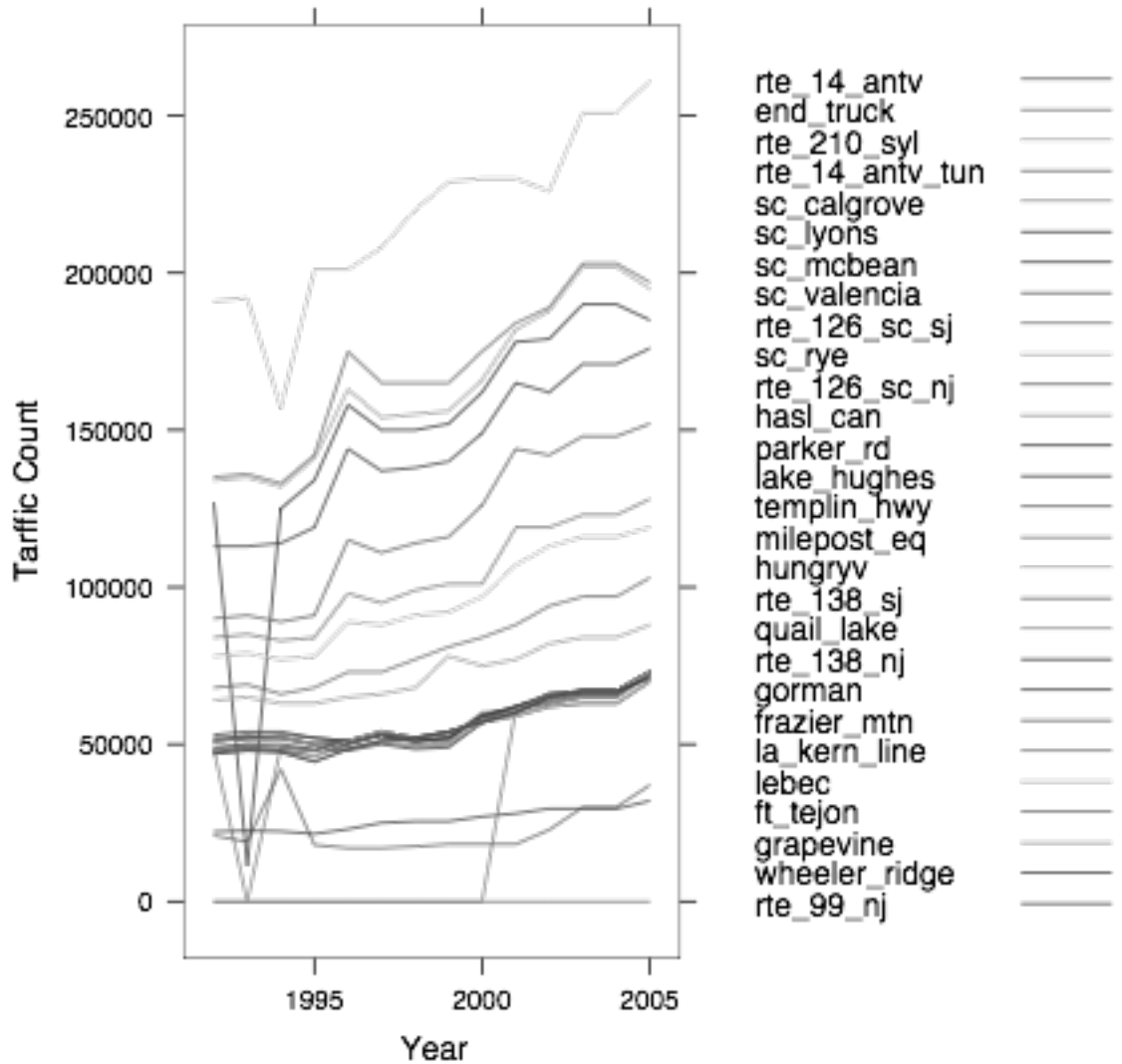
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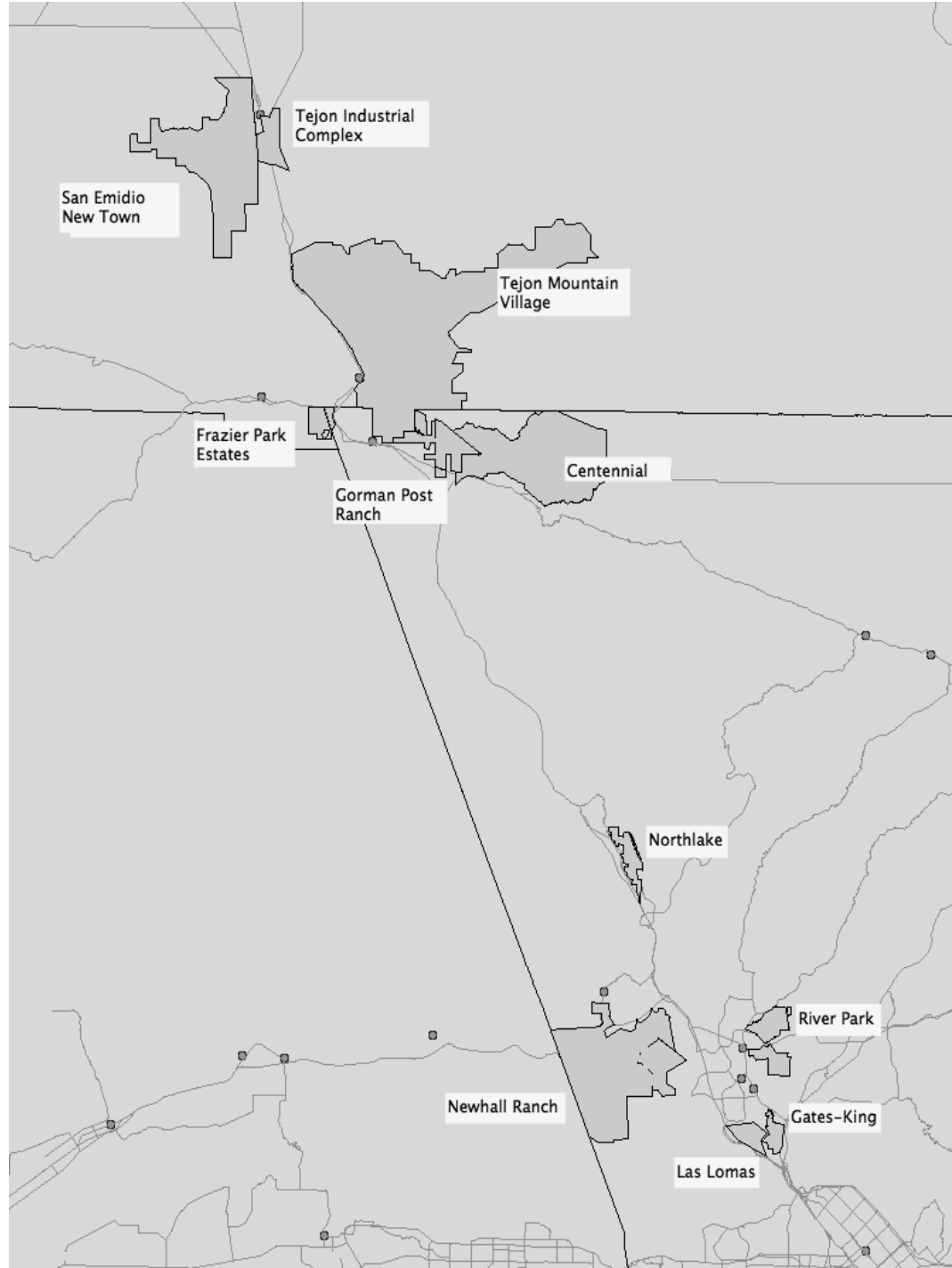
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**042. Letter from TriCounty Watchdogs, dated August 22, 2009**

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**Response 1**

The comment is an introduction to comments that follow. Please note that the Draft EIS/EIR addressed the topics of air quality, water supply, and biological resources in **Section 4.7**, **Section 4.3**, and **Section 4.5**, respectively. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project. Because the comment does not raise an environmental issue or address the adequacy of the Draft EIS/EIR, no further response is provided.

**Response 2**

The comment states that the comments include by reference the comments of other environmental organizations concerned with the proposed Project. The Final EIS/EIR includes written responses to all significant environmental points raised during the public review and consultation process. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project. Because the comment does not raise an environmental issue concerning the adequacy of the Draft EIS/EIR, no further response is provided.

**Response 3**

The general conformity analysis for air quality is presented in **Section 4.7**, Air Quality, of the Draft and Final EIS/EIR, including Final EIS/EIR, **Appendix F4.7**, Draft Conformity Analysis. Conformity with the State Implementation Plan (SIP) is also addressed in detail in the Final EIS/EIR in **Responses 68-79** to the letter from USEPA, dated September 1, 2009 (Letter 006).

**Response 4**

The comment states that the Draft EIS/EIR claimed air pollution is a result of regionally poor air quality and, therefore, cannot be addressed. The Draft EIS/EIR presented a comprehensive analysis of air pollution, including its health effects, in **Section 4.7**, Air Quality. A description of pollutants is presented in Draft EIS/EIR **Subsection 4.7.2.6**, Criteria Pollutants, including a discussion of the health effects of those pollutants. **Subsection 4.7.2.7**, Toxic Air Contaminant Emissions, provides a description of toxic air contaminants from both new and existing sources, and specifically the health effects of these contaminants (see **Subsection 4.7.2.7.3**, Health Effects from Toxic Air Contaminants). The Draft EIS/EIR also included a Health Risk Assessment (HRA) in **Subsection 4.7.8**, which provides a detailed analysis of the health effects associated with air pollution, including toxic air contaminants. Please also see revised **Section 4.7** of the Final EIS/EIR. Your concerns will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project.

**Response 5**

The comment states that the proposed Project should not be approved without the identification of an adequate regional transportation solution. To preface, identification and development of the requested transportation solution is beyond the jurisdictional authorities of the lead agencies. In addition, the Draft EIS/EIR provided extensive analysis of both the local and regional transportation network in **Section 4.8**, Traffic. Please also see revised **Section 4.8** of the Final EIS/EIR.

The approved land use and circulation plans for the Newhall Ranch Specific Plan have been designed to minimize car trips. For example, mass transit would be located throughout the Specific Plan site and would include new park-and-ride lot(s) and bus stops. In addition, an approximate 5-mile right-of-way for a potential Metrolink extension is included in the circulation plan and has been reserved for that purpose by the Project applicant. Trails and bike paths, neighborhood-serving retail, and a local elementary school would encourage residents to walk or bike to close-to-home destinations. In summary, the development enabled by Project approval has been planned to facilitate transit use and pedestrian and bicycle circulation in order to minimize automobile trips. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project. Because the comment does not raise an environmental issue or address the adequacy of the Draft EIS/EIR, no further response is provided.

### **Response 6**

The comment states that several federal court decisions and biological opinions concerned endangered fish species in the Sacramento/San Joaquin Delta have recently been issued. This issue received extensive analysis in the Draft EIS/EIR, specifically **Subsection 4.3.4.2.2**, SWP Operations, Deliveries, and Constraints. In addition, please refer to **Topical Response 5: Water Litigation and Regulatory Action Update** and **Topical Response 9: State Water Project Supply Reliability**, for further responsive information. Please also see revised **Section 4.3** of the Final EIS/EIR. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project. Because the comment does not raise an environmental issue or address the adequacy of the Draft EIS/EIR, no further response is provided.

### **Response 7**

The comment states that the decisions and opinions addressed in **Comment 6**, above, reduce the availability of State Water Project resources. The comment, therefore, concludes that this "new information" requires that the "whole issue of available water supply" be revisited. This issue received extensive analysis in the Draft EIS/EIR, specifically **Subsection 4.3.4.2.2**, SWP Operations, Deliveries, and Constraints. As noted in the Draft EIS/EIR, "CLWA [Castaic Lake Water Agency] has determined that, while the court-ordered operating rules related to Delta smelt (or a Biological Opinion premised on those operating rules) are in effect, there are sufficient water supplies available for pending and future residential and commercial development within the CLWA service area for the foreseeable future through 2030 as set forth in the 2005 UWMP." (Draft EIS/EIR, p. 4.3-29.) In addition, please refer to **Topical Response 5: Water Litigation and Regulatory Action Update**; **Topical Response 8: Groundwater Supplies and Overdraft Claims**; and **Topical Response 9: State Water Project Supply Reliability** for further responsive information. Please also see revised **Section 4.3** of the Final EIS/EIR. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project.

### **Response 8**

The comment states that the decisions and opinions addressed in **Comment 6** have reduced the quantity of water available to all users south of the Delta. Therefore, the comment states that the cumulative impacts of this reduction and other large development projects (specifically, Tejon Ranch) must be evaluated. This issue received extensive analysis in the Draft EIS/EIR, specifically **Subsection 6.5.3**,



which analyzed the potential cumulative impacts associated with water resources. That analysis concluded that "[b]ecause cumulative water supplies exceed demand, cumulative development (including the proposed Project) does not result in or contribute to any significant impacts on Santa Clarita Valley water resources." (Draft EIS/EIR, p. 6.0-79.) Further, the geographic scope of the cumulative impact analysis study area is detailed in Draft EIS/EIR **Subsection 6.4**. As provided in that discussion, "the geographic scope of analysis for Water Resources is the CLWA service area, plus active pending General Plan Amendment requests." (Draft EIS/EIR, p. 6.0-6.) In addition, please refer to **Topical Response 5: Water Litigation and Regulatory Action Update**; **Topical Response 8: Groundwater Supplies and Overdraft Claims**; and **Topical Response 9: State Water Project Supply Reliability** for further responsive information. Please also see revised **Section 4.3** of the Final EIS/EIR. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project.

### **Response 9**

The comment states that the aqueduct capacity for cumulative wheeling agreements relating to the West Branch of the State Water Project aqueduct must be evaluated. Please refer to **Topical Response 4: Nickel Water** and revised **Section 4.3**, Water Resources, in the Final EIS/EIR, for responsive information. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project.

### **Response 10**

The comment states that although the West Branch aqueduct addressed in **Comment 9**, above, may have adequate capacity, bottlenecks, such as the Oso pump station, may not. Please refer to **Topical Response 4: Nickel Water** and revised **Section 4.3**, Water Resources, in the Final EIS/EIR, for responsive information. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project.

### **Response 11**

The comment states that no agreement with the California Department of Water Resources exists with respect to moving the "Nickel water," as referred to in the Draft EIS/EIR, from the Tubman turnout in Kern County to the Project site. The comment states that a wheeling agreement must be executed before the Nickel water could be delivered to the Project site. The Draft EIS/EIR, at page 4.3-84, disclosed that the Nickel water is part of a 10,000 acre-foot quantity of annual water supply that Nickel obtained from KCWA in 2001 pursuant to an agreement between Nickel, KCWA and Olcese. As part of the purchase, and as outlined in the supporting contractual documents: (a) Nickel can sell its water to third parties both within or outside Kern County; (b) that the water will be transported in the California Aqueduct to the full extent of the KCWA's right to use the Aqueduct; and (c) KCWA agreed to schedule deliveries with DWR at the same time and in the same manner as KCWA schedules deliveries of its SWP water to KCWA's Member Units. As stated in the Draft EIS/EIR, a point of delivery agreement between CLWA and DWR would be required to transmit the water between the KCWA and CLWA service areas at the time of need. (See, Draft EIS/EIR, p. 4.3-84.) Please refer to **Topical Response 4: Nickel Water** for further responsive information. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project. However, because the comment does

not raise an environmental issue concerning the adequacy of the Draft EIS/EIR, no further response is provided.

**Response 12**

The comment expresses concern regarding the environmental documentation disclosing and discussing the transfer of the Nickel water to the Project site. Please refer to **Topical Response 4: Nickel Water** for responsive information. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project.

**Response 13**

The comment states that Kern County has a groundwater ordinance prohibiting the transfer of groundwater from the Kern Basin, and seeks clarification regarding the legal terms by which the transfer addressed in **Response 12**, above, is occurring. Please refer to **Topical Response 4: Nickel Water** for responsive information. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project.

**Response 14**

The comment refers to the "Kern River Restoration and Water Supply Recovery Program" and requests a copy of the environmental documentation authorizing the Kern River water transfer. The Nickel water transfer was evaluated thoroughly in the previously certified Newhall Ranch Revised Additional Analysis (May 2003). As indicated in that analysis, Nickel acquired the Nickel water as a result of KCWA's Restoration Program, which was approved by KCWA in September 2000. As part of the approved Restoration Program and the supporting contractual documents, the Nickel water will be transported in the California Aqueduct to the full extent of the KCWA's right to use the Aqueduct; and KCWA agreed to schedule deliveries with DWR at the same time and in the same manner as KCWA schedules deliveries of its SWP water to KCWA's Member Units. A copy of the Initial Study and Negative Declaration prepared for the Restoration Program, dated July 27, 2000, as well as the subsequent Negative Declaration addressing the transfer of water to Nickel, are included in Final EIS/EIR, **Appendix F4.3**. Please also refer to **Topical Response 4: Nickel Water** for responsive information. Additionally, please note that the referenced environmental documentation for the Kern River Restoration and Water Supply Program was included as Appendix 2.5 in the previously certified Newhall Ranch Specific Plan Program EIR (specifically, Revised Draft Additional Analysis, Volume I [November 2002], Appendix 2.5), which was incorporated by reference in the Draft EIS/EIR. The Newhall Ranch Specific Plan Program EIR was available for public review during normal business hours at the County of Los Angeles Public Library, Valencia Branch, 23743 West Valencia Boulevard, Santa Clarita, California 91355-2191. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project.

**Response 15**

The commentor states that the Santa Clara River is a "hot spot" for endangered species, and that much of the portion of the proposed Project area is critical habitat for the least Bell's vireo. The commentor also states that Newhall Ranch is a feeding ground for California condor.

As noted by the commentor, the proposed Project area does support populations and/or habitat for several federally and/or state-listed threatened and endangered species, including American peregrine falcon, California condor, least Bell's vireo, willow flycatcher, western yellow-billed cuckoo, coastal California gnatcatcher, unarmored threespine stickleback, arroyo toad, and San Fernando Valley spineflower. Impacts of the proposed Project on these species were analyzed in **Subsection 4.5.5.3, Impacts to Special-Status Species**, of the Draft EIS/EIR. The Draft EIS/EIR concluded that, except for the San Fernando Valley spineflower, significant impacts to these species resulting from the proposed Project (Alternative 2) and Alternatives 3 through 7 would be reduced to levels less than significant with implementation of the mitigation measures identified for each species in **Subsection 4.5.5.3, Impacts to Special-Status Species**, and fully described in **Section 4.5.6, Mitigation Measures**. The Draft EIS/EIR concluded that impacts to San Fernando Valley spineflower would be significant and unavoidable under the proposed Project but would be reduced to less-than-significant levels under Alternatives 3 through 7.

The proposed Project area includes federally-designated critical habitat for the least Bell's vireo, which is discussed in **Subsection 4.5.5.3, Impacts to Special-Status Species**, of the Draft EIS/EIR. Implementation of the RMDP and build-out of the Specific Plan area would result in a permanent loss of 51 acres of nesting/foraging habitat within designated least Bell's vireo critical habitat, representing a permanent loss of 12.5 percent of the total nesting/foraging habitat. Implementation of the RMDP and build-out of the Specific Plan area would result in the permanent loss of 11 acres of adjacent upland foraging habitat within critical habitat, representing 31.5 percent of the total on site (see **Figure 4.5-86**). An additional 49 acres of suitable habitat, including 48 acres of nesting/foraging habitat and 0.8 acre of foraging habitat, would be temporarily impacted as a result of implementation of the RMDP.

A determination of "destruction or adverse modification" of designated critical habitat as defined under the federal Endangered Species Act (ESA) is made by the U.S. Fish and Wildlife Service (USFWS), and, therefore, was not included in the Draft EIS/EIR. Nonetheless, the Draft EIS/EIR provides for mitigation for loss of least Bell's vireo habitat that would reduce significant impact (per California Environmental Quality Act [CEQA] thresholds) to a less-than-significant level. This mitigation includes Mitigation Measures SP-4.6-1 through SP-4.6-16, SP-4.6-18, SP-4.6-19, SP-4.6-21 through SP-4.6-26, and SP-4.6-63. These mitigation measures would result in the preservation and enhancement of at least 359 acres of suitable nesting/foraging habitat for least Bell's vireo in the River Corridor Special Management Area (SMA). In addition, Mitigation Measures BIO-1 through BIO-16 would be implemented and include requirements for the development of conceptual wetlands mitigation plans (including planting palettes, assessment of functions and values, mitigation ratios, monitoring methods, success criteria, corrective measures, *etc.*) for the revegetation, restoration, and/or enhancement of the riparian areas within the Project site. Mitigation Measure BIO-55, as a supplement to BIO-2 through BIO-16, requires additional habitat mitigation through replacement or enhancement of nesting/foraging habitat for least Bell's vireo for certain key habitat zones at higher ratios (identified as "key population areas" in **Figure 4.5-86, Alternative 2 Impacts to Least Bell's Vireo Habitat**). All permanent loss of nesting/foraging habitat in key population area reaches would be mitigated at a 5:1 ratio unless otherwise authorized by the California Department of Fish and Game (CDFG) or USFWS. Temporary habitat loss in key population areas would be mitigated at a 2:1 ratio. To be clear, this means that for each acre of nesting/foraging vireo habitat impacted, new habitat must be created by further set back of buried banks and enhancement of other habitat to provide foraging and nesting sites for vireo at ratios ranging from 2:1 to 5:1.

With respect to the California condor, portions of Newhall land have been used for foraging in recent past by condors, as described in **Subsection 4.5.5.3, Impacts to Special-Status Species**, of the Draft EIS/EIR.

The CDFG and U.S. Army Corps of Engineers (Corps) incorporated the most current data available through January 2009 during the preparation of the Draft EIS/EIR documenting the use of the site by California condor. This included recent information provided by the USFWS regarding the detection of California condors in the Potrero area of the RMDP/SCP (Root 2008). Until April 2008, California condors had not been known to nest or land within the Project area within the last 25 years (Bloom Biological 2007A, 2008). However, in April 2008, wildlife biologist Chris Niemela observed a California condor feeding on a dead calf in a Potrero side canyon (Carpenter 2008) (**Figure 4.5-5**, Listed and California Fully Protected Wildlife Species Occurrences). The USFWS also provided information that California condors fitted with GPS transmitters had landed on Newhall Ranch on several days from April through July 2008 (Root 2008). In January 2009, up to five California condors were detected feeding on a dead calf in the middle section of Potrero Canyon south of Potrero Mesa between January 27 and 30 (Niemela 2009). A follow-up visit by Chris Niemela was conducted at the request of the USFWS to photo-document the calf carcass and site where the feeding occurred.

Based on the information available to the CDFG and Corps at the time the Draft EIS/EIR was published, the analysis included in **Subsection 4.5.5.3**, Impacts to Special-Status Species, of the Draft EIS/EIR provided an adequate level of information regarding potential impacts to California condors resulting from implementation of the proposed Project or alternatives. The Draft EIS/EIR concluded, based on the existing information, that impacts to individuals and secondary impacts to California condors would be significant absent mitigation. The Draft EIS/EIR also concluded, based on existing information, that impacts to foraging habitat would be adverse but not significant, due to low prey densities in the Project area (*i.e.*, cattle carcasses). Although impacts to foraging habitat were determined to be adverse but not significant, to further reduce or minimize the loss of foraging habitat and avoid impacts California condor individuals, the Draft EIS/EIR identified a series of mitigation measures that would provide for the dedication of open space where this species could continue to forage, and measures that would prevent the loss of individual birds. With the implementation of these mitigation measures, the Draft EIS/EIR concluded that impacts to California condors would be reduced to less-than-significant levels.

The CDFG and Corps also contacted the USFWS condor expert to incorporate any new information collected subsequent to release of the Draft EIS/EIR for public review related to the behavior or distribution of the condor on or near the proposed RMDP/SCP development area. A review of the updated 2009 condor flight data provided by the USFWS indicated that the RMDP/SCP development area and the proposed mitigation lands in the High Country SMA, Salt Creek area, and River Corridor SMA are located under a commonly used flight path for the California condor between the Sespe Wilderness area to the northwest and the San Gabriel Mountains National Forest to the southeast of the Project area. In addition, California condors routinely overfly the area and are known to feed in portions of the development area where grazing currently occurs and cattle carcasses are sometimes available. The data also suggest that condors would be expected to continue to opportunistically feed on cattle carcasses or other large mammal carcasses (*e.g.*, mule deer) within the proposed RMDP/SCP development area and proposed mitigation lands. The review of the 2009 USFWS flight data, in addition to coordination with USFWS staff, also suggests that the condor is expanding its use of the region and can be expected to continue overflights of the Santa Clarita Valley and adjacent National Forests to the north and southwest of the Project area.

The updated 2009 USFWS information regarding California condor overflights and use of the proposed Project area for foraging will be incorporated into the Final EIS/EIR. While this information is useful and continues to expand the additional data on the ecology and behavior of this species, the data do not

provide information that would alter the significance conclusion in the Draft EIS/EIR that loss of foraging habitat would be adverse but not significant. As recommended in the comment, the Project applicant will continue to coordinate with the USFWS regarding updated information for California condor use of the Project area. In addition, as described in **Subsection 4.5.2.1**, Federal Authorities and Administering Agencies, in February 2008 the Corps requested initiation of the required consultation with the USFWS per section 7 of the federal ESA. The section 7 consultation and Biological Opinion process includes an evaluation of whether a project is likely to jeopardize the continued existence of any endangered or threatened species or result in the "destruction or adverse modification" of critical habitat and requires the inclusion of reasonable and prudent measures in the implementation of a project or agency action in order to minimize any impact (16 U.S.C. § 1536). The section 7 consultation requested the Biological Opinion of the USFWS on impacts to five federally-listed species, including the California condor. This process will ensure that potential impacts to the California condor are fully addressed.

In addition, impacts to condors potentially foraging in the Project area would be reduced or avoided under Mitigation Measure BIO-82, which requires monitoring during construction and cessation of construction activities within 500 feet of any condor. Construction activities would also be restricted if roosting condors are found within 0.5 miles of the construction area. Further protection for condors from negative interactions with humans would be provided by revisions to Mitigation Measure BIO-82, which would require removal of cattle carcasses found within 1,000 feet of developed areas; dead cattle would be moved to appropriate locations in the High Country SMA or Salt Creek area.

#### **Response 16**

The commentor states that the proposed Project is required by law to be protective of endangered species to the greatest extent possible and that such protection could best be accomplished by moving proposed development out of the 500-year floodplain.

**Subsection 4.5.2**, Regulatory Setting, of the Draft EIS/EIR discussed the review process by which Project impacts to listed threatened and endangered species must be addressed by federal and state resource agencies. For example, under section 404 of the Clean Water Act, the Corps consults with the USFWS to determine if a proposed action would adversely affect threatened and endangered species or their critical habitat under the provisions of Endangered Species Act section 7 (16 U.S.C. § 1531 *et seq.*). The Draft EIS/EIR analyzed the impacts to listed threatened and endangered species consistent with the requirements included in the federal and state permits being requested by the Project applicant, including a section 404 Permit under the federal Clean Water Act (33 U.S.C. §§ 1251-1387), a Master Streambed Alteration Agreement pursuant to Fish & Game Code section 1600 *et seq.*, and two Incidental Take Permits under the California Endangered Species Act (CESA) issued by CDFG pursuant to Fish & Game Code section 2081, subdivisions (b) and (c). Each of these permits requires an analysis of impacts to federally and/or state-listed species by the relevant federal and state agencies (*i.e.*, Corps, CDFG, and USFWS).

Please see **Response 15**, above, for a discussion of the biological impacts of the proposed Project and alternatives to sensitive species that occur within the proposed Project area. Analysis in the Draft EIS/EIR supports the conclusion that, with mitigation, impacts to least Bell's vireo and California condor would be less than significant. Therefore, it would not be necessary to limit construction to areas outside the 500 year floodplain to mitigate impacts to these species.

The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project.

### **Response 17**

The comment states that the conversion of over 1,500 acres of prime farmland to a non-agricultural use is "not sustainable" because it places the "nation's food security at risk" and diminishes the local economy. Impacts of the proposed Project on agricultural resources are addressed in Draft EIS/EIR **Section 4.12, Agricultural Resources**. The analysis provided in **Section 4.12** concluded as follows:

"The proposed Project (Alternative 2) would result in significant and unavoidable indirect impacts to agricultural resources resulting from the conversion of prime, unique, and soils of statewide importance to nonagricultural uses on the Specific Plan site. The "build" alternatives would result in significant and unavoidable direct and indirect impacts to agricultural resources resulting from the conversion of important agricultural lands on the Specific Plan site. Significant and unavoidable indirect impacts resulting from the conversion of prime, unique, and soils of statewide importance also would occur at the VCC project site with implementation of Alternatives 2 and 3. Although it is likely to be a temporary impact, a significant and unavoidable direct impact also would result from the establishment of a spineflower preserve on the Entrada planning area, which is presently zoned for agricultural uses." (Draft EIS/EIR, p. 4.12-57.)

There is no evidence that these impacts to agricultural resources would place food security at risk or diminish the local economy. Because the comment does not address the adequacy of the information or analysis provided in the Draft EIS/EIR, no additional response is provided.

Please note that the proposed Project (Alternative 2) would not result in the paving of 1,500 acres of prime farmland. As shown on **Table 4.12-5, Alternative 2 Direct/Indirect/Secondary Significant Impacts Aggregate Totals**, the proposed Project would remove 629.3 acres of prime farmland from production. The comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project.

### **Response 18**

The basis for the Draft EIS/EIR traffic impacts analysis is the December 2008 study prepared by Austin-Foust entitled, "Newhall Ranch RMDP and SCP EIR/EIS Traffic Analysis;" a copy of the study is contained in the Draft EIS/EIR, **Appendix 4.8**. Traffic counts included as part of the preparation of the Austin-Foust report were conducted primarily in 2006; for counts taken before 2006, a two percent annual average growth rate was applied to approximate 2006 conditions. (Draft EIS/EIR, p. 4.8-14.) Moreover, the Santa Clarita Valley Consolidated Traffic Mode (SCVCTM), which was used to conduct the impacts analysis, incorporates all future development included in the most recent General Plan updates and proposed General Plan amendments. (Draft EIS/EIR, p. 4.8-11.) While several other studies were referred to in preparing the analysis, including the original Newhall Ranch Specific Plan Traffic Study (1999), the 1999 Traffic Study was provided primarily for background purposes. The December 2008 traffic study was prepared specifically for the Draft EIS/EIR and represents a complete update to the original Newhall Ranch studies. Therefore, the analysis of traffic impacts in the Draft EIR/EIS relies on up-to-date traffic data. Please also see revised **Section 4.8** of the Final EIS/EIR.

### Response 19

Since the comment does not raise any specific issues regarding the analysis provided by the Draft EIS/EIR, no additional response is provided. However, the comment will be included as part of the record and made available to the decision makers prior to a final decision on the proposed Project.

### Response 20

The total number of ADTs that would be generated cumulatively by Alternative 2, which includes the Newhall Ranch Specific Plan area, and portions of the Entrada and Valencia Commerce Center planning areas, is 408,718. (Draft EIS/EIR, **Table 4.8-5**.) Also, the internal tripend capture rate for the proposed Project is 47 percent, which is equivalent to 31 percent of total Project trips. (See **Topical Response 10: Vehicle Trip Distribution Methodology**, Table 1, Alternative 2 Tripend and Trip Summary.) The Draft EIS/EIR analyzed the impacts of these additional trips in the context of the other related projects in the area in Draft EIS/EIR, **Section 4.8**. Please also see revised **Section 4.8** of the Final EIS/EIR.

### Response 21

The Draft EIS/EIR traffic study does not utilize a two percent growth factor for ambient traffic in forecasting future traffic conditions. Because the traffic study reports existing conditions based on traffic counts collected over several years, traffic counts older than 2006 were adjusted by two percent per year to approximate 2006 conditions in order to utilize a consistent baseline condition. (Draft EIS/EIR, p. 4.8-14.) Future conditions are forecast utilizing a sophisticated travel demand model, the SCVCTM, which is based on full build-out of the Los Angeles County and City of Santa Clarita General Plans and growth in the adjacent communities, inclusive of known cumulative developments.

The comment states that average annual daily trips (AADT) at the Interstate 5 (I-5) and State Route 126 (SR-126) intersection increased from 97,000 in 2004 to 103,000 in 2005 and that the Draft EIS/EIR numbers are incorrect. However, based on the volumes and suggested growth factor provided in the comment, 2006 volumes at the intersection would be approximately 110,000. In contrast, the Draft EIS/EIR traffic study reported a 2006 volume of 124,000 ADT for I-5 at the SR-126 junction. Use of 110,000 ADT at this location, as the comment suggests, would have resulted in understating traffic volumes and corresponding impacts.

### Response 22

The comment claims the cumulative analysis only includes projects that are in the Santa Clarita area and that are expected to be in place by 2007. This is not the case. The cumulative traffic impact analysis is based on build-out of the land uses identified in the Los Angeles County and Ventura County General Plans, the City of Santa Clarita General Plan, and growth in the adjacent communities. (Draft EIS/EIR, p. 4.8-9.) The land use database used by the SCVCTM includes all approved General Plan projects, as well as proposed General Plan amendments. Additionally, regional growth, which is traffic volume increases occurring outside of the SCVCTM area, also is incorporated into the SCVCTM. These outside or external trips take two forms, trips with one tripend internal to the SCVCTM area and the other tripend external to the SCVCTM area ("external" trips), and trips with both tripends external to the SCVCTM area ("through" trips). As shown on **Table 1**, below, SCVCTM Cordon Summary, which depicts traffic volumes at those points crossing the SCVCTM area boundary, the SCVCTM forecasts for 2030 traffic volumes represent a 70 percent increase over 2004 volumes in external trips and a 111 percent increase in

through trips. Thus, the SCVCTM long-range cumulative traffic accounts for traffic generated outside of the SCVCTM area that the model estimates will more than double by 2030.

As such, the year 2030 traffic forecasts include traffic generated by each of the regionally significant planned developments shown in the comment exhibit, including Centennial, Gorman Post Ranch, Frazier Park Estates, Tejon Mountain Village, Tejon Industrial Complex, Northlake, River Park, and Gates-King, but with the exception of the Las Lomas development. As of this writing, the development application for the Las Lomas development has been pulled, and the City of Santa Clarita's official position is in opposition to the project; for that reason, neither the City of Santa Clarita nor the County of Los Angeles have included the project in their long-range planning horizons.

**Table 1**  
**SCVCTM Cordon Summary**

| Cordon Location         | ADT Volumes    |               |
|-------------------------|----------------|---------------|
|                         | External Trips | Through Trips |
| I-5 North               |                |               |
| 2004 Volumes            | 16,000         | 62,000        |
| 2030 Cumulative Volumes | 31,000         | 131,000       |
| Percent Increase        | 94%            | 111%          |
| SR-14                   |                |               |
| 2004 Volumes            | 29,000         | 75,000        |
| 2030 Cumulative Volumes | 50,000         | 159,000       |
| Percent Increase        | 72%            | 112%          |
| I-5 South               |                |               |
| 2004 Volumes            | 208,000        | 130,000       |
| 2030 Cumulative Volumes | 348,000        | 282,000       |
| Percent Increase        | 67%            | 117%          |
| SR-126                  |                |               |
| 2004 Volumes            | 14,000         | 11,000        |
| 2030 Cumulative Volumes | 21,000         | 14,000        |
| Percent Increase        | 50%            | 27%           |
| Remainder (Arterials)   |                |               |
| 2004 Volumes            | 43,200         | 0             |
| 2030 Cumulative Volumes | 77,700         | 0             |
| Percent Increase        | 80%            | 0%            |
| Total                   |                |               |
| 2004 Volumes            | 310,200        | 278,000       |
| 2030 Cumulative Volumes | 527,700        | 586,000       |
| Percent Increase        | 70%            | 111%          |

Note:

Cordons represent roadways that cross the SCVCTM boundary.

External Trips represent trips with one trip end within the SCVCTM area, and one trip end outside of the SCVCTM area.

Through Trips represent trips with both trip ends outside of the SCVCTM area, but pass through the SCVCTM area.

Source: SCVCTM Update -- Version 4.1 Technical Notes, May 2005



### **Response 23**

Please see **Response 22**, above.

### **Response 24**

The mitigation measures included in the Draft EIS/EIR in response to the identified significant impacts address not only "local improvements" within Santa Clarita (see, *e.g.*, Mitigation Measures TR-1 through TR-9), they also address regional improvements to the I-5. Mitigation Measures TR-10 through TR-18 require that the Project applicant contribute its fair share towards the costs of implementing the I-5 High Occupancy Vehicle (HOV) + Truck Lanes SR-14/Parker Road project, which would add: (1) one HOV lane in each direction on I-5 from the SR-14 interchange north to Parker Road; (2) truck climbing lanes in each direction from the SR-14 interchange to Calgrove Boulevard (northbound) and Pico Canyon Road/Lyons Avenue (southbound); and (3) full auxiliary lanes within portions of the Project study area. (See Draft EIS/EIR, pp. 4.8-105 - 106.) Therefore, the mitigation measures adequately address the proposed Project's contribution to regional traffic impacts as well as local impacts.

### **Response 25-26**

Please see **Topical Response 10: Vehicle Trip Distribution Methodology**.

### **Response 27**

Please see **Response 22**, above. As noted above, the SCVCTM year 2030 traffic forecasts include traffic volume increases attributable to regional growth, which includes projected increases in truck traffic at the ports, through the use of regional growth estimates.

### **Response 28**

As noted in **Response 22**, above, the SCVCTM year 2030 traffic forecasts include all regionally significant planned developments, including Centennial, Gorman Post Ranch, Frazier Park Estates, Tejon Mountain Village, Tejon Industrial Complex, Northlake, River Park, and Gates-King. As of this writing, the development application for the Las Lomas development has been pulled, and the City of Santa Clarita's official position is in opposition to the project; for that reason, neither the City of Santa Clarita nor the County of Los Angeles have included the project in their long-range planning horizons. As to Six Flags Magic Mountain Amusement Park, for the purposes of the Draft EIS/EIR traffic study, the amusement park was assumed to remain in operation, and the traffic generation associated with the park is included as part of the long-range cumulative conditions.

### **Response 29**

The Southern California Association of Governments (SCAG) and the Metropolitan Transportation Authority (MTA) long-range plans for the I-5 include widening the freeway to 12 lanes, not 16. The MTA recently adopted the "2009 Long Range Transportation Plan for Los Angeles County" (LRTP), which updates and replaces the 2001 LRTP. The 2009 LRTP identifies the County's transportation needs through the year 2040 and serves as a framework to guide future MTA Board decisions and funding allocations. The LRTP highway program, which addresses I-5, identifies the I-5 freeway through the Santa Clarita Valley, including that portion of I-5 from SR-14 to SR-126, as including one additional

HOV lane and one additional truck lane in each direction. With construction of the truck and HOV lanes identified in the LRTP, the I-5 generally would be 12 lanes wide, with one HOV lane (future), four general purpose lanes (existing), and one truck lane (future) in each direction. Relevant excerpts of the LRTP are included in the Final EIS/EIR, **Appendix F4.8**. MTA will work with SCAG to amend the SCAG 2008 Regional Transportation Plan (RTP) to ensure consistency between the Final 2009 LRTP and SCAG's RTP.

### **Response 30**

Each of the recently reconstructed I-5 interchanges has been designed to accommodate the I-5 widening identified in the MTA LRTP. Please see **Response 27**, above.

### **Response 31**

As noted in the **Response 20**, above, future conditions are forecast utilizing the SCVCTM, which is based on full build-out of the Los Angeles County and City of Santa Clarita General Plans and growth in the adjacent communities, inclusive of known cumulative developments. (See **Topical Response 10: Vehicle Trip Distribution Methodology**, for additional information regarding the SCVCTM.) Moreover, as explained in the **Response 22**, above, regional growth, *i.e.*, increases in traffic volume outside of the SCVCTM area, is incorporated into the SCVCTM. As illustrated in **Response 22**, Table 1, the model recognizes increasing I-5 traffic forecast to occur by 2030 and it takes this information into account when assessing the Project's impacts. In this regard, the Draft EIS/EIR determined that the proposed Project and each of the alternatives would result in significant cumulative impacts to I-5 and mitigation is provided. (See Draft EIS/EIR **Subsection 4.8.8.8**, Summary of Significant Impacts, and **Subsection 4.8.9**, Mitigation Measures.)

### **Response 32**

The comment asks if the traffic models and analysis comply with the State Implementation Plan (SIP) for the Los Angeles region. An analysis of the proposed Project's conformity with the SIP is presented in the Draft EIS/EIR, **Section 4.7**, Air Quality, **Subsection 4.7.9**, General Conformity. Please also see the Final EIS/EIR, revised **Section 4.7** and **Appendix F4.7** (Draft General Conformity Determination, dated June 2010). The analysis, which considers mobile source exhaust emissions, determined that the direct emissions associated with the proposed Project would not conflict with or obstruct implementation of the SIP for the South Coast Air Basin. (Draft EIS/EIR, p. 4.7-112.)

With respect to Assembly Bill (AB) 32 and Senate Bill (SB) 375, both of these laws are discussed in **Section 8.0**, Global Climate Change, of the Draft EIS/EIR. Of note, the significance of the proposed Project's greenhouse gas emissions is addressed through consideration of whether the proposed Project would impede compliance with the emission reduction mandates identified in AB 32; specifically, the analysis considers whether the proposed Project would impair the State of California's ability to return to 1990 emission levels by 2020. SB 375 is also discussed in **Section 8.0**, Global Climate Change, of the Draft EIS/EIR; however, the consistency of the proposed Project with SB 375 presently cannot be assessed as the regional reduction targets required by SB 375 neither have been determined by the California Air Resources Board nor incorporated into the SCAG regional transportation plan. With that said, the build-out that would be enabled by approval of the proposed Project or an alternative contains several smart growth features that reduce vehicle miles traveled, including the location of residential land

uses in close proximity to residential-serving land uses (*e.g.*, commercial, retail, schools) and the provision of transit-related infrastructure. Please also see revised **Section 8.0** of the Final EIS/EIR.