

# Appendix A

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Notice of Preparation and Comments



**CITY OF LATHROP  
NOTICE OF PREPARATION  
OF A SUBSEQUENT ENVIRONMENTAL IMPACT REPORT  
AND NOTICE OF PUBLIC SCOPING MEETING  
FOR THE  
RIVER ISLANDS AT LATHROP PHASE 2 PROJECT/UPDATE TO THE  
WEST LATHROP SPECIFIC PLAN**

**Date:** March 6, 2020

**To:** Responsible Agencies, Trustee Agencies, and Interested Persons

**Subject:** Notice of Preparation of a Subsequent Environmental Impact Report for the River Islands at Lathrop Phase 2 Project/Update to the West Lathrop Specific Plan (State Clearinghouse No. 1993112027)

**Lead Agency:** City of Lathrop

**Contact:** Mark Meissner, Director of Community Development  
390 Towne Centre Drive  
Lathrop, CA 95330  
(209) 941-7266  
mmeissner@ci.lathrop.ca.us

**Comment Period:** March 6, 2020 to April 8, 2020

River Islands Development, LLC (project applicant) is proposing changes to the River Islands at Lathrop Phase 2 Project (Phase 2 Project or project), which includes development of the second phase of the River Islands at Lathrop Project (River Islands Project), a mixed-use, water-oriented master planned community on Stewart Tract and Paradise Cut in Lathrop, CA. The Phase 2 Project includes an amendment to the existing West Lathrop Specific Plan (WLSP). The City of Lathrop (City) will prepare a Subsequent Environmental Impact Report (SEIR) for the project to satisfy the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] Section 21000 et seq.) and will serve as the lead agency for CEQA compliance.

**PURPOSE OF THIS NOTICE OF PREPARATION**

In accordance with the State CEQA Guidelines (14 California Code of Regulations [CCR] Section 15082), the City has prepared this notice of preparation (NOP) to inform agencies and interested parties that an SEIR will be prepared for the above-referenced project. The purpose of an NOP is to provide sufficient information about the proposed project and its potential environmental impacts to allow agencies and interested parties the opportunity to provide a meaningful response related to the scope and content of the EIR, including mitigation measures that should be considered and alternatives that should be addressed (State CEQA Guidelines 14 CCR Section 15082[b]).

The project location, description (including proposed changes to the Phase 2 Project), and potential environmental effects of those changes are summarized below.

## PUBLIC REVIEW PERIOD

This NOP is being circulated for public review and comment for a period of 34 days beginning March 6, 2020 and ending on April 8, 2020. The City will hold a public scoping meeting to inform interested parties about the project and to provide agencies and the public with an opportunity to provide comments on the scope and content of the SEIR.

**Scoping Meeting**  
Wednesday, April 1, 2020  
4:30 p.m.  
Lathrop City Hall, Council Chambers  
390 Towne Centre Drive  
Lathrop, CA 95330

Copies of the NOP may be reviewed at the following locations:

- ▲ Stockton-San Joaquin County Public Library–Lathrop Branch Library, 450 Spartan Way, Lathrop, CA 95330, during library hours;
- ▲ Lathrop City Hall, Front Counter in the Lobby; 390 Towne Centre Drive, Lathrop, CA 95330 between 8:00 a.m. and 6:00 p.m. Monday through Thursday or 8:00 a.m. and 5:00 p.m. on Friday; or
- ▲ Online at: <https://www.ci.lathrop.ca.us/com-dev/page/public-review-documents>.

## PROVIDING COMMENTS ON THIS NOTICE OF PREPARATION

Written and/or email comments on the NOP should be provided at the earliest possible date, but must be received by no later than 5:00 p.m. on April 8, 2020. Please send all comments on the NOP to:

City of Lathrop  
Attn: Mark Meissner, Director of Community Development  
390 Towne Centre Drive  
Lathrop, CA 95330  
E-mail: [mmeissner@ci.lathrop.ca.us](mailto:mmeissner@ci.lathrop.ca.us)

Your views and comments on how the project may affect the environment are welcomed. Please contact Mr. Meissner if you have any questions about the environmental review process for the River Islands at Lathrop Phase 2 Project and the corresponding amendment to the WLSP.

Comments provided by e-mail should include the name and mailing address (e-mail or physical) of the commenter in the body of the e-mail. If you are from an agency that will need to consider the SEIR when deciding whether to issue permits or other approvals for the project, please provide the name of a contact person in any comments.

## Focus of Input

The City relies on responsible and trustee agencies to provide information relevant to the analysis of resources within their respective jurisdictions. The City encourages input on the SEIR, with a focus on the following topics:

- ▲ **Scope of Environmental Analysis.** Guidance on the scope of analysis for this SEIR, including identification of specific issues that will require closer study due to the location, scale, and character of the River Islands at Lathrop Phase 2 Project;
- ▲ **Mitigation Measures.** Ideas for feasible mitigation that could potentially be imposed by the City to avoid, eliminate, or reduce potentially significant or significant impacts;

- ▲ **Alternatives.** Suggestions for alternatives to the River Islands at Lathrop Phase 2 Project that could potentially reduce or avoid potentially significant or significant impacts; and
- ▲ **Interested Parties.** Identification of public agencies, public and private groups, and individuals that the City should contact directly regarding the River Islands at Lathrop Phase 2 Project and the accompanying SEIR.

## PROJECT LOCATION

Lathrop is located within the Interstate 5 (I-5) corridor, within an approximately 50-minute drive (or less) of the cities of Tracy, Manteca, Stockton, Lodi, Modesto, Livermore, and Pleasanton.

The project area is the Phase 2 development area of the River Islands at Lathrop Project, located on Stewart Tract within the WLSP in the city of Lathrop. The Phase 2 development area includes approximately 3,100 acres of land and open space located on Stewart Tract (an inland island bounded by Paradise Cut, the San Joaquin River, and Old River) (Figure 1).

## PROJECT BACKGROUND

The River Islands at Lathrop Project is a mixed-use, water-oriented master planned community, on approximately 4,905 acres on Stewart Tract and Paradise Cut. Project construction is split among two primary development phases, following an approximately 20-year buildout schedule. Phase 1, currently under construction, includes 4,284 residential dwelling units, a Town Center, a portion of a Business Park, lakes, parks, schools, and other open space. Much of the Phase 1 area has already been completed. As evaluated in the 2003 SEIR (State Clearinghouse No. 1993112027), Phase 2 includes 6,716 dwelling units, the balance of the Business Park (Employment Center), a neighborhood commercial area, lakes, parks, golf courses, marinas, schools, and additional open space areas.

In 2003, the City certified the SEIR for the River Islands at Lathrop Project and approved various entitlements, including amendments to the General Plan, WLSP, a Vesting Tentative Map for Phase 1, and an Amended and Restated Development Agreement.

The 2003 SEIR included a project-level analysis for Phase 1 as well as a project-level analysis for Phase 2 with the exception of the issue of recycled water storage and disposal during Phase 2, which was evaluated at a program-level. Since certification of the SEIR in 2003, the City has prepared various addenda to evaluate modifications to the River Islands project and confirm that the modifications were covered by the SEIR and that there would be no new significant or substantially more severe environmental impacts under CEQA resulting from the project modifications.

The applicant has applied to the City for a number of related project-level entitlements that will update the land use program for Phase 2, including the following:

- ▲ City of Lathrop General Plan Amendments for Land Use and Circulation
- ▲ Zoning Map Amendment
- ▲ WLSP Amendment
- ▲ Potential Development Agreement Amendment
- ▲ Urban Design Concept Amendment
- ▲ Vesting Tentative Map

The applicant proposes to densify proposed residential development within the Phase 2 area, accommodate additional retail and commercial development, and add a mixed-use Transit Village to the proposed Valley Link commuter rail station location in the Employment Center District. The amendments will include these changes, as well as other project refinements and updates proposed to accommodate changes in the flood protection program, transportation and circulation changes, changes in school construction, and other similar issues. The overall project boundary of the River Islands Project would not change from that analyzed in the 2003 SEIR.

## EXISTING CONDITIONS AND LAND USES

The project site (Phase 2 area) is mostly undeveloped and/or agricultural land. There are a few single-family residences, a horse ranch, and related agriculture-related buildings located in discrete portions of the project site. The project site also contains the Central Drainage Ditch, a long agricultural ditch that bisects Stewart Tract, along with a small pond located near Paradise Cut. Both areas are considered wetlands and are designated as waters of the U.S. by the U.S. Army Corps of Engineers. As development occurs within the Phase 2 area, these wetland areas will be avoided. Flood protection improvements consisting of levees surrounding the Phase 2 area have been completed, consistent with the existing entitlements and 2003 SEIR.

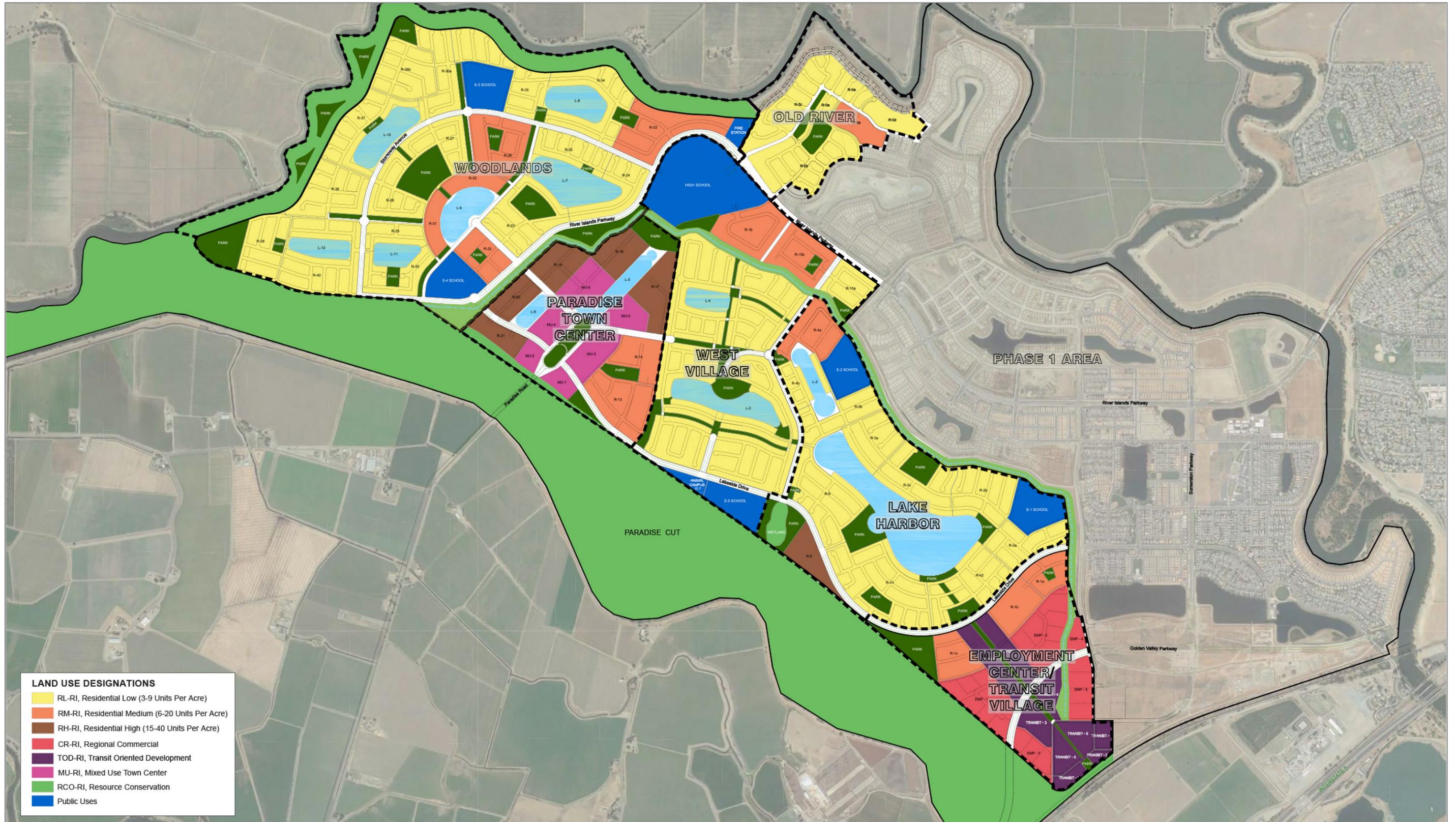
## PROJECT OBJECTIVES

The overall objective of the River Islands Project is the orderly and systematic development of an integrated, mixed-use community in the City of Lathrop generally consistent with goals and policies of the City's adopted General Plan and the WLSP. The specific project objectives for the Phase 2 Project, listed below, borrow from and update the objectives originally identified in the 2003 SEIR:

- ▲ Provide to Lathrop (and the surrounding region) long-term community benefits, including generation of substantial permanent employment opportunities.
- ▲ Reinforce and enhance the City's positive image.
- ▲ Contribute a new variety of mixed-use/commercial land uses that could become a citywide and regional focal point.
- ▲ Continue to create a community that is consistent with many of the original goals of the Lathrop General Plan and WLSP including employment generation.
- ▲ Develop a well-integrated and harmonious pattern of resident-oriented and visitor-oriented land uses in West Lathrop that provides local jobs, homes, and revenue-generating uses that complement other Lathrop development.
- ▲ Arrange phases of development to allow ongoing agricultural operations in the plan area to continue as long as feasible while allowing initial phases to act as catalysts for subsequent development.
- ▲ Incorporate water in its many forms throughout the project area to reinforce the area's Delta setting.
- ▲ Phase the provision of habitat preservation areas with overall development phases.
- ▲ Provide a wide range of housing types that could accommodate most income levels.
- ▲ Provide a variety of recreational opportunities focused on outdoor uses.
- ▲ Provide a high-density Transit Oriented Development in the vicinity of the planned Valley Link commuter rail station on the project site.

## PROJECT DESCRIPTION

The City is considering a number of related project-level entitlements that will update the land use program for the River Islands Phase 2 project area. These changes constitute the project to be analyzed in the SEIR and are summarized below.



Source: Image produced by the Dahlin Group in 2019

**Figure 1 River Islands Phase 2 Masterplan Concept**



## Revised River Islands at Lathrop Phase 2 Project

The approved River Islands at Lathrop Project includes a mix of residential, commercial, office, recreational, educational, and open space uses on approximately 4,905 acres on Stewart Tract and Paradise Cut. The overall project, first approved in 2003, has been updated and amended for Phase 1 development in particular, in 2005, 2007, 2012, 2014, 2015, and 2018. The 2012 and 2018 updates also included minor changes to Phase 2.

The approved Phase 2 area, as contemplated in the 2003 SEIR and Lathrop General Plan, provides for the development of a total of 6,716 residential dwelling units, a 211-acre employment center (Business Park), a neighborhood commercial area, additional lakes, parks, golf courses, marinas, schools, an expansion of the transportation/circulation system, and completion of the flood protection system. As part of the overall project, River Islands would establish the biological habitat restoration/creation habitat areas and preserve natural lands in Paradise Cut if federal and state approvals could be obtained. However, because proposed construction of the Phase 2 area avoids delineated wetlands and waters of the U.S., completion of the urban development of River Islands is not predicated on biological habitat restoration/creation activities.

The proposed revisions to the Phase 2 Project would densify the Phase 2 area by including additional multi-family dwellings (condominiums, apartments, etc.) as well as more attached single-family residences similar to units already constructed as part of Phase 1. The proposed modified development would also create a smaller “town center” mixed-use area at Paradise Road (at the west entry to the project area) and a mixed-use Transit Village as part of the Employment Center District that would complement the future planned Valley Link (formerly ACE) transit station.

Other proposed Phase 2 modifications include changes in the circulation pattern from the adopted WLSP and General Plan, with River Islands Parkway, Lakeside Drive, and Paradise Road shifting locations to the updated land use pattern. Other land use shifts include the Old River Road District, currently part of the Phase 1 development boundary, being included as proposed development within Phase 2. Golden Valley Parkway would still serve its purpose as a regional alternative roadway as proposed in the current plan. An additional arterial from the existing terminus of Golden Valley Parkway in the Employment Center would continue into the Phase 2 area for internal circulation.

Table 1 shows the existing land use program for the Phase 2 Project, along with the proposed plan and a comparison of the changes.

**Table 1 River Islands Phase 2 Project Development Summary**

General Plan Designation/Land Use		Existing Phase 2 Project			Proposed Phase 2 Project			Difference		
		Acres <sup>1</sup>	Dwelling Units <sup>4</sup>	Non-Res. Floor Area (s.f.)	Acres <sup>1</sup>	Dwelling Units <sup>4</sup>	Non-Res. Floor Area (s.f.)	Acres <sup>1</sup>	Dwelling Units <sup>4</sup>	Non-Res. Floor Area (s.f.)
MU-RI	Town Center (Mixed Use)	0.0	0	0	166.7	2,448	358,288	166.7	2,448	358,288
CR-RI	Employment Center (Regional Commercial)	125.0	0	1,800,000	86.6	0	1,477,500	(38.4)	0	(322,500)
CN-RI	Neighborhood Commercial	17.7	0	180,000	0	0	0	(17.7)	0	(180,000)
RL-RI	Residential - Low	1,486.3	4,916	0	857.8	4,241	0	(628.5)	(675)	0
RM-RI	Residential - Medium	70.4	1,200	0	195.4	1,795	0	125	595	0
RH-RI	Residential - High	34.9	600	0	11.9	260	0	(23)	(340)	0
TOD-RI	Transit Oriented Development <sup>2</sup>	0.0	0	0	94.4	1,626	0	94.4	1,626	0
RCO/OS-RI	Resource Conservation - Open Space	703.8	0	0	703.8	0	0	0.0	0	0

General Plan Designation/Land Use		Existing Phase 2 Project			Proposed Phase 2 Project			Difference		
		Acres <sup>1</sup>	Dwelling Units <sup>4</sup>	Non-Res. Floor Area (s.f.)	Acres <sup>1</sup>	Dwelling Units <sup>4</sup>	Non-Res. Floor Area (s.f.)	Acres <sup>1</sup>	Dwelling Units <sup>4</sup>	Non-Res. Floor Area (s.f.)
	Parks	155.4			136.4			(19)		
	Lakes	235.0			200.4			(34.6)		
	Schools	106.4			120.8			14.4		
	Streets	382.3			437.9			55.6		
	Other Open Space/ Public Uses <sup>3</sup>	129.7			434.8			305.1		
Total Land Use Parcels		3,446.9	6,716	1,980,000	3,446.9	10,370	1,835,788	0	3,654	(144,212)

Notes:

<sup>1</sup> The acreage shown includes Paradise Cut and adjacent waterways that may not be evaluated in the SEIR.

<sup>2</sup> This area was identified as "transit village" in the 2003 SEIR project description. The new title as shown should be used to be consistent with the Valley Link Transit Project.

<sup>3</sup> The acreage estimated includes public uses such as fire stations and other City facilities, as well as open space areas not included with other land use designations.

<sup>4</sup> Dwelling units tabulated are shown as per the City's existing and proposed land use categories and not in their physical location (e.g. districts).

Among the entitlements evaluated in the SEIR, the adopted WLSP would be amended to reflect the modified Phase 2 Project development unit projections.

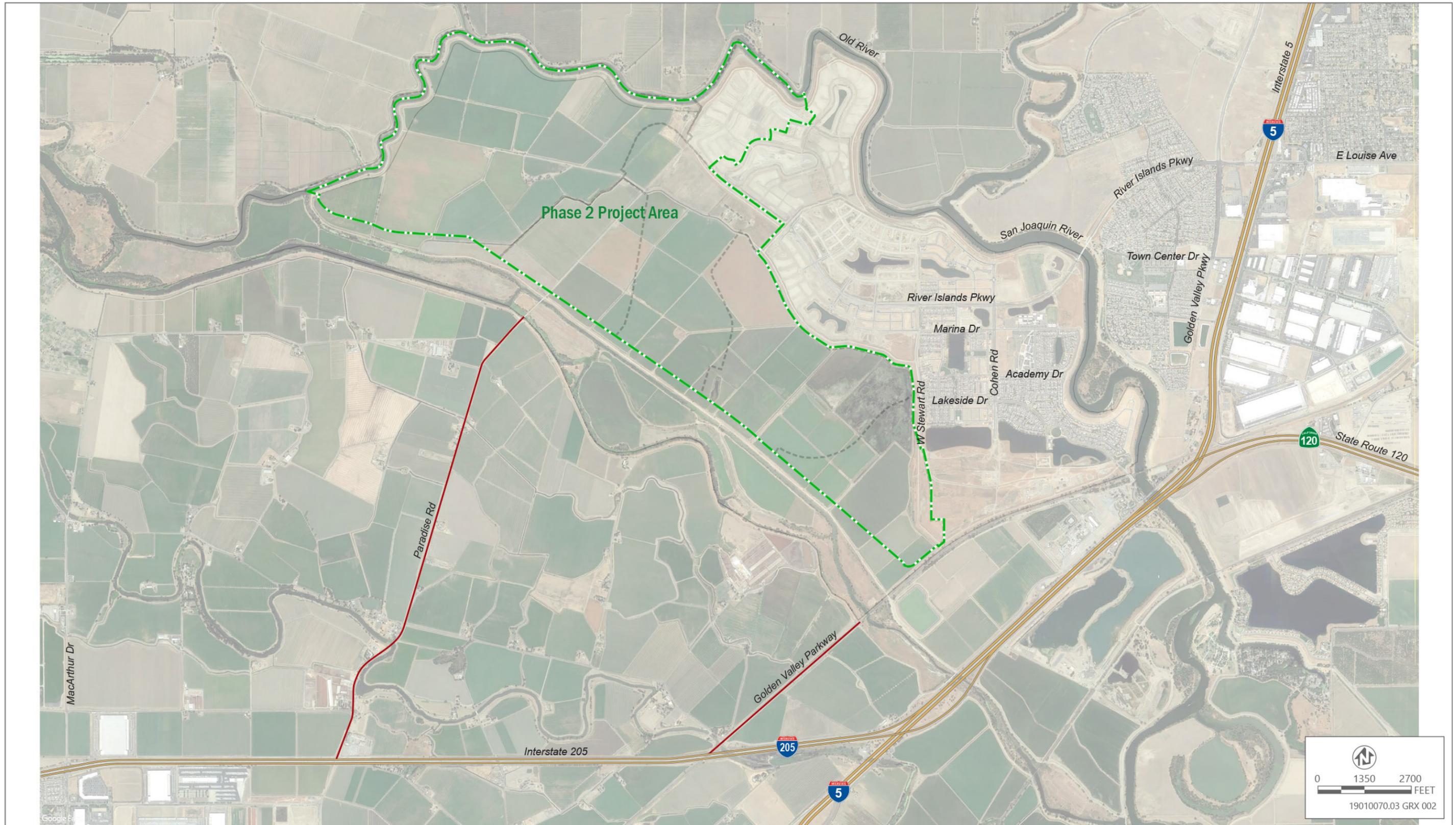
### Offsite Elements

There are also two potential offsite elements located outside of Stewart Tract that may be considered in the SEIR, both consisting of road extensions to Interstate 205 (I-205) (Figure 2). One of these offsite elements consists of the widening of Paradise Road from the project site to I-205 at a new interchange proposed by the City of Tracy (Paradise Road/Chrisman Road interchange). The second offsite element is an extension of Golden Valley Parkway included in San Joaquin County's inter-regional system and part of its Regional Transportation Improvement Fee (RTIF) program. This roadway would be constructed as a multi-agency effort and the River Islands applicant would be required to continue to contribute funding towards this roadway as part of the RTIF program (fee payments). This extended portion of Golden Valley Parkway may also connect to I-205 via the proposed Paradise Road/Chrisman Road interchange. The SEIR will evaluate the project's contribution to the need for these facilities.

### POTENTIAL APPROVALS AND PERMITS REQUIRED

The following is a list of approvals and/or permits that may be required to implement the project:

- ▲ California Department of Transportation (Caltrans): Review of mitigation measures related to Manthey Road/Mossdale Road Interchange and the closure of Stewart Road
- ▲ California Department of Education: Approval of site acquisition and construction plans for proposed school facilities that are proposed to be non-charter
- ▲ Central Valley Regional Water Quality Control Board (RWQCB): Clean Water Act Section 401 water quality certification; construction activity stormwater permit; National Pollutant Discharge Elimination System permit
- ▲ San Joaquin County: Approval of an encroachment permit for the widening of Paradise Road from the Lathrop City limits to Paradise Road/Chrisman Road Interchange with I-205



Source: Image produced by Ascent Environmental in 2020

**Figure 2 Potential Offsite Elements**



- ▲ City of Lathrop: Approval of a general plan amendment, zoning map amendment, WLSP amendment, Urban Design Concept amendment, vesting tentative map, and potential development agreement amendment between the applicant and the City
- ▲ Banta Elementary School District: Approval of site acquisition and construction plans for proposed K-8 school facilities
- ▲ Tracy Unified School District: Approval of site acquisition and construction plans for proposed high school facilities, if the proposed unification of Banta Elementary School District does not take place
- ▲ Tri-Valley - San Joaquin Valley Regional Rail Authority (Valley Link): Approval of proposed Valley Link transit station

## POTENTIAL ENVIRONMENTAL EFFECTS

Pursuant to PRC Section 21166 and CEQA Guidelines Section 15162, when a lead agency concludes that a project may have the potential to result in new significant adverse effects that were not analyzed in previous EIRs, an SEIR should be prepared. The 2003 SEIR comprehensively analyzed potential impacts relating to the creation of a large mixed-use, master plan community; thus, the focus of this SEIR will be to analyze the potential environmental impacts that may result from the proposed changes to the Phase 2 land use plan and densification of residential uses that were not addressed by the previously prepared 2003 SEIR and in the subsequent addenda (in 2012 and 2018).

As required by CEQA, the SEIR will describe existing conditions and evaluate the potential environmental effects of the project and a reasonable range of alternatives, including the no-project alternative. It will also address direct, indirect, and cumulative effects. The SEIR will identify feasible mitigation measures, if available, to reduce potentially significant impacts. The SEIR will also discuss potential growth-inducing impacts and summarize significant and unavoidable environmental effects. The City has determined that the SEIR will evaluate the following environmental impact areas:

**Land Use Consistency and Compatibility.** The SEIR will include a discussion of the project relative to the City of Lathrop General Plan’s designations for the site, goals, and policies, as well as the WLSP and the San Joaquin Council of Governments’ (SJCOG) Regional Transportation Plan and Sustainable Communities Strategy (RTP/SCS). The discussion will address the consistency of the project with adopted plans and policies and compatibility with adjacent land uses. Because a General Plan amendment and an amendment to the WLSP are proposed as part of the project, consistency with these plans will assume adoption of the proposed changes. The analysis will acknowledge that Lathrop is currently in the process of updating its general plan; therefore, evaluation will be of the project’s consistency with the existing general plan adopted in December 1991 and amended in November 2004. The SEIR will identify increases in residential units and densities and will evaluate their corresponding effects on other environmental impact areas.

**Population, Employment, and Housing.** The SEIR will discuss the population, housing, and employment assumptions used in the 2003 SEIR and compare the Phase 2 Project against the baseline of the 2003 baseline conditions and against existing conditions. This section will include a discussion of the jobs-housing balance for the approved project and the Phase 2 Project, as well as consistency with adopted housing policies (e.g., the December 2019 General Plan housing element update).

**Traffic and Transportation.** The SEIR will include an updated traffic impact study that evaluates project-specific and cumulative impacts and appropriate mitigation measures, including potential impacts from construction traffic (including traffic safety associated with use of residential streets), and project-generated traffic, as well as impacts from the proposed new roadway network. In addition, the SEIR will include a discussion of potential bicycle, pedestrian, and transit-related impacts and consistency with the City’s Master Bicycle Plan. Transportation impacts will be evaluated based on vehicles miles traveled (VMT) thresholds required pursuant to Senate Bill (SB) 743.

**Air Quality.** The SEIR will evaluate the potential construction and operational emissions of the project, including a qualitative evaluation of project-generated operational-related emissions of carbon monoxide. The analysis will be conducted in accordance with San Joaquin Valley Air Pollution Control District (SJVAPCD) recommended methodologies and thresholds. Because the project does not involve industrial uses or other stationary sources that could generate substantial toxic air contaminants (TACs), potential stationary sources will be qualitatively discussed in relation to adopted SJVAPCD rules and regulations. Increases in criteria air pollutants, precursors, and exposure to TACs and odors will be compared to applicable thresholds.

**Geology, Soils, and Mineral Resources.** The EIR will evaluate the potential for significant impacts related to seismic events and soil stability. The potential for the project to limit access to important mineral resources will also be considered.

**Noise.** The SEIR will evaluate the potential increases in ambient noise levels on and near the project site as a result of project implementation. The SEIR will analyze potential short-term construction source and long-term operational source (e.g., trip generation) impacts. While construction noise is generally described as “short-term,” the discussion will acknowledge the potential for extended noise effects from a drawn-out construction project. For project-related changes in traffic volumes, noise increases (or decreases) at existing noise-sensitive receptors and potential land use compatibilities at proposed noise-sensitive receptors will be determined (to the extent the project itself exacerbates these noise levels) based on the results of the traffic analysis. Vibration levels during construction will be estimated to determine potential effects on nearby structures.

**Hydrology and Water Quality.** The SEIR will evaluate potential flooding impacts associated with development at the project site to reflect current conditions, including the improved levee system recently completed by Reclamation District (RD) 2062. The SEIR will summarize the analysis and conclusions of the 2003 SEIR and General Plan EIR as they pertain to the project site. The SEIR will provide analysis for compliance with the Central Valley Flood Protection Act of 2007, enacted by SB 5, as amended that requires that jurisdictions located in the Sacramento-San Joaquin Valley incorporate plans for the attainment of a 200-year Urban Level of Flood Protection.

**Hazardous Materials and Public Health.** The SEIR will address the potential for project-related construction and operations to create a significant hazard to the public or the environment through use of hazardous materials or cause reasonably foreseeable upset and accident conditions involving the release of hazardous materials.

**Public Services.** The SEIR will discuss the project’s anticipated demand and analyze the capacity of emergency services (police and fire), school services, library facilities and other public services. The SEIR will also describe the potential for implementation of the project to result in increased demands for public services such that new or expanded facilities might be constructed or that proposed facilities would result in significant impacts to the environment.

**Public Utilities.** The anticipated demand for water, wastewater and recycled water, stormwater conveyance, electricity, and natural gas under the project will be compared with the discussion from the 2003 SEIR. Based on the land uses proposed for the previously approved project, utility demand is expected to increase because of the denser residential development pattern. A water supply assessment will be prepared (SB 610/SB 221); because of the complexities surrounding water supply and the potential sources, the water supply analysis will evaluate potential for reduced groundwater water supply and the implications to the project, including the increased demand for potable water due to the increase in overall residential development.

**Recreation.** The SEIR will determine the required parkland acreage based on the proposed Phase 2 project and evaluate whether the project includes sufficient parkland of various categories to meet these requirements.

**Agricultural Resources.** There are no longer any Williamson Act Contracts in effect in the Phase 2 area. The SEIR will summarize the analysis and conclusions from the 2003 SEIR and determine if the proposed project alters any impacts or conclusions.

**Terrestrial Biology.** The SEIR will include a review of existing biological surveys prepared for River Islands project since the 2003 SEIR, including previously conducted studies for the River Islands environmental impact statement (EIS). The SEIR will describe the potential for any special-status plant, animal, or habitat to occur, including riparian habitat and elderberry shrubs, on the project site, as well as the project's potential to adversely affect any identified biological resources. The SEIR will rely on the San Joaquin County Habitat Conservation Plan (SJMSCP) to mitigate for wildlife and habitat impacts.

**Fisheries.** The SEIR will summarize the analysis and conclusions from the 2003 SEIR and provide an update regarding permitting and other activities that have occurred since certification of the 2003 SEIR.

**Cultural and Tribal Cultural Resources.** The SEIR will describe the cultural and tribal cultural resources that are known or have the potential to occur on the project site based largely on the previous environmental analysis. Background research will include an updated record search from the California Historical Resources Information System, as well as new searches of the Native American Heritage Commission's Sacred Lands database. The SEIR will also document the results of required consultation and any agreements on mitigation measures for tribal cultural resources. The SEIR will summarize the results of these studies and provide appropriate measures for the protection of known and/or undiscovered resources, including steps to be taken in the event of an unanticipated discovery during construction.

**Aesthetics.** The SEIR will evaluate whether the proposed land use changes could result in any new or substantially more significant effects related to aesthetics compared to the analysis in the 2003 SEIR. Issues to be examined include whether there would be changes in maximum building heights and whether that would change the significance determinations from the 2003 SEIR.

**Energy.** Since certification of the 2003 SEIR, the CEQA Guidelines Appendix G checklist has been revised to include an energy section. Based on the checklist and the guidance included in CEQA Guidelines Appendix F regarding energy conservation, the SEIR will include an analysis of the anticipated energy demands of the project and determine whether the project would result in the wasteful or inefficient use of energy.

**Greenhouse Gas.** The 2003 SEIR did not include an analysis of the project's greenhouse gas (GHG) emissions as it was not yet required for CEQA analyses and no comments on the 2003 SEIR suggested that GHG emissions be addressed. This SEIR will calculate the anticipated emissions from the approved project and the proposed project to determine whether the proposed project would result in a significant increase in emissions as compared with the approved project. The GHG analysis for the project will consider changed circumstances associated with the adoption of SB 32, current City efforts related to climate change, and the California Air Resources Board's 2017 Climate Change Scoping Plan Update.

**Wildfire.** The SEIR will evaluate the project's potential effects related to wildfire using the questions included in the recently updated CEQA Guidelines Appendix G checklist.

## **ALTERNATIVES TO BE EVALUATED IN THE SUBSEQUENT EIR**

The SEIR will include an evaluation of a reasonable range of potentially feasible alternatives to the project, as well as a No Project Alternative. Consistent with CEQA requirements, alternatives evaluated in the SEIR will be based on their potential to reduce the significant environmental impacts of the project. The SEIR will also identify any alternatives that were considered but rejected by the City as infeasible and briefly explain the reasons why.



April 13, 2020

Mr. Mark Meissner, Director of Community Development

City of Lathrop

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Lathrop, CA 95330

[mmeissner@ci.lathrop.ca.us](mailto:mmeissner@ci.lathrop.ca.us)

Subject: River Islands at Lathrop Phase 2 Project/Update to the West Lathrop Specific Plan, Notice of Preparation of a Subsequent Environmental Impact Report, SCH #1993112027, San Joaquin County

Dear Mr. Meissner:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) of a Subsequent Impact Report (SEIR) prepared by the City of Lathrop (City) for the proposed River Islands at Lathrop Phase 2 Project/Update to the West Lathrop Specific Plan (Project) located in the City of Lathrop, San Joaquin County.

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA) §15386 for commenting on projects that could impact fish, plant and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW has the following concerns, comments, and recommendations regarding the Project.

## PROJECT DESCRIPTION AND LOCATION

The Project area is the Phase 2 development area of the River Islands at Lathrop Project, located on Stewart Tract within the WLSP in the City of Lathrop. The Phase 2 development area includes approximately 3,100 acres of land and open space located on Stewart Tract (an inland island bounded by Paradise Cut, the San Joaquin River, and Old River).

The CEQA Guidelines (§§15124 and 15378) require that the SEIR incorporate a full Project description, including reasonably foreseeable future phases of the Project, and require that it contain sufficient information to evaluate and review the Project's environmental impact. Please include a complete description of the Project components listed below.

- Footprint area of permanent features and temporarily impacted areas, such as staging areas and access routes
- Plans for any proposed buildings or structures, ground disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems

Mr. Mark Meissner  
 City of Lathrop  
 April 13, 2020  
 Page 2 of 7

- Operational features, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features
- Construction schedule, activities, equipment types and crew sizes

Additionally, the SEIR should specify if CDFW is anticipated to be a Responsible Agency that is expected to use the SEIR in its decision making for the Project [CEQA Guidelines, § 15124, subd. (d)(1)(A)].

## ENVIRONMENTAL SETTING

The Project is located in mostly undeveloped and/or agricultural land. There are a few single-family residences and agricultural buildings throughout the site. The Project site contains two wetland areas: the Central Drainage Ditch, a long agricultural ditch which bisects Stewart Tract, and a small pond located near Paradise Cut.

The SEIR should provide sufficient information regarding the environmental setting necessary to understand the Project's, and its alternative's (if applicable), potentially significant impacts on the environment (CEQA Guidelines, §§ 15125 and 15360). CDFW recommends that the SEIR provide baseline habitat assessments for special-status fish, wildlife, and plant species potentially affected by the Project including but not limited to the species with the designations listed below.

- Threatened, endangered, rare, candidate, or fully protected under state law
- Threatened or endangered under federal law
- California Rare Plant Rank (CRPR) 1 through 4  
<http://www.cnps.org/cnps/rareplants/ranking.php>
- California Species of Special Concern (<https://www.wildlife.ca.gov/Conservation/SSC/>)
- Local or regional rare plants or animals identified in a local or regional plan or policy
- Rare, threatened, or endangered pursuant to CEQA Guidelines section 15380

Special-status species documented to occur, or with the potential to occur, on or near the Project area include, *but are not limited to*, those listed in the table below.

Common Name	Scientific Name	Status	Rare Plant Rank
Delta button-celery	<i>Eryngium racemosum</i>	SE	1B.1
Loggerhead shrike	<i>Lanius ludovicianus</i>	SSC	
Pallid bat	<i>Antrozous pallidus</i>	SSC	
Riparian brush rabbit	<i>Sylvilagus bachmani riparius</i>	FE, SE	
Slough thistle	<i>Cirsium crassicaule</i>		1B.1
Song sparrow ("Modesto" population)	<i>Melospiza melodia</i>	SSC	
Steelhead (Central Valley DPS)	<i>Oncorhynchus mykiss irideus</i>	FT	

Mr. Mark Meissner  
 City of Lathrop  
 April 13, 2020  
 Page 3 of 7

Swainson's hawk	<i>Buteo swainsoni</i>	ST	
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	SSC	
Tricolored blackbird	<i>Agelaius tricolor</i>	ST	
Valley elderberry longhorn beetle	<i>Desmocerus californicus dimorphus</i>	FT	
Western bumble bee	<i>Bombus occidentalis</i>	CE	
Western burrowing owl	<i>Athene cunicularia</i>	SSC	1B.2
White-tailed kite	<i>Elanus leucurus</i>	FP	
Wright's trichocoronis	<i>Trichocoronis wrightii</i> var. <i>wrightii</i>		2B.1

FE = federally listed as endangered under ESA; FT = federally listed as threaten under ESA; SE = state listed as endangered under CESA; ST = state listed as threatened under CESA; SFP = state fully protected under Fish and Game Code; SSC = state species of special concern; CE= candidate for state listing as endangered

Habitat assessments and species baseline information should include information from multiple sources; for example, recent and historical aerial imagery and survey data, field reconnaissance surveys, scientific literature and reports, and findings from databases such as California Natural Diversity Database (CNDDDB). The CNDDDB is a "positive occurrence" database containing records of species and natural communities that have been observed and documented. Absence of data in such sources does not indicate that the species is absent from the Project area or vicinity. Based on the data and information from the habitat assessment and surveys, the SEIR can adequately assess which special-status species are likely to occur in the Project area or vicinity.

## COMMENTS

### Comment 1: Mitigation for Wildlife and Habitat Impacts

The SEIR indicates the potential for multiple special-status species to occur within or adjacent to the Project site, including, but not limited to: Swainson's hawk, riparian brush rabbit, burrowing owl, and migratory and nesting birds. The NOP notes that the SEIR will rely on the San Joaquin County Habitat Conservation Plan (SJMSCP) to mitigate for wildlife and habitat impacts. Mitigation through the SJMSCP should be detailed in the SEIR, including mitigation ratios for habitat impacts and alternative forms of mitigation should credits and coverage through SJMSCP be unavailable. CDFW recommends incorporating the quantifiable and enforceable measures detailed in the following comments in the SEIR to ensure impacts to special-status species are fully mitigated.

### Comment 2: Swainson's Hawk

CDFW recommends that a qualified biologist conduct surveys prior to any construction activities that may impact Swainson's hawk in accordance with the Swainson's Hawk Technical Advisory Committee's (TAC) *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (2000), available on CDFW's webpage at <https://www.wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>.

Mr. Mark Meissner  
City of Lathrop  
April 13, 2020  
Page 4 of 7

Survey methods should be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest (nests, adults, and chicks are more difficult to detect later in the growing season because trees become less transparent as vegetation increases). Surveys should be conducted: 1) within a minimum 0.25-mile radius of the Project area or a larger area if necessary to identify potentially impacted active nests, and 2) for at least the two survey periods immediately prior to initiating Project-related construction activities. Surveys should occur annually for the duration of the Project. The qualified biologist should have a minimum of two years of experience implementing the TAC survey methodology. If an active nest is identified, a 0.25-mile buffer shall be maintained around the nest until the young fledge. If Swainson's hawk activity (foraging or courtship, not just nests) is noted within 0.25 miles of the Project site and a non-disturbance buffer of 0.25 miles cannot be implemented, the Project proponent should be required to obtain a CESA Incidental Take Permit (ITP) and pursue further compensatory mitigation as a condition of Project approval.

The permanent loss of foraging habitat is considered significant. To offset loss of foraging habitat, CDFW recommends that the Project proponent should be required to purchase and protect in perpetuity compensatory mitigation lands at a minimum of a 1:1 mitigation ratio as a condition of Project approval. If active nests are found within 0.25 miles of the project site and take cannot be avoided, the mitigation ratio should be increased to a minimum of 3:1 (mitigation: loss).

### **Comment 3: Riparian Brush Rabbit**

The riparian brush rabbit (*Sylvilagus bachmani riparius*) is State and Federally listed as Endangered. The population at Paradise Cut is one of the few remaining populations of riparian brush rabbit and is under significant threat of extirpation. Due to the potential presence of this listed species and the potential for Project-related take, CDFW advises that the Project proponent be required to obtain a CESA ITP (pursuant to Fish and Game Code 2080 et seq.) as a condition for Project approval.

The permanent loss of core riparian habitat and adjacent flood refugia is a potentially significant impact. To offset loss of habitat, CDFW recommends that the Project proponent should be required to purchase and protect in perpetuity compensatory mitigation lands at a minimum of a 5:1 mitigation ratio as a condition of Project approval.

### **Comment 4: Western Burrowing Owl**

The Project has the potential to adversely impact the species through permanent and temporary losses of nesting and foraging habitat. The Project may also result in additional impact to burrowing owl through nest abandonment, loss of young, and reduced health and vigor of chicks (resulting in reduced survival rates) and breeding and foraging disturbance through Project activities.

To ensure impacts to burrowing owls are mitigated to a level of less-than-significant, CDFW recommends that the following nesting bird assessment and avoidance mitigation measure is included as a condition for Project approval:

Mr. Mark Meissner  
City of Lathrop  
April 13, 2020  
Page 5 of 7

*“Burrowing Owl Assessment and Avoidance: Prior to the initiation of Project activities, including ground disturbing work, the Qualified Biologist shall conduct surveys following the methodology described in Appendix D: Breeding and Non-breeding Season Surveys of the California Department of Fish and Game (CDFG) Staff Report on Burrowing Owl Mitigation (Staff Report), which is available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>.*

*In accordance with the CDFG 2012 Staff Report, a minimum of four survey visits should be conducted within 500 feet of the Project area during the owl breeding season which is typically between February 1 and August 31. A minimum of three survey visits, at least three weeks apart, should be conducted during the peak nesting period, which is between April 15 and July 15, with at least one visit after June 15. Pre-construction surveys should be conducted no-less-than 14 days prior to the start of construction activities with a final survey conducted within 24 hours prior to ground disturbance. Detected burrowing owls shall be avoided pursuant to the buffer zones prescribed in the CDFG 2012 Staff Report and any passive relocation plan shall be subject to CDFW review.”*

Additionally, CDFW recommends that the City incorporate and implement measures to avoid or minimize the loss of burrowing owl nesting and/or foraging habitat. To offset loss of foraging habitat, CDFW recommends that the Project proponent should be required to purchase and protect in perpetuity compensatory mitigation lands at a minimum of a 1:1 mitigation ratio as a condition of Project approval. If active burrows or winter roosts are found onsite and take cannot be avoided, the mitigation ratio should be increased to a minimum of 3:1 (mitigation: loss). The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of evicted or excluded owls is unknown. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented in order to avoid “take”.

#### **Comment 5: Special-Status Plants**

CDFW recommends that the Project area be surveyed for special-status plants by a qualified botanist following the “Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities,” which can be found online at <https://wildlife.ca.gov/Conservation/Survey-Protocols>. This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary. If a state-listed or state Rare<sup>1</sup> plant is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, acquisition of take authorization through an ITP issued by CDFW pursuant to Fish and Game Code Sections 2081(b) and/or Section 1900 et seq is necessary to comply with Fish and Game Code CESA and the Native Plant Protection Act.

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<sup>1</sup> In this context, “Rare” means listed under the California Native Plant Protection Act.

Mr. Mark Meissner  
City of Lathrop  
April 13, 2020  
Page 6 of 7

### **Comment 6: Nesting Birds**

To ensure impacts to nesting birds are mitigated to a level of less-than-significant, CDFW recommends that the following specific and enforceable nesting bird assessment and avoidance mitigation measure is included as a condition for Project approval:

*“Nesting Bird Assessment and Avoidance: Prior to the initiation of Project activities, including ground disturbing activities scheduled to occur between February 15 and September 15, a Qualified Biologist shall conduct a habitat assessment and nesting survey for nesting bird species no more than five days prior to the initiation of work. Surveys shall encompass all potential habitats (e.g., grasslands and tree cavities) within 250 feet of the Project site. The Qualified Biologist conducting the surveys shall be familiar with the breeding behaviors and nest structures for birds known to nest in the Project vicinity. Surveys shall be conducted during periods of peak activity (early morning, dusk) and shall be of sufficient duration to observe movement patterns. Survey results, including a description of timing, duration and methods used, shall be submitted to CDFW for review 48 hours prior to the initiation of the Project. If a lapse in Project activity of seven days or more occurs, the survey shall be repeated, and no work shall proceed until the results have been submitted to CDFW.*

*If nesting birds are found, then no work shall be initiated until nest-specific buffers have been established with written approval from CDFW. The buffer area(s) shall be fenced off from work activities and avoided until the young have fledged, as determined by the qualified biologist. Active nests within or adjacent to the Project site shall be monitored by the qualified biologist daily throughout the duration of Project activities for changes in bird behavior or signs of distress related to Project activities. If nesting birds are showing signs of distress or disruptions to nesting, then that nest shall have the buffer immediately increased by the qualified biologist until no further interruptions to breeding behavior are detectable. The Permittee or representatives of the Permittee shall not disturb or destroy the nests or eggs of fully protected species or of other birds as per Fish and Game Code section 3503.”*

## **REGULATORY REQUIREMENTS**

### **California Endangered Species Act**

Please be advised that a CESA Permit must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (CEQA section 21001(c), 21083, and CEQA Guidelines section 15380, 15064, 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration

Mr. Mark Meissner  
City of Lathrop  
April 13, 2020  
Page 7 of 7

(FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code section 2080.

### **Lake and Streambed Alteration Program**

Notification is required, pursuant to CDFW's LSA Program (Fish and Game Code section 1600 et. seq.) for any Project-related activities that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA (Public Resources Code section 21000 et seq.) as the responsible agency.

### **FILING FEES**

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code section 711.4; Pub. Resources Code, section 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

Thank you for the opportunity to comment on the Project's NOP. If you have any questions regarding this letter, please contact Ms. Jennifer Rippert, Environmental Scientist, at (707) 428-2069 or [jennifer.rippert@wildlife.ca.gov](mailto:jennifer.rippert@wildlife.ca.gov); or Ms. Melissa Farinha, Senior Environmental Scientist (Supervisory), at (707) 944-5579 or [melissa.farinha@wildlife.ca.gov](mailto:melissa.farinha@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
BE74D4C93C604EA...  
Gregg Erickson  
Regional Manager  
Bay Delta Region

cc: State Clearinghouse #1993112027



**Jared Blumenfeld**  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

Meredith Williams, Ph.D.  
Director  
8800 Cal Center Drive  
Sacramento, California 95826-3200



**Gavin Newsom**  
Governor

April 9, 2020

Mr. Mark Meissner  
City of Lathrop  
390 Towne Centre Drive  
Lathrop, California 95330

### NOTICE PREPARATION OF A SUBSEQUENT ENVIRONMENTAL IMPACT REPORT AND NOTICE OF PUBLIC SCOPING MEETING FOR THE RIVER ISLANDS AT LATHROP PHASE 2 PROJECT/UPDATE TO THE WEST LATHROP SPECIFIC PLAN – DATED MARCH 6, 2020 (STATE CLEARINGHOUSE NUMBER: 1993112027)

Dear Mr. Meissner:

The Department of Toxic Substances Control (DTSC) received a Notice of Preparation of a Subsequent Environmental Impact Report (EIR) and Notice of Public Scoping Meeting for the River Islands at Lathrop Phase 2 Project/Update to the West Lathrop Specific Plan. Proposed changes to the approved Phase 2 Project would include densification of the Phase 2 area with additional multi-family units as well as single-family units, creation of a smaller "town center" mixed-use area at Paradise Road, addition of a mixed-use Transit Village to complement the future planned Valley Link (formerly ACE) transit station, and changes in the circulation pattern.

DTSC recommends that the following issues be evaluated in the EIR Hazards and Hazardous Materials section:

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

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

3. If buildings or other structures are to be demolished on any project sites included in the proposed project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with DTSC's 2006 *Interim Guidance Evaluation of School Sites with Potential Contamination from Lead Based Paint, Termiticides, and Electrical Transformers* ([https://dtsc.ca.gov/wpcontent/uploads/sites/31/2018/09/Guidance\\_Lead\\_Contamination\\_050118.pdf](https://dtsc.ca.gov/wpcontent/uploads/sites/31/2018/09/Guidance_Lead_Contamination_050118.pdf)).
4. If any projects initiated as part of the proposed project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to *DTSC's 2001 Information Advisory Clean Imported Fill Material* ([https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/SMP\\_FS\\_Cleanfill-Schools.pdf](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/SMP_FS_Cleanfill-Schools.pdf)).
5. If any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the EIR. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 *Interim Guidance for Sampling Agricultural Properties (Third Revision)* (<https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/Ag-Guidance-Rev-3-August-7-2008-2.pdf>).

DTSC appreciates the opportunity to comment on Phase 2 of the Project. Should you need any assistance with an environmental investigation, please submit a request for Lead Agency Oversight Application, which can be found at: [https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/VCP\\_App-1460.doc](https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/VCP_App-1460.doc). Additional information regarding voluntary agreements with DTSC can be found at: <https://dtsc.ca.gov/brownfields/>.

Mr. Mark Meissner  
April 9, 2020  
Page 3

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

Sincerely,

A handwritten signature in blue ink that reads "Gavin McCreary". The signature is written in a cursive style with a long, sweeping underline.

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

cc: (via email)

Governor's Office of Planning and Research  
State Clearinghouse  
[State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

Ms. Lora Jameson, Chief  
Site Evaluation and Remediation Unit  
Department of Toxic Substances Control  
[Lora.Jameson@dtsc.ca.gov](mailto:Lora.Jameson@dtsc.ca.gov)

Mr. Dave Kereazis  
Office of Planning & Environmental Analysis  
Department of Toxic Substances Control  
[Dave.Kereazis@dtsc.ca.gov](mailto:Dave.Kereazis@dtsc.ca.gov)

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## Central Valley Regional Water Quality Control Board

26 March 2020

Mark Meisser  
City of Lathrop  
390 Towne Centre Drive  
Lathrop, CA 95330

### **COMMENTS TO REQUEST FOR REVIEW FOR THE NOTICE OF PREPARATION OF A SUBSEQUENT ENVIRONMENTAL IMPACT REPORT, RIVER ISLANDS AT LATHROP PHASE 2 PROJECT / UPDATE TO THE WEST LATHROP SPECIFIC PLAN, SCH#1993112027, SAN JOAQUIN COUNTY**

Pursuant to the State Clearinghouse's 6 March 2020 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Notice of Preparation of a Subsequent Environmental Impact Report* for the River Islands at Lathrop Phase 2 Project / Update to the West Lathrop Specific Plan, located in San Joaquin County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

#### **I. Regulatory Setting**

##### **Basin Plan**

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by

KARL E. LONGLEY SCD, P.E., CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/](http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/)

### **Antidegradation Considerations**

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

[https://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/sacsjr\\_2018\\_05.pdf](https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2018_05.pdf)

In part it states:

*Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.*

*This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.*

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

## **II. Permitting Requirements**

### **Construction Storm Water General Permit**

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/constpermits.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml)

### **Phase I and II Municipal Separate Storm Sewer System (MS4) Permits<sup>1</sup>**

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/storm\\_water/municipal\\_permits/](http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/)

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/phase\\_ii\\_municipal.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml)

### **Industrial Storm Water General Permit**

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ. For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/storm\\_water/industrial\\_general\\_permits/index.shtml](http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml)

### **Clean Water Act Section 404 Permit**

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act

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<sup>1</sup> Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

**Clean Water Act Section 401 Permit – Water Quality Certification**

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:

[https://www.waterboards.ca.gov/centralvalley/water\\_issues/water\\_quality\\_certification/](https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/)

**Waste Discharge Requirements – Discharges to Waters of the State**

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at: [https://www.waterboards.ca.gov/centralvalley/water\\_issues/waste\\_to\\_surface\\_water/](https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/)

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at:

[https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2004/wqo/wqo2004-0004.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf)

**Dewatering Permit**

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board’s Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage

under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:  
[http://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo2003-0003.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf)

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:  
[https://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/waivers/r5-2018-0085.pdf](https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf)

#### **Limited Threat General NPDES Permit**

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

[https://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/general\\_orders/r5-2016-0076-01.pdf](https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf)

#### **NPDES Permit**

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

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



Nicholas White  
Water Resource Control Engineer

cc: State Clearinghouse unit, Governor's Office of Planning and Research,  
Sacramento (via email)



NATIVE AMERICAN HERITAGE COMMISSION



March 9, 2020

Mark Meissner  
City of Lathrop  
390 Towne Centre Drive  
Lathrop, CA 95330

**Re: 1993112027, River Islands at Lathrop Phase 2 Project/Update to the West Lathrop Specific Plan Project, San Joaquin County**

Dear Mr. Meissner:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines § 15064.5 (b))). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1))). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

**Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**

CHAIRPERSON  
**Laura Miranda**  
Luiseño

VICE CHAIRPERSON  
**Reginald Pagaling**  
Chumash

SECRETARY  
**Merri Lopez-Keifer**  
Luiseño

PARLIAMENTARIAN  
**Russell Attebery**  
Karuk

COMMISSIONER  
**Marshall McKay**  
Wintun

COMMISSIONER  
**William Mungary**  
Paiute/White Mountain  
Apache

COMMISSIONER  
**Joseph Myers**  
Pomo

COMMISSIONER  
**Julie Tumamait-**  
**Stenslie**  
Chumash

COMMISSIONER  
**[Vacant]**

EXECUTIVE SECRETARY  
**Christina Snider**  
Pomo

**NAHC HEADQUARTERS**  
1550 Harbor Boulevard  
Suite 100  
West Sacramento,  
California 95691  
(916) 373-3710  
[nahc@nahc.ca.gov](mailto:nahc@nahc.ca.gov)  
[NAHC.ca.gov](http://NAHC.ca.gov)

## AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

- 1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:** Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
  - a. A brief description of the project.
  - b. The lead agency contact information.
  - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
  - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
  
- 2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1 (b)).
  - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
  
- 3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
  - a. Alternatives to the project.
  - b. Recommended mitigation measures.
  - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
  
- 4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:
  - a. Type of environmental review necessary.
  - b. Significance of the tribal cultural resources.
  - c. Significance of the project's impacts on tribal cultural resources.
  - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
  
- 5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
  
- 6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
  - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
  - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
  - b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a. Avoidance and preservation of the resources in place, including, but not limited to:
    - i. Planning and construction to avoid the resources and protect the cultural and natural context.
    - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
  - b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
    - i. Protecting the cultural character and integrity of the resource.
    - ii. Protecting the traditional use of the resource.
    - iii. Protecting the confidentiality of the resource.
  - c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
  - d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).
  - e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
  - f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
  - b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
  - c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf)

## SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf).

Some of SB 18's provisions include:

1. **Tribal Consultation**: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation**. There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality**: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation**: Consultation should be concluded at the point in which:
  - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

## NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([http://ohp.parks.ca.gov/?page\\_id=1068](http://ohp.parks.ca.gov/?page_id=1068)) for an archaeological records search. The records search will determine:
  - a. If part or all of the APE has been previously surveyed for cultural resources.
  - b. If any known cultural resources have already been recorded on or adjacent to the APE.
  - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
  - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.

- b.** The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.
- 3.** Contact the NAHC for:
- a.** A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
  - b.** A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
- 4.** Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
- a.** Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, § 15064.5(f) (CEQA Guidelines § 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
  - b.** Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
  - c.** Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code § 7050.5, Public Resources Code § 5097.98, and Cal. Code Regs., tit. 14, § 15064.5, subdivisions (d) and (e) (CEQA Guidelines § 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: [Nancy.Gonzalez-Lopez@nahc.ca.gov](mailto:Nancy.Gonzalez-Lopez@nahc.ca.gov).

Sincerely,



Nancy Gonzalez-Lopez  
Staff Services Analyst

cc: State Clearinghouse



## SJCOG, Inc.

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0600 • FAX (209) 235-0438

*San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)*

### **SJMSCP RESPONSE TO LOCAL JURISDICTION (RTLJ) ADVISORY AGENCY NOTICE TO SJCOG, Inc.**

**To:** Mark Meissner, City of Lathrop, Community Development Department

**From:** Laurel Boyd, SJCOG, Inc.

**Date:** March 25, 2020

**-Local Jurisdiction Project Title:** Notice of Preparation of a Subsequent EIR & Notice of Public Scoping Meeting for the River Islands at Lathrop, Phase 2 Project/Update to the west Lathrop Specific Plan

**Assessor Parcel Number(s):** Multiple

**Local Jurisdiction Project Number:** N/A

**Total Acres to be converted from Open Space Use:** Unknown

**Habitat Types to be Disturbed:** Agricultural, Natural, Multi-Purpose and Urban Habitat Land

**Species Impact Findings:** Findings to be determined by SJMSCP biologist.

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Dear Mr. Meissner:

SJCOG, Inc. has reviewed the project referral for the Notice of Preparation of a Subsequent EIR & Notice of Public Scoping Meeting for the River Islands at Lathrop, Phase 2 Project/Update to the West Lathrop Specific Plan. The approved River Islands at Lathrop Project includes a mix of residential, commercial, office recreational, educational, and open space uses on approximately 4,905 acres on Stewart Tract and Paradise Cut. The overall project, first approved in 2003, has been updated and amended for Phase 1 development.

The approved Phase 2 area, as contemplated in the 2003 SEIR and Lathrop General Plan, provides for the development of a total of 6,716 dwelling units, a 211-acre employment center (Business Park), a neighborhood commercial area, additional lakes, parks, golf courses, marinas, schools, an expansion of the transportation/circulation system, and completion of the flood protection system. As part of the overall project, River islands would establish the biological habitat restoration/creation habitat areas and preserve natural lands in Paradise Cut if federal and state approvals could be obtained. However, because proposed construction of the Phase 2 area avoids delineated wetlands and water of the U.S., completion of the urban development of River Islands is not predicated on biological habitat restoration/creation activities.

The proposed revisions to the Phase 2 Project would densify the Phase 2 area by including additional multi-family dwellings (Condominiums, apartments, etc.) as well as more attached single-family residences similar to units already constructed as part of Phase 1. The proposed modified development would also create a smaller 'town center' mixed-use area at Paradise Road (at the west entry to the project area) and a mixed use Transit Village as part of the Employment Center District that would complement the future planned Valley Link (formerly ACE) transit station.

Other proposed Phase 2 modifications include changes in the circulation pattern from the adopted WLSP and General Plan, with River Islands Parkway, Lakeside Drive, and Paradise Road shifting locations to the updated land use pattern. Other land use shifts include the Old River Road District, currently part of Phase 1 development boundary, being included as proposed development within Phase 2. Golden Valley Parkway would still serve its purpose as a regional alternative roadway as proposed in the current plan. An additional arterial from the existing terminus of Golden Valley Parkway in the Employment Center would continue into the Phase 2 area for internal circulation.

The project site is located within the Interstate 6 corridor in the City of Lathrop.

The City of Lathrop is a signatory to San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Participation in the SJMSCP satisfies requirements of both the state and federal endangered species acts, and ensures that the impacts are mitigated below a level of significance in compliance with the California Environmental Quality Act (CEQA). [The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measure are properly implemented and monitored and that appropriate fees are paid in compliance with the](#)

**SJMSCP.** Although participation in the SJMSCP is voluntary, Local Jurisdiction/Lead Agencies should be aware that if project applicants choose against participating in the SJMSCP, they will be required to provide alternative mitigation in an amount and kind equal to that provided in the SJMSCP.

***This Project is subject to the SJMSCP.*** This can be up to a 30 day process and it is recommended that the project applicant contact SJMSCP staff as early as possible. It is also recommended that the project applicant obtain an information package. <http://www.sjcoq.org>

Please contact SJMSCP staff regarding completing the following steps to satisfy SJMSCP requirements:

- Schedule a SJMSCP Biologist to perform a pre-construction survey ***prior to any ground disturbance***
- SJMSCP Incidental take Minimization Measures and mitigation requirement:
  1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.
  2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
  3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
    - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
    - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
    - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
    - d. Purchase approved mitigation bank credits.
  4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
    - a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
    - b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
    - c. Purchase approved mitigation bank credits.

Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.
- Receive your Certificate of Payment and release the required permit

*It should be noted that if this project has any potential impacts to waters of the United States [pursuant to Section 404 Clean Water Act], it would require the project to seek voluntary coverage through the unmapped process under the SJMSCP which could take up to 90 days. It may be prudent to obtain a preliminary wetlands map from a qualified consultant. If waters of the United States are confirmed on the project site, the Corps and the Regional Water Quality Control Board (RWQCB) would have regulatory authority over those mapped areas [pursuant to Section 404 and 401 of the Clean Water Act respectively] and permits would be required from each of these resource agencies prior to grading the project site.*

If you have any questions, please call (209) 235-0600.



## S J C O G , I n c .

*San Joaquin County Multi-Species Habitat Conservation & Open Space Plan*

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0600 • FAX (209) 235-0438

### **SJMSCP HOLD**

**TO:** Local Jurisdiction: Community Development Department, Planning Department, Building Department, Engineering Department, Survey Department, Transportation Department,  
Other: \_\_\_\_\_

**FROM:** Laurel Boyd, SJCOG, Inc.

**DO NOT AUTHORIZE SITE DISTURBANCE  
DO NOT ISSUE A BUILDING PERMIT  
DO NOT ISSUE \_\_\_\_\_ FOR THIS PROJECT**

The landowner/developer for this site has requested coverage pursuant to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). In accordance with that agreement, the Applicant has agreed to:

- 1) SJMSCP Incidental Take Minimization Measures and mitigation requirement:
  1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.
  2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
  3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
    - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
    - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
    - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
    - d. Purchase approved mitigation bank credits.
  4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
    - a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
    - b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
    - c. Purchase approved mitigation bank credits.

Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.

Project Title: NOP of an SEIR for the River Islands Phase 2 Project

Assessor Parcel #s: Multiple

T \_\_\_\_\_, R \_\_\_\_\_, Section(s): \_\_\_\_\_

Local Jurisdiction Contact: Mark Meissner

**The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measures are properly implemented and monitored and that appropriate fees are paid in compliance with the SJMSCP.**



May 15, 2020

Mark Meissner  
City of Lathrop  
Community Development Department  
390 Towne Centre Drive  
Lathrop, CA 95330

**Project: Notice of Preparation of a Subsequent Environmental Impact Report for the River Islands at Lathrop Phase 2 Project/Update to the West Lathrop Specific Plan**

**District CEQA Reference No: 20200208**

Dear Mr. Meissner:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Notice of Preparation (NOP) from the City of Lathrop (City) for the Subsequent Environmental Impact Report for the River Islands at Lathrop Phase 2 Project. The proposed project consists of an amendment to the existing West Lathrop Specific Plan (WLSP), City of Lathrop General Plan Amendments for Land Use and Circulation, Zoning Map Amendment, Potential Development Agreement Amendment, Urban Design Concept Amendment, Vesting Tentative Map, a 3,654 unit increase in dwelling units, and a decrease of 144,212 square-feet of commercial floor space. (Project). The Project is located at the area of the River Islands at Lathrop Project, located on Stewart Tract, in Lathrop, CA. The District offers the following comments:

The District recommends that the Air Quality section of a Subsequent Environmental Impact Report (SEIR) include a discussion of the following impacts:

**1) Project Related Emissions**

At the federal level for the National Ambient Air Quality Standards (NAAQS), the District is currently designated as extreme nonattainment for the 8-hour ozone standards; nonattainment for the PM<sub>2.5</sub> standards; and attainment for the 1-Hour ozone, PM<sub>10</sub> and CO standards. At the state level, the District is currently designated

**Samir Sheikh**  
Executive Director/Air Pollution Control Officer

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**Northern Region**  
4800 Enterprise Way  
Modesto, CA 95356-8718  
Tel: (209) 557-6400 FAX: (209) 557-6475

**Central Region (Main Office)**  
1990 E. Gettysburg Avenue  
Fresno, CA 93726-0244  
Tel: (559) 230-6000 FAX: (559) 230-6061

**Southern Region**  
34946 Flyover Court  
Bakersfield, CA 93308-9725  
Tel: (661) 392-5500 FAX: (661) 392-5585

as nonattainment for the 8-hour ozone, PM<sub>10</sub>, and PM<sub>2.5</sub> California Ambient Air Quality Standards (CAAQS).

Project related criteria pollutant emissions should be identified and quantified. The discussion should include existing and post-project emissions.

- 1a) Construction Emissions:** Construction emissions are short-term emissions and should be evaluated separately from operational emissions. Equipment exhaust, as well as fugitive dust emissions should be quantified. For reference, the District's annual criteria thresholds of significance for construction are: 100 tons per year of carbon monoxide (CO), 10 tons per year of oxides of nitrogen (NO<sub>x</sub>), 10 tons per year of reactive organic gases (ROG), 27 tons per year of oxides of sulfur (SO<sub>x</sub>), 15 tons per year of particulate matter of 10 microns or less in size (PM<sub>10</sub>), or 15 tons per year of particulate matter of 2.5 microns or less in size (PM<sub>2.5</sub>).
- 1b) Operational Emissions:** Permitted (stationary sources) and non-permitted (mobile sources) sources should be analyzed separately. For reference, the annual criteria thresholds of significance for operation of permitted and non-permitted sources each are: 100 tons per year of carbon monoxide (CO), 10 tons per year of oxides of nitrogen (NO<sub>x</sub>), 10 tons per year of reactive organic gases (ROG), 27 tons per year of oxides of sulfur (SO<sub>x</sub>), 15 tons per year of particulate matter of 10 microns or less in size (PM<sub>10</sub>), or 15 tons per year of particulate matter of 2.5 microns or less in size (PM<sub>2.5</sub>).
- 1c) Recommended Model:** Project related criteria pollutant emissions from construction and operation non-permitted (limited to equipment not subject to District permits) should be identified and quantified. Emissions analysis should be performed using CalEEMod (**California Emission Estimator Model**), which uses the most recent approved version of relevant Air Resources Board (ARB) emissions models and emission factors. CalEEMod is available to the public and can be downloaded from the CalEEMod website at: [www.caleemod.com](http://www.caleemod.com).
- 1d) Feasible Mitigation for Construction Air Quality Impacts:** The District recommends using the cleanest reasonably available off-road construction practices (i.e. eliminating unnecessary idling) and fleets, as set forth in §2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 Code of Federal Regulations be used to reduce Project related impacts from construction related exhaust emissions.
- 1e) Feasible Mitigation for Operational Air Quality Impacts:** The San Joaquin Valley will not be able to attain stringent health-based federal air quality

standards without significant reductions in emissions from heavy-heavy duty (HHD) Trucks, the single largest source of NO<sub>x</sub> emissions in the San Joaquin Valley. The District recently adopted the 2018 PM<sub>2.5</sub> Plan which includes significant new reductions from HHD Trucks, including emissions reductions by 2023 through the implementation of the California Air Resources Board (CARB) Statewide Truck and Bus Regulation, which requires truck fleets operating in California to meet the 2010 0.2 g/bhp-hr NO<sub>x</sub> standard by 2023. Additionally, to meet the federal air quality standards by the 2020 to 2024 attainment deadlines, the District's Plan relies on a significant and immediate transition of heavy duty truck fleets to zero or near-zero emissions technologies, including the near-zero truck standard of 0.02 g/bhp-hr NO<sub>x</sub> established by the California Air Resources Board.

For development projects which typically generate a high volume of heavy duty truck traffic (e.g. "high-cube" warehouse or distribution center), there are heavy duty trucks traveling to-and-from from the project location at longer trip length distances for potential distribution. To reduce impacts from operational mobile source emissions, the District recommends that the following mitigation measures be considered for inclusion in the SEIR.

- Require fleets associated with Project operational activities to utilize the cleanest available HHD truck technologies, including zero and near-zero (0.02 g/bhp-hr NO<sub>x</sub>) technologies as feasible.
- Require all on-site service equipment (cargo handling, yard hostlers, forklifts, pallet jacks, etc.) to utilize zero-emissions technologies as feasible.
- Require fleets associated with future development projects to be subject to the best practices (i.e. eliminating unnecessary idling).

In addition, the District recommends that the City include mitigation measures to reduce project related operational impacts through incorporation of design elements, for example, increased energy efficiency, reducing vehicle miles traveled, etc. More information on mitigation measures can be found at: [http://www.valleyair.org/transportation/ceqa\\_idx.htm](http://www.valleyair.org/transportation/ceqa_idx.htm).

## **2) Voluntary Emission Reduction Agreement**

When a proposed Project is determined to have a significant impact on regional air quality, the District recommends the SEIR also include a discussion on the feasibility of implementing a Voluntary Emission Reduction Agreement (VERA) for this Project.

A VERA is a mitigation measure by which the project proponent provides pound-for-pound mitigation of emissions increases through a process that develops, funds, and implements emission reduction projects, with the District serving a role of administrator of the emissions reduction projects and verifier of the successful mitigation effort. To implement a VERA, the project proponent and the District enter into a contractual agreement in which the project proponent agrees to mitigate Project specific emissions by providing funds for the District's incentives programs. The funds are disbursed by the District in the form of grants for projects that achieve emission reductions. Thus, project-specific regional impacts on air quality can be fully mitigated. Types of emission reduction projects that have been funded in the past include electrification of stationary internal combustion engines (such as agricultural irrigation pumps), replacing old heavy-duty trucks with new, cleaner, more efficient heavy-duty trucks, and replacement of old farm tractors.

In implementing a VERA, the District verifies the actual emission reductions that have been achieved as a result of completed grant contracts, monitors the emission reduction projects, and ensures the enforceability of achieved reductions. After the project is mitigated, the District certifies to the Lead Agency that the mitigation is completed, providing the Lead Agency with an enforceable mitigation measure demonstrating that project-specific regional emissions have been mitigated to less than significant. To assist the Lead Agency and project proponent in ensuring that the environmental document is compliant with CEQA, the District recommends the Draft EIR includes an assessment of the feasibility of implementing a VERA.

### **3) Health Risk Screening/Assessment**

A Health Risk Screening/Assessment identifies potential Toxic Air Contaminants (TAC's) impact on surrounding sensitive receptors such as hospitals, daycare centers, schools, work-sites, and residences. TAC's are air pollutants identified by the Office of Environmental Health Hazard Assessment/California Air Resources Board (OEHHA/CARB) (<https://www.arb.ca.gov/toxics/healthval/healthval.htm>) that pose a present or potential hazard to human health. A common source of TACs can be attributed to diesel exhaust emitted from both mobile and stationary sources.

The District recommends the Project be evaluated for potential health impacts to surrounding receptors (on-site and off-site) resulting from operational and multi-year construction TAC emissions.

**3a)** The District recommends conducting a screening analysis that includes all sources of emissions. A screening analysis is used to identify projects which may have a significant health impact. A prioritization, using CAPCOA's updated methodology, is the recommended screening method. A prioritization score of

10 or greater is considered to be significant and a refined Health Risk Assessment (HRA) should be performed.

For your convenience, the District's prioritization calculator can be found at:  
[http://www.valleyair.org/busind/pto/emission\\_factors/Criteria/Toxics/Utilities/PRIORITIZATION%20RMR%202016.XLS](http://www.valleyair.org/busind/pto/emission_factors/Criteria/Toxics/Utilities/PRIORITIZATION%20RMR%202016.XLS).

- 3b)** The District recommends a refined HRA for projects that result in a prioritization score of 10 or greater. Prior to performing an HRA, it is recommended that the Project proponent contact the District to review the proposed modeling protocol. The Project would be considered to have a significant health risk if the HRA demonstrates that the Project related health impacts would exceed the District's significance threshold of 20 in a million for carcinogenic risk and 1.0 for the Acute and Chronic Hazard Indices, and would trigger all feasible mitigation measures. The District recommends that Projects that result in a significant health risk not be approved.

For HRA submittals, please provide the following information electronically to the District for review:

- HRA AERMOD model files
- HARP2 files
- Summary of emissions source locations, emissions rates, and emission factor calculations and methodology.

More information on toxic emission factors, prioritizations and HRAs can be obtained by:

- E-Mailing inquiries to: [hramodeler@valleyair.org](mailto:hramodeler@valleyair.org); or
- The District can be contacted at (559) 230-6000 for assistance; or
- Visiting the District's website (Modeling Guidance) at:  
[http://www.valleyair.org/busind/pto/Tox\\_Resources/AirQualityMonitoring.htm](http://www.valleyair.org/busind/pto/Tox_Resources/AirQualityMonitoring.htm).

#### **4) Ambient Air Quality Analysis**

An ambient air quality analysis (AAQA) uses air dispersion modeling to determine if emissions increases from a project will cause or contribute to a violation of the ambient air quality standards. The District recommends that an AAQA be performed for the Project if emissions exceed 100 pounds per day of any pollutant.

If an AAQA is performed, the analysis should include emissions from both Project specific permitted and non-permitted equipment and activities. The District

recommends consultation with District staff to determine the appropriate model and input data to use in the analysis.

Specific information for assessing significance, including screening tools and modeling guidance is available online at the District's website [www.valleyair.org/ceqa](http://www.valleyair.org/ceqa).

## **5) Nuisance Odors**

While offensive odors rarely cause any physical harm, they can be unpleasant, leading to considerable distress among the public and often resulting in citizen complaints.

The City should consider all available pertinent information to determine if the Project could have a significant impact related to nuisance odors. Nuisance odors may be assessed qualitatively taking into consideration of project design elements and proximity to off-site receptors that potentially would be exposed to objectionable odors. The intensity of an odor source's operations and its proximity to sensitive receptors influences the potential significance of odor emissions. Any project with the potential to frequently expose members of the public to objectionable odors should be deemed to have a significant impact. According to the District Guidance for Assessing and Mitigating air Quality Impacts (GAMAQI), a significant odor problems are defined as more than one confirmed complaint per year averaged over a three-year period, or three unconfirmed complaints per year averaged over a three-year period. An unconfirmed complaint means that either the odor/air contaminant release could not be detected, or the source/facility cannot be determined.

The District is available to assist the City with information regarding specific facilities and categories of facilities, and associated odor complaint records.

## **6) District Rules and Regulations**

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

## **6a) Air Quality Permitting for Stationary Sources**

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 requires that new and modified stationary sources of emissions mitigate their emissions using best available control technology (BACT).

This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District permits. Prior to construction, the Project proponent should submit to the District an application for an Authority to Construct (ATC). For further information or assistance, the project proponent may contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

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

## **6b) District Rule 9510, Indirect Source Review – Development Projects**

Per District Rule 9510, Indirect Source Review (ISR) a development project is any project, or portion thereof, that is subject to an approval by a public agency, and will ultimately result in:

- the construction of a new building, facility, or structure; or
- the reconstruction of a building facility, or structure for the purpose of increasing capacity or activity.

The proposed Project is subject to District Rule 9510 because it will receive a project-level discretionary approval from a public agency and will equal or exceed 50 dwelling units. When subject to the rule, an Air Impact Assessment (AIA) application is required prior to applying for project-level approval from a public agency. In this case, if not already done, please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510.

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

The purpose of District Rule 9510 (Indirect Source Review) is to reduce the growth in both NO<sub>x</sub> and PM<sub>10</sub> emissions associated with development and transportation projects from mobile and area sources associated with construction and operation of development projects. The rule encourages clean air design elements to be incorporated into the development project. In case the proposed project clean air design elements are insufficient to meet the targeted emission reductions, the rule requires developers to pay a fee used to fund projects to achieve off-site emissions reductions.

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

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

### **6c) Operational Related Emissions – Under-fired Charbroilers**

Projects for restaurants with under-fired charbroilers may pose the potential for immediate health risk, particularly when located in densely developed locations near sensitive receptors. Since the cooking of meat can release carcinogenic PM<sub>2.5</sub> species like polycyclic aromatic hydrocarbons, controlling emissions from new under-fired charbroilers will have a substantial positive impact on public health.

Charbroiling emissions often occur in populated areas, near schools and residential neighborhoods, resulting in high exposure levels for sensitive Valley residents. The air quality impacts on neighborhoods near restaurants with under-fired charbroilers can be significant on days when meteorological conditions are stable, when dispersion is limited and emissions are trapped near the surface within the surrounding neighborhoods. This potential for neighborhood-level concentration of emissions during evening or multi-day stagnation events raises environmental concerns.

Furthermore, reducing commercial charbroiling emissions is essential to achieving attainment of multiple federal PM<sub>2.5</sub> standards and associated health benefits in the Valley. Therefore, the District recommends that the SEIR include a measure requiring the assessment and potential installation, as technologically feasible, of particulate matter emission control systems for new large restaurants

operating under-fired charbroilers. The District is available to assist the City and project proponents with this assessment. Additionally, to ease the financial burden for Valley businesses, the District is currently offering substantial incentive funding that covers the full cost of purchasing, installing, and maintaining the system for up to two years. Please contact the District at (559) 230-5800 or [technology@valleyair.org](mailto:technology@valleyair.org) for more information.

#### **6d) District Rule 9410 (Employer Based Trip Reduction)**

The Project may be subject to District Rule 9410 (Employer Based Trip Reduction) if the Project would result in employment of 100 or more “eligible” employees. District Rule 9410 requires employers with 100 or more “eligible” employees at a worksite to establish an Employer Trip Reduction Implementation Plan (eTRIP) that encourages employees to reduce single-occupancy vehicle trips, thus reducing pollutant emissions associated with work commutes. Under an eTRIP plan, employers have the flexibility to select the options that work best for their worksites and their employees.

Information about how District Rule 9410 can be found online at: [www.valleyair.org/tripreduction.htm](http://www.valleyair.org/tripreduction.htm).

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

### **7) Supporting Documents**

In addition to the discussions on potential impacts identified above, the District recommends the SEIR also include the following discussions:

- 7a)** A discussion of the methodology, model assumptions, inputs and results used in characterizing the Project’s impact on air quality. To comply with CEQA requirements for full disclosure, the District recommends that the modeling outputs be provided as appendices to the EIR. The District further recommends that the District be provided with an electronic copy of all input and output files for all modeling.
- 7b)** A discussion of the components and phases of the Project and the associated emission projections, including ongoing emissions from each previous phase.
- 7c)** A discussion of Project design elements and mitigation measures, including characterization of the effectiveness of each mitigation measure incorporated into the Project.

- i) The following policies/mitigation measures are recommended to reduce or mitigate impacts from criteria pollutant emissions:
  - (1) Use of the cleanest reasonably available off-road construction fleets, as set forth in §2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 Code of Federal Regulations be used to reduce Project related impacts from construction related exhaust emissions. Therefore, the District recommends incorporating as a condition of Project approval such requirement.
  - (2) For projects exceeding the applicability thresholds identified in Section 2.0 of District Rule 9510, a condition of Project approval requiring demonstration of compliance with Rule 9510, prior to the issuance of grading and/or building permits.
  - (3) For projects subject to District permitting requirements, demonstration of compliance with District Rule 2201, such as a copy of the Authority to Construct (ATC), before issuance of the first building permit, be made a condition of project approval.
  
- ii) The following policies/mitigation measures are recommended to mitigate potential health impacts of individual projects:
  - (1) Development projects resulting in toxic air contaminant emissions will be located an adequate distance from residential areas and other sensitive receptors in accordance to ARB's *Air Quality and Land Use Handbook: A Community Health Perspective*. Document can be found at: <https://ww3.arb.ca.gov/ch/handbook.pdf>
  - (2) A health risk screening and/or assessment will be performed to assess potential risks to sensitive receptors for the following projects:
  - (3) Projects whose proposed locations are within the established buffer distances identified in ARB's handbook;
  - (4) Projects whose land uses are not specifically identified in ARB's handbook (such as shopping centers), but there is sufficient information to reasonably conclude that sensitive receptors would be exposed to significant sources of toxic air contaminants; and

(5) Projects that would otherwise appear to be exempt from CEQA requirements, but there is sufficient information to reasonably conclude that sensitive receptors would be exposed to significant sources of toxic air contaminants, such as industrial use projects allowed by right.

**7d)** A discussion of whether the Project would result in a cumulatively considerable net increase of any criteria pollutant or precursor for which the San Joaquin Valley Air Basin is in non-attainment.

More information on the District's attainment status can be found online by visiting the District's website at:

<http://valleyair.org/aqinfo/attainment.htm>.

**7e)** As required by the recent decision in *Sierra Club v. County of Fresno* (2018) 6 Cal.4<sup>th</sup> 502, a reasonable effort to discuss relevant specifics regarding the connection between potential adverse air quality impacts from the Project with the likely nature and magnitude of potential health impacts. If the potential health impacts from the Project cannot be specifically correlated, explain what is known and why, given scientific constraints, potential health impacts cannot be translated.

The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this Project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

Current District rules can be found online at: [www.valleyair.org/rules/1ruleslist.htm](http://www.valleyair.org/rules/1ruleslist.htm).

The District recommends that a copy of the District's comments be provided to the Project proponent. If you have any questions or require further information, please contact Cherie Clark by e-mail at [Cherie.Clark@valleyair.org](mailto:Cherie.Clark@valleyair.org) or by phone at (559) 230-5940.

Sincerely,



For Arnaud Marjollet  
Director of Permit Services

AM: cc

**From:** [Mark Meissner](#)  
**To:** [Sean Bechta](#); [Sarah Henningsen](#); [Gary Jakobs](#)  
**Cc:** [Glenn Gebhardt](#); [Ricardo Caguia](#); [David Niskanen](#); "David Niskanen"; [john@jbandersonplanning.com](mailto:john@jbandersonplanning.com)  
**Subject:** FW: NOP of SEIR - River Islands at Lathrop Phase 2 Project  
**Date:** Thursday, April 2, 2020 4:49:41 PM

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Sean,

I received the email below from the City of Tracy.

Thanks,

***Mark Meissner***

Director - Community Development Department  
City of Lathrop, 390 Towne Centre Drive Lathrop, CA 95330  
Office: (209) 941-7266 | Cell: (209) 992-0008

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**From:** Anju Pillai <[Anju.Pillai@cityoftracy.org](mailto:Anju.Pillai@cityoftracy.org)>  
**Sent:** Thursday, April 2, 2020 3:24 PM  
**To:** Mark Meissner <[mmeissner@ci.lathrop.ca.us](mailto:mmeissner@ci.lathrop.ca.us)>  
**Cc:** Robert Armijo <[Robert.Armijo@cityoftracy.org](mailto:Robert.Armijo@cityoftracy.org)>; William Dean <[William.Dean@cityoftracy.org](mailto:William.Dean@cityoftracy.org)>  
**Subject:** RE: NOP of SEIR - River Islands at Lathrop Phase 2 Project

Dear Mr. Meissner,

Please find below the comments from the City of Tracy for the Notice of Preparation (NOP) of SEIR for the River Islands at Lathrop Phase 2 Project, dated March 6, 2020:

1. The NOP mentions the widening of Paradise Road from River Islands at Lathrop Phase 2 Project site to I-205 and connecting to the proposed Paradise Rd/Chrisman Road interchange at I-205. The City of Lathrop should contribute to the cost of construction of this interchange. The City of Lathrop should provide to the City of Tracy, the Regional Traffic Impact Study including the mitigations due to this widening and connection to I-205.
2. The NOP mentions the possibility of connecting the Golden Valley Parkway to I-205, via the proposed Paradise Rd/Chrisman Rd interchange. City of Tracy should be provided with the Regional Traffic Impact Study including the mitigations due to this extension of Golden Valley Parkway to Paradise Rd.

Thank you and please do not hesitate to contact me if you have any questions.

Regards,

**Anju Pillai, P.E.**

Associate Civil Engineer, Engineering Division  
City of Tracy | 333 Civic Center Plaza | Tracy, CA 95376  
Phone (209) 831 6455

# TERRA LAND GROUP, LLC

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March 23, 2020

VIA EMAIL

Mark Meissner  
Lathrop Community Development Director  
390 Towne Center Dr.  
Lathrop, CA 95330  
(mmeissner@ci.lathrop.ca.us)

**Re: Public Comments in Response to the City of Lathrop Notice of Preparation of a Subsequent Environmental Impact Report and Notice of Public Scoping Meeting for the River Islands at Lathrop Phase 2 Project/Update to the West Lathrop Specific Plan.**

Dear Project Team Members,

My name is Martin Harris and I am an authorized representative for Terra Land Group, LLC ("TLG").

TLG believes that as more and more people move into California and as more land is being developed or farmed, there needs to be more water storage and reuse opportunities to accommodate those increased needs. This is especially important as our local city and county leaders protect the total amount of water (from all sources) available to the public they serve. However, there also needs to be safe ways of storing, delivering, conveying, draining, and discharging that water to avoid flood impacts for the people who live in the areas that may be affected.

TLG is writing this letter to express public concerns relating to the Notice of Preparation for the River Islands Phase 2 Project/Update to West Lathrop Specific Plan and what appears to be a joint effort by both local, state, and federal authorities to pursue a phased strategy of flood protection and other federally-assisted improvements both inside and outside of the South Delta to meet California Senate Bill No. 5 ("SB 5") requirements as well as provide improved efficiencies in the ways we currently are storing, delivering, reusing, and draining water. (**See Enclosures 1-23**)

TLG believes that storing, delivering, reusing, and draining water in and along the South Delta becomes complicated when it is considered that the January 2018 San Joaquin River Basin Lower San Joaquin River, CA Final Integrated Interim Feasibility Report/EIR/EIS: (LSJRFS") includes the following:

1. Page ES-1 of the LSJRFS states: *The study area also includes the distributary channels of the San Joaquin River in the southernmost reaches of the Delta; Paradise Cut and Old River as far north as Tracy Boulevard, and Middle River as far north as Victoria Canal.*
2. Page 3-31 of the LSJRFS states: *Currently, the levee safety program has defined the levee system that incorporates RD 17 as bounded on the north by Walker Slough, west by the San Joaquin River and south by the Stanislaus River. This includes RD 17, RD 2096, RD 2094, RD 2075 and RD 2064.*

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3. Page 5-17 of the LSJRFS states: **Stanislaus River to Paradise Cut.** *The confluence of the San Joaquin and Stanislaus Rivers defines the upstream extent of the hydraulic model used for this study.*
4. Page ES-2 of the LSJRFS states:  
*Analysis of the study area is challenged by the presence of three sources of flooding, the Delta Front, Calaveras River and San Joaquin River. This results in commingled floodplains for the North and Central Stockton areas. The distributary nature of the Delta also affects Delta water levels, because high flows from the Sacramento River may “fill” the Delta prior to a peak inflow on the San Joaquin River as occurred in 1997, raising water levels on the Delta front levees.*
5. Page 5-27 of the LSJRFS states: 2.1.1 FLOODING Problem: **There is significant risk to public health, safety and property in the study area associated with flooding.** *The study area is located in the Central Valley of California which has very little topographic relief, resulting in potential flooding of areas far from water courses... (See Enclosure 1)*

## Potential Impacts to Consider:

TLG believes that all Mossdale Tract Flood modeling and Adequate Progress reports that have been publicly released to date have failed to fully consider and provide mitigation measures for:

- (i) Unresolved and continuing sedimentation issues that continue to reduce channel flow capacity in and along the South Delta Lower San Joaquin River System; and
- (ii) Climate change and continued uncertainty relating to its effect on increasing the total potential volumes of channel flows to be expected in and along the South Delta Lower San Joaquin River System;  
**COMMENT:** Martin Harris and several other South Manteca rural neighbors attended a Central Valley Flood Protection Board Workshop on February 14, 2020. Although a number of climate change presentations were made by staff, flood models and associated drainage flow volumes related to climate change do not appear to have been fully determined.  
**QUESTION:** What effect will this have on determining the total amount of reservoir storage water that can be safely stored in higher elevations throughout the Sacramento and San Joaquin River Reservoir System(s)?
- (iii) A Stanislaus River right bank levee breach in the areas west of the City of Ripon; and
- (iv) Limited topographic relief to ground surface areas in and along the South Delta;  
**QUESTION:** Will mitigation measures be included to prevent any potential for reverse channel flows and associated backwater effects that may impede the natural flow of Old River as identified on pages 3A-28 and 3A-29 of the Bay Delta Conservation Plan California WaterFix Final EIR/EIS (December 2016)? (See Enclosures 1 & 13)
- (v) Various federal and state-funded Manteca and Lathrop area highway construction projects as presented in (a) the 2014 San Joaquin Council of Governments Sustainable Communities Strategy, Draft EIR and 2015 FTIP Conformity Document and in (b) other highway projects approved

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and/or funded in association with the San Joaquin Council of Governments (“SJCOG”) (**See Enclosure 11**); and

(vi) Unresolved plans as to how the cities of Manteca and Lathrop can reasonably drain what appears to be ever-increasing amounts of stormwater and effluent wastewater from developing areas into non-developing areas that flooded in 1997 (**See Enclosures 1-23**);

**COMMENT:** TLG is including copies of letters previously submitted to other regulating and land use authorities in the Manteca and Lathrop areas to make the River Islands EIR team members fully aware that any and all total drainage flow volumes and drainages flow patterns to be expected in and along the South Delta may be different than what the narrow scope of existing flood models may indicate.

**QUESTION:** What potential increased flood water, stormwater, and effluent wastewater, irrigation water, potable water delivery, traffic circulation, emergency vehicle services response and private property road access impacts and changes to drainage patterns may be created due to the construction (and/or expansion) of 100-year flood protection infrastructure as appears to be called for due to a recent May 21, 2019 San Joaquin County Board of Supervisors approval of Morning Hearing item #1: Development Title Text Amendment No. PA 1900067 allowing revisions to the Definition of Structure? (Within **Enclosure 8**, see its own Enclosure 22)

(vii) What appears to be the City of Manteca’s total indifference in following its own goals and policies as stated in the existing 2023 Manteca General Plan (**See Enclosure 8**); and

(viii) What appears to be the City of Manteca’s total indifference in following the *Handbook for Local Communities for Implementing California Flood Legislation into Local Land Use Planning* (“2010 Land Use Planning Guide”) as issued by the California Department of Water Resources in 2010. (**See Enclosure 8**, pages 8 & 9)

**QUESTION:** How can anyone determine the potential changes to both short-term and long-range total floodwater, stormwater and wastewater flow volumes and drainage flow patterns to be expected without respecting and following the 2010 Land Use Planning Guide?

(ix) Flood and other hydrology-related drainage impacts anticipated to occur in conjunction with the ACE train and Valley Link rail expansions; and

(x) Flood and other hydrology-related drainage impacts anticipated to occur in conjunction with RD 17 planned improvements associated with any and all Phase II, Phase III, and California Senate Bill No. 5 200-year projects to be considered; and

(xi) Flood and other hydrology-related impacts that may occur in conjunction with anticipated changes to the Tri-Dam Project, the South San Joaquin Irrigation District, and the Eastern San Joaquin Groundwater Authority as well as other local water master plans; and

(xii) Flood and other hydrology-related impacts that may occur in conjunction with the anticipated expansion of River Islands as proposed in the Notice of Preparation for the River Islands Phase 2 Project/Update for the West Lathrop Specific Plan.

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With these concerns in mind, TLG urges the River Islands at Lathrop Phase 2 Project/Update to the West Lathrop Specific Plan team members to consider the comments and concerns stated in this letter and incorporate appropriate mitigation measures into any associated environmental impact report to be created. (See Enclosures 1-23)

Thank you for your attention to this very important matter.

Respectfully,



Martin Harris  
for Terra Land Group, LLC.

MH/cm

Enclosures:

*These Enclosures can be downloaded as needed via Dropbox through the provided hyperlinks.*

1. 2018-02-26 letter from TLG to the San Joaquin Area Flood Control Agency  
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8. 2020-02-03 letter from TLG to the Manteca City Council  
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cc:

San Joaquin Flood Control and Water Conservation District, % Fritz Buchman  
Central Valley Flood Protection Board, Attn: Ryan Jones  
San Joaquin Area Flood Control Agency, Attn: Marlo Duncan, Project Manager  
Eastern San Joaquin Groundwater Authority  
California Department of Transportation, District 10, Attn: Jes Padda, Acting Deputy District Director  
South San Joaquin Irrigation District Board of Directors, Attn: Danielle Barney, Executive Assistant/Clerk of the Board  
Tri-Dam Project Board of Directors  
American Rivers, Attn: Aysha Massell, Associate Director  
River Partners, Attn: John Cain  
Veronica Tovar, Environmental Justice Program Manager  
San Joaquin County Board of Supervisors, Attn: Rachél DeBord, Chief Deputy Clerk of the Board  
San Joaquin Council of Governments, % Diane Nguyen  
San Joaquin County Planning Commission, Attn: Stephanie Stowers, Senior Planner  
Michael Mierzwa, Lead Flood Management Planner, California Department of Water Resources  
Jon Ericson, Hydrology and Flood Operations Officer, California Department of Water Resources  
California Department of Water Resources, Attn: Mary Jimenez

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Ruth Darling, Program Manager I, Engineering and Technical Office, Central Valley Flood Protection Board

Tanis Toland, U.S. Army Corps of Engineers, Sacramento District

Elizabeth Salyers, Chief, Civil Works Project Management Branch, U.S. Army Corps of Engineers

Brian J. Trushinski, NFIP Specialist & Community Rating System Coordinator, U.S. Department of Homeland Security, FEMA Region IX

Reclamation District No. 17, Attn: Chris Neudeck

Reclamation District No. 2075, Attn: Pam Forbus

Reclamation District No. 2094, Attn: Pam Forbus

Manteca City Council, % Cassandra Candini-Tilton

Lathrop City Council, % Teresa Vargas

# TERRA LAND GROUP, LLC

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April 6, 2020

VIA EMAIL

Mark Meissner  
Lathrop Community Development Director  
390 Towne Center Dr.  
Lathrop, CA 95330  
(mmeissner@ci.lathrop.ca.us)

**Re: Letter 2: Public Comments in Response to the City of Lathrop Notice of Preparation of a Subsequent Environmental Impact Report and Notice of Public Scoping Meeting for the River Islands at Lathrop Phase 2 Project/Update to the West Lathrop Specific Plan.**

Dear Project Team Members,

My name is Martin Harris and I am an authorized representative for Terra Land Group, LLC (“TLG”). Although this letter follows a similar format to our March 23, 2020 public comment letter, this letter includes new information and enclosures that TLG believes are important to consider.

TLG believes that as more and more people move into California and as more land is being developed or farmed, there needs to be more water storage and reuse opportunities to accommodate those increased needs. This is especially important as our local city and county leaders protect the total amount of water (from all sources) available to the public they serve. However, there also needs to be safe ways of storing, delivering, conveying, draining, and discharging that water to avoid flood impacts for the people who live in the areas that may be affected.

TLG is writing this second public comment letter to express additional public concerns and provide new information relating to the Notice of Preparation for the River Islands Phase 2 Project/Update to West Lathrop Specific Plan and what appears to be a joint effort by both local, state, and federal authorities to pursue a phased strategy of flood protection and other federally-assisted improvements both inside and outside of the South Delta to meet California Senate Bill No. 5 (“SB 5”) requirements as well as provide improved efficiencies in the ways we currently are storing, delivering, reusing, and draining water. **(See Enclosures 1-25)**

TLG believes that storing, delivering, reusing, and draining water in and along the South Delta becomes complicated when it is considered that the January 2018 San Joaquin River Basin Lower San Joaquin River, CA Final Integrated Interim Feasibility Report/EIR/EIS: (LSJRFS”) includes the following:

1. Page ES-1 of the LSJRFS states: *The study area also includes the distributary channels of the San Joaquin River in the southernmost reaches of the Delta; Paradise Cut and Old River as far north as Tracy Boulevard, and Middle River as far north as Victoria Canal.*

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2. Page 3-31 of the LSJRFS states: *Currently, the levee safety program has defined the levee system that incorporates RD 17 as bounded on the north by Walker Slough, west by the San Joaquin River and south by the Stanislaus River. This includes RD 17, RD 2096, RD 2094, RD 2075 and RD 2064.*
3. Page 5-17 of the LSJRFS states: **Stanislaus River to Paradise Cut.** *The confluence of the San Joaquin and Stanislaus Rivers defines the upstream extent of the hydraulic model used for this study.*
4. Page ES-2 of the LSJRFS states:  
*Analysis of the study area is challenged by the presence of three sources of flooding, the Delta Front, Calaveras River and San Joaquin River. This results in commingled floodplains for the North and Central Stockton areas. The distributary nature of the Delta also affects Delta water levels, because high flows from the Sacramento River may “fill” the Delta prior to a peak inflow on the San Joaquin River as occurred in 1997, raising water levels on the Delta front levees.*
5. Page 5-27 of the LSJRFS states: **2.1.1 FLOODING Problem: There is significant risk to public health, safety and property in the study area associated with flooding.** *The study area is located in the Central Valley of California which has very little topographic relief, resulting in potential flooding of areas far from water courses... (See Enclosure 1)*

## Potential Impacts to Consider:

TLG believes that all Mossdale Tract Flood modeling and Adequate Progress reports that have been publicly released to date have failed to fully consider and provide mitigation measures for:

- (i) Unresolved and continuing sedimentation issues that continue to reduce channel flow capacity in and along the South Delta Lower San Joaquin River System; and
- (ii) Climate change and continued uncertainty relating to its effect on increasing the total potential volumes of channel flows to be expected in and along the South Delta Lower San Joaquin River System;  
**COMMENT:** Martin Harris and several other South Manteca rural neighbors attended a Central Valley Flood Protection Board Workshop on February 14, 2020. Although a number of climate change presentations were made by staff, flood models and associated drainage flow volumes related to climate change do not appear to have been fully determined.  
**QUESTION:** What effect will this have on determining the total amount of reservoir storage water that can be safely stored in higher elevations throughout the Sacramento and San Joaquin River Reservoir System(s)?
- (iii) A Stanislaus River right bank levee breach in the areas west of the City of Ripon; and
- (iv) Limited topographic relief to ground surface areas in and along the South Delta;  
**QUESTION:** Will mitigation measures be included to prevent any potential for reverse channel flows and associated backwater effects that may impede the natural flow of Old River as identified on pages 3A-28 and 3A-29 of the Bay Delta Conservation Plan California WaterFix Final EIR/EIS (December 2016)? (See Enclosures 1 & 13)

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(v) Various federal and state-funded Manteca and Lathrop area highway construction projects as presented in (a) the 2014 San Joaquin Council of Governments Sustainable Communities Strategy, Draft EIR and 2015 FTIP Conformity Document and in (b) other highway projects approved and/or funded in association with the San Joaquin Council of Governments (“SJCOG”) (**See Enclosure 11**); and

(vi) Unresolved plans as to how the cities of Manteca and Lathrop can reasonably drain what appears to be ever-increasing amounts of stormwater and effluent wastewater from developing areas into non-developing areas that flooded in 1997 (**See Enclosures 1-25**);

**COMMENT:** TLG is including copies of letters previously submitted to other regulating and land use authorities in the Manteca and Lathrop areas to make the River Islands EIR team members fully aware that any and all total drainage flow volumes and drainages flow patterns to be expected in and along the South Delta may be different than what the narrow scope of existing flood models may indicate.

**QUESTION:** What potential increased flood water, stormwater, and effluent wastewater, irrigation water, potable water delivery, traffic circulation, emergency vehicle services response and private property road access impacts and changes to drainage patterns may be created due to the construction (and/or expansion) of 100-year flood protection infrastructure as appears to be called for due to a recent May 21, 2019 San Joaquin County Board of Supervisors approval of Morning Hearing item #1: Development Title Text Amendment No. PA 1900067 allowing revisions to the Definition of Structure? (Within **Enclosure 8**, see its own Enclosure 22)

(vii) What appears to be the City of Manteca’s total indifference in following its own goals and policies as stated in the existing 2023 Manteca General Plan (**See Enclosure 8**); and

(viii) What appears to be the City of Manteca’s (and other local agencies’) total indifference in following the *Handbook for Local Communities for Implementing California Flood Legislation into Local Land Use Planning* (“2010 Land Use Planning Guide”) as issued by the California Department of Water Resources in 2010. (**See Enclosure 8**, pages 8 & 9)

**COMMENT:** In March 2020, the California Governor’s office released an updated California Adaptation Planning Guide 2.0. TLG responded in a timely manner to a survey provided online. (**See Enclosure 24**) The updated Planning Guide describes different types of equity in adaptation planning. It further states on page 29 that as part of structural equity, the planning guide will “Make a commitment to correct past harms and prevent future unintended consequences.” (**See Enclosures 1-25**)

**QUESTION:** What mitigation measures will be provided to offset any floodwater and other hydrology-related drainage impacts to the areas south of Manteca (ie: Reclamation Districts 17, 2096, 2094, 2075 and 2064)? (**See Enclosure 24**)

(ix) Flood and other hydrology-related drainage impacts anticipated to occur in conjunction with the ACE train and Valley Link rail expansions; and

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(x) Flood and other hydrology-related drainage impacts anticipated to occur in conjunction with RD 17 planned improvements associated with any and all Phase II, Phase III, and California Senate Bill No. 5 200-year projects to be considered; and

(xi) Flood and other hydrology-related impacts that may occur in conjunction with anticipated changes to the Tri-Dam Project, the South San Joaquin Irrigation District, and the Eastern San Joaquin Groundwater Authority as well as other local water master plans; and

(xii) Flood and other hydrology-related impacts that may occur in conjunction with the anticipated expansion of River Islands as proposed in the Notice of Preparation for the River Islands Phase 2 Project/Update for the West Lathrop Specific Plan.

With these concerns in mind, TLG urges the River Islands at Lathrop Phase 2 Project/Update to the West Lathrop Specific Plan team members to consider the comments and concerns stated in this letter and incorporate appropriate mitigation measures into any associated environmental impact report to be created. (See Enclosures 1-25)

Thank you for your attention to this very important matter.

Respectfully,



Martin Harris  
for Terra Land Group, LLC.

MH/cm

Enclosures:

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Central Valley Flood Protection Board, Attn: Ryan Jones

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San Joaquin Area Flood Control Agency, Attn: Marlo Duncan, Project Manager  
Eastern San Joaquin Groundwater Authority  
California Department of Transportation, District 10, Attn: Jes Padda, Acting Deputy District Director  
South San Joaquin Irrigation District Board of Directors, Attn: Danielle Barney, Executive Assistant/Clerk of the Board  
Tri-Dam Project Board of Directors  
American Rivers, Attn: Aysha Massell, Associate Director  
River Partners, Attn: John Cain  
Veronica Tovar, Environmental Justice Program Manager  
San Joaquin County Board of Supervisors, Attn: Rachél DeBord, Chief Deputy Clerk of the Board  
San Joaquin Council of Governments, % Diane Nguyen  
San Joaquin County Planning Commission, Attn: Stephanie Stowers, Senior Planner  
Michael Mierzwa, Lead Flood Management Planner, California Department of Water Resources  
Jon Ericson, Hydrology and Flood Operations Officer, California Department of Water Resources  
California Department of Water Resources, Attn: Mary Jimenez  
Ruth Darling, Program Manager I, Engineering and Technical Office, Central Valley Flood Protection Board  
Tanis Toland, U.S. Army Corps of Engineers, Sacramento District  
Elizabeth Salyers, Chief, Civil Works Project Management Branch, U.S. Army Corps of Engineers  
Brian J. Trushinski, NFIP Specialist & Community Rating System Coordinator, U.S. Department of Homeland Security, FEMA Region IX  
Reclamation District No. 17, Attn: Chris Neudeck  
Reclamation District No. 2075, Attn: Pam Forbus  
Reclamation District No. 2094, Attn: Pam Forbus  
Manteca City Council, % Cassandra Candini-Tilton  
Lathrop City Council, % Teresa Vargas