

**TULARE COUNTY
RESOURCE MANAGEMENT AGENCY**



5961 South Mooney Boulevard
Visalia, CA 93277

**DRAFT 2023 KINGSBURG AREA
COMMUNITY PLAN**

Final Environmental Impact Report
SCH# 2021120339

January 2024

Tulare County Resources Management Agency
Economic Development and Planning Branch
Environmental Planning Division

Table of Contents

Final Environmental Impact Report Draft Kingsburg Area Community Plan (SCH# 2021120339)

These attached documents complete the Final Environmental Impact Report (FEIR) for the above referenced project.

I. INTRODUCTION AND RESPONSE TO COMMENTS (Chapter 10 of the FEIR)

Introduction

Revisions Outlined in the Response to Comments

Public Review of the Draft Environmental Impact Report

Relevant CEQA Sections (Summary)

Responses to Comments

Project Summary

Project Location

Local Regulatory Context

Scope and Methodology

Identification of Potentially Significant Impacts

Consideration of Significant Impacts

Mitigation Measures

Organization of the EIR

Environmental Review Process

Organizations and Parties Consulted

Attachments

Attachment A. Notice of Availability Tracking Table

Attachment B. Comment Letter 1. State Water Resources Control Board, September 19, 2023

Attachment C. Comment Letter 2. City of Kingsburg, October 27, 2023 (includes Peters Engineering Memo, October 25, 2023), and County Response to Comments Letter, January 10, 2024

Attachment D. Comment Letter 3. San Joaquin Valley Air Pollution Control District, November 1, 2023, and County Response to Comments Letter, January 10, 2024

Attachment E. Comment Letter 4. California Department of Fish and Wildlife, November 15, 2023, and County Response to Comments Letter, January 10, 2024

II. MITIGATION MONITORING AND REPORTING PROGRAM (Chapter 8 of the FEIR)

III. CLARIFICATIONS AND ERRATA OF THE DRAFT EIR

**RESPONSES TO COMMENTS
(CHAPTER 10 OF THE FEIR)**

Introduction and Response to Comments

Chapter 10

INTRODUCTION

The Draft Environmental Impact Report (Draft EIR or EIR) for the Kingsburg Area Community Plan was made available for public review and comment for a period of 45 days from September 13, 2023, through October 27, 2023. The purpose of this document is to present public comments and responses to comments received on the Kingsburg Area Community Plan Draft Environmental Impact Report (SCH # 202110339).

Individual responses to each of the comment letters received regarding the Draft EIR are included in this chapter. Comments that do not directly relate to the analysis in this document (i.e., that are outside the scope of this document) will be considered.

In order to provide commenters with a complete understanding of the comment raised, the County of Tulare Resource Management Agency (RMA), Planning Branch staff prepared a comprehensive response regarding particular subjects. These comprehensive responses provide some background regarding an issue, identify how the comment was addressed in the Draft EIR, and provide additional explanation/elaboration while responding to a comment. In some instances, these comprehensive responses have also been prepared to address specific land use or planning issues associated with the proposed Project, but unrelated to the EIR or environmental issues associated with the proposed Project.

Comments received that present opinions regarding the Project that are not associated with environmental issues or raise issues that are not directly associated with the substance of the EIR are noted without a detailed response.

REVISIONS OUTLINED IN THE RESPONSE TO COMMENTS

Revisions and clarifications to the EIR made in response to comments and information received on the Draft EIR are indicated by ~~strikeout~~ text (e.g., ~~strikeout~~), indicating deletions, and underline text (e.g., underline), indicating additions. Corrections of typographical errors have been made throughout the document and are not indicated by ~~strikeout~~ or underline text. Revisions and clarifications are included as Errata pages within this document.

PUBLIC REVIEW OF THE DRAFT ENVIRONMENTAL IMPACT REPORT

Consistent with the California Environmental Quality Act (CEQA), the potential environmental effects of the Kingsburg Area Community Plan (SCH # 2021120339) have been analyzed in a Draft Environmental Impact Report (Draft EIR) dated August 2023. Consistent with Section 15205 of the State CEQA Guidelines, the Draft EIR for the Kingsburg Area Community Plan is subject to a public review period. Section 21091(a) of the Public Resource Code specifies a 30-day public

review period; however, if a Draft EIR is submitted to the State Clearinghouse for review, the review period shall be a minimum of 45-days. The County of Tulare provided a 45-day review period.

The Kingsburg Area Community Plan Draft EIR was distributed to responsible and trustee agencies, other affected agencies/departments/branches within the RMA, interested parties, and all parties who requested a copy of the Draft EIR in accordance with Section 21092 of the California Public Resources Code. The Draft EIR's Notice of Availability (NOA) was also published in the Exeter Sun-Gazette, a newspaper of general circulation, on September 13, 2023, as required by CEQA.

During the 45-day review period, the Draft EIR and the technical appendices were also made available at the following locations:

Tulare County Resource Management Agency
5961 South Mooney Boulevard
Visalia, CA 93277
(559) 624-7000

Visalia Branch Library
200 West Oak Avenue
Visalia, CA 93291
(559) 713-2700

In addition, the Kingsburg Area Community Plan Draft EIR was posted on the Tulare County website at: <https://tularecounty.ca.gov/rma/planning-building/environmental-planning/environmental-impact-reports/kingsburg-area-community-plan/>

RELEVANT CEQA SECTIONS (SUMMARY)

See Complete Sections in CEQA Guidelines Sections 15088 to 15384, et seq. which can be accessed at:

[https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I95DAA A70D48811DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I95DAA A70D48811DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

Section 15088. Evaluation of and Response to Comments.

- (a) The lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response...
- (b) The lead agency shall provide... response to a public agency on comments made ... at least 10 days prior to certifying.
- (c) The written response shall describe the disposition of significant environmental issues raised. In particular, the major environmental issues raised when the lead agency's position is at variance with recommendations, and objections raised in the comments must be addressed in detail.

Section 15088.5. Recirculation of an EIR Prior to Certification.

- (a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification.
- (b) Recirculation is not required where the new information merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.
- (c) A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.

Section 15089. Preparation of Final EIR.

- (a) The lead agency shall prepare a final EIR before approving the project. The contents of a final EIR are specified in Section 15132 of these guidelines.

Section 15090. Certification of the Final EIR.

- (a) Prior to approving a project the lead agency shall certify that:
 - (1) The final EIR has been completed in compliance with CEQA;
 - (2) The final EIR was presented to the decision making body...and the decision making body reviewed and considered the information contained in the final EIR prior to approving the project; and
 - (3) The final EIR reflects the lead agency's independent judgment and analysis.

Section 15091. Findings.

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.... (a) shall be supported by substantial evidence in the record.

Section 15092. Approval.

- (b) A public agency shall not decide to approve or carry out a project for which an EIR was prepared unless:
 - (2) The agency... (B) Determined that any remaining significant effects on the environment found to be unavoidable under Section 15091 are acceptable due to overriding concerns as described in Section 15093.

Section 15093. Statement of Overriding Considerations.

- a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

Section 15095. Disposition of a Final EIR.

The lead agency shall:

- (a) File a copy of the final EIR with the appropriate planning agency of any city, county, or city and county where significant effects on the environment may occur.
- (b) Include the final EIR as part of the regular project report which is used in the existing project review and budgetary process if such a report is used.
- (c) Retain one or more copies of the final EIR as public records for a reasonable period of time.
- (d) Require the applicant to provide a copy of the certified, final EIR to each responsible agency.

Section 15151. Standards for Adequacy of an EIR.

An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

Section 15364. Feasible. “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, and environmental, legal, social, and technological factors.

Section 15384. Substantial Evidence. “Substantial evidence”... means enough relevant information and reasonable inferences that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

RESPONSES TO COMMENTS

COMMENT LETTERS RECEIVED ON THE DRAFT EIR

The County of Tulare received two (2) comment letters on the Draft EIR during the designated comment period (between September 13, 2023, and October 27, 2023). At the request of two (2) Responsible Agencies, the County received two (2) additional comments after the close of the comment period.

Consistent with Section 15132 of the CEQA Guidelines, the following is a list of persons, organizations, and public agencies that submitted comments regarding the Draft EIR received as of close of the extended public review period on November 15, 2021.

Oral comments were received from or conversations occurred with the following individuals:

No oral comments were received.

Comments from Federal, State, or County Agencies:

Comment Letter 1 Lori Schmitz, Environmental Scientist. State Water Resources Control Board, Division of Financial Assistance, September 19, 2023

Comment Letter 2 Holly Owen, Community Development Director, City of Kingsburg, October 27, 2023

Comment Letter 3 Brian Clements, Director of Permit Services, San Joaquin Valley Air Pollution Control District, November 1, 2023

Comment Letter 4 Julie Vance, Regional Manager, California Department of Fish and Wildlife, November 15, 2023

Comments from adjacent property owner's:

None received.

Comments from supporters of or opposition to the proposed Project:

None received.

COMPREHENSIVE LIST OF RESPONSES

**Comment Letter 1 STATE WATER RESOURCES CONTROL BOARD (WATER BOARDS),
SEPTEMBER 19, 2023**

Comment 1: *Thanks for letting us take a look at this document. I have screened the document and determined the Project will not trigger a water supply permit for our Division of Drinking Water or drinking water funding for our Division of Financial Assistance. As a result, no comment letter will be needed.*

Response: The County appreciates the Water Boards review of the proposed project and notification that the project will not trigger a water supply permit from the Water Boards Division of Drinking Water or Division of Financial Assistance. No additional responses are necessary.

Comment Letter 2 CITY OF KINGSBURG, OCTOBER 27, 2023

Comment 1: *Aesthetics: 1) Although Kingsburg does not currently have a Night Sky ordinance pertaining to lighting, recent projects have been requested to ensure that the lighting design for the project includes downward-directed lighting to produce the lowest intensity lighting needed for the use-preventing glare that spills over into other land uses and distracts motorists. We would be requesting that consideration for new projects that are proposed for the area.*

Response: Tulare County also values aesthetics of design and is sensitive to land uses that result in excessive light and glare. Tulare County building standards will be implemented for each development project when they are submitted to the County for review. As a result, and as shown in the DEIR KACP Aesthetics Chapter 3.1, several policies have been identified to limit Night Sky impacts. These include:

- LU-7.19 Minimize Lighting Impacts - The County shall ensure that lighting in residential areas and along County roadways shall be designed to prevent artificial lighting from reflecting into adjacent natural or open space areas unless required for public safety. (Page 3.1-7)
- ERM-5.19 Night Sky Protection - Upon demonstrated interest by a community, mountain service center, or hamlet, the County will determine the best means by which to protect the visibility of the night sky. (Page 3.1.8)

Comment 2: *Aesthetics: 2) Kingsburg was asked recently to consider a programmable LED highway sign, similar to those alongside Highway 99 in Selma near their Auto Mall area. This was not supported by Planning, for the same reasons as above. We would ask that this determination be considered for any future growth in the project area.*

Response: Tulare County will follow building standards regarding highway signage, which includes programmable LED highway signs along the State Route 99 corridor. As such, and as shown in the DEIR KACP Aesthetics Chapter 3.1, a policy has been identified to include compatible signage as shown on Page 3.1.7. This includes:

- SL-1.1 Natural Landscapes - During review of discretionary approvals, including parcel and subdivision maps, the County shall, as appropriate, require new development to not

significantly impact or block views of Tulare County’s natural landscapes. To this end, the County may require new development to:

1. Be sited to minimize obstruction of views from public lands and rights-of- ways,
2. Be designed to reduce visual prominence by keeping development below ridge lines, using regionally familiar architectural forms, materials, and colors that blend structures into the landscape,
3. Screen parking areas from view,
4. Include landscaping that screens the development,
5. Limit the impact of new roadways and grading on natural settings, and,
6. Include signage that is compatible and in character with the location and building design.

Comment 3: *Aesthetics: 3) Kingsburg adopted the Highway Beautification Overlay Ordinance for State Highway 99. It is on our website at: <https://www.cityofkingsburg-ca.gov/DocumentCenter/View/192/Highway-Beautification-Overlay-Zone-PDF>. In addition, the overlay is outlined on our General Plan Map, viewed here: <https://www.cityofkingsburg-ca.gov/DocumentCenter/View/185/Kingsburg-Official-General-Plan-Map-PDF>. It appears that some of this overlay includes some of the Planning Area.*

Response: Development in Tulare County will follow building and zoning standards to protect and enhance the natural scenic beauty of the environment. As noted above, Policy SL-1.1 will apply to the proposed Project area. The County will also encourage new, future development to comply with the City’s beautification overlay, as applicable.

Comment 4: *Water/Sewer: 1) Consolidated Irrigation District: Although this district is on the list of ‘organizations consulted, they are not listed as an irrigation district in Tulare County. We believe that some of their infrastructure is in portions of Tulare County. Perhaps that should be added to the list on p. 335.*

Response: The list shown in Table 3.10-2 identifies Irrigation Districts in Tulare County as identified in Tulare County’s Municipal Service Reviews (MSRs). Consolidated Irrigation District (CID) is evaluated in Fresno County’s MSR. Should development occur within CID’s jurisdiction, they will be contacted by the Project applicant that must then comply with all applicable Tulare County and Irrigation District standards and requirements prior to development. Also, it is noted that CID was provided a Notice of Availability of the Draft EIR, but did not provide any comments.

Comment 5: *Water/Sewer: 2) The information on Kingsburg’s wells and water and their role in potentially serving projects in the area seems to be absent. Please add this information. You may contact our Public Works Director for further information.*

Response: When proposed projects are submitted to the County for review, the Project applicant will have to develop their own individual well or seek a local water supplier. At that time, the applicant will have to demonstrate the ability to obtain clean water and demonstrate water quality standards and fire flow quantities are consistent with state and local regulations. At this

junction, as there are no development projects associated with the KACP, it remains unknown if a developer of residential, commercial, and/or industrial uses would consider requesting extra-territorial service from the City. Regardless of choice, the developer will still be required to comply with applicable requirements from the water supplier.

Comment 6: *Water/Sewer: 3) As SKF is updating their Master Plan, it may be valuable to mention that the County has had conversations or meetings about this plan.*

Response: There are no foreseeable projects that Tulare County could plan for that would impact SKF facilities. When proposed projects are submitted to the County for consideration, additional evaluations will be required to comply with state and local wastewater standards and requirements, regardless of whether it is septic tanks or alternative wastewater disposal systems. As indicated in the KACP DEIR (Page 3.7-9), “The proposed Project does not include the construction or usage of septic tanks or alternative wastewater disposal systems. Over time, the Project will build-out (i.e., developed) in similar soils within the Kingsburg area. Future development within the KACP planning area will likely connect to Selma-Kingsburg-Fowler (SKF) Sanitation District, with SKF’s approval required and in compliance with SKF standards.” As such, if wastewater service is requested from SKF, it will be the developer's responsibility to engage SKF regarding timing, standards, conditions, fees, etc. and to secure service from SKF as a condition of approval by the County for the project.

Comment 7: *Public Services: Page 444 will need to be verified with Kingsburg Fire Department for accuracy regarding personnel and equipment. Page 445 needs to be updated and corrected concerning the Kingsburg Police Department. Please contact them for assistance.*

Response: According to the State CEQA Guidelines, Section 15088 ©, the focus of the responses to comments is “the disposition of significant environmental issues raised.” Therefore, detailed responses are not provided to comments that do not relate to relevant environmental issues. The County accessed information provided by the City of Kingsburg (Housing Element 2015-2023 IS/MND), like many agencies throughout our region it is possible that positions/staffing, equipment, and locations could evolve due to budget realities. The information provided in the Draft EIR does not negate the reality that Kingsburg has both fire and police protection services but at this juncture of the KACP, as there are no proposed projects/developments associated with this planning document, positions/staffing; equipment; and locations are considered informational rather than definitive. When a development proposal is received, the County will coordinate with Tulare County Sheriff’s Office and Fire Department to assure each respective agency’s needs, if applicable, can be met with either existing resources or if new resources will be required.

Comment 8: *Traffic: Comments have been prepared on behalf of the City by Peters Engineering (City Engineer) and are attached.*

City Engineer Comment 1: *It is our concern that the DEIR transportation section does not acknowledge any development or growth likely to occur as a result of implementation of the Project, and suggests that any increase in traffic that would occur with the Project would also*

have occurred without the Project. This appears to conflict with the stated goal of the Project in the DEIR Project Description on pages ES-2 and 2-4 to “promote development within planning areas...”

Response: Although it is Tulare County’s goal to promote development within the County, the KACP is a plan and it does not identify any projects as part of this process. As stated throughout the DEIR, the KACP is being prepared to implement the *2030 Tulare County General Plan* and update land use designations and zoning classification. There are no foreseeable projects that Tulare County could plan for that would generate additional trips within the KACP (beyond the 2.0% background growth factored into cumulative conditions). When proposed projects are submitted to the County for review, additional studies will be required according to *Tulare County SB 743 Guidelines*, which includes guidance for Local Transportation Analysis or if the proposal would result in greater than 100 peak hour (AM or PM) vehicle trips or where LOS “D” or greater would occur as specified in the Tulare County General Plan 2030 Update Policy TC-1.15 and also consistent with the Tulare County Association of Governments peak vehicle trip threshold of 100 vehicles. The CEQA process will be followed per state and local requirements.

City Engineer Comment 2: *Development of sites conforming to the Project will create new trips at intersections and road segments in the City of Kingsburg. The number of new trips and the effects on City of Kingsburg facilities relative to City of Kingsburg policies have not been analyzed. Therefore, the DEIR has not adequately determined whether the Project conflicts with City of Kingsburg policies.*

Response: There are no foreseeable projects that Tulare County could plan for that would impact Kingsburg intersections and road segments. When proposed projects are submitted to the County for consideration, additional evaluations will be required according to *Tulare County SB 743 Guidelines* (which includes guidance for Local Transportation Analysis), and as noted earlier, Tulare County General Plan 2030 Update Policy TC-1.15. Also, the County will evaluate the need for additional analysis if the proposal is expected to generate more than 100 peak hour vehicle trips or where LOS “D” or greater would occur. Should the project be determined to be regional in nature, adjacent counties, cities and Caltrans will have the opportunity to review and comment on the project’s VMT and traffic operations analyses. The CEQA process will be followed per state and local requirements.

City Engineer Comment 3: *It is unclear whether development in accordance with the proposed zoning will be allowed as a by-right use with no traffic analyses or whether a full transportation impact analysis (operational analyses and VMT) will be required for each new development proposed. If development will be allowed by right, then the CEQA process with respect to transportation impacts and conformance with City of Kingsburg standards would have been circumvented.*

Response: When proposed projects are submitted to the County for review, additional analyses will be required according to *Tulare County SB 743 Guidelines*, which includes full transportation impact analysis (VMT and operation analyses). As noted earlier, the County

will evaluate the need for additional analysis if the proposal would result in greater than 100 peak hour vehicle trips or where LOS “D” or greater would occur. Development will not be allowed by right because of a change in zoning as this action would be discretionary in nature. The CEQA process will be followed per state and local requirements.

City Engineer Comment 4: *The DEIR indicates that the interchange of State Route 99, Road 12, and Mendocino Avenue is expected to operate below the target level of service in the cumulative condition but concludes that no significant impact will occur because a potential improvement has been identified. However, the mitigation measure, funding mechanism, and planning documents outlining how the improvements will be achieved has not been identified, nor has the Project’s share of the responsibility for the improvements.*

Response: When proposed projects are submitted to the County for review, additional studies will be required according to *Tulare County SB 743 Guidelines (Guidelines)*, which includes full transportation impact analysis (VMT and operation analyses) when thresholds (e.g., trips) are met exceeded. Per *Guidelines*, “Roadway improvements or a fair share contribution for roadway improvements shall be recommended for any roadway facilities that are anticipated to operate worse than the target of level of service D.” To reiterate, the County will evaluate the need for additional analysis if the proposal would result in greater than 100 peak hour vehicle trips or where LOS “D” or greater would occur.

City Engineer Comment 5: *In our opinion, trip generation estimates for sites that are likely to develop in conformance with the proposed zoning should be provided and analysis of City of Kingsburg facilities should be included in the DEIR. The DEIR should acknowledge the potential for development in the Project and both the operational impacts in accordance with existing policies and potential future VMT impacts in accordance State law. It is our opinion that feasible mitigation measures should be discussed and that the DEIR should consider that the Project will contribute to significant transportation impacts.*

Response: Tulare County policy does not require trip generation estimates when land use designations are updated or when there is a change in zoning designation unless the change is intended to accommodate a specific project proposal that is relying on a change to receive its entitlements. As noted earlier and reiterated here, there are no foreseeable projects that Tulare County could plan for that would generate additional trips within the KACP. When proposed projects are submitted to the County for review, additional evaluation will be required according to *Tulare County SB 743 Guidelines*, which includes guidance for Local Transportation Analysis. Also, the County will evaluate the need for additional analysis if the proposal would result in greater than 100 peak hour vehicle trips or where LOS “D” or greater would occur. The CEQA process will be followed per state and local requirements.

Comment 9: M-I-MU: *In reviewing the tables and maps for the existing and proposed zoning for the Community Plan area, this is obviously the largest proposed change in land use. I was not able to find a definition to match this zone, however. The assumption is that it is a hybrid of sorts, but is it intended to fall under ‘other use in the same building’ as the Mixed-Use definition states?*

It would be helpful to hear examples of exactly what might be proposed to fill so many acres with this designation.

Response: Page 3.11-2 of the DEIR 2023 KACP, the following description of mixed-use land use is as follows:

Mixed-Use (MU) - This designation establishes areas appropriate for the planned integration of some combination of retail, office, single and multi-family residential, hotel, recreation, limited industrial, public facilities or other compatible use. Mixed-Use areas allow for higher density and intensity development, redevelopment, or a broad spectrum of compatible land uses ranging from a single use on one parcel to a cluster of uses. These areas are intended to provide flexibility in design and use for contiguous parcels having multiple owners, to protect and enhance the character of the area. The consideration of development proposals in Mixed-Use areas should focus on compatibility between land uses, and the development potential of a given area compared to the existing and proposed mix of land uses and their development impacts. This designation is found within UDBs, HDBs, PCAs, and MSCs and pursuant to regional growth corridor plans and policies.

Within the Mixed-Use Zoning District, all uses outlined in the M-1, C-3, C-2, C-1, R-1, R-2 and R-3 uses are allowed. Uses and activities that are found by the Planning Director to be similar to and compatible with those specific zoning districts are also allowed. In addition, use and activities determined to be compatible by the Planning Commission and the Board of Supervisors with the above-mentioned zoning districts are also allowed.

An example of a mixed-use project would be a single- and multi-family subdivision with ponding basin/recreation area adjacent to grocery store, fueling station/mini-mart and strip commercial with office spaces. Depending upon the number of residential units, a school and or daycare may also be included in this theoretical mixed-use project. Uses that are detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood will not be allowed by right are subject to the determination of appropriateness by the Director of Planning.

Comment 10: GOAL IV: - *Coordinate Community Development Decisions with the City of Kingsburg (City) and Selma-Kingsburg-Fowler Sanitation District (SKF): As this is a formalization of a relationship between two jurisdictions, and as, if this is approved, many of the uses may be considered 'by-right,' I will take the opportunity to respectfully request that the City be consulted in a timely manner for any project that applies for consideration for project development under this community plan. This may look like being included in a Site Plan Review Committee meeting, or a similar level of review.*

Response: We concur. When new development projects are proposed within the KACP area that may affect the City of Kingsburg (other cities or counties), Tulare County will, as a matter of course, include and engage these jurisdictions as part of the project review process and CEQA process as required by state and local requirements.

The County received subsequent comments on December 13, 2023, from the City Engineer (Peters Engineering) in which the County agreed to include City recommendations to the KACP as City of Kingsburg Policies (see Attachment C).

**Comment Letter 3 SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT,
NOVEMBER 1, 2023**

Comment 1: *Project Siting:* *The KACP is the blueprint for future growth and provides guidance for the community's development. Without appropriate mitigation and associated policy, future development projects within the County may contribute to negative impacts on air quality due to increased traffic and ongoing operational emissions. Appropriate project siting helps ensure there is adequate distance between differing land uses, which can prevent or reduce localized and cumulative air pollution impacts from business operations that are in close proximity to receptors (e.g., residences, schools, health care facilities, etc.). KACP siting-related goals, policies, and objectives should include measures and concepts outlined in the following resources:*

- *CARB's Air Quality and Land Use Handbook: A Community Health Perspective. The document includes tables with recommended buffer distances associated with various types of common sources (e.g., distribution centers, chrome platers, gasoline dispensing facilities, etc.), and can be found at: <https://ww2.arb.ca.gov/our-work/programs/resource-center/strategydevelopment/land-use-resources>*
- *CARB's Freight Handbook Concept Paper: This document compiles best practices designed to address air pollution impacts, which may apply to the siting, design, construction, and operation of freight facilities to minimize health impacts on nearby communities, and can be found at: https://ww2.arb.ca.gov/sites/default/files/2020-03/2019.12.12%20-%20Concept%20Paper%20for%20the%20Freight%20Handbook_1.pdf.*

Response: The County agrees that project design and appropriate siting of future developments within the KACP development area is essential in avoiding incompatible land uses that could lead to localized impacts on nearby receptors. Future developments will be required to comply with all applicable KACP and Tulare County General Plan goals, policies, and implementation measures, including those that are consistent with the concepts in the two (2) referenced CARB documents. Specifically, the KACP and General Plan include the following policies and implementation measures designed, to reduce potential impacts of siting incompatible land uses in close proximity to one another:

KACP:

- Goal II, Objective I: Promote concentrations of similar or compatible Uses.
 - Policy 1. Promote a concentration of industrial and commercial activities within selected areas to allow for cost efficient provision of necessary services and to protect residential neighborhoods.
 - Policy 2. The County shall discourage the intrusion into existing urban areas of new incompatible land uses that produce significant noise, odors, or fumes.

- Policy 5. Land well suited for industrial development because of access, availability of infrastructure and proximity to similar land uses should be designated for industry and protected from the encroachment of incompatible uses.
- Policy 6. Establish areas zoned exclusively for industry, commerce and residences consistent with the policies in this plan.
- Policy 7. Phase-out existing nonconforming commercial and industrial concerns within planned residential areas through appropriate zoning amortization procedures.
- Policy 10. The County shall ensure that solid waste facility sites (for example, landfills) are protected from the encroachment by sensitive and/or incompatible land uses.
- Goal II, Objective II: Provide for appropriate buffers between areas set aside for commercial activities and single-family residential uses.
 - Policy 1: Require adequate setbacks, side and rear yards, landscaping and screening between living and working areas.
 - Policy 2. Utilize roadways, railroad rights of way and other physical features to separate planned living and working areas.

General Plan

- Chapter 2. Planning Framework: Policy PF-2.8 Inappropriate Land Use and Policy PF-3.4 Mixed Use Opportunities
- Chapter 4. Land Use: Policy LU-1.1 Smart Growth and Healthy Communities; Policy LU-1.3 Prevent Incompatible Uses; Policy LU-3.6 Project Design; and Policy LU-3.8 Rural Residential Interface
- Chapter 8. Environmental Resources Management: Policy ERM-5.15 Open Space Preservation
- Chapter 14. Public Facilities and Services: Policy PFS-5.8 Hazardous Waste Disposal Capabilities; and Policy PFS-8.3 Location of School Sites
- Chapter 9. Air Quality: Policy AQ-1.1 Cooperation with Other Agencies; Policy AQ-1.2 Cooperation with Local Jurisdictions; Policy AQ-1.3 Cumulative Air Quality Impacts; Policy AQ-1.4 Air Quality Land Use Compatibility; Policy AQ-4.1 Air Pollution Control Technology; Implementation Policy No. 3 (application review); and Implementation Policy No. 4 (coordination with Air District for evaluation of air quality impacts)
- Chapter 10. Health and Safety: Policy HS-4.3 Incompatible Land Uses; Policy HS-4.4 Contamination Prevention; Policy HS-4.8 Hazardous Material Studies; and Policy HS-9.1 Healthy Communities

Furthermore, there are no development proposals included in the proposed project and all future developments will be evaluated on a project-by-project basis. Future developments will be evaluated for consistency with the recommended distances identified in Table 1-1 of CARB's *Air Quality and Land Use Handbook*. The County will continue to consult with the Air District on a project-by-project basis to evaluate potential impacts on air quality and health risks of new developments within the KACP planning area.

Comment 2: *Project Related Emissions:* *The DEIR quantified the air quality emissions impacts from the Project and concluded the air quality emissions impacts will be below the District's thresholds of significance for criteria pollutants. However, since there is no individual project-specific data available at this time and the construction and operational timeframes for future developments is unknown, the District recommends the DEIR stipulate that future individual project-level emissions be assessed. Additionally, air quality emission increases from future individual projects should be compared to District significance thresholds as identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts, and subsequently require mitigation of air quality impacts to the extent feasible at the individual project level. The District's Guidance for Assessing and Mitigating Air Quality Impacts can be found at: <https://www.valleyair.org/transportation/GAMAQI.pdf>.*

The Project includes light industrial development, which has the potential to include warehousing. As a result, future light industrial development has the potential to result in increased HHD truck trips that have the ability to travel further distances (e.g. trip length) for distribution. The analyses of the expected industrial development in the DEIR used a trip length of 7.3 miles. This value represents the default CalEEMod trip length. Based on Appendix A (Air Quality and Greenhouse Gas Assessment Technical Memorandum), Project related emissions resulting from the CalEEMod analyses may be underestimated. Therefore, the District recommends the DEIR be revised to include a qualitative discussion to support the trip length applied to the CalEEMod analyses for future industrial development projects.

Response: Future developments will be evaluated on a project-by-project basis. If a project is determined to exceed the Air District's Small Project Analysis Level (SPAL), further assessment will be required.

As previously noted, there are no developments proposed with this Project and it is unknown whether the area within the proposed UDB will be realized. The mixed-use overlay allows for a variety of uses within the M-1 (Light Manufacturing) zone. As there are no developments proposed at this time and future development in the M-1 zone may include less intense uses (i.e., fewer heavy-duty truck trips, local deliveries only, etc.) changes to the CalEEMod default trip length would be speculative. As noted above, future development will be evaluated on a project-by-project basis to determine if additional assessment would be necessary.

Comment 3: *Allowed Uses Not Requiring Project-Specific Discretionary Approval:* *In the event that the County determines that a project be approved as an allowed use not requiring a project-specific discretionary approval, the District recommends the DEIR include language requiring such projects to prepare a technical assessment, in consultation with the District, to determine if additional analysis and/or mitigation is required.*

Response: As previously noted, future developments will be evaluated on a project-by-project basis. If a project is determined to exceed the Air District's Small Project Analysis Level (SPAL), further evaluation will be completed by RMA staff or a qualified air quality consultant.

Comment 4: *Voluntary Emission Reduction Agreement:* *Future development projects within the KACP could have a significant impact on air quality. The District recommends the DEIR include a feasibility discussion on implementing a Voluntary Emission Reduction Agreement (VERA) as a mitigation measure for future development projects that may be approved under implementation of the Project that are determined to exceed the District's CEQA significance thresholds.*

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-related impacts on air quality can be 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 agricultural equipment with the latest generation technologies.

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-related emissions have been mitigated. To assist the Lead Agency and project proponent in ensuring that the environmental document is compliant with CEQA, the District recommends the environmental document includes an assessment of the feasibility of implementing a VERA.

Response: The County agrees that implementing a VERA may be a feasible mitigation measure to reduce impacts on air quality. Future developments will be evaluated on a project-by-project basis. If a project is determined to exceed the Air District's Small Project Analysis Level (SPAL), further evaluation will be conducted by RMA staff or a qualified air quality consultant. If the estimated emissions exceed the Air Districts thresholds of significance, then mitigation measures will be required prior to RMA approval. The applicant will be notified of opportunities for both on-site mitigation, such as use of zero or low emission vehicles and equipment, and off-site mitigation, such as VERA. If emissions cannot be mitigated through on-site measures, a VERA may be used if found to be feasible.

Comment 5: *Future Industrial/Warehouse Emission Reduction Strategies:* *Since the Project includes industrial development, the District recommends the County incorporate emission reduction strategies that can reduce potential harmful health impacts, such as those listed below:*

- *Require cleanest available heavy-duty trucks and off-road equipment (see comment 7)*

- *Require HHD truck routing patterns that limit exposure of residential communities and sensitive receptors to emissions (see comment 8)*
- *Require solid screen buffering trees, solid decorative walls, and/or other natural ground landscaping techniques are implemented along the property line of adjacent sensitive receptors*
- *Orient loading docks away from sensitive receptors unless physically impossible*
- *Require loading docks a minimum of 300 feet away from the property line of sensitive receptor unless dock is exclusively used for electric trucks*
- *Incorporate signage and “pavement markings” to clearly identify on-site circulation patterns to minimize unnecessary on-site vehicle travel*
- *Require truck entries be located on streets of a higher commercial classification*
- *Require projects be designed to provide the necessary infrastructure to support use of zero-emissions on-road vehicles and off-road equipment (see comment 10)*
- *Require all building roofs are solar-ready*
- *Require all portions of roof tops that are not covered with solar panels are constructed to have light colored roofing material with a solar reflective index of greater than 78*
- *Ensure rooftop solar panels are installed and operated to supply 100% of the power needed to operate all non-refrigerated portions of the development project*
- *Require power sources at loading docks for all refrigerated trucks have “plugin” capacity, which will eliminate prolonged idling while loading and unloading goods*
- *Incorporate bicycle racks and electric bike plug-ins*
- *Require the use of low volatile organic compounds (VOC) architectural and industrial maintenance coatings*
- *Designate an area during construction to charge electric powered construction vehicles and equipment, if temporary power is available*
- *Prohibit the use of non-emergency diesel-powered generators during Construction*
- *Inform the project proponent of the incentive programs (e.g., Carl Moyer Program and Voucher Incentive Program) offered to reduce air emissions from the Project*
- *Ensure all landscaping be drought tolerant*

Response: As previously noted, future developments will be evaluated on a project-by-project basis. Projects will be compared to the Air District’s SPAL and evaluated against the Air District’s thresholds of significance. Project plans are thoroughly reviewed by Building Department staff for compliance with state and federal regulations, which include some of the reduction measures identified above, and for potential hazards due to project design. Further, future developments exceeding the Tulare County Climate Action Plan (CAP) applicability thresholds would be required to implement emissions reductions strategies identified above as part of their CAP compliance plan.

Comment 6: Truck Routing: *Truck routing involves the assessment of which roads Heavy Heavy-Duty (HHD) trucks take to and from their destination, and the emissions impact that the HHD trucks may have on residential communities and sensitive receptors. Since the Project includes commercial and industrial development, there is potential for an increase in HHD truck trips.*

The District recommends the County evaluate HHD truck routing patterns for future development projects, with the aim of limiting exposure of residential communities and sensitive receptors to emissions. This evaluation would consider the current truck routes, the quantity and type of each truck (e.g., Medium Heavy-Duty, HHD, etc.), the destination and origin of each trip, traffic volume correlation with the time of day or the day of the week, overall Vehicle Miles Traveled (VMT), and associated exhaust emissions. The truck routing evaluation would also identify alternative truck routes and their impacts on VMT and air quality.

Response: As previously noted, future developments will be evaluated on a project-by-project basis. Future development plans will be reviewed for compliance with state and federal regulations, consistency with the Tulare County Ordinance Code, including Tulare County's SB 743 Guidelines, and for potential impacts to local roadways and VMT-related issues.

Comment 7: Cleanest Available Heavy-Duty Trucks: *The San Joaquin Valley will not be able to attain stringent health-based federal air quality standards without significant reductions in emissions from HHD trucks, the single largest source of NOx emissions in the San Joaquin Valley. Accordingly, to meet federal air quality attainment standards, the District's ozone and particulate matter attainment plans rely on a significant and rapid transition of HHD fleets to zero or near-zero emissions technologies.*

The Project is expected to result in future development (e.g. commercial, industrial, etc.) as such, the District recommends that the following measures be considered by the County to reduce Project-related operational emissions:

- *Recommended Measure: Fleets associated with operational activities utilize the cleanest available HHD trucks, including zero and near-zero technologies.*
- *Recommended Measure: All on-site service equipment (cargo handling, yard hostlers, forklifts, pallet jacks, etc.) utilize zero-emissions technologies.*

Response: The County acknowledges the role HHD trucks play in the Valley's attainment status. However, the County does not control daily operations of private businesses and is precluded from requiring businesses to implement emission reducing strategies more stringent than state or federal regulations. As future developments will be evaluated on a project-by-project basis, the need and/or feasibility of these measures will be evaluated.

Comment 8: Electric On-Site Off-Road and On-Road Equipment: *Future development projects may have the potential to result in increased use of off- road equipment (e.g., forklifts) and on-road equipment (e.g., mobile yard trucks with the ability to move materials). The District recommends that the DEIR include requirements for project proponents to utilize electric or zero emission off-road and on-road equipment.*

Response: The County acknowledges the air quality and greenhouse gas benefits of electric or zero emission vehicles and equipment. However, as previously noted, the County does not have

control of the daily operations of private businesses. The need and/or feasibility of this measure will be evaluated on a project-by-project basis.

Comment 9: *Under-fired Charbroilers:* The Project is expected to result in future commercial development projects that have the potential to occupy restaurants with under-fired charbroilers. Such charbroilers may pose the potential for immediate health risk, particularly when located in densely populated areas or near sensitive receptors.

Since the cooking of meat can release carcinogenic PM2.5 species, such as polycyclic aromatic hydrocarbons, controlling emissions from new under-fired charbroilers will have a substantial positive impact on public health. 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 air quality concerns.

Furthermore, reducing commercial charbroiling emissions is essential to achieving attainment of multiple federal PM2.5 standards. Therefore, the District recommends that the DEIR 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 County and project proponents with this assessment. Additionally, the District is currently offering substantial incentive funding that covers the full cost of purchasing, installing, and maintaining the system during a demonstration period covering two years of operation. Please contact the District at (559) 230-5800 or technology@valleyair.org for more information, or visit: <http://valleyair.org/grants/rctp.htm>

Response: The County recognizes that inappropriate siting of development projects resulting in TAC emissions could have a negative health impact on receptors in the project area. Future development projects will be evaluated on a project-by-project basis. Future projects utilizing under-fired charbroilers will be referred to the Air District for compliance with Air District rules, requirements, and regulations.

Comment 10: *Vegetative Barriers and Urban Greening:* For future development projects within the Project area, and at strategic locations throughout the Project area in general, the District suggests the County consider incorporating vegetative barriers and urban greening as a measure to further reduce air pollution exposure on sensitive receptors (e.g., residences, schools, healthcare facilities).

While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, vegetative barriers have been shown to be an additional measure to potentially reduce a population's exposure to air pollution through the interception of airborne particles and the uptake of gaseous pollutants. Examples of vegetative barriers include, but are not limited to the following: trees, bushes, shrubs, or a mix of these. Generally, a higher and

thicker vegetative barrier with full coverage will result in greater reductions in downwind pollutant concentrations. In the same manner, urban greening is also a way to help improve air quality and public health in addition to enhancing the overall beautification of a community with drought tolerant, low-maintenance greenery.

Response: As previously noted, future developments will be evaluated on a project-by-project basis. Development plans are reviewed by Tulare County Building Department staff for compliance with the Tulare County Ordinance Code and State regulation, including on-site green space and landscaping.

Comment 11: *Clean Lawn and Garden Equipment in the Community:* *Since the Project consists of residential, commercial, industrial and mixed-use development, gas-powered lawn and garden equipment have the potential to result in an increase of NOx and PM2.5 emissions. Utilizing electric lawn care equipment can provide residents with immediate economic, environmental, and health benefits. The District recommends the Project proponent consider the District's Clean Green Yard Machines (CGYM) program which provides incentive funding for replacement of existing gas powered lawn and garden equipment. More information on the District CGYM program and funding can be found at: <http://www.valleyair.org/grants/cgym.htm> and <http://valleyair.org/grants/cgym-commercial.htm>.*

Response: As previously noted, there are no development projects proposed with this project and Tulare County is the applicant for KACP.

Comment 12: *On-Site Solar Deployment:* *It is the policy of the State of California that renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045. While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, the production of solar energy is contributing to improving air quality and public health. The District suggests that the County consider incorporating solar power systems as an emission reduction strategy for future development projects that may be approved under implementation of the Project.*

Response: The County acknowledges the benefit of on-site solar power systems and their role in the State achieving its renewable energy targets. As previously noted, future developments will be evaluated on a project-by-project basis. Development plans are reviewed by Tulare County Building Department staff for compliance with the Tulare County Ordinance Code and State regulation. For future development projects exceeding the Tulare County CAP applicability thresholds, providing on-site solar power is one of the measures that can be implemented for consistency with the CAP.

Comment 13: *Electric Infrastructure:* *The District recommends that the County require all nonresidential buildings be designed to provide electric infrastructure to support the use of on-road zero emissions vehicles, such as HHD trucks associated with a industrial/warehouse or commercial project.*

To support and accelerate the installation of electric vehicle charging equipment and development of required infrastructure, the District offers incentives to public agencies, businesses, and property owners of multi-unit dwellings to install electric charging infrastructure (Level 2 and 3 chargers). The purpose of the District's Charge Up! Incentive program is to promote clean air alternative-fuel technologies and the use of low or zero-emission vehicles. The District recommends that the County and project proponents install electric vehicle chargers at project sites, and at strategic locations.

Please visit www.valleyair.org/grants/chargeup.htm for more information.

Response: The County acknowledges the benefit of providing electric infrastructure in non-residential buildings. However, the County does not control daily operations of private businesses and is not in a position to require businesses to implement emission reducing strategies more stringent than state or federal regulations. The need and/or feasibility of installation of electric infrastructure will be evaluated on a project-by-project basis as future developments are proposed.

Comment 14: *District's Bikeway Incentive Program: Incorporating design elements (e.g., installing bikeways) within the Project that enhance walkability and connectivity can result in an overall reduction of vehicles miles traveled (VMT) and improve air quality within the area. Future development projects are expected to result in an overall reduction in VMT by installing bikeways, and may be eligible for funding through the District's Bikeway Incentive Program. The Bikeway Incentive Program provides funding for eligible Class I (Bicycle Path Construction), Class II (Bicycle Lane Striping), or Class III (Bicycle Route) projects. These incentives are designed to support the construction of new bikeway projects to promote clean air through the development of a widespread, interconnected network of bike paths, lanes, or routes and improving the general safety conditions for commuter bicyclists. Only municipalities, government agencies, or public educational institutions are eligible to apply. More information on the grant program can be found at: <http://valleyair.org/grants/bikepaths.htm>*

Guidelines and Project Eligibility for the grant program can be found at: http://valleyair.org/grants/documents/bikepaths/2015_Bikeway_Guidelines.pdf

Response: The County appreciates the Air District's referral to the Bikeway Incentive Program.

Comment 15: District Rules and Regulations: *The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.*

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. To identify other District rules or regulations that apply to future projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District’s Small Business Assistance (SBA) Office at (559) 230-5888.

15a) District Rules 2010 and 2201 - 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 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).

Future development projects may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to construction, project proponents shall obtain an ATC permit from the District for equipment/activities subject to District permitting requirements.

Recommended Mitigation Measure: For projects subject to permitting by the San Joaquin Valley Air Pollution Control District, demonstration of compliance with District Rule 2201 (obtain ATC permit from the District) shall be provided to the County before issuance of the first building permit.

For further information or assistance, project proponents may contact the District’s SBA Office at (559) 230-5888.

15b) District Rule 9510 - Indirect Source Review (ISR): Future development projects within the KACP may be subject to District Rule 9510 if upon full buildout, the project would equal or exceed any of the following applicability thresholds, depending on the type of development and public agency approval mechanism:

Table 1: ISR Applicability Thresholds

Development Type	Discretionary Approval Threshold	Ministerial Approval / Allowed Use / By Right Thresholds
Residential	50 dwelling units	250 dwelling units
Commercial	2,000 square feet	10,000 square feet
Light Industrial	25,000 square feet	125,000 square feet
Heavy Industrial	100,000 square feet	500,000 square feet
Medical Office	20,000 square feet	100,000 square feet
General Office	39,000 square feet	195,000 square feet
Educational Office	9,000 square feet	45,000 square feet
Government	10,000 square feet	50,000 square feet

Final Environmental Impact Report
Draft Kingsburg Area Community Plan
SCH No. 2021120339

Recreational	20,000 square feet	100,000 square feet
Other	9,000 square feet	45,000 square feet

District Rule 9510 also applies to any transportation or transit development projects where construction exhaust emissions equal or exceed two tons of NOx or two tons of PM.

The purpose of District Rule 9510 is to reduce the growth in both NOx and PM emissions associated with development and transportation projects from mobile and area sources; specifically, the emissions associated with the construction and subsequent operation of development projects. The Rule requires developers to mitigate their NOx and PM emissions by incorporating clean air design elements into their projects. Should the proposed development project clean air design elements be insufficient to meet the required emission reductions, developers must pay a fee that ultimately funds incentive projects to achieve off-site emissions reductions.

In the case the individual development project is subject to District Rule 9510, per Section 5.0 of the rule, an Air Impact Assessment (AIA) application is required to be submitted no later than applying for project-level approval from a public agency so that proper mitigation and clean air design under ISR can be incorporated into the public agency's analysis.

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>.

District staff is available to provide assistance and can be reached by phone at (559) 230-5900 or by email at ISR@valleyair.org.

- 15c) District Rule 9410 (Employer Based Trip Reduction):** *Future development projects 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 District Rule 9410 can be found online at: 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

15d) District Rule 4002 (National Emissions Standards for Hazardous Air Pollutants): *In the event an existing building will be renovated, partially demolished or removed, future development projects may be subject to District Rule 4002. This rule requires a thorough inspection for asbestos to be conducted before any regulated facility is demolished or renovated. Information on how to comply with District Rule 4002 can be found online at: <http://www.valleyair.org/busind/comply/asbestosbultn.htm>.*

15e) District Rule 4601 (Architectural Coatings): *The Project will be subject to District Rule 4601 since it is expected to utilize architectural coatings. Architectural coatings are paints, varnishes, sealers, or stains that are applied to structures, portable buildings, pavements or curbs. The purpose of this rule is to limit VOC emissions from architectural coatings. In addition, this rule specifies architectural coatings storage, cleanup and labeling requirements. Additional information on how to comply with District Rule 4601 requirements can be found online at: <http://www.valleyair.org/rules/currnrules/r4601.pdf>*

15f) District Regulation VIII (Fugitive PM10 Prohibitions): *The project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities.*

Should the project result in at least 1-acre in size, the project proponent shall provide written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the project result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials, the project proponent shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950.

The application for both the Construction Notification and Dust Control Plan can be found online at:

<https://www.valleyair.org/busind/comply/PM10/forms/DCP-Form.docx>

Information about District Regulation VIII can be found online at:

http://www.valleyair.org/busind/comply/pm10/compliance_pm10.htm

15g) District Rule 4901 – Wood Burning Fireplaces and Heaters: *The purpose of this rule is to limit emissions of carbon monoxide and particulate matter from wood burning fireplaces, wood burning heaters, and outdoor wood burning devices. This rule*

establishes limitations on the installation of new wood burning fireplaces and wood burning heaters. Specifically, at elevations below 3,000 feet in areas with natural gas service, no person shall install a wood burning fireplace, low mass fireplace, masonry heater, or wood burning heater.

*Information about District Rule 4901 can be found online at:
<http://valleyair.org/rule4901/>*

15h) Other District Rules and Regulations: *Future development projects may also be subject to the following District rules: Rule 4102 (Nuisance) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).*

Response: The County agrees that a project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. As previously noted, there are no development projects proposed within the KACP. However, future developments within the KACP development boundaries will be required to comply with all applicable Air District rules and regulations, applicable policies in the KACP, and all applicable Tulare County General Plan goals, policies and implementation measures, including those policies and implementation measures that require applicants to comply with Air District rules and regulations, specifically:

- Policy AQ-1.1 Cooperation with Other Agencies;
- Policy AQ-2.2 Indirect Source Review;
- Policy AQ-4.1 Air Pollution Control Technology;
- Policy AQ-4.2 Dust Suppression Measures;
- Policy AQ-4.3 Paving or Treatment of Roadways for Reduced Air Emissions;
- Policy AQ-4.4 Wood Burning Devices;
- Policy AQ-4.6 Asbestos Airborne Toxic Control and Dust Protection;
- Implementation Measure No. 4 (evaluation of air quality impacts);
- Implementation Measure Nos. 5, 6, and 14 (implementation of Regulation VIII requirements);
- Implementation Measure 9 (notification of e-TRIP requirements); and
- Implementation Measure 15 (compliance with NESHAPS)¹

Furthermore, all future developments will be evaluated on a project-by-project basis, and the County will consult with the Air District during the CEQA process to identify applicable Air District regulations and potential impacts on air quality and health risks.

Comment 16: Future Projects / Land Use Agency Referral Documents: *Future development projects may require an environmental review and air emissions mitigation. A project's referral*

¹ Chapter 9. Air Quality of the Tulare County General Plan, specifically pages 9-7 through 9-15, provides the County's goals and policies designed to reduce potential impacts of new developments on air quality and greenhouse gases. The Tulare County General Plan is available online at <https://generalplan.co.tulare.ca.us/documents/GP/001Adopted%20Tulare%20County%20General%20Plan%20Materials/000General%20Plan%202030%20Part%20I%20and%20Part%20II/GENERAL%20PLAN%202012.pdf>.

documents and environmental review documents provided to the District for review should include a project summary, the land use designation, project size, air emissions quantifications and impacts, and proximity to sensitive receptors and existing emission sources, and air emissions mitigation measures. For reference and guidance, more information can be found in the District's Guidance for Assessing and Mitigating Air Quality Impacts at: <https://www.valleyair.org/transportation/GAMAQL.pdf>

Response: The County appreciates the Air District's referral to their guidance document. The Air District will be notified of future development projects requiring additional environmental review.

Comment 17: *The District recommends that a copy of the District's comments be provided to the Project proponent.*

Response: Tulare County is the applicant for this Project. No response required.

**Comment Letter 4 CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE,
NOVEMBER 15, 2023**

Comment 1: Comments and Recommendation: *CDFW offers the following comments and recommendations to assist the County of Tulare in adequately identifying and/or mitigating the Plan's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document prepared for the Plan.*

*There are special-status species that may be present within the Plan Area. These resources may need to be evaluated and addressed prior to any subsequent project specific approvals that would allow ground-disturbing activities or land use changes. CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the federally endangered and State threatened San Joaquin kit fox (*Vulpes macrotis mutica*), the federally and State threatened California tiger salamander (*Ambystoma californiense*), and the State threatened Swainson's hawk (*Buteo swainsoni*).*

- 4a) San Joaquin Kit Fox:** *Mitigation Measure 3.4.2.d and Mitigation Measure 3.4.2.e reference protocols for the performance of den excavations. The measures do not mention the requirement to conduct clearance surveys or the acquisition of an Incidental Take Permit (ITP) pursuant to Fish and Game Code Section 2081(b) prior to the commencement of any of these activities. Absent take coverage afforded by an ITP issued by CDFW, den excavation may result in pursuit and/or capture and thus, inadvertent take. If projects utilizing the Plan have the potential to impact San Joaquin kit fox (SJKF), consultation with CDFW is warranted to discuss how to implement the project and avoid take. Any detection of SJKF prior to or during project construction warrants consultation with CDFW to discuss how to avoid take.*

Mitigation Measure 3.4.2.k mentions the use of zinc phosphide as a rodenticide to reduce risk to SJKF. Use of any rodenticide poses risk to SJKF via secondary poisoning and direct exposure and could result in take.

As proposed in the DEIR, CDFW is concerned that the measures identified above are likely to result in unauthorized take of SJKF and strongly recommends they either be removed in their entirety and full avoidance measures incorporated to avoid any potential take of SJKF, or, that these proposed measures be preceded by the requirement for the project to obtain an ITP from CDFW. Where SJKF are present, CDFW strongly recommends acquiring an ITP prior to initiating ground-disturbing activities.

Response: Mitigation Measures 3.4.2.d and 3.4.2.e have been revised to include CDFW and USFWS authorization prior to any disturbance of SJKF dens, if present, prior to ground-disturbing activities. Mitigation Measure 3.4.2.k has been revised to require consultation with CDFW prior to start of ground-disturbing activities if rodent control is needed. See the attached revised Mitigation Monitoring and Reporting Program (MMRP). Changes to measures are reflected in both Table ES-1 of the Executive Summary and in Table 8-1 of Chapter 8 of the Final EIR.

4b) California Tiger Salamander: *On Table ES-1 on page ES-30 of the document, Mitigation Measures 3.4.1.g and 3.4.1.h are included for California tiger salamander (CTS). The measures referenced are for the delineation of Swainson's hawk (SWHA) avoidance buffers and compensation of SWHA foraging habitat respectively. These measures do not include any measure intended for CTS and should be removed as they are repeated in the appropriate SWHA section.*

Mitigation Measure 3.4.4.b states, "Where ground disturbing activities in these areas must occur outside of pavement, potential CTS aestivation burrows in grassland edges will be avoided by a minimum distance of 50 feet, as practicable." For projects utilizing the Plan, if the minimum avoidance buffer of 50 feet cannot be met, then consultation with CDFW is warranted to discuss how to implement project activities and avoid take. Further, any detection of CTS prior to or during project construction warrants consultation with CDFW to discuss how to avoid take.

If take cannot be avoided, CDFW recommends acquiring an ITP prior to initiating ground-disturbing activities.

Response: Mitigation Measures 3.4.1g and 3.4.1h have been deleted from Table ES-1. Mitigation Measure 3.4.4.b has been revised include consultation with the CDFW if the 50-foot avoidance buffer cannot be met and issuance of a take permit if take cannot be avoided. See the attached revised MMRP.

4c) Swainson's Hawk: *Mitigation Measure 3.4.1.c discusses surveys for SWHA, CDFW recommends that surveys be done following the survey methods developed by the*

Swainson's Hawk Technical Advisory Committee (SWHA TAC 2000) during the appropriate survey season just prior to construction.

CDFW recommends that Mitigation Measure 3.4.1.f be modified to include a 0.5-mile full avoidance buffer for SWHA and a 500 foot full avoidance buffer for other raptor species to avoid inadvertent take.

Response: Table 8-2 has been added to the MMRP to provide additional guidance on SWHA survey methods consistent with the SWHA TAC 2000 guidance. Mitigation Measure 3.4.1.c has been revised to include reference to Table 8-2. See the attached revised MMRP.

Mitigation Measure 3.4.1.g include the half-mile buffer and specifically states, "CDFW recommends that in the event an active *SWHA nest* [emphasis added] is detected, and a *½-mile no-disturbance buffer* [emphasis added] is not feasible, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081(b) is necessary to comply with CESA." Also, Mitigation Measure 3.4.1.a requires preconstruction surveys and specifically states, "Potential nesting areas on the proposed Project site and potential nesting areas *within 500 feet of the site* [emphasis added] should be surveyed prior to June 5th. Surveys shall be performed by a qualified biologist to verify the presence or absence of nesting birds. Construction shall not occur *within a 500-foot buffer* [emphasis added] surrounding active nests of raptors or a 250-foot buffer surrounding active nests of migratory birds. If construction within these buffer areas is required or if nests must be removed to allow continuation of construction, then approval and specific removal methodologies should be obtained from California Department of Fish and Wildlife (CDFW)." Furthermore, there are no development proposals included in this project and future developments are unknown as this time. Future applicants may not be able to delineate a buffer on adjacent properties where they have no control over the proposed buffer area. As Mitigation Measure 3.4.1.a applies to all raptor species, including SWHA, and due to the uncertainty of future development projects in the KACP planning area, the County is not compelled to add this recommendation to Mitigation Measure 3.4.1.f.

4d) Federally Listed Species: *CDFW recommends consulting with the United States Fish and Wildlife Service (USFWS) regarding potential impacts to federally listed species including but not limited to CTS and SJKF. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any Project activities.*

Response: There are no development proposals included in this project and future developments are unknown as this time. As new developments are proposed, preconstruction surveys will be required. If federally listed species are identified during these surveys, consultation with USFWS is required. Specifically, Mitigation Measures 3.4.1.a, 3.4.1.e,

3.4.1.f, 3.4.2.c, 3.4.2.d, 3.4.2.e, 3.4.2.g, 3.4.2.h, and 3.4.2.k require consultation with USFWS prior to or during construction related activities.

PROJECT SUMMARY

The Tulare County Board of Supervisors passed Resolution 2019-0884 on October 15, 2019, approving the General Plan Initiation No. GPI 19-004 to authorize a General Plan Amendment No. GPA 20-001 for the Kingsburg Area Community Plan, to update the Tulare County General Plan. The proposed Kingsburg Area Community Plan is identified within the City of Kingsburg sphere of influence and County of Tulare's County Adopted City Urban Development Boundary (CACUDB) for Kingsburg located along the Tulare County/Fresno County line (that is, adjacent to and south of Kingsburg), generally north of Avenue 390, west of Road 20, and south of State Route 201. The Kingsburg Area Community Plan will be consistent with the approved Tulare County General Plan 2030 Update and includes the following primary goals and objectives:

1. **Land Use and Environmental Planning** - Promote development within the planning areas next to the Regional Highway 99 Corridor in order to implement the following General Plan goals:
 - a) Update the affected Urban Development Boundary;
 - b) Ensure the text and mapping of the Community Plan Land Use Designations and Zoning Reclassifications address various development matters, such as encouraging Agricultural Adaptive Reuse activities, recognizing Non-Conforming Use activities, and facilitating Ministerial Permit approvals;
 - c) Encourage infill development within a County Adopted City Urban Development Boundary, thereby discouraging leapfrog development within Tulare County;
 - d) Reduce development pressure on agriculturally-designated lands within the Valley Floor, thereby encouraging agricultural production;
 - e) Reduce vehicle miles travelled throughout the County, thereby positively affecting air quality and greenhouse gas reduction; and
 - f) Improve the circulation, transit and railroad transportation system within this community, including, but not limited to, laying the groundwork for the construction of key projects, such as Safe Routes to Schools, Complete Streets, and Bike Lanes/Pedestrian Paths.

2. **Improvements for a “disadvantaged community”** - It is expected that the community planning area will be improved for the following reasons:
 - a) Faster project processing resulting from an updated community plan, increasing employment opportunities that are more likely to be provided by the private sector as proposed project developments and permits can be approved as expeditiously as possible;
 - b) Housing grant awards are more likely to be awarded based on updated community plans that are consistent with the policies of the adopted General Plan 2030 Update (August 2012) and Housing Element Update (November 2015); and
 - c) Enhanced infrastructure grant awards, thereby providing access to funding to install or upgrade road, water, wastewater, and storm water facilities.

3. **Strengthening Relationship with TCAG** - An important benefit of this community plan process will be the opportunity for RMA to strengthen the County's relationship with the Tulare County Association of Governments (TCAG) in that this community plan will help to facilitate the funding and implementation of several key transportation programs such as Safe

Routes to Schools, Complete Streets, Bike/Pedestrian Projects, and major state Transportation Improvement Program (STIP) project. By pursuing these transportation programs through a heightened collaborative process, the likelihood of getting actual projects in the ground will be realized faster than historically achieved. In doing so, this community, and others, can become safer and healthier by providing a more efficient transportation network.

PROJECT LOCATION

At the northern portion of Tulare County within the City of Kingsburg County Adopted City Urban Development Boundary (Kingsburg CACUDB or UDB) and encompasses approximately 0.8 square miles of land. The Tulare County/Fresno County Line is located directly adjacent to the Kingsburg CACUDB and generally northwest of Avenue 392 and Road 16. The site is within the Sections 25, 26, 35, and 36, Township 16 South, Range 22 East, MDB&M.

LOCAL REGULATORY CONTEXT

The Tulare County General Plan 2030 Update was adopted on August 28, 2012. As part of the General Plan an EIR was prepared as was a background report. The General Plan Background report contained contextual environmental analysis for the General Plan. The Housing Element for 2014-2023 was adopted on November 17, 2015, and certified by State of California Department of Housing and Community Development on December 9, 2015.

SCOPE AND METHODOLOGY

The County of Tulare has determined that a program level EIR fulfills the requirements of CEQA and is the appropriate level evaluation to address the potential environmental impacts of the proposed Kingsburg Area Community Plan. A program level EIR is described in Section 15168 of the State CEQA Guidelines as one that examines the environmental impacts of a series of actions that can be characterized as one large project and are related geographically or as individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects that can be mitigated in similar ways.

This document addresses environmental impacts to the level that they can be assessed without undue speculation (CEQA Guidelines Section 15145). This Final Environmental Impact Report (FEIR) acknowledges this uncertainty and incorporates these realities into the methodology to evaluate the environmental effects of the Kingsburg Area Community Plan, given its long-term planning horizon. The degree of specificity in an EIR corresponds to the degree of specificity of the underlying activity being evaluated (CEQA Guidelines Section 15146). Also, the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project (CEQA Guidelines Sections 15151 and 15204(a)).

CEQA Guidelines Section 15002(a) specifies that, “[t]he basic purposes of CEQA are to:

- (1) Inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities.

- (2) Identify ways that environmental damage can be avoided or significantly reduced.
- (3) Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.
- (4) Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.”²

CEQA Guidelines Section 15002(f) specifies that, “[a]n environmental impact report (EIR) is the public document used by the governmental agency to analyze the significant environmental effects of a proposed project, to identify alternatives, and to disclose possible ways to reduce or avoid the possible environmental damage... An EIR is prepared when the public agency finds substantial evidence that the project may have a significant effect on the environment... When the agency finds that there is no substantial evidence that a project may have a significant environmental effect, the agency will prepare a “Negative Declaration” instead of an EIR...”³

Pursuant to CEQA Guidelines Section 15021 Duty to Minimize Environmental Damage and Balance Competing Public Objectives:

- “(a) CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.
- (1) In regulating public or private activities, agencies are required to give major consideration to preventing environmental damage.
 - (2) A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.
- (b) In deciding whether changes in a project are feasible, an agency may consider specific economic, environmental, legal, social, and technological factors.
- (c) The duty to prevent or minimize environmental damage is implemented through the findings required by Section 15091.
- (d) CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian. An agency shall prepare a statement of overriding considerations as described in Section 15093 to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.”⁴

IDENTIFICATION OF POTENTIALLY SIGNIFICANT IMPACTS

CEQA Guidelines Section 15002(h) addresses potentially significant impacts, to wit, “CEQA requires more than merely preparing environmental documents. The EIR by itself does not control the way in which a project can be built or carried out. Rather, when an EIR shows that a project

² CEQA Guidelines, Section 15002 (a)

³ CEQA Guidelines, Section 15002 (f)

⁴ Ibid., Section 15021

could cause substantial adverse changes in the environment, the governmental agency must respond to the information by one or more of the following methods:

- (1) Changing a proposed project;
- (2) Imposing conditions on the approval of the project;
- (3) Adopting plans or ordinances to control a broader class of projects to avoid the adverse changes;
- (4) Choosing an alternative way of meeting the same need;
- (5) Disapproving the project;
- (6) Finding that changes in, or alterations, the project are not feasible.
- (7) Finding that the unavoidable, significant environmental damage is acceptable as provided in Section 15093.”⁵ (See Chapter 7)

This Final EIR identifies potentially significant impacts that would be anticipated to result from implementation of the proposed Project. Significant impacts are defined as a “substantial or potentially substantial, adverse change in the environment” (Public Resources Code Section 21068). Significant impacts must be determined by applying explicit significance criteria to compare the future Kingsburg Area Community Plan buildout conditions to the existing environmental setting (CEQA Guidelines Section 15126.2(a)).

The existing setting is described in detail in each resource section of Chapter 3 of this document and represents the most recent, reliable, and representative data to describe current regional conditions. The criteria for determining significance are also included in each resource section in Chapter 3 of this document.

CONSIDERATION OF SIGNIFICANT IMPACTS

Pursuant to CEQA Guidelines Section 15126.2, “[a]n EIR shall identify and focus on the significant environmental effects of the proposed project. In assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced. Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development), health and safety problems caused by the physical changes, and other aspects of the resource base such as water, historical resources, scenic quality, and public services. The EIR shall also analyze any significant environmental effects the project might cause by bringing development and people into the area affected. For example, an EIR on a subdivision astride an active fault line should identify as a significant effect the seismic hazard to future occupants of the subdivision. The subdivision would have the effect of attracting people to the location and exposing them to the hazards found there. Similarly, the EIR should evaluate any

⁵ 2013 CEQA Guidelines, Section 15002 (h)

potentially significant impacts of locating development in other areas susceptible to hazardous conditions (e.g., floodplains, coastlines, wildfire risk areas) as identified in authoritative hazard maps, risk assessments or in land use plans addressing such hazards areas.”⁶

As the Project will have significant and unavoidable effects; a Statement of Overriding Considerations is necessary and required as part of this Final EIR.

MITIGATION MEASURES

CEQA Guidelines Section 15126.4 specifies that:

- “(1) An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.
 - (A) The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures proposed by the lead, responsible or trustee agency or other persons which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.
 - (B) Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.
 - (C) Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix F.
 - (D) If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed. (*Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986.)
- (2) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.
- (3) Mitigation measures are not required for effects which are not found to be significant.
- (4) Mitigation measures must be consistent with all applicable constitutional requirements, including the following:
 - (A) There must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); and

⁶ Ibid., Section 15126.2

- (B) The mitigation measure must be “roughly proportional” to the impacts of the project. *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Where the mitigation measure is an ad hoc exaction, it must be “roughly proportional” to the impacts of the project. *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854.
- (5) If the lead agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed. Instead, the EIR may simply reference that fact and briefly explain the reasons underlying the lead agency's determination.”⁷

ORGANIZATION OF THE EIR

With the exception of Chapter 10, Response to Comments, the EIR consists of the following sections:

Executive Summary

The Executive Summary Chapter summarizes the analysis in the Final Environmental Impact Report.

CHAPTER 1

Provides a brief introduction to the Environmental Analysis required by the California Environmental Quality Act (CEQA) and Response to Comments received on the Final EIR.

CHAPTER 2

Describes the proposed Project. The chapter also includes the objectives of the proposed Project. The environmental setting is described and the regulatory context within which the proposed Project is evaluated is outlined.

CHAPTER 3

Includes the Environmental Analysis in response to each Checklist Item. Within each analysis the following is included:

Summary of Findings

Each chapter notes a summary of findings.

Introduction

Each chapter begins with a summary of impacts, pertinent CEQA requirements, applicable definitions and/or acronyms, and thresholds of significance.

⁷ 2013 CEQA Guidelines, Section 15126.4

Environmental Setting

Each environmental factor analysis in Chapter 3 outlines the environmental setting for each environmental factor. In addition, methodology is explained when complex analysis is required.

Regulatory Setting

Each environmental factor analysis in Chapter 3 outlines the regulatory setting for that resource.

Project Impact Analysis

Each evaluation criteria will be reviewed for potential Project-specific impacts.

Cumulative Impact Analysis

Each evaluation criteria are reviewed for potential cumulative impacts.

Mitigation Measures

Mitigation Measures are proposed as deemed applicable.

Conclusion

Each conclusion outlines whether recommended mitigation measures will, based on the impact evaluation criteria, substantially reduce or eliminate potentially significant environmental impacts. If impacts cannot be mitigated, unavoidable significant impacts are identified.

Definitions/Acronyms

Some sub-chapters of Chapter 3 have appropriate definitions and/or acronyms.

References

Reference documents used in each chapter are listed at the end of each sub-chapter.

CHAPTER 4

Summarizes the cumulative impacts addressed in Chapter 3.

CHAPTER 5

Describes and evaluates alternatives to the proposed Project. The proposed Project is compared to each alternative, and the potential environmental impacts of each are analyzed.

CHAPTER 6

Evaluates or describes CEQA-required subject areas: Economic Effects, Social Effects, and Growth Inducement.

CHAPTER 7

Evaluates or describes CEQA-required subject areas: Environmental Effects That Cannot Be Avoided, Irreversible Impacts, and Statement of Overriding Considerations.

CHAPTER 8

Provides a Mitigation Monitoring and Reporting Program that summarizes the environmental issues, the significant mitigation measures, and the agency or agencies responsible for monitoring and reporting on the implementation of the mitigation measures.

CHAPTER 9

Outlines persons preparing the EIR and sources utilized in the Analysis.

CHAPTER 10

Contains the Response to Comments received during the 45-day review period.

APPENDICES

Following the main body of text in the EIR, several appendices and technical studies have been included as reference material.

ENVIRONMENTAL REVIEW PROCESS

Pursuant to CEQA Guidelines Section 15082, the Notice of Preparation (NOP) for the Proposed Project was circulated for review and comment beginning on December 15, 2021, for a 30-day comment period ending January 14, 2022. Tulare County RMA received four (4) comments on the NOP (Appendix F in the Draft EIR).

Consistent with CEQA Guidelines Section 15103, “Responsible and Trustee Agencies, and the Office of Planning and Research shall provide a response to a Notice of Preparation to the Lead Agency within 30 days after receipt of the notice. If they fail to reply within the 30 days with either a response or a well justified request for additional time, the lead agency may assume that none of those entities have a response to make and may ignore a late response.”⁸

⁸ CEQA Guidelines, Section 15103

A scoping meeting was held on January 6, 2022, at the Tulare County Resource Management Agency Main Conference Room. Two (2) staff from the City of Kingsburg attended the online meeting. Comments and/or concerns regarding traffic, water and sewer, and zoning were received during this meeting.

Section 15093 of the State CEQA Guidelines requires decision-makers to balance the benefits of a proposed project against any unavoidable adverse environmental effects of the project. If the benefits of the project outweigh the unavoidable adverse environmental effects, then the decision-makers may adopt a statement of overriding considerations, finding that the environmental effects are acceptable in light of the project's benefits to the public.

As noted in CEQA Guidelines Section 15105(a), a Draft EIR that is submitted to the State Clearinghouse shall have a minimum review period of 30-days. The Draft EIR was circulated publicly for comment beginning on September 13, 2023. Following completion of a 45-day public review period ending on October 27, 2023, staff prepared responses to comments and a Final EIR has been completed. The Final EIR was then forwarded to the County of Tulare Planning Commission for consideration of approval/certification by the Board of Supervisors. Notwithstanding an appeal to the County of Tulare Board of Supervisors, a Notice of Determination will then be filed with the County Tulare County Clerk and also forwarded to the State of California, Office of Planning and Research.

ORGANIZATIONS CONSULTED

State and Federal Agencies:

California Air Resources Board
California Department of Conservation
California Department of Fish and Wildlife Region #4
California Department of Food and Agriculture
California Department of Forestry and Fire Protection
California Department of General Services
California Department of Resources and Recycling and Recovery
California Department of Toxic Substance Control
California Department of Transportation (Caltrans) District #6
California Department of Transportation (Caltrans) – Transportation Planning
California Department of Water Resources
California Environmental Protection Agency
California Highway Patrol
California Natural Resources Agency

Central Valley Flood Protection Board
Native American Heritage Commission
Office of Historic Preservation
Public Utilities Commission
Regional Water Quality Control Board District #5F
State Water Resources Control Board – Water Quality
United States Army Corps of Engineers
United States Department of Agriculture – Natural Resources Conservation Service
United States Fish & Wildlife Service
United States Naval Facilities Engineering Command

Local and Regional Agencies:

Alta Irrigation District
City of Kingsburg
Central Kings Groundwater Sustainability Agency
Consolidated Irrigation District
Fresno County Council of Governments
Fresno County Local Agency Formation Commission
Fresno County Public Works and Planning Department
Kings River East Groundwater Sustainability Agency
Kingsburg Elementary Charter School District
Kingsburg Joint Union High School District
Regional Water Quality Control Board Region #5
San Joaquin Valley Unified Air Pollution Control District
Selma/Kingsburg/Fowler Irrigation District
South Kings Groundwater Sustainability Agency
Southern California Edison
Southern California Gas Company
Tulare County Agricultural Commissioner
Tulare County Association of Governments
Tulare County Farm Bureau
Tulare County Fire Warden

Tulare County Health and Human Services Agency, Environmental Health Services Division

Tulare County Local Agency Formation Commission

Tulare County Office of Emergency Services

Tulare County Resource Conservation District

Tulare County Resource Management Agency: Public Works, Flood Control, Fire, and
Economic Development and Planning Branch

Tulare County Sheriff's Office

Tulare County U.C. Cooperative Extension

Other Interested Parties:

Lozeau Drury LLP

Native American Tribes:

Big Sandy Rancheria of Western Mono Indians

Dunlap Band of Mono Indians

Kern Valley Indian Council

North Fork Mono Tribe

Santa Rosa Rancheria Tachi Yokut Tribe

Tubatulabals of Kern Valley

Tule River Indian Tribe

Wuksache Indian Tribe/Eshom Valley Band

ATTACHMENT “A”

Notice of Availability Tracking Table

**NOTICE OF AVAILABILITY OF AN ENVIRONMENTAL IMPACT REPORT
2023 KINGSBURG AREA COMMUNITY PLAN (GPA 20-001)
SCH# [2021120339]**

COUNTY OF TULARE POSTINGS					
Location of Document	Notice of Availability		Environmental Impact Report		Flash Drive with both NOA & EIR
	E-mail	Hard Copy	E-mail	Hard Copy	
RMA Website: https://tularecounty.ca.gov/rma/planning-building/environmental-planning/environmental-impact-reports/kingsburg-area-community-plan/					
Tulare County Resource Management Agency Permits Counter 5961 S. Mooney Blvd. Visalia, CA 93277-9394		9/12/23		9/12/23	
Tulare County Clerk/Recorder County Civic Center Courthouse, Room 105 221 S. Mooney Blvd. Visalia, CA 93291		9/12/23			
Visalia Main Branch Library 200 W. Oak Ave. Visalia, CA 93291 DWegener@tularecounty.ca.gov Ruth.Tolmachoff@tularecountylibrary.org questions@tularecountylibrary.org	9/13/23	9/12/23			9/12/23
Kingsburg Branch Library 1399 Draper Street Kingsburg, CA 93631 shonda.graham@fresnolibrary.org	9/12/23				

STATE CLEARINGHOUSE POSTING		
Date & Documents Submitted to CEQAnet: 9/12/23	Date Documents Published on CEQAnet: 9/13/23	
<input checked="" type="checkbox"/> NOC <input checked="" type="checkbox"/> NOA <input checked="" type="checkbox"/> EIR <input checked="" type="checkbox"/> Electronic Submittal Form <input type="checkbox"/> Other:		
Agencies below were marked with "X" on the NOC	Comment Date	Contact Name and Position
• California Air Resources Board		
• California Highway Patrol		
• Central Valley Flood Protection Board		
• Department of Conservation		
• Department of Fish and Wildlife Region #4		See below
• Department of Food and Agriculture		
• Department of Forestry & Fire Protection		
• Department of General Services		
• Department of Resources and Recycling and Recovery		
• Department of Toxic Substances Control		
• Department of Transportation – District #6		
• Department of Water Resources		
• Native American Heritage Commission		
• Natural Resources Agency		
• Office of Historic Preservation		
• Public Utilities Commission		
• Regional Water Quality Control Board District #5F		
• State Water Resources Control Board – Water Quality		See below

**NOTICE OF AVAILABILITY OF AN ENVIRONMENTAL IMPACT REPORT
2023 KINGSBURG AREA COMMUNITY PLAN (GPA 20-001)
SCH# [2021120339]**

NEWSPAPER NOTIFICATION			
Location of Document	Date Approved by Chief Planner	Date Submitted to Clerical Staff	Newspaper Publish Date
Foothill Sun-Gazette	8/11/23, 8/17/23, 8/28/23	8/11/23, 8/17/23, 8/28/23	8/16/23, 8/23/23/, 9/13/23

PUBLIC NOTIFICATION				
Agency / Party	NOTICE OF AVAILABILITY			COMMENTS RECEIVED Comment Date / Contact Name and Position / Notes
	US Mail	Interoffice	E-mail	

Agency / Party	NOTICE OF AVAILABILITY			COMMENTS RECEIVED Comment Date / Contact Name and Position / Notes
	US Mail	Interoffice	E-mail	
FEDERAL AGENCIES				
Mr. David S. Hulse Naval Facilities Engineering Command Community Plans Liaison Officer (CPLO) 1220 Pacific Highway AM-3 San Diego, CA 92132	9/11/23	---	---	
US Army Corps of Engineers Sacramento District 1325 J Street, Room 1350 Sacramento, CA 95814-2922	9/11/23	---	---	
US Department of Agriculture Natural Resources Conservation Service Visalia Service Center Attn: Lurana Strong, District Conservationist 3530 W. Orchard Ct. Visalia, CA 93277-7055 lurana.strong@usda.gov	9/11/23	---	9/13/23	
United States Fish and Wildlife Service Sacramento Fish & Wildlife Office 2800 Cottage Way, Room W-2605 Sacramento, CA 95825-1846	9/11/23	---	---	
STATE & REGIONAL AGENCIES				
CA Environmental Protection Agency P.O. Box 2815 Sacramento, CA 95812-2815	9/11/23	---	---	
California Department of Conservation California Geological Survey 715 P Street, MS 1901 Sacramento, CA 95814 cgshq@conservation.ca.gov	9/11/23	---	9/13/23	
California Department of Conservation Division of Land Resource Protection 715 P Street, Mail Stop #1904 Sacramento, CA 95814 dlrp@conservation.ca.gov Jaime Marquez, Environmental Scientist: Jaime.Marquez@wildlife.ca.gov	9/11/23	---	9/13/23	
California Department of Fish and Wildlife Region 4 – Central Region 1234 E. Shaw Avenue Fresno, CA 93710 R4CEQA@wildlife.ca.gov	9/11/23	---	9/13/23	11/15/2023, comments received from Julie Vance, Regional Manager

**NOTICE OF AVAILABILITY OF AN ENVIRONMENTAL IMPACT REPORT
2023 KINGSBURG AREA COMMUNITY PLAN (GPA 20-001)
SCH# [2021120339]**

PUBLIC NOTIFICATION				
Agency / Party	NOTICE OF AVAILABILITY			COMMENTS RECEIVED Comment Date / Contact Name and Position / Notes
	US Mail	Interoffice	E-mail	
California Department of Toxic Substances Control P.O. Box 806 Sacramento, CA 95812-0806	9/11/23	---	---	
California Department of Transportation, District 6 1352 W. Olive Ave P.O. Box 12616 Fresno, CA 93778-2616 david.deel@dot.ca.gov lorena.mendibles@dot.ca.gov	---	---	9/13/23	9/14/23, email from D. Deel confirming receipt of the notice.
California Department of Water Resources 715 P Street Sacramento, CA 95814-6400	9/11/23	---	---	
California Highway Patrol Central Division (480) Visalia Office Attn: David Gilmore, Area Captain 5025 W. Noble Ave. Visalia, CA 93277 dagilmore@chp.ca.gov	9/11/23	---	9/13/23	
California Natural Resources Agency 715 P Street, 20th Floor Sacramento, CA 95814-6400	9/11/23	---	---	
California Public Utilities Commission Energy Division 3rd Floor Attn: Mary Jo Borak 505 Van Ness Ave. San Francisco, CA 94102 bor@cpuc.ca.gov	9/11/23	---	9/13/23	
Native American Heritage Commission 1550 Harbor Blvd, Suite 100 West Sacramento, CA 95691 NAHC@nahc.ca.gov	9/11/23	---	9/13/23	
State Water Resources Control Board Division of Drinking Water Attn: Lori Schmitz P.O. Box 100 Sacramento, CA 95812 Lori.Schmitz@waterboards.ca.gov	9/11/23	---	9/13/23	9/19/23, email from L. Schmitz stating project will not trigger a water supply permit and no comment letter is needed.
Regional Water Quality Control Board Region 5 – Central Valley 1685 E Street Fresno, CA 93706 CentralValleyFresno@waterboards.ca.gov	9/11/23	---	9/13/23	
San Joaquin Valley Air Pollution Control District Permit Services – CEQA Division Attn: Mark Montelongo, Program Manager 1990 E. Gettysburg Ave. Fresno, CA 93726 CEQA@valleyair.org mark.montelongo@valleyair.org	9/11/23	---	9/13/23	11/1/23, comment letter received from Brian Clements, Director of Permits Services

**NOTICE OF AVAILABILITY OF AN ENVIRONMENTAL IMPACT REPORT
2023 KINGSBURG AREA COMMUNITY PLAN (GPA 20-001)
SCH# [2021120339]**

PUBLIC NOTIFICATION				
Agency / Party	NOTICE OF AVAILABILITY			COMMENTS RECEIVED Comment Date / Contact Name and Position / Notes
	US Mail	Interoffice	E-mail	
LOCAL AGENCIES				
Tulare County Agricultural Commissioner Attn: Tom Tucker 4437 S. Laspina Street Tulare CA 93274 TTucker@tularecounty.ca.gov	---	9/12/23	9/13/23	
Tulare County Association of Governments Attn: Ted Smalley 210 N. Church Street, Suite B Visalia, CA 93291 TSmalley@tularecog.org	---	9/12/23	9/13/23	
Tulare County Fire Warden 835 S. Akers Street Visalia, CA 93277	---	9/12/23	---	
Tulare County Health & Human Services Agency Environmental Health Department Attn: Jessica Gocke 5957 S. Mooney Blvd Visalia, CA 93277 jgocke@tularehhsa.org Allison Shuklian - AShuklia@tularehhsa.org	---	9/12/23	9/13/23	9/13/23, email received by J. Gocke stating that Kevin Bangsund is taking over Ted Martin and needs to be included in these emails. Email forwarded to K. Bangsund.
Tulare County Local Agency Formation Commission 210 N. Church Street, Suite B Visalia, CA 93291	---	9/12/23	---	
Tulare County Office of Emergency Services Attn: Sabrina Bustamante / Megan Fish 5957 S. Mooney Blvd Visalia, CA 93277 slbustamante@tularecounty.ca.gov mfish@tularecounty.ca.gov	---	9/12/23	9/13/23	
Tulare County Sheriff's Office – Headquarters 833 S. Akers St. Visalia, CA 93291 sheriffpio@tularecounty.ca.gov	---	9/12/23	---	
Tulare County Resource Management Agency 5961 S. Mooney Blvd. Visalia, CA 93277 Economic Development - dengland@tularecounty.ca.gov Fire – gportillo@tularecounty.ca.gov Flood Control – rschenke@tularecounty.ca.gov ; rmiller@tularecounty.ca.gov Public Works – hbeltran@tularecounty.ca.gov ; jwong@ctularecounty.ca.gov	---	---	9/13/23	

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PUBLIC NOTIFICATION				
Agency / Party	NOTICE OF AVAILABILITY			COMMENTS RECEIVED Comment Date / Contact Name and Position / Notes
	US Mail	Interoffice	E-mail	
Tulare County Farm Bureau Tricia Stever Blattler, Exec. Director 737 N. Ben Maddox Way Visalia, CA 93292 pstever@tulcofb.org	9/11/23	---	9/13/23	
Tulare County Resource Conservation District 3530 W. Orchard Ct Visalia, CA 93277	9/11/23	---	---	
Tulare County U.C. Cooperative Extension UC Cooperative Extension 4437 S. Laspina Street Tulare, CA 93274	9/11/23	---	---	
City of Kingsburg Attn: Alexander J. Henderson, City Manager 1401 Draper Street Kingsburg, CA 93631 ahenderson@cityofkingsburg-ca.gov	9/11/23	---	9/13/23	
City of Kingsburg Planning Department Attn: Holly Owen, Director, Community Development 1401 Draper Street Kingsburg, CA 93631 howen@cityofkingsburg-ca.gov	9/11/23	---	9/13/23	10/27/23, comment letter received from Ms. Owen; letter included attachment with comments from David Peters of Peters Engineering dated 10/25/23 regarding traffic
County of Fresno Dept. of Public Works and Planning Attn: Steven E. White, Director 2220 Tulare Street, 6th Floor Fresno, CA 93721 stwhite@fresnocounty.ca.gov Bernard Jimenez, Assistant Director bjimenez@fresnocounty.ca.gov	9/11/23	---	9/13/23	
Fresno County Council of Governments 2035 Tulare Street, Ste. 201 Fresno, CA 93721 comment@fresnocog.org	9/11/23	---	9/13/23	
Fresno County LAFCo Attn: David Fey, Executive Officer 2607 Fresno St, Ste B Fresno, CA 93721 dfey@fresnocountyca.gov	9/11/23	---	9/13/23	
Selma-Kingsburg-Fowler County Sanitation District Attn: Veronica Cazares, General Manager P.O. Box 158 Kingsburg, CA 93631 vcazares@skfcsd.org	9/11/23	---	9/13/23	
Consolidated Irrigation District 2255 Chandler Street Attn: Phil Desatoff, General Manager P.O. Box 209 Selma, CA 93662 pdesatoff@cidwater.com	9/11/23	---	9/13/23	

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PUBLIC NOTIFICATION				
Agency / Party	NOTICE OF AVAILABILITY			COMMENTS RECEIVED Comment Date / Contact Name and Position / Notes
	US Mail	Interoffice	E-mail	
Central Kings Groundwater Sustainability Agency Attn: Phillip Desatoff pdesatoff@cidwater.com		---	9/13/23	
Alta Irrigation District Attn: Chad Wegley, General Manager 289 N. L St. Dinuba, CA 93618 info@altaid.org	9/11/23	---	9/13/23	
King River East Groundwater Sustainability Agency Attn: Chris Kapheim cmk@altaid.org	---	---	9/13/23	
South Kings Groundwater Sustainability Agency Attn: David Peters South Kings GSA 862 Pollasky Avenue Clovis, CA 93612 dpeters@peters-engineering.com	9/11/23	---	9/13/23	
Kingsburg Elementary Charter School District Attn: Wesley Sever, Ed.D., Superintendent 1310 Stroud Ave. Kingsburg, CA 93631 wsever@kesd.org	9/11/23	---	9/13/23	
Kingsburg Joint Union High School District Attn: Don Shoemaker, Superintendent 1900 18th Ave Kingsburg, CA 93631 dshoemaker@kingsburghigh.com	9/11/23	---	9/13/23	
Southern California Edison Attn: Calvin Rossi, Region Manager Local Public Affairs 2425 S. Blackstone St. Tulare, CA 93274 calvin.rossi@sce.com	9/11/23	---	9/13/23	
Southern California Gas Company 404 N. Tipton Street Visalia, CA 93292 envreview@semprautilities.com	9/11/23	---	9/13/23	
NATIVE AMERICAN TRIBES				
Big Sandy Rancheria of Western Mono Indians Elizabeth D. Kipp, Chairperson PO. Box 337 Auberry, CA 93602 lkipp@bsrnation.com	9/11/23	---	9/13/23	
Dunlap Band of Mono Indians Benjamin Charley Jr., Tribal Chair P.O. Box 14 Dunlap, CA 93621 ben.charley@yahoo.com	9/11/23	---	9/13/23	

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PUBLIC NOTIFICATION				
Agency / Party	NOTICE OF AVAILABILITY			COMMENTS RECEIVED Comment Date / Contact Name and Position / Notes
	US Mail	Interoffice	E-mail	
Dunlap Band of Mono Indians Dirk Charley, Tribal Secretary 5509 E. McKenzie Avenue Fresno, CA 93727 dcharley2016@gmail.com	9/11/23	---	9/13/23	
Kern Valley Indian Tribe Robert Robinson, Co-Chairperson P.O. Box 1010 Lake Isabella, CA 93240 bbutterbredt@gmail.com	9/11/23	---	9/13/23	
Kern Valley Indian Tribe Julie Turner, Secretary P. Box 1010 Lake Isabella, CA 93240 meindiangirl@sbcglobal.net	9/11/23	---	9/13/23	
Kern Valley Indian Tribe Brandi Kendricks 30741 Foxridge Court Tehachapi, CA 93561 krazykendricks@hotmail.com	9/11/23	---	9/13/23	
North Fork Mono Tribe Ron Goode, Chairperson 13396 Tollhouse Road Clovis, CA 93619 rwgoode911@hotmail.com	9/11/23	---	9/13/23	
Santa Rosa Rancheria Tachi Yokut Tribe Leo Sisco, Chairperson P. O. Box 8 Lemoore, CA 93245 LSisco@tachi-yokut-nsn.gov	9/11/23	---	9/13/23	
Santa Rosa Rancheria Tachi Yokut Tribe Cultural Department Shana Powers, Director P. O. Box 8 Lemoore, CA 93245 SPowers@tachi-yokut-nsn.gov	9/11/23	---	9/13/23	see Tribal Consultation Tracking Table
Santa Rosa Rancheria Cultural Department Staff Samantha McCarty SMcCarty@tachi-yokut-nsn.gov Paige Berggren PBerggren@tachi-yokut-nsn.gov	---	---	9/13/23	
Tubatulabals of Kern Valley Robert L. Gomez, Jr., Chairperson P.O. Box 833 Weldon, CA 93283-0833 rgomez@tubatulabal.org	9/11/23	---	9/13/23	

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PUBLIC NOTIFICATION				
Agency / Party	NOTICE OF AVAILABILITY			COMMENTS RECEIVED Comment Date / Contact Name and Position / Notes
	US Mail	Interoffice	E-mail	
Tule River Indian Tribe Neil Peyron, Chairperson P. O. Box 589 Porterville, CA 93258 neil.peyron@tulerivertribe-nsn.gov	9/11/23	---	9/13/23	
Tule River Indian Tribe Dept. of Environmental Protection Kerri Vera, Director P. O. Box 589 Porterville, CA 93258 tuleriverenv@yahoo.com	9/11/23	---	9/13/23	
Tule River Indian Tribe Joey Garfield, Tribal Archaeologist P. O. Box 589 Porterville, CA 93258 joey.garfield@tulerivertribe-nsn.gov	9/11/23	---	9/13/23	
Tule River Indian Tribe Felix Christman, Council Member P. O. Box 589 Porterville, CA 93258 tuleriverarchmon1@gmail.com felix.christman@tulerivertribe-nsn.gov	9/11/23	---	9/13/23	
Wuksache Indian Tribe/ Eshom Valley Band Kenneth Woodrow, Chairperson 1179 Rock Haven Ct. Salinas, CA 93906 kwood8934@aol.com	9/11/23	---	9/13/23	
INTERESTED PARTIES				
Lozeau Drury LLP 1939 Harrison St, Ste 150 Oakland, CA 94612 Michael Lozeau - michael@lozeaudrury.com Hannah Hughes - hannah@lozeaudrury.com Sophie Roberts - sophie@lozeaudrury.com	9/11/23	---	9/13/23	

ATTACHMENT “B”

Comments from State Water Resources Control Board, September 19, 2023

From: [Schmitz, Lori@Waterboards](mailto:Schmitz,Lori@Waterboards)
To: [Danielle Folk](mailto:Danielle.Folk)
Cc: [Pierce, Wendy@Waterboards](mailto:Pierce,Wendy@Waterboards)
Subject: RE: Notice of Availability of a Draft Environmental Impact Report for Draft 2023 Kingsburg Area Community Plan
Date: Tuesday, September 19, 2023 3:56:30 PM

This Message Is From an External Sender

This message came from outside your organization.

Danielle,

Thanks for letting us take a look at this document. I have screened the document and determined the Project will not trigger a water supply permit for our Division of Drinking Water or drinking water funding for our Division of Financial Assistance. As a result, no comment letter will be needed.

Thanks!

Lori Schmitz

Lori Schmitz
State Water Resources Control Board
Division of Financial Assistance
Special Project Review Unit
Lori.Schmitz@waterboards.ca.gov

From: Danielle Folk <DFolk@tularecounty.ca.gov>
Sent: Wednesday, September 13, 2023 10:01 AM
To: Lurana Strong (lurana.strong@usda.gov) <lurana.strong@usda.gov>; CGS Headquarters@DOC <cgshq@conservation.ca.gov>; DLRP@DOC <DLRP@conservation.ca.gov>; Marquez, Jaime@Wildlife <Jaime.Marquez@Wildlife.ca.gov>; CDFW Tracking (R4CEQA@wildlife.ca.gov) <r4ceqa@wildlife.ca.gov>; Deel, David@DOT <david.deel@dot.ca.gov>; Mendibles, Lorena@DOT <lorena.mendibles@dot.ca.gov>; Gilmore, Damon@CHP <DaGilmore@chp.ca.gov>; bor@cpuc.ca.gov (bor@cpuc.ca.gov) <bor@cpuc.ca.gov>; NAHC@NAHC <NAHC@nahc.ca.gov>; Schmitz, Lori@Waterboards <Lori.Schmitz@waterboards.ca.gov>; WB-RB5F-CentralValleyFresno <CentralValleyFresno@waterboards.ca.gov>; CEQA Division (CEQA@valleyair.org) <ceqa@valleyair.org>; Mark Montelongo (Mark.Montelongo@valleyair.org) <mark.montelongo@valleyair.org>
Cc: Jessica R Willis <JWillis@tularecounty.ca.gov>
Subject: Notice of Availability of a Draft Environmental Impact Report for Draft 2023 Kingsburg Area Community Plan

EXTERNAL:

Good morning.

The Draft Environmental Impact Report for the proposed Draft 2023 Kingsburg Area Community Plan was released for a 45-day public review and comment period beginning September 13, 2023, and ending October 27, 2023. Please see attached NOA and the EIR can be found online at the following locations.

RMA WEBSITE: <https://tularecounty.ca.gov/rma/planning-building/environmental-planning/environmental-impact-reports/kingsburg-area-community-plan/>

OPR'S CEQANET WEBSITE: <https://ceqasubmit.opr.ca.gov/Document/Index/274792/2>

Please feel free to contact me with any questions or concerns.

Regards.

Danielle Folk

Planner III
Tulare County Resource Management Agency
(559) 624-7029
Dfolk@tularecounty.ca.gov

ATTACHMENT “C”

Comments from City of Kingsburg, October 27, 2023

and

County Response to Comments, January 10, 2024



RESOURCE MANAGEMENT AGENCY

5961 SOUTH MOONEY BLVD
VISALIA, CA 93277
PHONE (559) 624-7000
FAX (559) 730-2653

Aaron R. Bock Economic Development and Planning
Reed Schenke Public Works
Sherman Dix Fiscal Services

REED SCHENKE, DIRECTOR

MICHAEL WASHAM, ASSOCIATE DIRECTOR

January 12, 2024

Sent Via E-mail

Holly Owen, Community Development Director
City of Kingsburg
1401 Draper Street
Kingsburg, CA 93631-1908

Subject: Response to Comments, DEIR – Draft 2023 Kingsburg Area Community Plan, SCH# 2021120339

Dear Ms. Owen:

Thank you for providing City of Kingsburg's letter response (dated October 27, 2023) regarding DEIR – Draft 2023 Kingsburg Area Community Plan, SCH# 2021120339.

The County of Tulare (County) acknowledges and recognizes Kingsburg's (City) authority and expertise regarding planning issues relative to the proposed project. Based on your comment letter and other comment letters received from other agencies, the County has responded to the comments and in some cases made revisions to the project environmental documents. The following is the County of Tulare Resource Management Agency (RMA) response to your letter (attached for your ease of reference). The Final EIR (see below for website link) also includes RMA's response to your comments (below) as well as the revisions to the project environmental documents.

Comment 1: Aesthetics: 1) *Although Kingsburg does not currently have a Night Sky ordinance pertaining to lighting, recent projects have been requested to ensure that the lighting design for the project includes downward-directed lighting to produce the lowest intensity lighting needed for the use-preventing glare that spills over into other land uses and distracts motorists. We would be requesting that consideration for new projects that are proposed for the area.*

Response: Tulare County also values aesthetics of design and is sensitive to land uses that result in excessive light and glare. Tulare County building standards will be implemented for each development project when they are submitted to the County for review. As a result, and as shown in the DEIR KACP Aesthetics Chapter 3.1, several policies have been identified to limit Night Sky impacts. These include:

- LU-7.19 Minimize Lighting Impacts - The County shall ensure that lighting in residential areas and along County roadways shall be designed to prevent artificial lighting from reflecting into adjacent natural or open space areas unless required for public safety. (Page 3.1-7)

- ERM-5.19 Night Sky Protection - Upon demonstrated interest by a community, mountain service center, or hamlet, the County will determine the best means by which to protect the visibility of the night sky. (Page 3.1.8)

Comment 2: *Aesthetics: 2) Kingsburg was asked recently to consider a programmable LED highway sign, similar to those alongside Highway 99 in Selma near their Auto Mall area. This was not supported by Planning, for the same reasons as above. We would ask that this determination be considered for any future growth in the project area.*

Response: Tulare County will follow building standards regarding highway signage, which includes programmable LED highway signs along the State Route 99 corridor. As such, and as shown in the DEIR KACP Aesthetics Chapter 3.1, a policy has been identified to include compatible signage as shown on Page 3.1.7. This includes:

- SL-1.1 Natural Landscapes - During review of discretionary approvals, including parcel and subdivision maps, the County shall, as appropriate, require new development to not significantly impact or block views of Tulare County's natural landscapes. To this end, the County may require new development to:
 1. Be sited to minimize obstruction of views from public lands and rights-of-ways,
 2. Be designed to reduce visual prominence by keeping development below ridge lines, using regionally familiar architectural forms, materials, and colors that blend structures into the landscape,
 3. Screen parking areas from view,
 4. Include landscaping that screens the development,
 5. Limit the impact of new roadways and grading on natural settings, and,
 6. Include signage that is compatible and in character with the location and building design.

Comment 3: *Aesthetics: 3) Kingsburg adopted the Highway Beautification Overlay Ordinance for State Highway 99. It is on our website at: <https://www.cityofkingsburg-ca.gov/DocumentCenter/View/192/Highway-Beautification-Overlay-Zone-PDF>. In addition, the overlay is outlined on our General Plan Map, viewed here: <https://www.cityofkingsburg-ca.gov/DocumentCenter/View/185/Kingsburg-Official-General-Plan-Map-PDF>. It appears that some of this overlay includes some of the Planning Area.*

Response: Development in Tulare County will follow building and zoning standards to protect and enhance the natural scenic beauty of the environment. As noted above, Policy SL-1.1 will apply to the proposed Project area. The County will also encourage new, future development to comply with the City's beautification overlay, as applicable.

Comment 4: *Water/Sewer: 1) Consolidated Irrigation District: Although this district is on the list of 'organizations consulted, they are not listed as an irrigation district in Tulare County. We believe that some of their infrastructure is in portions of Tulare County. Perhaps that should be added to the list on p. 335.*

Response: The list shown in Table 3.10-2 identifies Irrigation Districts in Tulare County as identified in Tulare County's Municipal Service Reviews (MSRs). Consolidated Irrigation District (CID) is evaluated in Fresno County's MSR. Should development occur within CID's jurisdiction, they will be contacted by the Project applicant that must then comply with all applicable Tulare County and Irrigation District standards and requirements prior to development. Also, it is noted that CID was provided a Notice of Availability of the Draft EIR, but did not provide any comments.

Comment 5: *Water/Sewer: 2) The information on Kingsburg's wells and water and their role in potentially serving projects in the area seems to be absent. Please add this information. You may contact our Public Works Director for further information.*

Response: When proposed projects are submitted to the County for review, the Project applicant will have to develop their own individual well or seek a local water supplier. At that time, the applicant will have to demonstrate the ability to obtain clean water and demonstrate water quality standards and fire flow quantities are consistent with state and local regulations. At this juncture, as there are no development projects associated with the KACP, it remains unknown if a developer of residential, commercial, and/or industrial uses would consider requesting extra-territorial service from the City. Regardless of choice, the developer will still be required to comply with applicable requirements from the water supplier.

Comment 6: *Water/Sewer: 3) As SKF is updating their Master Plan, it may be valuable to mention that the County has had conversations or meetings about this plan.*

Response: There are no foreseeable projects that Tulare County could plan for that would impact SKF facilities. When proposed projects are submitted to the County for consideration, additional evaluations will be required to comply with state and local wastewater standards and requirements, regardless of whether it is septic tanks or alternative wastewater disposal systems. As indicated in the KACP DEIR (Page 3.7-9), "The proposed Project does not include the construction or usage of septic tanks or alternative wastewater disposal systems. Over time, the Project will build-out (i.e., developed) in similar soils within the Kingsburg area. Future development within the KACP planning area will likely connect to Selma-Kingsburg-Fowler (SKF) Sanitation District, with SKF's approval required and in compliance with SKF standards." As such, if wastewater service is requested from SKF, it will be the developer's responsibility to engage SKF regarding timing, standards, conditions, fees, etc. and to secure service from SKF as a condition of approval by the County for the project.

Comment 7: *Public Services: Page 444 will need to be verified with Kingsburg Fire Department for accuracy regarding personnel and equipment. Page 445 needs to be updated and corrected concerning the Kingsburg Police Department. Please contact them for assistance.*

Response: According to the State CEQA Guidelines, Section 15088 ©, the focus of the responses to comments is "the disposition of significant environmental issues raised." Therefore, detailed responses are not provided to comments that do not relate to relevant environmental issues. The County accessed information provided by the City of Kingsburg (Housing Element 2015-2023 IS/MND), like many agencies throughout our region it is possible that positions/staffing, equipment, and locations could evolve due to budget realities.

The information provided in the Draft EIR does not negate the reality that Kingsburg has both fire and police protection services but at this juncture of the KACP, as there are no proposed projects/developments associated with this planning document, positions/staffing; equipment; and locations are considered informational rather than definitive. When a development proposal is received, the County will coordinate with Tulare County Sheriff's Office and Fire Department to assure each respective agency's needs, if applicable, can be met with either existing resources or if new resources will be required.

Comment 8: *Traffic: Comments have been prepared on behalf of the City by Peters Engineering (City Engineer) and are attached.*

City Engineer Comment 1: *It is our concern that the DEIR transportation section does not acknowledge any development or growth likely to occur as a result of implementation of the Project, and suggests that any increase in traffic that would occur with the Project would also have occurred without the Project. This appears to conflict with the stated goal of the Project in the DEIR Project Description on pages ES-2 and 2-4 to "promote development within planning areas..."*

Response: Although it is Tulare County's goal to promote development within the County, the KACP is a plan and it does not identify any projects as part of this process. As stated throughout the DEIR, the KACP is being prepared to implement the 2030 Tulare County General Plan and update land use designations and zoning classification. There are no foreseeable projects that Tulare County could plan for that would generate additional trips within the KACP (beyond the 2.0% background growth factored into cumulative conditions). When proposed projects are submitted to the County for review, additional studies will be required according to *Tulare County SB 743 Guidelines*, which includes guidance for Local Transportation Analysis or if the proposal would result in greater than 100 peak hour (AM or PM) vehicle trips or where LOS "D" or greater would occur as specified in the Tulare County General Plan 2030 Update Policy TC-1.15 and also consistent with the Tulare County Association of Governments peak vehicle trip threshold of 100 vehicles. The CEQA process will be followed per state and local requirements.

City Engineer Comment 2: *Development of sites conforming to the Project will create new trips at intersections and road segments in the City of Kingsburg. The number of new trips and the effects on City of Kingsburg facilities relative to City of Kingsburg policies have not been analyzed. Therefore, the DEIR has not adequately determined whether the Project conflicts with City of Kingsburg policies.*

Response: There are no foreseeable projects that Tulare County could plan for that would impact Kingsburg intersections and road segments. When proposed projects are submitted to the County for consideration, additional evaluations will be required according to *Tulare County SB 743 Guidelines* (which includes guidance for Local Transportation Analysis), and as noted earlier, Tulare County General Plan 2030 Update Policy TC-1.15. Also, the County will evaluate the need

for additional analysis if the proposal is expected to generate more than 100 peak hour vehicle trips or where LOS “D” or greater would occur. Should the project be determined to be regional in nature, adjacent counties, cities and Caltrans will have the opportunity to review and comment on the project’s VMT and traffic operations analyses. The CEQA process will be followed per state and local requirements.

City Engineer Comment 3: *It is unclear whether development in accordance with the proposed zoning will be allowed as a by-right use with no traffic analyses or whether a full transportation impact analysis (operational analyses and VMT) will be required for each new development proposed. If development will be allowed by right, then the CEQA process with respect to transportation impacts and conformance with City of Kingsburg standards would have been circumvented.*

Response: When proposed projects are submitted to the County for review, additional analyses will be required according to *Tulare County SB 743 Guidelines*, which includes full transportation impact analysis (VMT and operation analyses). As noted earlier, the County will evaluate the need for additional analysis if the proposal would result in greater than 100 peak hour vehicle trips or where LOS “D” or greater would occur. Development will not be allowed by right because of a change in zoning as this action would be discretionary in nature. The CEQA process will be followed per state and local requirements.

City Engineer Comment 4: *The DEIR indicates that the interchange of State Route 99, Road 12, and Mendocino Avenue is expected to operate below the target level of service in the cumulative condition but concludes that no significant impact will occur because a potential improvement has been identified. However, the mitigation measure, funding mechanism, and planning documents outlining how the improvements will be achieved has not been identified, nor has the Project’s share of the responsibility for the improvements.*

Response: When proposed projects are submitted to the County for review, additional studies will be required according to *Tulare County SB 743 Guidelines (Guidelines)*, which includes full transportation impact analysis (VMT and operation analyses) when thresholds (e.g., trips) are met exceeded. Per *Guidelines*, “Roadway improvements or a fair share contribution for roadway improvements shall be recommended for any roadway facilities that are anticipated to operate worse than the target of level of service D.” To reiterate, the County will evaluate the need for additional analysis if the proposal would result in greater than 100 peak hour vehicle trips or where LOS “D” or greater would occur.

City Engineer Comment 5: *In our opinion, trip generation estimates for sites that are likely to develop in conformance with the proposed zoning should be provided and analysis of City of Kingsburg facilities should be included in the DEIR. The DEIR should acknowledge the potential for development in the Project and both the operational impacts in accordance with existing policies and potential future VMT impacts in accordance State law. It is our opinion that feasible mitigation measures should be discussed and that the DEIR should consider that the Project will contribute to significant transportation impacts.*

Response: Tulare County policy does not require trip generation estimates when land use designations are updated or when there is a change in zoning designation unless the change is intended to accommodate a specific project proposal that is relying on a change to receive its entitlements. As noted earlier and reiterated here, there are no foreseeable projects that Tulare County could plan for that would generate additional trips within the KACP. When proposed projects are submitted to the County for review, additional evaluation will be required according to *Tulare County SB 743 Guidelines*, which includes guidance for Local Transportation Analysis. Also, the County will evaluate the need for additional analysis if the proposal would result in greater than 100 peak hour vehicle trips or where LOS “D” or greater would occur. The CEQA process will be followed per state and local requirements.

Comment 9: *M-1-MU: In reviewing the tables and maps for the existing and proposed zoning for the Community Plan area, this is obviously the largest proposed change in land use. I was not able to find a definition to match this zone, however. The assumption is that it is a hybrid of sorts, but is it intended to fall under ‘other use in the same building’ as the Mixed-Use definition states? It would be helpful to hear examples of exactly what might be proposed to fill so many acres with this designation.*

Response: Page 3.11-2 of the DEIR 2023 KACP, the following description of mixed-use land use is as follows:

Mixed-Use (MU) - This designation establishes areas appropriate for the planned integration of some combination of retail, office, single and multi-family residential, hotel, recreation, limited industrial, public facilities or other compatible use. Mixed-Use areas allow for higher density and intensity development, redevelopment, or a broad spectrum of compatible land uses ranging from a single use on one parcel to a cluster of uses. These areas are intended to provide flexibility in design and use for contiguous parcels having multiple owners, to protect and enhance the character of the area. The consideration of development proposals in Mixed-Use areas should focus on compatibility between land uses, and the development potential of a given area compared to the existing and proposed mix of land uses and their development impacts. This designation is found within UDBs, HDBs, PCAs, and MSCs and pursuant to regional growth corridor plans and policies.

Within the Mixed-Use Zoning District, all uses outlined in the M-1, C-3, C-2, C-1, R-1, R-2 and R-3 uses are allowed. Uses and activities that are found by the Planning Director to be similar to and compatible with those specific zoning districts are also allowed. In addition, use and activities determined to be compatible by the Planning Commission and the Board of Supervisors with the above-mentioned zoning districts are also allowed.

An example of a mixed-use project would be a single- and multi-family subdivision with ponding basin/recreation area adjacent to grocery store, fueling station/mini-mart and strip commercial with office spaces. Depending upon the number of residential units, a school and or daycare may also be included in this theoretical mixed-use project. Uses that are detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or

working in the neighborhood will not be allowed by right are subject to the determination of appropriateness by the Director of Planning.

Comment 10: GOAL IV: - *Coordinate Community Development Decisions with the City of Kingsburg (City) and Selma-Kingsburg-Fowler Sanitation District (SKF): As this is a formalization of a relationship between two jurisdictions, and as, if this is approved, many of the uses may be considered 'by-right,' I will take the opportunity to respectfully request that the City be consulted in a timely manner for any project that applies for consideration for project development under this community plan. This may look like being included in a Site Plan Review Committee meeting, or a similar level of review.*

Response: We concur. When new development projects are proposed within the KACP area that may affect the City of Kingsburg (other cities or counties), Tulare County will, as a matter of course, include and engage these jurisdictions as part of the project review process and CEQA process as required by state and local requirements.

The County received subsequent comments on December 13, 2023 from the City Engineer (Peters Engineering) in which the County agreed to include City recommendations to the KACP as City of Kingsburg Policies (see attached).

The project will be taken to the Tulare County Planning Commission on January 24, 2024, for consideration of recommending that the Tulare County Board of Supervisors certify the Final EIR and approve the project.

The Final EIR will be available beginning January 12, 2024, at the following website: <https://tularecounty.ca.gov/rma/planning-building/environmental-planning/environmental-impact-reports/kingsburg-area-community-plan/>.

In closing, we sincerely appreciate Kingsburg's comments that will be useful toward ensuring that the proposed Project complies with your jurisdiction's rules, requirements, regulations, etc.; and with the California Environmental Quality Act.

If you have any questions regarding the above, please contact me by phone at (559) 624-7199, or by email at gmills@tularecounty.ca.gov.

Sincerely,



Gary A. Mills, Chief
Environmental Planning Division

*Attachments: City of Kingsburg comment letter dated October 27, 2023 (including the memo prepared by City Engineer, Peters Engineering dated October 25, 2023)
Peters Engineering email, dated December 13, 2023*

cc: Alexander Henderson, City Manager
David Peters, City Engineer
file



City of Kingsburg

1401 Draper Street, Kingsburg, CA 93631-1908
(559) 897-5821 Fax: (559) 897-5568

October 27, 2023

Tulare County Resource Management Agency
Economic Development and Planning Branch
Environmental Planning Division

Thank you for allowing us to comment on the EIR for the Draft 2023 Kingsburg Area Community Plan that has been prepared. We welcome the opportunity to continue our communication on various issues at our common border that affect both our jurisdictions, and trust that this dialogue will continue.

As this area is contiguous to a developed part of Kingsburg, we want to comment on several sections of the EIR that are of some concern to us, and other areas that need to be updated. Included also is a separate attachment that addresses traffic items, submitted by Peters Engineering serving as Kingsburg's City Engineer.

Aesthetics:

The City of Kingsburg values the aesthetics of design and that uses that are adjacent to each other are compatible. The section on aesthetics addresses issues such as lighting, contextual design and buffers and screening as well as preserving scenic highways. The Kingsburg Planning department has several comments to offer for this section:

- 1) Although Kingsburg does not currently have a Night Sky ordinance pertaining to lighting, recent projects have been requested to ensure that the lighting design for the project includes downward-directed lighting to produce the lowest intensity lighting needed for the use-preventing glare that spills over into other land uses and distracts motorists. We would be requesting that consideration for new projects that are proposed for the area.
- 2) Kingsburg was asked recently to consider a programmable LED highway sign, similar to those alongside Highway 99 in Selma near their Auto Mall area. This was not supported by Planning, for the same reasons as above. We would ask that this determination be considered for any future growth in the project area.
- 3) Kingsburg adopted the Highway Beautification Overlay Ordinance for State Highway 99. It is on our website at: <https://www.cityofkingsburg-ca.gov/DocumentCenter/View/192/Highway-Beautification-Overlay-Zone-PDF>. In addition, the overlay is outlined on our General Plan Map, viewed here: <https://www.cityofkingsburg-ca.gov/DocumentCenter/View/185/Kingsburg-Official-General-Plan-Map-PDF>. It appears that some of this overlay includes some of the Planning Area.

Water/Sewer:

- 1) **Consolidated Irrigation District:** Although this district is on the list of ‘organizations consulted,’ they are not listed as an irrigation district in Tulare County. We believe that some of their infrastructure is in portions of Tulare County. Perhaps that should be added to the list on p. 335.
- 2) The information on **Kingsburg’s wells and water** and their role in potentially serving projects in the area seems to be absent. Please add this information. You may contact our Public Works Director for further information.
- 3) As **SKF** is updating their Master Plan, it may be valuable to mention that the County has had conversations or meetings about this plan.

Public Services:

Page 444 will need to be verified with Kingsburg Fire Department for accuracy regarding personnel and equipment.

Page 445 needs to be updated and corrected concerning the Kingsburg Police Department. Please contact them for assistance.

Traffic: Comments have been prepared by Peters Engineering (City Engineer) and are attached.

Planning:

M-1-MU: In reviewing the tables and maps for the existing and proposed zoning for the Community Plan area, this is obviously the largest proposed change in land use. I was not able to find a definition to match this zone, however. The assumption is that it is a hybrid of sorts, but is it intended to fall under ‘other use in the same building’ as the Mixed Use definition states? It would be helpful to hear examples of exactly what might be proposed to fill so many acres with this designation.

GOAL IV: - Coordinate Community Development Decisions with the City of Kingsburg (City) and Selma-Kingsburg-Fowler Sanitation District (SKF): As this is a formalization of a relationship between two jurisdictions, and as, if this is approved, many of the uses may be considered ‘by-right,’ I will take the opportunity to respectfully request that the City be consulted in a timely manner for any project that applies for consideration for project development under this community plan. This may look like being included in a Site Plan Review Committee meeting, or a similar level of review.

We have worked together with the County in ways that many would not have considered (Hash/Summerlyn, etc.) and have learned from each other during that process. Thank you for this opportunity to comment on this plan. I am looking forward to continuing to work together.

Sincerely,



Holly Owen
Community Development Director
City of Kingsburg



TECHNICAL MEMORANDUM

To: Ms. Holly Owen
City Planner
City of Kingsburg

From: David Peters, PE, TE
City Engineer
City of Kingsburg

Subject: Comments on the Transportation Section of the Draft EIR for the
Draft 2023 Kingsburg Area Community Plan
Tulare County, California

Date: October 25, 2023

The purpose of this memorandum is to provide comments related to the transportation analyses presented in the Draft Environmental Impact Report (SCH# 2021120339) for the Tulare County Resource Management Agency Draft 2023 Kingsburg Area Community Plan dated August 2023 (DEIR).

In general, the transportation analysis for both intersection operations and vehicle miles traveled (VMT) suggests that the Draft 2023 Kingsburg Area Community Plan (hereinafter referred to as the Project) will not result in development, will not generate traffic, and will cause a less-than-significant transportation impact. The DEIR suggests that the proposed zoning will simply bring the properties into conformance with the County of Tulare General Plan.

It is our concern that the DEIR transportation section does not acknowledge any development or growth likely to occur as a result of implementation of the Project, and suggests that any increase in traffic that would occur with the Project would also have occurred without the Project. This appears to conflict with the stated goal of the Project in the DEIR Project Description on pages ES-2 and 2-4 to “promote development within planning areas...”

Development of sites conforming to the Project will create new trips at intersections and road segments in the City of Kingsburg. The number of new trips and the effects on City of Kingsburg facilities relative to City of Kingsburg policies have not been analyzed. Therefore, the DEIR has not adequately determined whether the Project conflicts with City of Kingsburg policies.

It is unclear whether development in accordance with the proposed zoning will be allowed as a by-right use with no traffic analyses or whether a full transportation impact analysis (operational analyses and VMT) will be required for each new development proposed. If development will be allowed by right, then the CEQA process with respect to transportation impacts and conformance with City of Kingsburg standards would have been circumvented.

The DEIR indicates that the interchange of State Route 99, Road 12, and Mendocino Avenue is expected to operate below the target level of service in the cumulative condition, but concludes that no significant impact will occur because a potential improvement has been identified. However, the mitigation measure, funding mechanism, and planning documents outlining how the improvements will be achieved has not been identified, nor has the Project's share of the responsibility for the improvements.

In our opinion, trip generation estimates for sites that are likely to develop in conformance with the proposed zoning should be provided and analysis of City of Kingsburg facilities should be included in the DEIR. The DEIR should acknowledge the potential for development in the Project and both the operational impacts in accordance with existing policies and potential future VMT impacts in accordance State law. It is our opinion that feasible mitigation measures should be discussed and that the DEIR should consider that the Project will contribute to significant transportation impacts.

From: [David Peters](#)
To: [Gary Mills](#)
Cc: [Holly Owen](#); [Daniel A. Galvez](#); [Alex Henderson - City of Kingburg \(ahenderson@cityofkingsburg-ca.gov\)](#)
Subject: RE: Kingsburg Area Community Plan
Date: Wednesday, December 13, 2023 4:48:39 PM
Attachments: [image001.png](#)

This Message Is From an External Sender

This message came from outside your organization.

Thank you Gary.

David Peters, PE

From: Gary Mills <g mills@tularecounty.ca.gov>
Sent: Wednesday, December 13, 2023 4:07 PM
To: David Peters <DavidPeters@peters-engineering.com>
Cc: Holly Owen <howen@cityofkingsburg-ca.gov>; Daniel A. Galvez <dgalvez@cityofkingsburg-ca.gov>; Alex Henderson - City of Kingburg (ahenderson@cityofkingsburg-ca.gov)
<ahenderson@cityofkingsburg-ca.gov>
Subject: RE: Kingsburg Area Community Plan

Hi David,

I'd like to thank you and the City of Kingsburg for your responses to our comments.

Your suggestions will be added as policies to the plan under City of Kingsburg policies.

Thank you,

--



Gary A. Mills
Chief Planner
5961 S. Mooney Blvd.
Tulare County RMA
Visalia, CA 93277
Direct - (559) 624-7199

From: David Peters <DavidPeters@peters-engineering.com>
Sent: Wednesday, December 13, 2023 9:01 AM
To: Gary Mills <g mills@tularecounty.ca.gov>
Cc: Holly Owen <howen@cityofkingsburg-ca.gov>; Daniel A. Galvez <dgalvez@cityofkingsburg-ca.gov>; Alex Henderson - City of Kingburg (ahenderson@cityofkingsburg-ca.gov)
<ahenderson@cityofkingsburg-ca.gov>
Subject: Kingsburg Area Community Plan

This Message Is From an External Sender

This message came from outside your organization.

Gary,

Thank you for taking the time to discuss this on the phone with me. After further discussing this with City staff, the City offers the following suggestions to address concerns with the DEIR,

1. The County of Tulare should, as a requirement of the Area Plan approval, ensure that all future Site Plans be formally routed to the City of Kingsburg for review. After such review, the City will provide the County with comments and/or suggested Conditions of Approval for the proposed projects in the Area Plan. County will incorporate the comments and/or suggested Conditions of Approval or receive concurrence from the City if the comments or COA's are not incorporated into the project approval documents.
2. As a Condition of Approval for Site Plan Review projects, Opening Day traffic impacts causing a Level of Service impact as defined by the Kingsburg Traffic Impact Study Guidelines will be mitigated by the proposed project to a minimum level of service defined by the Kingsburg General Plan. This provision applies to City facilities as well as the 18th Avenue (Mendocino) / SR 99 interchange.
3. As a Condition of Approval for Site Plan Review projects, the County will require connection/use of City services via a City/County MOU. Services may include water, storm drainage, waste disposal, fire protection and police services.

If these provisions can be added in as mitigation measures or through some other means to ensure Kingsburg's continued involvement in the development of these parcels, The City's concerns with the project will be addressed.

Let me know if you have any questions. Thanks.

David Peters, PE, TE, PTOE
Kingsburg City Engineer

Peters Engineering Group
862 Pollasky Avenue
Clovis, CA 93612
(559) 299-1544 x 111

ATTACHMENT “D”

San Joaquin Valley Air Pollution Control District, November 1, 2023

and

County Response to Comments, January 17, 2024



RESOURCE MANAGEMENT AGENCY

5961 SOUTH MOONEY BLVD
VISALIA, CA 93277
PHONE (559) 624-7000
FAX (559) 730-2653

Aaron R. Bock Economic Development and Planning
Reed Schenke Public Works
Sherman Dix Fiscal Services

REED SCHENKE, DIRECTOR

MICHAEL WASHAM, ASSOCIATE DIRECTOR

January 17, 2024

Sent Via E-mail

Brian Clements, Director of Permit Services
San Joaquin Valley Air Pollution Control District
1991 E. Gettysburg Ave.
Fresno, CA 93726-0244

Subject: Response to Comments, DEIR – Draft 2023 Kingsburg Area Community Plan, SCH# 2021120339

Dear Mr. Clements:

Thank you for providing the San Joaquin Valley Air Pollution Control District (Air District) letter response (dated November 1, 2023) regarding DEIR – Draft 2023 Kingsburg Area Community Plan (KACP), State Clearinghouse No. 2021120339.

The County of Tulare (County) acknowledges and recognizes the Air District's authority and expertise regarding Air Quality and Greenhouse Gas issues relative to the proposed project. Based on your comment letter and other comment letters received from other agencies, the County has responded to the comments and in some cases made revisions to the project environmental documents. The following is the County of Tulare Resource Management Agency (RMA) response to your letter (attached for your ease of reference). The Final EIR (see below for website link) also includes RMA's response to your comments (below) as well as the revisions to the project environmental documents.

Comment 1: Project Siting: *The KACP is the blueprint for future growth and provides guidance for the community's development. Without appropriate mitigation and associated policy, future development projects within the County may contribute to negative impacts on air quality due to increased traffic and ongoing operational emissions. Appropriate project siting helps ensure there is adequate distance between differing land uses, which can prevent or reduce localized and cumulative air pollution impacts from business operations that are in close proximity to receptors (e.g., residences, schools, health care facilities, etc.). KACP siting-related goals, policies, and objectives should include measures and concepts outlined in the following resources:*

CARB's Air Quality and Land Use Handbook: A Community Health Perspective. The document includes tables with recommended buffer distances associated with various types of common sources (e.g., distribution centers, chrome platers, gasoline dispensing facilities, etc.), and can be found at: <https://ww2.arb.ca.gov/our-work/programs/resource-center/strategy-development/land-use-resources>

- *CARB's Freight Handbook Concept Paper: This document compiles best practices designed to address air pollution impacts, which may apply to the siting, design, construction, and operation of freight facilities to minimize health impacts on nearby communities, and can be found at:*
https://ww2.arb.ca.gov/sites/default/files/2020-03/2019.12.12%20-%20Concept%20Paper%20for%20the%20Freight%20Handbook_1.pdf

Response: The County agrees that project design and appropriate siting of future developments within the KACP development area is essential in avoiding incompatible land uses that could lead to localized impacts on nearby receptors. Future developments will be required to comply with all applicable KACP and Tulare County General Plan goals, policies, and implementation measures, including those that are consistent with the concepts in the two (2) referenced CARB documents. Specifically, the KACP and General Plan include the following policies and implementation measures designed, to reduce potential impacts of siting incompatible land uses in close proximity to one another:¹

KACP:

- Goal II, Objective I: Promote concentrations of similar or compatible Uses.
 - Policy 1. Promote a concentration of industrial and commercial activities within selected areas to allow for cost efficient provision of necessary services and to protect residential neighborhoods.
 - Policy 2. The County shall discourage the intrusion into existing urban areas of new incompatible land uses that produce significant noise, odors, or fumes.
 - Policy 5. Land well suited for industrial development because of access, availability of infrastructure and proximity to similar land uses should be designated for industry and protected from the encroachment of incompatible uses.
 - Policy 6. Establish areas zoned exclusively for industry, commerce and residences consistent with the policies in this plan.
 - Policy 7. Phase-out existing nonconforming commercial and industrial concerns within planned residential areas through appropriate zoning amortization procedures.
 - Policy 10. The County shall ensure that solid waste facility sites (for example, landfills) are protected from the encroachment by sensitive and/or incompatible land uses.
- Goal II, Objective II: Provide for appropriate buffers between areas set aside for commercial activities and single-family residential uses.
 - Policy 1: Require adequate setbacks, side and rear yards, landscaping and screening between living and working areas.
 - Policy 2. Utilize roadways, railroad rights of way and other physical features to separate planned living and working areas.

General Plan

- Chapter 2. Planning Framework: Policy PF-2.8 Inappropriate Land Use and Policy PF-3.4 Mixed Use Opportunities

¹ The Tulare County General Plan 2030 Update is available online at <https://generalplan.co.tulare.ca.us/documents/GP/001Adopted%20Tulare%20County%20General%20Plan%20Materials/000General%20Plan%202030%20Part%20I%20and%20Part%20II/GENERAL%20PLAN%202012.pdf>.

- Chapter 4. Land Use: Policy LU-1.1 Smart Growth and Healthy Communities; Policy LU-1.3 Prevent Incompatible Uses; Policy LU-3.6 Project Design; and Policy LU-3.8 Rural Residential Interface
- Chapter 8. Environmental Resources Management: Policy ERM-5.15 Open Space Preservation
- Chapter 14. Public Facilities and Services: Policy PFS-5.8 Hazardous Waste Disposal Capabilities; and Policy PFS-8.3 Location of School Sites
- Chapter 9. Air Quality: Policy AQ-1.1 Cooperation with Other Agencies; Policy AQ-1.2 Cooperation with Local Jurisdictions; Policy AQ-1.3 Cumulative Air Quality Impacts; Policy AQ-1.4 Air Quality Land Use Compatibility; Policy AQ-4.1 Air Pollution Control Technology; Implementation Policy No. 3 (application review); and Implementation Policy No. 4 (coordination with Air District for evaluation of air quality impacts)
- Chapter 10. Health and Safety: Policy HS-4.3 Incompatible Land Uses; Policy HS-4.4 Contamination Prevention; Policy HS-4.8 Hazardous Material Studies; and Policy HS-9.1 Healthy Communities

Furthermore, there are no development proposals included in the proposed project and all future developments will be evaluated on a project-by-project basis. Future developments will be evaluated for consistency with the recommended distances identified in Table 1-1 of CARB's *Air Quality and Land Use Handbook*. The County will continue to consult with the Air District on a project-by-project basis to evaluate potential impacts on air quality and health risks of new developments within the KACP planning area.

Comment 2: *Project Related Emissions:* *The DEIR quantified the air quality emissions impacts from the Project and concluded the air quality emissions impacts will be below the District's thresholds of significance for criteria pollutants. However, since there is no individual project-specific data available at this time and the construction and operational timeframes for future developments is unknown, the District recommends the DEIR stipulate that future individual project-level emissions be assessed. Additionally, air quality emission increases from future individual projects should be compared to District significance thresholds as identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts, and subsequently require mitigation of air quality impacts to the extent feasible at the individual project level. The District's Guidance for Assessing and Mitigating Air Quality Impacts can be found at: <https://www.valleyair.org/transportation/GAMAQI.pdf>.*

The Project includes light industrial development, which has the potential to include warehousing. As a result, future light industrial development has the potential to result in increased HHD truck trips that have the ability to travel further distances (e.g. trip length) for distribution. The analyses of the expected industrial development in the DEIR used a trip length of 7.3 miles. This value represents the default CalEEMod trip length. Based on Appendix A (Air Quality and Greenhouse Gas Assessment Technical Memorandum), Project related emissions resulting from the CalEEMod analyses may be underestimated. Therefore, the District recommends the DEIR be revised to include a qualitative discussion to support the trip length applied to the CalEEMod analyses for future industrial development projects.

Response: Future developments will be evaluated on a project-by-project basis. If a project is determined to exceed the Air District's Small Project Analysis Level (SPAL), further assessment will be required.

As previously noted, there are no developments proposed with this Project and it is unknown whether the area within the proposed UDB will be realized. The mixed-use overlay allows for a variety of uses within the M-1 (Light Manufacturing) zone. As there are no developments proposed at this time and future development in the M-1 zone may include less intense uses (i.e., fewer heavy-duty truck trips, local deliveries only, etc.) changes to the CalEEMod default trip length would be speculative. As noted above, future development will be evaluated on a project-by-project basis to determine if additional assessment would be necessary.

Comment 3: *Allowed Uses Not Requiring Project-Specific Discretionary Approval:* *In the event that the County determines that a project be approved as an allowed use not requiring a project-specific discretionary approval, the District recommends the DEIR include language requiring such projects to prepare a technical assessment, in consultation with the District, to determine if additional analysis and/or mitigation is required.*

Response: As previously noted, future developments will be evaluated on a project-by-project basis. If a project is determined to exceed the Air District's Small Project Analysis Level (SPAL), further evaluation will be completed by RMA staff or a qualified air quality consultant.

Comment 4: *Voluntary Emission Reduction Agreement:* *Future development projects within the KACP could have a significant impact on air quality. The District recommends the DEIR include a feasibility discussion on implementing a Voluntary Emission Reduction Agreement (VERA) as a mitigation measure for future development projects that may be approved under implementation of the Project that are determined to exceed the District's CEQA significance thresholds.*

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-related impacts on air quality can be 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 agricultural equipment with the latest generation technologies.

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-related emissions

have been mitigated. To assist the Lead Agency and project proponent in ensuring that the environmental document is compliant with CEQA, the District recommends the environmental document includes an assessment of the feasibility of implementing a VERA.

Response: The County agrees that implementing a VERA may be a feasible mitigation measure to reduce impacts on air quality. Future developments will be evaluated on a project-by-project basis. If a project is determined to exceed the Air District's Small Project Analysis Level (SPAL), further evaluation will be conducted by RMA staff or a qualified air quality consultant. If the estimated emissions exceed the Air Districts thresholds of significance, then mitigation measures will be required prior to RMA approval. The applicant will be notified of opportunities for both on-site mitigation, such as use of zero or low emission vehicles and equipment, and off-site mitigation, such as VERA. If emissions cannot be mitigated through on-site measures, a VERA may be used if found to be feasible.

Comment 5: *Future Industrial/Warehouse Emission Reduction Strategies:* *Since the Project includes industrial development, the District recommends the County incorporate emission reduction strategies that can reduce potential harmful health impacts, such as those listed below:*

- *Require cleanest available heavy-duty trucks and off-road equipment (see comment 7)*
- *Require HHD truck routing patterns that limit exposure of residential communities and sensitive receptors to emissions (see comment 8)*
- *Require solid screen buffering trees, solid decorative walls, and/or other natural ground landscaping techniques are implemented along the property line of adjacent sensitive receptors*
- *Orient loading docks away from sensitive receptors unless physically impossible*
- *Require loading docks a minimum of 300 feet away from the property line of sensitive receptor unless dock is exclusively used for electric trucks*
- *Incorporate signage and "pavement markings" to clearly identify on-site circulation patterns to minimize unnecessary on-site vehicle travel*
- *Require truck entries be located on streets of a higher commercial classification*
- *Require projects be designed to provide the necessary infrastructure to support use of zero-emissions on-road vehicles and off-road equipment (see comment 10)*
- *Require all building roofs are solar-ready*
- *Require all portions of roof tops that are not covered with solar panels are constructed to have light colored roofing material with a solar reflective index of greater than 78*
- *Ensure rooftop solar panels are installed and operated to supply 100% of the power needed to operate all non-refrigerated portions of the development project*
- *Require power sources at loading docks for all refrigerated trucks have "plugin" capacity, which will eliminate prolonged idling while loading and unloading goods*
- *Incorporate bicycle racks and electric bike plug-ins*
- *Require the use of low volatile organic compounds (VOC) architectural and industrial maintenance coatings*
- *Designate an area during construction to charge electric powered construction vehicles and equipment, if temporary power is available*
- *Prohibit the use of non-emergency diesel-powered generators during Construction*

- *Inform the project proponent of the incentive programs (e.g., Carl Moyer Program and Voucher Incentive Program) offered to reduce air emissions from the Project*
- *Ensure all landscaping be drought tolerant*

Response: As previously noted, future developments will be evaluated on a project-by-project basis. Projects will be compared to the Air District's SPAL and evaluated against the Air District's thresholds of significance. Project plans are thoroughly reviewed by Building Department staff for compliance with state and federal regulations, which include some of the reduction measures identified above, and for potential hazards due to project design. Further, future developments exceeding the Tulare County Climate Action Plan (CAP) applicability thresholds would be required to implement emissions reduction strategies identified above as part of their CAP compliance plan.

Comment 6: *Truck Routing:* *Truck routing involves the assessment of which roads Heavy Heavy-Duty (HHD) trucks take to and from their destination, and the emissions impact that the HHD trucks may have on residential communities and sensitive receptors. Since the Project includes commercial and industrial development, there is potential for an increase in HHD truck trips.*

The District recommends the County evaluate HHD truck routing patterns for future development projects, with the aim of limiting exposure of residential communities and sensitive receptors to emissions. This evaluation would consider the current truck routes, the quantity and type of each truck (e.g., Medium Heavy-Duty, HHD, etc.), the destination and origin of each trip, traffic volume correlation with the time of day or the day of the week, overall Vehicle Miles Traveled (VMT), and associated exhaust emissions. The truck routing evaluation would also identify alternative truck routes and their impacts on VMT and air quality.

Response: As previously noted, future developments will be evaluated on a project-by-project basis. Future development plans will be reviewed for compliance with state and federal regulations, consistency with the Tulare County Ordinance Code, including Tulare County's SB 743 Guidelines, and for potential impacts to local roadways and VMT-related issues.

Comment 7: *Cleanest Available Heavy-Duty Trucks:* *The San Joaquin Valley will not be able to attain stringent health-based federal air quality standards without significant reductions in emissions from HHD trucks, the single largest source of NOx emissions in the San Joaquin Valley. Accordingly, to meet federal air quality attainment standards, the District's ozone and particulate matter attainment plans rely on a significant and rapid transition of HHD fleets to zero or near-zero emissions technologies.*

The Project is expected to result in future development (e.g. commercial, industrial, etc.) as such, the District recommends that the following measures be considered by the County to reduce Project-related operational emissions:

- *Recommended Measure: Fleets associated with operational activities utilize the cleanest available HHD trucks, including zero and near-zero technologies.*

- *Recommended Measure: All on-site service equipment (cargo handling, yard hostlers, forklifts, pallet jacks, etc.) utilize zero-emissions technologies.*

Response: The County acknowledges the role HHD trucks play in the Valley's attainment status. However, the County does not control daily operations of private businesses and is precluded from requiring businesses to implement emission reducing strategies more stringent than state or federal regulations. As future developments will be evaluated on a project-by-project basis, the need and/or feasibility of these measures will be evaluated.

Comment 8: *Electric On-Site Off-Road and On-Road Equipment:* *Future development projects may have the potential to result in increased use of off-road equipment (e.g., forklifts) and on-road equipment (e.g., mobile yard trucks with the ability to move materials). The District recommends that the DEIR include requirements for project proponents to utilize electric or zero emission off-road and on-road equipment.*

Response: The County acknowledges the air quality and greenhouse gas benefits of electric or zero emission vehicles and equipment. However, as previously noted, the County does not have control of the daily operations of private businesses. The need and/or feasibility of this measure will be evaluated on a project-by-project basis.

Comment 9: *Under-fired Charbroilers:* *The Project is expected to result in future commercial development projects that have the potential to occupy restaurants with under-fired charbroilers. Such charbroilers may pose the potential for immediate health risk, particularly when located in densely populated areas or near sensitive receptors.*

Since the cooking of meat can release carcinogenic PM2.5 species, such as polycyclic aromatic hydrocarbons, controlling emissions from new under-fired charbroilers will have a substantial positive impact on public health. 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 air quality concerns.

Furthermore, reducing commercial charbroiling emissions is essential to achieving attainment of multiple federal PM2.5 standards. Therefore, the District recommends that the DEIR 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 County and project proponents with this assessment. Additionally, the District is currently offering substantial incentive funding that covers the full cost of purchasing, installing, and maintaining the system during a demonstration period covering two years of operation. Please contact the District at (559) 230-5800 or technology@valleyair.org for more information, or visit: <http://valleyair.org/grants/rctp.htm>

Response: The County recognizes that inappropriate siting of development projects resulting in TAC emissions could have a negative health impact on receptors in the project area. Future development projects will be evaluated on a project-by-project basis. Future

projects utilizing under-fired charbroilers will be referred to the Air District for compliance with Air District rules, requirements, and regulations.

Comment 10: *Vegetative Barriers and Urban Greening:* *For future development projects within the Project area, and at strategic locations throughout the Project area in general, the District suggests the County consider incorporating vegetative barriers and urban greening as a measure to further reduce air pollution exposure on sensitive receptors (e.g., residences, schools, healthcare facilities).*

While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, vegetative barriers have been shown to be an additional measure to potentially reduce a population's exposure to air pollution through the interception of airborne particles and the uptake of gaseous pollutants. Examples of vegetative barriers include, but are not limited to the following: trees, bushes, shrubs, or a mix of these. Generally, a higher and thicker vegetative barrier with full coverage will result in greater reductions in downwind pollutant concentrations. In the same manner, urban greening is also a way to help improve air quality and public health in addition to enhancing the overall beautification of a community with drought tolerant, low-maintenance greenery.

Response: As previously noted, future developments will be evaluated on a project-by-project basis. Development plans are reviewed by Tulare County Building Department staff for compliance with the Tulare County Ordinance Code and State regulation, including on-site green space and landscaping.

Comment 11: *Clean Lawn and Garden Equipment in the Community:* *Since the Project consists of residential, commercial, industrial and mixed-use development, gas-powered lawn and garden equipment have the potential to result in an increase of NOx and PM2.5 emissions. Utilizing electric lawn care equipment can provide residents with immediate economic, environmental, and health benefits. The District recommends the Project proponent consider the District's Clean Green Yard Machines (CGYM) program which provides incentive funding for replacement of existing gas powered lawn and garden equipment. More information on the District CGYM program and funding can be found at: <http://www.valleyair.org/grants/cgym.htm> and <http://valleyair.org/grants/cgym-commercial.htm>.*

Response: As previously noted, there are no development projects proposed with this project and Tulare County is the applicant for KACP.

Comment 12: *On-Site Solar Deployment:* *It is the policy of the State of California that renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045. While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, the production of solar energy is contributing to improving air quality and public health. The District suggests that the County consider incorporating solar power systems as an emission reduction strategy for future development projects that may be approved under implementation of the Project.*

Response: The County acknowledges the benefit of on-site solar power systems and their role in the State achieving its renewable energy targets. As previously noted, future developments will be evaluated on a project-by-project basis. Development plans are reviewed by Tulare County Building Department staff for compliance with the Tulare County Ordinance Code and State regulation. For future development projects exceeding the Tulare County CAP applicability thresholds, providing on-site solar power is one of the measures that can be implemented for consistency with the CAP.

Comment 13: *Electric Infrastructure:* *The District recommends that the County require all nonresidential buildings be designed to provide electric infrastructure to support the use of on-road zero emissions vehicles, such as HHD trucks associated with a industrial/warehouse or commercial project.*

To support and accelerate the installation of electric vehicle charging equipment and development of required infrastructure, the District offers incentives to public agencies, businesses, and property owners of multi-unit dwellings to install electric charging infrastructure (Level 2 and 3 chargers). The purpose of the District's Charge Up! Incentive program is to promote clean air alternative-fuel technologies and the use of low or zero-emission vehicles. The District recommends that the County and project proponents install electric vehicle chargers at project sites, and at strategic locations.

Please visit www.valleyair.org/grants/chargeup.htm for more information.

Response: The County acknowledges the benefit of providing electric infrastructure in non-residential buildings. However, the County does not control daily operations of private businesses and is not in a position to require businesses to implement emission reducing strategies more stringent than state or federal regulations. The need and/or feasibility of installation of electric infrastructure will be evaluated on a project-by-project basis as future developments are proposed.

Comment 14: *District's Bikeway Incentive Program:* *Incorporating design elements (e.g., installing bikeways) within the Project that enhance walkability and connectivity can result in an overall reduction of vehicles miles traveled (VMT) and improve air quality within the area. Future development projects are expected to result in an overall reduction in VMT by installing bikeways, and may be eligible for funding through the District's Bikeway Incentive Program. The Bikeway Incentive Program provides funding for eligible Class I (Bicycle Path Construction), Class II (Bicycle Lane Striping), or Class III (Bicycle Route) projects. These incentives are designed to support the construction of new bikeway projects to promote clean air through the development of a widespread, interconnected network of bike paths, lanes, or routes and improving the general safety conditions for commuter bicyclists. Only municipalities, government agencies, or public educational institutions are eligible to apply. More information on the grant program can be found at: <http://valleyair.org/grants/bikepaths.htm>*

Guidelines and Project Eligibility for the grant program can be found at: http://valleyair.org/grants/documents/bikepaths/2015_Bikeway_Guidelines.pdf

Response: The County appreciates the Air District's referral to the Bikeway Incentive Program.

Comment 15: District Rules and Regulations: *The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.*

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. To identify other District rules or regulations that apply to future projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.

15a) District Rules 2010 and 2201 - 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 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).*

Future development projects may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to construction, project proponents shall obtain an ATC permit from the District for equipment/activities subject to District permitting requirements.

Recommended Mitigation Measure: For projects subject to permitting by the San Joaquin Valley Air Pollution Control District, demonstration of compliance with District Rule 2201 (obtain ATC permit from the District) shall be provided to the County before issuance of the first building permit.

For further information or assistance, project proponents may contact the District's SBA Office at (559) 230-5888.

15b) District Rule 9510 - Indirect Source Review (ISR): *Future development projects within the KACP may be subject to District Rule 9510 if upon full buildout, the project would equal or exceed any of the following applicability thresholds, depending on the type of development and public agency approval mechanism:*

Table 1: ISR Applicability Thresholds

Development Type	Discretionary Approval Threshold	Ministerial Approval / Allowed Use / By Right Thresholds
Residential	50 dwelling units	250 dwelling units
Commercial	2,000 square feet	10,000 square feet
Light Industrial	25,000 square feet	125,000 square feet
Heavy Industrial	100,000 square feet	500,000 square feet
Medical Office	20,000 square feet	100,000 square feet
General Office	39,000 square feet	195,000 square feet
Educational Office	9,000 square feet	45,000 square feet
Government	10,000 square feet	50,000 square feet
Recreational	20,000 square feet	100,000 square feet
Other	9,000 square feet	45,000 square feet

District Rule 9510 also applies to any transportation or transit development projects where construction exhaust emissions equal or exceed two tons of NOx or two tons of PM.

The purpose of District Rule 9510 is to reduce the growth in both NOx and PM emissions associated with development and transportation projects from mobile and area sources; specifically, the emissions associated with the construction and subsequent operation of development projects. The Rule requires developers to mitigate their NOx and PM emissions by incorporating clean air design elements into their projects. Should the proposed development project clean air design elements be insufficient to meet the required emission reductions, developers must pay a fee that ultimately funds incentive projects to achieve off-site emissions reductions.

In the case the individual development project is subject to District Rule 9510, per Section 5.0 of the rule, an Air Impact Assessment (AIA) application is required to be submitted no later than applying for project-level approval from a public agency so that proper mitigation and clean air design under ISR can be incorporated into the public agency's analysis.

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>.

District staff is available to provide assistance and can be reached by phone at (559) 230-5900 or by email at ISR@valleyair.org.

- 15c) District Rule 9410 (Employer Based Trip Reduction):** *Future development projects 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 District Rule 9410 can be found online at:
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

15d) District Rule 4002 (National Emissions Standards for Hazardous Air Pollutants): *In the event an existing building will be renovated, partially demolished or removed, future development projects may be subject to District Rule 4002. This rule requires a thorough inspection for asbestos to be conducted before any regulated facility is demolished or renovated. Information on how to comply with District Rule 4002 can be found online at: <http://www.valleyair.org/busind/comply/asbestosbuln.htm>.*

15e) District Rule 4601 (Architectural Coatings): *The Project will be subject to District Rule 4601 since it is expected to utilize architectural coatings. Architectural coatings are paints, varnishes, sealers, or stains that are applied to structures, portable buildings, pavements or curbs. The purpose of this rule is to limit VOC emissions from architectural coatings. In addition, this rule specifies architectural coatings storage, cleanup and labeling requirements. Additional information on how to comply with District Rule 4601 requirements can be found online at:
<http://www.valleyair.org/rules/currnrules/r4601.pdf>*

15f) District Regulation VIII (Fugitive PM10 Prohibitions): *The project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities.*

Should the project result in at least 1-acre in size, the project proponent shall provide written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the project result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials, the project proponent shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950.

*The application for both the Construction Notification and Dust Control Plan can be found online at:
<https://www.valleyair.org/busind/comply/PM10/forms/DCP-Form.docx>*

Information about District Regulation VIII can be found online at:

http://www.valleyair.org/busind/comply/pm10/compliance_pm10.htm

15g) District Rule 4901 – Wood Burning Fireplaces and Heaters: *The purpose of this rule is to limit emissions of carbon monoxide and particulate matter from wood burning fireplaces, wood burning heaters, and outdoor wood burning devices. This rule establishes limitations on the installation of new wood burning fireplaces and wood burning heaters. Specifically, at elevations below 3,000 feet in areas with natural gas service, no person shall install a wood burning fireplace, low mass fireplace, masonry heater, or wood burning heater.*

Information about District Rule 4901 can be found online at:

<http://valleyair.org/rule4901/>

15h) Other District Rules and Regulations: *Future development projects may also be subject to the following District rules: Rule 4102 (Nuisance) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).*

Response: The County agrees that a project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District’s regulatory framework. As previously noted, there are no development projects proposed within the KACP. However, future developments within the KACP development boundaries will be required to comply with all applicable Air District rules and regulation, all applicable policies in the KACP, and all applicable Tulare County General Plan goals, policies and implementation measures, including those policies and implementation measures that require applicants to comply with Air District rules and regulations, specifically:

- Policy AQ-1.1 Cooperation with Other Agencies;
- Policy AQ-2.2 Indirect Source Review;
- Policy AQ-4.1 Air Pollution Control Technology;
- Policy AQ-4.2 Dust Suppression Measures;
- Policy AQ-4.3 Paving or Treatment of Roadways for Reduced Air Emissions;
- Policy AQ-4.4 Wood Burning Devices;
- Policy AQ-4.6 Asbestos Airborne Toxic Control and Dust Protection;
- Implementation Measure No. 4 (evaluation of air quality impacts);
- Implementation Measure Nos. 5, 6, and 14 (implementation of Regulation VIII requirements);
- Implementation Measure 9 (notification of e-TRIP requirements); and
- Implementation Measure 15 (compliance with NESHAPS)²

Furthermore, all future developments will be evaluated on a project-by-project basis, and the County will consult with the Air District during the CEQA process to identify applicable Air District regulations and potential impacts on air quality and health risks.

² Chapter 9. Air Quality of the Tulare County General Plan, specifically pages 9-7 through 9-15, provides the County’s goals and policies designed to reduce potential impacts of new developments on air quality and greenhouse gases. The Tulare County General Plan is available online at <https://generalplan.co.tulare.ca.us/documents/GP/001Adopted%20Tulare%20County%20General%20Plan%20Materials/000General%20Plan%202030%20Part%20I%20and%20Part%20II/GENERAL%20PLAN%202012.pdf>.

Comment 16: Future Projects/Land Use Agency Referral Documents: Future development projects may require an environmental review and air emissions mitigation. A project's referral documents and environmental review documents provided to the District for review should include a project summary, the land use designation, project size, air emissions quantifications and impacts, and proximity to sensitive receptors and existing emission sources, and air emissions mitigation measures. For reference and guidance, more information can be found in the District's Guidance for Assessing and Mitigating Air Quality Impacts at: <https://www.valleyair.org/transportation/GAMAQI.pdf>

Response: The County appreciates the Air District's referral to their guidance document. The Air District will be notified of future development projects requiring additional environmental review.

Comment 17: The District recommends that a copy of the District's comments be provided to the Project proponent.

Response: Tulare County is the applicant for this Project. No response required.

The project will be taken to the Tulare County Planning Commission on January 24, 2024, for consideration of recommending that the Tulare County Board of Supervisors certify the Final EIR and approve the project.

The Final EIR will be available beginning January 12, 2024, at the following website: <https://tularecounty.ca.gov/rma/planning-building/environmental-planning/environmental-impact-reports/kingsburg-area-community-plan/>.

In closing, we sincerely appreciate the Air District's comments which will be useful toward ensuring that the proposed Project complies with your jurisdiction's rules, requirements, regulations, etc., and with the California Environmental Quality Act.

If you have any questions regarding the above, please contact me by phone at (559) 624-7122 or by email at jwillis@tularecounty.ca.gov, or Gary Mills, Chief Environmental Planner by phone at (559) 624-7199 or by email at gmills@tularecounty.ca.gov.

Best Regards,



Jessica Willis, Planner IV
Environmental Planning Division

Attachments: San Joaquin Valley Air Pollution Control District comment letter dated November 1, 2023

cc: Mark Montelongo, Program Manager
Matt Crow, Air Quality Specialist
file

November 1, 2023

Hector Guerra
County of Tulare
Resource Management Agency
5961 S. Mooney Boulevard
Visalia, CA 93277

**Project: Draft Environmental Impact Report – Draft 2023 Kingsburg Area
Community Plan**

District CEQA Reference No: 20230830

Dear Mr. Guerra:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Draft Environmental Impact Report (DEIR) from the County of Tulare (County) for the 2023 Kingsburg Area Community Plan (KACP). Per the DEIR, the project consists of a community level plan to update a 363 acre area in Kingsburg including: updates to land use designations, zoning classifications, expansion of the Kingsburg County Adopted City Urban Development Boundary area to accommodate projected growth and land use needs (Project). The Project is located in Kingsburg, CA, as shown below.

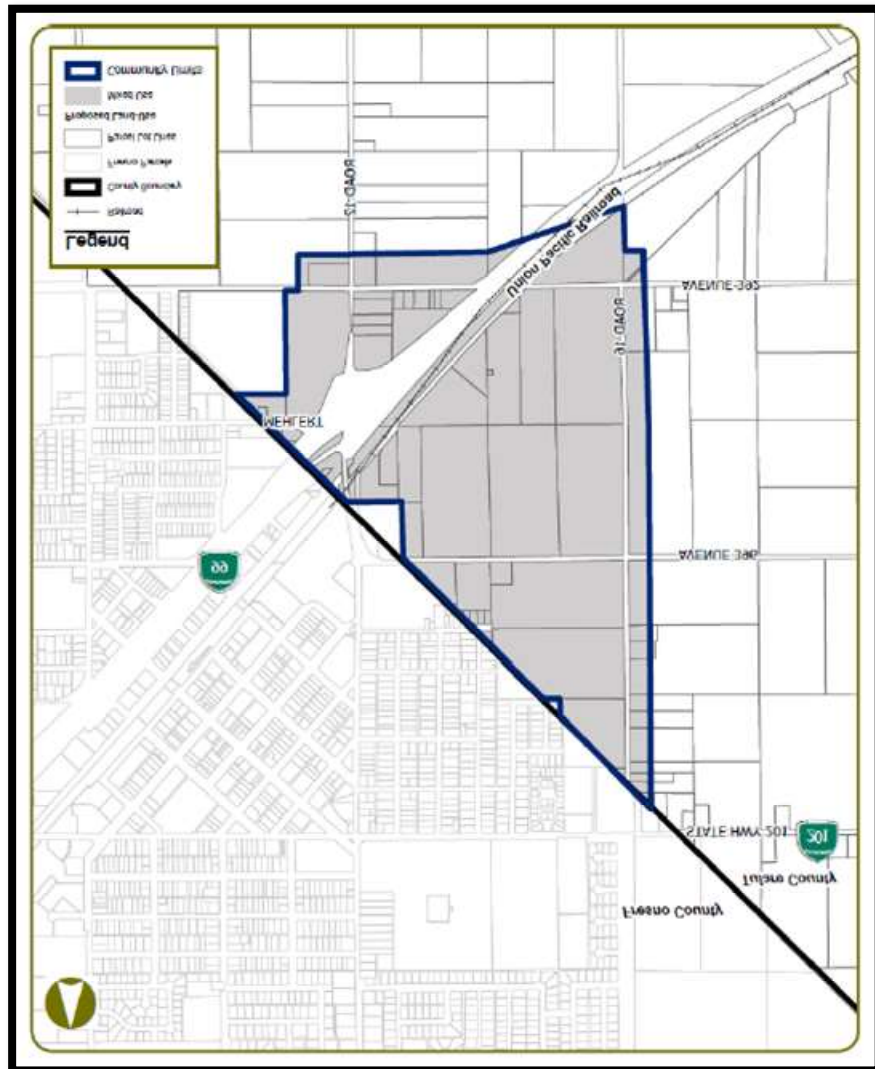
Samir Sheikh

Executive Director/Air Pollution Control Officer

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The Project is a plan level project and, while project-specific data may not be available until specific approvals are being granted, the DEIR should include a discussion of policies, which when implemented, will reduce or mitigate impacts on air quality at the individual project level.

The District offers the following comments at this time regarding the Project:

1) Project Siting

The KACP is the blueprint for future growth and provides guidance for the community's development. Without appropriate mitigation and associated policy, future development projects within the County may contribute to negative impacts on air quality due to increased traffic and ongoing operational emissions. Appropriate project siting helps ensure there is adequate distance between differing land uses,

which can prevent or reduce localized and cumulative air pollution impacts from business operations that are in close proximity to receptors (e.g., residences, schools, health care facilities, etc.). KACP siting-related goals, policies, and objectives should include measures and concepts outlined in the following resources:

- CARB's Air Quality and Land Use Handbook: A Community Health Perspective. The document includes tables with recommended buffer distances associated with various types of common sources (e.g., distribution centers, chrome platers, gasoline dispensing facilities, etc.), and can be found at: <https://ww2.arb.ca.gov/our-work/programs/resource-center/strategy-development/land-use-resources>
- CARB's Freight Handbook Concept Paper: This document compiles best practices designed to address air pollution impacts, which may apply to the siting, design, construction, and operation of freight facilities to minimize health impacts on nearby communities, and can be found at: https://ww2.arb.ca.gov/sites/default/files/2020-03/2019.12.12%20-%20Concept%20Paper%20for%20the%20Freight%20Handbook_1.pdf

2) Project Related Emissions

The DEIR quantified the air quality emissions impacts from the Project and concluded the air quality emissions impacts will be below the District's thresholds of significance for criteria pollutants. However, since there is no individual project-specific data available at this time and the construction and operational timeframes for future developments is unknown, the District recommends the DEIR stipulate that future individual project-level emissions be assessed. Additionally, air quality emission increases from future individual projects should be compared to District significance thresholds as identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts, and subsequently require mitigation of air quality impacts to the extent feasible at the individual project level. The District's Guidance for Assessing and Mitigating Air Quality Impacts can be found at: <https://www.valleyair.org/transportation/GAMAQI.pdf>.

The Project includes light industrial development, which has the potential to include warehousing. As a result, future light industrial development has the potential to result in increased HHD truck trips that have the ability to travel further distances (e.g. trip length) for distribution. The analyses of the expected industrial development in the DEIR used a trip length of 7.3 miles. This value represents the default CalEEMod trip length. Based on Appendix A (Air Quality and Greenhouse Gas Assessment Technical Memorandum), Project related emissions resulting from the CalEEMod analyses may be underestimated. Therefore, the District recommends the DEIR be revised to include a qualitative discussion to support the trip length applied to the CalEEMod analyses for future industrial development projects.

3) Allowed Uses Not Requiring Project-Specific Discretionary Approval

In the event that the County determines that a project be approved as an allowed use not requiring a project-specific discretionary approval, the District recommends the DEIR include language requiring such projects to prepare a technical assessment, in consultation with the District, to determine if additional analysis and/or mitigation is required.

4) Voluntary Emission Reduction Agreement

Future development projects within the KACP could have a significant impact on air quality. The District recommends the DEIR include a feasibility discussion on implementing a Voluntary Emission Reduction Agreement (VERA) as a mitigation measure for future development projects that may be approved under implementation of the Project that are determined to exceed the District's CEQA significance thresholds.

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-related impacts on air quality can be 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 agricultural equipment with the latest generation technologies.

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-related emissions have been mitigated. To assist the Lead Agency and project proponent in ensuring that the environmental document is compliant with CEQA, the District recommends the environmental document includes an assessment of the feasibility of implementing a VERA.

5) Future Industrial/Warehouse Emission Reduction Strategies

Since the Project includes industrial development, the District recommends the County incorporate emission reduction strategies that can reduce potential harmful health impacts, such as those listed below:

- Require cleanest available heavy-duty trucks and off-road equipment (see comment 7)
- Require HHD truck routing patterns that limit exposure of residential communities and sensitive receptors to emissions (see comment 8)
- Require solid screen buffering trees, solid decorative walls, and/or other natural ground landscaping techniques are implemented along the property line of adjacent sensitive receptors
- Orient loading docks away from sensitive receptors unless physically impossible
- Require loading docks a minimum of 300 feet away from the property line of sensitive receptor unless dock is exclusively used for electric trucks
- Incorporate signage and “pavement markings” to clearly identify on-site circulation patterns to minimize unnecessary on-site vehicle travel
- Require truck entries be located on streets of a higher commercial classification
- Require projects be designed to provide the necessary infrastructure to support use of zero-emissions on-road vehicles and off-road equipment (see comment 10)
- Require all building roofs are solar-ready
- Require all portions of roof tops that are not covered with solar panels are constructed to have light colored roofing material with a solar reflective index of greater than 78
- Ensure rooftop solar panels are installed and operated to supply 100% of the power needed to operate all non-refrigerated portions of the development project
- Require power sources at loading docks for all refrigerated trucks have “plugin” capacity, which will eliminate prolonged idling while loading and unloading goods
- Incorporate bicycle racks and electric bike plug-ins
- Require the use of low volatile organic compounds (VOC) architectural and industrial maintenance coatings
- Designate an area during construction to charge electric powered construction vehicles and equipment, if temporary power is available
- Prohibit the use of non-emergency diesel-powered generators during construction

- Inform the project proponent of the incentive programs (e.g., Carl Moyer Program and Voucher Incentive Program) offered to reduce air emissions from the Project
- Ensure all landscaping be drought tolerant

6) Truck Routing

Truck routing involves the assessment of which roads Heavy Heavy-Duty (HHD) trucks take to and from their destination, and the emissions impact that the HHD trucks may have on residential communities and sensitive receptors. Since the Project includes commercial and industrial development, there is potential for an increase in HHD truck trips.

The District recommends the County evaluate HHD truck routing patterns for future development projects, with the aim of limiting exposure of residential communities and sensitive receptors to emissions. This evaluation would consider the current truck routes, the quantity and type of each truck (e.g., Medium Heavy-Duty, HHD, etc.), the destination and origin of each trip, traffic volume correlation with the time of day or the day of the week, overall Vehicle Miles Traveled (VMT), and associated exhaust emissions. The truck routing evaluation would also identify alternative truck routes and their impacts on VMT and air quality.

7) Cleanest Available Heavy-Duty Trucks

The San Joaquin Valley will not be able to attain stringent health-based federal air quality standards without significant reductions in emissions from HHD trucks, the single largest source of NOx emissions in the San Joaquin Valley. Accordingly, to meet federal air quality attainment standards, the District's ozone and particulate matter attainment plans rely on a significant and rapid transition of HHD fleets to zero or near-zero emissions technologies.

The Project is expected to result in future development (e.g. commercial, industrial, etc.) as such, the District recommends that the following measures be considered by the County to reduce Project-related operational emissions:

- *Recommended Measure:* Fleets associated with operational activities utilize the cleanest available HHD trucks, including zero and near-zero technologies.
- *Recommended Measure:* All on-site service equipment (cargo handling, yard hostlers, forklifts, pallet jacks, etc.) utilize zero-emissions technologies.

8) Electric On-Site Off-Road and On-Road Equipment

Future development projects may have the potential to result in increased use of off-

road equipment (e.g., forklifts) and on-road equipment (e.g., mobile yard trucks with the ability to move materials). The District recommends that the DEIR include requirements for project proponents to utilize electric or zero emission off-road and on-road equipment.

9) Under-fired Charbroilers

The Project is expected to result in future commercial development projects that have the potential to occupy restaurants with under-fired charbroilers. Such charbroilers may pose the potential for immediate health risk, particularly when located in densely populated areas or near sensitive receptors.

Since the cooking of meat can release carcinogenic PM_{2.5} species, such as polycyclic aromatic hydrocarbons, controlling emissions from new under-fired charbroilers will have a substantial positive impact on public health. 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 air quality concerns.

Furthermore, reducing commercial charbroiling emissions is essential to achieving attainment of multiple federal PM_{2.5} standards. Therefore, the District recommends that the DEIR 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 County and project proponents with this assessment. Additionally, the District is currently offering substantial incentive funding that covers the full cost of purchasing, installing, and maintaining the system during a demonstration period covering two years of operation. Please contact the District at (559) 230-5800 or technology@valleyair.org for more information, or visit: <http://valleyair.org/grants/rctp.htm>

10) Vegetative Barriers and Urban Greening

For future development projects within the Project area, and at strategic locations throughout the Project area in general, the District suggests the County consider incorporating vegetative barriers and urban greening as a measure to further reduce air pollution exposure on sensitive receptors (e.g., residences, schools, healthcare facilities).

While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, vegetative barriers have been shown to be an additional measure to potentially reduce a population's exposure to air

pollution through the interception of airborne particles and the update of gaseous pollutants. Examples of vegetative barriers include, but are not limited to the following: trees, bushes, shrubs, or a mix of these. Generally, a higher and thicker vegetative barrier with full coverage will result in greater reductions in downwind pollutant concentrations. In the same manner, urban greening is also a way to help improve air quality and public health in addition to enhancing the overall beautification of a community with drought tolerant, low-maintenance greenery.

11)Clean Lawn and Garden Equipment in the Community

Since the Project consists of residential, commercial, industrial and mixed-use development, gas-powered lawn and garden equipment have the potential to result in an increase of NOx and PM2.5 emissions. Utilizing electric lawn care equipment can provide residents with immediate economic, environmental, and health benefits. The District recommends the Project proponent consider the District's Clean Green Yard Machines (CGYM) program which provides incentive funding for replacement of existing gas powered lawn and garden equipment. More information on the District CGYM program and funding can be found at: <http://www.valleyair.org/grants/cgym.htm> and <http://valleyair.org/grants/cgym-commercial.htm>.

12)On-Site Solar Deployment

It is the policy of the State of California that renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045. While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, the production of solar energy is contributing to improving air quality and public health. The District suggests that the County consider incorporating solar power systems as an emission reduction strategy for future development projects that may be approved under implementation of the Project.

13)Electric Infrastructure

The District recommends that the County require all nonresidential buildings be designed to provide electric infrastructure to support the use of on-road zero emissions vehicles, such as HHD trucks associated with a industrial/warehouse or commercial project.

To support and accelerate the installation of electric vehicle charging equipment and development of required infrastructure, the District offers incentives to public agencies, businesses, and property owners of multi-unit dwellings to install electric charging infrastructure (Level 2 and 3 chargers). The purpose of the District's Charge Up! Incentive program is to promote clean air alternative-fuel technologies and the use of low or zero-emission vehicles. The District recommends that the

County and project proponents install electric vehicle chargers at project sites, and at strategic locations.

Please visit www.valleyair.org/grants/chargeup.htm for more information.

14) District's Bikeway Incentive Program

Incorporating design elements (e.g., installing bikeways) within the Project that enhance walkability and connectivity can result in an overall reduction of vehicles miles traveled (VMT) and improve air quality within the area. Future development projects are expected to result in an overall reduction in VMT by installing bikeways, and may be eligible for funding through the District's Bikeway Incentive Program. The Bikeway Incentive Program provides funding for eligible Class 1 (Bicycle Path Construction), Class II (Bicycle Lane Striping), or Class III (Bicycle Route) projects. These incentives are designed to support the construction of new bikeway projects to promote clean air through the development of a widespread, interconnected network of bike paths, lanes, or routes and improving the general safety conditions for commuter bicyclists. Only municipalities, government agencies, or public educational institutions are eligible to apply. More information on the grant program can be found at:

<http://valleyair.org/grants/bikepaths.htm>

Guidelines and Project Eligibility for the grant program can be found at:

http://valleyair.org/grants/documents/bikepaths/2015_Bikeway_Guidelines.pdf

15) District Rules and Regulations

The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. To identify other District rules or regulations that apply to future projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.

15a) District Rules 2010 and 2201 - 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 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).

Future development projects may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to construction, project proponents shall obtain an ATC permit from the District for equipment/activities subject to District permitting requirements.

Recommended Mitigation Measure: For projects subject to permitting by the San Joaquin Valley Air Pollution Control District, demonstration of compliance with District Rule 2201 (obtain ATC permit from the District) shall be provided to the County before issuance of the first building permit.

For further information or assistance, project proponents may contact the District's SBA Office at (559) 230-5888.

15b) District Rule 9510 - Indirect Source Review (ISR)

Future development projects within the KACP may be subject to District Rule 9510 if upon full buildout, the project would equal or exceed any of the following applicability thresholds, depending on the type of development and public agency approval mechanism:

Table 1: ISR Applicability Thresholds

Development Type	Discretionary Approval Threshold	Ministerial Approval / Allowed Use / By Right Thresholds
Residential	50 dwelling units	250 dwelling units
Commercial	2,000 square feet	10,000 square feet
Light Industrial	25,000 square feet	125,000 square feet
Heavy Industrial	100,000 square feet	500,000 square feet
Medical Office	20,000 square feet	100,000 square feet
General Office	39,000 square feet	195,000 square feet

Educational Office	9,000 square feet	45,000 square feet
Government	10,00 square feet	50,000 square feet
Recreational	20,000 square feet	100,000 square feet
Other	9,000 square feet	45,000 square feet

District Rule 9510 also applies to any transportation or transit development projects where construction exhaust emissions equal or exceed two tons of NOx or two tons of PM.

The purpose of District Rule 9510 is to reduce the growth in both NOx and PM emissions associated with development and transportation projects from mobile and area sources; specifically, the emissions associated with the construction and subsequent operation of development projects. The Rule requires developers to mitigate their NOx and PM emissions by incorporating clean air design elements into their projects. Should the proposed development project clean air design elements be insufficient to meet the required emission reductions, developers must pay a fee that ultimately funds incentive projects to achieve off-site emissions reductions.

In the case the individual development project is subject to District Rule 9510, per Section 5.0 of the rule, an Air Impact Assessment (AIA) application is required to be submitted no later than applying for project-level approval from a public agency so that proper mitigation and clean air design under ISR can be incorporated into the public agency's analysis.

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>.

District staff is available to provide assistance and can be reached by phone at (559) 230-5900 or by email at ISR@valleyair.org.

15c) District Rule 9410 (Employer Based Trip Reduction)

Future development projects 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 District Rule 9410 can be found online at:
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

15d) District Rule 4002 (National Emissions Standards for Hazardous Air Pollutants)

In the event an existing building will be renovated, partially demolished or removed, future development projects may be subject to District Rule 4002. This rule requires a thorough inspection for asbestos to be conducted before any regulated facility is demolished or renovated. Information on how to comply with District Rule 4002 can be found online at:
<http://www.valleyair.org/busind/comply/asbestosbultn.htm>.

15e) District Rule 4601 (Architectural Coatings)

The Project will be subject to District Rule 4601 since it is expected to utilize architectural coatings. Architectural coatings are paints, varnishes, sealers, or stains that are applied to structures, portable buildings, pavements or curbs. The purpose of this rule is to limit VOC emissions from architectural coatings. In addition, this rule specifies architectural coatings storage, cleanup and labeling requirements. Additional information on how to comply with District Rule 4601 requirements can be found online at:
<http://www.valleyair.org/rules/currnrules/r4601.pdf>

15f) District Regulation VIII (Fugitive PM10 Prohibitions)

The project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – *Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*.

Should the project result in at least 1-acre in size, the project proponent shall provide written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the project result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials, the project proponent shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For

additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950.

The application for both the Construction Notification and Dust Control Plan can be found online at:

<https://www.valleyair.org/busind/comply/PM10/forms/DCP-Form.docx>

Information about District Regulation VIII can be found online at:

http://www.valleyair.org/busind/comply/pm10/compliance_pm10.htm

15g) District Rule 4901 - Wood Burning Fireplaces and Heaters

The purpose of this rule is to limit emissions of carbon monoxide and particulate matter from wood burning fireplaces, wood burning heaters, and outdoor wood burning devices. This rule establishes limitations on the installation of new wood burning fireplaces and wood burning heaters. Specifically, at elevations below 3,000 feet in areas with natural gas service, no person shall install a wood burning fireplace, low mass fireplace, masonry heater, or wood burning heater.

Information about District Rule 4901 can be found online at:

<http://valleyair.org/rule4901/>

15h) Other District Rules and Regulations

Future development projects may also be subject to the following District rules: Rule 4102 (Nuisance) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

16) Future Projects / Land Use Agency Referral Documents

Future development projects may require an environmental review and air emissions mitigation. A project's referral documents and environmental review documents provided to the District for review should include a project summary, the land use designation, project size, air emissions quantifications and impacts, and proximity to sensitive receptors and existing emission sources, and air emissions mitigation measures. For reference and guidance, more information can be found in the District's Guidance for Assessing and Mitigating Air Quality Impacts at:

<https://www.valleyair.org/transportation/GAMAQI.pdf>

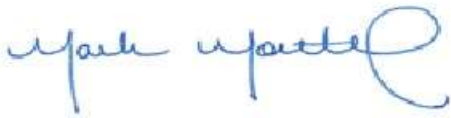
17) District Comment Letter

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 Matt Crow by e-mail at Matt.Crow@valleyair.org or by phone at (559) 230-5931.

Sincerely,

Brian Clements
Director of Permit Services



Mark Montelongo
Program Manager

ATTACHMENT “E”

California Department of Fish and Wildlife, November 15, 2023

and

County Response to Comments, January 10, 2024



RESOURCE MANAGEMENT AGENCY

5961 SOUTH MOONEY BLVD
VISALIA, CA 93277
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Aaron R. Bock Economic Development and Planning
Reed Schenke Public Works
Sherman Dix Fiscal Services

REED SCHENKE, DIRECTOR

MICHAEL WASHAM, ASSOCIATE DIRECTOR

January 12, 2024

Sent Via E-mail

Julie Vance, Regional Manager
California Department of Fish and Wildlife
Central Region
1234 E. Shaw Ave
Fresno, CA 93710

Subject: Response to Comments, DEIR – Draft 2023 Kingsburg Area Community Plan, SCH# 2021120339

Dear Ms. Vance:

Thank you for providing the California Department of Fish and Wildlife (CDFW) letter response (dated November 15, 2023) regarding DEIR – Draft 2023 Kingsburg Area Community Plan (KACP), State Clearinghouse No. 2021120339.

The County of Tulare (County) acknowledges and recognizes CDFW's authority and expertise regarding Biological Resources relative to the proposed project. Based on your comment letter and other comment letters received from other agencies, the County has responded to the comments and in some cases made revisions to the project environmental documents. The following is the County of Tulare Resource Management Agency (RMA) response to your letter (attached for your ease of reference). The Final EIR (see below for website link) also includes RMA's response to your comments (below) as well as the revisions to the project environmental documents.

Comments and Recommendation: *CDFW offers the following comments and recommendations to assist the County of Tulare in adequately identifying and/or mitigating the Plan's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document prepared for the Plan.*

*There are special-status species that may be present within the Plan Area. These resources may need to be evaluated and addressed prior to any subsequent project specific approvals that would allow ground-disturbing activities or land use changes. CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the federally endangered and State threatened San Joaquin kit fox (*Vulpes macrotis mutica*), the federally and State threatened California tiger salamander (*Ambystoma californiense*), and the State threatened Swainson's hawk (*Buteo swainsoni*).*

Comment a): San Joaquin Kit Fox (SJKF): *Mitigation Measure 3.4.2.d and Mitigation Measure 3.4.2.e reference protocols for the performance of den excavations. The measures do not mention the requirement to conduct clearance surveys or the acquisition of an Incidental Take Permit (ITP) pursuant to Fish and Game Code Section 2081(b) prior to the commencement of any of these activities. Absent take coverage afforded by an ITP issued by CDFW, den excavation may result in pursuit and/or capture and thus, inadvertent take. If projects utilizing the Plan have the potential to impact San Joaquin kit fox (SJKF), consultation with CDFW is warranted to discuss how to implement the project and avoid take. Any detection of SJKF prior to or during project construction warrants consultation with CDFW to discuss how to avoid take.*

Mitigation Measure 3.4.2.k mentions the use of zinc phosphide as a rodenticide to reduce risk to SJKF. Use of any rodenticide poses risk to SJKF via secondary poisoning and direct exposure and could result in take.

As proposed in the DEIR, CDFW is concerned that the measures identified above are likely to result in unauthorized take of SJKF and strongly recommends they either be removed in their entirety and full avoidance measures incorporated to avoid any potential take of SJKF, or, that these proposed measures be preceded by the requirement for the project to obtain an ITP from CDFW. Where SJKF are present, CDFW strongly recommends acquiring an ITP prior to initiating ground-disturbing activities.

Response: Mitigation Measures 3.4.2.d and 3.4.2.e have been revised to include CDFW and USFWS authorization prior to any disturbance of SJKF dens, if present, prior to ground-disturbing activities. Mitigation Measure 3.4.2.k has been revised to require consultation with CDFW prior to start of ground-disturbing activities if rodent control is needed. See the attached revised Mitigation Monitoring and Reporting Program (MMRP). Changes to measures are reflected in both Table ES-1 of the Executive Summary and in Table 8-1 of Chapter 8 of the Final EIR.

Comment b): California Tiger Salamander (CTS): *On Table ES-1 on page ES-30 of the document, Mitigation Measures 3.4.1.g and 3.4.1.h are included for California tiger salamander (CTS). The measures referenced are for the delineation of Swainson's hawk (SWHA) avoidance buffers and compensation of SWHA foraging habitat respectively. These measures do not include any measure intended for CTS and should be removed as they are repeated in the appropriate SWHA section.*

Mitigation Measure 3.4.4.b states, "Where ground disturbing activities in these areas must occur outside of pavement, potential CTS aestivation burrows in grassland edges will be avoided by a minimum distance of 50 feet, as practicable." For projects utilizing the Plan, if the minimum avoidance buffer of 50 feet cannot be met, then consultation with CDFW is warranted to discuss how to implement project activities and avoid take. Further, any detection of CTS prior to or during project construction warrants consultation with CDFW to discuss how to avoid take.

If take cannot be avoided, CDFW recommends acquiring an ITP prior to initiating ground-disturbing activities.

Response: Mitigation Measures 3.4.1g and 3.4.1h have been deleted from Table ES-1. Mitigation Measure 3.4.4.b has been revised include consultation with the CDFW if the 50-foot avoidance buffer cannot be met and issuance of a take permit if take cannot be avoided. See the attached revised MMRP.

Comment c): Swainson’s Hawk (SWHA): *Mitigation Measure 3.4.1.c discusses surveys for SWHA, CDFW recommends that surveys be done following the survey methods developed by the Swainson’s Hawk Technical Advisory Committee (SWHA TAC 2000) during the appropriate survey season just prior to construction.*

CDFW recommends that Mitigation Measure 3.4.1.f be modified to include a 0.5-mile full avoidance buffer for SWHA and a 500 foot full avoidance buffer for other raptor species to avoid inadvertent take.

Response: Table 8-2 has been added to the MMRP to provide additional guidance on SWHA survey methods consistent with the SWHA TAC 2000 guidance. Mitigation Measure 3.4.1.c has been revised to include reference to Table 8-2. See the attached revised MMRP.

Mitigation Measure 3.4.1.g include the half-mile buffer and specifically states, “CDFW recommends that in the event an active *SWHA nest* [emphasis added] is detected, and a *½-mile no-disturbance buffer* [emphasis added] is not feasible, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081(b) is necessary to comply with CESA.” Also, Mitigation Measure 3.4.1.a requires preconstruction surveys and specifically states, “Potential nesting areas on the proposed Project site and potential nesting areas *within 500 feet of the site* [emphasis added] should be surveyed prior to June 5th. Surveys shall be performed by a qualified biologist to verify the presence or absence of nesting birds. Construction shall not occur *within a 500-foot buffer* [emphasis added] surrounding active nests of raptors or a 250-foot buffer surrounding active nests of migratory birds. If construction within these buffer areas is required or if nests must be removed to allow continuation of construction, then approval and specific removal methodologies should be obtained from California Department of Fish and Wildlife (CDFW).” Furthermore, there are no development proposals included in this project and future developments are unknown as this time. Future applicants may not be able to delineate a buffer on adjacent properties where they have no control over the proposed buffer area. As Mitigation Measure 3.4.1.a applies to all raptor species, including SWHA, and due to the uncertainty of future development projects in the KACP planning area, the County is not compelled to add this recommendation to Mitigation Measure 3.4.1.f.

Comment d): Federally Listed Species: *CDFW recommends consulting with the United States Fish and Wildlife Service (USFWS) regarding potential impacts to federally listed species including but not limited to CTS and SJKF. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding,*

foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any Project activities.

Response: There are no development proposals included in this project and future developments are unknown as this time. As new developments are proposed, preconstruction surveys will be required. If federally listed species are identified during these surveys, consultation with USFWS is required. Specifically, Mitigation Measures 3.4.1.a, 3.4.1.e, 3.4.1.f, 3.4.2.c, 3.4.2.d, 3.4.2.e, 3.4.2.g, 3.4.2.h, and 3.4.2.k require consultation with USFWS prior to or during construction related activities.

The project will be taken to the Tulare County Planning Commission on January 24, 2024, for consideration of recommending that the Tulare County Board of Supervisors certify the Final EIR and approve the project.

The Final EIR will be available beginning January 12, 2024, at the following website: <https://tularecounty.ca.gov/rma/planning-building/environmental-planning/environmental-impact-reports/kingsburg-area-community-plan/>.

In closing, we sincerely appreciate the CDFW's comments which will be useful toward ensuring that the proposed project complies with your jurisdiction's rules, requirements, regulations, etc., and with the California Environmental Quality Act.

If you have any questions regarding the above, please contact me by phone at (559) 624-7122 or by email at jwillis@tularecounty.ca.gov, or Gary Mills, Chief Environmental Planner by phone at (559) 624-7199, or by email at gmills@tularecounty.ca.gov.

Best Regards,



Jessica Willis, Planner IV
Environmental Planning Division

*Attachments: Revised Mitigation Monitoring and Reporting Program
California Department of Fish and Wildlife comment letter dated November 15, 2023*

*cc: Jaime Marquez, Environmental Specialist
file*

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program						
Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
Chapter 3.2 Agricultural Lands						
<p>3.2.1 <i>(Preconstruction Surveys)</i>. Prior to the start of construction of any project within an “FMMP area” of the Project area, as applicable, the Applicant shall demonstrate compliance with the Tulare County <i>Agricultural Conservation Easement Program</i> (ACEP). The Applicant shall implement one (1) of the five (5) options below:</p> <p>Option 1 (Mitigation Fees): Applicant(s) may submit in-lieu mitigation fees to Tulare County for the purpose of procuring agricultural lands for farmland conservation easement(s). These fees will be used by Tulare County to purchase farmland easement(s) at a minimum ratio of one to one (1:1) or its functional equivalent to the loss of define agricultural lands, on behalf of the Applicant. These easements must be of substantially the same quality, have or could acquire access to water, and could otherwise be feasibly cultivated. The easement shall protect the designated farmland in perpetuity.</p> <p>Option 2 (On-site Easements): Applicant(s) may enter into a Farmland Conservation Easement Agreement with Tulare County. The on-site land placed under the easement(s) must be at a minimum of a one to one (1:1) ratio, with no less than its functional equivalent of the loss of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, or combination thereof, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency. The easement(s) shall be located in Tulare County, within the boundaries of the project site/property. The</p>	Prior to a project’s initiation	Issuance of building permit	County of Tulare RMA			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>easement(s) must be of substantially the same quality, have or could acquire access to water, and could otherwise be feasibly cultivated. The easement shall protect the designated farmland in perpetuity.</p> <p>Option 3 (Off-site Easements): Applicant(s) may enter into a Farmland Conservation Easement Agreement with Tulare County. The land placed under the easement(s) must be at a minimum of a one to one (1:1) ratio, with no less than its functional equivalent of the loss of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, or combination thereof, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency. The easement(s) shall be located in Tulare County, unless otherwise agreed upon by all parties involved, including the Applicant(s), Tulare County, and/or selling Land Owner(s). The easement(s) must be of substantially the same quality, have or could acquire access to water, and could otherwise be feasibly cultivated. The easement(s) shall protect the designated farmland in perpetuity.</p> <p>Option 4 (Combined On- and Off-site Easements): Applicant(s) may enter into a Farmland Conservation Easement Agreement with Tulare County. The land placed under the easement(s) must be at a minimum of a one to one (1:1) ratio, with no less than its functional equivalent of the loss of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, or combination thereof, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources</p>						

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>Agency. The easement(s) shall be located in Tulare County, unless otherwise agreed upon by all parties involved, including the Applicant(s), Tulare County, and/or selling Land Owner(s). The easement(s) must be of substantially the same quality, have or could acquire access to water, and could otherwise be feasibly cultivated. The easement(s) shall protect the designated farmland in perpetuity.</p> <p>Option 5 (Planned Development Overlay): The Applicant(s) can enter into a Planned Development Agreement with Tulare County to establish a Planned Development Overlay for the project area. This agreement will include conditions that require all future developments to undergo a Site Plan Review, which will include mandatory mitigation, including farmland easements, for the conversion of agricultural lands.</p>						
<p>3.2-2</p> <p>Prior to the start of construction of any project within an “FMMP area” of the Project, as applicable, the Applicant shall demonstrate compliance with the Tulare County Agricultural Conservation Easement Program (ACEP). The Applicant shall enter into a Farmland Conservation Easement Agreement with Tulare County pursuant to the provisions and administrative protocols of the ACEP. If the Farmland Conservation Easement Agreement is approved by the Board of Supervisors, these properties shall be protected in perpetuity.</p>	<p>Prior to a project’s initiation</p>	<p>Issuance of building permit</p>	<p>County of Tulare RMA</p>			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program						
Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
Chapter 3.4 Biological Resources						
<i>Swainson's Hawks and Other Raptors and Migratory Birds (including Loggerhead Shrike)</i>						
3.4.1.a <i>(Preconstruction Surveys)</i> Pre-construction surveys shall be conducted to determine the presence of nesting birds if ground clearing or construction activities will be initiated during the breeding season (February 15 through September 15). Potential nesting areas on the proposed Project site and potential nesting areas within 500 feet of the site should be surveyed prior to June 5th. Surveys shall be performed by a qualified biologist to verify the presence or absence of nesting birds. Construction shall not occur within a 500-foot buffer surrounding active nests of raptors or a 250-foot buffer surrounding active nests of migratory birds. If construction within these buffer areas is required or if nests must be removed to allow continuation of construction, then approval and specific removal methodologies should be obtained from California Department of Fish and Wildlife <u>(CDFW)</u> and/or <u>United States Fish and Wildlife Service (USFWS)</u> .	Prior to a project's initiation	Issuance of building permit	County of Tulare Planning and Public Works (RMA); California Department of Fish and Wildlife (CDFW)			
3.4.1.b <i>(Preconstruction Surveys)</i> All trees which are suitable for Swainson's hawk nesting that are within 2,640 feet of construction activities shall be inspected by a qualified biologist.	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.1.c <i>(Preconstruction Surveys)</i> If potential Swainson's hawk nests are found during the inspection, then surveys shall be conducted at the following intensities, depending upon dates of initiation of construction (1 January through 15 September). See Table 8-2 Table 3.4.2 in Chapter 3.4 Biological Resources: Swainson's Hawk Survey Guidelines.	Prior to a project's initiation	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
3.4.1.d <i>(Avoidance)</i> If Swainson’s hawks are detected to be actively nesting in trees within 2,640 feet of the construction area, construction shall not occur within this zone until after young Swainson’s hawks have fledged (this usually occurs by early June). The nest shall be monitored by a qualified biologist to determine fledging date.	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.1.e <i>(Avoidance)</i> If Swainson’s hawks (foraging) or other raptors are found actively nesting within 250 feet of the construction area, construction should be postponed until after young have fledged. The date of fledging should be determined by a qualified biologist. If construction cannot be delayed, the CDFW <u>and/or USFWS</u> shall be consulted and alternative protection measures required by the CDFW <u>and/or USFWS</u> shall be followed.						
3.4.1.f <i>(Avoidance)</i> If other nesting birds (particularly non-raptor species listed on the MBTA) are found actively nesting within 250 feet of the construction area, construction should be postponed until after young have fledged. The date of fledging should be determined by a qualified biologist. If construction cannot be delayed within this zone, the CDFW and/or the USFWS shall be consulted and alternative protection measures required by the CDFW and/or the USFWS shall be followed.						
3.4.1.g <i>(Take Authorization)</i> CDFW recommends that in the event an active SWHA nest is detected, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement						

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
the project and avoid take. If take cannot be avoided, take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081(b) is necessary to comply with CESA.						
<p>3.4.1.h <u><i>(Compensation)</i></u> CDFW recommends compensation for the loss of SWHA foraging habitat as described in CDFW’s “Staff Report Regarding Mitigation for Impacts to Swainson's Hawks” (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report (as shown in its entirety in Chapter 3.4 Biological Resources:</p> <ul style="list-style-type: none"> • <u>For projects within 1 mile of an active nest tree, a minimum of 1 acre of habitat management (HM) land for each acre of development is advised.</u> • <u>For projects within 5 miles of an active nest but greater than 1 mile, a minimum of ¾ acre of HM land for each acre of development is advised.</u> • <u>For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, a minimum of ½ acre of HM land for each acre of development is advised.</u> 						

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<i>Project-related Impacts to San Joaquin Kit Fox</i>						
3.4.2.a <i>(Preconstruction Surveys)</i> A standardized pre-construction/-pre-activity shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities or any Project activity likely to impact the San Joaquin kit fox. Surveys shall identify kit fox habitat features on the Project site and evaluate use by kit fox and, if possible, assess the potential impacts to the kit fox by the proposed activity. The status of all dens shall be determined and mapped. Written results of pre-construction/pre-activity surveys must be received by the Service within five days after survey completion and prior to the start of ground disturbance and/or construction activities.	Prior to and during construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.b <i>(Avoidance)</i> Disturbance to all San Joaquin kit fox dens shall be avoided to the maximum extent possible.	Prior to and during construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.c <i>(Avoidance)</i> If a natal/pupping den is discovered within the Project area or within 200-feet of the site boundary, <u>CDFW and USFWS</u> shall be immediately notified and under no circumstances should the den be disturbed or destroyed without prior authorization. If the pre-construction/pre-activity survey reveals an active natal pupping or new information, the Project applicant shall contact <u>CDFW and USFWS</u> immediately to obtain the necessary take authorization/permit.	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.d <i>(Den Excavation)</i> <u>Destruction of dens shall not occur without prior authorization from CDFW and USFWS. Upon approval by CDFW and USFWS, destruction of any den shall be accomplished by careful</u>	During construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program							
Mitigation Measure		Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
					Initials	Date	Remarks
	excavation until it is certain that no kit foxes are inside. The den shall be fully excavated, filled with dirt and compacted to ensure that kit foxes cannot reenter or use the den during the construction period.						
3.4.2.e	<u>(Monitoring of Dens)</u> Destruction of dens shall not occur without prior authorization from CDFW and USFWS. Once approval is obtained and excavation of a den has commenced, if at any point during excavation, a kit fox is discovered inside the den, the excavation activity shall cease immediately, and monitoring of the den as described above shall be resumed. Destruction of the den may be completed when, in the judgment of the qualified biologist, the animal has escaped without further disturbance from the partially destroyed den.	During construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.f	<u>(Minimization)</u> Project-related vehicles shall observe a daytime speed limit not to exceed 20-mph throughout the site in all proposed Project areas, except on county roads and State and Federal highways; this is particularly important at night when kit foxes are most active. Night-time construction shall be minimized to the extent possible. However, if it does occur, then the speed limit shall be reduced to 10-mph. Off-road traffic outside of designated project areas shall be prohibited.	During construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.g	<u>(Minimization)</u> To prevent inadvertent entrapment of kit fox or other animals during the construction phase of the proposed Project, all excavated, steep-walled holes or trenches more than 2-feet deep shall be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed,	During construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
one or more escape ramps constructed of earthen-fill or wooden planks shall be installed. Before such holes or trenches are filled, they shall be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the USFWS and the California Department of Fish and Wildlife shall be contacted as noted under Mitigation Measure 4-20 referenced below.						
3.4.2.h <u>(Minimization)</u> Kit fox are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods shall be thoroughly inspected for kit fox before the pipe is used or moved, buried, or capped in any way. If a kit fox is discovered inside a pipe, that section of pipe shall not be moved until the CDFW <u>and USFWS</u> has been consulted. If necessary, and under the direct supervision of a qualified biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.	During construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.i <u>(Minimization)</u> All food-related trash outside of the enclosed facility such as wrappers, cans, bottles, and food scraps shall be disposed of daily in securely closed containers and removed at least once a week during both construction and operational phases.	During construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.j <u>(Minimization)</u> No pets, such as dogs or cats, shall be allowed on the Project site in order to prevent harassment, mortality of kit fox, or destruction of dens.	During construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
3.4.2.k <i>(Minimization)</i> Use of rodenticides and herbicides in Project areas shall be restricted. If rodent control must be used, <u>the CDFW and USFWS shall be consulted to determine appropriate methods for rodent control prior to start of ground-disturbing activities. It shall be limited to the use of zinc phosphide because of its demonstrated lower risk to kit fox.</u>	During construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.l <i>(Environmental Representative)</i> A representative shall be appointed by the Project Applicant to serve as the contact source for any employee or contractor who might inadvertently kill or injure a kit fox or who finds a dead, injured or entrapped kit fox. The representative will be identified during the employee education program and their name, telephone number, or other pertinent contact information shall be provided to the Service.	During construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.m <i>(Environmental Awareness Training)</i> An employee education program shall be conducted to alert employees of potential impacts to kit fox or other species of concern. The program shall consist of a brief presentation by persons knowledgeable in kit fox biology and legislative protection to explain endangered species concerns to contractors, their employees, and military and/or agency personnel involved in the project. The program shall include the following: A description of the San Joaquin kit fox and its habitat needs; a report of the occurrence of kit fox in the Project area; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of measures being taken to reduce impacts to the species during Project	During construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program						
Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
construction and implementation. A fact sheet conveying this information shall be prepared for distribution to the previously referenced people and anyone else who may enter the Project site.						
3.4.2.n <i>(Take Authorization)</i> Any contractor, employee, or military or agency personnel who are responsible for inadvertently killing or injuring a San Joaquin kit fox shall immediately report the incident to their representative. The Sacramento Fish and Wildlife Office and CFW shall be notified in writing within three working days of the accidental death or injury to a San Joaquin kit fox. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The Sacramento Fish and Wildlife Office contact is: <div style="text-align: center;"> Mr. Paul Hoffman 1701 Nimbus Road, Suite A, Rancho Cordova, California 95670 (530) 934-9309 </div>	During construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.o <i>(Reporting New Sightings)</i> New sightings of kit fox shall be reported to the California Natural Diversity Database (CNDDDB). A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed shall also be provided to Fish and Wildlife at the address below. <div style="text-align: center;"> Endangered Species Division 2800 Cottage Way, Suite W2605 Sacramento, California 95825-1846 (916) 414-6620 or (916) 414-6600 </div>	During construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program						
Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<i>Project-Related to Burrowing Owl</i>						
3.4.3.a <i>(Preconstruction Surveys)</i> In accordance with CDFG’s 2012 <i>Staff Report on Burrowing Owl Mitigation</i> , a qualified biologist shall conduct three surveys for burrowing owls (BUOW) where potential burrowing owl habitat occurs within 500 feet of Project activities. Surveys shall occur during the peak breeding season for this species (15 April through 15 July) and, spaced three weeks apart. If active burrowing owl burrows are identified within 500 feet of the Project site, then avoidance, take avoidance surveys, site surveillance, minimization, and buffer mitigation measures shall be implemented, in accordance with the 2012 CDFG <i>Staff Report</i> and direct consultation with CFW.	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.3.b <i>(Avoidance)</i> Should a BUOW be detected, CDFW recommends that no-disturbance buffers, as outlined in the “Staff Report on Burrowing Owl Mitigation” (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW’s Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival. See Table 3.4-38.3 Burrowing Owl Avoidance Distances .	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>3.4-43.c <u><i>(Exclusion & Passive Relocation)</i></u> If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), excluding birds from burrows is not a take avoidance, minimization, or mitigation method and is instead considered a potentially significant impact under CEQA. However, if it is necessary for Project implementation, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of one (1) burrow collapsed to one (1) artificial burrow constructed (1:1) to mitigate for evicting BUOW and the loss of burrows. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance at a rate that is sufficient to detect BUOW if they return.</p>	Prior to initiation of construction	Issuance of building permit	County of Tulare and CDFW			
<i>Amphibians and Reptiles</i>						
<p>3.4.4.a <u><i>(Preconstruction Surveys & Passive Relocation)</i></u> Preconstruction surveys shall be conducted during a period of high hydrological activity for the Slough. This may coincide with irrigation deliveries to downstream agriculture, typically an initial release from dams occurs in February-March and May-July. These surveys will detect tiger salamanders (early survey) and western pond turtles (late survey, if present). For spadefoots, survey shall be conducted after they emerge subsequent to 1-2 inches of precipitation at the start of the rainy season (usually</p>	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program						
Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
around the beginning of December). If surveys detect these species, they shall be allowed to passively relocate off of the site before construction on the Slough begins.						
California Tiger Salamander						
3.4.4.b <u>(Avoidance of Potential Aestivation Burrows)</u> - Where the project site is directly adjacent to grassland habitat, project activities will be confined to the pavement to the extent feasible. Where ground-disturbing activities in these areas must occur outside of pavement, potential CTS aestivation burrows in grassland edges will be avoided by a minimum distance of 50 feet, as practicable . <u>If the 50-foot buffer cannot be met, the CDFW shall be consulted to determine appropriate actions to avoid take. If take cannot be avoided, a take permit shall be obtained prior to initiation of ground-disturbing activities.</u>	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.4.c <u>(Construction Timing)</u> -If feasible, the project will be constructed entirely during the non-rainy season, when CTS are less likely to be traveling overland. Construction will be initiated after the vernal pools of the SCER have dried and concluded before the first significant fall rains.	During construction	Issuance of building permit				
3.4.4.d <u>(Exclusion Fencing)</u> -An exclusion fence will be installed around any portion of the project site in which work is to occur after the first significant fall rains. The fence will be designed to exclude, to the maximum extent possible, all rodent burrows located in portions of the project site that adjoin annual grassland habitat. Where such burrows cannot be fully excluded, one-way escape ramps will be constructed	During construction	Issuance of building permit				

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program						
Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
at regular intervals along the fence interior, allowing CTS to leave, but not reenter, the project site. Fence installation will be continuously monitored by a qualified biologist.						
3.4.4.e <i>(Biological Monitoring)</i> –If construction is to occur during the rainy season, a qualified biologist will monitor any open trenches or other excavations on the project site a minimum of once per day, and will monitor the exclusion fence a minimum of once per week.	During construction	Issuance of building permit				
3.4.4.f <i>(Environmental Awareness Training)</i> –Prior to the start of construction, a qualified biologist will provide training on the CTS to all construction personnel. This training will include a description of the CTS and its habitat needs; a report of the occurrence of the species in the project vicinity; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of the measures being taken to reduce impacts to CTS during project implementation. Attendance will be documented on a sign-in sheet. Attendees will be provided a handout that summarizes all of the training information. The applicant will use this handout to train any construction personnel that were not in attendance at the first meeting, prior to those personnel starting work on the site.	During construction	Issuance of building permit				
American Badger						
3.4.5.a <i>(Preconstruction Surveys)</i> If potential habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for applicable species and their requisite habitat features to evaluate potential	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program							
Mitigation Measure		Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
					Initials	Date	Remarks
	impacts resulting from ground and vegetation disturbance.						
3.4.5.b	<i>(Avoidance Buffers)</i> Avoidance whenever possible is encouraged via delineation and observance a 50-foot no-disturbance buffer around American badger dens.	During construction	Issuance of building permit				
Cultural Resources							
3.5.1	In the event that historical, archaeological or paleontological resources are discovered during site excavation, the County shall require that grading and construction work on the Project site be immediately suspended until the significance of the features can be determined by a qualified archaeologist or paleontologist. In this event, the property owner shall retain a qualified archaeologist/paleontologist to provide recommendations for measures necessary to protect any site determined to contain or constitute an historical resource, a unique archaeological resource, or a unique paleontological resource or to undertake data recover, excavation analysis, and curation of archaeological or paleontological materials. County staff shall consider such recommendations and implement them where they are feasible in light of Project design as previously approved by the County.	Prior to issuance of grading permits Ongoing monitoring during subsurface excavation	Retention of professional paleontologist/ ongoing monitoring/ submittal of Report of Findings, if applicable	County of Tulare RMA			
3.5.2	The property owner shall avoid and minimize impacts to paleontological resources. If a potentially significant paleontological resource is encountered during ground disturbing activities, all construction within a 100-foot radius of the find shall immediately cease until a qualified paleontologist determines	Prior to issuance of grading permits Ongoing monitoring during subsurface excavation	Retention of professional paleontologist/ ongoing monitoring/ submittal of	County of Tulare RMA			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
whether the resources requires further study. The owner shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. The paleontologist shall notify the Tulare County Resource Management Agency and the project proponent of the procedures that must be followed before construction is allowed to resume at the location of the find. If the find is determined to be significant and the Tulare County Resource Management Agency determines avoidance is not feasible, the paleontologist shall design and implement a data recovery plan consistent with applicable standards. The plan shall be submitted to the Tulare County Resource Management Agency for review and approval. Upon approval, the plan shall be incorporated into the project.		Report of Findings, if applicable				
<p>3.5.3 Consistent with Section 7050.5 of the California Health and Safety Code and (CEQA Guidelines) Section 15064.5, if human remains of Native American origin are discovered during project construction, it is necessary to comply with State laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (Public Resources Code Sec. 5097). In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:</p> <p>1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:</p>	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	Retention of professional paleontologist/ ongoing monitoring/ submittal of Report of Findings, if applicable	County of Tulare RMA			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>a. The Tulare County Coroner/Sheriff must be contacted to determine that no investigation of the cause of death is required; and</p> <p>b. If the coroner determines the remains to be Native American:</p> <p style="padding-left: 20px;">i. The coroner shall contact the Native American Heritage Commission within 24 hours.</p> <p style="padding-left: 20px;">ii. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.</p> <p style="padding-left: 20px;">iii. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code section 5097.98, or</p> <p>2. Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.</p> <p style="padding-left: 20px;">a. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.</p>						

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program							
Mitigation Measure		Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
					Initials	Date	Remarks
	b. The descendant fails to make a recommendation; or c. The landowner or his authorized representative rejects the recommendation of the descendent.						
Geology & Soils (Paleontology)							
3.7.1	The property owner shall avoid and minimize impacts to paleontological resources. If a potentially significant paleontological resource is encountered during ground disturbing activities, all construction within a 100-foot radius of the find shall immediately cease until a qualified paleontologist determines whether the resources requires further study. The owner shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. The paleontologist shall notify the Tulare County Resource Management Agency and the Project proponent of the procedures that must be followed before construction is allowed to resume at the location of the find. If the find is determined to be significant and the Tulare County Resource Management Agency determines avoidance is not feasible, the paleontologist shall design and implement a data recovery plan consistent with applicable standards. The plan shall be submitted to the Tulare County Resource Management Agency for review and approval. Upon approval, the plan shall be incorporated into the Project.	Prior to issuance of grading permits Ongoing monitoring during subsurface excavation	Retention of professional paleontologist/ ongoing monitoring/ submittal of Report of Findings, if applicable	County of Tulare RMA			
Hydrology & Water Quality							
3.10.1	All new construction shall have water conserving fixtures (water closets, low flow showerheads, low flow sinks, etc.) New urinals shall also conserve	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program							
Mitigation Measure		Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
					Initials	Date	Remarks
	water through waterless, zero flush, or other water conservation technique and/or technology.						
3.10.2	The proposed Project shall conform to the Tulare County Water Efficient Landscaping Ordinance.	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			
3.10.3	No ground water shall be transported off-site for any use.	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			
Tribal Cultural Resources							
3.18.1	In the event that historical, archaeological or paleontological resources are discovered during site excavation, the County shall require that grading and construction work on the Project site be immediately suspended until the significance of the features can be determined by a qualified archaeologist or paleontologist. In this event, the property owner shall retain a qualified archaeologist/paleontologist to provide recommendations for measures necessary to protect any site determined to contain or constitute an historical resource, a unique archaeological resource, or a unique paleontological resource or to undertake data recover, excavation analysis, and curation of archaeological or paleontological materials. County staff shall consider such recommendations and implement them where they are feasible in light of Project design as previously approved by the County.	Prior to issuance of grading permits Ongoing monitoring during subsurface excavation	Retention of professional paleontologist/ ongoing monitoring/ submittal of Report of Findings, if applicable	County of Tulare RMA			
3.18.2	Consistent with Section 7050.5 of the California Health and Safety Code and (CEQA Guidelines) Section 15064.5, if human remains of Native American origin are discovered during project	Prior to issuance of grading permits	Retention of professional paleontologist/ ongoing	County of Tulare RMA			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>construction, it is necessary to comply with State laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (Public Resources Code Sec. 5097). In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:</p> <ol style="list-style-type: none"> 1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until: <ol style="list-style-type: none"> a. The Tulare County Coroner/Sheriff must be contacted to determine that no investigation of the cause of death is required; and b. If the coroner determines the remains to be Native American: <ol style="list-style-type: none"> i. The coroner shall contact the Native American Heritage Commission within 24 hours. ii. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American. iii. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in 	Ongoing monitoring during subsurface excavation	monitoring/ submittal of Report of Findings, if applicable				

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program							
Mitigation Measure		Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
					Initials	Date	Remarks
	<p style="text-align: center;">Public Resources Code section 5097.98, or</p> <p>2. Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.</p> <p>a. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.</p> <p>b. The descendant fails to make a recommendation; or</p> <p>c. The landowner or his authorized representative rejects the recommendation of the descendent.</p>						
Utilities and Services							
3.19.1	Install water meters and adopt a use-weighted rate schedule to encourage reduced usage by the rate-payers.	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			
3.19.2	Retrofit homes with water-efficient faucets, showers, and toilets.	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			
3.19.3	Limit permissible landscape area for each residence to 2,500 square feet or less.	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			
3.19.4	Adopt limited outdoor watering days and hours (now in force statewide, as of August 1, 2014, by order of the Department of Water Resources).	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program							
Mitigation Measure		Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
					Initials	Date	Remarks
3.19.5	Mandate use of native and drought-tolerant species for all landscaping.	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			

Table 8-2 - Swainson's Hawk Survey Guidelines			
Construction start	Survey period	Number of surveys	Timing
<u>January 1 to March 20</u>	<u>January 1 to March 20 (pre-arrival)</u>	<u>1</u>	<u>All day</u>
<u>March 21 to March 24</u>	<u>January 1 to March 20 (pre-arrival)</u>	<u>1</u>	<u>All day</u>
	<u>March 20 to March 24 (pre-arrival/arrival)</u>	<u>Up to 3</u>	<u>Sunrise to 10 a.m. and 4 p.m. to sunset</u>
<u>March 25 to April 5</u>	<u>January 1 to March 20 (pre-arrival)</u>	<u>1</u>	<u>All day</u>
	<u>March 20 to April 5 (arrival)</u>	<u>3</u>	<u>Sunrise to 10 a.m. and 4 p.m. to sunset</u>
<u>April 6 to April 9</u>	<u>March 20 to April 5 (arrival)</u>	<u>3</u>	<u>Sunrise to 10 a.m. and 4 p.m. to sunset</u>
	<u>April 5 to April 9 (arrival/nest building)</u>	<u>Up to 3</u>	<u>Sunrise to 10 a.m. and 4 p.m. to sunset</u>
	<u>January 1 to March 20 (pre-arrival)</u>	<u>1 (if all 3 surveys are performed between April 6 and 9, then this survey need not be conducted)</u>	<u>All day</u>
<u>April 10 to July 30</u>	<u>March 20 to April 5 (arrival)</u>	<u>3</u>	<u>Sunrise to 10 a.m. and 4 p.m. to sunset</u>
	<u>April 5 to April 20 (nest building)</u>	<u>3</u>	<u>Sunrise to 12 p.m. and 4:30 p.m. to sunset</u>
	<u>April 21 to June 10 (incubation)</u>	<u>Initiating surveys is not recommended</u>	<u>Monitoring known nest sites only</u>
<u>July 31 to September 15</u>	<u>April 5 to April 20 (nest building)</u>	<u>3</u>	<u>Sunrise to 12 p.m. and 4:30 p.m. to sunset</u>
	<u>April 21 to June 10 (incubation)</u>	<u>Initiating surveys is not recommended</u>	<u>Monitoring known nest sites only</u>
	<u>June 10 to July 30 (fledging)</u>	<u>3</u>	<u>Sunrise to 12 p.m. and 4 p.m. to sunset</u>

Source: Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley, Swainson's Hawk Technical Advisory Committee (SWHA TAC), May 31, 2000 (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>, accessed January 2024)

Note: The SWHA TAC guidance states, "To meet the minimum level of protection for the species, surveys should be completed for at least the two survey periods immediately prior to a project's initiation." This table presents the recommended survey periods as well as the two survey periods necessary based on construction start date.

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-3 - Burrowing Owl Avoidance Distances

Location	Time of Year	Level of Disturbance (in meters)		
		Low	Medium	High
<u>Nesting sites</u>	<u>April 1-Aug. 15</u>	<u>200</u>	<u>500</u>	<u>500</u>
<u>Nesting sites</u>	<u>Aug. 16-Oct. 15</u>	<u>200</u>	<u>200</u>	<u>500</u>
<u>Nesting sites</u>	<u>Oct. 16-Mar. 31</u>	<u>50</u>	<u>100</u>	<u>500</u>

Source: Staff Report on Burrowing Owl Mitigation, Department of Fish and Game, March 7, 2012 (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>, accessed January 2024)



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 15, 2023

Hector Guerra
Tulare County
Resource Management Agency
5961 S. Mooney Blvd
Visalia, California 93277

**Subject: Kingsburg Area Community Plan
Draft Environmental Impact Report (DEIR) SCH: 2021120339**

Dear Hector Guerra:

The California Department of Fish and Wildlife (CDFW) received a Draft Environmental Impact Report (DEIR) from the County of Tulare for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code. While the comment period may have ended, CDFW requests that Tulare County still consider our comments.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Hector Guerra
Tulare County
November 15, 2023
Page 2

need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

PROJECT DESCRIPTION SUMMARY

Proponent: Tulare County

Objective: The Tulare County Board of Supervisors passed Resolution 2019-0884 on October 15, 2019, approving the General Plan Initiation No. GPI 19-004 to authorize a General Plan Amendment No. GPA 20-001 for the Kingsburg Area Community Plan (Plan), to update the Tulare County General Plan. The Plan will become consistent with the approved Tulare County General Plan 2030 Update.

Location: The proposed Plan is identified within the City of Kingsburg sphere of influence and County of Tulare's County Adopted City Urban Development Boundary (CACUDB) for Kingsburg located along the Tulare County/Fresno County line (that is, adjacent to and south of Kingsburg), generally north of Avenue 390, west of Road 20, and south of State Route 201.

Timeframe: Unspecified

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the County of Tulare in adequately identifying and/or mitigating the Plan's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document prepared for the Plan.

There are special-status species that may be present within the Plan Area. These resources may need to be evaluated and addressed prior to any subsequent project

Hector Guerra
Tulare County
November 15, 2023
Page 3

specific approvals that would allow ground-disturbing activities or land use changes. CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the federally endangered and State threatened San Joaquin kit fox (*Vulpes macrotis mutica*), the federally and State threatened California tiger salamander (*Ambystoma californiense*), and the State threatened Swainson's hawk (*Buteo swainsoni*).

San Joaquin Kit Fox

Mitigation Measure 3.4.2.d and Mitigation Measure 3.4.2.e reference protocols for the performance of den excavations. The measures do not mention the requirement to conduct clearance surveys or the acquisition of an Incidental Take Permit (ITP) pursuant to Fish and Game Code Section 2081(b) prior to the commencement of any of these activities. Absent take coverage afforded by an ITP issued by CDFW, den excavation may result in pursuit and/or capture and thus, inadvertent take. If projects utilizing the Plan have the potential to impact San Joaquin kit fox (SJKF), consultation with CDFW is warranted to discuss how to implement the project and avoid take. Any detection of SJKF prior to or during project construction warrants consultation with CDFW to discuss how to avoid take.

Mitigation Measure 3.4.2.k mentions the use of zinc phosphide as a rodenticide to reduce risk to SJKF. Use of any rodenticide poses risk to SJKF via secondary poisoning and direct exposure and could result in take.

As proposed in the DEIR, CDFW is concerned that the measures identified above are likely to result in unauthorized take of SJKF and strongly recommends they either be removed in their entirety and full avoidance measures incorporated to avoid any potential take of SJKF, or, that these proposed measures be preceded by the requirement for the project to obtain an ITP from CDFW. Where SJKF are present, CDFW strongly recommends acquiring an ITP prior to initiating ground-disturbing activities.

California Tiger Salamander

On Table ES-1 on page ES-30 of the document, Mitigation Measures 3.4.1.g and 3.4.1.h are included for California tiger salamander (CTS). The measures referenced are for the delineation of Swainson's hawk (SWHA) avoidance buffers and compensation of SWHA foraging habitat respectively. These measures do not include any measure intended for CTS and should be removed as they are repeated in the appropriate SWHA section.

Hector Guerra
Tulare County
November 15, 2023
Page 4

Mitigation Measure 3.4.4.b states, "Where ground disturbing activities in these areas must occur outside of pavement, potential CTS aestivation burrows in grassland edges will be avoided by a minimum distance of 50 feet, as practicable." For projects utilizing the Plan, if the minimum avoidance buffer of 50 feet cannot be met, then consultation with CDFW is warranted to discuss how to implement project activities and avoid take. Further, any detection of CTS prior to or during project construction warrants consultation with CDFW to discuss how to avoid take.

If take cannot be avoided, CDFW recommends acquiring an ITP prior to initiating ground-disturbing activities.

Swainson's Hawk


Mitigation Measure 3.4.1.c discusses surveys for SWHA, CDFW recommends that surveys be done following the survey methods developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC 2000) during the appropriate survey season just prior to construction.

CDFW recommends that Mitigation Measure 3.4.1.f be modified to include a 0.5-mile full avoidance buffer for SWHA and a 500 foot full avoidance buffer for other raptor species to avoid inadvertent take.

Federally Listed Species: CDFW recommends consulting with the United States Fish and Wildlife Service (USFWS) regarding potential impacts to federally listed species including but not limited to CTS and SJKF. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any Project activities.

CDFW appreciates the opportunity to comment to assist the County of Tulare in identifying and mitigating Project impacts on biological resources. If you have any questions, please contact Jaime Marquez, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3200, or by electronic mail at Jaime.Marquez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

Hector Guerra
Tulare County
November 15, 2023
Page 5

ec: Jaime Marquez
California Department of Fish and Wildlife

Patricia Cole
PatriciaCole@fws.gov
United States Fish and Wildlife Service

State Clearinghouse
Governor's Office of Planning and Research
State.Clearinghouse@opr.ca.gov

Hector Guerra
Tulare County
November 15, 2023
Page 6

REFERENCES

Swainson's hawk technical advisory committee. 2000. Recommended timing and methodology for Swainson's hawk nesting surveys in the central valley of California. Swainson's hawk technical advisory committee. May 31, 2000.

**MITIGATION MONITORING AND REPORTING PROGRAM
(CHAPTER 8 OF THE FEIR)**

Mitigation Monitoring and Reporting Program Chapter 8

The Mitigation Monitoring and Reporting Program (MMRP) has been prepared in compliance with State law and the Environmental Impact Report (EIR) (State Clearinghouse No. 2021120339) prepared for the project by the County of Tulare.

The California Environmental Quality Act (CEQA) Section 21081.6 requires adoption of a reporting or monitoring program for those measures placed on a project to mitigate or avoid adverse effects on the environment.¹ The law states that the reporting or monitoring program shall be designed to ensure compliance during project implementation. The Mitigation Monitoring and Reporting Program contains the following elements:

- **Action and Procedure.** The mitigation measures are recorded with the action and procedure necessary to ensure compliance. In some instances, one action may be used to verify implementation of several mitigation measures.
- **Compliance and Verification.** A procedure for compliance and verification has been outlined for each action necessary. This procedure designates who will take action, what action will be taken and when, and to whom and when compliance will be reported.
- **Flexibility.** The program has been designed to be flexible. As monitoring progresses, changes to compliance procedures may be necessary based upon recommendations by those responsible for the Mitigation Monitoring and Reporting Program. As changes are made, new monitoring compliance procedures and records will be developed and incorporated into the program.

¹ California Public Resource Code §21081.6. Accessed July 2023 at:
https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC§ionNum=21081.6

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
Chapter 3.2 Agricultural Lands						
<p>3.2.1 <i>(Preconstruction Surveys)</i>. Prior to the start of construction of any project within an “FMMP area” of the Project area, as applicable, the Applicant shall demonstrate compliance with the Tulare County <i>Agricultural Conservation Easement Program</i> (ACEP). The Applicant shall implement one (1) of the five (5) options below:</p> <p>Option 1 (Mitigation Fees): Applicant(s) may submit in-lieu mitigation fees to Tulare County for the purpose of procuring agricultural lands for farmland conservation easement(s). These fees will be used by Tulare County to purchase farmland easement(s) at a minimum ratio of one to one (1:1) or its functional equivalent to the loss of define agricultural lands, on behalf of the Applicant. These easements must be of substantially the same quality, have or could acquire access to water, and could otherwise be feasibly cultivated. The easement shall protect the designated farmland in perpetuity.</p> <p>Option 2 (On-site Easements): Applicant(s) may enter into a Farmland Conservation Easement Agreement with Tulare County. The on-site land placed under the easement(s) must be at a minimum of a one to one (1:1) ratio, with no less than its functional equivalent of the loss of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, or combination thereof, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency. The easement(s) shall be located in Tulare County, within the boundaries of the project site/property. The</p>	Prior to a project’s initiation	Issuance of building permit	County of Tulare RMA			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>easement(s) must be of substantially the same quality, have or could acquire access to water, and could otherwise be feasibly cultivated. The easement shall protect the designated farmland in perpetuity.</p> <p>Option 3 (Off-site Easements): Applicant(s) may enter into a Farmland Conservation Easement Agreement with Tulare County. The land placed under the easement(s) must be at a minimum of a one to one (1:1) ratio, with no less than its functional equivalent of the loss of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, or combination thereof, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency. The easement(s) shall be located in Tulare County, unless otherwise agreed upon by all parties involved, including the Applicant(s), Tulare County, and/or selling Land Owner(s). The easement(s) must be of substantially the same quality, have or could acquire access to water, and could otherwise be feasibly cultivated. The easement(s) shall protect the designated farmland in perpetuity.</p> <p>Option 4 (Combined On- and Off-site Easements): Applicant(s) may enter into a Farmland Conservation Easement Agreement with Tulare County. The land placed under the easement(s) must be at a minimum of a one to one (1:1) ratio, with no less than its functional equivalent of the loss of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, or combination thereof, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources</p>						

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>Agency. The easement(s) shall be located in Tulare County, unless otherwise agreed upon by all parties involved, including the Applicant(s), Tulare County, and/or selling Land Owner(s). The easement(s) must be of substantially the same quality, have or could acquire access to water, and could otherwise be feasibly cultivated. The easement(s) shall protect the designated farmland in perpetuity.</p> <p>Option 5 (Planned Development Overlay): The Applicant(s) can enter into a Planned Development Agreement with Tulare County to establish a Planned Development Overlay for the project area. This agreement will include conditions that require all future developments to undergo a Site Plan Review, which will include mandatory mitigation, including farmland easements, for the conversion of agricultural lands.</p>						
<p>3.2-2 Prior to the start of construction of any project within an “FMMP area” of the Project, as applicable, the Applicant shall demonstrate compliance with the Tulare County Agricultural Conservation Easement Program (ACEP). The Applicant shall enter into a Farmland Conservation Easement Agreement with Tulare County pursuant to the provisions and administrative protocols of the ACEP. If the Farmland Conservation Easement Agreement is approved by the Board of Supervisors, these properties shall be protected in perpetuity.</p>	<p>Prior to a project’s initiation</p>	<p>Issuance of building permit</p>	<p>County of Tulare RMA</p>			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
Chapter 3.4 Biological Resources						
Swainson’s Hawk and Other Raptors and Migratory Birds (including Loggerhead Shrike)						
3.4.1.a <i>(Preconstruction Surveys)</i> Pre-construction surveys shall be conducted to determine the presence of nesting birds if ground clearing or construction activities will be initiated during the breeding season (February 15 through September 15). Potential nesting areas on the proposed Project site and potential nesting areas within 500 feet of the site should be surveyed prior to June 5th. Surveys shall be performed by a qualified biologist to verify the presence or absence of nesting birds. Construction shall not occur within a 500-foot buffer surrounding active nests of raptors or a 250-foot buffer surrounding active nests of migratory birds. If construction within these buffer areas is required or if nests must be removed to allow continuation of construction, then approval and specific removal methodologies should be obtained from California Department of Fish and Wildlife (CDFW) and/or United States Fish and Wildlife Service (USFWS).	Prior to a project’s initiation	Issuance of building permit	County of Tulare Planning and Public Works (RMA); California Department of Fish and Wildlife (CDFW)			
3.4.1.b <i>(Preconstruction Surveys)</i> All trees which are suitable for Swainson’s hawk nesting that are within 2,640 feet of construction activities shall be inspected by a qualified biologist.	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.1.c <i>(Preconstruction Surveys)</i> If potential Swainson’s hawk nests are found during the inspection, then surveys shall be conducted at the following intensities, depending upon dates of initiation of construction (1 January through 15 September). See Table 8-2 Swainson’s Hawk Survey Guidelines .	Prior to a project’s initiation	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
3.4.1.d <i>(Avoidance)</i> If Swainson’s hawks are detected to be actively nesting in trees within 2,640 feet of the construction area, construction shall not occur within this zone until after young Swainson’s hawks have fledged (this usually occurs by early June). The nest shall be monitored by a qualified biologist to determine fledging date.	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.1.e <i>(Avoidance)</i> If Swainson’s hawks (foraging) or other raptors are found actively nesting within 250 feet of the construction area, construction should be postponed until after young have fledged. The date of fledging should be determined by a qualified biologist. If construction cannot be delayed, the CDFW and/or USFWS shall be consulted and alternative protection measures required by the CDFW and/or USFWS shall be followed.						
3.4.1.f <i>(Avoidance)</i> If other nesting birds (particularly non-raptor species listed on the MBTA) are found actively nesting within 250 feet of the construction area, construction should be postponed until after young have fledged. The date of fledging should be determined by a qualified biologist. If construction cannot be delayed within this zone, the CDFW and/or the USFWS shall be consulted and alternative protection measures required by the CDFW and/or the USFWS shall be followed.						
3.4.1.g <i>(Take Authorization)</i> CDFW recommends that in the event an active SWHA nest is detected, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided,						

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081(b) is necessary to comply with CESA.						
<p>3.4.1.h <i>(Compensation)</i> CDFW recommends compensation for the loss of SWHA foraging habitat as described in CDFW’s “Staff Report Regarding Mitigation for Impacts to Swainson's Hawks” (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report :</p> <ul style="list-style-type: none"> • For projects within 1 mile of an active nest tree, a minimum of 1 acre of habitat management (HM) land for each acre of development is advised. • For projects within 5 miles of an active nest but greater than 1 mile, a minimum of ¾ acre of HM land for each acre of development is advised. • For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, a minimum of ½ acre of HM land for each acre of development is advised. 						
<i>Project-related Impacts to San Joaquin Kit Fox</i>						
3.4.2.a <i>(Preconstruction Surveys)</i> A standardized pre-construction/pre-activity shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction	Prior to and during construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
activities or any Project activity likely to impact the San Joaquin kit fox. Surveys shall identify kit fox habitat features on the Project site and evaluate use by kit fox and, if possible, assess the potential impacts to the kit fox by the proposed activity. The status of all dens shall be determined and mapped. Written results of pre-construction/pre-activity surveys must be received by the Service within five days after survey completion and prior to the start of ground disturbance and/or construction activities.						
3.4.2.b <i>(Avoidance)</i> Disturbance to all San Joaquin kit fox dens shall be avoided to the maximum extent possible.	Prior to and during construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.c <i>(Avoidance)</i> If a natal/pupping den is discovered within the Project area or within 200-feet of the site boundary, CDFW and USFWS shall be immediately notified and under no circumstances should the den be disturbed or destroyed without prior authorization. If the pre-construction/pre-activity survey reveals an active natal pupping or new information, the Project applicant shall contact CDFW and USFWS immediately to obtain the necessary take authorization/permit.	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.d <i>(Den Excavation)</i> Destruction of dens shall not occur without prior authorization from CDFW and USFWS. Upon approval by CDFW and USFWS, destruction of any den shall be accomplished by careful excavation until it is certain that no kit foxes are inside. The den shall be fully excavated, filled with dirt and compacted to ensure that kit foxes cannot reenter or use the den during the construction period.	During construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>3.4.2.e (<i>Monitoring of Dens</i>) Destruction of dens shall not occur without prior authorization from CDFW and USFWS. Once approval is obtained and excavation of a den has commenced, if at any point during excavation a kit fox is discovered inside the den, the excavation activity shall cease immediately, and monitoring of the den as described above shall be resumed. Destruction of the den may be completed when, in the judgment of the qualified biologist, the animal has escaped without further disturbance from the partially destroyed den.</p>	During construction	Issuance of building permit	County of Tulare RMA and CDFW			
<p>3.4.2.f (<i>Minimization</i>) Project-related vehicles shall observe a daytime speed limit not to exceed 20-mph throughout the site in all proposed Project areas, except on county roads and State and Federal highways; this is particularly important at night when kit foxes are most active. Night-time construction shall be minimized to the extent possible. However, if it does occur, then the speed limit shall be reduced to 10-mph. Off-road traffic outside of designated project areas shall be prohibited.</p>	During construction	Issuance of building permit	County of Tulare RMA and CDFW			
<p>3.4.2.g (<i>Minimization</i>) To prevent inadvertent entrapment of kit fox or other animals during the construction phase of the proposed Project, all excavated, steep-walled holes or trenches more than 2-feet deep shall be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks shall be installed. Before such holes or trenches are filled, they shall be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the USFWS and the</p>	During construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
California Department of Fish and Wildlife shall be contacted as noted under Mitigation Measure 4-20 referenced below.						
3.4.2.h <i>(Minimization)</i> Kit fox are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods shall be thoroughly inspected for kit fox before the pipe is used or moved, buried, or capped in any way. If a kit fox is discovered inside a pipe, that section of pipe shall not be moved until the CDFW and USFWS has been consulted. If necessary, and under the direct supervision of a qualified biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.	During construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.i <i>(Minimization)</i> All food-related trash outside of the enclosed facility such as wrappers, cans, bottles, and food scraps shall be disposed of daily in securely closed containers and removed at least once a week during both construction and operational phases.	During construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.j <i>(Minimization)</i> No pets, such as dogs or cats, shall be allowed on the Project site in order to prevent harassment, mortality of kit fox, or destruction of dens.	During construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.k <i>(Minimization)</i> Use of rodenticides and herbicides in Project areas shall be restricted. If rodent control must be used, the CDFW and USFWS shall be consulted to	During construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
determine appropriate methods for rodent control prior to start of ground-disturbing activities.						
3.4.2.l <i>(Environmental Representative)</i> A representative shall be appointed by the Project Applicant to serve as the contact source for any employee or contractor who might inadvertently kill or injure a kit fox or who finds a dead, injured or entrapped kit fox. The representative will be identified during the employee education program and their name, telephone number, or other pertinent contact information shall be provided to the Service.	During construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.2.m <i>(Environmental Awareness Training)</i> An employee education program shall be conducted to alert employees of potential impacts to kit fox or other species of concern. The program shall consist of a brief presentation by persons knowledgeable in kit fox biology and legislative protection to explain endangered species concerns to contractors, their employees, and military and/or agency personnel involved in the project. The program shall include the following: A description of the San Joaquin kit fox and its habitat needs; a report of the occurrence of kit fox in the Project area; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of measures being taken to reduce impacts to the species during Project construction and implementation. A fact sheet conveying this information shall be prepared for distribution to the previously referenced people and anyone else who may enter the Project site.	During construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>3.4.2.n <i>(Take Authorization)</i> Any contractor, employee, or military or agency personnel who are responsible for inadvertently killing or injuring a San Joaquin kit fox shall immediately report the incident to their representative. The Sacramento Fish and Wildlife Office and CDFW shall be notified in writing within three working days of the accidental death or injury to a San Joaquin kit fox. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The Sacramento Fish and Wildlife Office contact is:</p> <p style="text-align: center;">Mr. Paul Hoffman 1701 Nimbus Road, Suite A, Rancho Cordova, California 95670 (530) 934-9309</p>	During construction	Issuance of building permit	County of Tulare RMA and CDFW			
<p>3.4.2.o <i>(Reporting New Sightings)</i> New sightings of kit fox shall be reported to the California Natural Diversity Database (CNDDDB). A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed shall also be provided to Fish and Wildlife at the address below.</p> <p style="text-align: center;">Endangered Species Division 2800 Cottage Way, Suite W2605 Sacramento, California 95825-1846 (916) 414-6620 or (916) 414-6600</p>	During construction	Issuance of building permit	County of Tulare RMA and CDFW			
Project-Related to Burrowing Owl						
<p>3.4.3.a <i>(Preconstruction Surveys)</i> In accordance with CDFG’s 2012 <i>Staff Report on Burrowing Owl Mitigation</i>, a qualified biologist shall conduct three</p>	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
surveys for burrowing owls (BUOW) where potential burrowing owl habitat occurs within 500 feet of Project activities. Surveys shall occur during the peak breeding season for this species (15 April through 15 July) and, spaced three weeks apart. If active burrowing owl burrows are identified within 500 feet of the Project site, then avoidance, take avoidance surveys, site surveillance, minimization, and buffer mitigation measures shall be implemented, in accordance with the 2012 CDFG <i>Staff Report</i> and direct consultation with CDFW.						
3.4.3.b <i>(Avoidance)</i> Should a BUOW be detected, CDFW recommends that no-disturbance buffers, as outlined in the “Staff Report on Burrowing Owl Mitigation” (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW’s Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival. See Table 8-3 Burrowing Owl Avoidance Distances .	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4-3.c <i>(Exclusion & Passive Relocation)</i> If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), excluding birds from burrows is not a take avoidance, minimization, or mitigation method and is instead considered a potentially significant impact under	Prior to initiation of construction	Issuance of building permit	County of Tulare and CDFW			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
CEQA. However, if it is necessary for Project implementation, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of one (1) burrow collapsed to one (1) artificial burrow constructed (1:1) to mitigate for evicting BUOW and the loss of burrows. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance at a rate that is sufficient to detect BUOW if they return.						
<i>Amphibians and Reptiles</i>						
3.4.4.a (Preconstruction Surveys & Passive Relocation) Preconstruction surveys shall be conducted during a period of high hydrological activity for the Slough. This may coincide with irrigation deliveries to downstream agriculture, typically an initial release from dams occurs in February-March and May-July. These surveys will detect tiger salamanders (early survey) and western pond turtles (late survey, if present. For spadefoots, survey shall be conducted after they emerge subsequent to 1-2 inches of precipitation at the start of the rainy season (usually around the beginning of December). If surveys detect these species, they shall be allowed to passively relocate off of the site before construction on the Slough begins.	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program						
Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<i>California Tiger Salamander</i>						
3.4.4.b <i>(Avoidance of Potential Aestivation Burrows)</i> Where the project site is directly adjacent to grassland habitat, project activities will be confined to the pavement to the extent feasible. Where ground-disturbing activities in these areas must occur outside of pavement, potential CTS aestivation burrows in grassland edges will be avoided by a minimum distance of 50 feet. If the 50-foot buffer cannot be met, the CDFW and USFWS shall be consulted to determine appropriate actions to avoid take. If take cannot be avoided, a take permit shall be obtained prior to initiation of ground-disturbing activities.	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			
3.4.4.c <i>(Construction Timing)</i> If feasible, the project will be constructed entirely during the non-rainy season, when CTS are less likely to be traveling overland. Construction will be initiated after the vernal pools of the SCER have dried and concluded before the first significant fall rains.	During construction	Issuance of building permit				
3.4.4.d <i>(Exclusion Fencing)</i> An exclusion fence will be installed around any portion of the project site in which work is to occur after the first significant fall rains. The fence will be designed to exclude, to the maximum extent possible, all rodent burrows located in portions of the project site that adjoin annual grassland habitat. Where such burrows cannot be fully excluded, one-way escape ramps will be constructed at regular intervals along the fence interior, allowing CTS to leave, but not reenter, the project site. Fence installation will be continuously monitored by a qualified biologist.	During construction	Issuance of building permit				

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
3.4.4.e (Biological Monitoring) If construction is to occur during the rainy season, a qualified biologist will monitor any open trenches or other excavations on the project site a minimum of once per day, and will monitor the exclusion fence a minimum of once per week.	During construction	Issuance of building permit				
3.4.4.f (Environmental Awareness Training) Prior to the start of construction, a qualified biologist will provide training on the CTS to all construction personnel. This training will include a description of the CTS and its habitat needs; a report of the occurrence of the species in the project vicinity; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of the measures being taken to reduce impacts to CTS during project implementation. Attendance will be documented on a sign-in sheet. Attendees will be provided a handout that summarizes all of the training information. The applicant will use this handout to train any construction personnel that were not in attendance at the first meeting, prior to those personnel starting work on the site.	During construction	Issuance of building permit				
American Badger						
3.4.5.a (Preconstruction Surveys) If potential habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for applicable species and their requisite habitat features to evaluate potential impacts resulting from ground and vegetation disturbance.	Prior to initiation of construction	Issuance of building permit	County of Tulare RMA and CDFW			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
3.4.5.b <i>(Avoidance Buffers)</i> Avoidance whenever possible is encouraged via delineation and observance a 50-foot no-disturbance buffer around American badger dens.	During construction	Issuance of building permit				
Cultural Resources						
3.5.1	In the event that historical, archaeological or paleontological resources are discovered during site excavation, the County shall require that grading and construction work on the Project site be immediately suspended until the significance of the features can be determined by a qualified archaeologist or paleontologist. In this event, the property owner shall retain a qualified archaeologist/paleontologist to provide recommendations for measures necessary to protect any site determined to contain or constitute an historical resource, a unique archaeological resource, or a unique paleontological resource or to undertake data recover, excavation analysis, and curation of archaeological or paleontological materials. County staff shall consider such recommendations and implement them where they are feasible in light of Project design as previously approved by the County.	Prior to issuance of grading permits Ongoing monitoring during subsurface excavation	Retention of professional paleontologist/ ongoing monitoring/ submittal of Report of Findings, if applicable	County of Tulare RMA		
3.5.2	The property owner shall avoid and minimize impacts to paleontological resources. If a potentially significant paleontological resource is encountered during ground disturbing activities, all construction within a 100-foot radius of the find shall immediately cease until a qualified paleontologist determines whether the resources requires further study. The owner shall include a standard inadvertent discovery clause in every construction contract to inform	Prior to issuance of grading permits Ongoing monitoring during subsurface excavation	Retention of professional paleontologist/ ongoing monitoring/ submittal of Report of Findings, if applicable	County of Tulare RMA		

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
contractors of this requirement. The paleontologist shall notify the Tulare County Resource Management Agency and the project proponent of the procedures that must be followed before construction is allowed to resume at the location of the find. If the find is determined to be significant and the Tulare County Resource Management Agency determines avoidance is not feasible, the paleontologist shall design and implement a data recovery plan consistent with applicable standards. The plan shall be submitted to the Tulare County Resource Management Agency for review and approval. Upon approval, the plan shall be incorporated into the project.						
<p>3.5.3 Consistent with Section 7050.5 of the California Health and Safety Code and (CEQA Guidelines) Section 15064.5, if human remains of Native American origin are discovered during project construction, it is necessary to comply with State laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (Public Resources Code Sec. 5097). In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:</p> <ol style="list-style-type: none"> 1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until: <ol style="list-style-type: none"> a. The Tulare County Coroner/Sheriff must be contacted to determine that no 	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	<p>Retention of professional paleontologist/ ongoing monitoring/ submittal of Report of Findings, if applicable</p>	<p>County of Tulare RMA</p>			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>investigation of the cause of death is required; and</p> <p>b. If the coroner determines the remains to be Native American:</p> <p>i. The coroner shall contact the Native American Heritage Commission within 24 hours.</p> <p>ii. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.</p> <p>iii. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code section 5097.98, or</p> <p>2. Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.</p> <p>a. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely</p>						

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>descendent failed to make a recommendation within 24 hours after being notified by the commission.</p> <p>b. The descendant fails to make a recommendation; or</p> <p>c. The landowner or his authorized representative rejects the recommendation of the descendent.</p>						
Geology & Soils (Paleontology)						
<p>3.7.1 The property owner shall avoid and minimize impacts to paleontological resources. If a potentially significant paleontological resource is encountered during ground disturbing activities, all construction within a 100-foot radius of the find shall immediately cease until a qualified paleontologist determines whether the resources requires further study. The owner shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. The paleontologist shall notify the Tulare County Resource Management Agency and the Project proponent of the procedures that must be followed before construction is allowed to resume at the location of the find. If the find is determined to be significant and the Tulare County Resource Management Agency determines avoidance is not feasible, the paleontologist shall design and implement a data recovery plan consistent with applicable standards. The plan shall be submitted to the Tulare County Resource Management Agency for review and approval. Upon approval, the plan shall be incorporated into the Project.</p>	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	<p>Retention of professional paleontologist/ ongoing monitoring/ submittal of Report of Findings, if applicable</p>	<p>County of Tulare RMA</p>			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program							
Mitigation Measure		Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
					Initials	Date	Remarks
Hydrology & Water Quality							
3.10.1	All new construction shall have water conserving fixtures (water closets, low flow showerheads, low flow sinks, etc.) New urinals shall also conserve water through waterless, zero flush, or other water conservation technique and/or technology.	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			
3.10.2	The proposed Project shall conform to the Tulare County Water Efficient Landscaping Ordinance.	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			
3.10.3	No ground water shall be transported off-site for any use.	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			
Tribal Cultural Resources							
3.18.1	In the event that historical, archaeological or paleontological resources are discovered during site excavation, the County shall require that grading and construction work on the Project site be immediately suspended until the significance of the features can be determined by a qualified archaeologist or paleontologist. In this event, the property owner shall retain a qualified archaeologist/paleontologist to provide recommendations for measures necessary to protect any site determined to contain or constitute an historical resource, a unique archaeological resource, or a unique paleontological resource or to undertake data recover, excavation analysis, and curation of archaeological or paleontological materials. County staff shall consider such recommendations and implement them where they are feasible in light of Project design as previously approved by the County.	Prior to issuance of grading permits Ongoing monitoring during subsurface excavation	Retention of professional paleontologist/ ongoing monitoring/ submittal of Report of Findings, if applicable	County of Tulare RMA			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
				Initials	Date	Remarks
<p>3.18.2 Consistent with Section 7050.5 of the California Health and Safety Code and (CEQA Guidelines) Section 15064.5, if human remains of Native American origin are discovered during project construction, it is necessary to comply with State laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (Public Resources Code Sec. 5097). In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:</p> <ol style="list-style-type: none"> 1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until: <ol style="list-style-type: none"> a. The Tulare County Coroner/Sheriff must be contacted to determine that no investigation of the cause of death is required; and b. If the coroner determines the remains to be Native American: <ol style="list-style-type: none"> i. The coroner shall contact the Native American Heritage Commission within 24 hours. ii. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American. iii. The most likely descendent may make recommendations to the landowner or 	<p>Prior to issuance of grading permits</p> <p>Ongoing monitoring during subsurface excavation</p>	<p>Retention of professional paleontologist/ ongoing monitoring/ submittal of Report of Findings, if applicable</p>	<p>County of Tulare RMA</p>			

Final Environmental Impact Report
 Draft 2023 Kingsburg Area Community Plan
 SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure	Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance			
				Initials	Date	Remarks	
<p>the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code section 5097.98, or</p> <p>2. Where the following conditions occur, the landowner or his authorized representative shall reburial the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.</p> <p>a. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.</p> <p>b. The descendant fails to make a recommendation; or</p> <p>c. The landowner or his authorized representative rejects the recommendation of the descendent.</p>							
Utilities and Services							
3.19.1	Install water meters and adopt a use-weighted rate schedule to encourage reduced usage by the rate-payers.	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-1 - Mitigation Monitoring and Reporting Program

Mitigation Measure		Monitoring Timing/Frequency	Action Indicating Compliance	Monitoring Agency	Verification of Compliance		
					Initials	Date	Remarks
3.19.2	Retrofit homes with water-efficient faucets, showers, and toilets.	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			
3.19.3	Limit permissible landscape area for each residence to 2,500 square feet or less.	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			
3.19.4	Adopt limited outdoor watering days and hours (now in force statewide, as of August 1, 2014, by order of the Department of Water Resources).	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			
3.19.5	Mandate use of native and drought-tolerant species for all landscaping.	Prior to issuance of grading permits.	Issuance of building permit.	County of Tulare RMA			

Table 8-2 - Swainson's Hawk Survey Guidelines

Construction start	Survey period	Number of surveys	Timing
January 1 to March 20	January 1 to March 20 (pre-arrival)	1	All day
March 21 to March 24	January 1 to March 20 (pre-arrival)	1	All day
	March 20 to March 24 (pre-arrival/arrival)	Up to 3	Sunrise to 10 a.m. and 4 p.m. to sunset
March 25 to April 5	January 1 to March 20 (pre-arrival)	1	All day
	March 20 to April 5 (arrival)	3	Sunrise to 10 a.m. and 4 p.m. to sunset
April 6 to April 9	March 20 to April 5 (arrival)	3	Sunrise to 10 a.m. and 4 p.m. to sunset
	April 5 to April 9 (arrival/nest building)	Up to 3	Sunrise to 10 a.m. and 4 p.m. to sunset
	January 1 to March 20 (pre-arrival)	1 (if all 3 surveys are performed between April 6 and 9, then this survey need not be conducted)	All day
April 10 to July 30	March 20 to April 5 (arrival)	3	Sunrise to 10 a.m. and 4 p.m. to sunset
	April 5 to April 20 (nest building)	3	Sunrise to 12 p.m. and 4:30 p.m. to sunset
	April 21 to June 10 (incubation)	Initiating surveys is not recommended	Monitoring known nest sites only

Final Environmental Impact Report
Draft 2023 Kingsburg Area Community Plan
SCH No 2021120339

Table 8-2 - Swainson’s Hawk Survey Guidelines

Construction start	Survey period	Number of surveys	Timing
July 31 to September 15	April 5 to April 20 (nest building)	3	Sunrise to 12 p.m. and 4:30 p.m. to sunset
	April 21 to June 10 (incubation)	Initiating surveys is not recommended	Monitoring known nest sites only
	June 10 to July 30 (fledging)	3	Sunrise to 12 p.m. and 4 p.m. to sunset

Source: Recommended Timing and Methodology for Swainson’s Hawk Nesting Surveys in California’s Central Valley, Swainson’s Hawk Technical Advisory Committee (SWHA TAC), May 31, 2000 (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83990&inline>, accessed January 2024)

Note: The SWHA TAC guidance states, “To meet the minimum level of protection for the species, surveys should be completed for at least the two survey periods immediately prior to a project’s initiation.” This table presents the recommended survey periods as well as the two survey periods necessary based on construction start date.

Table 8-3 - Burrowing Owl Avoidance Distances

Location	Time of Year	Level of Disturbance (in meters)		
		Low	Medium	High
Nesting sites	April 1-Aug. 15	200	500	500
Nesting sites	Aug. 16-Oct. 15	200	200	500
Nesting sites	Oct. 16-Mar. 31	50	100	500

Source: Staff Report on Burrowing Owl Mitigation, Department of Fish and Game, March 7, 2012 (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843>, accessed January 2024)

ERRATA AND CLARIFICATION OF THE DRAFT EIR

Clarifications and Errata of the Draft EIR

CLARIFICATIONS MADE TO THE DRAFT EIR

The Draft EIR was prepared in 2023 while this Final EIR was prepared in 2024. Although there have been no changes in the members of the Tulare County Board of Supervisors and Tulare County Planning Commission, the positions of Chair and Vice-Chair have changed. The Supervisors and Commissioners currently holding these positions are:

Tulare County Board of Supervisors Dennis Townsend, Chair; Larry Micari, Vice-Chair
Tulare County Planning Commission Wayne Millies, Chair; Carlos Aleman, Vice-Chair

TYPOGRAPHICAL, GRAMMATICAL, AND FORMATTING REVISIONS

With exception to the typographical errors identified below, corrections of typographical and grammatical errors and to general formatting (such as use of underlines, bold and italic fonts, tab settings, footnote styles, etc.) have been made throughout the document and are not identified with ~~strikeout~~ or underline text.

1. The acronym “UDB” is the simplified form of “Urban Development Boundary.” The reference to the UDB was incorrectly identified as “UBD” in various locations within the EIR. This error has been corrected throughout the document.
2. The acronym ““CACUDB” is the simplified form of “County Adopted City Urban Development Boundary.” The reference to the CACUDB was incorrectly identified as “CACUBD” in various locations within the EIR. This error has been corrected throughout the document.

CORRECTIONS AND REVISIONS TO THE DRAFT EIR

Revisions to the EIR not identified above are included as Errata within this document and are indicated by ~~strikeout~~ text (e.g., ~~strikeout~~), indicating deletions, and underline text (e.g., underline), indicating additions. These corrections are summarized in the list below.

3. **Executive Summary, Page ES-7:** Objective 6 at the top of the page has been amended as follows:

Objective 6: Encourage merger of existing vacant substandard lots within the town site of ~~Cutler/Orosi~~Kingsburg.

4. **Executive Summary, Table ES-1, Pages ES-20 to ES-31:** Mitigation Measures have been revised in response to comments received by the California Department of Fish and Wildlife

(CDFW). These changes are also been made to the Mitigation Monitoring Program (MMRP) provided in Chapter 8. See item 7 below.

5. **Chapter 3.6, Page 3.6-13:** The first sentence of the Cumulative Impact Analysis for Checklist Item b) has been amended as follows:

There are no development proposals as part of this Project and there are no development proposals within the vicinity of the proposed ~~Project or within the community of Kingsburg~~KACP.

6. **Chapter 8, Page 8-1:** The State Clearinghouse (SCH) number in the first paragraph of the chapter is a remnant of the template document that was inadvertently unchanged during the preparation of the Draft EIR. The SCH number has been amended to reflect the correct SCH number for this project.

7. **Chapter 8, Table 8-1, Pages 8-5 to 8-17:** Mitigation Measures have been revised to provide additional clarification and to incorporate recommendation from CDFW.

3.4.1.a ***(Preconstruction Surveys)***- Pre-construction surveys shall be conducted to determine the presence of nesting birds if ground clearing or construction activities will be initiated during the breeding season (February 15 through September 15). Potential nesting areas on the proposed Project site and potential nesting areas within 500 feet of the site should be surveyed prior to June 5th. Surveys shall be performed by a qualified biologist to verify the presence or absence of nesting birds. Construction shall not occur within a 500-foot buffer surrounding active nests of raptors or a 250-foot buffer surrounding active nests of migratory birds. If construction within these buffer areas is required or if nests must be removed to allow continuation of construction, then approval and specific removal methodologies should be obtained from California Department of Fish and Wildlife (CDFW) and/or United States Fish and Wildlife Service (USFWS).

3.4.1.b ***(Preconstruction Surveys)*** All trees which are suitable for Swainson's hawk nesting that are within 2,640 feet of construction activities shall be inspected by a qualified biologist.

3.4.1.c ***(Preconstruction Surveys)*** If potential Swainson's hawk nests are found during the inspection, then surveys shall be conducted at the following intensities, depending upon dates of initiation of construction (1 January through 15 September). See ~~Table 3.4 2~~ in Chapter 3.4 Biological Resources. **Table 8-2 Swainson's Hawk Survey Guidelines.**

3.4.1.d ***(Avoidance)*** If Swainson's hawks are detected to be actively nesting in trees within 2,640 feet of the construction area, construction shall not occur within this zone until after young Swainson's hawks have fledged (this usually occurs by early

June). The nest shall be monitored by a qualified biologist to determine fledging date.

- 3.4.1.e **(Avoidance)** If Swainson’s hawks (foraging) or other raptors are found actively nesting within 250 feet of the construction area, construction should be postponed until after young have fledged. The date of fledging should be determined by a qualified biologist. If construction cannot be delayed, the CDFW and/or USFWS shall be consulted and alternative protection measures required by the CDFW and/or USFWS shall be followed.
- 3.4.1.f. **(Avoidance)** If other nesting birds (particularly non-raptor species listed on the MBTA) are found actively nesting within 250 feet of the construction area, construction should be postponed until after young have fledged. The date of fledging should be determined by a qualified biologist. If construction cannot be delayed within this zone, the CDFW and/or the USFWS shall be consulted and alternative protection measures required by the CDFW and/or the USFWS shall be followed.
- 3.4.1.g **(Take Authorization)** CDFW recommends that in the event an active SWHA nest is detected, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081(b) is necessary to comply with CESA.
- 3.4.1.h **(Compensation)** CDFW recommends compensation for the loss of SWHA foraging habitat as described in CDFW’s “Staff Report Regarding Mitigation for Impacts to Swainson's Hawks” (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report ~~(as shown in its entirety in Chapter 3.4 Biological Resources:~~
- For projects within 1 mile of an active nest tree, a minimum of 1 acre of habitat management (HM) land for each acre of development is advised.
 - For projects within 5 miles of an active nest but greater than 1 mile, a minimum of ¾ acre of HM land for each acre of development is advised.
 - For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, a minimum of ½ acre of HM land for each acre of development is advised.
- 3.4.2.a **(Preconstruction Surveys)** A standardized pre-construction/pre-activity shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities or any Project activity likely to impact the San Joaquin kit fox. Surveys shall identify kit fox habitat features on the Project site and evaluate use by kit fox and, if possible, assess the potential impacts

to the kit fox by the proposed activity. The status of all dens shall be determined and mapped. Written results of pre-construction/pre-activity surveys must be received by the Service within five days after survey completion and prior to the start of ground disturbance and/or construction activities.

- 3.4.2.b **(Avoidance)** Disturbance to all San Joaquin kit fox dens shall be avoided to the maximum extent possible.
- 3.4.2.c **(Avoidance)** If a natal/pupping den is discovered within the Project area or within 200-feet of the site boundary, CDFW and USFWS shall be immediately notified and under no circumstances should the den be disturbed or destroyed without prior authorization. If the pre-construction/pre-activity survey reveals an active natal pupping or new information, the Project applicant shall contact CDFW and USFWS immediately to obtain the necessary take authorization/permit.
- 3.4.2.d **(Den Excavation)** Destruction of dens shall not occur without prior authorization from CDFW and USFWS. Upon approval by CDFW and USFWS, Destruction of any den shall be accomplished by careful excavation until it is certain that no kit foxes are inside. The den shall be fully excavated, filled with dirt and compacted to ensure that kit foxes cannot reenter or use the den during the construction period.
- 3.4.2.e **(Monitoring of Dens)** Destruction of dens shall not occur without prior authorization from CDFW and USFWS. Once approval is obtained and excavation of a den has commenced, Hif at any point during excavation a kit fox is discovered inside the den, the excavation activity shall cease immediately, and monitoring of the den as described above shall be resumed. Destruction of the den may be completed when, in the judgment of the qualified biologist, the animal has escaped without further disturbance from the partially destroyed den.
- 3.4.2.f **(Minimization)** Project-related vehicles shall observe a daytime speed limit not to exceed 20-mph throughout the site in all proposed Project areas, except on county roads and State and Federal highways; this is particularly important at night when kit foxes are most active. Night-time construction shall be minimized to the extent possible. However, if it does occur, then the speed limit shall be reduced to 10-mph. Off-road traffic outside of designated project areas shall be prohibited.
- 3.4.2.g **(Minimization)** To prevent inadvertent entrapment of kit fox or other animals during the construction phase of the proposed Project, all excavated, steep-walled holes or trenches more than 2-feet deep shall be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks shall be installed. Before such holes or trenches are filled, they shall be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the USFWS and the California Department of Fish and Wildlife shall be contacted as noted under Mitigation Measure 4-20 referenced below.

- 3.4.2.h **(Minimization)** Kit fox are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods shall be thoroughly inspected for kit fox before the pipe is used or moved, buried, or capped in any way. If a kit fox is discovered inside a pipe, that section of pipe shall not be moved until the CDFW and USFWS has been consulted. If necessary, and under the direct supervision of a qualified biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.
- 3.4.2.i **(Minimization)** Kit fox are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods shall be thoroughly inspected for kit fox before the pipe is used or moved, buried, or capped in any way. If a kit fox is discovered inside a pipe, that section of pipe shall not be moved until the CDFW has been consulted. If necessary, and under the direct supervision of a qualified biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.
- 3.4.2.j **(Minimization)** No pets, such as dogs or cats, shall be allowed on the Project site in order to prevent harassment, mortality of kit fox, or destruction of dens.
- 3.4.2.k **(Minimization)** Use of rodenticides and herbicides in Project areas shall be restricted. If rodent control must be used, the CDFW and USFWS shall be consulted to determine appropriate methods for rodent control prior to start of ground-disturbing activities-. ~~It shall be limited to the use of the zinc phosphide because of its demonstrated lower risk to kit fox.~~
- 3.4.2.l **(Environmental Representative)** A representative shall be appointed by the Project Applicant to serve as the contact source for any employee or contractor who might inadvertently kill or injure a kit fox or who finds a dead, injured or entrapped kit fox. The representative will be identified during the employee education program and their name, telephone number, or other pertinent contact information shall be provided to the Service.
- 3.4.2.m **(Environmental Awareness Training)** An employee education program shall be conducted to alert employees of potential impacts to kit fox or other species of concern. The program shall consist of a brief presentation by persons knowledgeable in kit fox biology and legislative protection to explain endangered species concerns to contractors, their employees, and military and/or agency personnel involved in the project. The program shall include the following: A description of the San Joaquin kit fox and its habitat needs; a report of the occurrence of kit fox in the Project area; an explanation of the status of the species

and its protection under the Endangered Species Act; and a list of measures being taken to reduce impacts to the species during Project construction and implementation. A fact sheet conveying this information shall be prepared for distribution to the previously referenced people and anyone else who may enter the Project site.

- 3.4.2.n ***(Take Authorization)*** Any contractor, employee, or military or agency personnel who are responsible for inadvertently killing or injuring a San Joaquin kit fox shall immediately report the incident to their representative. The Sacramento Fish and Wildlife Office and CDFW shall be notified in writing within three working days of the accidental death or injury to a San Joaquin kit fox. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The Sacramento Fish and Wildlife Office contact is:

Mr. Paul Hoffman
1701 Nimbus Road, Suite A,
Rancho Cordova, California 95670
(530) 934-9309

- 3.4.2.o ***(Reporting New Sightings)*** New sightings of kit fox shall be reported to the California Natural Diversity Database (CNDDDB). A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed shall also be provided to Fish and Wildlife at the address below.

Endangered Species Division
2800 Cottage Way, Suite W2605
Sacramento, California 95825-1846
(916) 414-6620 or (916) 414-6600

- 3.4.3.a ***(Preconstruction Surveys)*** In accordance with CDFG's 2012 *Staff Report on Burrowing Owl Mitigation*, a qualified biologist shall conduct three surveys for burrowing owls (BUOW) where potential burrowing owl habitat occurs within 500 feet of Project activities. Surveys shall occur during the peak breeding season for this species (15 April through 15 July) and, spaced three weeks apart. If active burrowing owl burrows are identified within 500 feet of the Project site, then avoidance, take avoidance surveys, site surveillance, minimization, and buffer mitigation measures shall be implemented, in accordance with the 2012 CDFG *Staff Report* and direct consultation with CDFW.
- 3.4.3.b ***(Avoidance)*** Should a BUOW be detected, CDFW recommends that no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist

approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival. See **Table 3.4.3 8-3 Burrowing Owl Avoidance Distances.**

- 3.4.43.c ***(Exclusion & Passive Relocation)*** If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), excluding birds from burrows is not a take avoidance, minimization, or mitigation method and is instead considered a potentially significant impact under CEQA. However, if it is necessary for Project implementation, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of one (1) burrow collapsed to one (1) artificial burrow constructed (1:1) to mitigate for evicting BUOW and the loss of burrows. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance at a rate that is sufficient to detect BUOW if they return.
- 3.4.4.a ***(Preconstruction Surveys & Passive Relocation)*** Preconstruction surveys shall be conducted during a period of high hydrological activity for the Slough. This may coincide with irrigation deliveries to downstream agriculture, typically an initial release from dams occurs in February-March and May-July. These surveys will detect tiger salamanders (early survey) and western pond turtles (late survey, if present). For spadefoots, survey shall be conducted after they emerge subsequent to 1-2 inches of precipitation at the start of the rainy season (usually around the beginning of December). If surveys detect these species, they shall be allowed to passively relocate off of the site before construction on the Slough begins.
- 3.4.4.b ***(Avoidance of Potential Aestivation Burrows)*** –Where the project site is directly adjacent to grassland habitat, project activities will be confined to the pavement to the extent feasible. Where ground-disturbing activities in these areas must occur outside of pavement, potential CTS aestivation burrows in grassland edges will be avoided by a minimum distance of 50 feet, as practicable. If the 50-foot buffer cannot be met, the CDFW shall be consulted to determine appropriate actions to avoid take. If take cannot be avoided, a take permit shall be obtained prior to initiation of ground-disturbing activities.
- 3.4.4.c ***(Construction Timing)*** –If feasible, the project will be constructed entirely during the non-rainy season, when CTS are less likely to be traveling overland. Construction will be initiated after the vernal pools of the SCER have dried and concluded before the first significant fall rains.

- 3.4.4.d **(Exclusion Fencing)** –An exclusion fence will be installed around any portion of the project site in which work is to occur after the first significant fall rains. The fence will be designed to exclude, to the maximum extent possible, all rodent burrows located in portions of the project site that adjoin annual grassland habitat. Where such burrows cannot be fully excluded, one-way escape ramps will be constructed at regular intervals along the fence interior, allowing CTS to leave, but not reenter, the project site. Fence installation will be continuously monitored by a qualified biologist.
- 3.4.4.e **(Biological Monitoring)** –If construction is to occur during the rainy season, a qualified biologist will monitor any open trenches or other excavations on the project site a minimum of once per day, and will monitor the exclusion fence a minimum of once per week.
- 3.4.4.f **(Environmental Awareness Training)** –Prior to the start of construction, a qualified biologist will provide training on the CTS to all construction personnel. This training will include a description of the CTS and its habitat needs; a report of the occurrence of the species in the project vicinity; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of the measures being taken to reduce impacts to CTS during project implementation. Attendance will be documented on a sign-in sheet. Attendees will be provided a handout that summarizes all of the training information. The applicant will use this handout to train any construction personnel that were not in attendance at the first meeting, prior to those personnel starting work on the site.
- 3.4.5.a **(Preconstruction Surveys)** If potential habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for applicable species and their requisite habitat features to evaluate potential impacts resulting from ground and vegetation disturbance.
- 3.4.5.b **(Avoidance Buffers)** Avoidance whenever possible is encouraged via delineation and observance a 50-foot no-disturbance buffer around American badger dens.