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VIA EMAIL: EAHMAD@FRESNOCOUNTYCA.GOV

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County of Fresno, Department of Public Works and Planning

2220 Tulare Street, 6th Floor

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Dear County of Fresno:

NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT #7524 FOR THE MALAGA INDUSTRIAL DEVELOPMENT PROJECT (AMENDMENT APPLICATION #3834 AND GENERAL PLAN AMENDMENT APPLICATION #557), SCH# 2022110260

The Department of Conservation's (DOC) Division of Land Resource Protection (Division) has reviewed the Notice of Preparation of an Environmental Impact Report for the Malaga Industrial Development Project (Project). The Division monitors farmland conversion on a statewide basis, provides technical assistance regarding the Williamson Act, and administers various agricultural land conservation programs. We offer the following comments and recommendations with respect to the project's potential impacts on agricultural land and resources.

Project Description

The project applicant proposes to subdivide and develop approximately 159-acres of land into an industrial complex with up to ten (10) individual lots to accommodate future industrial uses. The lots will range in size from approximately 9 to 19 acres. No specific industrial uses are being proposed at this time; thus, the environmental evaluation assumes the greatest/largest buildout available under the proposed M-3(c) (Heavy Industrial; Conditional) designation. Although no specific industrial uses are being proposed at this time, it should be noted that certain industrial uses such as aircraft factory, aluminum foundry, railroad repair shop, sawmill, cotton gin and oil mills, oils and fat refining and many more have been eliminated from consideration under this Project.

The proposed Project is located on approximately 159-acres, approximately 0.5 miles east of Malaga in Fresno County and is bounded generally by E. North Avenue to the north, S. Minnewawa Avenue to the west, Clovis Avenue to the east, and E. Central Avenue approximately 1,000 feet south of the Project's southern boundary. The site is approximately 4.5 miles southeast of downtown Fresno and approximately 7 miles west

of the City of Sanger. The Project is comprised of four assessor's parcels: 331-200-07s, 331-200-08s, 331-020-32, and 331-020-33. The proposed project site contains Prime and Unique Farmland as defined by the Department of Conservation's Farmland Mapping and Monitoring Program. The site is also encumbered with a Williamson Act contract.

Comments

The conversion of agricultural land represents a permanent reduction and significant impact to California's agricultural land resources. CEQA requires that all feasible and reasonable mitigation be reviewed and applied to projects. Under CEQA, a lead agency should not approve a project if there are feasible alternatives or feasible mitigation measures available that would lessen the significant effects of the project.

All mitigation measures that are potentially feasible should be included in the project's environmental review. A measure brought to the attention of the lead agency should not be left out unless it is infeasible based on its elements.

Consistent with CEQA Guidelines, DOC recommends the County consider agricultural conservation easements, among other measures, as potential mitigation. (See Cal. Code Regs., tit. 14, § 15370 [mitigation includes "compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements."])

Mitigation through agricultural easements can take at least two forms: the outright purchase of easements or the donation of mitigation fees to a local, regional, or statewide organization or agency whose purpose includes the acquisition and stewardship of agricultural easements. The conversion of agricultural land should be deemed an impact of at least regional significance. Hence, the search for replacement lands should not be limited strictly to lands within the project's surrounding area.

A helpful source for regional and statewide agricultural mitigation banks is the California Council of Land Trusts. They provide helpful insight into farmland mitigation policies and implementation strategies, including a guidebook with model policies and a model local ordinance. The guidebook can be found at:

[California Council of Land Trusts](#)

Of course, the use of conservation easements is only one form of mitigation that should be considered. Any other feasible mitigation measures should also be considered. Indeed, the recent judicial opinion in *King and Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814 ("KG Farms") holds that agricultural conservation easements on a 1 to 1 ratio are not alone sufficient to adequately mitigate a project's conversion of agricultural land. KG Farms does not stand for the proposition that agricultural conservation easements are irrelevant as mitigation. Rather, the holding suggests that to the extent they are considered, they may need to be applied at a greater than 1 to

1 ratio, or combined with other forms of mitigation (such as restoration of some land not currently used as farmland).

Conclusion

DOC recommends further discussion of the following issues:

- Type, amount, and location of farmland conversion resulting directly and indirectly from implementation of the proposed project.
- Impacts on any current and future agricultural operations in the vicinity; e.g., land-use conflicts, increases in land values and taxes, loss of agricultural support infrastructure such as processing facilities, etc.
- Incremental impacts leading to cumulative impacts on agricultural land. This would include impacts from the proposed project, as well as impacts from past, current, and likely future projects.
- Proposed mitigation measures for all impacted agricultural lands within the proposed project area.
- Projects compatibility with lands within an agricultural preserve and/or enrolled in a Williamson Act contract.
- If applicable, notification of Williamson Act contract non-renewal and/or cancellation.

Thank you for giving us the opportunity to comment on the Notice of Preparation of an Environmental Impact Report for the Malaga Industrial Development Project. Please provide DOC with notices of any future hearing dates as well as any staff reports pertaining to this project. If you have any questions regarding our comments, please contact Farl Grundy, Associate Environmental Planner via email at Farl.Grundy@conservation.ca.gov.

Sincerely,

Monique Wilber

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Conservation Program Support Supervisor