

Final Environmental Impact Report
Proposed Wal-Mart Regional Distribution Center



State Clearinghouse Number 2006071029

VOLUME II

Prepared for:
City of Merced Planning and Permitting
678 West 18th Street
Merced, CA 95340

Prepared by:
EDAW
2022 J Street
Sacramento, CA 95811

July 2009

Final Environmental Impact Report
Proposed Wal-Mart Distribution Center



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VOLUME II

Prepared for:

City of Merced Planning and Permitting
678 West 18th Street
Merced, CA 95340

Attn: Kim Espinosa
Planning Manager
(209) 385-6858

Prepared by:

EDAW
2022 J Street
Sacramento, CA 95811

Contact:

Randy Chafin, AICP
Principal
916/414-5800

July 2009

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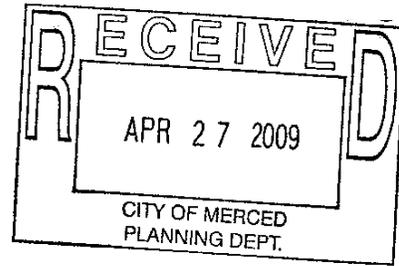
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April 2, 2009

To Whom It May Concern
Merced Planning Department
678 West 18th Street
Merced, CA 95340



Subject: Draft Environmental Impact Report for the WalMart Distribution Center

I had the chance to review the Alternatives for the Proposed Project in the draft report. I think you are missing input from the Municipal Airport Authority in regards to Site #3 in your list of Alternative Sites. Is the Airport Authority even aware that an alternative site is next to their runway? Are there safety issues that ought to be explored? As I understand it, under CEQA, you have to provide good options as alternatives. Maybe Alternative Site 3 is really not a good option. I hope you will come up some other options.

102A-1

Thank you,

A handwritten signature in cursive script, appearing to read "Anison Harris", written over a horizontal line.

Signature

Anison Harris

Print Name

420 W. 19th Street

Address

Merced CA 95340

Phone

209-722-7167

April 15, 2009

Kim Espinosa
Project Manager
Planning Division
City of Merced
Merced, CA 95340



Hi Kim,

I am writing to support the "environmentally superior alternative" for the Wal-Mart distribution center mentioned in the draft report. I don't want a distribution center period, but since the city wants it, they'll get it. So, might as well pick the lesser of two evils.

I think a smaller sized distribution center makes the most sense. Hopefully it will mean less traffic and pollution in my neighborhood.

102B-1

Regards,

A handwritten signature in cursive script, appearing to read "Allison Harris".

Signature

Allison Harris

Print Name

420 W. 19th Street

Address

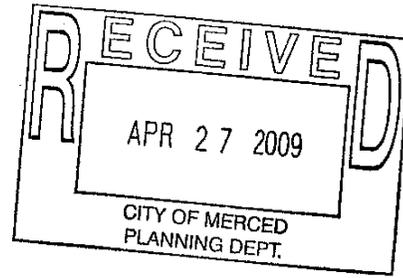
Merced, CA 95340

Phone

209-722-7167

4.12.09

Ms. Kim Espinosa
Project Manager
Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa:

I appreciate the opportunity to take a look at the study on the Wal-Mart Distribution Center. Thanks for putting it on-line. As an educator, I think it is absolutely critical that residents take a look. I think we need more time and the comment period should be extended, but that's another topic for another day.

102C-1

Anyway, I am looking at some of the alternative ideas you have presented. Seems to me what makes sense is to 1: reduce the size and 2: move it to the other side of highway 99. Look, your own report says a reduced size will decrease the impacts. Move it west of 99 and its father away from schools and the neighborhoods. Everyone's happy and the city gets its precious distribution center. It just makes sense.

102C-2

Thank for your time,

A handwritten signature in cursive script, appearing to read "Allison Harris".

Signature

Allison Harris

Print Name

420 W. 19th Street

Address

Merced, CA 95340

Phone

209-722-7167

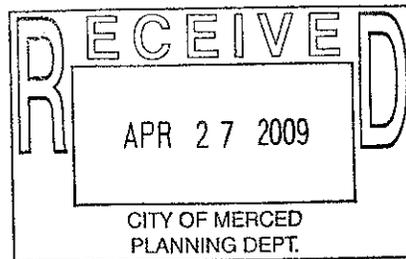
Letter
102A-C
Response

Allison Harris
➤ 102A–April 2, 2009
➤ 102B–April 15, 2009
➤ 102C–April 12, 2009

- 102A-1 The commenter raises air traffic hazard issues related to the proximity of Alternative Site #3 to the Municipal Airport and questions whether the airport has been notified about this alternative site. The DEIR notes the potential for hazards associated with the proximity of Alternative Site #3 with the Merced Municipal Airport (See DEIR page 5-35). It should also be noted that the City cannot approve the project at Alternative Site #3 since it is not within the city limits. If Alternative Site #3 is selected over the proposed project, the applicant would need to submit an application with the County of Merced and additional CEQA review would be required. This would likely include coordination with the airport.
- 102B-1 The commenter recommends approval of the environmentally superior alternative identified in the DEIR (The Reduced Site Plan and Operations Alternative). The commenter does not raise issues related to the adequacy of the DEIR. The comment is noted.
- 102C-1 This comment raises issues related to the adequacy of the public review period (although the comment does not raise specific issues with the adequacy of the provided 60-day public review of the Draft EIR). Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses this issue.
- 102C-2 The commenter recommends that Council approve a combination of the Reduced Site Plan and Operations Alternative at an alternative site (not specified, but Alternative Site #2 and #3 fit the description provided by the commenter). The commenter does not raise issues with the adequacy of the DEIR. The comment is noted.

April 3, 2009

Kim Espinosa
Project Manager
Merced Planning Division
678 W. 18th St.
Merced, CA 95340



Ms. Espinosa,

In regards to Alternative Site #3, I think you have to remove this suggestion from Section 5 of the draft environmental impact report. I would be especially troubled by having the distribution center's fuel storage tank being so close to the southern runway of Merced Municipal Airport. I have to think there are safety issues with having fuel tanks in low flight paths as plans land and take off and I would have concerns for the safety of residents on the western side of Highway 99.

103-1

Please prepare a viable and safe alternative.

Sincerely,

Cheryl Haupt
Signature

Cheryl Haupt
Print Name

2146 Bristol CT
Address
Merced, CA

Phone
209 726 6251

**Letter
103
Response**

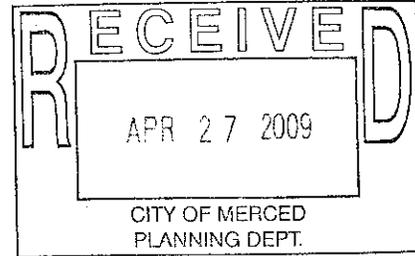
Cheryl Haupt
April 3, 2009

103-1

The commenter raises hazards-related issues with the proximity of Alternative Site #3 with the Merced Municipal Airport. This comment is similar to Comment 102A-1. Please refer to the Response to Comment 102A-1.

April 13, 2009

Kim Espinosa
Project Director
City of Merced
Planning Division
678 West 18th St.
Merced, CA 95340



I wanted to share my thoughts on the distribution center in Merced. As a resident in Southeast Merced, I was disappointed in reading the Air Quality section of the Toxic Air Contaminants. Why are you ignoring TAC data from diesel PM? You say that there is "no routine measurement method" which currently exists.

| 104-1

Perhaps there are other distribution centers where you could study diesel PM?

| 104-2

You should investigate this, if you really want to have an accurate environmental impact report.

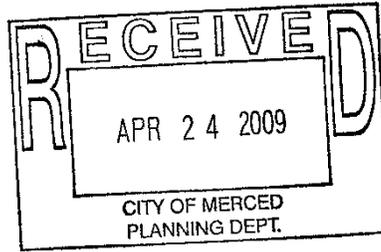
Gene Porter
Frank Hawksworth

**Letter
104
Response**

Joan Porter, Frank Hawksworth
April 13, 2009

- 104-1 The commenter questions why “TAC data from diesel PM” was ignored. The commenter also suggests that the analysis refer to other distribution centers in the TAC analysis. Please refer to the responses to comments 81-1, 81-2, and 86-2.
- 104-2 The commenter questions why “TAC data from diesel PM” was ignored. The commenter also suggests that the analysis refer to other distribution centers in the TAC analysis. Please refer to the responses to comments 81-1, 81-2, and 86-2.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, Ca 95340



Jon Hawthorne
974 Wyoming Dr
Merced, Ca 95340
April 24, 2009

Dear Ms. Espinosa,

After reading through the Draft EIR report on the Wal-Mart Distribution Center, I have several concerns about this project.

1. Compliance with mitigations and consequences if Wal-Mart doesn't do what they are required to do according to the Final EIR. Who or what agency will monitor and verify compliance with the mitigations required by the final EIR? Will they report to the City of Merced or to Wal-Mart? This person or agency should be accountable to the people of Merced and not to Wal-Mart. There should be assurances in any agreement which reflect that.

105-1

2. Urban decay. My understanding was that urban decay must be addressed in the DEIR and I couldn't find it anywhere. There will definitely be urban decay if the project goes through. It will bring with it the typical elements of urban decay: lower property values, vacancies, crimes and prostitution to name a few? Who's going to want to build or buy houses next to this huge distribution center, with it's hundreds of diesel polluting trucks caravanning past their homes 24/7?

105-2

3. Water runoff. I was a little confused about how the water runoff from rain was going to be handled in a adequate way. I understand that there are going to be ponding basins arranged to collect the runoff, but it didn't seem like they are deep enough. The overflow from these ponding basins would then be pumped to the Merced canal system with all the pavement runoff contaminates in it. Can you simplify for me how this is going to work and keep our waterways clean?

105-3

4. Traffic. With 600 to 900 semi-trucks traveling past and through schools and residential developments, the traffic impact is going to be enormous. Everyone in the vicinity is going to be impacted in a negative way with the constant parade of dirty diesel polluting trucks, unceasing noise, greatly increased likelihood of accidents and severe wear of the roadways overused by this large number of trucks everyday 24/7.

105-4

5. Air Pollution. The current air quality of Merced and the Valley is bad and will only get worse from this type of industry locating here. The harmful and deadly effects of the dirty air our children and elders have to breathe is well documented. Diesel trucks are a major source of the most harmful kind of pollutants we can be exposed to. There are two schools in close enough proximity to this project that will be impacted in a very significant way if this project goes through. The plan to build a new school located near this distribution center site will have to be abandoned if this project goes through.

105-5

If this distribution center is allowed to go through it will allow many, many more Wal-Mart and Super Wal-Mart stores to pop-up in our local valley. This means there won't just be "hundreds" of trucks coming to and from this center, but "thousands" of diesel trucks spewing their noxious fumes that we all have to breathe. This means massive amounts of unwanted air pollution and traffic problems for our town and central valley. This is a bad project for our city and valley regardless of the number of jobs that may be promised.

105-6

A handwritten signature in black ink that reads "Jon Hawthorne".

Jon Hawthorne

105-1 The commenter raises issues with the enforceability of mitigation measures in the DEIR. As indicated in Merced Municipal Code 19.28 (Mitigation Monitoring):

In 1988, the Legislature added to CEQA a requirement contained in Public Resources Code Section 21081.6 that a public agency, in approving feasible mitigation measures contained in EIR's and mitigated negative declarations, must also adopt a mitigation monitoring or reporting program. Such a program is to be designed to ensure compliance with the adopted changes to a project or the conditions of approval of a project which were required by the public agency in order to reduce or avoid significant environmental effects.

The purpose of this ordinance (MMC 19.28) is to set forth the procedures and requirements to be followed in this city with regard to the preparation and adoption of, and compliance with, mitigation monitoring or reporting programs for proposed projects when those programs are necessary to meet the requirements of CEQA.

The City of Merced is responsible for monitoring and verifying compliance with all mitigation measures. MMC 19.28.030 indicates the "Environmental Coordinator" is responsible for the above and MMC 19.28.020(D) indicates that the City of Merced Community Development Director (a title since changed to Director of Development Services) or his designee is the Environmental Coordinator. MMC 19.28.070 calls for the establishment of fees to be fully funded by the project applicant to cover all direct and indirect costs incurred by the City in carrying out the mitigation monitoring program. (The City may also use "professional expertise" per MMC 19.28.050(B)(3) for completion or verification of any portion or all of the program.) MMC 19.28.080 and 19.28.090 spells out criminal penalties and civil and administrative remedies that may be imposed for non-compliance with the mitigation measures.

105-2 The commenter indicates that the DEIR does not address urban decay to surrounding residential communities as a result of this proposed project, explaining that the proposed project will generate typical elements of urban decay, including lower property values, vacancies, crimes, and prostitution. Please see Master Response 11: Economics and Urban Decay, which addresses these issues.

105-3 The commenter requests a simplified explanation of the stormwater treatment system. Stormwater runoff in excess of existing conditions would be generated due to the addition of impervious surfaces. This runoff would be conveyed to detention basins or would pond and pool over pervious surfaces. These ponds will be sized to contain runoff from up to a 100-year storm (i.e., the amount of rainfall that has a 1 in 100 chance of occurring in any given year). This water would then be released at a rate agreed upon by the City and Merced Irrigation District, which manages the canals receiving the runoff. The design criteria described in the DEIR and associated references are designed to meet or exceed the City of Merced Storm Drain Master Plan and Standard Design requirements pertaining to stormwater treatment. The permanent BMPs to be utilized in the stormwater treatment system described in detail in the Master Drainage Plan have been shown in many studies in many areas to be effective in reducing contaminant levels in urban runoff (e.g. EPA 1999, CASQA 2003).

- 105-4 The commenter expresses concern that project-related truck traffic will result in “enormous” impacts. The DEIR analyzes impacts related to truck traffic in Section 4.11 “Traffic and Transportation.” Please also see Master Response 6: Trucks and the Transportation Analysis. It should be noted that the DIER assumes that the actual number of trucks would be 643 per day. The comment does not raise issues related to the adequacy of the DEIR. The comment is noted.
- 105-5 The commenter states that air quality in the project area will get worse with implementation of the proposed project. Section 4.2 of the DEIR is focused on the regional and local air quality impacts of the project. The analyses of short-term construction, long-term regional (operational), local mobile source, odor, and TAC emissions were performed in accordance with the recommendations of SJVAPCD. The project was found to have a less than significant impact on air quality with respect to CAPs, TAC, and odor emissions from construction and operation. The commenter is concerned about the health effects of the project’s emissions on children and the elderly. As discussed on Page 4.2-32 of the DEIR, a HRA was performed to assess the potential health risk associated with TACs generated by the operation of the proposed project. The HRA evaluated increased cancer and chronic noncancer health hazards at specific nearby locations where people may be exposed to emissions of TACs, including residences, schools, and worker sites. The impact was found to be less than significant at all these receptors. Thus, the project would not expose any offsite sensitive receptors to health risks that exceed acceptable levels. Please also refer to Master Response 13.
- The commenter also raises concerns about the impacts to the schools in close proximity to the proposed project site and suggests that implementation of the project will lead to abandonment of the plans to build a new school near the project site. The HRA performed for the project identified four schools (three existing and one potential future school) located within 2.5 miles of the project site. Separate health risk analyses were performed for children and adults at the school. The analysis for children accounted for the higher breathing rate to body mass ratio of a child compared to an adult and is appropriate for use in estimating exposure to children. The levels of increased health risks to school children were less than the SJVAPCD’s significance levels. Thus, the proposed project would not expose school children to health risks that exceed acceptable levels. Please also refer to response to comment 17-12 regarding the potential nearby location of a future school.
- 105-6 The commenter indicates that the proposed distribution center could spawn additional retail stores which would add to regional air quality impacts. Please see Master Response 1: Growth Inducement and Expansion, which addresses this issue.

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Espinosa, Kim

From: Annette Heikkila [aheikkila@transcountytitle.com]

Sent: Wednesday, March 25, 2009 11:09 AM

To: Espinosa, Kim

Subject: Wal Mart

I am strongly for the Wal Mart Distribution Center. We need jobs in Merced County desperately. Our economy is suffering and we cannot afford to let a job opportunity of this caliber pass us by.

Now more than ever, is the time for us to embrace this job opportunity in Merced County. Our unemployment rate continues to soar. We need jobs in Merced County!!

I say "YES" for Wal-Mart!

Thank you,
Annette Heikkila

(209) 358-8254

106-1

**Letter
106
Response**

Annette Heikkila
March 25, 2009

106-1

The comment addresses the merits of the proposed project, recommends project approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

Espinosa, Kim

From: Walker, Dawn on behalf of city, council
Sent: Tuesday, March 31, 2009 9:33 AM
To: city, council; Bill Spriggs (E-mail); Carlisle, John; Conway, Mike; Cortez, Joseph; Dawn Walker (E-mail); Ellie Wooten (E-mail 2); Ellie Wooten (E-mail); Gabriault, Michele; Jim Sanders (E-mail); Joe Cortez (E-mail); John Bramble; John Carlisle (E-mail); Lor, Noah; Lor, Noah; Michele Gabriault-Acosta (E-mail 2); Michele Gabriault-Acosta (E-mail); Sanders, Jim; Spriggs, Bill
Cc: Conway, Mike; Davidson, Dana; Quintero, Frank; Espinosa, Kim; Schechter, Jeanne
Subject: FW: Madera Distribution Center

From the website.

Dawn

Dawn Walker
Executive Secretary
City of Merced
678 West 18th Street
Merced, CA 95340
Phone: (209) 385-6834
Fax: (209) 385-1780

-----Original Message-----

From: Joe Henriques [mailto:joehenriques@sbcglobal.net]
Sent: Tuesday, March 31, 2009 7:46 AM
To: city, council
Subject: Madera Distribution Center

Watch out Madera has a nice distribution center that just became available for Wal-Mart.

| 107-1

Joe Henriques

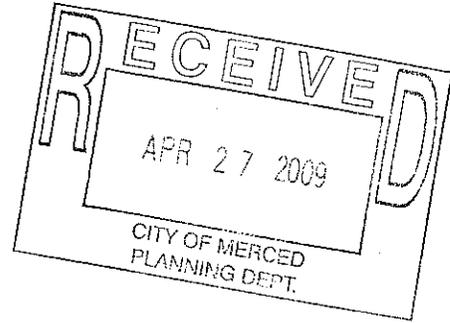
**Letter
107
Response**

Joe Henriques
March 31, 2009

107-1

The comment addresses the merits of the proposed project and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Re: Wal-Mart distribution center trucks and idling.

How many diesel and construction vehicles and equipment will be running at the Wal-Mart construction site at any time? According to California law, trucks can't idle for more than 5 minutes at a time, which means that trucks will be moving around very quickly and with a lot of frequency.

108-1

This will make the noise at the site deafening during and after construction. I would like to see figures in the final EIR regarding how many idling trucks there will be at the site in a 24 hour time period.

108-2

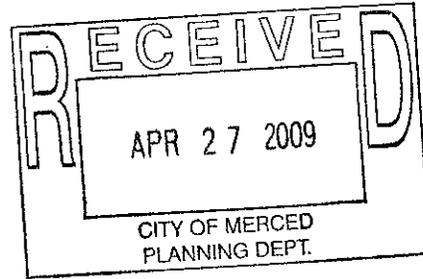
Sincerely,

Jamie Hernandez
438 Hydrangea Ct
Merced, CA 95301
95341

- 108-1 The commenter asks “how many diesel and construction equipment will be running at the Wal-Mart construction site at the same time?” Please refer to response to comment 30D-1 for a discussion about the types and number of construction equipment that would be used for the project. Page 4.2-29 of the DEIR directs the reader to “Refer to Appendix C for detailed modeling input parameters, including the SJVAPCD-Recommended Construction Fleet spreadsheet, as well as modeling results.” The types and numbers of construction equipment used in the modeling are included in Appendix C of the DEIR.
- The commenter also states that “according to California law, trucks can’t idle for more than 5 minutes at one time, which means that trucks will be moving around very quickly and with a lot of frequency.” The comment does not raise issues with the adequacy of the DEIR. The comment is noted. The airborne toxic control measure that limits idling to 5 minutes is discussed on page 4.2-15. This regulation, however, does not mean that trucks would be moving around at any particular speed; rather, it means that truck and equipment operators will shut off their engines when not in use.
- 108-2 The comment states that noise from construction will be deafening and the amount of trucks that would idle on site over a 24-hour period is not disclosed. As shown in Exhibit 4.8-1, noise levels above 120 dB are considered deafening. No noise sources from the project would be greater than 88 dB. Approximately 643 truck trips (one-way) would be generated per day by the project (303 from 7:00 p.m. to 7:00 a.m. and 341 from 7:00 a.m. to 7:00 p.m.). This equates to approximately 28 trucks per hour accessing the distribution facility. Each truck would likely idle for some period of time while at the distribution facility. However, since trucks may not idle for more than 5 minutes, as stated on page 4.8-21 in Impact 4.8-2, no more than 4 trucks would be idling at any one time.

April 20, 2009

Kim Espinosa
Project Director
Merced City Planning Department
678 W. 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

After reading Air Quality mitigation measure 4.2-2b, one of your suggestions is implementing parking fees for employees who commute alone in their cars. I like the idea behind requiring commuters to pay a fee to park, but that's a difficult burden for Wal-Mart's employees to bear.

109-1

Second, what's not to prevent single occupancy commuters to park outside the distribution center in our nearby neighborhoods? Who will police this activity? Merced parking enforcement? Will Wal-Mart fund this?

109-2

Finally, where will these parking fees go? Will it be used to for air quality efforts or for policing single occupancy commuters?

109-3

Thank you.

A handwritten signature in black ink, appearing to read "Emilie Herr".

Signature

Emilie Herr

Print Name

1240 W. 6th St.

Address

Merced, CA 95341

Phone

- 109-1 The commenter questions the feasibility of implement parking fees for single occupancy vehicle commuters or a parking cash-out program for employees, as stated in Mitigation Measure 4.2-2b.
- The commenter believes that one component of Mitigation Measure 4.2-2c, the implementation of parking fees for single occupancy vehicle commuters or a parking cash-out program for employees, would be ineffective and would be overly burdensome to the employees. The commenter provides no reasoning to support this belief, however. Parking cash-out programs typically involve paying an extra payout to those employees who do not use a parking space. Thus, employees are not subject to additional fees but rather the potential to realize additional monetary benefits.
- 109-2 The commenter notes that Wal-Mart employees who commute to work alone might be charged parking fees as suggested in one of the mitigation measures. The commenter asks what is to prevent single occupancy commuters from parking in adjacent residential neighborhoods, who will enforce this provision, who will fund the enforcement, and what will the parking fees be used for? Mitigation measure 4.2-2b includes design and program measures providing options to the applicant for reducing employee trips and then spells out possible elements of the program. The provision cited by the commenter may or may not be included in the final program, so it is not possible to address all the potential impacts of such a provision. It is noted in the mitigation measure, however, that the project applicant is responsible for all costs of the program. There are currently no parking restrictions in the adjacent neighborhoods, but if it becomes an issue, the City Council can consider residential parking permit programs, etc. in the future.
- 109-3 The commenter asks about parking fees. See Response to Comment 109-2, which addresses this issue.

Espinosa, Kim

From: Walker, Dawn on behalf of city, council
Sent: Tuesday, March 10, 2009 8:21 AM
To: city, council; Bill Spriggs (E-mail); Carlisle, John; Conway, Mike; Cortez, Joseph; Dawn Walker (E-mail); Ellie Wooten (E-mail 2); Ellie Wooten (E-mail); Gabriault, Michele; Jim Sanders (E-mail); Joe Cortez (E-mail); John Bramble; John Carlisle (E-mail); Lor, Noah; Lor, Noah; Michele Gabriault-Acosta (E-mail 2); Michele Gabriault-Acosta (E-mail); Sanders, Jim; Spriggs, Bill
Cc: Davidson, Dana; Conway, Mike; Quintero, Frank; Espinosa, Kim; Schechter, Jeanne
Subject: FW: WalMart EIR

From the website

Dawn

Dawn Walker
Executive Secretary
City of Merced
678 West 18th Street
Merced, CA 95340
Phone: (209) 385-6834
Fax: (209) 385-1780

-----Original Message-----

From: David Hetland [mailto:dhetland2003@yahoo.com]
Sent: Monday, March 09, 2009 8:43 PM
To: city, council
Subject: WalMart EIR

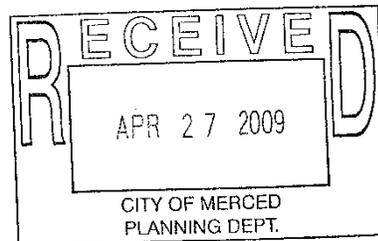
The EIR for the Wal-Mart Distribution Center project is daunting, to say the least. Please consider extending the review period to more than 60 days.

110A-1

Sincerely,

David Hetland
3359 Shamrock Place
Merced, CA 95340

Kim Espinoza, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340



Ms. Espinoza:

The Wal-Mart distribution Center idea is bad. Teachers and parents are concerned because we know that South Merced will become less safe and more polluted. The project is not worth the sales tax revenue.

The City Council needs to do some due diligence before it approves this project. The Council needs to do more to prevent the trucks and pollution from spilling into the neighborhood, and then it needs to seek a deal with Wal-Mart so that Wal-Mart will pay impact fees. At a minimum, this will take the bite out of the damage to this neighborhood.

110B-1

DAVID HETLAND
3359 SWANROCK PLACE
MERCED, CA 95340

A handwritten signature in black ink, appearing to read "David Hetland".

April 23, 2009

**Letter
110A-B
Response**

David Hetland
➤ 110A–March 9, 2009
➤ 110B–April 23, 2009

110A-1

This comment raises issues related to the adequacy of the public review period. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses this issue.

110B-1

The commenter addresses the merits of the project and also raises the issues of traffic, pollution, and socio-economic effects. CEQA does not require analysis of socio-economic effects and the DEIR does not address these non-environmental impacts. However, regarding traffic and pollution, the Draft EIR analyzes these environmental issues under sections 4.2 “Air Quality,” 4.6 “Hydrology and Water Quality,” 4.10 “Public Health and Hazards,” and 4.11 “Traffic and Transportation.” The commenter does not raise issues related to the Draft EIR’s adequacy. The commenter recommends that the City Council require “impact fees;” however, the comment does not include any specific recommendations for such fees. It should be noted that the Draft EIR requires fee payment as mitigation for various impacts such as cumulative impacts to intersections. The City will also require the applicant to pay approximately \$4.2 million for impact fees related to public services (based on 2009 fee levels; see Response to Comment 16-5). The comment is noted.

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Espinosa, Kim

From: Barbara Hill [barbaraahill@sbcglobal.net]
Sent: Wednesday, March 04, 2009 12:44 AM
To: Espinosa, Kim
Subject: Mixed feelings about Walmart but.....

Dear Ms Espinosa,

I am writing this email to express my concern about the inaccessability of the Walmart EIR to Spanish and Hmong speakers who could be potentially affected by the distribution center. The favorable bias towards the project by the city government is obvious but as long as the city is following the letter and intent of the law all we can do is voice our opinion. I myself have mixed feelings about the project generally I am opposed to Walmart because of its discriminatory policies which serve to oppress people of color and women. They only recently settled a lawsuit (one of many) while admitting no wrong doing. How can they be doing no wrong when these lawsuits consistently come up? Also, the warehouse is in a bad location. Why can it not be moved to another part of the county where children and families will not suffer from the direct effect of pollution, if it must be in Merced. Once again people of color are being disproportionately affected. However,

111-1

111-2

I work with people who experience hunger and feel it is very easy for me be against jobs when I have food on my table. It is hard to believe that this is the only business that can be attracted to Merced. This brings me back to my original point: when you deny citizens the right to understand a public process you are in essence oppressing them. This is also relevant to English speakers. To make a document that is incoherent and too technical also serves to shut folks out of the democratic process. The city might be well served to study and emulate President Obama's document on ethics in government made public his first week in office. At its center is transparency. I want to thank you for your service to the city and I hope you will understand that I am fulfilling my obligation as a citizen who is interested in justice and fairness above all and in making sure that long term decisions are made for the common good that are based on accurate understandable data. I hope that Walmart realizes that if they come to town the pressure to make sure they are being equitable will not subside especially if are found to be discriminatory in their hiring and promotion practices. Again, thank you for your service to the city.

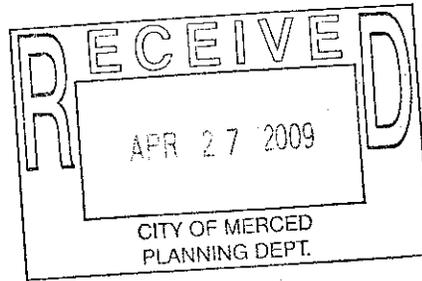
Sincerely,

Barbara Hill

- 111-1 This comment raises issues related to language barrier and translation of CEQA documents. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.
- 111-2 The comment suggests that placement of the proposed project in a more remote location would reduce pollution-related impacts to the neighborhood. Three off-site alternatives were evaluated in the Draft EIR (See DEIR Section 5 “Alternatives to the Proposed Project.” Alternative Site #3 is located in southwest Merced near the Merced Municipal Airport, which is a relatively remote location. Section 5 of the Draft EIR compares the impacts of this Alternative to the impacts of the proposed project. As indicated in Table 5-8, the impacts associated with Alternative Site #3 are generally greater than those resulting from the proposed project. Therefore, the Draft EIR appropriately analyzes an alternative site that is more remote than the project site. For more discussion related to project alternatives, see Master Response 12: Alternatives. The commenter does not raise issues regarding the adequacy of the Draft EIR’s analysis. However, the commenter does raise the issue of environmental justice, suggesting that approving the project at the proposed location would disproportionately affect minorities. The subject of environmental justice is not addressed in the Draft EIR because CEQA does not require analysis of economic or social effects, except when such effects would elicit physical changes in the environment. (*State CEQA Guidelines* Section 15131) The proposed project would not result in economic or social effects that would elicit such changes in the environment. As required by CEQA, the Draft EIR appropriately focuses on environmental effects; therefore, no changes to the Draft EIR are necessary.

March 29, 2009

Ms. Kim Espinosa
Project Director
Merced Planning Division
678 W. 18th Street
Merced, CA 95340



Ms. Espinosa,

I am concerned about cancer rates which will result from the Wal-Mart distribution center. It appears to me that you are using false data in the draft environmental impact study.

112-1

First, you admit that you are using the incorrect Particular Matter in you toxic air contaminant measure.

112-2

Second, you fail to use PM_{2.5} in your TAC assessments, which means your cancer rates are unreliable.

112-3

Please update your data before you make your recommendation.

Thanks.

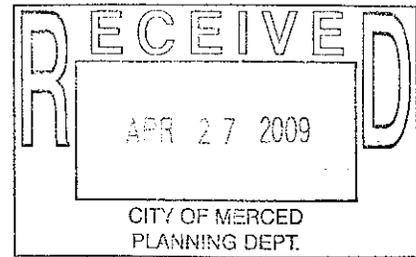
Bill, MSPH

*Christina Hill
2427 Olive Ave
Atwater, CA 95301*

- 112-1 The commenter expresses concern about the levels of cancer risk associated with the proposed project.
- Impact 4.2-4 discusses the incremental increase in cancer risk to off-site receptors. The analysis concludes that the incremental increase would not exceed the applicable threshold of significance and, therefore, not mitigation is required, such as notification of nearby receptors. The commenter also states that the TAC analysis failed to use PM2.5. Please refer to response to comment 81-1.
- 112-2 The commenter expresses concern about the levels of cancer risk associated with the proposed project.
- Impact 4.2-4 discusses the incremental increase in cancer risk to off-site receptors. The analysis concludes that the incremental increase would not exceed the applicable threshold of significance and, therefore, not mitigation is required, such as notification of nearby receptors. The commenter also states that the TAC analysis failed to use PM2.5. Please refer to response to comment 81-1.
- 112-3 The commenter expresses concern about the levels of cancer risk associated with the proposed project.
- Impact 4.2-4 discusses the incremental increase in cancer risk to off-site receptors. The analysis concludes that the incremental increase would not exceed the applicable threshold of significance and, therefore, not mitigation is required, such as notification of nearby receptors. The commenter also states that the TAC analysis failed to use PM2.5. Please refer to response to comment 81-1.

April 9, 2009

Ms. Kim Espinosa
Planning Department of Merced
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

Regarding the proposal to construct a Wal-Mart distribution center, I am fairly concerned on the damage which could occur to the possible archaeological items (specifically those important to Native-Americans) that may be found on the site if the construction were not to take place. There are many Native-American tribes in Northern California whose history has had to be pieced together due to the lack of historical documentation. Artifacts sometimes provide such history and many artifacts have been found in the Merced region already.

113A-1

To allow for the construction, and implicit destruction of artifacts, to occur on the site is a shame and dishonor to the various Native American tribes in the region. The City must not allow the project to be approved thus harming an area which could contain such artifacts

Thank you,

A handwritten signature in cursive script, appearing to read "Je Howell", written over a horizontal line.

Signature

Je Howell

Print Name

28 E 21st St.

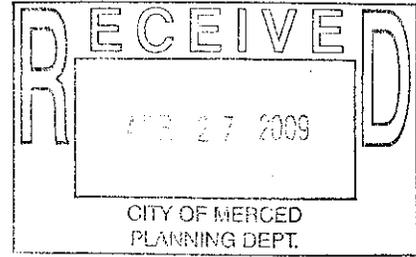
Address

Merced, CA 95340

Phone

3/25/09

Kim Espinosa
Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

What will happen at this facility when county-wide emissions exceed federal standards?
Can it be closed during spare the air days, or on days when we can't light a fire in our fire
place?

113B-1

Could a mitigation for the project include mandatory shutdown during those periods?

113B-2

Thank you,

A handwritten signature in cursive script, appearing to read "Je Howell".

Signature

Je Howell

Print Name

28 E. 21st St,

Address

Merced, Ca, 95340

Phone

**Letter
113A-B
Response**

Je Howell
➤ 113A–April 9, 2009
➤ 113B–March 25, 2009

- 113A-1 The commenter expresses concern that construction of the project could result in damage or destruction of cultural artifacts related to Native American habitation. The commenter states that the City must not allow the project to be approved thus harming an area which could contain artifacts. The comment is noted. Please refer to Response to Comment 78-1 which addresses potential impacts to cultural resources.
- 113B-1 The commenter asks what would happen to the facility if federal emissions standards are exceeded and whether the facility would be closed during “Spare the Air Days.” Please refer to response to comment 126D-1.
- 113B-2 The commenter recommends adding mitigation that would require the facility to be closed during “Spare the Air Days.” Please refer to response to comment 126D-1.

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Espinosa, Kim

From: Walker, Dawn on behalf of city, council
Sent: Thursday, April 02, 2009 1:10 PM
To: city, council; Bill Spriggs (E-mail); Carlisle, John; Conway, Mike; Cortez, Joseph; Dawn Walker (E-mail); Ellie Wooten (E-mail 2); Ellie Wooten (E-mail); Gabriault, Michele; Jim Sanders (E-mail); Joe Cortez (E-mail); John Bramble; John Carlisle (E-mail); Lor, Noah; Lor, Noah; Michele Gabriault-Acosta (E-mail 2); Michele Gabriault-Acosta (E-mail); Sanders, Jim; Spriggs, Bill
Cc: Davidson, Dana; Conway, Mike; Quintero, Frank; Schechter, Jeanne; Espinosa, Kim
Subject: FW: Wal-Mart

From the website.

Dawn

Dawn Walker
Executive Secretary
City of Merced
678 West 18th Street
Merced, CA 95340
Phone: (209) 385-6834
Fax: (209) 385-1780

-----Original Message-----

From: Dan Hultgren [mailto:dhultgren@gonellarealty.com]
Sent: Thursday, April 02, 2009 12:13 PM
To: city, council
Subject: Wal-Mart

I cannot see where the debate is. We need jobs in this county so bad. We are at least 18% unemployment. As leaders of our community how could you turn down this opportunity.
Sincerely
Dan Hultgren

114-1

**Letter
114
Response**

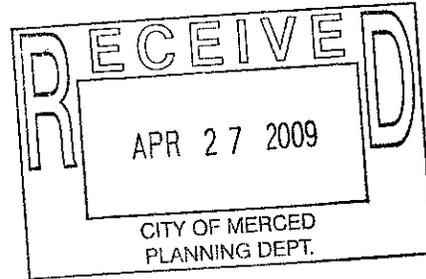
Dan Hultgren
April 2, 2009

114-1

The comment addresses the merits of the proposed project, recommends project approval, and does not raise environmental issues or any issues of adequacy regarding the Draft EIR. The comment is noted.

3/22/09

Kim Espinosa
Project Director
Merced Planning Division
678 West 18th St.
Merced, CA 95340



RE: Merced's proposed distribution center

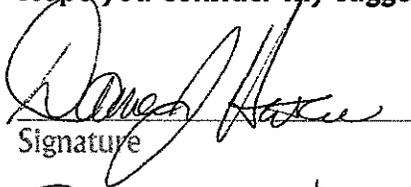
Dear Ms. Espinosa:

Air quality is obviously a huge concern for those of us throughout Merced. I appreciate you considering the McLane Pacific Grocery. I heard that Wal-Mart owns McLane. Is this true?

115-1

If it is, shouldn't you also include them as a part of your Wal-Mart study? Combine all your figures? That would be a good way to get an accurate picture.

Hope you consider my suggestions.


Signature

Dawna J Hunter
Print Name

1240 W. 6th St.
Address

Merced, CA 95340

209-385-6676
Phone

**Letter
115
Response**

Dawna J. Hunter
March 22, 2009

115-1

The commenter recommends consideration of McLane Pacific Grocery as part of the EIR for the project. The City has no knowledge of the ownership of McLane Pacific. McLane Pacific has been operating a distribution facility on another parcel in the adjacent industrial area for many years and is not part of the proposed project. However, the DEIR's traffic study takes into account the current traffic on the roadways, including McLane Pacific trucks.

Espinosa, Kim

From: judy jones [911jj@sbcglobal.net]
Sent: Tuesday, April 14, 2009 9:41 AM
To: Espinosa, Kim
Subject: Wal Mart Distribution Center

To whom it may concern,

I am writing in regard to the Wal Mart Distribution Center coming to Merced. The eight hundred jobs this business will supposedly create is more than likely an over statement on the part of Wal Mart. In most cases, businesses will bring along trained employees from other stores to open the new location.

116-1

I realize the Merced area is in desperate need of any and all jobs we can get. The fact remains that nine hundred (not ninety!), but nine hundred trucks per day will assault our area highways in order to maintain the operation of this business. The trucks on Highway 99 are already at a disturbing high and traffic is an existing problem.

116-2

The health issues alone should be enough to halt the progress of this business coming to the area. The excessive traffic congestion is also an issue that should not be overlooked.

116-3

There are certainly other ways to bring quality jobs to the Merced area that do not have these negative issues attached. Health issues for all surely out weigh jobs for a few.

Respectfully,

Judy A. Jones
320 W. Alexander Ave.
Merced, Ca. 95348

- 116-1 The comment suggests that the proposed number of employees, “800”, is an overestimate because of the likelihood that Wal-Mart would relocate an existing crew to start the facility. It should be noted that the Draft EIR specifies that the proposed project would employ approximately 1,200 employees (p. 3-14) with 1,050 working at the distribution center and 150 working as drivers. However, the Draft EIR does not indicate that all 1,200 employees would be hired locally. Section 4.9 “Population and Housing” indicates that the proposed project “would likely draw largely from the local employment pool, including the unemployed.” (p. 4.9-9) Therefore, relocation of a small number of crewmembers from other distribution centers to start-up the proposed facility would not affect the analysis of the Draft EIR. It should also be noted that Wal-Mart has indicated that they would not likely relocate staff to fill a large percentage of the proposed positions.
- 116-2 The comment raises concerns regarding truck traffic. The DEIR analyzes impacts related to truck traffic in Section 4.11 “Traffic and Transportation.” Please also see Master Response 6: Trucks and the Transportation Analysis. It should be noted that the DIER assumes that the actual number of trucks would be 643 per day. The comment does not raise issues related to the adequacy of the DEIR. The comment is noted.
- 116-3 The commenter expresses concerns about the potential for the project to result in health issues. Please refer to Master Response 13 and the response to comment 12-23 about the HRA prepared for the DEIR. The commenter also states that traffic congestion is an issue that should not be overlooked. Traffic impacts, including increased traffic congestion, were analyzed in Section 4.2-11 of the DEIR.

Espinosa, Kim

From: Walker, Dawn on behalf of city, council
Sent: Monday, March 09, 2009 9:40 AM
To: city, council; Bill Spriggs (E-mail); Carlisle, John; Conway, Mike; Cortez, Joseph; Dawn Walker (E-mail); Ellie Wooten (E-mail 2); Ellie Wooten (E-mail); Gabriault, Michele; Jim Sanders (E-mail); Joe Cortez (E-mail); John Bramble; John Carlisle (E-mail); Lor, Noah; Lor, Noah; Michele Gabriault-Acosta (E-mail 2); Michele Gabriault-Acosta (E-mail); Sanders, Jim; Spriggs, Bill
Cc: Davidson, Dana; Quintero, Frank; Conway, Mike; Schechter, Jeanne; Espinosa, Kim
Subject: FW: Walmart

From the website.

Dawn

Dawn Walker
Executive Secretary
City of Merced
678 West 18th Street
Merced, CA 95340
Phone: (209) 385-6834
Fax: (209) 385-1780

-----Original Message-----

From: Charlie Judd [mailto:charlietuna10@gmail.com]
Sent: Monday, March 09, 2009 4:49 AM
To: city, council
Subject: Walmart

We urge a yes vote for the plans for Walmart to come here. With our unemployment rate at 19%, and stores closing left and right, we can use the stimulus and jobs for our community.

117-1

Thank you.

Mr. and Mrs. Judd

**Letter
117
Response**

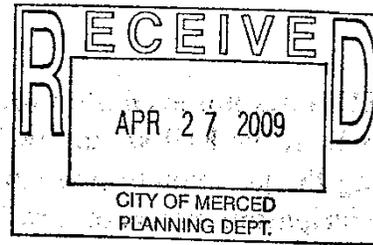
Mr. and Mrs. Judd
March 9, 2009

117-1

The comment addresses the merits of the proposed project, recommends project approval, and does not raise environmental issues or any issues of adequacy regarding the Draft EIR. The comment is noted.

April 26, 2009

Kim Espinosa
City of Merced - Planning Department
678 W. 18th
Merced, CA 95340



Re: Proposed Merced Wal-Mart Distribution Center DEIR

This Draft Environmental Impact Report for the proposed Wal-Mart Distribution Center in Merced contains weaknesses in identification, quantification, and mitigation of impacts, which should be corrected in order to provide a more accurate representation of the effects this project would have on our community.

118-1

The DEIR has left too many "significant and unavoidable" impacts, including huge greenhouse gas emissions which cannot be accepted. If the project proponents cannot add ways to truly reduce these impacts in the final EIR then the project must be rejected.

118-2

My comments will focus on the following areas:

- I. Loss of prime farmland with access to local surface irrigation
- II. Irreplaceable loss of habitat
- III. Degradation of air quality, with severe impacts on health and efforts to reverse climate change-inducing greenhouse gases
- IV. Degradation of the local community, urban decay, and disincentive for higher quality ventures to locate in Merced

I. The loss of prime farmland is a significant and unavoidable impact of the project, and yet this impact must be avoided. Obviously the project cannot truly mitigate this impact. Development decisions of the last few decades have had a devastating effect on available farmland, especially land with access to local surface irrigation. Recent drought and the uncertainty of future water supplies caused by climate change and our rapidly increasing population have caused thousands of acres of farmland in California to be abandoned or left unplanted indefinitely. The decision by the City of Merced to annex and zone this piece of excellent farmland as an industrial area was a mistake to begin with. Now that such land is becoming a vanishing, irreplaceable resource, the wisest course is to avoid this loss by rejecting the project and returning the land to agricultural use.

118-3

The DEIR does not even attempt to offer any sort of mitigation for this impact. At the very least the EIR should include an attempt to offset this farmland loss by requiring the permanent preservation of existing prime farmland with access to surface irrigation water, in a ratio of 4:1 (preserved to lost).

II. Similar to farmland loss, the loss of foraging habitat for sensitive species is a significant and unavoidable impact that must be avoided. Species become threatened when their habitat is lost, and the collective actions of piecemeal development over time have resulted in every remaining piece of habitat being critical.

Mitigation measure 4.3-2 proposes to protect ¼ acre of Swainson's Hawk foraging land for every 1 acre lost, according to outdated and obviously inadequate DFG guidelines. The land available for protection according to the guidelines, in a 1 to 5 mile radius from the project, is probably already within the hawks' foraging area and so the result is still a loss of habitat with only a small amount of the remaining habitat protected from future development. It is easy to see how with piecemeal development and "mitigation", the City can let itself believe that it is doing something to protect habitat with each new development while it is actually inexorably decreasing the size of the remaining habitat until there is not enough left to sustain the supposedly protected wildlife populations.

In order to make a good faith effort to truly mitigate the loss of foraging habitat for the Swainson's Hawk, the EIR should include a mitigation measure that requires protection of ALL of the remaining foraging habitat within 5 miles of the nearest active nest.

III. Air Quality

The proposed distribution center will generate significant amounts of air pollution in Merced and will have severe impacts on the people living and attending schools nearby. **The EIR should state that all of the local air pollution impacts will be eliminated by local mitigation measures and not offset fees that reduce pollution elsewhere. One such mitigation measure should be to require and enforce that all trucks coming in and out of the project will have the highest level of pollution controls available. If it is determined that all emissions can't be mitigated locally then offsets should be made at a 2:1 ratio (emissions offset to emissions generated).**

The computation of the project's operational air pollution emissions is based on faulty assumptions and inconsistent and incomplete data.

All computations are based on the Merced Distribution Center serving 49 stores that are currently being served by two other distribution centers. Since these 49 stores are already being served without the Merced project, and taking into account the size of the proposed Merced project, it is obvious that the Merced Distribution Center (DC) is being designed to serve many more planned stores.

The air pollution computations in the EIR must take into account the emissions of trucks from the Merced DC serving the planned and foreseeable new Wal-Mart stores, in addition to the current stores.

Table 4.2-7, "Summary of Modeled Project-Generated, Operation-Related Emissions of Criteria Air Pollutants and Precursors", shows that the EIR is offsetting the project emissions with the reduction in emissions from the DC's that are currently serving the 49 stores referenced above. This is a flawed assumption in that the Merced DC will not be the same distance from either the ports or sources of the transported materials or the stores which the DC will supply. It is highly likely that the Merced DC will be farther from the supplies of goods than the Porterville and Red Bluff DC's. **More precise estimates can and should be made, using actual truck trips that will be generated by the project, upon which to base mitigation measures.**

The effect of offsetting emissions from inbound receivable truck trips from existing DC's against the trips by the proposed project is to come up with zero new emissions from inbound receivable truck trips needing mitigation by the Merced project. This is based on the assumption that Merced's DC will serve only the same stores as the existing DC's, and that these stores are the same average distance from the Merced DC as they are from the existing DC's. As noted in the paragraphs above, this is a faulty assumption and it greatly distorts the amount of emissions needing reduction – in favor of the project developers.

ISR rules may allow new sources of pollution to offset old ones for the purposes of certain computations, but in this case the new sources can't be assumed to be the same as the existing. In addition, the emissions from the DC's in Porterville and Red Bluff are not necessarily all in the San Joaquin Valley Air Basin and so should not be used to offset emissions in the Valley.

Even more importantly, the emissions from the new project in Merced will be impacting the local community far more than the emissions from the DC's in Porterville and Red Bluff. **The EIR must mitigate all emissions that actually impact Merced and the Valley, and not use a loophole to falsely claim that one entire source will create no emissions.**

IV. Urban decay is explicitly dismissed as an area to be addressed in the EIR, and yet the document acknowledges that urban decay is an appropriate impact for EIR consideration under CEQA.

According to the EIR noise disturbance to the surrounding neighborhoods and schools will be significant and cannot be sufficiently mitigated. Traffic problems will be chronic and severe. These plus the presence of a huge, diesel-fume-filled, asphalt-landscaped distribution center will inevitably and obviously reduce the values of the homes and make it impossible to have the kind of comfort and pride in one's neighborhood to induce people who have better options to live there.

118-7

The impact upon the economic prospects of the community could be even more severe. This project at the southern gateway to Merced reflects a community's desperation for jobs at any price and as such is an enticement to dirty, undesirable industries to locate here while at the same time discouraging cleaner ventures that could have a more positive impact on the community.

The EIR must examine, communicate, and attempt to mitigate the projects' inevitable impact upon urban decay.



Lisa Kayser-Grant
1425 W.N. Bear Creek Drive
Merced, CA 95348

- 118-1 The comment introduces the letter and provides a generalized assessment of the document's quality, indicating weakness in the Draft EIR's impact analysis. No specific issues with the impact analysis are raised in this introductory comment, but more specific issues are raised in the body of the letter, for which individual responses have been prepared and included below.
- 118-2 The commenter indicates that the Draft EIR has not mitigated several of the "significant and unavoidable" impacts, such as greenhouse gas emissions, to the extent feasible and recommends that the City deny the project if additional mitigation cannot be implemented to further reduce impacts. The Draft EIR has identified mitigation measures to reduce significant impacts in all cases where such mitigation is feasible; however, several impacts remain significant and unavoidable even after implementation of all feasible mitigation. Although CEQA does authorize decision makers to deny projects solely on the basis of significant environmental impacts, CEQA also requires decision makers to "balance, as applicable, the economic, legal, social, technological, or other 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 of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered 'acceptable.'" (State CEQA Guidelines Section 15093[a]) CEQA requires that a written "statement of overriding considerations" be prepared for approval of a project with significant and unavoidable environmental impacts. (State CEQA Guidelines Section 15093[b]) The commenter offers no specific additional mitigation to reduce any of the significant and unavoidable impacts identified in the Draft EIR.
- 118-3 The commenter states the loss of prime farmland must be avoided. The commenter states the project should be rejected to protect the vanishing, irreplaceable agricultural land. The commenter states the DEIR does not offer any mitigation for impacts to agricultural resources. The commenter states the DEIR should include mitigation that offsets the loss of farmland through conservation of existing prime farmland at a ratio of 4:1. Please refer to Master Response 5: Agricultural Resources which addresses the issue related to conversion of important farmland.
- 118-4 The commenter states that Mitigation Measure 4.3-2 is based on inadequate Department of Fish and Game guidelines and that implementation of the measure would still result in a loss of habitat. Please refer to Master Response 10, which addresses this comment and other comments regarding impacts and mitigation for Swainson's hawk and burrowing owl.
- 118-5 The commenter asserts that all air quality impacts should be mitigated locally and not through offset fee programs. Further, the commenter believes that if the impact cannot be mitigated locally (on-site), the emissions should be offset at a ratio of 2:1 to emissions generated by the project. SJVAPCD's ISR 9510 is required by law, but is also listed as a mitigation measure in the DEIR because it will have direct mitigating effects on regional air pollution. SJVAPCD has a track record of funding offset projects inside the air basin, ensuring that offsets are additional (i.e., would not occur if not for ISR fees), and occur within a reasonable amount of time from the time fees are collected. Because ISR results in emissions offsets of regional pollutants inside the region in which air quality impacts would occur, a 1:1 ratio is sufficient to mitigate the impact. Further, there is no evidence in support of the commenter's claim that a 2:1 ration would be necessary to mitigate the impact. Offsetting air quality impacts at a ratio of 2:1 would be disproportionate to the impact caused by the proposed project. This measure would not have

proper nexus or proportionality to the impact in question (cumulative impacts to air quality). (See *Dolan v. City of Tigard*, 512 U.S. 687 (1994), *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987)).

118-6 The commenter challenges the assumption that the proposed distribution center in Merced would only serve 49 existing retail stores and states that the quantification of operational emissions should also account for the truck trips to the planned, foreseeable new retail stores. Please refer to Master Response 1: Growth Inducement and Expansion, which addresses the potential for the proposed distribution center to spawn new retail stores.

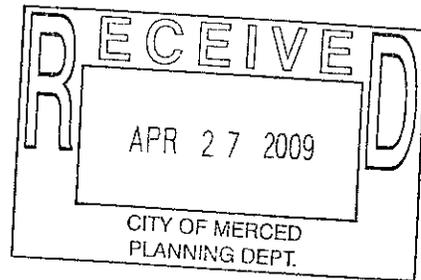
The commenter also questions the trip length assumptions used to produce the truck emissions in Table 4.2-7. Please refer to response to comment 17-11. To clarify, inbound receivable truck trips refer to those trips from wholesalers or manufacturers that would ship goods to the new distribution center in Merced instead of one of Wal-Mart's existing distribution centers in Porterville or Red Bluff.

The commenter also states that "ISR rules may allow new sources of pollution to offset old ones for the purposes of certain computations..." This is not true. A description of the ISR program is explained on page 4.2-18 of the DEIR and in response to comment 17-14.

The commenter also states that "the emissions from [distribution centers] in Porterville and Red Bluff are not necessarily all in the SJVAB and so should not be used to offset emissions in the Valley." The City agrees. The DEIR does not propose off-setting the emissions of the proposed project by achieving reductions at other Wal-Mart distribution centers or any other locations outside the SJVAB. The ISR program only accounts for emissions offsets projects inside the SJVAB.

118-7 The commenter indicates that the DEIR does not address urban decay that may occur as a result of additional truck traffic and from direct activities at the distribution center. Please see Master Response 11: Economics and Urban Decay, which addresses this issue.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



RE: Wal-Mart Distribution Center DEIR

Dear Kim Espinosa,

I would like more detail about the numbers of heavy equipment at the Wal-Mart construction. The EIR declines to provide specifics that are not acceptable to ignore.

There should be specific figures on how many excavators, graders, scrapers, loaders, backhoes, haul trucks, and cranes will be used. Those are gas burning vehicles which need to be accounted for in the air quality and environmental impacts. If we don't know this then we cannot know the real effect of pollution and noise construction will create. Please provide specific figures.

119-1

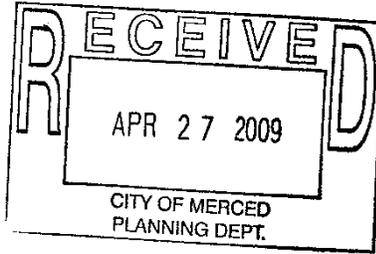
Regards,

Greg Kelly
3241 Nashville Ct.
Merced, CA 95340

119-1

Please see response to comments 30-D and 108-1. Information on detailed modeling input parameters, including the SJVAPCD-Recommended Construction Fleet spreadsheet is included in Appendix C to the DEIR, as stated on Page 4.2-29. These same assumptions about the number and types of construction equipment were used in the analysis of construction-generated noise under Impact 4.8-1, which begins on page 4.8-18 of the DEIR.

Kim Espinosa, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340



Ms. Espinosa:

I'm writing today in regard to the EIR on the Wal-Mart distribution center project. Specifically, I'm concerned that the city's study badly fails to properly address cumulative and growth inducing impacts of this project because the premise of what area will be affected is far too narrow.

120-1

The cumulative impacts section says on page 6-1 that it is based "on an examination of existing urban development in southeast Merced". Unfortunately, that misses the point that many of us concerned have been making about the project – this will affect an area far wider than just southeast Merced. If you need proof of this, just look at the project title for the word "regional". This project is going to add a very large, very cumbersome industrial project to the Central Valley and will be the hub of operations for the largest company in the world from Sacramento to the Bay Area and as far south as the Bakersfield area. 900 big rigs will be going in and out of the region 365 days a year, adding to our air quality woes, emitting green house gases, and making the entire valley a more industrial, less-agricultural region. You cannot honestly conduct a review of the cumulative effects of this project without looking well beyond the Merced city limits to view this project in context of the entire region.

120-2

This review should be reflective of a larger scope. If you think Merced can get away with pretending the impacts will only affect this small corner of the city then you are ignoring how far-reaching the downsides of this project will be.

Please re-draft this section to include a "regional" focus on the impacts.

Sincerely,

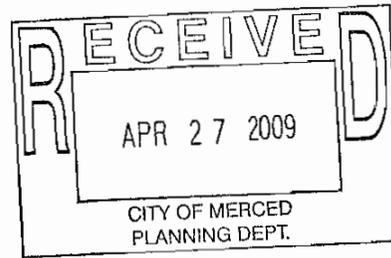
Grace Kenny
Name
321 W. 27 St.
Address
Merced, CA, 95340
City, State, Zip
[Signature]

**Letter
120
Response**

Grace Kenny
Undated

- 120-1 The commenter is concerned that the DEIR fails to properly address cumulative impacts because the premise of what area will be affected is far too narrow. Please see Master Response 4: Cumulative Impacts Analysis regarding the scope of analysis for cumulative impacts. No further response is necessary as no issues related to the specific environmental impacts of the project were raised.
- 120-2 The commenter addresses the cumulative impacts section of the DEIR, and states that the cumulative impact analysis should be reflective of a larger scope. Please see Master Response 4: Cumulative Impacts Analysis regarding the scope of analysis for cumulative impacts. No further response is necessary as no issues related to the specific environmental impacts of the project were raised.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Planning Manager Espinosa,

I have deep concerns about the use of construction equipment for the proposed Wal-Mart Distribution Center. Many studies have illustrated the fact that construction equipment is one of the leading sources of diesel pollution in California.

Please include the following study in the EIR record, *Digging-Up Trouble - The Health Risks of Construction Pollution in California*, 2006 by the Union of Concerned Scientists. In short their study quantifies the effects of construction pollution on California's public health and economy, both across the state and in the five most affected regions.

121A-1

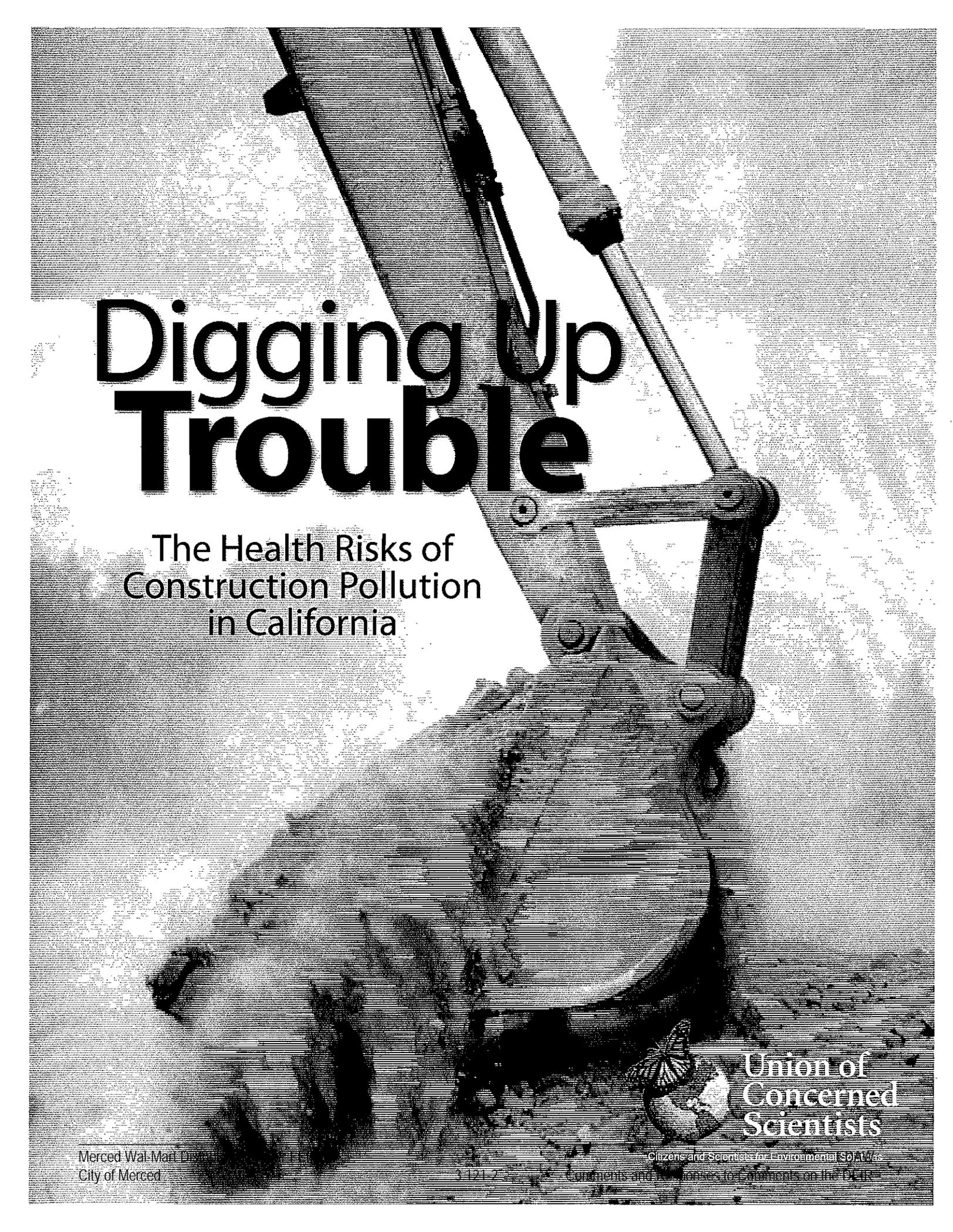
Did you know that Merced is one of the cities cited as being a "high-risk area." The final environmental report must implement the safety steps residents can take in protecting themselves against harmful construction equipment highlighted on page 32 of the study.

121A-2

Please review the study, add into the record and address in the final EIR.

Thank you,

Post in Kenny
321 west 27th st
Merced CA 95346
[Signature]



Digging Up Trouble

The Health Risks of
Construction Pollution
in California

Union of
Concerned
Scientists

Digging Up Trouble

The Health Risks of Construction Pollution in California

D O N A N A I R

Union of Concerned Scientists
November 2006

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Don Anair is a vehicles engineer in the Union of Concerned Scientists Clean Vehicles Program.

The Union of Concerned Scientists (UCS) is the leading science-based nonprofit working for a healthy environment and a safer world. UCS combines independent scientific research and citizen action to develop innovative, practical solutions and to secure responsible changes in government policy, corporate practices, and consumer choices.

The UCS Clean Vehicles Program develops and promotes strategies to reduce the adverse environmental impact of the U.S. transportation system.

More information about UCS and the Clean Vehicles Program is available on the UCS website at www.ucsusa.org.

The full text of this report is available online at www.ucsusa.org/clean_vehicles or may be obtained from:

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I would also like to acknowledge Tom Albo at Greeninfo for his data processing and map production, Patrick Otsuji at the California State Water Resources Board for his expertise and help in gathering construction permit information, and Karen Huss and Larry Sherwood at the Sacramento Metropolitan Air Quality Management District for information regarding their construction mitigation program.

Here at the Union of Concerned Scientists, I want to thank Patricia Monahan, Jason Mark, David Friedman, Erin Rogers, Rich Hayes, and Daniel Kalb for their valuable comments and advice at various stages in the preparation of this report. Additional thanks go to Bryan Wadsworth for copyediting and David Gerratt for layout and design.

The opinions expressed in this report do not necessarily reflect the opinions of the foundations that supported the work, or the individuals who reviewed and commented on the report. Both the opinions and information contained herein are the sole responsibility of the author.

EXECUTIVE SUMMARY

Pollution from diesel construction equipment is taking a toll on the health and economic well-being of California residents. This equipment contributes to particulate and ozone pollution that can cause severe cardiovascular and respiratory illnesses, asthma attacks, acute bronchitis, and even premature death.

This study analyzes air pollution caused by construction equipment and—for the first time—quantifies its effect on California’s public health and economy, both across the state and in the five most-affected regions. In addition, we evaluate the risk of exposure to construction activity in specific cities in each of these five regions. Lagging emission standards and very old equipment have made construction equipment one of the largest sources of toxic diesel particulate matter pollution in the state, necessitating an accelerated cleanup program to protect the health of all Californians.

Using established U.S. Environmental Protection Agency (EPA) and California Air Resources Board (CARB) methods to quantify the impact of air pollution, the Union of Concerned Scientists (UCS) estimates that construction equipment emissions statewide are responsible for:

- more than 1,100 premature deaths per year
- more than 1,000 hospital admissions for cardiovascular and respiratory illness
- 2,500 cases of acute bronchitis
- tens of thousands of asthma attacks and other lower respiratory symptoms

This pollution is hurting the state’s economy as well. Construction equipment is critical to the building industry (a sector of the economy worth \$60 billion per year)¹ and instrumental in maintaining and building our roads and highways (on which California spent eight billion dollars last year). But the pollution from this equipment results in more than nine billion dollars in annual public health costs, including hundreds of thousands of lost work days and school absences.

Construction equipment is used extensively throughout the entire state. More than 270,000 acres of land in California were under construction permit during 2005—an area the size of Los Angeles.² In addition, more than 10,000 miles of state roadway were under contract for construction, repairs, or maintenance.³

The impact of construction pollution on public health is greatest where equipment and people mix, and 90 percent of the health and economic damage occurs in California’s five most populous air basins. The South Coast air basin (which encompasses most of Los Angeles, Orange, Riverside, and San Bernardino counties) ranks first with more than 700 premature deaths and more than 650 hospitalizations for respiratory and cardiovascular illness annually. The San Francisco Bay Area and San Diego follow, with more than 150 and 89 premature deaths, respectively, every year. The San Joaquin Valley and Sacramento Valley (the two largest air basins in

1 As reported to the California Department of Finance by the California Construction Industry Research Board. Available at http://www.dof.ca.gov/HTML/FS_DATA/LatestEconData/FS_Construction.htm.

2 Total acres based on State Water Resources Control Board data (SWRCB 2005). The city of Los Angeles covers 300,160 acres.

3 Mileage based on ongoing contract data available from the California Department of Transportation (CALTRANS 2005).

TABLE 1 Health Damage from Construction Pollution (by Air Basin)

Health Endpoint	Total Incidences					
	Statewide	South Coast	San Francisco Bay Area	San Diego	San Joaquin Valley	Sacramento Valley
Premature Deaths	1,132	731	154	89	49	39
Respiratory Hospitalizations	669	383	56	50	55	30
Cardiovascular Hospitalizations	417	274	61	33	14	12
Asthma and Other Lower Respiratory Symptoms	30,118	20,941	3,406	2,127	1,284	790
Acute Bronchitis	2,494	1,729	284	177	107	66
Lost Work Days	182,940	123,439	25,713	14,014	6,241	4,617
Minor Restricted Activity Days	1,544,952	959,839	168,459	113,280	99,585	50,408
School Absences	331,040	175,339	18,472	24,689	33,282	17,492

NOTE: Values represent the mean annual incidence estimate for 2005.

California's Central Valley) round out the top five with 49 and 39 annual premature deaths, respectively.

Construction activity varies from city to city and, therefore, so does potential exposure to harmful diesel exhaust. Areas with high population density and construction activity are an obvious concern because construction equipment emissions are more likely to be occurring in close proximity to people. Nevertheless, the most densely populated cities are not the only areas with high potential for construction risk; evaluation of active construction projects finds areas outside major population centers also face risks since large-scale construction projects accompany regional population growth.

While incentive programs have begun to clean up some of this equipment, only statewide regulations can achieve the reductions in construction equipment pollution needed to truly protect public health. Cost-effective technology solutions that would help meet this regulatory goal already exist, and more will become available over the next few years. CARB should adopt a regulatory regime that will clean up existing construction equipment by retiring the oldest, most-polluting equipment and using retrofit technology where appropriate.

Chapter 1

DIESEL POLLUTION FROM CONSTRUCTION EQUIPMENT

Highway truck and bus engine manufacturers have had to meet increasingly stringent emission regulations since the late 1980s. Construction and other off-road equipment, however, did not face new particulate matter (PM) emission standards until 1996, with some engines unregulated as late as 2003.⁴ In 2004, the U.S. Environmental Protection Agency (EPA) finally forced construction equipment to meet similar standards to highway trucks and buses, requiring 90 percent reductions in nitrogen oxides (NO_x) and PM for most engine sizes. These standards will phase in over a seven-year period starting in 2008, reaching full implementation in 2014 (EPA 2004).

Although these standards will significantly reduce pollutants from new engines, the full benefits will not be realized until sometime after 2030, when the long-lasting equipment currently in use today is finally retired. There are technology options available to clean up these existing machines, but neither the EPA nor the state of California currently requires them. As a result, if no additional requirements are put in place, the construction sector will continue emitting high levels of toxic and smog-forming pollution for the next two to three decades.

THE WORST OFFENDERS

The Union of Concerned Scientists (UCS) took a closer look at pollution from California's construction equipment to find out which types of

equipment emit the most toxic diesel PM (or "soot") and smog-forming NO_x. Most people think of trucks and buses when they think of diesel pollution, but as it turns out, the equipment repairing the road near your home or operating at a construction site near your office may be many times more polluting. Diesel construction equipment ranges from backhoes and bulldozers to paving equipment and cranes; we have identified the worst offenders.

Out of 18 categories of construction equipment identified in the 2005 California Air Resources Board (CARB) emission inventory, the five highest-polluting categories are responsible for 65 percent of PM and 60 percent of NO_x emissions. In descending order, they are excavators, tractors/loaders/backhoes, crawler tractors (commonly called bulldozers), rubber-tired loaders, and skid-steer loaders (CARB 2006c).

We compared PM and NO_x emissions from these types of equipment with the number of miles a new heavy-duty tractor-trailer truck (or "big rig") would have to travel to emit the same amount of pollution. The emissions of a model year 2007 big rig were estimated based on a truck traveling 55 miles per hour and operating on recently available ultra-low-sulfur diesel fuel. Hourly construction equipment emissions were calculated from equipment population estimates and CARB's 2005 emission inventory.

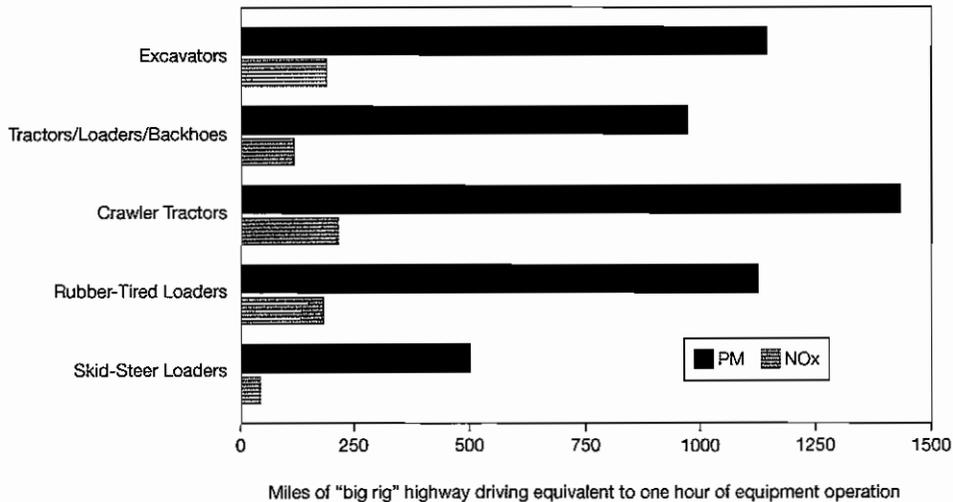
⁴ Tier 1 EPA nonroad engine standards did not include PM limits for engines of 50 to 175 horsepower.

TABLE 2 Emissions by Type of Construction Equipment

	Percent of Total PM from Construction Equipment	Percent of Total NOx from Construction Equipment	Useful Life (in years)
Excavators	17%	18%	17
Tractors/Loaders/Backhoes	16%	12%	18
Crawler Tractors (Tracked Bulldozers)	13%	13%	29
Rubber-Tired Loaders	12%	12%	21
Skid-Steer Loaders	7%	4%	13
Off-Highway Trucks	5%	9%	17
Rough-Terrain Forklifts	5%	3%	16
Graders	5%	5%	23
Off-Highway Tractors	4%	5%	31
Rollers	3%	3%	20
Trenchers	3%	2%	28
Scrapers	3%	4%	26
Cranes	3%	4%	19
Rubber-Tired Dozers	2%	2%	32
Pavers	2%	1%	26
Bore/Drill Rigs	1%	1%	10
Other Construction Equipment	0.4%	1%	16
Paving Equipment	0.3%	0.2%	24
Surfacing Equipment	0.04%	0.1%	22

NOTE: Useful life is defined as the age at which half of the equipment of a given model year has been retired.
 SOURCE: Based on 2005 CARB construction emission inventory (updated as of September 2006).

FIGURE 1 Construction Equipment Emissions Compared with a New "Big Rig"



Excavators

There are an estimated 19,000 excavators in California, ranging in size from about 50 to 750 horsepower. The annual PM pollution from excavators accounts for 17 percent of all PM from construction equipment. On average, an excavator operating for one hour emits as much PM as a new big rig traveling 1,100 miles, while NO_x emissions are equivalent to driving a big rig about 200 miles. The useful life of this equipment is 17 years.⁵



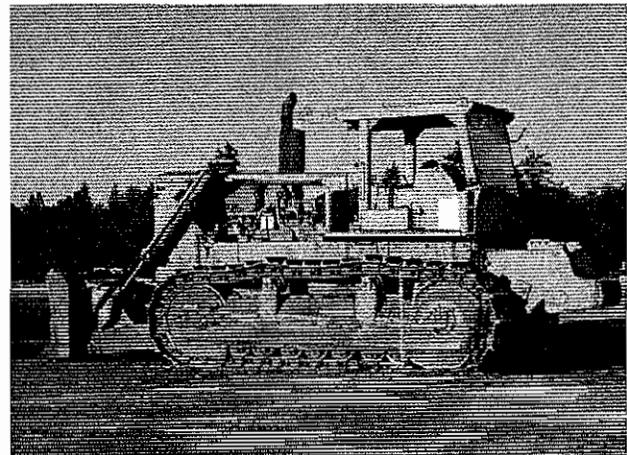
Tractors/loaders/backhoes

These versatile pieces of equipment are commonly used on construction sites and road repair projects. More than 30,000 backhoes are operated in California every year, emitting 16 percent of all PM from construction equipment. The PM produced by the average backhoe in one hour is equivalent to driving a big rig nearly 1,000 miles, while the NO_x emissions are equivalent to driving more than 100 miles. The useful life of this equipment is 18 years.



Crawler tractors (bulldozers)

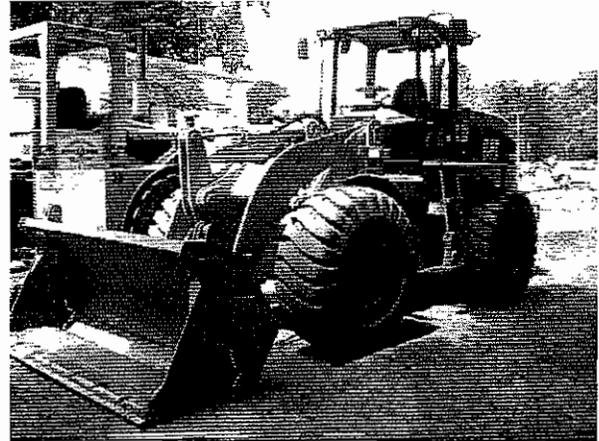
These tracked vehicles are used primarily for earthmoving operations. More than 16,000 bulldozers operate in California and emit 13 percent of all PM from construction equipment. The average bulldozer operating for one hour emits the same amount of PM as a new big rig driving 1,400 miles. The NO_x emissions from an hour of operation are equivalent to driving a big rig 200 miles. The useful life of a crawler tractor is an impressive 29 years.



⁵ Useful life is defined as the age at which half of the equipment of a certain model year has been retired. The useful life, equipment populations, emissions, and other equipment specifics described in this section are based on CARB's updated off-road emission inventory model as of September 2006 (CARB 2006c).

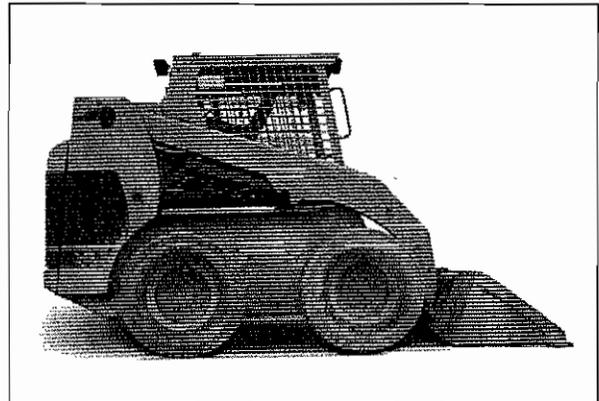
Rubber-tired loaders

These heavy-duty vehicles, commonly used to load trucks, represent the fourth largest source of diesel emissions from construction equipment; the estimated 19,000 rubber-tired loaders in California account for 12 percent of all construction pollution. The average loader operating for one hour emits PM equivalent to driving a new big rig 1,100 miles and NOx emissions equivalent to driving 200 miles. The useful life of rubber-tired loaders is 21 years.



Skid-steer loaders

More than 29,000 of these relatively small pieces of equipment operate in California on all types of construction projects, and account for seven percent of all PM from construction equipment. Even though the average skid-steer loader delivers less than 50 horsepower (a fraction of that provided by a big rig),⁶ its PM emissions from one hour of operation are equivalent to driving a new big rig 500 miles. The useful life of a skid-steer loader is 13 years.



⁶ A new big rig's engine can range anywhere from 300 to 600 horsepower.

Chapter 2

HEALTH AND ECONOMIC DAMAGE FROM CONSTRUCTION EQUIPMENT

Emissions from construction equipment and other diesel vehicles are harmful to our health and well-being. The damage comes in the form of premature death, increased hospital admissions for respiratory and cardiovascular diseases, asthma attacks, and lost productivity through school absences and missed work days. Following established statistical methods, UCS has quantified the cost of diesel emissions from construction equipment in California.

The impact of several pollutants that comprise diesel exhaust must be taken into account:

- **Particulate matter (PM).** Also known as soot, these small particles (25 times smaller than the width of a human hair) are released directly from the tailpipe or formed indirectly from emissions of NO_x and sulfur oxides (SO_x). PM can penetrate deeply into the lungs, causing or aggravating a variety of respiratory and cardiovascular illnesses and even leading in some cases to premature death (Pope 2002, Krewski 2000, Samet 2000).
- **Smog-forming pollutants.** NO_x and hydrocarbons react in the presence of sunlight to form ozone (smog), which can damage the respiratory tract, reduce lung function, exacerbate asthma, aggravate chronic lung diseases, and also cause premature death (White 1994,

Koren 1995, Thurston 2001, Bell 2005). As much as 10 to 20 percent of all summertime hospital visits and admissions for respiratory illness are associated with ozone, and more than 90 percent of Californians live in areas that do not comply with federal ozone standards (Thurston 1992, 1994).

- **Air toxics.** The state of California has classified diesel exhaust and more than 40 compounds in diesel exhaust as toxic air contaminants.⁷ Exposure to these chemicals can cause cancer, damage to fetuses, and other serious health and reproductive problems. CARB has estimated that diesel exhaust is responsible for 70 percent of the state's risk of cancer from airborne toxics (CARB 1998).

ESTIMATING HEALTH EFFECTS OF CONSTRUCTION POLLUTION

This analysis uses methods established by CARB and the EPA to quantify health and economic damage from diesel pollution. In March 2006, CARB released a study detailing the regional health and economic damage caused by California's goods movement system (CARB 2006a). A number of adverse health effects, or endpoints, strongly linked to diesel pollution were quantified along with an estimate of the economic costs associated with these endpoints.

⁷ According to the California Health and Safety Code, a toxic air contaminant is "an air pollutant which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health."



How Diesel Exhaust Damages Lungs

As PM from diesel exhaust travels through the air and is inhaled, the largest particles settle in the nose, throat, and lungs. The finest particles are able to evade the body's natural defenses (such as sneezing and coughing) and travel deep into the lungs. Once there, these particles can cause inflammation and scarring of air passageways and lung tissue, resulting in reduced oxygen flow to the rest of the body. Symptoms can range from coughing and shortness of breath to severe and fatal asthma attacks.

When inhaled, ozone—a key ingredient of smog—can also damage lungs by chemically burning delicate tissue and causing scarring. Recent evidence suggests that exposure to ozone can cause asthma in otherwise healthy children (McConnell 2002). On days with high ozone levels, health officials recommend reducing outdoor activities to lower exposure to this dangerous pollutant.

Using emission data specific to diesel construction equipment in California, we used the same methodology to quantify the damage from construction equipment pollution. Because our ability to quantify the public health impact of diesel pollution is limited, the health endpoints quantified in this analysis do not represent all of the potential damage associated with diesel pollution and are therefore conservative estimates.

Economic damage associated with construction equipment pollution is estimated by assigning each health endpoint an economic value. Economic valuations for each health endpoint are based on the cost of treating an illness, lost productivity or wages, or the value society is willing to pay to lower the risk of certain outcomes.

For further discussion of the methodology used to estimate the health and economic impact of construction pollution, please refer to the appendix.

Our analysis found that the economic and health damage caused by construction equipment pollution in California is staggering. More than 1,000 premature deaths per year can be attributed to these emissions, along with more than 1,000 hospitalizations for cardiovascular and respiratory illness, and more than 30,000 asthma attacks and other respiratory symptoms. Hundreds of thousands of lost work days and school absences equate to more than \$60 million in annual economic losses. In addition, Californians collectively experience millions of days each year when air pollution restricts their activities. Overall, construction equipment pollution costs the state more than nine billion dollars every year.

TABLE 3 Health and Economic Damage from Construction Pollution (Statewide)

Health Endpoint	Pollutants	Total Incidences	Costs (in thousands of 2005 dollars)
Premature Deaths (\$7.9 million/incidence)	PM and ozone	1,132 (328–1930)	8,944,256 (2,588,161–15,249,672)
Respiratory Hospitalizations (\$34,000/incidence)	PM and ozone	669 (398–933)	22,758 (13,530–31,735)
Cardiovascular Hospitalizations (\$41,000/incidence)	PM only	417 (263–646)	17,082 (10,795–26,491)
Asthma and Other Lower Respiratory Symptoms (\$19/incidence)	PM only	30,118 (11,686–48,110)	572 (222–914)
Acute Bronchitis (\$422/incidence)	PM only	2,494 (–609–5,408)	1,053 (–257–2,282)
Lost Work Days (\$180/incidence)	PM only	182,940 (155,031–210,810)	32,929 (27,906–37,946)
Minor Restricted Activity Days (\$60/incidence)	PM and ozone	1,544,952 (988,809–2,150,641)	92,697 (59,329–129,038)
School Absences (\$88/incidence)	Ozone only	331,040 (134,632–531,374)	29,131 (11,848–46,761)
Total Cost			9,140,480 (2,711,532–15,524,840)

DEFINITIONS:

Premature deaths: Premature deaths due to exposure to PM and ozone, including cardiopulmonary and lung cancer mortality.

Respiratory hospitalizations: Hospital admissions for respiratory illnesses (such as emphysema or chronic bronchitis) as a result of exposure to both PM and ozone.

Cardiovascular hospitalizations: Hospital admissions for cardiovascular illnesses (such as heart attacks or hypertension) as a result of exposure to PM.

Lower respiratory symptoms: Asthma attacks and other symptoms such as wheezing, coughing, and shortness of breath.

Acute bronchitis: Symptoms can include coughing, chest discomfort, and slight fever and can last several days.

Lost work days: Days of work missed due to symptoms resulting from exposure to PM or to take care of an individual with such symptoms.

Minor restricted activity days: Days in which high ozone and PM levels require less strenuous activities but do not result in a lost work day or school absence.

School absences: Days of school missed due to symptoms resulting from exposure to ozone.

NOTE: Mean estimates are shown in bold; ranges shown in parentheses represent the 95 percent confidence interval (i.e., there is a 95 percent chance that the actual value falls between the two values shown).

*Chapter 3***CONSTRUCTION POLLUTION IMPACT BY REGION**

The majority of the damage caused by construction equipment pollution occurs in areas where large numbers of people are exposed. Five of California's 15 air basins, home to more than 85 percent of the state's population, suffer more than 90 percent of the total health and economic damage from construction pollution. In each of these five air basins, which are the focus of this chapter, concerns exist in both urban and suburban areas.

Air basins are largely defined by physical features, such as mountain ranges, and meteorological conditions, such as air flow patterns, that restrict the movement of air pollution to another air basin. Air quality in a given air basin is influenced by the emission sources within it, and to a lesser degree by pollution entering from another air basin. Transport of air pollution from neighboring air basins is an ongoing area of research and, for the purposes of this analysis, construction equipment emissions are assumed to remain in the air basin in which they were generated.

WHERE PEOPLE AND CONSTRUCTION MIX

UCS also evaluated the likelihood of exposure to construction activity in specific cities within the five most-affected air basins. While construction equipment contributes to overall PM and ozone concentrations in each air basin, people who live or work near construction equipment may be at a higher risk of exposure to these dangerous pollutants.⁸ Using 2000 census data and

2005 construction permit data from the California State Water Resources Control Board (SWRCB), we have identified those cities that have a higher risk of exposure to construction activity. The results show that areas where construction activity and people mix are spread throughout each region, in both urban and suburban cities and towns.

The SWRCB requires permits for construction projects that disturb more than one acre of land through clearing, grading, or excavation. We used permits from the SWRCB database for our analysis because such land disturbance generally involves the use of diesel earthmoving construction equipment. By excluding local building permits, we attempted to eliminate small projects such as single-family home construction and remodeling work that may not require the use of diesel equipment. The permits selected for this analysis were either active or issued between January 1, 2005, and December 31, 2005 (SWRCB 2005).

We then created maps using geographic information system (GIS) software to display "Construction Risk Zones" related to construction activity in each of the five studied air basins. Construction Risk Zones represent the risk of exposure to construction pollution in a given city, based on its mixture of construction activity and population density. To determine the relative risk potential for each city, we multiplied the total acreage under construction permit during 2005

⁸ Northeast States for Coordinated Air Use Management showed increased concentrations of diesel PM near construction sites (NESCAUM 2003). Other studies have shown an elevated risk of cancer near diesel pollution sources; these studies include a health risk assessment at a California rail yard (CARB 2005).

by population density from the 2000 census. A city's risk potential is presented in relation to other cities within the air basin, ranging from a relatively high risk to a relatively low risk.

The resulting Construction Risk Zones are based on the best information available, but it is important to note that this is not a measure of actual exposure to emissions and is only one measure of the likelihood that people and construction equipment will be in proximity to one another. Actual exposure levels depend on the amount of emissions produced by specific equipment, the types of equipment on a construction site and the length of time they operate, wind patterns and atmospheric conditions, and proximity

to the emission source. These details are not available from the SWRCB permit database.

Also, because we have measured construction activity in terms of acreage, a multi-story project and a single-story project are treated equally. In addition, the construction permit data used to evaluate Construction Risk Zones does not include California Department of Transportation (Caltrans) highway projects—a major source of construction activity in the state.⁹ In spite of these limitations, our Construction Risk Zone evaluation captures a majority of the largest construction sites in the state.

Please see the appendix for further discussion of the SWRCB permit data.

⁹ For perspective, Caltrans contracts were worth eight billion dollars in 2005 (CALTRANS 2005) while building and construction contracts were valued at \$65 billion according to the California Department of Finance (CDF 2005).

SOUTH COAST

Comprising most of Los Angeles, San Bernardino, Riverside, and Orange counties, this air basin experiences the greatest degree of health and economic damage in the state from construction equipment emissions. For 2005, this includes estimates of:

- more than 700 premature deaths
- 650 hospitalizations for respiratory and cardiovascular disease
- more than 1,700 cases of acute bronchitis
- nearly 21,000 incidences of asthma attack and other lower respiratory symptoms
- 300,000 days of lost work and school absences
- close to one million days of restricted activity

This loss of life and productivity cost South Coast residents an estimated \$5.9 billion.

Within the air basin, 127 cities and towns had active construction permits during 2005 accounting for more than 70,000 acres of land under construction. Areas designated as high-risk are spread throughout the region, with cities in all four counties falling in the top 10 percent of Construction Risk Zones. San Bernardino and Riverside counties each have four such cities while Los Angeles has three and Orange two. The presence of less population-dense cities such as Murrieta and Temecula in this group reflects the fact that large developments of 50 acres or more are common in these cities.

TABLE 4 South Coast Construction Pollution Damage

Health Endpoint	Mean Annual Incidences	Annual Costs (in thousands of 2005 dollars)
Premature Deaths	731	5,776,261
Respiratory Hospitalizations	383	13,019
Cardiovascular Hospitalizations	274	11,248
Asthma and Other Lower Respiratory Symptoms	20,941	398
Acute Bronchitis	1,729	730
Lost Work Days	123,439	22,219
Minor Restricted Activity Days	959,839	57,590
School Absences	175,339	15,430
Total Annual Cost		5,896,894

TABLE 5 Top 10 Percent of South Coast Construction Risk Zones

City	County
Long Beach	Los Angeles
Los Angeles	Los Angeles
Santa Clarita	Los Angeles
Irvine	Orange
San Clemente	Orange
Corona	Riverside
Murrieta	Riverside
Riverside	Riverside
Temecula	Riverside
Chino	San Bernardino
Fontana	San Bernardino
Rancho Cucamonga	San Bernardino
San Bernardino	San Bernardino

NOTE: Cities are listed in alphabetical order by county.

SAN FRANCISCO BAY AREA

This air basin comprises nine counties and is second only to the South Coast air basin in health and economic damage from construction equipment emissions. For 2005, this includes estimates of:

- more than 150 premature deaths
- 100 hospitalizations for respiratory and cardiovascular disease
- more than 280 cases of acute bronchitis
- 3,000 incidences of asthma attack and other lower respiratory symptoms
- 44,000 days of lost work and school absences
- well over 100,000 days of restricted activity

This loss of life and productivity cost Bay Area residents an estimated \$1.2 billion.

Within the air basin, 80 cities and towns had active construction permits during 2005 accounting for more than 17,500 acres of land under construction. As in the South Coast, areas designated as high-risk are spread throughout the region. San Francisco and San Jose, both densely populated cities, fall in the top 10 percent of Construction Risk Zones along with less population-dense cities in Contra Costa, Alameda, and Solano counties (where large amounts of acreage are under construction).

It should be noted that the replacement of the Bay Bridge's eastern span, a multi-year, multi-billion-dollar project involving large amounts of construction equipment, is not captured in this evaluation.

TABLE 6 San Francisco Bay Area Construction Pollution Damage

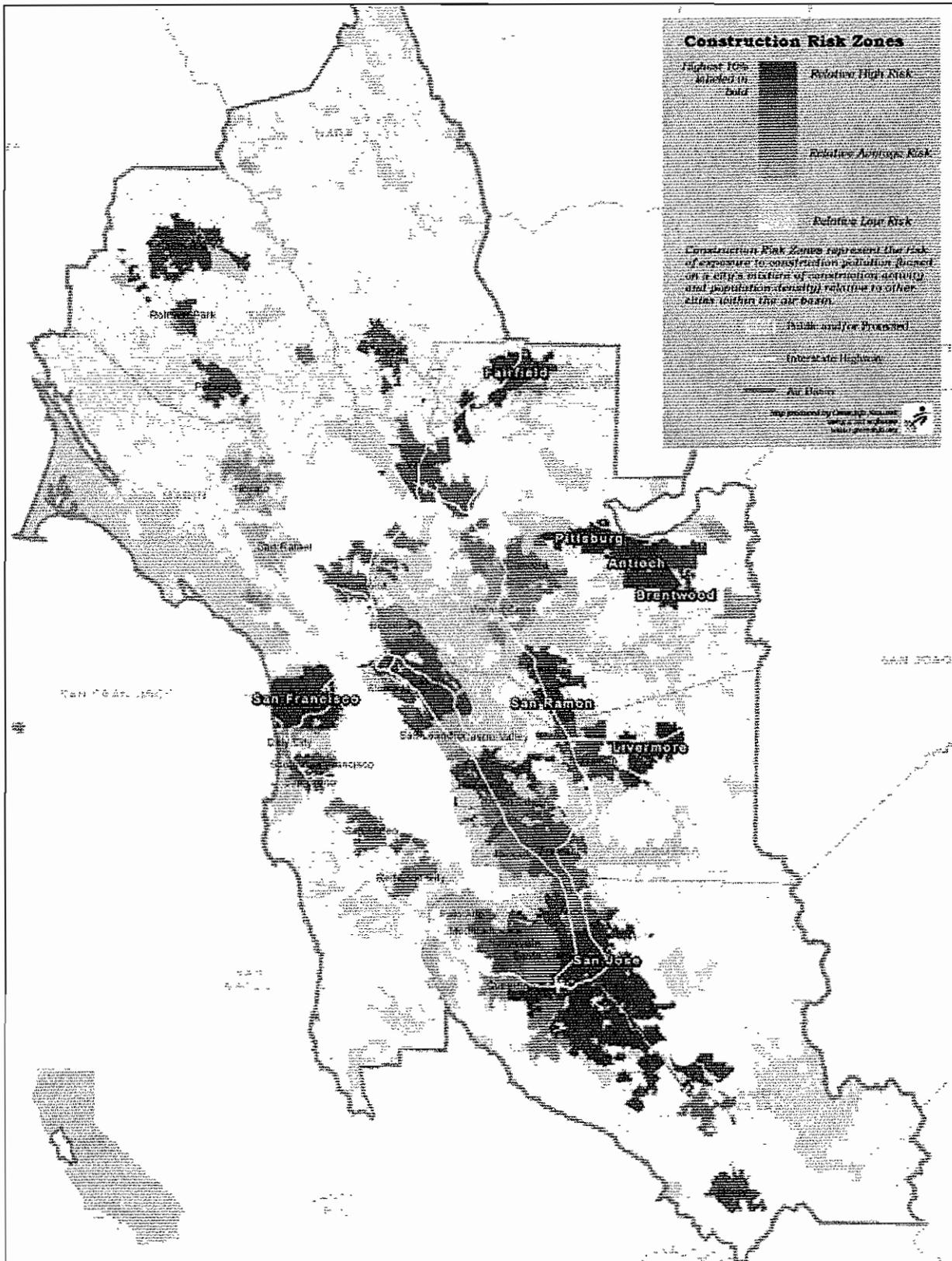
Health Endpoint	Mean Annual Incidences	Annual Costs (in thousands of 2005 dollars)
Premature Deaths	154	1,215,948
Respiratory Hospitalizations	56	1,914
Cardiovascular Hospitalizations	61	2,482
Asthma and Other Lower Respiratory Symptoms	3,406	65
Acute Bronchitis	284	120
Lost Work Days	25,713	4,628
Minor Restricted Activity Days	168,459	10,108
School Absences	18,472	1,626
Total Annual Cost		1,236,890

TABLE 7 Top 10 Percent of San Francisco Bay Area Construction Risk Zones

City	County
Livermore	Alameda
Antioch	Contra Costa
Brentwood	Contra Costa
Pittsburg	Contra Costa
San Ramon	Contra Costa
San Francisco	San Francisco
San Jose	Santa Clara
Fairfield	Solano

NOTE: Cities are listed in alphabetical order by county.

FIGURE 3 Construction Pollution Risk in the San Francisco Bay Area Air Basin



SAN DIEGO

This air basin ranks third behind the South Coast and San Francisco Bay Area for damage from construction equipment pollution. For 2005, this includes estimates of:

- nearly 90 premature deaths
- more than 80 hospitalizations for respiratory and cardiovascular disease
- more than 170 cases of acute bronchitis
- more than 2,000 incidences of asthma attack and other lower respiratory symptoms
- 38,500 days of lost work and school absences
- more than 100,000 days of restricted activity

This loss of life and productivity cost San Diego residents an estimated \$718 million.

Within the air basin, 25 cities and towns had active construction permits during 2005 accounting for more than 22,500 acres of land under construction. San Diego is by far the most populated and largest city in the air basin falling in the top 10 percent of Construction Risk Zones; others include Chula Vista and Oceanside, which both have a population density similar to San Diego and more than 1,000 acres under construction permit in 2005.

TABLE 8 San Diego Construction Pollution Damage

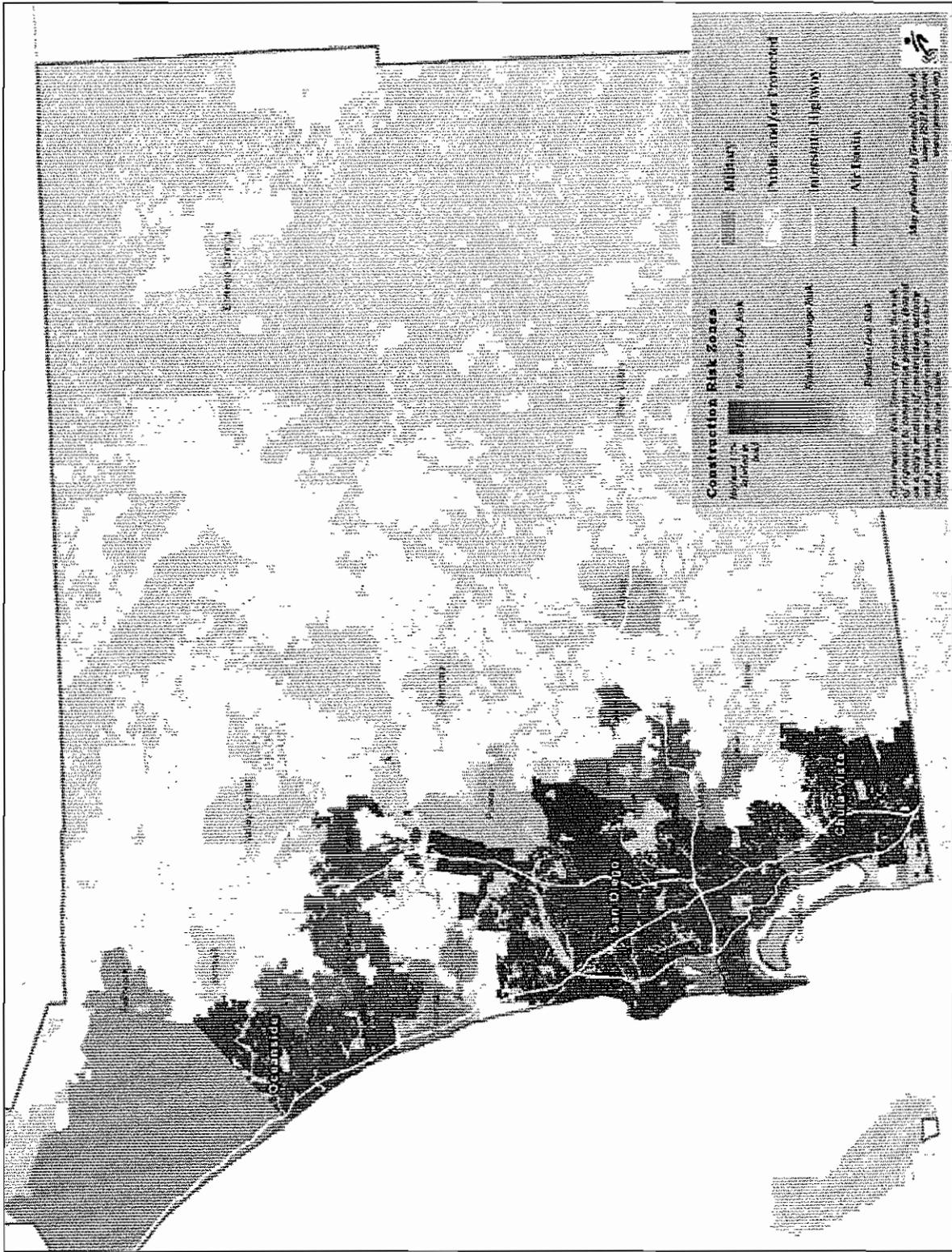
Health Endpoint	Mean Annual Incidences	Annual Costs (in thousands of 2005 dollars)
Premature Deaths	89	703,222
Respiratory Hospitalizations	50	1,703
Cardiovascular Hospitalizations	33	1,357
Asthma and Other Lower Respiratory Symptoms	2,127	40
Acute Bronchitis	177	75
Lost Work Days	14,014	2,523
Minor Restricted Activity Days	113,280	6,797
School Absences	24,689	2,173
Total Annual Cost		717,890

TABLE 9 Top 10 Percent of San Diego Construction Risk Zones

City	County
Chula Vista	San Diego
Oceanside	San Diego
San Diego	San Diego

NOTE: Cities are listed in alphabetical order by county.

FIGURE 4 Construction Pollution Risk in the San Diego Air Basin



SAN JOAQUIN VALLEY

This air basin, comprising the southern counties of California’s Central Valley, ranks fourth for health and economic damage from construction equipment pollution. For 2005, this includes estimates of:

- nearly 50 premature deaths
- 70 hospitalizations for respiratory and cardiovascular disease
- more than 100 cases of acute bronchitis
- more than 1,200 incidences of asthma attack and other lower respiratory symptoms
- 39,000 days of lost work and school absences
- nearly 100,000 days of restricted activity

This loss of life and productivity cost San Joaquin Valley residents an estimated \$401 million.

Within the air basin, 66 cities and towns had active construction permits during 2005 accounting for more than 32,500 acres of land under construction. The seven cities comprising the air basin’s top 10 percent of Construction Risk Zones are spread throughout the valley (in six different counties) and correspond to the most populated areas.

TABLE 10 San Joaquin Valley Construction Pollution Damage

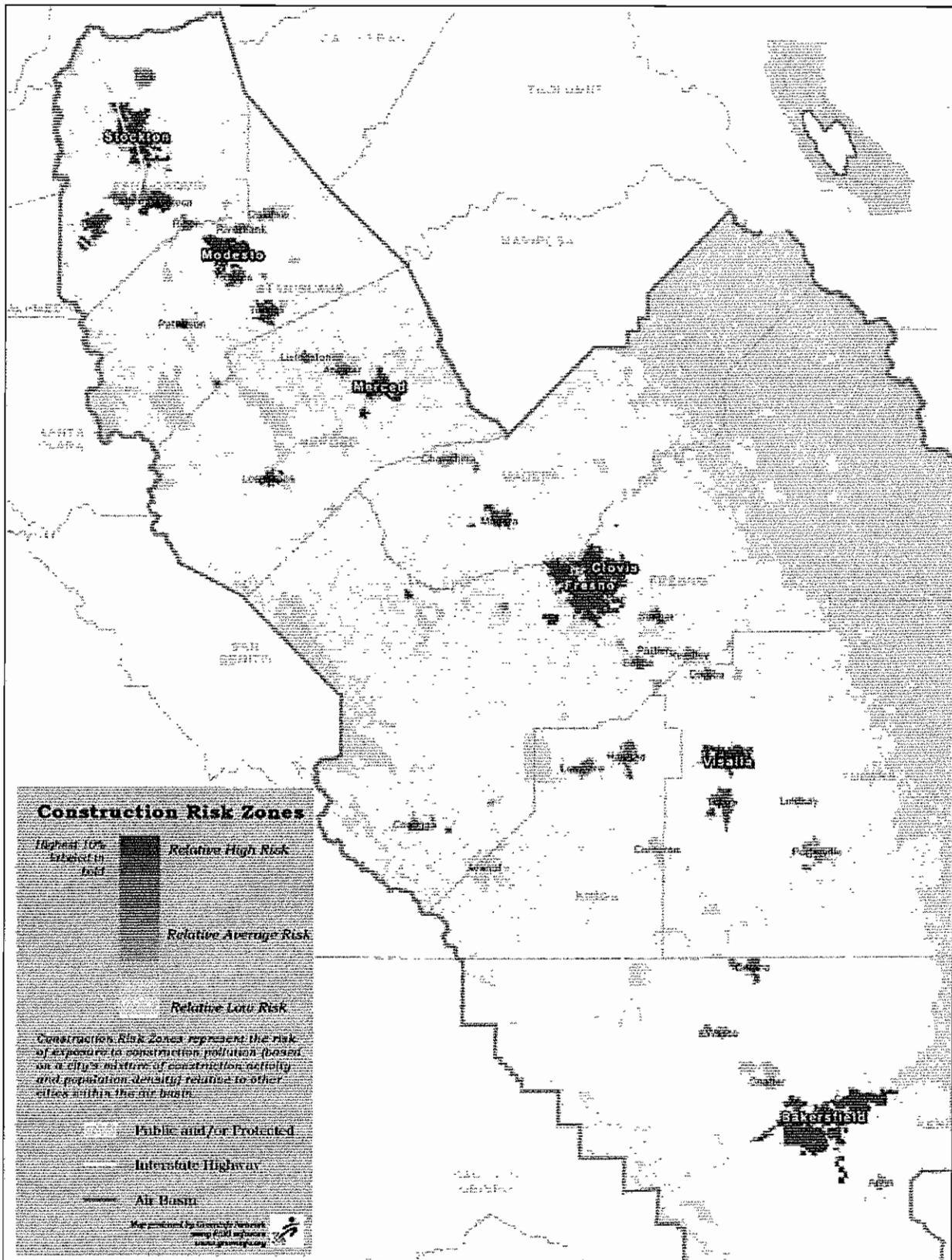
Health Endpoint	Mean Annual Incidences	Annual Costs (in thousands of 2005 dollars)
Premature Deaths	49	388,547
Respiratory Hospitalizations	55	1,858
Cardiovascular Hospitalizations	14	592
Asthma and Other Lower Respiratory Symptoms	1,284	24
Acute Bronchitis	107	45
Lost Work Days	6,241	1,123
Minor Restricted Activity Days	99,585	5,975
School Absences	33,282	2,929
Total Annual Cost		401,094

TABLE 11 Top 10 Percent of San Joaquin Valley Construction Risk Zones

City	County
Clovis	Fresno
Fresno	Fresno
Bakersfield	Kern
Merced	Merced
Stockton	San Joaquin
Modesto	Stanislaus
Visalia	Tulare

NOTE: Cities are listed in alphabetical order by county.

FIGURE 5 Construction Pollution Risk in the San Joaquin Valley Air Basin



SACRAMENTO VALLEY

This air basin, comprising the northern counties of California’s Central Valley, ranks fifth for health and economic damage from construction equipment pollution. For 2005, this includes estimates of:

- nearly 40 premature deaths
- more than 40 hospitalizations for respiratory and cardiovascular disease
- more than 65 cases of acute bronchitis
- 790 incidences of asthma attack and other lower respiratory symptoms
- 22,000 days of lost work and school absences
- more than 50,000 days of restricted activity

This loss of life and productivity cost Sacramento Valley residents an estimated \$314 million.

Within the air basin, 52 cities and towns had active construction permits during 2005 accounting for more than 29,000 acres of land under construction. The cities falling in the top 10 percent of Construction Risk Zones include the city of Sacramento and its suburbs Elk Grove, Roseville, and Woodland, along with Yuba City in Sutter County.

TABLE 13 Top 10 Percent of Sacramento Valley Construction Risk Zones

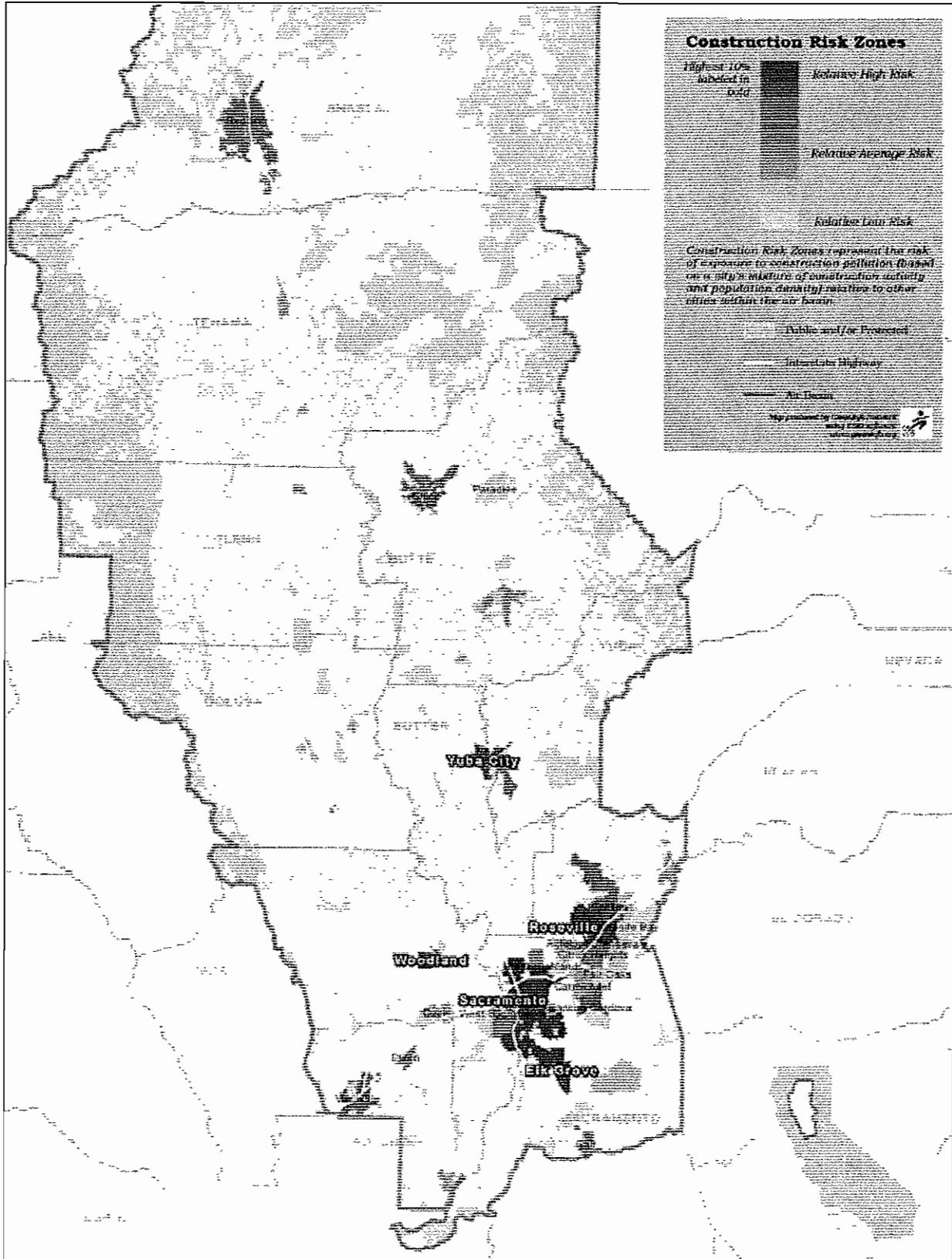
City	County
Roseville	Placer
Elk Grove	Sacramento
Sacramento	Sacramento
Yuba City	Sutter
Woodland	Yolo

NOTE: Cities are listed in alphabetical order by county.

TABLE 12 Sacramento Valley Construction Pollution Damage

Health Endpoint	Mean Annual Incidences	Annual Costs (in thousands of 2005 dollars)
Premature Deaths	39	306,638
Respiratory Hospitalizations	30	1,003
Cardiovascular Hospitalizations	12	493
Asthma and Other Lower Respiratory Symptoms	790	15
Acute Bronchitis	66	28
Lost Work Days	4,617	831
Minor Restricted Activity Days	50,408	3,025
School Absences	17,492	1,539
Total Annual Cost		313,571

FIGURE 6 Construction Pollution Risk in the Sacramento Valley Air Basin



CONCLUSIONS

Construction equipment is operating in cities and towns throughout California, releasing harmful NO_x and PM emissions into the air and raising the risk of exposure to these pollutants for residents who live and work near construction sites. The likelihood of people living or working close to construction sites is highest in densely populated urban areas, but the suburbs are not

free of risk from construction equipment pollution. Many projects in these areas, including new commercial and residential developments, require extensive use of construction equipment for land clearing and grading operations. Road construction and maintenance projects occurring throughout the state add additional risk.

Construction equipment pollution is therefore a health concern for all Californians.

Chapter 4

BUILDING A CLEANER FUTURE

Because of its long working life, high replacement cost, and lagging emission standards, diesel construction equipment will continue to pollute for decades. That means Californians will suffer from increased hospital admissions for respiratory and cardiovascular disease, asthma attacks, acute bronchitis, and even premature death—unless the state takes action to dramatically reduce construction equipment pollution.

WHAT CAN CALIFORNIA DO?

Under the federal Clean Air Act, California has the unique authority to regulate construction equipment. The state should use this authority to establish stringent new regulations that would complement its recent efforts to clean up pollution from other on-road and off-road sources of diesel pollution.¹⁰ An effective regulatory regime for diesel construction equipment would:

- reduce diesel PM 75 percent below 2000 levels by 2010 and 85 percent below 2000 levels by 2020—which would reduce estimated annual premature deaths from construction equipment pollution by 790 (70 percent) compared with 2005
- phase out or retire the oldest, most polluting equipment
- install the best available retrofit technology on newer equipment

- require the strongest emission controls near sensitive locations such as schools, nursing homes, hospitals, and day care centers

Incentive programs have also proven effective in cleaning up construction equipment (UCS 2004). These programs should continue to fund equipment cleanup with the goal of achieving emission reductions above and beyond what regulations require.

There are a number of cost-effective ways to reduce emissions from construction and other off-road diesel equipment, allowing for flexibility in meeting reduction targets:¹¹

- **Refuel.** Switching to alternative diesel fuels can achieve modest reductions in pollutants. These fuels can also facilitate the use of advanced retrofit technologies, resulting in even less pollution.
- **Repower.** The body or chassis of some equipment can last many decades, beyond the life of the original engine. Installing a new low-emission engine in an older chassis can allow the machine to run cleanly for many more years. California's Carl Moyer incentive program is currently funding some repower projects for construction equipment.¹²
- **Replace.** Replacing old equipment with a new lower-emission model ahead of schedule can result in substantial pollution reductions.

¹⁰ CARB has passed numerous regulations under its Diesel Risk Reduction Plan that set strict emission reduction targets for specific types of diesel vehicles and equipment (CARB 2005a, 2005b, 2005c, 2004b, 2003a, 2003b, 2003c, 2000).

¹¹ Previous UCS analysis found that diesel cleanup through California's Carl Moyer incentive program achieves benefits valued at 10 times the cost of cleanup (UCS 2004).

¹² Repower projects funded by the Carl Moyer incentive program must meet stringent cost-effectiveness thresholds (CARB 2000a, 2004a).

- **Retrofit.** Existing engines that can be expected to run for many more years can be retrofitted with emission control technologies that reduce PM more than 90 percent.¹³
- **Reduce idling.** Idling equipment not only pollutes, but also wastes fuel. Limiting idle time, on the other hand, saves money by reducing fuel use and wear-and-tear on the engine.

Efforts around the country and around the world are proving that the technology exists to lower construction equipment emissions. In Switzerland, for example, an aggressive regulation to curtail diesel PM emissions from construction sites has resulted in thousands of retrofits (Mayer 2004, 2005). In 2003, New York City passed an ordinance requiring that diesel equipment on all city-funded construction sites use ultra-low-sulfur fuel and be retrofitted with the best available control technology (Bradley 2006). Boston's "Big Dig" incorporated more than 200 retrofit devices on construction equipment, and Connecticut's Harbor Crossing Corridor is following suit.

In California, some air districts are funding repowers and retrofits through the Carl Moyer incentive program and, for large projects, requiring the use of cleaner construction equipment.¹⁴ These and other groundbreaking efforts (MECA 2006) have proven the success of cleanup technology for construction equipment, but statewide action is necessary to achieve the greatest reductions and maximum health benefits.

WHAT CAN YOU DO?

By taking the following actions, individuals can help protect themselves from harmful diesel emissions and make sure that the appropriate

decision makers know that Californians want diesel-powered construction equipment cleaned up:

- File a visible smoke complaint with your air district (contact information can be found at <http://www.arb.ca.gov/capcoalroster.htm>) or CARB (call 800-952-5588 or email vruiz@arb.ca.gov) when you see plumes of diesel soot coming from construction equipment. Request that an inspector be sent to the site and investigate the emission source.
- Report illegal idling (commercial trucks that haul dirt or service construction sites cannot idle for more than five minutes) to CARB (visit <http://www.arb.ca.gov/enfcomplaints/complaints.htm> or call 800-END-SMOG) or your local air district (contact information can be found at <http://www.arb.ca.gov/capcoalroster.htm>). Citations for illegal idling can also be issued by local law enforcement.
- Tell your state legislative representatives (contact information can be found at <http://www.leginfo.ca.gov/yourleg.html>) and CARB (arbboard@arb.ca.gov) that cleaner construction equipment is important to you.
- Close your windows while diesel-powered equipment is operating near your home or office.
- Raise your concern about emissions from proposed construction in your neighborhood during the public review period, and demand that the project's environmental impact review assesses these emissions and includes a strategy for controlling them.
- Urge your city council to protect residents from construction pollution by enacting a clean-construction ordinance—especially around sensitive sites such as schools and day care centers.

13 CARB has verified retrofit technologies for use on off-road equipment. See <http://www.arb.ca.gov/diesel/verified/verifiedtechnologies/cvt.htm>.

14 The Sacramento Metropolitan Air Quality Management District (<http://www.airquality.org/ceqa/index.shtml>) and San Luis Obispo County Air Pollution Control District (contact: Andrew Mutziger) require construction equipment pollution mitigation for some projects under the California Environmental Quality Act.

*Appendix***ESTIMATING THE HEALTH DAMAGE AND ECONOMIC COSTS OF CONSTRUCTION POLLUTION**

Our polluted air has provided researchers a real-world laboratory for studying the impact of air pollution on people's health. Numerous epidemiological studies tracking thousands of individuals have linked PM exposure to premature death as well as cardiovascular and respiratory illnesses. Similar studies have been carried out for exposure to ozone pollution. These studies provide the basis for estimating the health benefits of reducing air pollution and are used in this study to estimate the impact of construction pollution.

The health effects quantified in this report are based on peer-reviewed epidemiological studies used by both the EPA and CARB to evaluate the benefits of reducing air pollution. These studies establish a statistically significant relationship between exposure to PM and ozone and increased incidences of specific health endpoints, which can then be quantified through a concentration-response function. The uncertainty in these estimates is quantified by presenting results as both a mean estimate of the number of incidences and a range of estimates representing the 95 percent confidence interval.¹⁵

Our analysis links health and economic damage to construction equipment pollution by using California-specific air quality monitoring data, county baseline health incidence rates, population estimates, and a diesel construction equipment emission inventory. PM concentrations for specific air basins were measured by CARB when identifying diesel PM as a toxic air contaminant (CARB 1998). And CARB recently evaluated

concentration-response functions for specific health endpoints using diesel PM concentration estimates along with population data, baseline health incidence rates, and an inventory of diesel emission sources related to the movement of goods (CARB 2006a). As part of these efforts, air basin-specific factors were estimated (in tons of diesel pollution per incidence) for each health endpoint. UCS used these factors along with CARB's air basin-specific inventory of diesel PM, NO_x, and reactive organic gases (ROG) to estimate the health effects of PM and ozone from construction equipment (CARB 2006d).

Each health endpoint covered in this report is assigned a dollar value to estimate the economic impact of diesel pollution. The EPA uses economic valuations of health endpoints to perform cost-benefit analyses of air pollution reduction measures, and our analysis reflects changes made to the EPA's hospitalization endpoints and lost work days to better reflect California-specific wage and health care data (CARB 2006a).

Premature death is the most serious health endpoint related to diesel pollution and has the greatest economic impact. Estimates of premature death resulting from exposure to fine PM are based on long-term exposure for people 30 or older, and include all causes of death (Pope 2002). Individuals with existing respiratory and cardiovascular disease and the elderly are most vulnerable, and life expectancies are shortened by months or even years (Pope 2000). Economic valuation of premature death is based on a review of studies carried

¹⁵ For a list of the epidemiological studies used, see CARB 2006a and EPA 2004.

out by the EPA and on society's "willingness-to-pay" to lower the risk of premature death (EPA 1999).

CONSTRUCTION PERMIT DATA

The California State Water Resources Control Board (SWRCB) construction permit database was chosen as the primary source for representing construction activity in California. Residential and commercial building permit data were excluded from the study due to overlapping information with the SWRCB database and the inclusion of projects that may not involve the use of diesel construction equipment.

SWRCB construction permits, which we used to calculate Construction Risk Zones, are required under the federal Clean Water Act for projects that disturb more than one acre of land. According to the SWRCB Fact Sheet for Water Quality Order 99-08-DWQ:

Construction activity subject to this General Permit includes clearing, grading, disturbances to the ground such as stockpiling, or excavation that results in soil disturbances of at least one acre of total land area. Construction activity that results in soil disturbances of less than one acre is subject to this General Permit if the construction activity is part of a larger common plan of development that encompasses one or more acres of soil disturbance or if there is significant water quality impairment resulting from the activity.

Construction projects that disturb more than one acre of land generally involve the use of diesel earthmoving construction equipment. These permits, while not directly representing construction equipment activity, provide the best available indication of where large earthmoving equipment is being used.

Limitations of permit data. There are, however, some limitations to estimating construction activity from SWRCB permits.

Projects under permit may go through many different phases of construction before completion, not all of which require the use of diesel-powered construction equipment or sustained levels of construction equipment activity. Therefore, there is no guarantee that construction equipment was operated on site during a specific period of time, but permittees must pay an annual fee to the SWRCB to keep permits active. This monetary requirement should minimize the number of permittees holding active permits but not performing construction activity.

Additionally, there are some construction projects that will not appear in the SWRCB database. Projects in which storm runoff is captured in a combined sewer/storm water system do not require permits because the water treatment plant that receives the runoff is the permitted entity. Some projects in San Francisco and Sacramento, where a combined sewer system exists, may be excluded from the database as a result, but the majority of California cities do not have combined sewer/storm water systems.

Furthermore, some projects listed in the SWRCB database have incomplete location information. These details can include street address with or without number, street intersections with or without compass directions, pier number, and tract number. Mapping project location by city rather than zip code or street address allowed us to capture 90 percent of the acres under permit.

Because the size of a project is represented by the number of acres disturbed during construction, the amount of construction equipment activity may not have a linear relationship to the size

of the project. In general, large-acreage projects will likely have greater construction equipment activity than small-acreage projects. However, urban construction sites that are relatively small in area may have heavy construction equipment activity due to multi-story construction. For instance, a two-acre high-rise construction site in

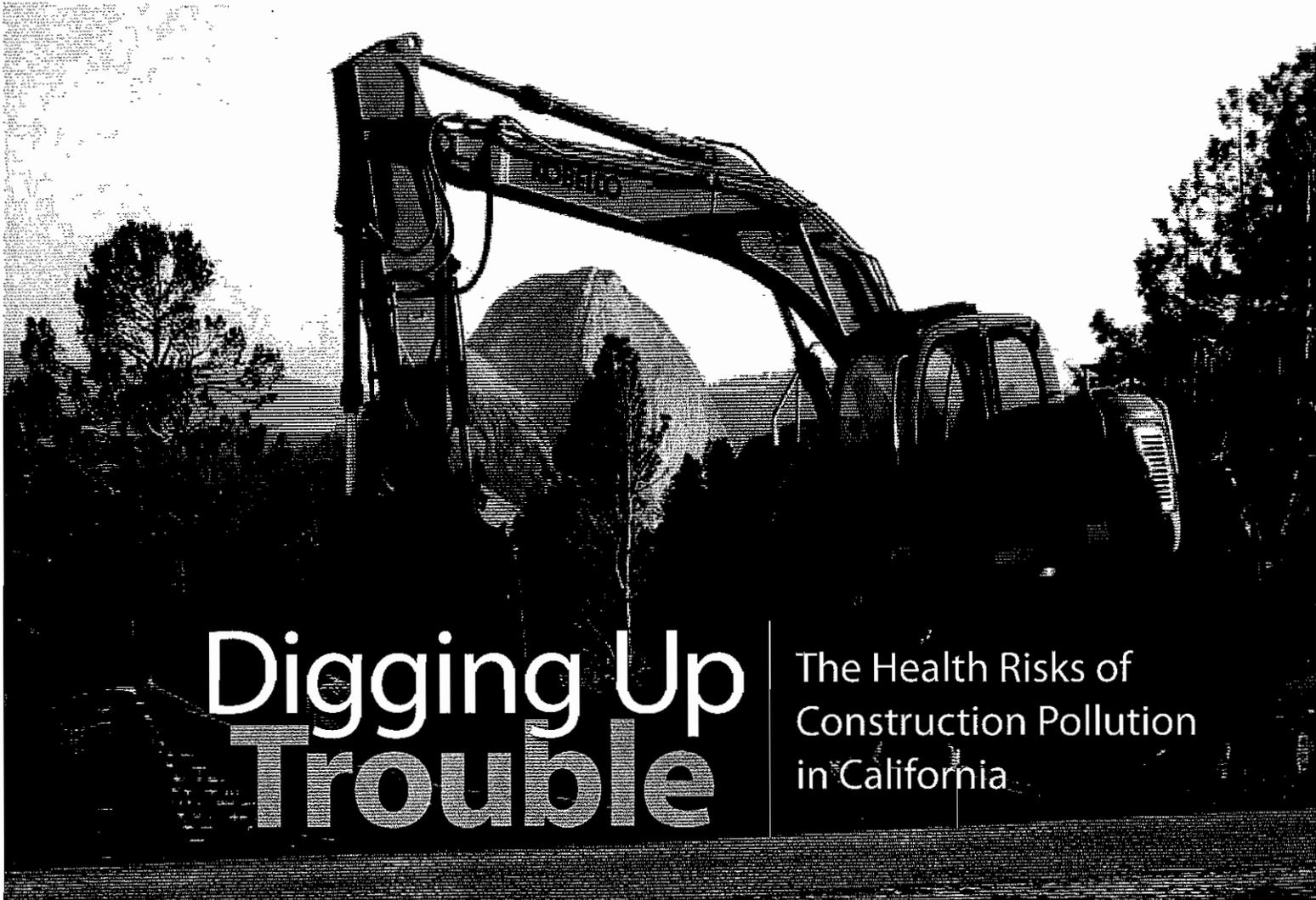
downtown Los Angeles may have a much higher sustained level of construction equipment activity than a two-acre single-family home construction site in the suburbs. The available data did not allow us to distinguish between single-story and multi-story construction.

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Digging Up Trouble

The Health Risks of Construction Pollution in California

Diesel engines may conjure up images of big rigs or transit buses, but construction equipment is a leading source of diesel pollution in California. Air pollution caused by construction equipment can result in severe cardiovascular and respiratory illnesses, asthma attacks, acute bronchitis, and even premature death.

This study quantifies the effect of construction pollution on California's public health and economy, both across the state and in the five most-affected regions. The risk of exposure to construction activity is evaluated for cities in each of these regions.

Construction equipment will continue to be a significant source of pollution over the next two to three decades unless California acts now. By adopting the cost-effective technology solutions that already exist (and those that will become available over the next few years), the state can reduce this public health threat and help all Californians breathe easier.

National Headquarters
Two Brattle Square
Cambridge, MA 02238-9105
Phone: (617) 547-5552
Fax: (617) 864-9405

West Coast Office
2397 Shattuck Ave., Ste. 203
Berkeley, CA 94704-1567
Phone: (510) 843-1872
Fax: (510) 843-3785

Washington, DC, Office
1707 H St. NW, Ste. 600
Washington, DC 20006-3962
Phone: (202) 223-6133
Fax: (202) 223-6162



Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

Website www.ucsusa.org

Email ucs@ucsusa.org

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

The Wal-Mart Distribution Center could legitimately increase the likelihood of blackouts in Merced. Merced has experienced blackouts during some of the hottest days of the year. Both displacement and death have been unfortunate results.

The environmental study should require more specific details on how Wal-Mart will take measures ensure it does not increase our electrical capacity and put residents in danger.

Moreover, the applicant should go one step further and commission a study to help reduce its consumption on our city grids. In January of 2009, Coca-Cola released a statement saying they had reduced their consumption of electricity in California by 5.6 million kilowatt-hours per year through changing their lighting source. (Article can be found at:

<http://news.moneycentral.msn.com/ticker/article.aspx?symbol=US:OESX&feed=BW&date=20090109&id=9502842>).

This should be a public safety priority for the City of Merced.

Thank you,

Justin Kenne
321 West 27th St
Merced CA 95340

121B-1

For Immediate Release

Coca-Cola Enterprises reduces electricity consumption by 5.6 million kilowatt-hours a year in California facilities

Smart energy management practices drastically reduce greenhouse gas emissions, earns local bottler environmental award

Downey, CA – January 9, 2009 - As part of its global commitment to corporate responsibility and sustainability, Coca-Cola Enterprises (CCE) is nearly complete with a major lighting retrofit project to reduce energy consumption in its California facilities. The project will decrease CCE's energy consumption for lighting by 5.6 million kilowatt-hours (kWh) a year, with the potential to decrease 113 million kilowatt-hours over the 20-year life of the new system. This is enough electricity to power 537 homes annually. The project has earned CCE the Orion Energy Systems Environmental Stewardship Award, which was presented today by Orion's executive vice president Michael Potts to Coca-Cola Enterprises' executives during a ceremony at its Downey, Calif., production facility.

Public officials who attended the event and addressed the audience include the Mayor of the City of Downey, California, Dn. Mario Guerra, 27th District, California State Senator Alan Lowenthal (D-Long Beach), California Governor Arnold Schwarzenegger's Deputy District Director Araceli Gonzalez and U.S. Senator Dianne Feinstein's Field Representative Elizabeth Delgado. Also in attendance were Downey Third District Councilman Roger Brossmer and 5th District Councilman Luis Marquez.

Campbell Hawkins, manager of energy efficiency for Southern California Edison, the utility that provides power to many of Coca-Cola Enterprises' California facilities, applauded CCE for its commitment to energy efficiency. Hawkins also cited the importance of working together with companies like Coca-Cola Enterprises and Orion Energy Systems to reduce pressure on California's strained electrical grid.

The project entailed replacing more than 4,000 high-intensity discharge (HID) and fluorescent lights with Orion's Compact Modular™, high-intensity fluorescent (HIF) system at 24 Coca-Cola Enterprises facilities throughout California. CCE also has installed solar power generating panels on the roof of its Los Angeles facility, has committed to make all sales and marketing equipment on average 20 percent more energy efficient by 2010, and has 10 hybrid electric trucks delivering product to customers throughout Los Angeles. In all, CCE has 142 hybrid electric delivery trucks, giving it the largest fleet of heavy-duty hybrid delivery trucks in North America.

Coca-Cola Enterprises has established five strategic focus areas, three of which – energy conservation/climate change, water stewardship, and sustainable packaging/recycling – are

related to the environment. CCE remains focused on conserving water in its operations and is in the process of installing water-efficient technology such as container rinsers that use ionized air rather than water, silicon-based dry lubricants on its production lines and water reclamation upgrades. Additionally, the company has worked to increase recycling rates nationwide through the work of Coca-Cola Recycling.

“At Coca-Cola Enterprises, corporate responsibility and sustainability is where the world touches our business and where our business touches the world,” said Terry Fitch, general manager and vice president of Coca-Cola Enterprises’ West Business Unit. “We’re doing everything we can to help reduce our carbon footprint in California and across the country, because we believe that responsible and sustainable business practices like this will not only help us manage through these complex times but will also ensure the long-term growth of our company, sustainable development in our communities, and protection of the environment.”

As a result of the 5.6 million kWh annual reduction generated from the lighting retrofit, Coca-Cola Enterprises will help to divert 3,715 tons of carbon dioxide (CO₂) from entering the atmosphere each year, according to the Environmental Protection Agency. Also, Coca-Cola Enterprises will reduce the amount of sulfur dioxide (SO₂) released by 15 tons per year, and the amount of nitrogen oxides (NO_x) by 5 tons per year. The power use reduction is the air-scrubbing equivalent of planting a 1,038-acre forest or the energy equivalent of saving 466,962 gallons of gasoline each year.

The environmental benefits and energy cost savings of the Coca-Cola Enterprises project are possible because Orion fixtures are engineered based on the dual principles of optimizing input energy and maximizing lighting output. Orion’s patented high-intensity fluorescent lighting platform uses about 50 percent less energy and provides 50 percent more light than traditional high-intensity discharge lights, which have been the industry norm since approximately 1960. Orion systems turn on instantly, provide a more natural type of light, and operate at a relatively cool 110 degrees.

“Coca-Cola Enterprises is fast becoming one of the leaders in responsible and sustainable business practices,” said Michael Potts, executive vice president of Orion. “The State of California benefits from the environmental attributes of Coca-Cola Enterprises’ efforts, including taking significant power off the electrical grid which tends to lessen the upward pressure that exists on power prices and the need for new power plants.”

“Lighting accounts for 55 percent of the energy we use in our sales and distribution centers and ten percent in our production facilities. Therefore, reducing our lighting energy use by half makes good economic sense for us because it creates operational efficiencies while protecting the environment,” added Fitch.

“This is an historic moment,” said California State Senator Alan Lowenthal. “What we are experiencing here today is a major paradigm shift. Corporate citizens such as Coca-Cola Enterprises and Orion Energy Systems are saying the solution to pollution is prevention. The solution to pollution is sustainability. The solution to pollution is reducing our carbon footprint.

Great corporate citizens like Coca-Cola Enterprises – that is how the United States will lead the world, so I am just really pleased to be here.”

Orion’s energy efficient technology platform includes its Compact Modular™ high-intensity fluorescent lighting system, the InteLite™ wireless control system and the direct renewable Apollo™ solar light pipe, all of which are installed as an integrated system in the Downey facility warehouse. The integrated system was recently internationally recognized with the prestigious Platts Global Energy award for the single most innovative and sustainable technology of 2008. The system can reduce energy consumption for lighting in a commercial/industrial facility for up to ten hours a day during daylight hours when the electric grid is operating at or near peak capacity.

Orion has deployed its energy management systems in 4,068 facilities across North America including 108 of the Fortune 500. Since 2001, Orion technology has displaced more than 386 megawatts, saving customers more than \$455 million and reducing indirect carbon dioxide emissions by 4 million tons.

About Orion Energy Systems, Inc.

Orion Energy Systems Inc. (Nasdaq: OESX) is a leading power technology enterprise that designs, manufactures and implements energy management systems, consisting primarily of high-performance, energy-efficient lighting systems, controls and related services for commercial and industrial customers without compromising their quantity or quality of light. For more information, visit www.oriones.com.

About Coca-Cola Enterprises

Coca-Cola Enterprises is the world’s largest marketer, distributor, and producer of bottle and can liquid nonalcoholic refreshment. CCE sells approximately 80 percent of The Coca-Cola Company’s bottle and can volume in North America and is the sole licensed bottler for products of The Coca-Cola Company in Belgium, continental France, Great Britain, Luxembourg, Monaco, and the Netherlands. For more information, please visit www.cokecce.com.

Media Contact

Linda Diedrich

Corporate Communications
Orion Energy Systems, Inc.
(920) 482-1988
ljd@oes1.com

Bob Phillips

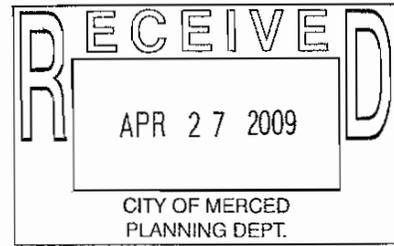
Public Affairs and Communications
Coca-Cola Enterprises
(213) 744-8653
bophilips@cokecce.com

Laura Brightwell

Public Affairs and Communications

Coca-Cola Enterprises
(770) 989-3023
lbrightwell@cokecce.com

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

The DEIR should have required a specific landscaping plan from the Wal-Mart. A better understanding of the water consumption issues needs to be looked into.

121C-1

I understand that the City has requirements regarding the implementation of water efficient landscaping, but the large size of the project requires further study at the steps they will take to

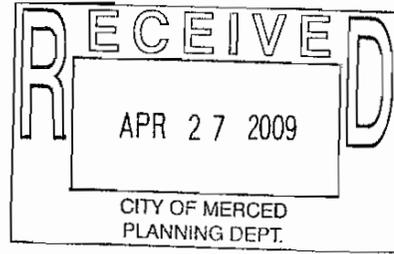
The City should require the applicant to plant more mature trees, evergreen and deciduous trees, along the perimeter of the distribution center as a visual safeguard.

121C-2

Sincerely,

Justin Kenney
321 West 20th
Merced CA 95340

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

I am writing to request that the City of Merced require the proposed Wal-Mart Distribution Center to be LEED Platinum Certified as a condition to its final approval.

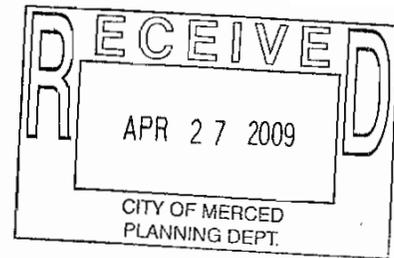
121D-1

I encourage you to make sure that this brings out the best in Merced.

Best Regards,

Just in kenney
321 west 27th st
Merced CA 95340


Kim Espinoza, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340



Ms. Espinoza:

I have a real problem with Section 6 of the Environmental Impact Report for the Wal-Mart distribution center.

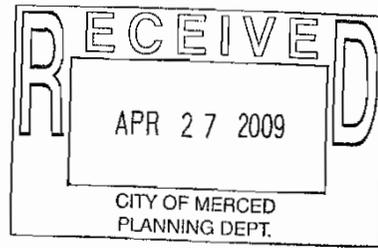
The EIR only looks at impacts in the southeastern part of Merced. That is a problem because this project impacts the entire region. The City of Merced has the obligation to look at the entire picture and assess the cumulative impacts on the region, not just the southeastern portion.

As a resident, I demand you follow look at this project for what it is called, a regional distribution center. After a few years of review of this project, I expected to see an EIR that got the job done explaining specifics about the project. This did not happen, and Merced residents may have to bear the impacts because the City was not thorough enough.

121E-1

Post in Kenny
321 west 27th st
Merced CA 95340

**Kim Espinoza, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340**



Ms. Espinoza:

After reading through the EIR for the Wal-Mart Distribution Center, I am appalled by many questions the document did not address. Below please find a few important issues not addressed properly in the EIR:

- Why would you knowingly offer up a project that violates the goals of California's AB 32 guidelines to curb global warming? You are inviting a costly lawsuit that the City is likely to lose.

121F-1

- Why does the cumulative impact analysis look only at the South Merced area? This distribution center is being built to accommodate major new retail growth in central California. The trucks that run in and out of this distribution center will impacts multiple roads and highways and generate traffic, pollution and dangerous roadway throughout the region.

121F-2

On what reasonable basis can you assume that "the proposed project can be viewed as a means to improve the service of existing retail outlets"? (6-35)

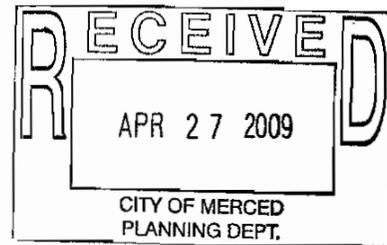
121F-3

. This section author realizes that to be truthful about the purpose of this store is to open a can of worms about cumulative impacts in multiple jurisdictions that will have a say in this project.

121F-4

Justin Kenny
321 West 27th St
Merced CA 95340


Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

As a teacher in Merced schools, I've very concerned that the Wal-Mart distribution center is a poorly chosen site because of the danger the massive truck traffic will pose to our students.

121G-1

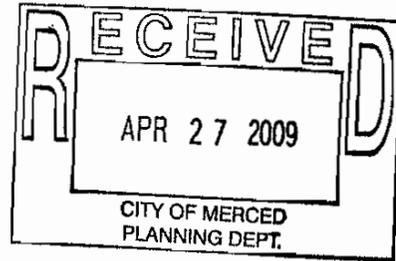
To minimize the dangers, Wal-Mart should be barred from using the ramps at Childs and Highway 99 and from cutting through local streets to get to Highway 140. There will still be significant dangers, but these are at least reasonable steps toward making sure kids who walk to and from school will be safer.

121G-2

Post in kenay
Name _____
321 west 27th Street
Address _____
Merced, CA 95340
City, State, Zip _____
[Signature]
Signature _____
April 16/2009
Date _____

April 11, 2009

Kim Espinosa
Project Manager
Merced Planning Division
678 West 18th St.
Merced, CA 95340



Ms. Espinosa,

I think the environmental impact report makes a very egregious claim in its "Alternative to the Proposed Project" section. Under section 5.4.12 Transportation/Traffic, you assume that any other proposal for the location will be the same size as Wal-Marts. You claim that no alternative would change the conclusions of the traffic section.

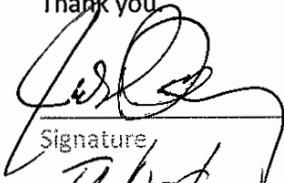
121H-1

Do you ever consider that some other company might have an even smaller design than Wal-Mart? Why do you assume another company would have the same proposal as Wal-Mart? Besides, in Section 5.4.14 Attainment of Project Objectives you go on to claim "However, as shown below, a different project with an essentially identical use, could meet all identified objectives identified by both the applicant and the City." It's so obvious that this report is biased that you conclude the only project that is possible for this site is this distribution center. There are alternatives that will change your narrow minded conclusions.

121H-2

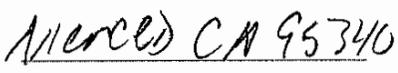
As a concerned teacher in Merced, I think you failed to live up to the requirements of CEQA under this report. Go back to the drawing board.

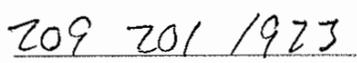
Thank you



Signature

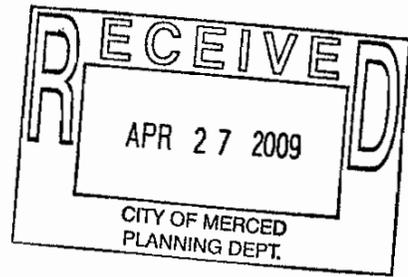

Print Name


Address




Phone

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

The DEIR should provide a detailed plan regarding public transportation alternatives, specifically regarding public trails leading to the distribution center. Wal-Mart should be required to pay for trails to be linked directly to the distribution center to encourage employees from driving to the center on a daily basis. The EIR is deficient in looking at transportation alternatives for employees and should be addressed in the EIR's final report.

1211-1

Sincerely,

Justin Kenny
Name
321 west 27th Street
Address
Merced CA 95340
City, State, Zip
[Signature]
Signature
April 12/2009
Date

Justin Kenny

- 121A–Undated
- 121B–Undated
- 121C–Undated
- 121D–Undated
- 121E–Undated
- 121F–Undated
- 121G–April 16, 2009
- 121H–April 11, 2009
- 121I–April 12, 2009

**Letter
121A-I
Response**

- 121A-1 Please see responses to comments 29-21 and 17-12 regarding concerns about impacts to nearby schools and reference to mitigation for truck traffic. Please refer to response to comment 188-1 regarding the suggested information source.
- 121A-2 The commenter asks whether the City and its consultants know that Merced is one of the cities cited as a “high-risk area.” This comment does not raise issues with the adequacy of the DEIR. The comment is noted. The existing setting for air quality is presented in Section 4.2.1 of the DEIR.
- The commenter also recommends that the analysis of construction-generated emissions in the DEIR rely on information in a source called “Digging Up Trouble – The Health Risks of Construction Pollution in California, 2006.” Please refer to response to comment 188-1.
- 121B-1 The commenter indicates that the project could contribute to the likelihood of blackouts and recommends a study to evaluate electricity consumption. The DEIR evaluated electricity consumption in Section 4.12 “Utilities and Public Services.” Mitigation Measure 4.12-4 requires submittal of a sustainability plan, which includes several energy efficient features that would be required in addition to the sustainability features identified in the project description (See page 3-15). However, to provide additional clarity regarding the ability to provide the project with electricity the DEIR text has been revised to include a personal communication with PG&E staff indicating that PG&E has sufficient capacity to serve the project with electricity. Please see Section 4 “Revisions and Corrections to the Draft EIR” for the specific text changes.
- 121C-1 The commenter states that the DEIR should have required a specific landscaping plan from Wal-Mart, and that a better understanding of water consumption issues needs to be addressed. As described in the DEIR, a landscaping plan is required by mitigation measure 4.13-2 on page 4.13-13. The landscaping plan shall be prepared to the satisfaction of the City and shall include a number of specific requirements (see mitigation measure 4.13-2). Also, because the landscaping plan must be approved by the City, the City would ensure that the plan is consistent with City water efficient landscaping requirements. Please also see response to comment 75G-3 for additional information on the landscaping plan.
- Regarding water consumption, the project’s water supply impacts were evaluated consistent with the requirements of CEQA in Section 4.12, “Utilities and Public Services,” of the DEIR. As described therein, the project would not result in any significant impacts (see page 4.12-15). Specifically, as stated in the second full paragraph on page 4.12-15, the City has concluded that it can continue to provide water to future development included in the Specific Urban Development Plan (SUDP), including the project. See the next paragraph for further information on the SUDP. The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided.
- 121C-2 The commenter requests that the applicant be required to plant more mature trees along the perimeter of the project site as a visual safeguard. The project’s visual resources impacts were evaluated consistent with the requirements of CEQA in Section 4.13, Visual Resources,” of the

DEIR. As described therein, the project would result in potentially significant visual character and visual quality impacts, and mitigation measure 4.13-2, “Prepare and Submit a Landscaping Plan,” is recommended to reduce significant impacts to less-than-significant levels (see page 4.13-13). The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided. This comment is noted for the City’s consideration during review and approval of the project. No further response is necessary.

- 121D-1 The commenter recommends requiring LEED Platinum as mitigation for the project. Please refer to Response to Comment 127A-1, which addresses this issue.
- 121E-1 The commenter addresses the cumulative impacts section of the DEIR, and states that the cumulative impact analysis should be reflective of a larger scope. Please see Master Response 4: Cumulative Impacts Analysis regarding the scope of analysis for cumulative impacts. No further response is necessary as no issues related to the specific environmental impacts of the project were raised.
- 121F-1 This is a comment about the project and not about the adequacy of the DEIR. The project does not violate AB 32, as no specific requirements for projects have been adopted.
- 121F-2 The commenter addresses the cumulative impacts section of the DEIR, and states that the cumulative impact analysis should be reflective of a larger scope. Please see Master Response 4: Cumulative Impacts Analysis regarding the scope of analysis for cumulative impacts. No further response is necessary as no issues related to the specific environmental impacts of the project were raised.
- 121F-3 The commenter questions the basis for the Draft EIR’s assumption that “the proposed project can be viewed as a means to improve the service of existing retail outlets.” (DEIR p. 6-35) This assumption is based on information provided by the applicant. The Draft EIR must analyze the project as proposed by the applicant. Although the commenter does not specifically raise growth inducement and expansion issues, these issues may be implied in the comment. Master Response 1: Growth Inducement and Expansion addresses these issues.
- 121F-4 The commenter addresses the cumulative impacts section of the DEIR, and states that the cumulative impact analysis should be reflective of a larger scope. Please see Master Response 4: Cumulative Impacts Analysis regarding the scope of analysis for cumulative impacts. No further response is necessary as no issues related to the specific environmental impacts of the project were raised.
- 121G-1 The commenter raises issues related to truck traffic in proximity to schools. The issue of truck trips near schools was analyzed in the DEIR and Mitigation Measures 4.11-2b and 4.11-4 specifically address the issue of trucks and schools. Other mitigation measures were developed to address specific project impacts, including potential impacts at study intersections and on roadways. The mitigation measures are adequate to reduce impacts to a less-than-significant level. No additional mitigation is required.
- 121G-2 The commenter offers mitigation to reduce impacts related to truck traffic in proximity to schools. Please see Response to Comment 121G-1, which addresses this issue.
- 121H-1 The commenter indicates that the DEIR’s assumption that the No Project alternative would result in the development of a similarly sized facility is “egregious.” Please see Master Response 12: Alternatives, which provides further discussion of the rationale behind the No Project Alternative assumptions.

- 121H-2 The commenter asks questions regarding the assumption that the No Project alternative would result in the development of a similarly sized facility. Please see Master Response 12: Alternatives, which provides further discussion of the rationale behind the No Project Alternative assumptions.
- 121I-1 The comment recommends that the DEIR include analysis of various transportation alternatives. To be conservative, the DEIR transportation analysis assumed a worst case scenario, in that employees would drive to the site and park. The assumptions regarding mode choice and potential affect to pedestrian, bicycle and transit operations are described in more detail on page 4.11-4 and in the Traffic Impact Analysis report in Appendix E of the DEIR.

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Espinosa, Kim

From: Espinosa, Kim
Sent: Wednesday, March 11, 2009 5:36 PM
To: Aaron Rios (E-mail); Bingaman, Jamie; Bramble, John; Colby Tanner (E-mail); Ed Hess (E-mail); Gary Jakobs (E-mail); Jim Emerson (E-mail); Joseph Loethen (E-mail); Judy Davidoff; Keith Morris (E-mail); Mark Spenser (E-mail); Marko Mlikotin (E-mail); Miriam Montesinos (E-mail); Quintero, Frank; Randy Chafin (E-mail); Thomas E. Dalferes (Ted) (E-mail)
Subject: FW: We need walmart!

-----Original Message-----

From: JDKIM37@aol.com [mailto:JDKIM37@aol.com]
Sent: Tuesday, March 10, 2009 7:16 PM
To: Espinosa, Kim
Subject: We need walmart!

Kim,

Who needs a report we've lost budweiser distributor, rago, linens and things, Mervyns, circuit city, Albertsons and numerous businesses downtown just take a drive down main St. I think there's more places empty than open, we need jobs, we need Walmart, these people who oppose them coming to town are just plain crazy. I live in the area close to the Walmart warehouse so if anyone wants to come by my house to ask if I oppose Walmart I would be glad to answer there question! Please let Walmart come to Merced to help our people.

122-1

Thanks Jason Kimbro
215 Torino CT
Merced, Ca 95341
jdkim37@aol.com

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!

**Letter
122
Response**

Jason Kimbro
March 10, 2009

122-1

The comment addresses the merits of the proposed project and does not raise environmental issues or any issues of adequacy regarding the Draft EIR. The comment is noted.

Espinosa, Kim

From: Rita [message2rita@earthlink.net]
Sent: Sunday, March 29, 2009 7:50 PM
To: Espinosa, Kim
Subject: Wal-Mart Distribution Center

Ms. Espinosa,

My husband and I oppose the building of a Wal-Mart Distribution Center at Gerard Avenue and Tower Road. We live off Gerard Avenue on Capella Drive. We were happy to move to Merced, where my husband has been employed for over ten years, from the Bay Area because the housing prices were lower. We were attracted to our current home because it appeared to be located in a relatively undeveloped area with good potential. The building of the Wal-Mart Distribution Center would mean the loss of that potential as we ended up living in an area of increased traffic (especially truck traffic), pollution, and noise as if the homeowners of this part of Merced were written off by city leaders. Please don't disappoint us by putting unattractive, disruptive, and undesirable industry where it doesn't belong. Merced has other areas where the Distribution Center could easily be placed with little or no disruption and less controversy. Choosing one of those areas would mean that the homeowners of southeast Merced were valued by city leaders as much as those in parts of the city that are so-called fashionable.

123-1

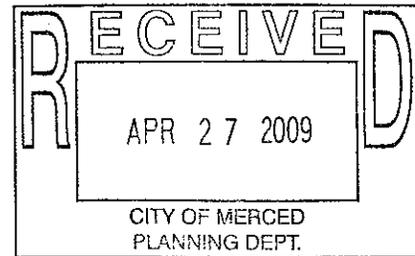
Rita and Thomas Kindle
2674 Capella Drive
Merced, CA 95341

123-1

The comment describes concerns related to traffic, pollution, noise, and aesthetics. The commenter indicates that the proposed project should be placed at a different location. Regarding traffic and pollution, the Draft EIR analyzes these environmental issues under sections 4.2 “Air Quality,” 4.6 “Hydrology and Water Quality,” 4.10 “Public Health and Hazards,” and 4.11 “Traffic and Transportation.” The Draft EIR addresses aesthetics in Section 4.13-1 “Visual Resources.” Regarding placement of the site at a different location, alternative sites were evaluated in Section 5 of the DEIR “Alternatives to the Proposed Project.” Please see Response to Comment 111-2, which describes the impacts, relative to the proposed project, resulting from development of a more “remote” alternative site (Alternative Site #3). For more discussion related to project alternatives, see Master Response 12: Alternatives. The comment does not raise issues related to the adequacy of the Draft EIR.

March 17, 2009

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



It seems to me the city has an attitude that we should just let Wal-mart do what they want. Are we so desperate for jobs that we need to build a MASSIVE industrial complex in a neighborhood? There are three schools in the area. Are we going to limit the noisy, dirty, 18-wheel trucks to when the kids aren't in school?

124-1

Why can't we find a site for this that isn't near schools and homes? Surely there is a site somewhere in this county that is closer to the freeway and better suited to the community than this one.

Thank you for your time.

Diana Knapp
Signature

Diana Knapp
Print Name

1240 W. 6th St.

Merced, CA 95340
Address

209 385-6676
Phone

**Letter
124
Response**

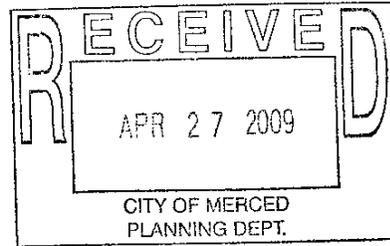
Diana Knapp
March 17, 2009

124-1

Please see responses to comments 29-21 and 17-12 regarding concerns about impacts to nearby schools and reference to mitigation for truck traffic.

March 31, 2009

Kim Esponosa
Merced Planning Department
678 West 18th Street
Merced, CA 95340



Ms. Espinosa,

After taking a glance at the Air Quality section of the distribution center's draft report, I'd like you to address the impact of the hot summers we have here in the Valley. I think about those hot days and how on some days, the air just doesn't seem to move. With no breeze, the pollution in the air just sits there, seeming to hang around the city. I hope you will study the air during these summer days and find out of how much more air pollution will be added. If you find there will be a lot, then this project shouldn't be allowed to be built.

125-1

Sincerely,

A handwritten signature in black ink, appearing to read "Joel J. Knox".

Signature

Print Name

88 Sweetwater Ave

Address

Merced, CA 95341

City, State Zip

(209) 726-1022

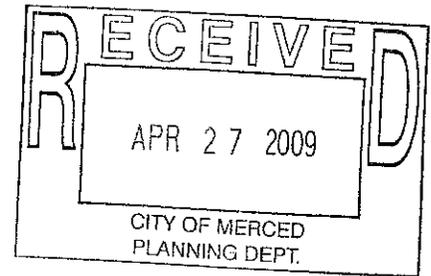
Phone Number

125-1

The commenter requests that the DEIR account for the fact that the project area experiences very hot days when “the air just doesn’t seem to move.” The comment does not raise issues with the adequacy of the DEIR. The comment is noted. As stated in Section 3.2.2 of the HRA, which is included in Appendix C of the DEIR and used to support the analysis under Impact 4.2-4, the modeling analysis for emissions of TACs evaluated each of five years (2000-2004) of sequential hourly meteorological data from a local weather station to determine the highest annual concentrations for use in the HRA. This set of meteorological data includes days with extreme temperatures and/or high levels of atmospheric stability (i.e., minimal air movement and minimal air dispersion.)

April 13, 2009

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Re: Noise impacts of Wal-Mart Distribution Center

Dear Ms. Espinosa,

I have read the Section 4.8 Noise in the Wal-Mart Distribution Center DEIR and I have concerns with several issues. In particular I have concerns about noise. I have done some research on other Wal-Mart Distribution Centers and have learned that nearby residents can anticipate a diesel truck coming or leaving the distribution center every two minutes, 24 hours a day, every day of the year. The DEIR should specify the frequency of the 322 diesel trucks into and out of the distribution center by minute per hour. Additionally, it should detail the frequency in which the 1,200 employees will be entering and exiting the distribution center. In essence, my concern is that residents will be exposed to constant truck noise that currently does not exist. A sound wall will not mitigate diesel truck traffic every two minutes.

126A-1

126A-2

126A-3

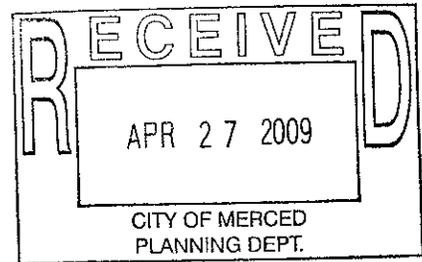
Sincerely,

Caroline Kreide

Caroline Kreide
1038 Robinson Dr.
Merced, CA 95340-3122
(209) 725-9339

March 28, 2009

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

The mitigation measures outlined in 4.8-1 are not feasible unless there is a specific monitoring plan. Who will this 'enforcement manager' report to? Is the person an employee of Wal-Mart? Or will the person be an employee of the City of Merced? Or will the enforcement manager be hired through an independent third party? What authority will this person have? The city should demand that Wal-Mart provide details, salary, etc for the enforcement manager it states it shall provide during construction.

126B-1

Much appreciation,

Caroline Kreide

Caroline Kreide

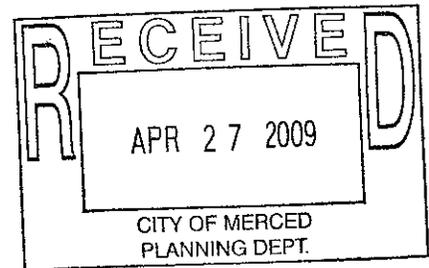
1038 Robinson Dr.

Merced, CA 95340-3122

(209) 725-9339

April 7, 2009

Merced City Council &
Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Re: Construction Noise Impacts

Dear Merced City Council and Ms. Espinosa,

While the construction hours outlined in the DEIR are reasonable, they are not reflective of the existing environment in Merced. There are many children walking and riding bicycles to school throughout the year. Obviously, this is much more frequent during the active school year, particularly during school hours. I would like the city to consider changing the hours of construction for the Wal-Mart Distribution Center to 8:30am to 3:30pm. This would significantly decrease the amount of harmful pollutants children might be exposed to on a daily basis.

126C-1

Thank you,

Caroline Kreide

Caroline Kreide

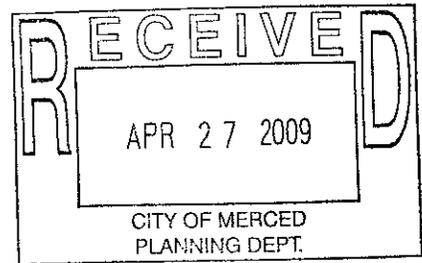
1038 Robinson Dr.

Merced, CA 95340-3122

(209) 725-9339

3/25/09

Kim Espinosa
Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

What will happen at this facility when county-wide emissions exceed federal standards? Can it be closed during spare the air days, or on days when we can't light a fire in our fire place?

126D-1

Could a mitigation for the project include mandatory shutdown during those periods?

Thank you,

Caroline Kreide
Signature

Caroline Kreide
Print Name

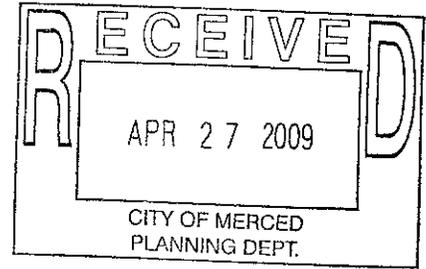
1038 Robinson Dr.
Address

Merced, CA 95340-3122

(209) 725-9339
Phone

April 5, 2009

Ms. Kim Espinosa
Merced Planning Division
678 West 18th Street
Merced, CA 95340



Ms. Espinosa,

This project is going to worsen, and even exacerbate, poor air quality. The city needs to find a more appropriate location for this facility. For heavens sake, there are thousands of acres of farm land in this county. Why are we considering constructing a major industrial complex near homes and schools?

126E-1

Thank you for your consideration,

Caroline Kreide
Signature

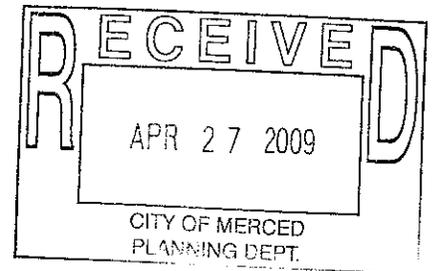
Caroline Kreide
Print Name

1038 Robinson Dr.
Address

Merced, CA 95340-3122
(209) 725-9339
Phone

April 10, 2009

Kim Espinosa
Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Kim,

I appreciate that some measures have been incorporated into the construction phase of this project to limit exposure to the fungus that causes valley fever, but more needs to be done specifically to prevent fungus from spreading during construction.

126F-1

Sincerely,

Caroline Kreide

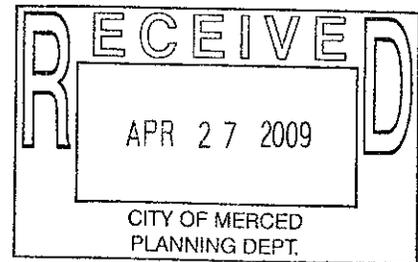
Caroline Kreide

1038 Robinson Dr.

Merced, CA 95340-3122
(209) 725-9339

April 17, 2009

Ms. Kim Espinosa
Planning Manager
Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa:

We already have poor air quality during the summer and part of the winter. We hang flags around the city to identify the air quality level. For some of us, we can't go outside or engage in outdoor physical activity when the Air Quality index exceeds 50 (yellow flag).

Approving this project will just create more days of the year when some of our kids can't play outside. Creating jobs is important, but so is the quality of life. I think it is far more important for our children and grandchildren to be able to play outside free of inhalers than it is to create a major polluter.

126G-1

More needs to be done to make this facility a non-polluter.

126G-2

Thank you for your attention.

Caroline Kreide
Signature

Caroline Kreide
Print Name

1038 Robinson Dr.
Address

Merced, CA 95340-3122
(209) 725-9339
Phone

**Letter
126A-G
Response**

Caroline Kreide

- 126A–April 13, 2009
 - 126B–March 28, 2009
 - 126C–April 7, 2009
 - 126D–March 25, 2009
 - 126E–April 5, 2009
 - 126F–April 10, 2009
 - 126G–April 17, 2009
-

- 126A-1 The comment states that the EIR should state how many trucks would be accessing the distribution center per minute. As stated in the EIR, on average, 643 daily truck trips would be added to the project site (365 inbound, 278 outbound). If distributed linearly over 24 hours, approximately 27 trucks per hour would enter or exit the site. This would translate linearly to approximately 1 truck every two minutes. However, it is not likely that trucks would arrive and depart on a linear basis. It is more likely that certain periods would experience greater than 1 truck per minute, and other times of day may experience no trucks per minute. Thus, it would present a false level of precision for the City to attempt to know how truck traffic would actually arrive/depart from the proposed distribution center on a per-minute basis. This information is of little or no practical value. Instead, the City is concerned with average daily truck traffic volume, and associated traffic noise analysis is performed on an average daily basis (the day-night noise level descriptor (Ldn) is used for evaluating traffic noise in comparison to noise applicable standards). The analysis of traffic noise is presented under Impact 4.8-3 of the DEIR. Discussion under this impact on pages 4.8-22 and 4.8-23 states that “the proportion of truck trips to passenger-car-vehicle trips generated by the project was also accounted for [in the traffic noise modeling], as well as the time of day (i.e., day, evening, or night) when those trips would occur, according to the employee shift change times and truck counts collected at Wal-Mart’s existing distribution center in Apple Valley.” Table 3-2 of the DEIR presents the projected employee shift times and the number of employees who would be working during each shift.
- The commenter also states that a sound wall would not mitigate diesel truck trucks passing by receptors every two minutes but does not provide reasoning for this claim. Therefore, the comment does not challenge the adequacy of the DEIR.
- 126A-2 The comment states that the EIR should state how many trucks would be accessing the distribution center per minute. Please see Response to Comment 126A-1, which addresses truck traffic volume and the adequacy of a sound wall.
- 126A-3 The comment states that the EIR should account for the employee’s vehicle trips into the distribution center. Employee commute trips are accounted for in the traffic noise modeling presented in Impact 4.8-3 on page 4.8-22 through 4.8-26. Please see Response to Comment 126A-1 for further discussion of truck traffic volume and the adequacy of a sound wall.
- 126B-1 Mitigation Measure 4.8-1 requires an “on-site complaint and enforcement manager” be posted to track and respond to noise complaints. As with all mitigation measures, the City is responsible for ensuring compliance with this mitigation measure (see Response to Comment 105-1), so ultimately this person would need to report to the City in some capacity. No details regarding the salary or specific duties of this person are yet known. It should be noted that this mitigation measure has been proposed by the City, not the project applicant, as implied by the commenter.
- 126C-1 The commenter expresses concern related to construction hours and presence of school children. Please refer to response to comment 83-1, which addresses this issue.
- 126D-1 The commenter questions “what will happen when county-wide emissions exceed federal standards.” As shown in Table 4.2-2, Summary of Annual Ambient Air Quality Data, the

National Ambient Air Quality Standards for PM10 have already been exceeded in Merced. Please refer to Master Response 13 for discussion about the relationship between the Ambient Air Quality Standards and the thresholds of significance used in the air quality analysis, in section 4.2 of the DEIR.

The commenter also questions whether the proposed project could “be closed during Spare the Air days” or on days when lighting fires in residential fire places is prohibited and whether mitigation could require that the proposed distribution center could be shut down during periods of bad air quality. Operational emissions of CAPs are analyzed in Impact 4.2-2. Mitigation measures 4.2-2a through 4.2-2e would reduce this impact to a less-than-significant level. Therefore, it would not be required to implement additional mitigation.

- 126E-1 The comment does not raise issues with the adequacy of the DEIR. The comment is noted. Please refer to Master Response 13.
- 126F-1 The commenter asserts that more mitigation measures should be included to prevent the spread of valley fever fungus during construction of the proposed project, but does not provide any examples of additional feasible mitigation, or evidence suggesting why the current measures would be inadequate. Valley fever (a.k.a., coccidioidomycosis) results from exposure to airborne spores of a fungus called *Coccidioides immitis*. This type of fungus has the potential to be present in the soils in the San Joaquin Valley, including areas around the City of Merced. Immunity from valley fever results from prior exposure and/or infection and can last a lifetime. Therefore, people who originate in an area (i.e., natives to the San Joaquin Valley) with soils that contain the fungus have been previously exposed to the fungus and, therefore, are at a lower risk of contracting the symptoms of valley fever (Pappagianis 1994 , Kirkland 1996). Spores of the fungus can become airborne as a result of different types of earth disturbance or earth movement activity such as construction grading or agricultural tilling. Because the proposed project site currently supports agricultural uses (i.e., an orchard) that regularly undergoes tilling, the proposed project would not involve increased exposure of non-native people to airborne spores of the fungus. Following project implementation, the project site would no longer be used for agricultural purposes and would no longer be subject to ground disturbance activities. Thus, sources of fugitive dust containing endemic *Coccidioides immitis* spores would be largely removed from the project site, and would certainly be less than under existing conditions. For these reasons, the project would not result in additional exposure of nearby residents to *Coccidioides immitis* contained in fugitive dust. In addition, the current list of proposed measures in mitigation measure 4.2-1 that would reduce fugitive dust during construction, and compliance with SJVAPCD Regulation VIII, would be sufficient to prevent exposure to *Coccidioides immitis* during project construction. No additional mitigation measures are necessary to limit emissions of fugitive dust.
- 126G-1 The commenter raises concerns related to exposure of children to project-related air pollutants. Please refer to response to comment 130-1, which addresses this issue.
- 126G-2 The commenter suggests that additional mitigation should be required to make the facility a “non-polluter.” The commenter offers no specific recommendations. Please refer to Response to Comment 130-1, which addresses this issue.

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Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

I would like to see the City of Merced require the proposed Wal-Mart Distribution Center to be LEED Platinum Certified as a condition to the approval of the EIR and all permits. LEED is the current top standard for minimizing the impacts of construction on the local environment. The EIR should also include an explanation of how it would obtain LEED certification in its mitigation measures.

127A-1

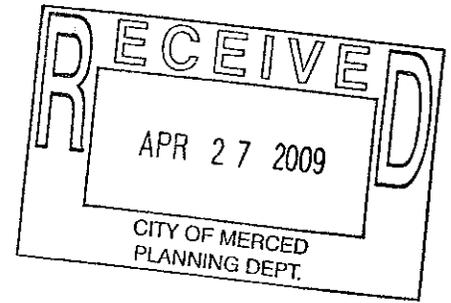
Regards,

Cristina Lamban
Cristina Lamban

241 S. Coffee St.
Merced CA 95341

Kim Espinosa, Planning Manager
City of Merced Planning Division

Kim Espinoza, Directora de Planificación
Ciudad de Merced Departamento de Planificación
678 West 18th Street
Merced, CA 95340



Señorita Espinoza:

Es decepcionante y triste que la ciudad de Merced no hará ninguna parte del estudio del centro de distribución de Wal-Mart disponible en Español. Hay una grande minoría de gente en el sur de Merced y nosotros somos quien va vivir cada día con los impactos de este proyecto, pero cuando viene el tiempo para tener acceso a documentos de la ciudad somos dejados del proceso por nuestro propio Gobierno Municipal.

El concilio debería tratar a las familias que hablan Español con más respeto y empezar a tener los documentos de la ciudad en diferentes idiomas.

Cristina Lambaren

Name:

241 S Coffee

Address:

Merced CA 95341

Cristina Lambaren

The attached comment letter regarding the Wal-Mart Distribution Center Draft Environmental Impact Report has been translated by:

Juan F. Olmos
Juan Olmos

Maintenance Worker III
Title

5-5-09
Date

English Transcription:

LETTER 12 *(Corresponds with LETTER #127B)*

Miss Espinoza:

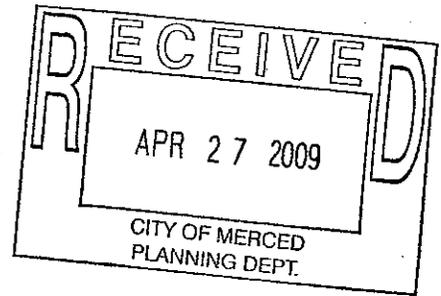
It is disappointing and sad that the City of Merced will not make any part of the study of the Wal-Mart distribution center available in Spanish. There is a big minority of people in South Merced and we are ones that will live with the project's impact, but when the time comes to have access to city documents our own municipal government lets us out of the process.

The council should treat the families that speak Spanish with more respect and start to have the city documents in different languages.

Cristina Lambaren
241 S. Coffee
Merced Ca 95341

127B-1

Kim Espinosa
Directora de Planificación
Ciudad de Merced Departamento de Planificación
678 West 18th Street
Merced, CA 95340



Ms. Espinosa:

Mis niños van a la escuela en la misma vecindad que Wal-Mart quiere poner su centro de transporte para camión. Estoy muy preocupado sobre que seguros estan los caminos cuando los niños caminan a la escuela y cuando otros padres manijan sus carros llenos de niños en las calles Childs y Gerard. Esto parece ser un lugar muy malo para este proyecto y no entiendo por qué no hay otro lugar como el otro lado de la carretera 99 donde ellos pueden construir pero no hará daño a esta vecindad.

Yo también estoy preocupado cómo la ciudad trata el vecindario con este estudio. Estamos en tiempos duros aquí y nuestros valores de propiedad han caído mucho. ¿Si usted construye esto, cómo pueden subir los valores otra vez? Muchas de las personas aquí sólo hablan Español y no saben lo que este proyecto hará. Más necesidades necesitan hacer hechos por el Departamento de Planificación para incluir a residentes Latinos en este proceso, quizás un foro en Español para la comunidad o un estudio en Español del EIR, para hacerlo un poco más fácil para personas que siempre estan dejado fuera del proceso político.

Gracias por su consideración.

Cristina Lambaron
241 S coffee
merced CA 95341
Cristina Lambaron

P.S. - Quiero que esta carta sea incluida con las otras cartas de comentario del EIR para la consideración del final EIR.

The attached comment letter regarding the Wal-Mart Distribution Center Draft Environmental Impact Report has been translated by:

Juan F Olmos
Juan Olmos

Maintenance Worker III
Title

5-5-09
Date

English Transcription:

LETTER 13 *(Corresponds with LETTER #127C)*

Kim Espinosa
Planning Director
City of Merced Planning Department
678 W. 18th Street
Merced CA 95340

Ms. Espinosa:

My kids attend the school in the same neighborhood where Wal-Mart wants to build its truck transport center. I am very worried about how safe the roads are when the kids walk to school and when other parents drive their cars full of kids on Childs and Gerard Streets. This seems like a bad place for this project and I do not understand why they do not build in the other side of Highway 99 where there will not be damage to the neighborhood.

127C-1

I am also worried how the city treats the neighborhood with the study. We are in hard times here and our property values have fallen a lot. If you build this, how could the values go up again? Many of the persons here only speak Spanish and they do not know what this project will do. More needs to be done by the Planning Department to include Latino residents in this process, maybe a Spanish forum for the community or a study of the EIR in Spanish, to make it easier for persons that always have been left out of the political process.

127C-2

127C-3

Thank you for your consideration.

Cristina Lambaren
241 S Coffee
Merced Ca 95341

P.S.- I want this letter to be included with the other letters of the EIR for the final consideration of the EIR.

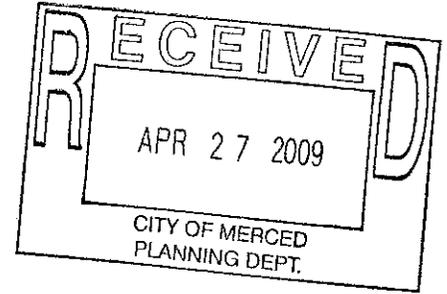
**Letter
127A-C
Response**

Cristina Lambarén
➤ 127A–Undated
➤ 127B–Undated
➤ 127C–Undated

- 127A-1 The commenter requests that the City require the proposed project “to be LEED Platinum certified as a condition of approval of the EIR and all permits.” The commenter does not provide reasoning regarding why such a requirement shall be incorporated as mitigation, however. Therefore, the comment does not raise issues with the adequacy of the DEIR. With regard to emissions of CAPs, no additional mitigation is needed to reduce the impact to a less-than-significant level. With regard to emissions of GHGs, it is not apparent whether such a requirement would substantially reduce the project’s operational emissions of GHGs. The Leadership in Energy and Environmental Design (LEED) Green Building Rating System developed by U.S. Green Building Council (USGBC) provides national standards and guidance for environmentally sustainable construction. The rating system is based on various sustainable design strategies addressing six major topics, such as, sustainable sites, water efficiency, energy and atmosphere, materials and resources, indoor air quality, and innovation and design process. Some of these sustainability strategies would not substantially effect GHG emissions. As shown in Table 4.2-10 of the DEIR, the majority of the project’s operational GHG emissions would be generated by vehicle trips and on-site truck activity. GHG levels emitted by these sources would not be affected if the proposed warehouse building were certified LEED Platinum.
- 127B-1 This comment raises issues related to language barrier and translation of CEQA documents. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.
- 127C-1 The comment indicates concern related to truck traffic and potential conflicts with neighborhood traffic and pedestrians. The issue of truck trips near schools was analyzed in the DEIR and Mitigation Measures 4.11-2b and 4.11-4 specifically address the issue of trucks and schools. Alternative sites were also evaluated, and are discussed in Section 5 of the DEIR. The comment does not raise issues with the adequacy of the DEIR. The comment is noted.
- 127C-2 The comment expresses concern that property values will remain low with implementation of the project, given the current downturn in the real estate market and indicates that the issue should be addressed in the DEIR. Issues associated with property value are not considered environmental issues and are therefore not required to be analyzed under CEQA. Please see Master Response 11: Economics and Urban Decay, which addresses this issue.
- 127C-3 This comment raises issues related to language barrier and translation of CEQA documents. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.

April 2, 2009

Ms. Kim Espinosa
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Ms. Espinosa:

I have asthma. Members of my family have asthma. A lot of people in this community have asthma. Building a distribution center is not going to help the thousands of locals who suffer from illnesses caused by poor air quality. I saw that a Health Risk Assessment was completed, but where are the findings?

128-1

I think we all deserve to know exactly how bad this facility will be for our health.

Sincerely,

Elizabeth Lambaren
Signature

Elizabeth Lambaren
Print Name

241 S. Coffee St.
Address

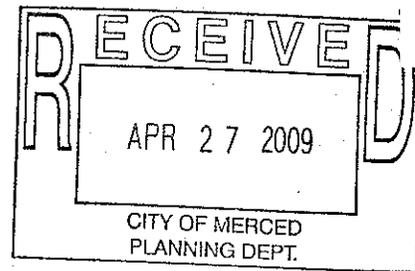
City of Merced

City of Merced Planning Division

128-1

The commenter expresses concern about the projects effects on people who have asthma. Please refer to Master Response 13. The commenter also asks where the findings of the HRA are located. The findings of the HRA are summarized under Impact 4.2-4 on pages 4.2-43 through 4.2-45. The full HRA report is included in Appendix C of the EIR.

678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

The EIR study for the Wal-Mart Distribution Center lacks a detailed plan for regulating the use of construction equipment during the construction phase of the project. Without such a plan, there is no real way to calculate how many GHG emissions will actually be made by this facility. If we don't know how many units of heavy equipment will be operating at the site and how often, how can we really know how accurate the information is you are providing about air quality and pollution impacts?

129A-1

Thank you,

Jose Lamberen
Jose Lamberen
241 S Coffee St
Merced CA 95341

Kim Espinosa, Planning Manager

Kim Espinosa, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340



Señora Espinosa:

En el siglo XXI (21st) la gente que solo habla Español debenden de tener más acceso a los documentos importantes del gobierno como el EIR sobre el centro de distribución de Wal-Mart. Cuando el Gobierno municipal no dijo más tiempo para la revisión y no hizo nada para hacer un documento en Español, se enojó muchos Latinos en esta comunidad que trabaja duro, paga sus impuestos y sólo piden sus derechos al Gobierno.

El Departamento de planificación debe encontrar ayuda para arreglar este problema. La gente más afectada por el proyecto son los que necesitan más acceso al las idiomas alternativas. El Estado de California debería exigir que ciudades como Merced deben de tener sus documentos importantes públicos en otras idiomas para que tenganos un honesto y abierto proceso.

Jose Lambaren
Jose Lambaren
241 S. Coffee St
Merced, CA 95341

The attached comment letter regarding the Wal-Mart Distribution Center Draft Environmental Impact Report has been translated by:

Juan F. Olmos
Juan Olmos

Maintenance Worker III
Title

5-5-09
Date

English Transcription:

LETTER 11 (*Corresponds with LETTER #129B*)

Kim Espinosa, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340

Misses Espinosa:

In the XXI (21st) century the people that only speak Spanish should have more access to important government documents like the EIR about the Wal-Mart distribution center. When the municipal government did not gave more time for the revision and did not do anything to make the document in Spanish, many Latinos were upset in this community they work hard, pay taxes and only ask their rights to their government.

The planning department should find help to fix this problem. The people most affected by the project are the ones that need more access to alternative languages. The State of California should require that cities like Merced should have their important public documents in other languages to have an open and honest process.

Jose Lambaren
241 S. Coffee St
Merced Ca 95341

129B-1

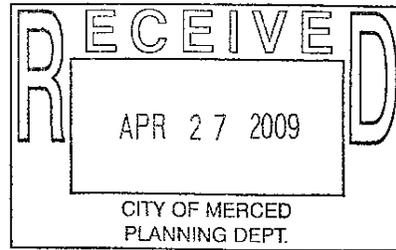
**Letter
129A-B
Response**

Jose Lambarén
➤ 129A–Undated
➤ 129B–Undated

- 129A-1 Please see response to comments 30-D and 108-1. Information on detailed modeling input parameters, including the SJVAPCD-Recommended Construction Fleet spreadsheet is included in Appendix C to the DEIR, as stated on Page 4.2-29. The analysis of construction-generated GHG and other emissions is based on the best available information at the time of the analysis. This is an evolving issue, and will continue to evolve substantially as air districts establish methods and thresholds.
- 129B-1 This comment raises issues related to language barrier and translation of CEQA documents. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.

April 17, 2009

Ms. Kim Espinosa
Planning Manager
Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa:

We already have poor air quality during the summer and part of the winter. We hang flags around the city to identify the air quality level. For some of us, we can't go outside or engage in outdoor physical activity when the Air Quality index exceeds 50 (yellow flag).

Approving this project will just create more days of the year when some of our kids can't play outside. Creating jobs is important, but so is the quality of life. I think it is far more important for our children and grandchildren to be able to play outside free of inhalers than it is to create a major polluter.

130-1

More needs to be done to make this facility a non-polluter.

130-2

Thank you for your attention.

Kenneth J. Leap
Signature

Kenneth J. Leap
Print Name

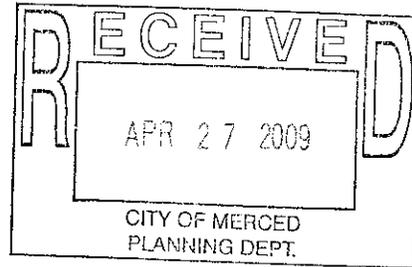
6113 Coountry Club Place
Address

Merced, CA 95340

(209) 722-5461
Phone

- 130-1 The commenter is concerned about the project's contribution to the number of poor air quality days and the ability of children to play outside. Please see Master Response 13, regarding the relationship between the project, air quality, and public health. The commenter also states that "more needs to be done to make this facility a non-polluter." All the impacts that would affect local or regional air quality (Impacts 4.2-1 through 4.2-5 [not including the analysis of GHGs in Impact 4.2-6, which is global-scale issue]) would be less than significant or reduced to less than significant with implementation of the mitigation measures prescribed in the DEIR.
- 130-2 The commenter states that more should be done to make the proposed facility a non-polluter, but does not offer any specific examples of feasible mitigation measures that would result in additional emissions reductions beyond what is already proposed in mitigation measures 4.2-1 and 4.2-2. Further, mitigation proposed to substantially lessen impacts 4.2-1 and 4.4-2 would reduce these impacts to less than significant levels.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



RE: Wal-Mart Distribution Center

Dear Ms. Espinosa,

I have major concerns about the use of construction equipment for the proposed Wal-Mart Distribution Center.

Several studies have said that construction equipment is one of the leading sources of diesel pollution in this state. I'm disappointed that more detail has not been provided about the number of diesel machines on site, when they will be used and in what frequency. I think you need to look deeper into this question and force Wal-Mart to provide more answers.

131-1

Thank you,

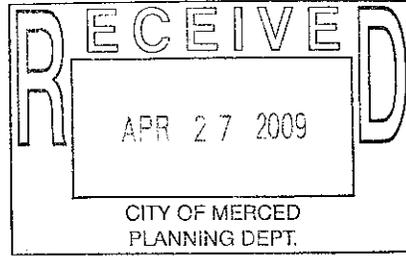
Laura Lopez
2529 E Childs

131-1

Please see response to comments 30-D and 108-1. Information on detailed modeling input parameters, including the SJVAPCD-Recommended Construction Fleet spreadsheet is included in Appendix C to the DEIR, as stated on Page 4.2-29.

March 17, 2009

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



It seems to me the city has an attitude that we should just let Wal-mart do what they want. Are we so desperate for jobs that we need to build a MASSIVE industrial complex in a neighborhood? There are three schools in the area. Are we going to limit the noisy, dirty, 18-wheel trucks to when the kids aren't in school?

132-1

Why can't we find a site for this that isn't near schools and homes? Surely there is a site somewhere in this county that is closer to the freeway and better suited to the community than this one.

Thank you for your time.

Tina Lopez

Signature

Tina G. Lopez

Print Name

1235 Pleasant lane
Merced 95340

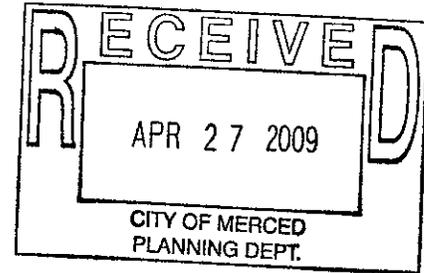
Address

Phone

132-1

Please see responses to comments 29-21 and 17-12 regarding concerns about impacts to nearby schools and reference to mitigation for truck traffic.

Kim Espinosa
Merced Department of Planning
City of Merced
678 West 18th Street
Merced, CA 95340



Ms. Espinosa,

The Merced city council should be ashamed that they refused to incorporate any Spanish language translations into the Wal-Mart EIR. Is the city in such a hurry to get this project approved that it is willing to disenfranchise its own residents? What impacts from the project is the city hoping to hide from the Latino community by publishing this massive, overly technical document?

133A-1

The CEQA process should be about openness and the ability of the public to have access to important information. In a city with so many Spanish speakers, how can the city fail to plan for this obvious need.

Ted Lorona

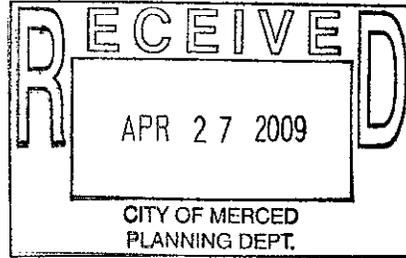
1038 Robinson Dr.

Merced, CA 95340

Ted Lorona

725-9339

Kim Espinosa
Planning Department
City of Merced
678 West 18th Street
Merced, CA 95340



Kim Espinosa,

I think they should build a new elementary school instead of the Wal-Mart distribution center. A proposed elementary school would be less than 500 feet from the campus parkway and the proposed Wal-Mart distribution center. Our children will be affected by the diesel soot which causes air pollution and cancer to our children. For the health of our children you should reconsider building this warehouse.

133B-1

Our children's education will be impacted by the constant noise generated by the loud sirens and slamming of the trailers. The DEIR doesn't state that a sound wall will be built to reduce the impact of noise generated by the 24-hour distribution center. The campus parkway will be an expressway that will also contribute to noise and air pollution. We don't need any kind of business that will contribute more pollution in our community. There should be a law that enforces businesses to pay for health risks that they pose on our community. Thank you for your time and I hope this warehouse isn't built in Merced.

133B-2

Ted Corona

Ted Corona

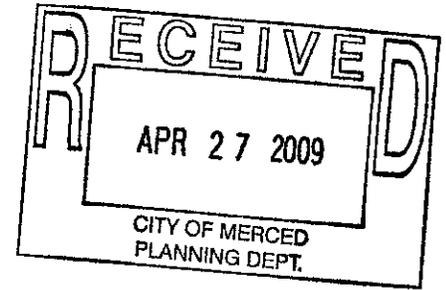
1038 Robinson Dr.

Merced, CA 95340

(209) 725-9339

April 2, 2009

Ms. Kim Espinosa
Merced Planning Division
678 West 18th Street
Merced, CA 95340



Kim,

Thanks for giving us the chance to share our thoughts on the draft report on the distribution center. I've been reading through the "Alternatives to the Proposed Project" section and what I read on page 5-6 really stuck out. It said that if the project is not built here in Merced, then Wal-Mart might find another area in the Central Valley to build their distribution center. I think that's a great idea! One bit of advice for Wal-Mart, find a location that does not have residential neighborhoods across the street. I mean really, just use some common sense. If they would pick a location away from our homes and schools, there might not be such uproar from residents.

133C-1

Just a thought.

Ted Lorona
Signature

Ted Lorona
Print Name

1038 Robinson Dr.
Address

Merced, CA 95340
(209) 725-9339
Phone

**Letter
133A-C
Response**

Ted Lorona
➤ 133A–Undated
➤ 133B–Undated
➤ 133C–April 2, 2009

- 133A-1 This comment raises issues related to language barrier and translation of CEQA documents. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.
- 133B-1 The commenter expresses concern about the proximity of a proposed elementary school to truck traffic on Campus Parkway and to the project site. Please refer to the response to comment 17-12, which discusses how the relative locations of nearby schools, including the proposed school site, was analyzed in the traffic analysis, and response to comment 16-8 which discusses how the schools were included in the HRA performed for the project.
- 133B-2 The comment states that area schools will be affected by noise generated by long-term operations of the distribution center, such as sirens and trailers slamming (assumed to mean the noise generated by trailer movements). The comment also states that Campus Parkway will become a major noise source if the project is implemented. As stated in Table 4.8-10 on page 4.8-21, the loudest sounds emanating from the distribution center would be from air horns (sirens) and truck compression brakes. Other noise sources such as trailer movements are discussed in Impact 4.8-2, but are not as loud as air horns and truck compressions brakes. As stated in Impact 4.8-2, noise from these sources would be less than applicable standards at the nearest sensitive receptor (700 feet). As a result, noise generated by these sources would also be less than applicable standards at the nearest schools (3,200 and 3,800 feet). Campus Parkway noise levels would increase under project operations. Impacts 4.8-3 and 4.8-4 discuss the noise levels and significance of increased traffic related to the project.
- The comment also expresses concern about the health risk associated with project-generated emissions. Please refer to Master Response 13 and response to comment 92-3.
- 133C-1 The commenter indicates that based on review of the DEIR Section 5 “Alternatives to the Proposed Project,” he supports building the proposed project at a different location. The commenter does not raise issues related to the adequacy of the DEIR’s analysis.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Re: Electricity Consumption & Wal-Mart Distribution Center

Dear Ms. Espinosa,

Merced has been subject to blackouts during some of the hottest days of the year, resulting in resident displacement and sometimes death. The electrical grid of the City has problems without the approval of a massive Wal-Mart Distribution Center!

The environmental study should require more specific details on how Wal-Mart will take measures to reduce electrical consumption. The study states that Porterville uses 13.3 million kilowatt-hours per year, however it would be useful to know what other companies with comparable sized distribution centers use per year.

134-1

For instance, the study should address the type of lighting the distribution center will use. In January of 2009, Coca-Cola released a statement saying they had reduced their consumption of electricity in California by 5.6 million kilowatt-hours per year through changing their lighting source. (Article can be found at: <http://news.moneycentral.msn.com/ticker/article.aspx?symbol=US:OESX&feed=BW&date=20090109&id=9502842>).

The Wal-Mart Distribution Center in Merced should be required to use lighting such as the Orion Compact Modular high-intensity fluorescent lighting system detailed in the aforementioned article.

134-2

City staff should require more details about issues such as electricity consumption as it is a current issue and risk in Merced that will only get worse.

134-3

Thank you,

Olivia A. Macchia

Name

147 Sweetwater Ave.

Address

Merced, CA 95341

City, State, Zip

Olivia A. Macchia

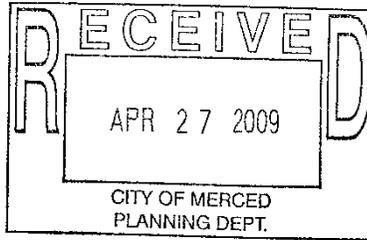
Signature

4-17-09

Date

- 134-1 The commenter expresses concerns about the City’s electrical grid, and states that the environmental study should require more specific details on how Wal-Mart will take measures to reduce electricity consumption, and should address the type of lighting the distribution center will use related to energy consumption. As described in Chapter 3, “Project Description,” of the DEIR (see page 3-14), information has been provided by representatives of Wal-Mart Stores East LP regarding measures to reduce potential impacts (including energy usage) of construction and operation of the proposed distribution center. As stated on page 3-15 of the DEIR, the facility would incorporate an energy monitoring and reporting system, and high-efficiency interior lighting including a dimming system with sensors. In addition, all viable technologies would be incorporated into the building design and operations plan of the project including a daylight harvesting system, and “smart systems” that power down warehouse equipment when not in use.
- Consistent with the requirements of CEQA, impacts associated with electricity demand are considered in Section 4.12, “Utilities and Public Services,” of the DEIR (see Impact 4.12-4, page 4.12-18). As described therein, the proposed project would result in a significant utilities and public services impact if it would result in inefficient, wasteful, or unnecessary consumption of energy; or create demand for electrical service that is substantial in relation to existing demands (see page 4.12-13). As described in Section 4.12, the project would result in a potentially significant electricity demand impact, and mitigation is recommended to reduce this impact to a less-than-significant level (see page 4.12-19). As demonstrated by the analysis contained in Section 4.12, the detailed information requested by the commenter is not necessary to thoroughly and adequately analyze proposed project electricity demand impacts. Please also see response to comment 5-5 regarding the level of detail necessary for adequate analysis and review of project impacts.
- The commenter does not provide any specific disagreements with the analysis provided in the DEIR, and does not offer any evidence that demonstrates how the project’s electricity demand impact would remain significant after implementation of Mitigation Measure 4.12-4, “Incorporate Energy Efficiency Features into Project Designs.” Please also refer to response to comment 5-5 regarding the type of lighting the distribution center will use. It should further be noted that this mitigation measure is required in conjunction with Mitigation Measure 4.2-2a through 4.2-2e, which require considerable energy conservation measures.
- 134-2 The commenter states that the project should be required to use lighting such as the Orion Compact Modular system. This comment is addressed in response to comment 134-1 above, and is also addressed in response to comment 5-5 regarding the type of lighting the distribution center will use. This comment is noted for the City’s consideration during review and approval of the project. No further response is necessary.
- 134-3 The commenter states that City staff should require more details about issues such as electricity consumption. Please see response to comment 134-1 regarding level of detail necessary for an adequate impact analysis. The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided. This comment is noted for the City’s consideration during review and approval of the project.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

The mitigation measures outlined in 4.8-1 are not feasible unless there is a specific monitoring plan. Who will this 'enforcement manager' report to? Is the person an employee of Wal-Mart? Or will the person be an employee of the City of Merced? Or will the enforcement manager be hired through an independent third party? What authority will this person have? The city should demand that Wal-Mart provide details, salary, etc for the enforcement manager it states it shall provide during construction.

135-1

Much appreciation,

RICHARD MACCHIA
Name

147 SWEETWATER AVE
Address

MERCED, CA 95341
City, State, Zip

[Signature]
Signature

4/17/09
Date

**Letter
135
Response**

Richard Macchia
April 17, 2009

135-1

The commenter raises issues regarding the feasibility of noise mitigation included in the DEIR. Please see Response to Comment 126B-1, which addresses this issue.

Espinosa, Kim

From: Jessica Madruga [jmadruga@transcountytitle.com]
Sent: Wednesday, March 25, 2009 11:27 AM
To: Espinosa, Kim
Subject: Wal-Mart

I just wanted to email and show my support for the Wal-Mart Distribution Center. I believe that the Wal-Mart Distributoin Center will bring much need jobs to our area.

136-1

Thank you,

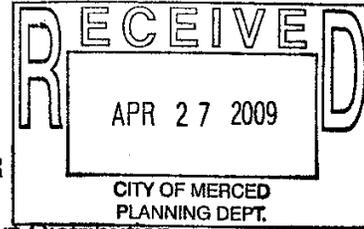
*Jessica Madruga
Certified Escrow Technician
TransCounty Title Company
635 W. 19th Street
Merced, CA 95340
(209)383-4660 EX. 49*

**Letter
136
Response**

Jessica Madruga, Certified Escrow Technician
TransCounty Title Company
March 25, 2009

136-1

The comment addresses the merits of the proposed project, recommends approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.



TESTIMONY AGAINST THE WALMART DISTRIBUTION CENTER

My wife and I are very concerned about the building of the Walmart Distribution Center in Merced for several reasons. True, jobs will be created, but Walmart is known for their poor relationship with their workers. They are an anti-union business with low wages and poor health care benefits which could lead to a financial problem for our county.

We are especially concerned about the tremendous amount of truck traffic at the interchange that will also be used by students, professors and guests who will be traveling to the U.C. campus. We believe it is very important for the University, the city of Merced and the new, proposed Campus Community, to have an attractive, safe entrance to the University and not one where drivers have to contend with monster trucks that will make for dangerous and unpleasant driving conditions.

137-1

The huge amount of trucks traveling to and from the Distribution Center will of course greatly increase traffic in its area and will not only be dangerous for the local citizens but especially for children on their bikes or walking to school.

As teachers have undoubtedly informed you, the asthma problems with children in their classrooms is very high. Truck traffic is to blame for much of the hazardous pollutants in our air. We must seriously consider their health when considering Walmart. It truly is a problem and NOT a myth.

137-2

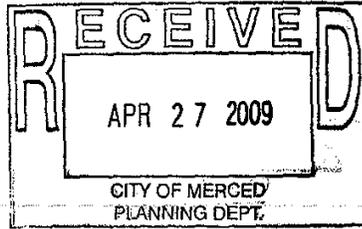
As you well know, the San Joaquin Valley, and Merced County in particular, has a very high air pollution rate resulting in poor health conditions for many citizens. Why encourage a business to come here that will worsen to a large degree, our air pollution problems, especially in the schools near the Walmart Center and Mission overpass.

We would like to see more Green business's attracted to Merced County. Maybe working with the U.C. Merced, experts, it can happen. Lastly, most of the profits from Walmart go back to Arkansas and their billionaire families, how about attracting business's here whose profits stay in our county?

We know you have worked very hard to attract Walmart to have their Distribution Center here, but maybe at the time, you just thought of only one aspect of their being here....jobs. We hope you will seriously consider the the serious problems that disturb so many of us about the arrival of the Walmart Distribution Center in Merced.

Charles and Sally Magneson
10235 El Capitan Way
Ballico, CA. 95303
394-7045 csmagneson@gvni.com

- 137-1 The commenter is concerned with conflict between UC Merced traffic and project-related trucks. According to the UC Merced Website, “G” Street is the exit designated for travelers on SR 99 to access the campus. “G” Street is substantially north of Yosemite Parkway, which is the extent of the traffic impact study area (other streets were determined to be relatively unaffected by project traffic). Therefore, “G” Street should be considered the “gateway” to the UC Merced campus, not any roadway in the project vicinity, which is on the opposite side of the city. Truck traffic associated with the proposed project would not typically interact with traffic on “G” Street. However, in the future and upon its full completion to Yosemite Avenue (approximately 3 miles north of the subject site), Campus Parkway will serve as a “gateway” to the UC Merced campus from SR 99. The segment of Campus Parkway from SR 99 to Childs Avenue is under construction, but as of this date, no schedule exists for the completion of Campus Parkway north of Childs Avenue. Therefore, the date when UC Merced traffic would be “mixing” with traffic from this project is unknown.
- 137-2 The commenter expresses general concern regarding air quality and health, as well as traffic safety. The DEIR addresses project-related impacts to Air Quality in Section 4.2 “Air Quality,” and impacts related to traffic safety are addressed in Section 4.11 “Traffic and Transportation.” Please also refer to Master Response 13 regarding air quality-related public health concerns. The comment does not raise issues with the adequacy of the DEIR. The comment is noted.



4-27-09

Hello Kim

I'm disgusted with all that is going on with Wal-Mart.

I've lived on Bellevue Rd. since 1962. I had more planes that flew over my house & had more odor from the with fumes of gasoline.

I have more garbage trucks, cement trucks & buses & all the traffic that drives on ~~Bellevue Rd.~~ Bellevue Rd. than Wal-Mart trucks would have.

I'm 89 years old & I have no health problems.

We don't need welfare we need jobs

I talked with one employee from the county & she said we need welfare otherwise I won't have a job. Tax payers are supporting them give them a job to earn their living. Get them out of their beds - as we don't need more babies.

Take a roll call at the gambling buses & you will find over 50% are on welfare. One woman told me she lost \$400 & I told her she was spending our tax money.

Put them to work.

Thank you
Anna Markario
1227 W. Bellevue Rd
Merced, Ca. 95348

138-1

**Letter
138
Response**

Anna Markiano
March 27, 2009

138-1

The comment addresses the merits of the proposed project and dismisses environmental issues. The comment does not raise any issues regarding the adequacy of the Draft EIR. The comment is noted.



March 8, 2009

To: Merced City Council members:

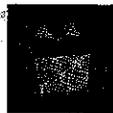
Dear council members,

My wife and I are very upset over learning that only a 60 day review period has been set for the review of the Wal-Mart Distribution Center project.

We are very concerned over this short review period for such a major project. We believe many others will also find this short review period to be inadequate.

We request that the review period be lengthen to six months or longer in order to provide adequate time for a proper review.

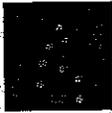
Sincerely yours,
David W. Martin
Kristi Martin



Mr. & Mrs. David & Kristi Martin
1956 Janet Ct
Merced CA 95340

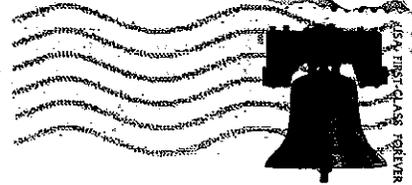


139-1



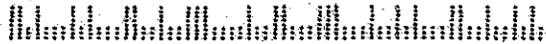
Mr. & Mrs. David & Kristi Martin
1956 Janet Ct
Merced CA 95340

STOCKTON, CA 95231
10 MAR 2009 PM



Merced City Council
678 W. 18th St.
Merced, CA 95340

95340+4708



**Letter
139
Response**

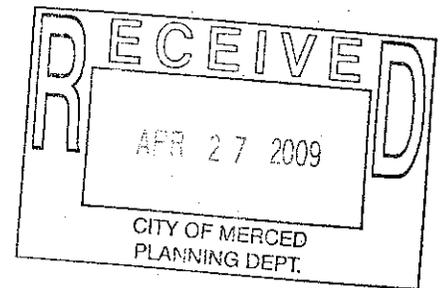
David W. Martin
Kristi Martin
March 8, 2009

139-1

This comment raises issues related to adequacy of the public review period of the Draft EIR. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses this issue.

This page intentionally blank.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Re: Hybrid Diesel Trucks

Dear Ms. Espinosa,

What is Merced doing to ensure that the vehicles used at the proposed distribution center site are the same hybrid diesel trucks used at the Apple Valley site?

140A-1

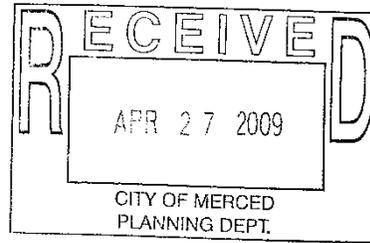
I would hope that since city officials went to Apple Valley to look at a similar project it expects Wal-Mart to provide the same level of quality at least. For example, will Wal-Mart be required to make 30% of its fleet be hybrid diesel? Will it be required to increase that percentage over time to ultimately eliminate non hybrid technology? These are important mitigation steps Merced should be requiring of Wal-Mart.

140A-2

Sincerely,

David W. Martin
1956 Janet Ct.
Merced, CA 95340

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

The mitigation measures explained in 4.8-1 are cannot be implemented unless there is a detailed monitoring plan. Here are my questions that I would like addressed:

- a. To whom will this *enforcement manager* report?
- b. Is the person an employee of Wal-Mart?
- c. Or will the person be an employee of the City of Merced?
- d. Or will the enforcement manager be hired through an independent third party?
- e. What authority will this person have?

With Much appreciation,

David W. Marten
1956 Janet Ct
Merced, CA 95340

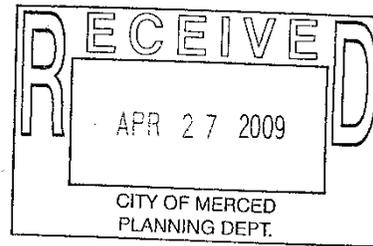
140B-1

Kim Espinosa, Planning Manager

City of Merced Planning Division

678 West 18th Street

Merced, CA 95340



RE: Wal-Mart Distribution Center DEIR

Dear Kim Espinosa,

The Draft EIR says that the big equipment that will be used during construction is not known but likely to include, "excavators, graders, scrapers, loaders, backhoes, haul trucks, and cranes."

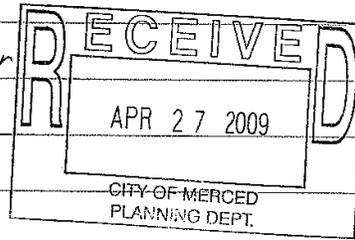
This is an important issue that needs to be addressed more specifically in the Final EIR. Wal-Mart understands the scope of this project, so it should have exact estimates from previous distribution projects completed. Knowing ~~the~~ exactly how many of these vehicles is critical in calculating noises and pollutants that will be generated during construction.

140C-1

Sincerely,

David W. Marten
1956 Janet Ct
Merced, CA 95340

Kim Espinosa, Planning Manager
City of Merced Planning Div.
678 W. 18th St.
Merced, CA 95340



RE: Wal-Mart Distribution Center Draft EIR

Sirs:

I have various concerns ~~con~~ with the EIR.

They are:

1. The huge increase in trucks traffic. Highway 99 is only two lanes, each direction, and is quite busy most of the day. This was not adequately addressed, 140D-1
2. The negative impact this project will have in the southeast portion of Merced. Trucks and kids don't mix, 140D-2
3. The increase in air quality pollutants. 140D-3
4. Possible high water problems. 140D-4

I believe the EIR is seriously deficient in meeting the requirements of CEQA. I understand CEQA allows a project to be disapproved based on a negative environmental impact report, 140D-5

David W. Martin

David W. Martin

1956 Janet Ct., Merced, CA 95340

(209) 383-6934

**Letter
140A-D
Response**

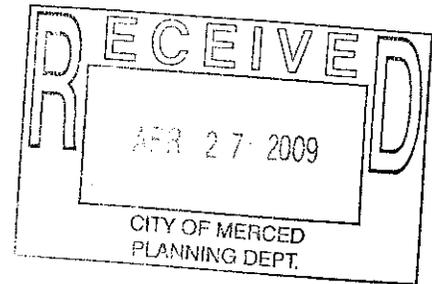
David W. Martin
➤ 140A–Undated ➤ 140C–Undated
➤ 140B–Undated ➤ 140D–Undated

- 140A-1 The commenter states that hybrid diesel trucks are used at the Wal-Mart’s distribution center in Apple Valley, CA but no such requirement is included in the DEIR. This is not a comment about the adequacy of the DEIR. It shall be noted, nonetheless, that Mitigation Measure 4.2-2d includes the following requirement, where feasible:
- ▶ Purchase and operate electric or hybrid-powered yard tractors (e.g., Volk-brand tractors) to serve as “yard trucks” that move trailers to and from the trailer yard and loading docks.
- Impact 4.2-2 in the DEIR discusses operational emissions, including emissions from on-site yard trucks and long-haul truck trips. Mitigation Measures 4.2-2a, 4.2-2b, 4.2-2c, and 4.2-2e will ensure that operational emissions would be reduced to a less-than-significant level, as discussed on pages 4.2-41 and 4.2-22 of the DEIR.
- 140A-2 The commenter indicates that the proposed distribution center should be required to use hybrid vehicles similar to the Apple Valley facility. It should first be noted that the Apple Valley facility does not use hybrid tractor trailers. Second, the City and its consultants are not aware of any hybrid tractor trailers currently on the market.
- 140B-1 The comment raises issues with mitigation enforceability. Please see Response to Comment 126B-1, which addresses this issue.
- 140C-1 The commenter raises concerns regarding the number of construction equipment assumed for the DEIR’s air quality analysis. Please refer to response to comment 30D-1, which addresses this issue.
- 140D-1 The commenter indicates that the DEIR’s analysis of traffic impacts related to project trucks is inadequate. However, the commenter offers no specific criticism of the DEIR’s analysis. See Master Response 6: Trucks and the Transportation Analysis for more information. The comment is noted.
- 140D-2 The commenter raises issues related to conflicts between trucks and pedestrians. This issue is addressed in the DEIR under Section 4.11 “Traffic and Transportation,” specifically under Impact 4.11-5 “Transit, Pedestrian, and Bicycle Impacts.” The DEIR includes mitigation measures to reduce these impacts to a less-than-significant level. The commenter does not raise issues related to the adequacy of the DEIR.
- 140D-3 The commenter identifies issues related to air quality. The DEIR analyzes the potential of the proposed project to result in impacts to air quality. Please see Section 4.2 of the DEIR “Air Quality.” The comment does not raise issues with the adequacy of the DEIR.
- 140D-4 The comment raises a general concern regarding a “possible high water problem”. These issues are addressed in the DEIR under section 4.6 “Hydrology and Water Quality.” Also, see Master Response 7: Detention Basins and Drainage which addresses comments pertaining to stormwater volume and flooding.

140D-5

The commenter indicates that the DEIR is seriously deficient in meeting the requirements of CEQA. However, the commenter offers no reasoning behind the criticism. Therefore, no additional response can be provided. The comment is noted.

Merced City Council &
Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Re: Construction Noise Impacts

Dear Merced City Council and Ms. Espinosa,

With three schools within a couple miles of the Wal-Mart site, why would construction be allowed to take place in the hours that kids would be walking from to and from school? There should be significant blackout periods for construction – or perhaps all construction should be limited to weekdays 8AM to 3pm to prevent the students and residents from being disrupted by the noise, dust and traffic of construction.

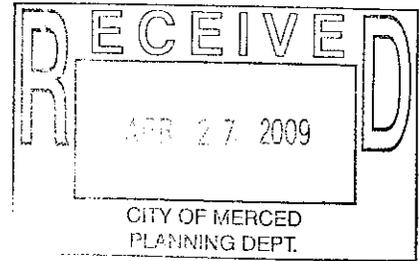
141A-1

Thanks,

ALTHEA MASON
463 WEAVER AVE
MERCED, CA 95341

Althea Mason

Kim Espinosa
Planning Department
City of Merced
678 West 18th Street
Merced, CA 95340



Ms. Espinosa,

I think the traffic in the southeast Merced is terrible but by having more trucks on the freeway it will cause more traffic congestion near our neighborhood. I live near Yosemite parkway which is already designated a truck route so for my family and I we feel that more car and truck traffic will impact our neighborhood even worse. Wal-Mart isn't a corporate citizen and will only draw profit while subsidizing their employees. Wal-Mart is looking out how they can make a profit by not considering to not build here in Merced. WAL-MART IS WRONG FOR MERCED RESIDENTS!

141B-1

ALTHEA MASON
Name
463 WEAVER AVE
Address
MERCED CA 95341
City/State/Zip
Althea Mason
Signature

**Letter
141A-B
Response**

Althea Mason
➤ 141A–Undated ➤ 141B–Undated

- 141A-1 The commenter raises issues related to conflicts between school-related pedestrians/traffic and heavy truck traffic. The issue of truck trips near schools was analyzed in Section 4.11 of the DEIR and Mitigation Measures 4.11-2b and 4.11-4 specifically address the issue of trucks and schools. The mitigation measures would reduce impacts to a less-than-significant level; additional mitigation is not necessary. The comment does not raise issues regarding the adequacy of the DEIR. The comment is noted.
- 141B-1 The comment raises concerns regarding truck traffic. The DEIR analyzes impacts related to truck traffic in Section 4.11 “Traffic and Transportation.” Please also see Master Response 6: Trucks and the Transportation Analysis. The comment does not raise issues related to the adequacy of the DEIR. The comment is noted.

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Espinosa, Kim

From: Doloresmay1@aol.com
Sent: Friday, April 17, 2009 9:27 AM
To: Espinosa, Kim
Subject: Walmart Distribution Center

I have been wanting to comment on the proposed Walmart Distribution Center. It needs to be approved for the added opportunity for jobs!! Also a couple of years ago, I traveled to Red Bluff, CA after my knee surgery and noticed there was a Walmart Distribution Center south of the city. It was off the highway 99 and there weren't any more trucks on the road as there are Walmart trucks down here. It is very important that this facility be built for the underemployed and unemployed in Merced. This could also alleviate some of the vacant houses in Merced. People could buy up some of these foreclosures. Dolores May

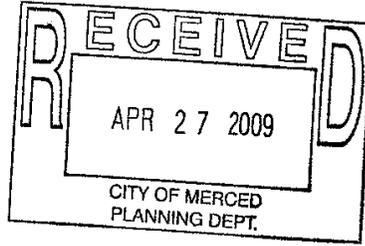
142-1

Access 350+ FREE radio stations anytime from anywhere on the web. [Get the Radio Toolbar!](#)

142-1

The comment addresses the merits of the proposed project, recommends project approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Re: Hybrid Diesel Trucks

Dear Ms. Espinosa,

I have read that Apple Valley's Distribution Center is using several hybrid diesel trucks (TodaysTrucking.com, Feb. 3, 2009). The city should require that at least 30 percent of Wal-Mart's diesel fleet be hybrid diesel trucks for the Merced distribution center. It should require at least 60 percent within 5-years of its operation. Please include the article found at: <http://www.todaystrucking.com/news.cfm?intDocID=21149> in the record. The EIR should research the use of hybrid diesel trucks as mitigation alternatives for air quality and noise.

143-1

Sincerely,

Marc Medefind

Name

2381 Lakeside Drive

Address

Merced, CA 95340

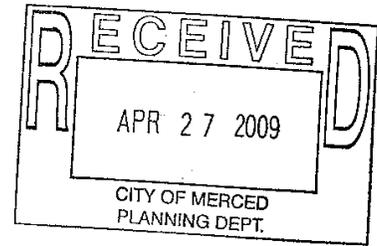
City, State, Zip

Marc Medefind

Signature

4/16/09

Date



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Wal-Mart checks hybrid trucks off shopping list

BENTONVILLE, Ark. -- Wal-Mart Stores, Inc. is set to test two new types of heavy-duty commercial hybrid trucks and two different alternatively fueled heavy-duty trucks as part of the company's efforts to having a more sustainable trucking fleet.

Wal-Mart has partnered with **Arvin Meritor**, **Eaton**, **Peterbilt** and **International** to develop and test these technologies, which will take place throughout 2009.

"In order to meet our goal of doubling our fleet efficiency, we are taking an active role in the development of these technologies," said Chris Sultemeier, senior vice-president of transportation for Wal-Mart Stores. "We look forward to determining if these technologies will help reduce our environmental footprint, are viable for our business and provide a return on investment."

Wal-Mart achieved more than a 25 percent increase in efficiency within its private fleet between 2005 and 2008, surpassing one of the company's stated sustainability goals.

By reaching this goal, Wal-Mart has been able to reduce its carbon dioxide emissions and its fuel use. This goal was reached by using a combination of new, innovative technologies, better delivery routes and by loading its trailers more efficiently. Now, the company is working toward its goal of doubling its fleet efficiency by 2015, from its 2005 baseline.

Part of this pilot program is to determine if alternatively fueled trucks can help move Wal-Mart toward that goal in addition to reducing environmental impacts.

One of the new trucks being tested is a full-propulsion Arvin Meritor hybrid that will initially operate in the Detroit area. This dual-mode diesel-electric hybrid is believed to be the first vehicle of its type.

"While most hybrid systems today are best suited for start-stop applications, our hybrid drivetrain is specifically designed for linehaul, over-the-road trucks, the largest segment of the commercial vehicle population," said Carsten J. Reinhardt, president of ArvinMeritor's Commercial Vehicle Systems (CVS) business.

The Meritor dual-mode hybrid drivetrain combines both mechanical and electrical propulsion systems. Under 48 mph, vehicle propulsion is delivered entirely through an electric motor with power from lithium ion batteries. These batteries are recharged through regenerative braking and/or an engine-driven generator. As the vehicle approaches highway speed, the drivetrain phases to a diesel-powered system with the electric motor providing power, only as required, allowing for total system optimization.

The key differentiation of this system is its ability for zero-emission mode over a wide range of vehicle driving conditions. Additionally, the batteries provide continuous power for hotel loads during an overnight rest period, eliminating the need for engine idling or other redundant anti-idling systems.

The Meritor hybrid drivetrain was developed in collaboration with Navistar and Cummins and is comprised of a proprietary motor/generator unit, high capacity lithium ion batteries, as well as the overall power-management system.

Other initiatives include:

- Fifteen trucks operating in Buckeye, Ariz. distribution center near Phoenix, will be converted to run on Reclaimed Grease Fuel, made with the waste brown cooking grease from Walmart stores. In addition, the remaining trucks located in the Buckeye distribution center will operate on an 80/20 blend of biodiesel made of reclaimed yellow waste grease.
- Five Peterbilt Model 386 heavy duty hybrid trucks with diesel-electric hybrid power systems developed by Eaton Corporation and PACCAR, that will be based in Dallas, Houston, Apple Valley, Calif., Atlanta and the Washington/Baltimore regions.
- Four Peterbilt Model 386 trucks and one yard truck, which operates only on the distribution center property, will operate on liquid natural gas. These trucks are part of a partnership with the Mojave Air Quality Management District and will operate out of the distribution center in Southern California.

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143-1

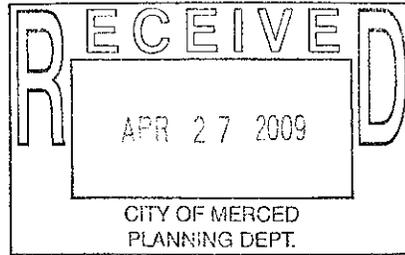
The commenter states that hybrid diesel trucks are used at the Wal-Mart's distribution center in Apple Valley, CA but no such requirement is included in the DEIR. This is not a comment about the adequacy of the DEIR. It shall be noted, nonetheless, that Mitigation Measure 4.2-2d includes the following requirement, where feasible:

- ▶ Purchase and operate electric or hybrid-powered yard tractors (e.g., Volk-brand tractors) to serve as "yard trucks" that move trailers to and from the trailer yard and loading docks.

Impact 4.2-2 in the DEIR discusses operational emissions, including emissions from on-site yard trucks and long-haul truck trips. Mitigation Measures 4.2-2a, 4.2-2b, 4.2-2c, and 4.2-2e will ensure that operational emissions would be reduced to a less-than-significant level, as discussed on pages 4.2-41 and 4.2-22 of the DEIR.

April 25, 2009

Ms. Kim Espinosa
Project Manager
Merced Division of Planning
Civic Center
678 West 18th St.
Merced, CA 95340



Ms. Espinosa,

I noticed there isn't a landscape plan in the Wal-Mart DEIR. You're probably wondering why this is important, so I'll tell you. The kinds of vegetation and trees on the site will impact water usage and will either result in the distribution center requiring more water or less water. If the project needs more water, where will it come from? Who will pay for it? Wal-Mart? I would ~~help~~ ^{hope} so.

144A-1

Please make sure vegetation and landscape plans are addressed in the environmental impact report.

144A-2

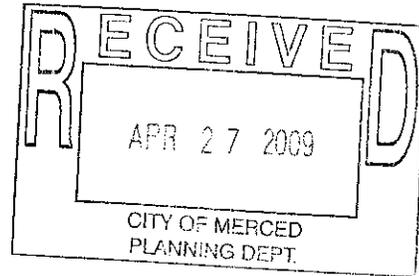
Sincerely,

Suzette Meik
482 Hydrangea Ct.
Merced, CA
95341

Meik

April 3, 2009

Kim Espinosa, Planning Manager
Division of Planning
Merced Civic Center
678 West 18th Street
Merced, CA 95340



Ms. Espinosa,

I didn't see any mentions of using solar panels or solar power in the Wal-Mart Distribution Center. Today's solar technology can generate significant amounts of power and many companies are embracing this technology as a way to reduce the amounts of pollution their offices, stores, farms or distribution centers create.

144B-1

I hope Merced will encourage the use of solar panels in new projects. One way you can do this is to require Wal-Mart to use them in their proposals. Wal-Mart should address this as part of their environmental impact report.

Thank you,

Suzette Meik

Meik

482 Hydrangea Ct.
Merced, CA 95341

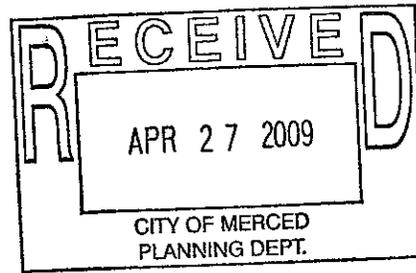
**Letter
144A-B
Response**

Suzette Meik
➤ 144A–April 25, 2009
➤ 144B–April 3, 2009

- 144A-1 The commenter states that the DEIR does not include a landscaping plan, and is concerned about water usage impacts. Please refer to response to comment 121C-1 regarding water consumption and water supply. The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided.
- 144A-2 The commenter asks that landscape plans are addressed in the DEIR. Please refer to response to comment 121C-1 for information on landscape plans. No further response is necessary because no issues related to the specific environmental impacts of the project were raised.
- 144B-1 Please refer to mitigation measure 4.2-6d, which requires the use of solar panels for on-site electricity generation to serve the proposed project. (Please refer to response to comment 22-7 regarding some text changes that will be made to Mitigation measure 4.2-6d.)

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Kim Espinosa, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340



Señorita Espinosa:

El Gobierno Municipal hizo un decisión muy malo cuando rechazó hacer algo para ayudar a la gente que nomas habla Español a entender más sobre el plan del centro de distribución para el EIR. Si no es permitido por la ley para escribir un reporte en Español, la ciudad debería saber mejor que negar la petición cuando aproximadamente un tercio de la gente que vive aquí habla Español. ¿El EIR es suficiente duro para leer para una persona que habla Inglés bien, que difícil piensa usted sobre este documento de mil (1,000) páginas es para la gente que esta aprendiendo Inglés?

Este proyecto será malo para nuestras casas y nuestros niños, el tráfico, calidad del aire y asma y el ambiente - pero el único modo que muchas personas podria aprender de esto es si Merced pare la discriminación de la idioma contra sus residentes Hispanos.

Alina Méndez

2285 Linden St

Atwater Ca 95301

Alina Méndez

The attached comment letter regarding the Wal-Mart Distribution Center Draft Environmental Impact Report has been translated by:

Juan F. Olmos
Juan Olmos

Maintenance Worker III
Title

5-5-09
Date

English Transcription:

LETTER 1 (*Corresponds with LETTER #145A*)

Kim Espinosa, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, Ca 95340

Miss Espinosa:

The City Council made a bad decision when rejected something which was going to help people who only speak Spanish to understand more the plan about the distribution center EIR. If it is not allowed by the law to write the report on Spanish, the city should know better that rejecting the petition when approximately a third of the people who live here speaks Spanish. The EIR is hard enough to read to a person who knows English well, how hard do you think it's for people who are learning English to read (1000) pages.

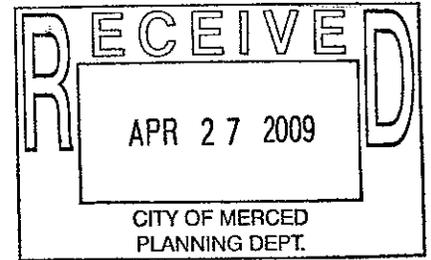
145A-1

This project would be bad for our homes and our kids, traffic jams, air quality, asthma and environment – the only way that many persons would learn this if Merced stops language discrimination against the Hispanic residents.

145A-2

Alina Mendez
2285 Linden St
Atwater CA 95301

**Kim Espinoza, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340**



Señora Espinoza:

¡La gente que habla Español merecen tener una informe en Español sobre el EIR del centro de distribución de Wal-Mart! ¡Es tiempo de tratar la comunidad Hispana de Merced el mismo como los otros!

A small, circular handwritten mark or signature.

Alina Méndez
2285 Linden St
Atwater, ca 95301

The attached comment letter regarding the Wal-Mart Distribution Center Draft Environmental Impact Report has been translated by:

Juan F. Olmos
Juan Olmos

Maintenance Worker III
Title

5-5-09
Date

English Transcription:

LETTER 2 (Corresponds with LETTER #145B)

Kim Espinoza, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, Ca 95340

Misses Espinoza:

The people who speaks Spanish deserve to have an inform in Spanish about the Wal-Mart EIR distribution center! Its time to treat the Hispanic community the same like the others!

145B-1

Alina Mendez
2285 Linden St
Atwater CA 95301

**Letter
145A-B
Response**

Alina Méndez
➤ 145A–Undated
➤ 145B–Undated

- 145A-1 This comment raises issues related to language barrier and translation of CEQA documents. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.
- 145A-2 The comment describes concerns related to homes, kids, traffic, air quality, and the environment. Regarding traffic and air quality, the Draft EIR analyzes these environmental issues under sections 4.11 “Traffic and Transportation” and 4.2 “Air Quality.” (It is assumed that impacts to “kids” refer to traffic and air quality impacts, which would be covered under Sections 4.11 and 4.2.) Impacts to the environment, in general, are addressed throughout the Draft EIR. It is assumed that impacts to “homes” refers to property values, which is not an environmental issues and does not require analysis under CEQA. The comment does not raise issues related to the adequacy of the Draft EIR.
- 145B-1 This comment raises issues related to language barrier and translation of CEQA documents. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.

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Espinosa, Kim

From: William Mendonca [wmendonca@usrscrap.com]
Sent: Wednesday, February 25, 2009 2:05 PM
To: Espinosa, Kim
Subject: Wal-Mart

Kim I am emailing you to support the Wal-Mart project , as A business and property owner located at 450 North Tower rd. we support any business expansion in the area that creates jobs thanks.

146-1

William Mendonca
Universal Service Recycling, Inc.
3200 South El Dorado St.
Stockton ca. 95206
209-944-9555 office
209-944-5552 fax
wmendonca@usrscrap.com

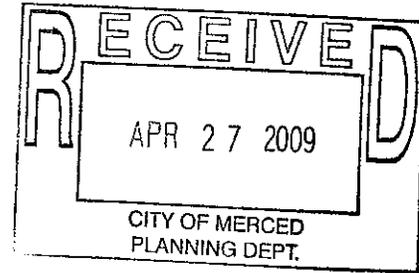
**Letter
146
Response**

William Mendonca
Universal Service Recycling, Inc.
February 25, 2009

146-1

The comment addresses the merits of the proposed project, recommends approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, Ca 95340



Dear Kim Espinosa,

My name is Francisco Mendoza and I've been a resident of Merced for over 20 years. I have various concerns about the proposed Wal-Mart distribution center. I would appreciate it if these concerns would be addressed and considered before making your final decision on the Wal-Mart distribution center. I'm assuming it is within your power to place conditions on the proposed center. I'm going to be giving Wal-Mart the benefit of the doubt that they don't want to "use" Merced for their financial gain but they want to be part of our community. That being said, as community member, I expect other community members to care for the community we live in. Wal-Mart's slogan "save money live better" suggest they have a concern for better living.

I am sure you are aware of the pollution problem already existing in our county. I remember reading in a study done by the California air resources board we will not be having clean summertime air for quite some time. Will the Wal-Mart distribution center in any way hinder the time it's going to take for us to get clean summer time air in? If so by how much time and how is that figured out? From my understanding Wal-Mart will be paying a one time emissions reduction agreement fee to help offset pollution in the region, well what about our community? Can you please explain what portion of that fee and specifically how it will be used in the Merced community? Why is this a one time fee? This makes is seem as if they only have a one time concern for our community and shouldn't a community member be concerned with their community all time? What will they be doing for or with the community to compensate for their pollution? I'm not too sure if there's a way but can we require them to actually care about our community and the impact they are going to have on it. How do they plan on reducing their pollution? Can we also have Wal-Mart define the role they want to play in our community? What percentage of employees will be hired specifically from Merced? Can we make it a condition that at least 90% the employment at the distribution center is only from Merced? Because the majority of the people who are supporting this Wal-Mart distribution center believe they are going to get a job there. Thank you for taking your time to consider and address my concerns and questions.

147-1

147-2

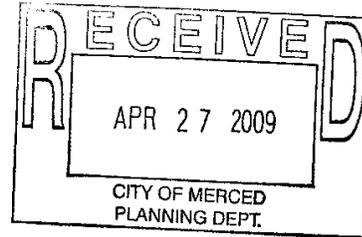
Cordially,

A handwritten signature in black ink, appearing to read "Francisco Mendoza".

Francisco Mendoza
4038 St Tropez Ct
Merced Ca 95348
209-499-4792

- 147-1 The commenter would like to know if the proposed project would increase the amount of time it would take for the SJVAB to attain air quality standards. Post-mitigation, the project would not be anticipated to substantially conflict with air quality attainment planning efforts in the SJVAB. Thus, the project itself would not contribute a delay in attainment of air quality standards.
- The commenter would also like to know why a one-time fee payment would be sufficient mitigation. SJVAPCD's ISR program has calculated the cost to offset criteria air pollutants and precursors in the SJVAB. Implementation of an offset project using ISR funds results in operational emissions offsets. For example, if some portion of the project's fees remitted to SJVAPCD were used to repower an engine in a piece of off-road mobile equipment to make that piece of equipment lower-emitting, the offset would exist for the life of that engine. The lifetime or "permanence" of the offset project implemented with ISR funds is taken into account in SJVAPCD's cost per ton of pollutant offset.
- 147-2 The commenter expresses concern the jobs will not go to local residents. Please see Responses to Comments 29-19 and 92-4, which address this issue.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

I have read about the Wal-Mart Distribution Center in Apple Valley is using many hybrid diesel trucks - I found this article in TodaysTrucking.com, Feb. 3, 2009.

The city should require that at least 35 percent of Wal-Mart's diesel fleet be hybrid diesel trucks for the Merced distribution center. We should incrementally move to 60% within 4 years. We are already plagued with very bad air quality. Let's not damage our future just a distribution center.

The following article explains this and ought to be included in the record: <http://www.todaystrucking.com/news.cfm?intDocID=21149> in the record.

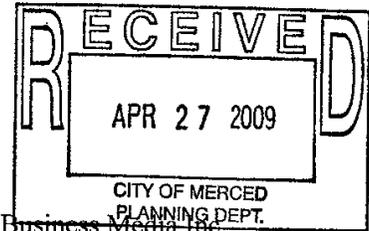
Thank you, *Javier Mendoza*

*Javier Mendoza
3165 Dinky Creek Ave
Merced CA 95341
209-723-9029*

PS: Home values are low enough as it is, the vacancy rate will be disastrous J.M.

148-1

Today's Trucking



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Wal-Mart checks hybrid trucks off shopping list

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Part of this pilot program is to determine if alternatively fueled trucks can help move Wal-Mart toward that goal in addition to reducing environmental impacts.

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"While most hybrid systems today are best suited for start-stop applications, our hybrid drivetrain is specifically designed for linehaul, over-the-road trucks, the largest segment of the commercial vehicle population," said Carsten J. Reinhardt, president of ArvinMeritor's Commercial Vehicle Systems (CVS) business.

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The key differentiation of this system is its ability for zero-emission mode over a wide range of vehicle driving conditions. Additionally, the batteries provide continuous power for hotel loads during an overnight rest period, eliminating the need for engine idling or other redundant anti-idling systems.

<http://www.todaystrucking.com/printarticle.cfm?intDocID=21149>

4/27/2009

The Meritor hybrid drivetrain was developed in collaboration with Navistar and Cummins and is comprised of a proprietary motor/generator unit, high capacity lithium ion batteries, as well as the overall power-management system.

Other initiatives include:

- Fifteen trucks operating in Buckeye, Ariz. distribution center near Phoenix, will be converted to run on Reclaimed Grease Fuel, made with the waste brown cooking grease from Walmart stores. In addition, the remaining trucks located in the Buckeye distribution center will operate on an 80/20 blend of biodiesel made of reclaimed yellow waste grease.
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- Four Peterbilt Model 386 trucks and one yard truck, which operates only on the distribution center property, will operate on liquid natural gas. These trucks are part of a partnership with the Mojave Air Quality Management District and will operate out of the distribution center in Southern California.

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148-1

The commenter states that hybrid diesel trucks are used at the Wal-Mart's distribution center in Apple Valley, CA but no such requirement is included in the DEIR. This is not a comment about the adequacy of the DEIR. It shall be noted, nonetheless, that Mitigation Measure 4.2-2d includes the following requirement, where feasible:

- ▶ Purchase and operate electric or hybrid-powered yard tractors (e.g., Volk-brand tractors) to serve as "yard trucks" that move trailers to and from the trailer yard and loading docks.

Impact 4.2-2 in the DEIR discusses operational emissions, including emissions from on-site yard trucks and long-haul truck trips. Mitigation Measures 4.2-2a, 4.2-2b, 4.2-2c, and 4.2-2e will ensure that operational emissions would be reduced to a less-than-significant level, as discussed on pages 4.2-41 and 4.2-22 of the DEIR.

Espinosa, Kim

From: John Carlisle [jbc76@sbcglobal.net]
Sent: Monday, March 16, 2009 1:31 AM
To: Espinosa, Kim; Davidson, Dana; Bramble, John
Subject: Fw: Emailing: pesgm2008p-000334.pdf



pesgm2008p-000334.pdf

Good morning!

I'm not sure if this was sent to the City or other City Council members, so I am passing it on for the WMDC record (Dana) and for information only.
John Carlisle

--- On Mon, 3/16/09, R John Meyer <rjmeyer@vtlnet.com> wrote:

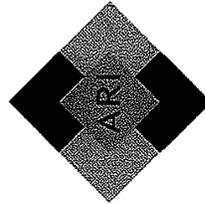
> From: R John Meyer <rjmeyer@vtlnet.com>
> Subject: Emailing: pesgm2008p-000334.pdf
> To: rjmeyer@vtlnet.com
> Date: Monday, March 16, 2009, 1:02 AM
> Supervisors,
>
> Because WalMart has been developing a micro-grid (electric
> power) they
> project an essential commodity & need for this county -
> more electric power.
>
> Suggest a review of the attached briefing; it notes WalMart
> has established
> their initial entry point into the electric grid - located
> in Aurora, CO.
>
> Will the proposed WalMart distribution center under
> consideration for this
> area become another link into the micro-grid? What does
> WalMart have to say
> about this?
>
> Respectfully submitted,
>
> John Meyer
> Agri-tourist Promoter
>
>
>
> E-mail message checked by Spyware Doctor (6.0.0.386)
> Database version: 5.11960
> <http://www.pctools.com/en/spyware-doctor-antivirus/>

149-1



*A Framework for a Resilient &
Environment-Friendly Microgrid With
Demand-Side Participation*

23 July 2008



Prof. Saifur Rahman

Advanced Research Institute
Virginia Polytechnic Inst & State University, U.S.A.
www.ari.vt.edu

Challenges Facing the US Electric Power Industry

- Current US electric power generation capacity is 1,022 GW
- By 2030 it is expected to grow to about 1400 GW
- With retirements this means over 600 new 1,000 MW power plants
- Where would you put these?
- Where would you find the water to run these?

The Prospective Generation Capacity of China in 2020 and 2030-2050

- The total generation capacity of China in 2006 was 622 GW and the per capita value was 0.47kW
- The total generation capacity in 2020 is expected to be around 1,500 GW and the per capita generation capacity 1kW.
- In 2030-2050 timeframe, when per capita generation capacity reach will reach 1.5 kW, the total generation capacity is expected to be 2,400GW (1.6 Billion people the maximum in China).

Likely Scenario

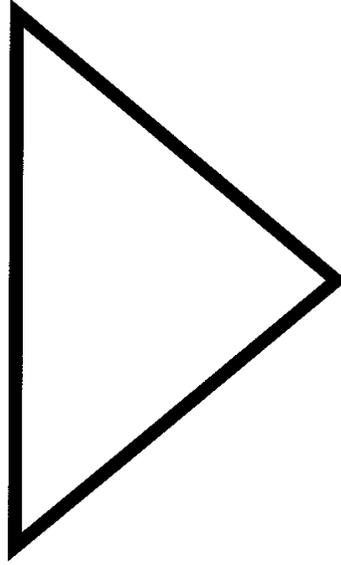
- Electricity supply mix away from fossil fuels with expanded development of wind, solar, biomass, geothermal, nuclear and energy from the oceans
 - Expanded focus on energy efficiency
 - Greater application of IT and communication technologies
 - Smart electric power grid
-

Challenges in Today's Grid

- The grid is aging, developed in 1950s or earlier.
- Recent changes in the electricity sector, such as deregulation, may be adding to the security problem.
- The power grid is increasingly operating at its limit, facing shortcomings in capacity, reliability, security and power quality.
 - ⇒ Power interruptions and disturbances cost the US electricity consumer at least \$79 billion per year (LBL)
 - ⇒ The recent rolling blackout caused an estimated \$75 million in losses in Silicon Valley alone (NREL)

Evolving Philosophy in Power System Operation

Security **Reliability**



Efficiency

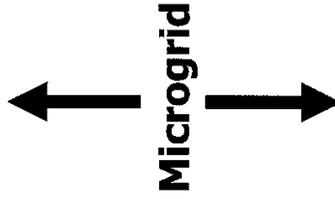
A Vision for the Smart Grid

- The following seven characteristics make the grid more resilient and distributed, more intelligent and more controllable than today's grid.
 - ⇨ Self-heals
 - ⇨ Motivates & includes the consumer
 - ⇨ Resists attack
 - ⇨ Provides power quality for 21st century needs
 - ⇨ Accommodates all generation and storage options
 - ⇨ Enables markets
 - ⇨ Optimizes assets and operate efficiently

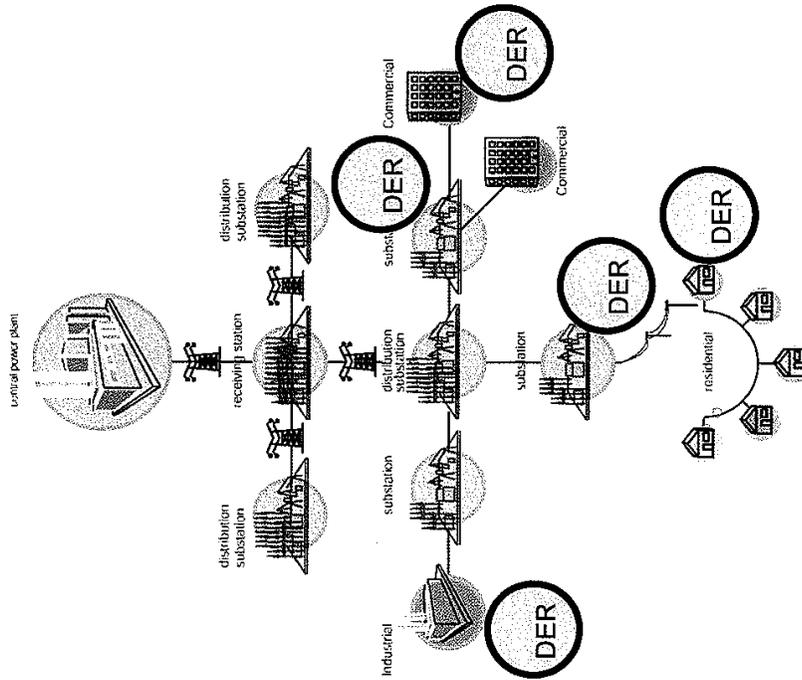
Source: the NREL Modern Grid Initiative

Definition & Building Blocks of a Smart Grid

- A smart grid uses advanced sensing, communication and control strategies to generate and distribute electricity more effectively, economically and securely.
- Technologies of a smart grid:
 - ⇨ Distributed Energy Resources (DERs)
 - ⇨ Demand-side participation
 - ⇨ Integrated communications
 - ⇨ Decision support units



The Microgrid as a Building Block of a Smart Grid

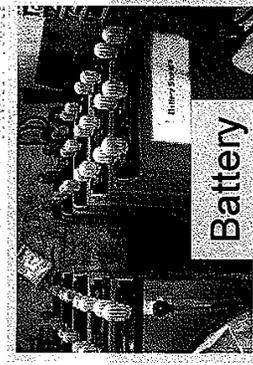
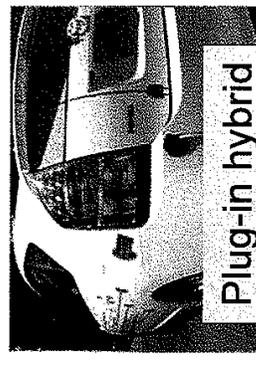
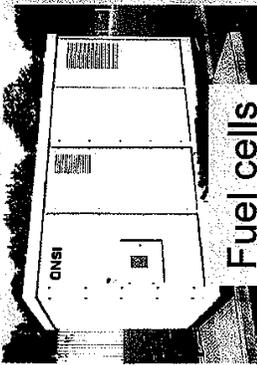
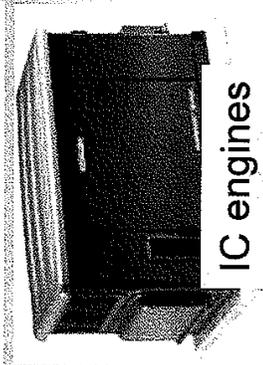
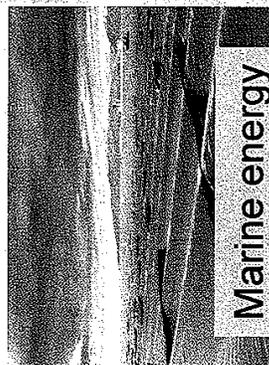
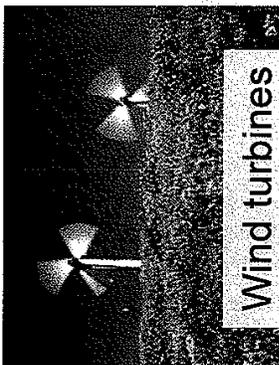
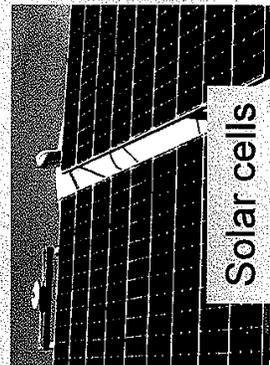


A microgrid is an islandable part of a power delivery system that:

- Serves one or more consumers
- Incorporates DERs and/or includes one or more points of connection to a large power system
- May range in size from a city block to a small city

Source: California Distributed Energy Resource Guide (picture - left)
EPRI - Electricity Technology Roadmap: 2003 Summary & Synthesis (MG definition)

1. Generation Candidates for a Microgrid: Renewable & Non-Renewable DERs

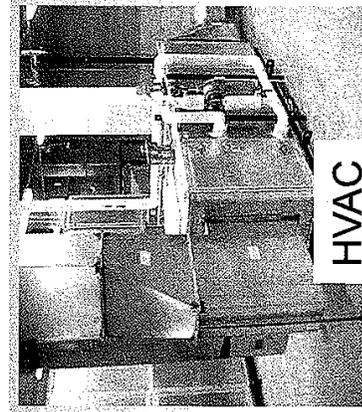
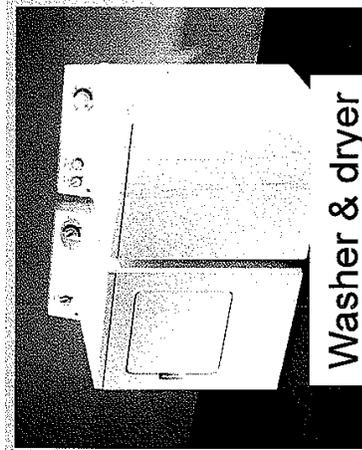


2. Demand Aspects of a Microgrid: Consumer Participation and Demand Response

- In a smart grid, the consumer will be an integral part of the grid.
- The following consumer portals offer demand response, real-time pricing, outage detection, remote connect/disconnect and improved customer information.

⇒ Smart appliances

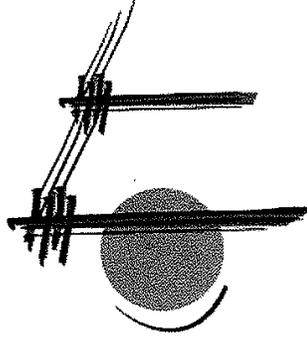
⇒ Intelligent circuit breakers



3. Communication Aspects of a Microgrid: Integrated Communications

■ There are a variety of communication media in use in the electric power system.

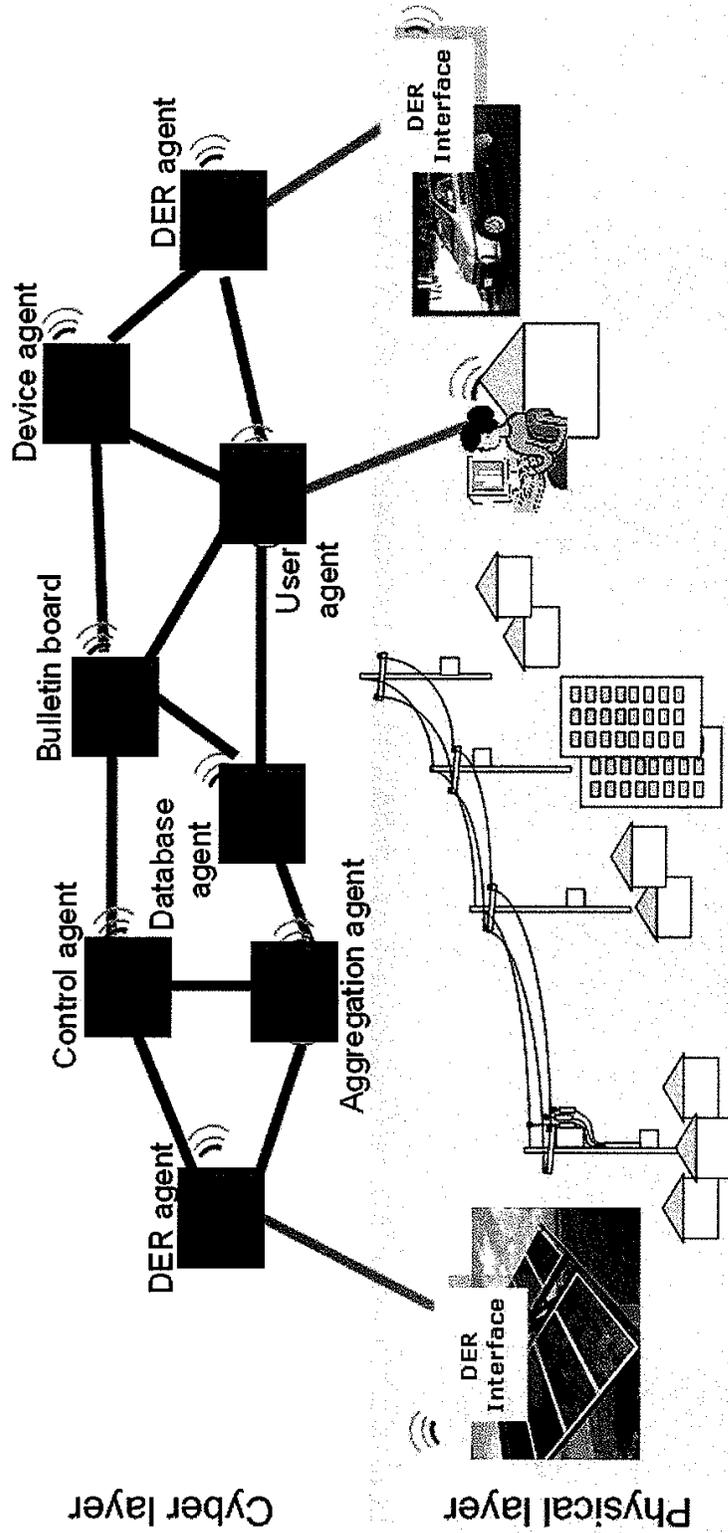
- ⇒ Power line carrier
- ⇒ Broadband over power line
- ⇒ LAN/WAN/Internet
- ⇒ Wireless radio system
- ⇒ WiFi 802.11b (range a few 100 meters; speed 5-10 Mbps)
- ⇒ WiMAX 802.16 (range 10-30 miles; speed 75 Mbps)
- ⇒ ZigBee/IEEE 802.15.4 (for automated metering system)



4. Control of a Microgrid

- Key technologies may include:
 - Sensing, metering and measurement
 - ⇨ Wireless & intelligent sensors (including AMR/AMI)
 - Advanced control method
 - ⇨ Agent and multi-agent systems
 - ⇨ Substation automation
 - ⇨ Distribution automation
 - Decision support and human interfaces
 - ⇨ Visualization tools
-

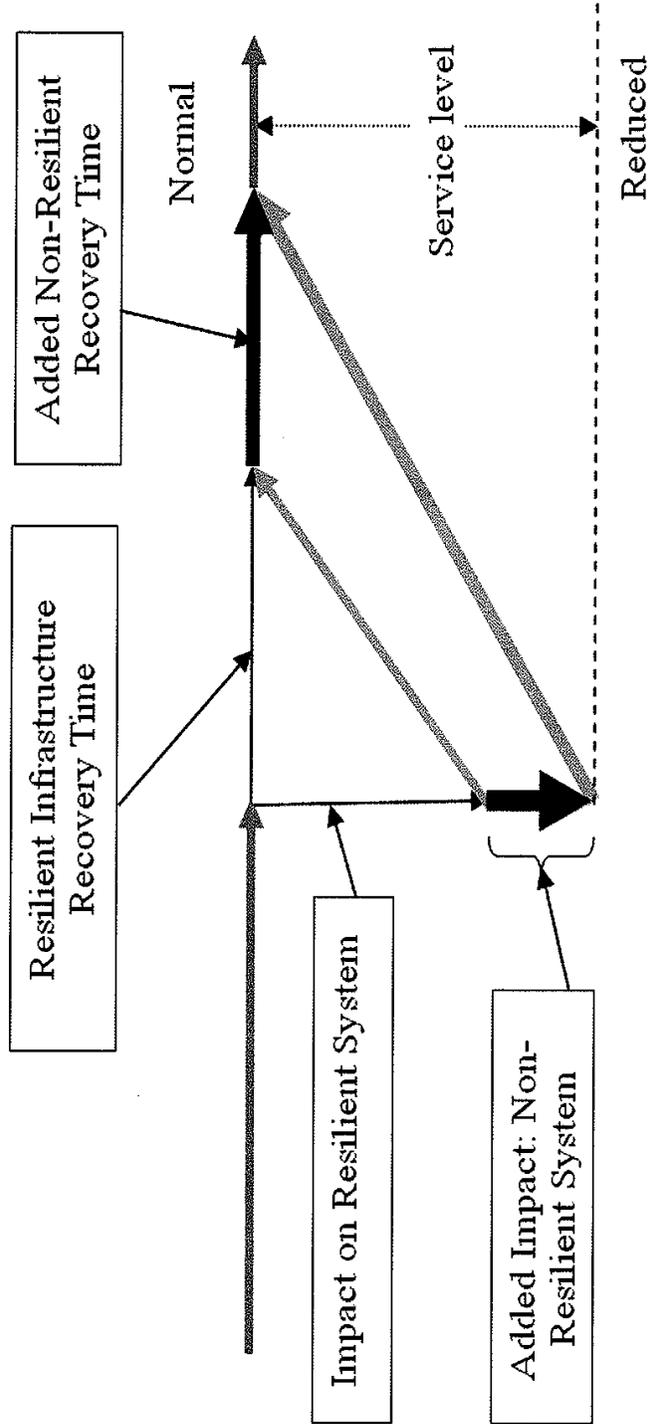
Microgrid Physical and Cyber Layers



Resilience as a Key Component

Resilience refers to the capacity of the infrastructure, service and social systems potentially exposed to hazards from technical, natural or intentional events to adapt either by resisting system degradation or by readily restoring and maintaining acceptable levels of functionality, structure and service following an event.

Resilience and Service Restoration Graphic



“Resilient physical and social systems must be robust, redundant, resourceful, and capable of rapid response”

Resilience and 4 Qualities

Resilience for both physical and social systems can be conceptualized as having 4 infrastructural qualities:

- Robustness
- Redundancy
- Resourcefulness
- Rapidity

Source: Bruneau, M., S. Chang, R. Eguchi, G. Lee, T. O'Rourke, A. Reinhorn, M. Shinozuka, K. Tierney, W. Wallace, 17 and D. von Winterfeldt. 2003. A framework to quantitatively assess and enhance the seismic resilience of communities. *Earthquake Spectra* 19(4): 733-752.

Potential Contributors to a Microgrid

Walmart – a Practitioner of the Microgrid

Concept in Commercial Facilities

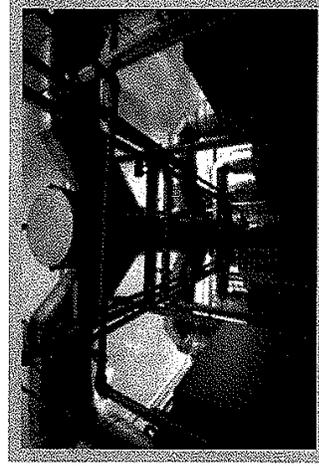
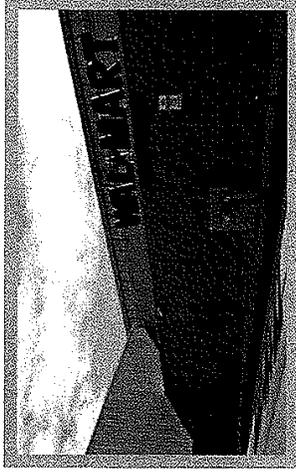
Location: Walmart - Aurora, Colorado

Commissioned: Nov 2005

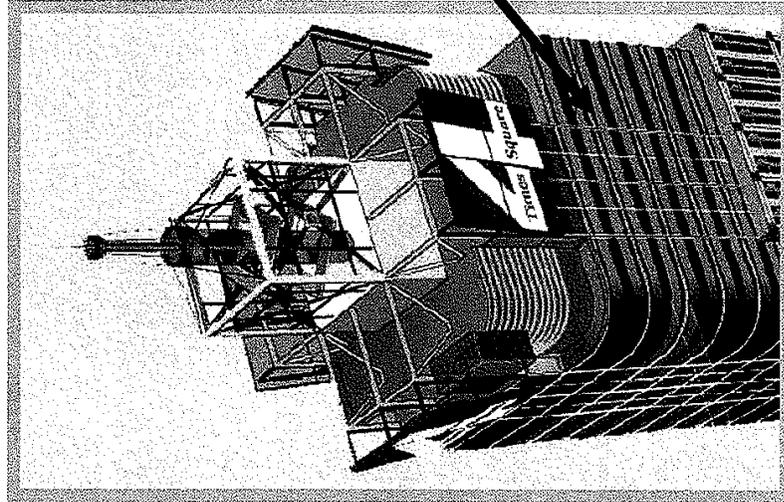
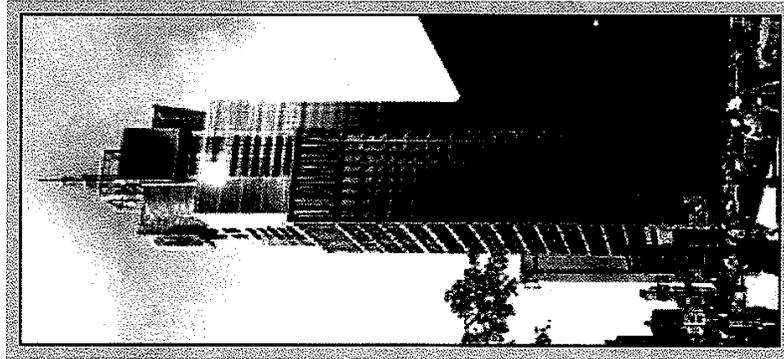
System: PureComfort Model 360M
6 x 60kW microturbines & a double-effect absorption chiller
(Microturbine co-generation)

Output: Cooling (185 RT)
Thermal (1.3 MMBTUs)
Electrical 292kW

Efficiency: 80% (total system eff)



Building for the 21st Century



Building:

4 Times Square, NY

Key features:

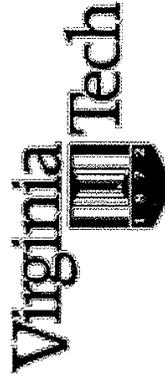
- 2 x 200k W fuel cells (4th floor)
- 15 kW building integrated PV panels (top 19th floors)
- Natural-gas powered absorption chillers /heaters (roof)

Thank you for your attention

Saifur Rahman

srahman@vt.edu

Professor and Director

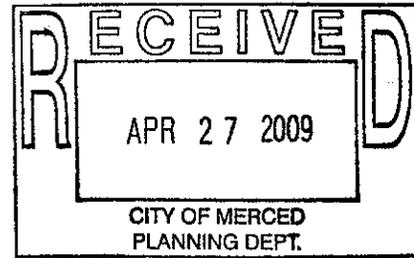


Virginia Tech - Advanced Research Institute (VT-ARI)
4300 Wilson Blvd Ste 750, Arlington, VA
www.ari.vt.edu

149-1

The commenter asks if the proposed distribution center would become “another link into the micro-grid.” Although the commenter attached a presentation related to energy demand, which includes some discussion of micro-grids, the commenter is unclear how the project could become such a link, or what kind of environmental effects relate to micro-grids. Section 4.12 of the DEIR “Utilities and Public Services” addresses impacts related to the energy supply. For additional information, please see Response to Comment 121B-1. Because the commenter raises no specific environmental concerns with respect to micro-grids, no additional response can be provided.

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April 27, 2009

Kim Espinosa, Planning Manager
City of Merced
678 W. 18th Street
Merced, CA 95340

Dear Ms. Espinosa,

Following are my comments regarding the proposed Wal-Mart Distribution Center in Merced.

1. Location. Although the proposed site is zoned for industrial uses, it is sheer folly to locate a trucking/logistics facility here. The residences, both existing and planned, and the several schools in the vicinity should rule out consideration of an industry that would clog the area with hundreds of trucks throughout the day and night, every day of the year. There will be noise, air pollution, traffic congestion, and all-night lighting, features which are totally incompatible with current lands uses in the area. Please work to find industries that would be more likely to enhance the environment and the human activities in this part of Merced.

150-1

2. Cumulative Impacts. The Draft EIR notes in several places that the proposed distribution center will serve 49 Wal-Mart stores in the region, all of which are currently served by distribution centers in other parts of California. If this is the case, then why do we need to build this new center in Merced? Isn't it more probable that Wal-Mart plans to expand its operations in the state, perhaps with as many as 40 additional stores and super centers? Such an expansion would understandably require a new distribution center in order to adequately serve the increased network of retail facilities in California. Why wasn't this likely expansion addressed in the EIR? One reason may be the occurrence of cumulative impacts which would accompany the opening of new Wal-Mart stores. These would have to be analyzed and mitigated.

150-2

What will happen if the number of stores eventually served by the proposed distribution center exceeds 49? Aren't there planned super centers up and down the valley, probably including Merced? Would there be new data to analyze and a revised EIR circulated? It does seem disingenuous to act like Wal-Mart's presence in this fast-growing part of California will simply stagnate.

3. Aesthetics. The new symbol of Merced is the University of California's tenth campus located here, complete with a freeway interchange and a parkway that will provide direct

150-1

and easy access to the UC site. Are we now going to plant at this gateway a 1.1 million square-foot warehouse, with 900 trucks coming and going each day? How will the Mission Interchange and the Campus Parkway accommodate these trucks and also the traffic that will serve a campus of 25,000 and a university community of 30,000? Which should be the emblem of the City of Merced, a major research university or a noisy, polluting warehouse facility?

150-3
Cont'd

Thank you for the opportunity to comment on the Draft EIR for this Wal-Mart project.

Yours truly,



Kara Middlebrooks
3425 Sueno Ct.
Merced, CA 95340

- 150-1 The comment suggests that the proposed project is not compatible with land uses in the vicinity, including existing and planned residences and schools. The suggested incompatibility is based on environmental issues, such as traffic, noise, air quality, and aesthetics (night lighting). The Draft EIR analyzes these environmental issues under sections 4.2 “Air Quality,” 4.8 “Noise,” 4.11 “Traffic and Transportation,” and 4.13-1 “Visual Resources.” The conclusions in the Draft EIR do not suggest a land use incompatibility, although the Draft EIR does identify several significant environmental impacts that cannot be reduced to a less-than-significant level (See Draft EIR Section 6.4 for more information regarding the unavoidable significant impacts). These significant environmental effects are not unique to industrial development and would not likely be avoided by placement of a different industry on the site (as recommended by the commenter), or other urban development of a similar scale. In addition, the project site was analyzed for industrial uses under the 1997 General Plan Update EIR. The comment does not raise issues with the adequacy of the Draft EIR.
- 150-2 The commenter questions why the new distribution center needs to be built in Merced, and why other potential new distribution centers and retail stores are not considered in the DEIR. The proposed project, a Wal-Mart regional distribution center, is the whole of the action that is under consideration, and is not a segmented part of a larger project. As described on page 3-4 of the DEIR, the project applicant conducted an extensive siting study that resulted in selection of the site for the proposed project. The site was selected for multiple reasons as described on pages 3-4 and 3-11 of the DEIR. Also see Master Response 12: Alternatives.
- As described on page 1-1 of the DEIR, Section 15378 of the CEQA Guidelines defines a “project” as the whole of an action, which has the potential to result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. The term “project” refers to the activity that is being considered for approval and that may be subject to several discretionary approvals by governmental agencies. As defined in Section 3.1, “Project Overview,” of the DEIR (see page 3-1), the proposed project is a regional distribution center located on 230 acres in the City of Merced. The City of Merced is the lead agency with primary authority for approval of the project.
- The commenter implies that Wal-Mart may potentially expand operations in California in the future, and propose new distribution centers and/or retail stores. Under CEQA, such new distribution centers or retail stores would be considered separate projects from the proposed project, and are not considered in the DEIR because proposed new distribution centers or retail stores are not reasonably foreseeable, and such projects are considered speculative. Furthermore, the commenter has not provided any evidence to demonstrate how development of the proposed project is linked to development of any other Wal-Mart project. Please see Master Response 1: Growth Inducement and Expansion for more information.
- The commenter also raises the issue of cumulative impacts. The project’s cumulative impacts were evaluated consistent with the requirements of CEQA in Chapter 6, “Cumulative and Growth Inducing Impacts,” of the DEIR. As described therein, the project’s cumulative impacts for a variety of environmental topic areas are analyzed (see page 6-2). The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided.

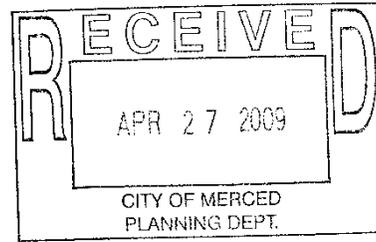
150-3

The commenter raises concerns about the aesthetic impact of the proposed project, as well as potential traffic impacts. Please see response to comment 58-2 regarding the project's aesthetic and visual impacts. The commenter does not offer any evidence on how the project would result in significant aesthetic impacts, and does not raise any issues with the environmental analysis provided in the DEIR; therefore, no further response can be provided. The comment is noted for consideration by the City during review and approval of the project.

Regarding the project's potential traffic impacts, please refer to response to comment 29-22. The commenter does not provide and specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided. Please also see Response to Comment 137-1.

April 19, 2009

Kim Espinosa
Merced Planning Division
678 West 18th St.
Merced, CA 95340



Ms. Espinosa:

After looking at Table 4.2-2 in the Merced Wal-Mart Distribution Center DEIR, two things stood out to me.

First, your data is old. I understand that you have been studying this proposed project for a number of years now, but your data is only current as of 2007? Why are you ignoring 2008? Why isn't 2008 data available?

151A-1

Merced has spent a lot of money on this project (TAXPAYER MONEY) so why does this draft report seem so out-of-date already?

151A-2

Second, your report evidently points out the PM_{2.5} matter released has declined between 2005-2007, but what is alarming is that your foot notes say you typically picked 6 days to collect this data. That is not sufficient enough, especially when you are talking about three schools and thousands of students/staff that will be impacted. You should spend more time studying this issue.

151A-3

Carlos G. Miramontes
Signature

CARLOS G. MIRAMONTES
Print Name

178 SWEETWATER AVE
Address

MERCED CA 95341
City, State Zip

726-9329
Phone Number

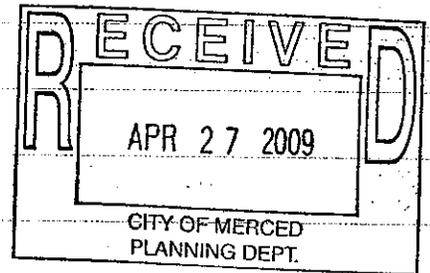
CARLOS G. MIRAMONTES

4-23-09

178 SWEETWATER AVE.

MERCED CA 95341

(209) 726-9329



A QUIEN CORRESPONDA:

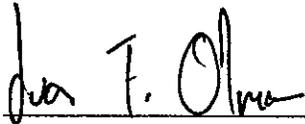
YO ESTOY EN DESACUERDO CON EL CENTRO DE DISTRIBUCION WAL MART. POR EL IMPACTO NEGATIVO QUE CAUSARA A MI FAMILIA EN SU SALUD.

MI ESPOSA PADECE YA DE DEFICIENCIA RESPIRATORIOS AL IGUAL QUE MI HIJO Y ALGUNOS NIETOS MIOS.

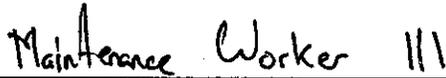
TENDRIAMOS QUE MOVERNOS DE CASA Y ESO ME TRAERIA MUCHOS PROBLEMAS

A handwritten signature in black ink, appearing to read "Carlos G. Miramontes".

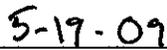
The attached comment letter regarding the Wal-Mart Distribution Center Draft Environmental Impact Report has been translated by:



Juan Olmos



Title



Date

English Transcription:

LETTER 14 (Corresponds with LETTER #151B)

CARLOS G. MIRAMONTES
128 SWEETWATER AVE
MERCED CA 95341
(209) 726-9329

4-23-09

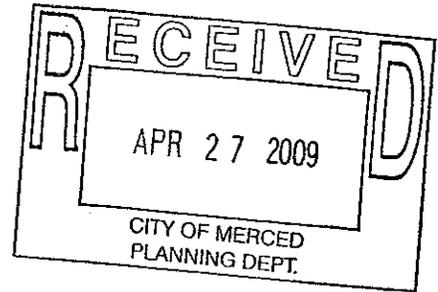
To Whom It May Concern:

I am in disagreement with the Wal-Mart distribution center by the negative impact that it will have in my family's health.
Mi wife already has respiratory deficiency just like my son and some of my grand kids.
We will have to move of house and that will bring many problems.

151B-1

2 de Abril de 2009

Kim Espinosa
Merced Department of Planning
City of Merced
678 West 18th Street
Merced, CA 95340



Ms. Espinosa,

Estoy decepcionado para aprender que el estudio del centro de distribución está sólo disponible en una idioma. Merced hace un trabajo bueno de traducir los materiales que contienen la importante información pública. ¿Por lo menos podría usted hacer un sumario de los resultados del reporte en otras idiomas? Siento que animaría a más personas a estar implicadas en el proceso y la discusión. ¿Por qué no querría usted tener la participación de todas las comunidades en Merced?

Por favor incluye estos comentarios en el final reporte del EIR.

Sinceramente,

CARLOS MIRAMONTES

Nombre

178 SWEETWATER AVE

Dirección

MERCED CA 95341

Código Postal

Carlos G. Miramontes

Fecha

The attached comment letter regarding the Wal-Mart Distribution Center Draft Environmental Impact Report has been translated by:

Juan F. Olmos

Juan Olmos

Maintenance Worker III

Title

5-19-09

Date

English Transcription:

LETTER 15 (Corresponds with LETTER #151C)

April 2, 2009

Kim Espinosa
Merced Planning Department
City of Merced
678 West 18th Street
Merced CA 95340

Ms. Espinosa,

I am disappointed to learn that the study of the distribution center its only available in one language. Merced does a good job translating the materials that have important public information. At least could you make a summary of the results of the report in other languages? I feel the will encourage more persons to be involved in the process and the arguments. Why would not you have the participation of all the communities in Merced?

151C-1

Please include these comments in the EIR final report.

Sincerely,

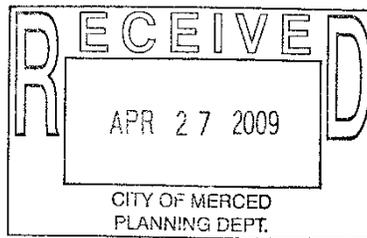
Carlos Miramontes
178 Sweetwater Ave
Merced CA 95341

**Letter
151A-C
Response**

Carlos G. Miramontes
➤ 151A–April 19, 2009 ➤ 151B–April 23, 2009
➤ 151C–April 2, 2009

- 151A-1 The commenter asserts that the data in the air quality analysis from 2007 is old. This is interpreted to apply to the ambient air quality monitoring data presented in Table 4.2-2 on page 4.2-7 of the DEIR. At the time of writing, 2007 data was the most recent data available. Since the time the DEIR was released, 2008 data has become available and is presented in Section 4.4 of the FEIR. However, the availability of 2008 data does not affect the air quality analysis in the DEIR or any of the impact conclusions presented therein.
- 151A-2 The comment does not raise issues with the adequacy of the DEIR. The comment is noted.
- 151A-3 This comment appears to misunderstand footnote 2 of Table 4.2-2 on page 4.2-7 of the DEIR. ARB collects air quality measurements every six days, and extrapolates the data in order to calculate the estimated number of air quality violations that would occur as though measurements were recorded every day. This is ARB’s standard way of measuring ambient air quality data on which attainment designations for criteria air pollutants are based. These measurements were not recorded specifically for this project, but, rather, this existing data set was used to characterize the ambient air quality in the project area, because it is considered representative of the project area.
- 151B-1 The commenter indicates disagreement with the perceived negative impact to health. The DEIR addresses impacts related to air quality in Section 4.2. The commenter does not raise issues with the adequacy of the DEIR.
- 151C-1 This comment raises issues related to language barrier and translation of CEQA documents. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



RE: Wal-Mart Distribution Center DEIR

Dear Kim Espinosa,

The DEIR says that the big equipment that will be used during construction is not known but likely to include, "excavators, graders, scrapers, loaders, backhoes, haul trucks, and cranes." This is a very critical issue that should be addressed with more detail in the EIR. Wal-Mart understands the scope of this project, so it should have exact estimates from previous distribution projects completed. Knowing the exact number of these vehicles is critical in calculating noises and pollutants that will be generated during construction.

152-1

Regards,

Rebecca B. Montes

Name

178 Sweetwater Ave.

Address

Merced, CA, 95341

City, State, Zip

[Signature]

Signature

04/19/09

Date

152-1

Please see response to comments 30-D and 108-1. Information on detailed modeling input parameters, including the SJVAPCD-Recommended Construction Fleet spreadsheet is included in Appendix C to the DEIR, as stated on Page 4.2-29. The analysis of construction-generated GHG and other emissions is based on the best available information at the time of the analysis. This is an evolving issue, and will continue to evolve substantially as air districts establish methods and thresholds.

Espinosa, Kim

From: clint.moore@ubs.com
Sent: Thursday, April 16, 2009 3:08 PM
To: Espinosa, Kim

Hello City of Merced

I just want to write and say I am 100% in favor of the Walmart Distribution Center being built in Merced. It will be a perfect place for many in Merced to work and in the future many UC students may find an employer with 3 round the clock shifts a place that allows them to work when they do not have school. WalMart is an excellent employer and will be around for a long many years. We should encourage them to locate here with as many incentives as are available to us. We also should not waste any more time in approving them so they don't find another place to locate. Please grant WalMart permission to come to Merced as soon as possible.

Clinton Moore
1255 W. 21st St.
Merced, Ca. 95340

153-1

Please do not transmit orders or instructions regarding a UBS account electronically, including but not limited to e-mail, fax, text or instant messaging. The information provided in this e-mail or any attachments is not an official transaction confirmation or account statement. For your protection, do not include account numbers, Social Security numbers, credit card numbers, passwords or other non-public information in your e-mail. Because the information contained in this message may be privileged, confidential, proprietary or otherwise protected from disclosure, please notify us immediately by replying to this message and deleting it from your computer if you have received this communication in error. Thank you.

UBS Financial Services Inc.

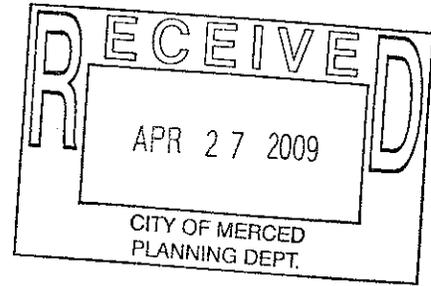
UBS International Inc.

UBS Financial Services Incorporated of Puerto Rico

153-1

The comment addresses the merits of the proposed project and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

Kim Espinoza
Merced Department of Planning
City of Merced
678 West 18th Street
Merced, CA 95340



Ms. Espinoza,

I am writing to tell the city that I've had enough of the city leaving minorities out of the public process. The Wal-Mart distribution center study is so important to the future of this community in terms of what might happen with jobs, traffic and the environment, and I can't believe there is nothing available in Spanish to help people understand what this center will do.

154-1

If I can vote in Spanish, why can't I get a copy of the most important project in Merced's history translated into Spanish? Wal-Mart should pay for a translation so we aren't shut out of the discussion.

LADONNA S. MOORE
878 CAROL AVE
MERCED, CA 95341

Ladonna S Moore

**Letter
154
Response**

LaDonna S. Moore
Undated

154-1

This comment raises issues related to language barrier and translation of CEQA documents. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.

Espinosa, Kim

From: Bingaman, Jamie
Sent: Wednesday, March 11, 2009 1:49 PM
To: Espinosa, Kim
Subject: For the Wal-Mart Record (voicemail messages)

Summary of Messages:

#1--From Mr. Munde (726-9329) Requested at least 6 months to review the Wal-mart Project; 60 days was not enough | 155-1

✓ #2--From Chuck Morgan (380 Brookdale Dr, Merced, 722-1919) He received a yellow flyer from SWAT and asked the Council to represent the people and vote for the Wal-Mart project for the jobs it would bring. | 155-2
--Kim



FW: Message from an unidentifi... FW: Message from an unidentifi...

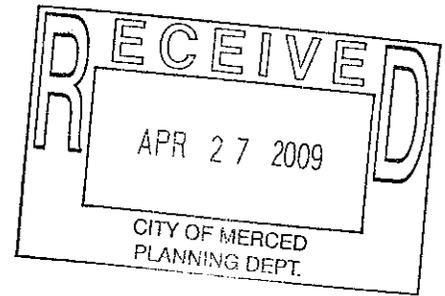
**Letter
155
Response**

Mr. Munde
Chuck Morgan
Phone Message

- 155-1 This phone message raises issues related to adequacy of the public review period of the Draft EIR. The City required written comments be submitted and is not required to respond to voice messages. However, the following response is provided: please refer to Master Response 2: Language Barrier and Public Review Period, which addresses this issue.
- 155-2 The phone message addresses the merits of the proposed project and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. It should be noted that the City required written comments be submitted and is not required to respond to voice messages. The comment is noted.

April 14, 2009

Ms. Kim Espinosa
Merced Planning Department
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa:

UC Merced has a reputation of being a leader on green technology engineering and that is something Merced residents can be very proud of. I see this Wal-Mart distribution center project as being a great opportunity to build a truly green building with as little a carbon foot print as possible. Why don't we require that Wal-Mart that build this project to LEED platinum certification.

156-1

The report acknowledges the significant impacts on air quality and pollution this distribution center will bring, so it only makes sense that the City make Wal-Mart do all it can to minimize these impacts. I'd like to see the environmental impact report address LEED standards as a viable alternative.

156-2

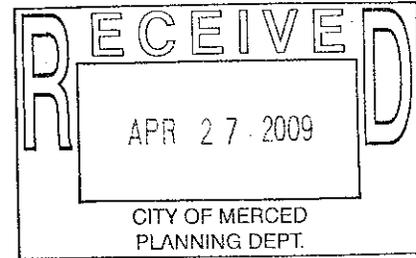
Thank you for your consideration of my comments.

Thomas J. Alvarez
469 Hydrogen St
Merced, CA 95341

- 156-1 The commenter recommends the proposed project be LEED Platinum certified. Mitigation measures proposed for impacts 4.2-2 and 4.2-6 contain many energy efficiency and emissions reduction components similar to the types of criteria used in LEED certification. However, it would be financially prohibitive to construct the project to meet LEED Platinum certification requirements, and would make this suggestion economically infeasible. In addition, Mitigation Measures 4.2-2a through 4.2-2e would reduce Impact 4.2-2 to a less-than-significant level.
- 156-2 The commenter recommends the proposed project be LEED Platinum certified. Mitigation measures proposed for impacts 4.2-2 and 4.2-6 contain many energy efficiency and emissions reduction components similar to the types of criteria used in LEED certification. However, it would be financially prohibitive to construct the project to meet LEED Platinum certification requirements, and would make this suggestion economically infeasible. In addition, Mitigation Measures 4.2-2a through 4.2-2e would reduce Impact 4.2-2 to a less-than-significant level.

April 1, 2009

Ms. Kim Espinosa
Planning Director
Planning Division, City of Merced
678 West 18th Street
Merced, CA 95340



Reading your assessment of what an “odor” means in the environmental impact report for the Wal-Mart distribution center, it’s so reassuring that you report there is “no discrete source of odor in the vicinity of the project site.” There are no repugnant smells in the Merced air.

Do you leave your office at all? Do you venture outdoors? As a commuter who travels from Merced to the Southside of the Bay Area, there is a noticeable smell between both regions.

I also appreciate your “1-day site visit” to the area where the distribution center will be built. Here is a suggestion. Travel up to Red Bluff or Porterville and stand outside their Wal-Mart distribution centers. Maybe take some Toxic Air Contaminant samples while you are at it.

Let us know what you find. Thank you.

Theresa S. Mull
702 Round Hill Rd
Merced, CA 95348

157-1

**Letter
157
Response**

XXXXX L. Mull
April 1, 2009

157-1

Please refer to Comment 86-1 regarding odors. The comment does not raise issues with the adequacy of the DEIR. The comment is noted. Please refer to Comments 86-2 regarding the ideal of collecting TAC samples on the project site.

Espinosa, Kim

From: Bingaman, Jamie
Sent: Wednesday, March 11, 2009 1:49 PM
To: Espinosa, Kim
Subject: For the Wal-Mart Record (voicemail messages)

Summary of Messages:

- √ #1--From Mr. Munde (726-9329)
Requested at least 6 months to review the Wal-mart Project; 60 days was not enough | 158-1

- #2--From Chuck Morgan (380 Brookdale Dr, Merced, 722-1919)
He received a yellow flyer from SWAT and asked the Council to represent the people and vote for the
Wal-Mart project for the jobs it would bring. | 158-2
--Kim

 
FW: Message from an unidenti... FW: Message from an unidenti...

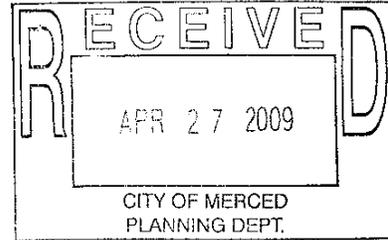
**Letter
158
Response**

Mr. Munde
Chuck Morgan
Phone Message

- 158-1 This letter is a duplicate of Letter 155. See Response to Comment 155-1.
- 158-2 This letter is a duplicate of Letter 155. See Response to Comment 155-2.

Kim Espinoza, Planning Manager

**City of Merced Planning Department
678 West 18th Street
Merced, CA 95340**



Ms. Espinoza:

I'm shocked that your EIR consultant did not study urban decay. The notion that since this is not a store there doesn't need to be an examination or explanation of the urban decay impacts is completely not fair. Urban decay is a phenomenon of growth in general, not just retail growth. Think about it: If somebody placed a few hundred acre industrial project responsible for 900 big rigs trucks every day, do you think the value of your property would do anything but drop?

When I see that your consultants have opted to skip doing an urban decay section altogether I lose faith that you are doing all you can to protect this community from the impacts of industrialization.

I urge you to study urban decay as it relates to the distribution center. Approving the project without a comprehensive urban decay study is a critical mistake that we as residents will have to endure.

159-1

Maria Munguia
Maria Munguia

159-1

The commenter indicates that the DEIR does not evaluate urban decay impacts and expresses concern related to decrease in property values resulting from project-related increase in truck traffic. Project effects on property values alone do not constitute environmental impacts and therefore are not required to be analyzed under CEQA. However, urban decay resulting from such socioeconomic effects may be considered an impact to the environment. Please see Master Response 11: Economics and Urban Decay, which addresses this issue.

Espinosa, Kim

From: Ed Murphy [edmurphy1954@yahoo.com]
Sent: Friday, April 03, 2009 6:31 PM
To: Espinosa, Kim
Subject: Walmart

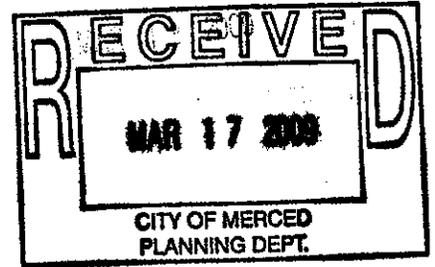
We need lets let them build it.
Ed Murphy

| 160-1

160-1

The comment addresses the merits of the proposed project, recommends approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

March 11, 2009



Merced City Council
Merced, CA

Ladies and Gentlemen of the Council:

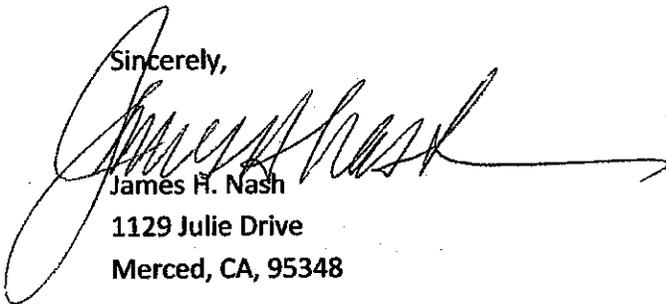
My family and I are very much in favor of the Wal-Mart Distribution center coming to Merced. What prompted me to write this, my first letter to the Council, was receiving a letter from the Action Team that is trying and spending hard to stop it. I think that is a ridiculous position for them to take and I am amazed at their fervor. I imagine you are being bombarded by them.

Their arguments are, to me, weak. This business about the air is a non-issue; those trucks will be rolling up and down the highways no matter where the center is built. So why not get the income the project will provide us and not let it go to Madera or Stanislaus and lose out.

Well, we hope you can hold up and vote the project in as soon as possible; we can't afford for them to become restless and go somewhere else – there are other sites that are available to them.

This project is in a perfect location with the proper zoning and the right amount of acreage. We have that big new interchange to safely accommodate their trucks. We need the income they will bring; by that I mean jobs and paychecks, but also taxes and income to the county itself. To me this is a wonderful opportunity that has been placed right in our laps. We must take advantage of this prize.

Sincerely,



James H. Nash
1129 Julie Drive
Merced, CA, 95348

161-1

**Letter
161
Response**

Maes H. Nash
March 13, 2009

161-1

The comment addresses the merits of the proposed project, recommends approval, and dismisses environmental issues. The comment does not raise any issues regarding the adequacy of the Draft EIR. The comment is noted.

Espinosa, Kim

From: Ernie Ochoa [Eochoa@c21mm.com]
Sent: Wednesday, March 25, 2009 6:52 PM
To: Espinosa, Kim
Subject: Wal-Mart Distribution Center

***I'm all for JOBS in Merced.....PLEASE APPROVE THIS DISTRIBUTION CENTER!
THANKS!***

162-1

***Ernie Ochoa
Realtor
Century 21 M&M and Associates
Merced and Livingston Offices
209-386-1140 office/cell
209-356-3107 fax
www.erniechoa.com***

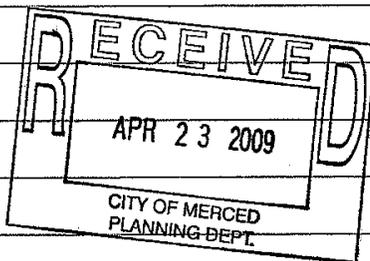
PS.. Oh, by the way, if you know someone who would appreciate my services, please call me with their name and number and I will be happy to help them or just pass my name along.

162-1

The comment addresses the merits of the proposed project and recommends approval. The comment does not raise any issues regarding the adequacy of the Draft EIR. The comment is noted.

April 20, 2009

Him Espinoza
Merced City
678 W. 18th St.
Merced, Ca 95340



Re: DEIR Walmart Distribution Center

I am writing to request more study of environmental impacts to not only the schools and people residing in the near vicinity of the proposed projects, but also the impacts to the community, county and state.

As a farmer in Merced County, I am directly impacted by the ever increasing number of trucks parked along country roads and on/off ramps of freeways.

This is a safety issue and economical issue.

Our roads are not well maintained now.

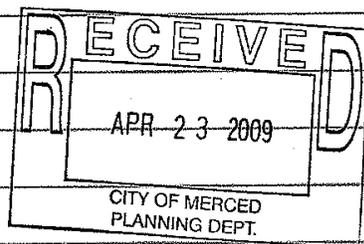
As reported in the Merced County General Plan Update now being studied, one loaded large truck impact on roads is equal to 9,300 cars!

A quantitative and qualitative study

163-1

should be made of impacts of parked trucks in Merced County, and for that matter, the entire Central Valley. Safety and economic costs need more study. Health issues caused by poor air quality is another personal concern I have. The cumulative effects of more trucks must be considered, especially those trucks which are older and more polluting. A study of how many independent trucks and Walmart trucks will be allowed for this project, and also are now being used in other Walmart Distribution Centers in California, should be finalized. Thank you for the opportunity to respond.

Jean Okune
10181 W. Olive
Livingston, Ca 95334
(209) 394-2421



163-1
Cont'd

163-2

163-3

**Letter
163
Response**

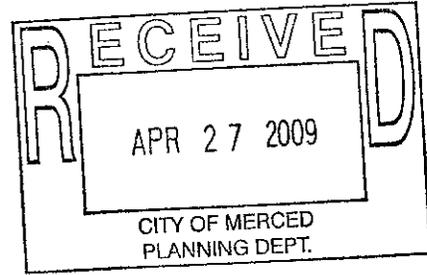
Jean Okuye
April 20, 2009

- 163-1 The commenter raises issues related to parked trucks. Please refer the Master Response 6: Trucks and the Transportation Analysis regarding truck trips and analysis. The DEIR analyzed the potential impacts of trucks associated with the proposed project. The comment regarding trucks parked in Merced County and the entire Central Valley is noted.
- 163-2 The commenter expresses concern about health issues, including asthma, caused by poor air quality and emissions generated by trucks. Please refer to the Master Response 13 regarding the commenter's concern about project-generated emissions of air pollutants and the public health concerns (including asthma). Please refer to the response to comment 17-12, which discusses how the relative locations of nearby residences and schools were analyzed in the traffic analysis. The comment does not raise issues with the adequacy of the DEIR. The comment is noted.
- 163-3 The commenter suggests that a study should be performed to identify the number of Wal-Mart trucks versus other trucks. A study is not necessary. It is anticipated that 40% of the trucks associated with the proposed distribution center would be Wal-Mart trucks and the remainder would be other trucks. The comment does not raise issues regarding the adequacy of the DEIR. The comment is noted.

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April 17, 2009

Kim Espinosa, Project Director
Merced Department of Planning
678 West 18th Street
Merced, CA 95340



Ms. Espinosa,

One of the ways you are looking to mitigate Air Quality impacts is by allowing employees and their children who attend our nearby schools to vanpool together. While this is a nice idea, it's often impossible to coordinate the busy schedules of children and their parents. It's not realistic to expect these vanpools would be used all that often.

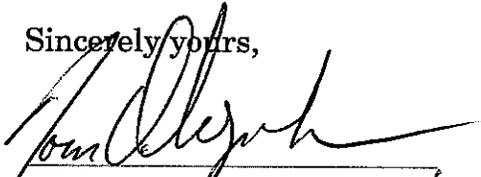
164-1

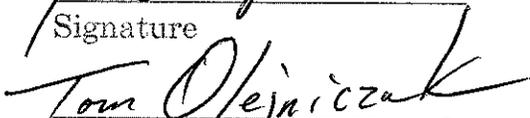
Also, will these vanpool drivers be required to undergo criminal background checks, especially because of their close proximity to children and schools?

164-2

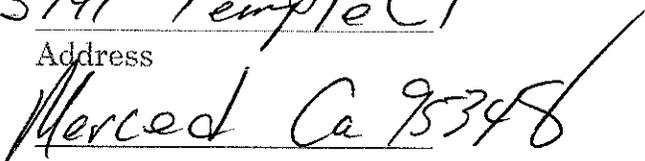
Thank you for considering my comments.

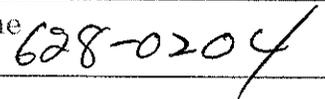
Sincerely yours,


Signature


Print Name


Address



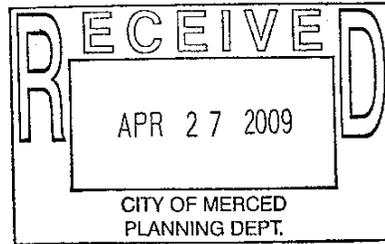
Phone 

**Letter
164
Response**

Tom Olejniczak
April 17, 2009

- 164-1 The commenter believes that one component of mitigation measure 4.2-2c (vanpooling) would be ineffective and would not be used by the employees. The commenter provides no reasoning to support this belief, however. This measure has been moved to the list of Additional Measures to Reduce Employee Commute Trips and Associated Mobile-source Emissions under Mitigation Measure 4.2-2b, which may be implemented if determined to be feasible by the City and the applicant.
- 164-2 The commenter would like to know if criminal background checks would be required of vanpool drivers. This is not specified in Mitigation Measure 4.2-2b in the DEIR because this would have no effect in mobile-source emissions. This is not an environmental issue and is therefore not required to be considered under CEQA.

kim Espinoza, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340



Ms. Espinoza,

I'm not at all pleased that the Wal-Mart Distribution Center EIR does not study the effect of the project on blight or urban decay.

Our neighborhood is a struggling middle class area plagued by foreclosure and dropping property values. Many of us are hoping that it won't be too many years before our neighborhood will rebound, but building an enormous industrial complex at the edge of this neighborhood will permanently doom our neighborhood a drive down property values even further – but this time it will be a guaranteed, permanent dive.

CEQA requires a study of blight or urban decay to determine how economic and growth issues can change a physical environment. This is not confined to looking at just stores.

The City of Merced will be responsible for allowing Wal-Mart to turn southeast Merced into a ghetto. Don't you think your EIR consultants should do live up to their responsibilities and draft a legitimate urban decay section instead of dismissing the issue simply because it isn't a retail store?

Warm regards,
Heather Oliver

Heather Oliver

2525 E. Gerard Ave.
Merced, CA 95341

165-1

165-1

The commenter indicates that the DEIR does not evaluate urban decay impacts and suggests that the CEQA requires such an analysis. Project effects on property values alone do not constitute environmental impacts and therefore are not required to be analyzed under CEQA. However, urban decay resulting from such socioeconomic effects may be considered an impact to the environment. Please see Master Response 11: Economics and Urban Decay, which addresses this issue.

Espinosa, Kim

From: Linda Olsen [linny47@sbcglobal.net]

Sent: Friday, April 17, 2009 10:36 PM

To: Espinosa, Kim

Subject: walmart distribution center

To: Planning Manager

My name is Kenneth W. Olsen and address is 898 Sonora Ave, Merced, Ca. 95340.

I am totally for the Wal-Mart Distribution Center and implore you to vote for it to be built in Merced. If not here, somewhere else down the road. Let's keep the tax dollars and the jobs here. | 166-1

Thank you

**Letter
166
Response**

Kenneth W. Olsen
April 17, 2009

166-1

The comment addresses the merits of the proposed project, recommends approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

Espinosa, Kim

From: Linda Olsen [linny47@sbcglobal.net]

Sent: Friday, April 17, 2009 10:34 PM

To: Espinosa, Kim

Subject: wal mart distribution center

To: Planning Manager

My name is Linda M. Olsen and address is 898 Sonora Ave, Merced, Ca. 95340.

I am totally for the Wal-Mart Distribution Center and implore you to vote for it to be built in Merced. If not here, somewhere else down the road. Let's keep the tax dollars and the jobs here. | 167-1

Thank you

**Letter
167
Response**

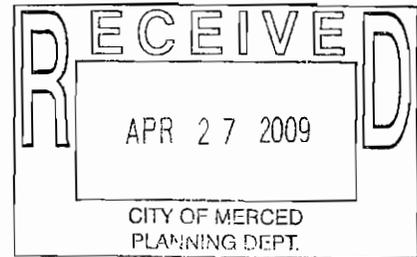
Linda M. Olsen
April 17, 2009

167-1

The comment addresses the merits of the proposed project, recommends approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

3/26/09

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa:

Truck traffic on Childs Ave and Gerard Ave should be restricted during the school day and the period immediately before and after school when children are present. Students and parents should not have to navigate to and from school while fighting distribution center traffic. If Wal-mart doesn't like it they should find another location far away from children.

168-1

Perhaps trucks traffic should be restricted at all times on Gerard and Childs. That way our children would be safe. A truck route could be created to and from the 99 which is far away from schools and homes.

Sincerely,

Signature

Claire Osborne

Print Name

162 W. 27th St.

Merced

Address

209-384-3209

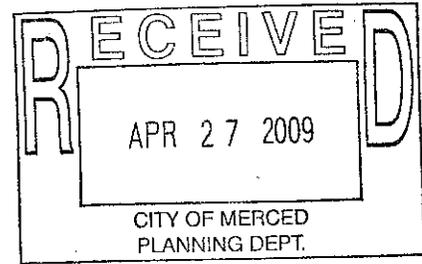
Phone

168-1

The commenter raises issues related to conflicts between school-related pedestrians/traffic and heavy truck traffic. The issue of truck trips near schools was analyzed in Section 4.11 of the DEIR and Mitigation Measures 4.11-2b and 4.11-4 specifically address the issue of trucks and schools. These mitigation measures reduce the impact to a less-than-significant level. Additional mitigation measures are not necessary. The comment does not raise issues regarding the adequacy of the DEIR. The comment is noted.

April 5, 2009

Ms. Kim Espinosa
Merced Planning Division
678 West 18th Street
Merced, CA 95340



Ms. Espinosa,

This project is going to worsen, and even exacerbate poor air quality. The city needs to find a more appropriate location for this facility. For heavens sake, there are thousands of acres of farm land in this county. Why are we considering constructing a major industrial complex near homes and schools?

169-1

169-2

Thank you for your consideration,



Signature

Josh Osborne

Print Name

162 W 27th St.

Address

Merced, CA

(209) 384-3209

Phone

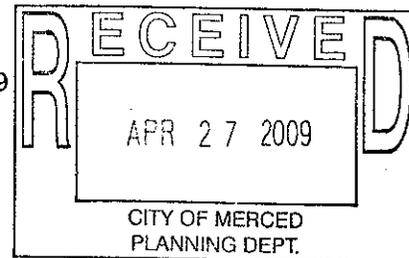
**Letter
169
Response**

Josh Osborne
April 5, 2009

- 169-1 Please refer to Master Response 13 regarding air quality-related public health concerns. The comment does not raise issues with the adequacy of the DEIR. The comment is noted.
- 169-2 The commenter suggests that the project be located on a more remote site to avoid impacts to neighborhoods. Please see Response to Comment 94-3, which addresses this issue. The comment does not raise issues with the adequacy of the DEIR. The commenter's question is noted.

Kim Espinosa,
Planning Manager
City of Merced
CA. 95340

27th April 2009



Dear Ms. Espinosa,

I write to you to inform you of my disappointment that Merced City and Merced County, by promoting the development and building of the Wal-Mart Distribution Center here in Merced City, will break local government, national government and international government laws prohibiting gross pollution of our countryside and urban/towns.

Examples:-

Local California Government - Vehicle pollution increases child asthma by 30%
<http://www.arb.ca.gov/newsrel/nr042309.htm>

National Government - Non-attainment PM2.5 pollution
<http://www.epa.gov/air/oaqps/greenbk/qnca.html#7381>

International Government - Article 25 (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family.....
<http://www.un.org/Overview/rights.html>

170-1

You are putting profit before health! All five members of my household:-

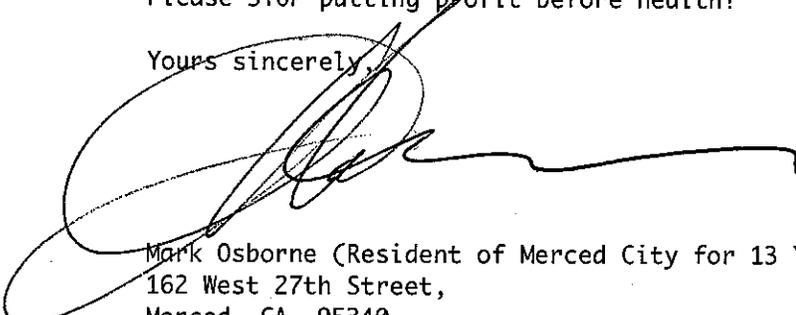
Mark Osborne Age 45
Claire Osborne Age 41
Josh Osborne Age 18
Toby Osborne Age 12
Hann Osborne Age 10

suffer from asthma, all five family members have proscripton drugs that attempt to control our asthmatic lives. Pollution is a direct provocateur of Asthma. It is a direct breach of my and my families human rights when some one else's actions, yours (that I have limited control over), effects my families health. The Wal-Mart Distribution Center will create unacceptable levels of pollution which will decrease the standard of health of my family.

I am against the development of the Wal-Mart Distribution Center.

Please STOP putting profit before health!

Yours sincerely,



Mark Osborne (Resident of Merced City for 13 Years)
162 West 27th Street,
Merced, CA. 95340
Tel: 209 384-3209

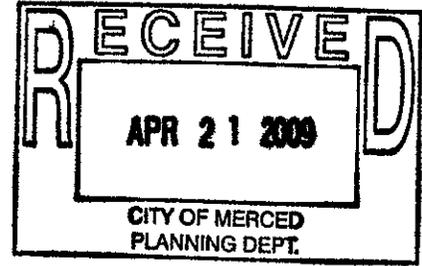
**Letter
170
Response**

Mark Osborne
April 27, 2009

170-1

Please refer to Master Response 13 regarding air quality-related public health concerns. The comment does not raise issues with the adequacy of the DEIR. The comment is noted.

To Merced City Manager, 209-725-8775
Re: My Comment for Wal-Mart Distribution Center



Name: GUANCHEN PAN
419 Azalea Ct
Merced, CA 95341
Email: mercedpan@gmail.com

The Wal-Mart Distribution Center is located on east side of Campus Parkway, most people in that area are living on west side of Campus Parkway. People always worry about trucks' pollution and noisy bother their life.

I have a solution here, the City and Wal-Mart work together to make a rule for NOT allowing Wal-Mart trucks are driven to west side of Campus Parkway. All trucks must go to Campus Parkway, then to Highway 99, even to the Wal-Mart on Olive Ave in Merced. This way limits truck pollution and noisy on Wal-Mart Distribution Center and its surrounding area only, reduces the impact to the environment.

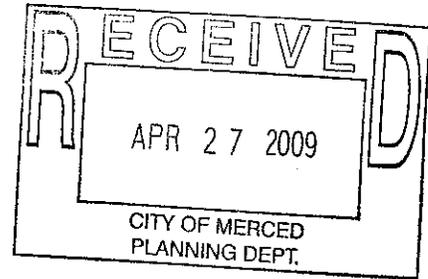
171-1

Thank you for your hard work for Merced residence.

171-1

The commenter suggests an alternate truck route. The designated truck routes for WalMart Distribution Center trucks, whether STAA routes or other routes approved by the City of Merced, would be defined as per Mitigation Measure 4-11-2b (a, b and c) as stated in the DEIR. If the routes under Mitigation Measure 4-11-2b (c) are not deemed appropriate by the City of Merced, then they wouldn't be included in the traffic safety assurance plan noted in Mitigation Measure 4-11-2b (a). No changes to the DEIR are necessary.

City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

The DEIR needs to provide a detailed plan regarding public transportation options for employees of the Wal-Mart Center. How will bus traffic, bikes and pedestrian walkways be incorporated into the project? This information will impact the schools traffic and kids nearby as well, and it should be publicly available as a part of this EIR.

172A-1

Thank you,

Oscar F. Pastana

A handwritten signature in cursive script, appearing to read "Oscar F. Pastana".

*2169 W. Little Sandy Dr.
Merced CA 95348
(209) 801-5499*

April 11, 2009

Kim Espinosa, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340



Dear Mrs. Espinosa,

My family is worried about the quality of life and health risks associated with living next to the Wal-Mart distribution center in Merced. It's very frustrating having to live somewhere where they want to build a 1.2 million square foot warehouse on 240 acres of land and want to build it by my house and my children's school (Weaver Elementary). If they build this warehouse my family will have health problems and will have to go to the doctor almost every week for medication refills for asthma. With an increase of medicine they will endure costly regular doctor visits as well. With the economy today, I will have to work extra hard to supply my family with the healthcare they would need on a regular basis.

172B-1

Not only will I be affected by this health cost to my family but I'm sure other families who live in Merced will have similar concerns. Here in the valley we are experiencing an increased number of asthma related cases among young children and I'm saddened to see this on a rise in Merced. I would like to see something else built in my neighborhood like a new school, healthcare facilities or even a shopping center. This is wrong for our community and we don't need Wal-Mart in our neighborhood.

Sincerely,

Oscar Pastrana
2169 W. Little Sandy Dr.
Merced CA 95343

Letter
172A-B
Response

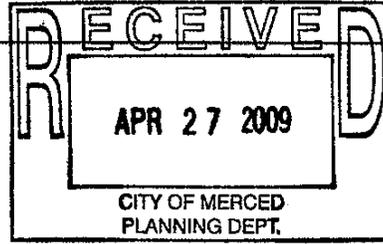
Oscar F. Pastrana
Oscar F. Pastrana
➤ 172A–Undated
➤ 172B–April 11, 2009

- 172A-1 The comment recommends that the DEIR include analysis of various transportation alternatives. To be conservative, the DEIR transportation analysis assumed a worst case scenario, in that employees would drive to the site and park. The assumptions regarding mode choice and potential affect to pedestrian, bicycle and transit operations are described in more detail on page 4.11-4 and in the Traffic Impact Analysis report in Appendix E of the DEIR.
- 172B-1 Please refer to Master Response 13 regarding air quality-related public health concerns. Please refer to the response to comment 16-8 which discusses how the schools were included in the HRA performed for the project. The comment does not raise issues with the adequacy of the DEIR. The comment is noted.

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Espinosa, Kim

From: Marilynne Pereira [marilynnep@gmail.com]
Sent: Monday, April 27, 2009 4:51 PM
To: Espinosa, Kim
Subject: Letter of Concern for the WMDC



City Planning Department

I am writing this letter with concern to your plan to build the Wal-Mart Distribution Center between Childs and Gerard Avenue in Southeast Merced. I think that your decision to locate the distribution center next to 2 new subdivisions and numerous single residential homes, not to mention 2 schools, is not very good planning. It may look good on paper, but in reality, the placement of the WMDC in this location will have ongoing negative impacts to the residents in this area, including myself. I know the proposed site was rezoned from ag land to heavy industrial many years back, and most new residents to that area have or had no idea what the almond trees would give way to when they purchased their home. Certainly the sales offices at these new subdivisions did not offer that information and some even gave wrong information about where the proposed site was going to be (like across the highway by the Save Mart DC.)

173A-1

I'm guessing they didn't feel it was their responsibility to let home buyers know of what might be moving into their back yard.

Some residents I have spoken to wondered what the concern was since there is not a problem with the McLane Pacific or Save Mart Distribution Centers. The Wal-Mart Distribution Center cannot be compared to either in size or truck traffic. Both cause few problems to its neighbors, although driving down Kibby when the trucks are lined up getting into the gates is not pleasant.

173A-2

Trucks have also agreed to not drive down Childs Avenue during school hours. But the size of the facility itself and the employees that will work there as well as the truck traffic generated by the WMDC will have a devastating impact on the area surrounding the proposed WMDC.

These are my concerns:

Truck traffic a menace and pollutant—

Wal-Mart says that their new truck fleets will be "green" and therefore not pose a pollution problem. Kudos to WM for pushing this idea. Maybe they can lead the world in their green truck philosophy. But what they don't talk about is that at least half of the trucks entering and leaving the DC will NOT be green because they will be independent trucks. Wal-Mart only has control over its own fleets. Therefore the other 200-400 (I've heard varying numbers) will be heavy polluters, polluting even more the already heavily polluted air we live with today.

173A-3

In theory, the idea that the trucks will exit Highway 99 and take the Campus Parkway to the Distribution Center and back again and will not be a menace to the surrounding area is just that, a theory. In reality, according to routine activity at other WMDCs like Porterville, truck drivers get hungry and will find their way down Childs Avenue to Burger King, McDonalds, Starbucks, and the other fast food restaurants or markets thus clogging the already crazy intersection at Childs, 99, Motel Drive, and Carol Avenue.

Noise and Light Pollution—

Not much is mentioned about the noise from loud speakers calling to drivers and the dropping of the trailers to remove them from the cabs. During daytime hours the noise is swallowed up by normal traffic and routine noises in and around the homes. But in the middle of the night, when all is quiet in most homes or on Sunday mornings when Gerard Avenue is really quiet, the Wal-Mart Distribution Center will be working its normal schedule. Sound cannot be contained and it's unfair to expect that residents will always keep their windows closed.

173A-4

The lights that surround the other Wal-Mart Distribution Centers are like those at a big stadium.

While Wal-Mart says the lights are special and focus their light only on the area around the site, they too cannot be contained and will create a constant glow at night creating a daylight effect all night long, seven days a week.

173A-4
Cont'd

Jobs, are there guarantees?—

Yes, Merced needs jobs. The number of jobs the Wal-Mart Distribution Center will really offer is anything from 400-1200 depending on who you talk to or what article you read. There has been little discussion about whether these are full time (40 hours per week) or Wal-Mart's full time (less than 40 hours per week) or if they will include medical benefits. I know that most of the operation is computerized, so what are the skills needed for the jobs? Will Wal-Mart be hiring locally? Will they pull from other Distribution Centers? Will they commute from other communities? Will Mercedians even qualify for the jobs?

173A-5

Will the construction jobs be local or will the City give the job to outside contractors?

Negative impact to the environment--

Building a facility the size of the proposed Wal-Mart Distribution Center will have a negative impact on the land. Paving over the larger portion of the 230 acres the DC will occupy will have more of a negative impact than you would expect. Destroying the trees and replacing them with asphalt, cement, and buildings will cause the area to heat up by absorbing the 100+ degree summer heat. When it rains, the rain will not seep into the ground and replenish the ground water Merced residents drink. The rainwater will combine with the oil and diesel and other pollutants that come from the trucks and pollute the surrounding grounds.

173A-6

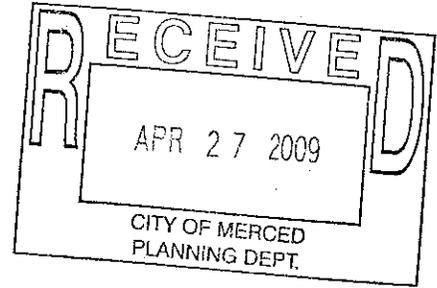
I'd like to see Merced City Planners promote smaller and independent businesses and build downtown. Give small businesses the same tax breaks you will be giving Wal-Mart. Encourage smaller businesses that complement our UC Merced and build businesses that would have less of an impact on our city, our residents, and especially our precious ag land.

I have been following the discussions surrounding the WMDC since it was announced several years ago. Nothing the City or Wal-Mart executives have said regarding the positive impact to the community of Merced has changed my perspective. I believed then and I believe now that the placement of the WMDC is wrong. Please consider moving it to a location more appropriate: away from residential neighborhoods and schools.

173A-7

Thank you,
Marilynne Pereira
505 Mustang Court
Merced, CA 95341
723-6053

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Re: Opposition to Wal-Mart Distribution Center

Dear Ms. Espinosa,

There needs to be greater explanation in the Wal-Mart EIR about the access of public transportation to the site. There should be details about street lighting and cross walks, bus routes and schedules, and bicycle lanes. I hope that by omission the City does not expect that all the employees must own a car and commute as their only transportation option.

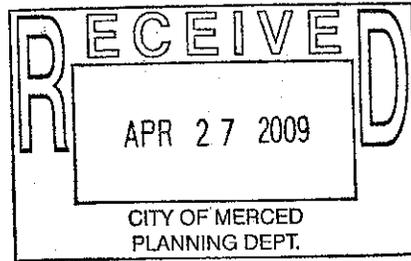
173B-1

Also, Wal-Mart could provide shuttles to and from the area to offset the public cost of alternative transportation. This facility will put a bigger burden on public transportation, so why shouldn't the folks causing the trouble be creating the solution?

Sincerely,

Marilynne Pereira
Marilynne Pereira
505 Mustang Ct.
Merced, CA 95341
(209) 723-6053

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

Regarding the Wal-Mart Distribution Center's Draft Environmental Impact Report (DEIR), why isn't there a thorough landscaping plan from Wal-Mart at this time? We need to understand how much water this site will consume, which is tough to do without a landscaping plan.

173C-1

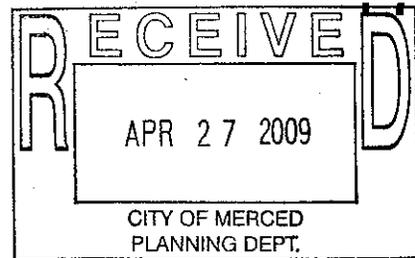
I would like to see a significant number of trees to be preserved and/or placed at the site to limit to bad views that people will be able to see from the road. Most major distribution centers are horrible eyesores, like the one for IKEA on Highway 5 near the Grapevine or row after row of the distribution centers outside of Tracy. Merced should have high standards for landscaping and foliage at this site to minimize the drop in property values.

173C-2

Sincerely,

Marilynne Pereira
Marilynne Pereira
505 Mustang Ct.
Merced, CA 95341
(209) 723-6053

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Re: Comments on Wal-Mart Distribution Center

Ms. Espinosa,

I have real concerns about noise impacts that might come from the construction of this center. Other towns who have these facilities are currently estimating that a diesel truck is either coming or leaving the distribution center every two minutes. I cannot find in the EIR a similar figure that points to the frequency with which trucks will be passing by for this project. I would like the final EIR to add this statistic. Statistics regarding the frequency of non-truck employee traffic should also be added.

173D-1

Sincerely,

Marilynne Pereira

Marilynne Pereira
505 Mustang Ct
Merced CA 95341

(209) 723-6053

**Letter
173A–D
Response**

Marilynne Pereira

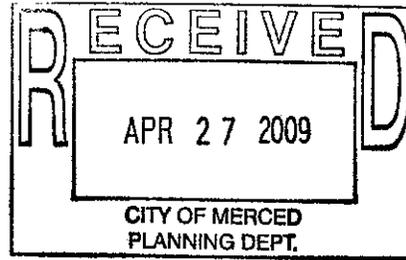
- 173A–April 27, 2009
 - 173B–Undated
 - 173C–Undated
 - 173D–Undated
-

- 173A-1 The commenter addresses the merits of the project and does not raise environmental issues or issues with the adequacy of the DEIR. The comment is noted.
- 173A-2 The commenter describes a general lack of concern with the existing distribution centers in the vicinity, but considers the proposed project in a different category because of its larger size. The commenter indicates the project would result in impacts, but offers no specifics. With no additional information, no further response can be provided. The comment is noted.
- 173A-3 The commenter states that approximately half of the truck trips generated by the proposed project would be by independent trucks not owned by Wal-Mart. Please refer to response to comment 12-5.
- The commenter also states that the traffic analysis in the DEIR assumes that trucks arriving to or departing the proposed distribution center would use Campus Parkway to travel between the project site and Highway 99 and, in reality, the commenter suggests, many truck drivers would head into town to visit restaurants and other amenities. As stated on page 4.11-21 of the DEIR, “the direction of approach and departure for project trips of the proposed Wal-Mart Distribution Center were estimated based on regional distribution of residences in Merced County and around the study area. Based on prevailing traffic patterns, roadway capacity, and consultation with the City of Merced and Wal-Mart Stores, Inc., SR 99, SR 140 and SR 152 were designated as the major routes that would service the proposed project site.” The next paragraph on the same page states “The project truck trips having their origins or destinations on SR 99 and SR 152 (90% of the truck trips) would be assumed to access the project site via the Mission interchange and Campus Parkway. The other 10% of truck trips from and to SR 140 West would be assumed to continue on SR 140 and use Tower Road. Also the City has designated truck routes (per Chapter 10.40.010 of the City of Merced Municipal Code).” Furthermore, please refer to Mitigation Measure 4.11-2b in the DEIR, which requires the applicant to develop and implement a truck route plan, which would restrict truck traffic to certain streets.
- 173A-4 The commenter feels that the proposed project lighting cannot be contained and will create a daylight effect all night long every seven days a week, resulting in increased noise and lighting impacts. Please refer to response to comment 29-3 regarding the project’s lighting impacts. Potential noise impacts of the project related to both mobile and stationary sources are fully described in Section 4.8 of the DEIR. The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided.
- The comment also states that truck yard loudspeaker announcements are not addressed in the EIR. Please see Response to Comment 29-2. With regard to nighttime noise, the noise analysis presented under Impact 4.8-2 of the DEIR discusses the impact of on-site stationary and area-source noise associated with project operations. The analysis of maximum noise levels (i.e., Lmax) generated by on-site activities is not a function of background noise levels in the community. In addition the analysis of the Land Use Compatibility of Proposed Project discussed in Impact 4.8-6 uses the Day-Night noise level metric, which is a 24-hour noise metric that incorporates a 10 dBA “penalty” for noise events that occur during the noise-sensitive hours between 10:00 p.m. and 7:00 a.m. This metric is explained on page 4.8-4 of the DEIR.

- 173A-5 The comment asks questions regarding the specifics of the jobs that would be offered at the proposed distribution center. Specific information related to the jobs, such as specific benefits and specific skills required, do not inform the environmental analysis. These questions raise only non-environmental issues, and CEQA does not require that such issues be analyzed in the Draft EIR. The comment is noted.
- 173A-6 The commenter raises issues primarily associated with surface water quality and ground water quality. These issues are addressed in the DEIR under Section 4.6 “Hydrology and Water Quality.” Please also refer to Master Responses 8 and 9. The comment does not raise issues related to the adequacy of the DEIR. The commenter also alludes to an increase in heat in the vicinity of the proposed facility. Please see Responses to Comments 75G-2 and 96B-28, which address issues related to “heat island” effect.
- 173A-7 The commenter suggests that the project be located on a more remote site to avoid impacts to neighborhoods. Please see Response to Comment 94-3, which addresses this issue.
- 173B-1 The comment recommends that the DEIR include analysis of various transportation alternatives. To be conservative, the DEIR transportation analysis assumed a worst case scenario, in that employees would drive to the site and park. The assumptions regarding mode choice and potential affect to pedestrian, bicycle and transit operations are described in more detail on page 4.11-4 and in the Traffic Impact Analysis report in Appendix E of the DEIR.
- 173C-1 The commenter questions why a thorough landscaping plan is not available from Wal-Mart at this time, and is concerned about water consumption issues. Please refer to response to comment 121C-1 regarding landscaping, water consumption, and water supply. The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided.
- 173C-2 The commenter requests that a significant number of trees be preserved or placed on the site to limit bad views that people will see from the road. Please see responses to comments 121C-2 and 75G-3 regarding visual resources impacts and related mitigation. The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided. This comment is noted for the City’s consideration during review and approval of the project. No further response is necessary.
- 173D-1 The comment states that the EIR should state how many trucks would be accessing the distribution center per minute and that the EIR should account for the employee’s vehicle trips into the distribution center. Please see Response to Comment 126A-1,2,3.

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Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



The EIR should be very clear as to how many diesel trucks and construction equipment will be idling at any given time at the project site.

The study says a potential of 4 diesel trucks may be idling at any given time during an hour period. I did some research and found that California State Law requires that no truck can idle longer than 5 minutes continuously.

The study should specify how many trucks would be idling throughout a 24-hour period.

174-1

Thanks,

A handwritten signature in cursive script that reads "Alfa G. Perez".

Alfa G. Perez

3165 Dinkey Creek Ave

Merced CA 95341

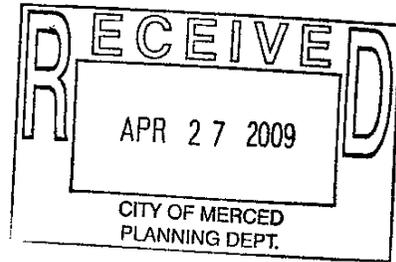
209-723-9029

Ps: The air and noise pollution is very important
for me, for my family A.P

174-1

The commenter would like to know how many trucks would be idling at the proposed project site during a 24 hour period. According to the traffic analysis prepared for the project, the project would experience approximately 643 trucks per day (365 incoming trucks and 278 outbound trucks). None of these trucks would be permitted to idle for more than 5 minutes as required by law. Please also refer to the response to comment 108-1.

Kim Espinosa, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340



Ms. Espinosa:

After waiting for three years to read the Wal-Mart distribution center EIR, I'm shocked that your consultants decided that they did not need to study urban decay. The rationale that since this is not a store there doesn't need to be an examination or explanation of the urban decay impacts is completely ridiculous. Urban decay is a phenomenon of growth in general, not just retail growth. Think about it: If somebody placed a 230 acre industrial complex responsible for the movement of 900 big rigs trucks each day, do you think your value of your property would do anything but drop like a rock?

We pay our taxes, send our kids to the public school within a stone's throw of the project site and we expect our city council to pay us the respect of doing a thorough and honest job of studying this project. When I see that your consultants have opted to skip doing an urban decay section altogether I lose faith that you are doing all you can to protect this community from the impacts of industrialization.

175A-1

Bottom line: you need to tell us what kind of urban decay we are facing with respect to how our property values will drop and how this neighborhood will be a place nobody will want to live in again. Don't make the mistake of believing that urban decay only means retail competition.

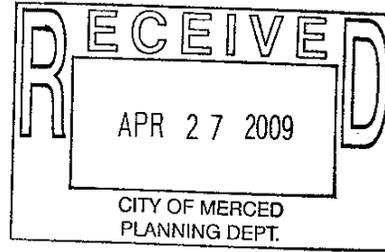
Sincerely,

PEGGY PERKINS
Name
321 W 27 St
Address
Merced CA 95340
City, State, Zip
[Signature]
Signature



PEGGY PERKINS

Kim Espinosa, City Planning Manager
678 W. 18th Street
Merced, CA 95340



26 April 2009

Dear Ms. Espinosa,

I'm sure you are inundated with letters from citizens on both sides of the Wal-Mart Distribution Center controversy. I can only hope that you are able to read them all, consider carefully the benefits as well as the problems with the proposed project, and urge the City Council to do the same.

It may have been helpful for you to attend the public forum held at Golden Valley last Thursday, April 23, 2009. The three panelists offered information not necessarily covered in the DEIR, including the impact of urban decay, that should be addressed by the planning department and the council.

175B-1

One bit of information in particular that I found troubling was the lack of a Technical Appendix in the DEIR which would clearly and fully explain the mitigation concerning the water issues - storm water and other run-off, as well as daily use included. The hydrologist spoke of the current plan and it's questionable mitigation measures, and said that in all the other DEIRs he has read, they include an appendix that outlines the exact plan and how it will work. Without this appendix, he said, there was no way to tell how - or IF - the proposed mitigation would actually work. It would be disastrous to build the center only to find out that these problems were not fully addressed.

175B-2

I think it would be disastrous anyway to put the Distribution Center in the proposed area, no matter the mitigation. I am not, as some people would say, "anti-job". I am just "pro-rational thinking". To take on this huge project for the sake of employing 600 people, even 900 people - at any rate less than 1% of Merced County is NOT the answer to unemployment. Not when there are so many compelling reasons, including the health of our citizens and our environment, not to.

Sincerely,

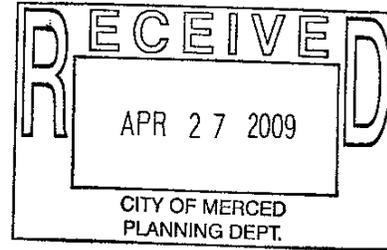

peggy perkins

321 West 27th Street Merced, California 95340 p 209.725.8898 f 209.726.8438 e slivermoon@mac.com



PEGGY PERKINS

Kim Espinosa, City Planning Manager
678 W. 18th Street
Merced, CA 95340



27 April 2009

Dear Ms. Espinosa,

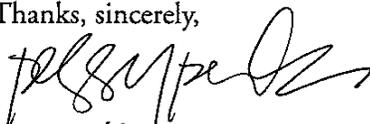
In another letter I referred you to the problem of storm- and waste-water mitigation at the proposed Wal-Mart Distribution Center site. If you would like to research the past and on-going environmental problems Wal-Mart has caused and been sued and/or fined for, I suggest you start here:

<http://walmartwatch.com/issues/environment/>

Please don't dismiss this information as "anti" Wal-Mart or misleading because it is on a website that asks citizens/consumers to try to change some of Wal-Mart's ways. The information presented comes from very reliable sources including the Associated Press, the NY Times, Business Week, the Christian Science Monitor, and Wal-Mart's own website. It is not just a blogger badmouthing Wal-Mart.

My hope is that you will inform yourself and the City Council as to the serious issues facing the proposed DC project. Please DO NOT be afraid to question the validity of Wal-Mart's claims and promises. They don't want what is best for Merced, they just want to grow their business.

Thanks, sincerely,

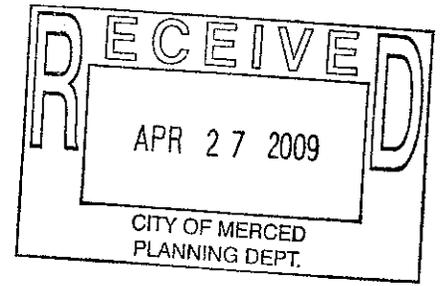

peggy perkins

175C-1

321 West 27th Street Merced, California 95340 p 209.725.8898 f 209.726.8438 e slivermoon@mac.com

3/24/2009

Merced Planning Division
RE: Wal-Mart Distribution Center
678 West 18th Street
Merced, CA 95340



To Whom It May Concern:

As a resident who is opposed to the distribution center at it's currently proposed site, I've been reading through the Project Alternative Section (Section 5). Have you noticed who many other communities have said told Wal-Mart "thanks, but no thanks?" The section says there is "no detailed explanation of what constituted a political or socioeconomic issue." In other words, these communities rejected Wal-Mart. What is it that they know that Merced doesn't? Perhaps they are not willing to sell out there residents like Merced is.

175D-1

Do you realize that thousands of people live within 500 yards of the where the distribution center will be? Perhaps Livingston, Delhi, Escalon, Oakdale and Tracy felt the health and safety of their residents is just more important.

Please think about this. Thank you.

PEGGY PERKINS

321 W 27 St.

Merced CA 95340

209.725.8898

**Letter
175A-D
Response**

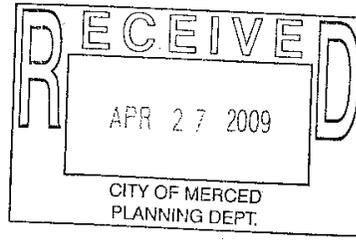
Peggy Perkins

- 175A–Undated ➤ 175B–April 26, 2009
➤ 175C–April 27, 2009 ➤ 175D–March 24, 2009
-

- 175A-1 The commenter indicates that the DEIR does not evaluate urban decay impacts and suggests that the project-related increase in truck traffic will decrease property values. Project effects on property values alone do not constitute environmental impacts and therefore are not required to be analyzed under CEQA. However, urban decay resulting from such socioeconomic effects may be considered an impact to the environment. Please see Master Response 11: Economics and Urban Decay, which addresses this issue.
- 175B-1 The comment indicates that the DEIR does not evaluate urban decay impacts. Please see Master Response 11: Economics and Urban Decay, which addresses this issue.
- 175B-2 A more detailed explanation of Mitigation Measure 4.6-2 was requested via a Technical Appendix. The final drainage plan has not been produced, but all of the technical references cited in 4.6 “Hydrology and Water Quality” are part of the Administrative Record and accessible. Also see Master Response 7: Detention Basins and Drainage which addresses comments pertaining to stormwater volume. See Master Response 8: Runoff Water Quality which addresses comments related to stormwater facility effectiveness.
- 175C-1 The commenter makes reference to a website for studies related to past and ongoing environmental issues over which Wal-Mart has been litigated. Comment noted.
- 175D-1 The commenter interprets the DEIR’s Alternatives section as implying that other communities have rejected Wal-Mart, and the commenter urges the decision makers to do the same. The commenter does not raise issues with the adequacy of the Draft EIR.

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**Kim Espinoza, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340**



Ms. Espinoza:

Here are questions that I have regarding the EIR for the Wal-Mart Distribution Center:

Why is Wal-Mart not paying the costs of the road improvements that will need to be made?

176-1

Is this best location for this distribution center? For example, why can't this project be built on the West side of Highway 99? *or North Merced on Rocky Land*

176-2

Unless these questions are answered and solutions are worked out with the taxpayers in Merced, I cannot support this project.

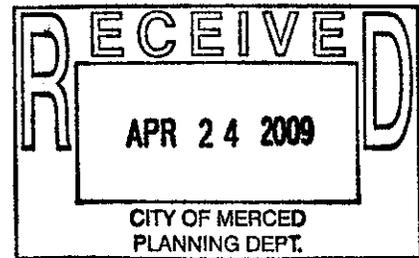
Thank you,

why take our good farmland?

*Betty Phillips
Betty Phillips
81 N. Cooper St
Merced, CA 95340*

- 176-1 The commenter raises concern related to the party responsible for financing roadway improvements. The City of Merced is responsible for execution of a Mitigation and Monitoring Program, which outlines the responsible party and timing of all mitigation measures. Costs to be paid by Wal-Mart are outlined in the Mitigation and Monitoring Program. The comment does not raise issues with the adequacy of the DEIR.
- 176-2 The comment suggests that placement of the proposed project in west of SR 99. Three off-site alternatives were evaluated in the Draft EIR (See DEIR Section 5 “Alternatives to the Proposed Project.” Alternative Sites #2 and #3 are located west of SR 99. As indicated in Table 5-8, the impacts associated with Alternative Sites #2 and #3 are generally greater than those resulting from the proposed project. The commenter also raises the possibility of an alternative site north of Merced, suggesting avoidance of prime farmland. The Draft EIR did not evaluate an alternative site north of Merced; however, the Draft EIR evaluates a reasonable range of Alternatives, including three alternative sites. Nothing more is required under CEQA. For more discussion related to project alternatives, see Master Response 12: Alternatives. The commenter does not raise issues regarding the adequacy of the Draft EIR’s analysis.

Joan Porter
1431 Yosemite Pkwy #2
Merced, CA 95340
Phone: (209) 722-2383
Email: Joan.700@hotmail.com



Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340

Subject Walmart

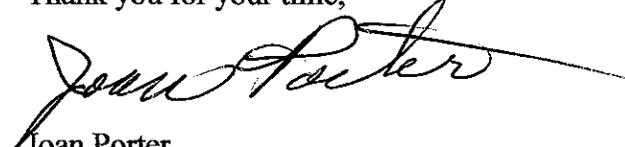
Dear Ms. Espinosa and the Planning Division,

I am sending you my story of the flooding of Alviso, a first hand accounting of what happened when greed and power took over as Silicon blossomed from farming and pear orchards to the high-tech metropolis it has become. I send this to you because Walmart plans to blacktop 110 acres of flood plane near schools, UC Merced and residential areas. It can only lead to disaster.

In 2006 as Merced was building wildly and rapidly we flooded a mobile home parks and residential areas on Ashby Rd. In addition Sandy Mush Road flooded out and cows and cattle were dieing in fields as they stood in water.

It is a natural phenomenon that water can't just be pumped, it has to go somewhere. Please take the time to read this short story because I believe blacktopping 110 acres on a flood plane is an accident waiting to happen.

Thank you for your time,

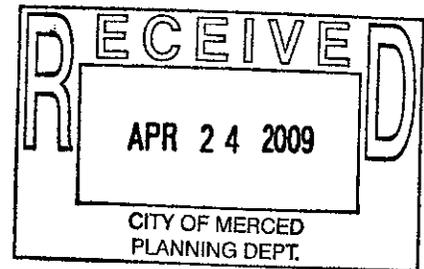


Joan Porter

177-1

Joan Porter
1431 Yosemite Parkway #2
Merced, CA 95340
Phone:(209) 722-2383
Email: joanp71@gmail.com

Words count: 1250



The flooding of Alviso

by
Joan Porter

Silicon Valley grew rapidly between 1975 and 1982. Booming electronics corporations with names like IBM, Hewlett Packard, Apple Computers and hundreds of lesser known Hi-Tech companies caused an economic surge, population explosion and building expansion. Silicon Valley had grown unexpectedly from pear orchards, dairies and farms to a metropolis with cable cars and skyscrapers to accommodate an astronomic economic surge.

Everything has its price. Plant and animal life disappeared. Rivers and underground water sources were diverted and pumped into the San Francisco Bay mostly through canals to make way for more and more construction. As might be expected the bay began to rise and

bayside communities began to flood. Water crept up on the land, beaches disappeared and flooding took its toll especially in the south bay.

The little town of Alviso had lost its ten foot sea wall to the bay. That 1930's structure never returned. A canal next to that small Hispanic shanty town drained water into the bay. Alviso began to flood each spring with runoff from higher ground, runoff from the Sierras through the San Joaquin delta and the influx of too many high rise buildings in Silicon Valley. It would be detrimental to the local economy if the expensive new areas were to flood.

In the spring of 1980 canal water rose to the top of its banks ready to flood San Jose, Santa Clara and the newly emerged Silicon Valley. Suddenly, in the wee hours of morning Alviso flooded three feet deep and all else was saved. The citizens of Alviso said men from the water district were seen opening the floodgates in Alviso, but it couldn't be proven. Who would believe those poor, poverty stricken Mexicans in the slums of Alviso?

In the spring of 1981 Alviso went 6 feet under water. The water spread all the way to Highway 237, then stopped abruptly. The ocean hugged and followed Highway 237 around the entire south bay that year. I lived in a Mobile Home Park just on the other side of Highway 237. I walked to the highway and looked out on the bay with breakers, waves and tides. How lucky that the ocean had not jumped the highway that year. A priest from Santa Clara rowed to the church in Alviso to rescue the Blessed Sacrament, his sacred duty to protect. The Red Cross and disaster relief agencies helped the town's people cleanup and recoup their losses when the waters receded.

The people of Alviso cried out in anguish to the County of Santa Clara to please not flood the town again. But as usual, the poor went unheard amid denials of deliberate flooding. Some said it might be a good thing if Alviso was left at the bottom of the bay as the hopeless slum it had become.

The floods of 1982 came quick and furious. The mobile home park where I lived was surrounded by a levee as required by law because of the flooding potential. The residents of the park were notified that the floods were coming again and this year we would be affected. We were given the options of leaving the park during the flood or staying inside the park's levee until the waters receded. No one knew how long the flooding would last.

With a keen sense of adventure, I surveyed my terrain and found a spot where flood waters could be breached. I could make access to the canal bank. If I could cross the canal at the highway, I would be on the dry side. I parked my car in a safe area on the opposite side of the canal and walked into the park by the afore mentioned route. My decision to stay and experience this once in a life time event had been made.

I telephoned my daughter and told her what was happening. "I'll be right home," Sharyl said.

"Maybe you should stay with a friend tonight," I suggested.

"I'll be home in just a few minutes," she stated defiantly.

An hour later Sharyl called me. "I got to the stop light and just looked. I'm not going into that. I'm staying at Linda's tonight."

“Good thinking,” I responded.

I went outside and climbed to the top of the levee. To the south, north and west everything looked normal. To the east the San Francisco bay was moving in with waves and breakers. I wondered if my decision to stay was a good one and returned to my little home. About a dozen homes were occupied; the remainder of the 150 were abandoned.

Night and darkness came. I slept on the couch in the living room and didn't bother to get out of my clothes. Senses sharp, I was prepared for an emergency. Every smell, sound or feeling left my nerves jumping.

Suddenly a faint chirping like a million insects began a crescendo that lasted for more than an hour. The unearthly sound was like being in a science fiction movie . Rushing water like a massive waterfall hitting trees, rocks, boulders and anything else in its way reached a nerve shattering frequency and remained for a maddening length of time. I plugged my ears with my fingers to stop the shrillness. Then abruptly the sound stopped. My ears strained to hear something, anything. There was only silence. I knew instinctively that water had surrounded the levee. To my surprise, public water, electricity, phones, sewer system and gas were all working.

Sleep that night was fitful. The sun came up and I quickly dressed for work, then left giving myself a full hour to reach my destination to compensate for the flood.

Climbing to the top of the levee around the park I surveyed my oceanic domain. No one would travel Highway 237 that day. The ocean had invaded from the bay at Alviso across the highway and about a mile to the west of me toward San Jose.

I looked for my predetermined crossing and found the high spot to freedom leading from the levee to the canal bank, then across the canal at the edge of the highway. Accepting Neptune's challenge, I cautiously made my way to the dry side of the canal and my car. My return from work was just as cautious as I challenged the ocean to battle.

A few short days later the water returned to its place in the bay. The water lines against buildings in Alviso were nine feet high. Alviso was devastated and would not be able to survive another flood like the spring of 1982. Santa Clara County needed to formulate a solution to prevent flooding from happening again. It was not an easy task, but it was accomplished. That was the last year of flooding.

I'm not sure how flood control was achieved, but some say if a major earthquake rocks the South San Francisco Bay that a process called liquefaction will sink buildings into a quagmire of quicksand from Milpitas to Fremont. People say many things. Could it really happen?

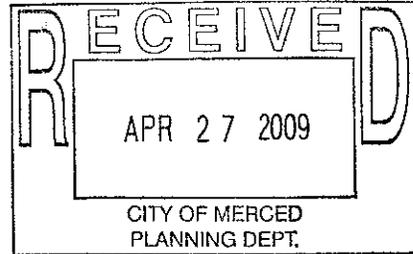
177-1

The commenter generally comments on flooding concerns due to the increase in impervious surfaces. The story regarding flooding in the town of Alviso is provided as reference. Section 4.6 “Hydrology and Water Quality” presents analyses of pre- and post-development conditions and Mitigation Measure 4.6-2 addresses both volume and quality of stormwater runoff from proposed impervious surfaces. The final design specifications would be required to demonstrate to the City and MID that runoff generated as a result of the project would be properly contained and conveyed.

This page intentionally blank.

April 20, 2009

Kim Espinosa
Project Director
Planning Division
678 W. 18th Street
Merced, CA 95340



Ms. Espinosa,

According to Air Quality Section 4.2-10 of the Merced Wal-Mart Distribution Center DEIR, you used "The General Location Guide for Ultramafic Rocks in California – Area More Likely to Contain Naturally Occurring Asbestos" printed by Churchill and Hill in 2000 to determine if you need to study asbestos on and around the proposed distribution center site.

How nice of you to use a guide written in 2000, nine years ago. Shows you really put a lot of time and care into this study. Oh...and I see this guide is based on a "general" determination of location and that it is "more likely" to contain naturally occurring asbestos. How about you take a map of the San Joaquin Valley and throw darts at it in order to determine where you should study asbestos?

178-1

I find your approach to be pathetically lazy. How about this? Take a shovel and dig 20 holes on the site, then test the soil?

This is our health. This is our neighborhood. This is safety of our children.

You and the city fail to appreciate this.

Signature

MARIA PULIDO

Print Name

1240 W 6th St

Address

Merced CA 95340

(209) 385-6676

Phone

178-1

The commenter questions the applicability of the source of data referenced for determining the relative likelihood of naturally occurring asbestos (NOA) on the project site because the source is nine years old. This source of data is from the California Department of Mines and Geology, a reputable and recognized expert source on the subject. No more recent data or evidence has been made available (and none was recommended by the commenter) that contradicts the information contained in Churchill and Hill 2000. The comment does not raise issues with the adequacy of the DEIR. The comment is noted.

Kim Espinosa, Planning Manger
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340



Dear, miss Espinosa:

I'm writing you a letter to talk about the Wal-Mart distribution center here in the Southeast Merced. The reason why I oppose to the Wal-mart distribution center is because of the 900 trucks coming in and out. Because they are going to be passing by pioneer, weaver elementary and golden valley there are lots of risk like cancer and asthma. This will affect a lot to all the people who live near this project wants to be built at. There's no pedestrian sidewalks or bicycle facilities. How are the children going to be safe with the diesel trucks and the 900 trucks coming on child Ave.? I think it's dangerous because there are no safe sidewalks or where children can walk on. For the air quality it should be first a health risk assessment that includes a study of cancer risk caused by off-site WMDC project traffic. The noise will be mechanical equipment, buzzers, bells loud speakers, or other noise. The proposed project would have an increase in traffic around sensitive receptors and would be a significant impact. The water quality will runoff will be a serious risk from the construction of the proposed 230 acre site. The oil and diesel associated with diesel trucks going to and from the distribution center. I think they should just build the proposed elementary school and it would be less than 500 feet from the camps parkway. And it would be safer for the children. We already have enough of air pollution near in the valley should think about what is the best for the children safe and everyone here health. We don't need this Wal-Mart distribution center here at all. This should be a nice peaceful place where it should be clean and where the children would be safe. We would not want to see our children having health problems in this area, by the cause of this warehouse being built here. It would be great if they would build something that is useful no something that would bring something bad in this valley. I wouldn't like to see the children's getting sick off of the bad air pollution in this valley it's not good. Hope that they don't build this warehouse here. Thank you for your time. Please make the right for everyone that is oppose to the Wal-Mart distribution center. This is why I oppose to the Wal-Mart distribution center.

179-1

Laura Angelica Ramirez
2285 Linden St
Atwater Ca 95301

A handwritten signature in cursive script that reads "Laura Angelica Ramirez".

179-1

The commenter addresses several environmental issues, but focuses primarily on air quality, water quality, and traffic safety. Regarding air quality the commenter suggests that a health risk assessment be prepared to evaluate cancer risk. It should be noted that a health risk assessment was prepared specifically for the project, and the analysis of cancer risk was discussed in the DEIR under Impact 4.2 “Exposure of Sensitive Receptors to Emissions of Toxic Air Contaminants” (See DEIR p. 4.2-41). Project-related impacts to water quality are also discussed in the DEIR under Section 4.6 “Hydrology and Water Quality.” Traffic and pedestrian safety is discussed under Impact 4.11-2 “Design Feature Hazards, Vehicle Stacking, and Parking Capacity” and Impact 4.11-5 “Transit, Pedestrian, and Bicycle Impacts.” Both impact discussions conclude that the proposed project would result in significant impacts, and mitigation measures are included to reduce these impacts to a less-than-significant level. Mitigation measures include development of a construction truck safety plan, development of a truck route plan, and an update to the Safe Routes to School Plan.

Espinosa, Kim

From: Walker, Dawn on behalf of city, council
Sent: Thursday, March 12, 2009 8:31 AM
To: city, council; Bill Spriggs (E-mail); Carlisle, John; Conway, Mike; Cortez, Joseph; Dawn Walker (E-mail); Ellie Wooten (E-mail 2); Ellie Wooten (E-mail); Gabriault, Michele; Jim Sanders (E-mail); Joe Cortez (E-mail); John Bramble; John Carlisle (E-mail); Lor, Noah; Lor, Noah; Michele Gabriault-Acosta (E-mail 2); Michele Gabriault-Acosta (E-mail); Sanders, Jim; Spriggs, Bill
Cc: Davidson, Dana; Conway, Mike; Quintero, Frank; Espinosa, Kim; Schechter, Jeanne
Subject: FW: Merced Stop Wal-Mart Action Team

From the website.

Dawn

Dawn Walker
Executive Secretary
City of Merced
678 West 18th Street
Merced, CA 95340
Phone: (209) 385-6834
Fax: (209) 385-1780
-----Original Message-----

From: Yonathan Ramirez [mailto:yonitran18@hotmail.com]
Sent: Tuesday, March 10, 2009 3:57 PM
To: city, council
Subject: Merced Stop Wal-Mart Action Team

Merced needs six months to give the residents, taxpayers, parents and voters who invest their lives in this city to review this complex, complicated and overwhelming project proposal.

The City took three and a half years to draft this plan, but the public gets only 60 to review it?

THAT'S RECKLESS AND WRONG!!!!

Yonathan Ramirez
alias "yoni"

180-1

Color coding for safety: Windows Live Hotmail alerts you to suspicious email. [Sign up today.](#)

**Letter
180
Response**

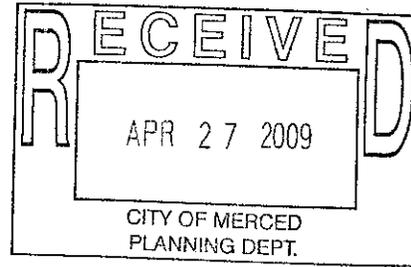
Yonathan Ramirez
March 10, 2009

180-1

This comment raises issues related to adequacy of the public review period of the Draft EIR. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses this issue.

March 30, 2009

Kim Espinosa
Merced Planning Division
678 West 18th St.
Merced, CA 95340



Dear Ms. Espinosa:

What kind of things will Merced make Wal-Mart do to limit the amounts of PM_{2.5} that their distribution center will contribute to? I noticed in your "Summary of 2005 Estimated Emissions Inventory for Merced County" table that industrial processing contributes to the highest amount of PM_{2.5} release. What can we do to try to lower that number? This is a health issue we're talking about!

181-1

Thank you,

Maria E. Alvarez

Signature

Maria E. Ramos

Print Name

606 S. Fork Ave.

Address

Merced, CA. 95341

City, State Zip

(209) 726-3436

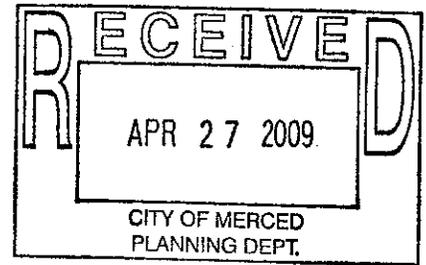
Phone Number

181-1

The commenter states that industrial processing contributes the highest amount of PM2.5 in Table 4.2-1. This is incorrect. Please see page 4.2-5 of the DEIR, which states that area wide sources are the largest contributor of PM2.5 emissions in Merced County. Further, the commenter would like to know what the City would require of the project applicant to reduce the project's contribution of PM2.5 emissions. Please see mitigation measures 4.2-1 (pages 4.2-31 through 4.2-35) and 4.2-2 (pages 4.2-38 through 4.2-41) of the DEIR regarding measures required of the project applicant to reduce emissions of criteria air pollutants, including PM2.5.

Merced, April 26, 2009

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 W 18th Street
Merced CA 95340



Dear Ms Espinosa,

The Wal-Mart Distribution Center doesn't belong next to homes, we were here first. Wal-Mart can build somewhere else, we, all the neighbors here, cannot.

A few jobs, which it isn't even stipulated how many are going to be for Merced residents are not worthy the health cost involved. City and county resources will have to be diverted to patch the string of asthma an allergy sufferers which will increase dramatically.

By ordinance I cannot even burn a log in winter (random/temporary) for the heavy pollution, and you are ready to allow a PERMANENT 24/7 source of the same type of pollution just a couple of blocks from my home?

Please reconsider. By the way, where do *you* live?

Thank you,

A handwritten signature in cursive script that reads "Carmensol Rehbein".

Carmensol Rehbein
3185 Dinkey Creek Av
Merced CA 95341
(209) 349-8378
(925) 321-1567 cell
carmensolR@gmail.com

182A-1

4/23/09

Kim Espinosa, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340



Ms. Espinosa,

I am worried about the 900 trucks coming in and out of Southeast Merced everyday around our streets and schools. Heavy duty diesel trucks that weigh over thousands of tons will mess up the roads more and tax payers like me will have to repay for the roads. We need to make Wal-Mart accountable for paying their way here in Merced before we consider them at all. I think this warehouse should be built somewhere else, but not here in Southeast Merced! This is why I oppose the Wal-Mart distribution center.

182B-1

Best,

Carmensol Rehebin

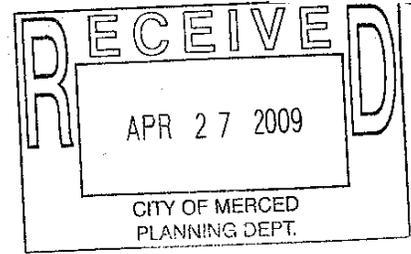
Carmensol Rehebin
3185 Dinky Creek Ave
Merced CA 95341
(209) 349-8378
carmensolR@gmail.com

PS: I'm also very concerned about the pollution: air, water, noise, etc., even 24/7 artificial lights that such a center will bring. Also urban decay is a worry, the builder already stopped building in our neighborhood and the vacant lots add to the auction / for sale / foreclosed homes

CR

4/23/09

City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

There are some major details lacking with regard to projected employment figures and available jobs at the Wal-Mart distribution center. I would like to know the following:

1. How many jobs will be full time?
2. How many jobs will be part time?
3. Will City of Merced residents be given priority hiring over non residents?
4. How many new stores will be proposed locally and regionally once this SuperCenter is built?

182C-1

Some analysis of the economic impact of the project should have been conducted. These questions are tied hand in hand with environmental issues. For example, more people back at work means more cars on the road, more GHG emissions, more demand from public services and safety, etc. Failure to include all this makes this document very incomplete.

182C-2

Sincerely,

Carmen Relis

Carmen Relis
3185 Dinky Creek Av
Merced CA 95341
209-349-8378
985-321-1567 cel

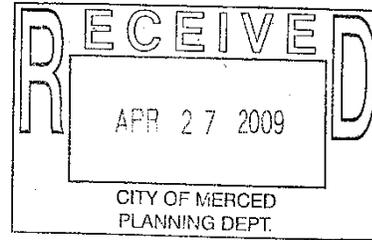
- 182A-1 This is a comment expressing opposition to the project and does not pertain to the adequacy of the DEIR.
- 182B-1 The commenter raises concern that the DEIR does not address the impacts to city streets and schools, suggesting that the increase in truck traffic will have significant impacts on the condition of Merced streets. The commenter indicates that Wal-Mart should pay for the maintenance of roadways that will be impacted by increased truck traffic. The DEIR under Section 4.12.1 “Environmental Setting” discusses potential impacts to schools. As described on page 4.12.7 of the DEIR, schools would not be impacted by the proposed project as the proposed project is expected to hire from the existing community and would generate little in-migration. In addition, the City of Merced, in accordance with state law, requires new industrial uses to pay school impact fees to offset any possible impacts to school facilities. It should also be noted that the City will require Wal-Mart to pay approximately \$4.2 million in impact fees for public services (based on 2009 fee levels; see Response to Comment 16-5).
- Regarding road maintenance, the City of Merced is responsible for maintaining roads and other public infrastructure within the city limits (Merced County or a maintenance district is typically responsible for maintaining such facilities outside the City limits), and the financing of the maintenance is not an environmental issue. The proposed project is consistent with the General Plan land use designation and zoning for the site; therefore, the proposed project would not result in the development of a land use that would increase wear and tear on local roadways such that maintenance would be required beyond the level anticipated for General Plan buildout. Any issues related to poor maintenance of roadways would not be a result of the proposed project, but an issue that should be discussed with City (or county) officials, who are responsible for roadway maintenance. Please see Response to Comment 96B-5 for more information. It should also be noted that funding for roadway maintenance comes from a variety of sources including Measure C, and state and federal sources.
- 182B-2 The comment raises various environmental issues, including air quality, noise, water quality, and aesthetics (night lighting). The Draft EIR analyzes these environmental issues under sections 4.2 “Air Quality,” 4.8 “Noise,” 4.6 “Hydrology and Water Quality,” and 4.13-1 “Visual Resources” (for night lighting). However, the commenter does not raise issues related to the adequacy of the Draft EIR. The comment is noted.
- 182B-3 The commenter raises issues related to urban decay. Please see Master Response 11: Economics and Urban Decay, which addresses this issue.
- 182C-1 The comment asks questions related to employment, including number of full-time versus part-time positions, hiring priority for Merced residents, new stores spawned from the development of the proposed project. Regarding full-time versus part-time positions, Table 3-2 in the Draft EIR identifies the number of employees per shift for all 1,200 employees. As indicated by the table, each shift represents at least 40 hours; therefore, all employees would be full-time. Regarding hiring priority for Merced residents, please see Response to Comment 92-4. Regarding new stores spawned from the proposed project, please see Master Response 1: Growth Inducement and Expansion. The comment does not raise issues regarding the adequacy of the Draft EIR’s analysis.

182C-2

The commenter states that an economic impact analysis of the project should have been conducted and that failure to add economic analysis to the DEIR makes the document incomplete. The commenter states that economic impacts and environmental issues are related and cites some general examples. Please refer to Response to Comment 12-14 and Master Response 11: Economics and Urban Decay for discussion related to economic impacts and CEQA.

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Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

The DEIR for the Wal-Mart Distribution Center says that Wal-Mart will reduce electricity demands through the use of solar panels.

How many solar panels? How much electricity will it produce? What percentage of their annual electrical needs will be provided by these solar panels? Why can't 100% of their electrical usage be provided by solar panels? That would take an enormous load off of our electrical grid and help avoid blackouts.

183A-1

Sincerely,

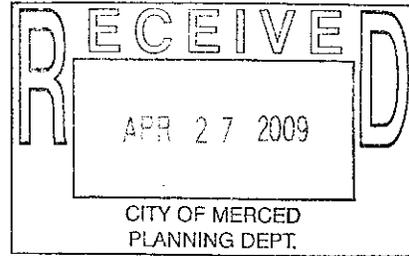
MAURICIO REHBEIN
3185 DINKLEY Creek AVE
Merced CA, 95341

I'm also concern about truck noise, and why Wal-Mart DC did not find a place far from already builded Houses - other case will be if the houses where builded after WMDC, be there.

Thanks -

MR 4/23/09

Kim Espinosa, Planning Manager
City of Merced Planning Division
Attn: Merced City Council
678 West 18th Street
Merced, CA 95340



Ms. Espinosa,

I am writing today to show my opposition to the proposed Wal-Mart Distribution Center in Merced. My reason is that the facility will bring terrible effects to the health of this community because of the massive traffic from employees and big rigs that will happen every day.

The EIR also lacks specifics about the cost of the project which need to be disclosed. In section 4.93 (Environmental Impact) under Impact Analysis 4.9-1, it discusses new infrastructure for public water, wastewater and utility infrastructure but there is nothing which discusses the costs of these aspects of the project. Will Wal-Mart be paying for these or will the city? What is the percentage of the infrastructure costs that Wal-Mart will pay in comparison to the percentage paid by taxpayers?

183B-1

I hope the answer is that Wal-Mart is paying 100% of the cost. The City of Merced should not be engaged in handing out public money to massive corporations.

Sincerely,

MAURICIO REHBEIN

I already suffer from Asthma -
That will increase my symptoms -

ML

3185 Pinkey Creek Ave
Merced CA 95341

183A-1 The comment states that the truck noise is a concern of residents. Truck noise resulting from project implementation is discussed in Impacts 4.8-2, 3, and 4.

183B-1 The commenter states opposition to the project and concern that the facility will create health impacts for the community from increased daily traffic from employees and daily warehouse trucks trips. The commenter states that the EIR does not specify costs of the project and specifically refers to Impact 4.9-1 and the costs associated with new infrastructure. The commenter asks who will pay for infrastructure costs and what percentage will be paid by taxpayers.

Please refer to Section 4.2, ‘Air Quality’, of the DEIR for analysis of health impacts related to air quality. Regarding the comment on costs associated with infrastructure discussed in Impact 4.9-1, the impact states that existing infrastructure would have the ability to serve the other development in the vicinity of the project site and that no new major infrastructure is required to serve the project. The project proponent would be responsible for paying sewer and water connection charges when the proposed project connects to the City’s sewer and water system (see Section 4.12, Utilities and Public Services, Impact 4.12-2). Payment of these fees would ensure the project proponent pays for its fair share of the cost of sewer and water infrastructure and WWTP services. For a general discussion of economic impacts and how they relate to CEQA, please refer to Response to Comment 12-14.

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Espinosa, Kim

From: Walker, Dawn on behalf of city, council
Sent: Tuesday, March 10, 2009 8:22 AM
To: Davidson, Dana; Conway, Mike; Quintero, Frank; Espinosa, Kim; Schechter, Jeanne
Subject: FW: walmart distribution center

From the website.

Dawn

Dawn Walker
Executive Secretary
City of Merced
678 West 18th Street
Merced, CA 95340
Phone: (209) 385-6834
Fax: (209) 385-1780

-----Original Message-----

From: graciela rey [mailto:reygraci@sbcglobal.net]
Sent: Monday, March 09, 2009 8:12 PM
To: city, council
Subject: walmart distribution center

it seems that the time has come to approve the distribution center we cannot longer wait for a better employer the needs of merced are to great to ignore them or allow a small group to dictate the fate of the rest of the citizens of this town there are no jobs available the foreclosure is increasing hourly action is required from our city council this is not the time to play politics with the well-being and stability of our families we cannot wait for miracles drastic problems require drastic measures

by the way the resident from the south part of town did not get the right adjustments not only that but my property taxes went up when i went to complaint they told me i have to wait till january 2009 for the new assessment???? right now i am down 60,000 of my own money which it was my initial investment for what?? to be treated as a second class citizen because i live in la bella vista by g an gerard the only person that cares what happen to us is Kelly Rossman from code enforcement because honestly we dont see any patrolling in our street and we certainly can use some attention we are seeing graffiti inside the subdivision which indicates illegal activities and the last time i check my tax bill we still paying yearly maintenance

sincerely yours,
graciela rey
110 San Clemente Drive
Merced Ca 95341
and yes we exercise our right to votegr

184-1

**Letter
184
Response**

Graciela Ray
March 9, 2009

184-1

The comment addresses the merits of the proposed project and raises a property tax and maintenance issue not related to the proposed project. The comment does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

Espinosa, Kim

From: Walker, Dawn
Sent: Monday, March 09, 2009 9:26 AM
To: city, council; Bill Spriggs (E-mail); Carlisle, John; Conway, Mike; Cortez, Joseph; Dawn Walker (E-mail); Ellie Wooten (E-mail 2); Ellie Wooten (E-mail); Gabriault, Michele; Jim Sanders (E-mail); Joe Cortez (E-mail); John Bramble; John Carlisle (E-mail); Lor, Noah; Lor, Noah; Michele Gabriault-Acosta (E-mail 2); Michele Gabriault-Acosta (E-mail); Sanders, Jim; Spriggs, Bill
Cc: Davidson, Dana; Conway, Mike; Quintero, Frank; Schechter, Jeanne; Espinosa, Kim
Subject: FW: Phone message

Please see the message below.

Thank you,

Dawn

Dawn Walker
Executive Secretary
City of Merced
678 West 18th Street
Merced, CA 95340
Phone: (209) 385-6834
Fax: (209) 385-1780

-----Original Message-----

From: Pineda, Maria
Sent: Monday, March 09, 2009 9:24 AM
To: Walker, Dawn
Subject: Phone message

Mary Ann Reynolds called she would like the Walmart EIR public review extended from three months to six months in order to give the public time to review it. She would like an email response from each council member. mareynolds42@sbcglobal.net / 723-5996.

185-1

*Thank You,
Maria E. Pineda
Secretary
City of Merced
Redevelopment & Economic Development
678 W. 18th Street, Merced, CA 95340
(209) 385-6827, (209) 723-1780 Fax
pinedam@cityofmerced.org*

**Letter
185
Response**

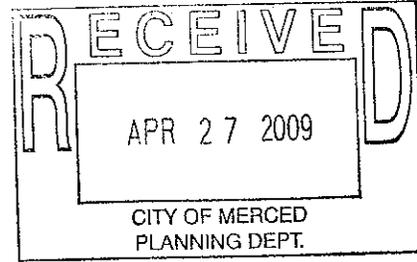
Maria Pineda
March 9, 2009
Phone Message

185-1

This comment raises issues related to adequacy of the public review period of the Draft EIR. The City required written comments be submitted and is not required to respond to voice messages. However, the following response is provided: please refer to Master Response 2: Language Barrier and Public Review Period, which addresses this issue.

April 18, 2009

Ms. Kim Espinosa
Merced City Planning Division
678 W. 18th Street
Merced, CA 95340



Ms. Espinosa,

Please define what (2006x) means in the Wal-Mart distribution center report. I see this figure repeatedly in the DEIR. I understand it is attributed to the Air Resource Board (ARB), but we're now in 2009. Surely, the San Joaquin Air Resources Board has more up-to-date data than 2006. Please address this in the Final EIR. I think we owe it to our children to make sure we are using the most current information in this report.

186-1

Sincerely,


Signature
Tammy Rodriguez
Print Name
1240 W. 6th St.
Address
Merced, CA 95341
Phone (209) 385-6676

**Letter
186
Response**

Tammy Rodriguez
April 18, 2009

186-1

This comment has been addressed in the form of text changes to the air quality section (Section 4.2) of the DEIR.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Re: Truck Idling

The environmental impact study should be clear as to how many diesels and construction equipment will be idling at any given time at the project site. The study indicates a potential of 4 diesel trucks idling at any given time during a 1-hour period. Because state law requires that no truck can idle longer than 5 minutes continuously, this is significant because it means trucks will be moving with extreme frequency. This clearly impacts the noise that will be generated both during construction and after the site is in operation. The study should specify how many trucks would be idling throughout a 24-hour period at the distribution center. Thank you.

187-1

Sincerely,

GABRIEL D. ROSALES
Name

137 SWEETWATER AVE-
Address

MERCED, CA - 95341
City, State, Zip

Gabriel D. Rosales
Signature

4-16-09
Date

**Letter
187
Response**

Gabriel D. Rosales
April 16, 2009

187-1

Please see response to the response comment 174-1 regarding average daily truck traffic. Please refer to the response to comment 30D-1 regarding construction equipment.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



RE: Construction Equipment and the Wal-Mart Distribution Center

Dear Ms. Espinosa,

I have grave concerns about the use of construction equipment for the proposed Wal-Mart Distribution Center. Several studies have highlighted the fact that construction equipment is one of the leading sources of diesel pollution in California. Please include the following study in the EIR record, *Digging-Up Trouble - The Health Risks of Construction Pollution in California*, 2006 by the Union of Concerned Scientists. In short their study quantifies the effects of construction pollution on California's public health and economy, both across the state and in the five most affected regions. The risk of exposure to construction activity is evaluated for cities in each of these regions. Merced is one of the cities cited as being a high-risk area. Additionally, the EIR should implement the safety steps residents can take in protecting themselves against harmful construction equipment highlighted on page 32 of the study.

188-1

The DEIR is deficient in its analysis of how many and what type of construction equipment will be used during construction and should include it in its final drafting. Thank you.

Regards,

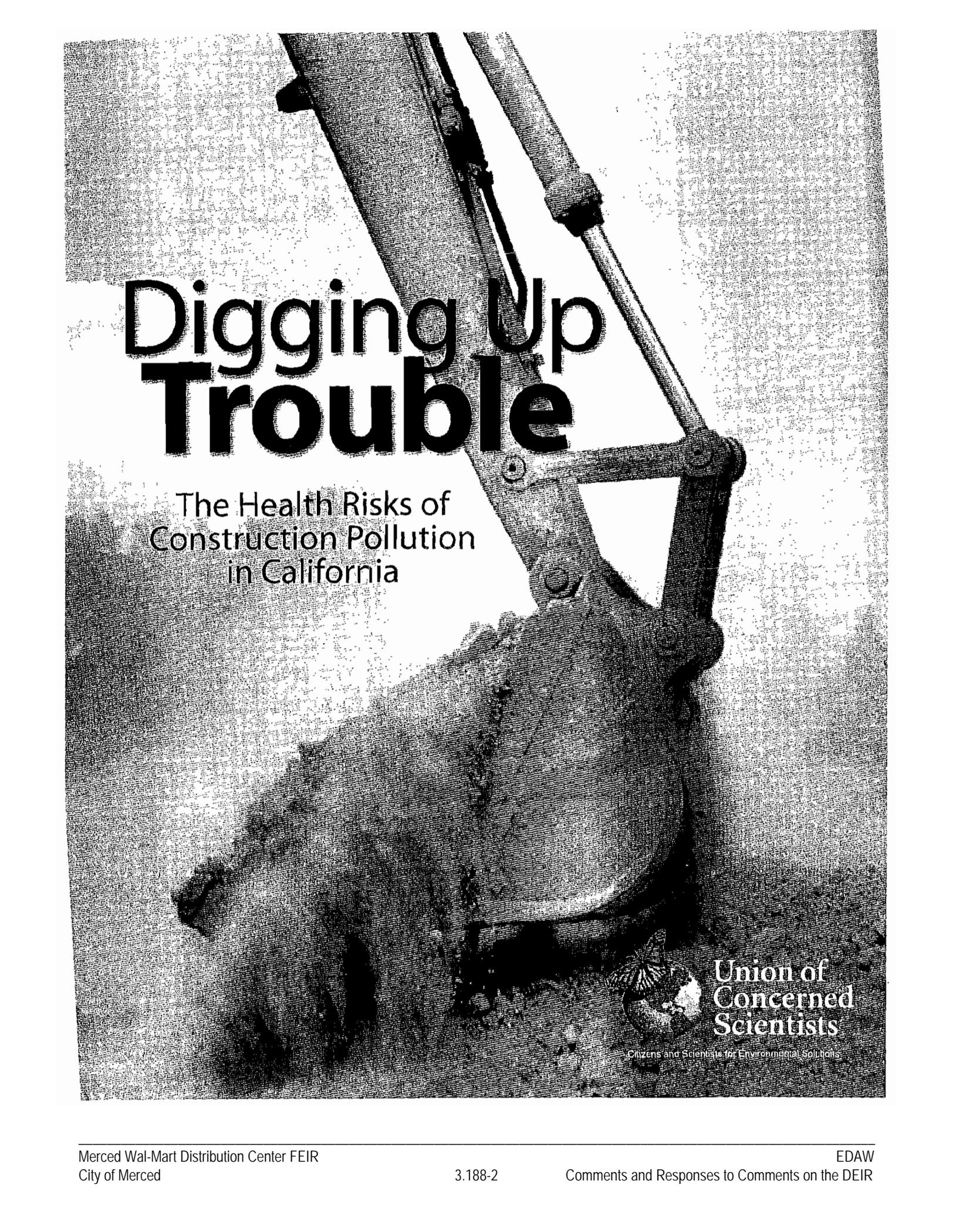
Lisa M. Rosales

137 Sweetwater Ave

Merced, Ca 95341

Lisa M. Rosales

4/16/09



Digging Up Trouble

The Health Risks of
Construction Pollution
in California

Union of
Concerned
Scientists

Citizens and Scientists for Environmental Solutions

Digging Up Trouble

The Health Risks of Construction Pollution in California

D O N A N A I R

**Union of Concerned Scientists
November 2006**

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Don Anair is a vehicles engineer in the Union of Concerned Scientists Clean Vehicles Program.

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EXECUTIVE SUMMARY

Pollution from diesel construction equipment is taking a toll on the health and economic well-being of California residents. This equipment contributes to particulate and ozone pollution that can cause severe cardiovascular and respiratory illnesses, asthma attacks, acute bronchitis, and even premature death.

This study analyzes air pollution caused by construction equipment and—for the first time—quantifies its effect on California’s public health and economy, both across the state and in the five most-affected regions. In addition, we evaluate the risk of exposure to construction activity in specific cities in each of these five regions. Lagging emission standards and very old equipment have made construction equipment one of the largest sources of toxic diesel particulate matter pollution in the state, necessitating an accelerated cleanup program to protect the health of all Californians.

Using established U.S. Environmental Protection Agency (EPA) and California Air Resources Board (CARB) methods to quantify the impact of air pollution, the Union of Concerned Scientists (UCS) estimates that construction equipment emissions statewide are responsible for:

- more than 1,100 premature deaths per year
- more than 1,000 hospital admissions for cardiovascular and respiratory illness
- 2,500 cases of acute bronchitis
- tens of thousands of asthma attacks and other lower respiratory symptoms

This pollution is hurting the state’s economy as well. Construction equipment is critical to the building industry (a sector of the economy worth \$60 billion per year)¹ and instrumental in maintaining and building our roads and highways (on which California spent eight billion dollars last year). But the pollution from this equipment results in more than nine billion dollars in annual public health costs, including hundreds of thousands of lost work days and school absences.

Construction equipment is used extensively throughout the entire state. More than 270,000 acres of land in California were under construction permit during 2005—an area the size of Los Angeles.² In addition, more than 10,000 miles of state roadway were under contract for construction, repairs, or maintenance.³

The impact of construction pollution on public health is greatest where equipment and people mix, and 90 percent of the health and economic damage occurs in California’s five most populous air basins. The South Coast air basin (which encompasses most of Los Angeles, Orange, Riverside, and San Bernardino counties) ranks first with more than 700 premature deaths and more than 650 hospitalizations for respiratory and cardiovascular illness annually. The San Francisco Bay Area and San Diego follow, with more than 150 and 89 premature deaths, respectively, every year. The San Joaquin Valley and Sacramento Valley (the two largest air basins in

¹ As reported to the California Department of Finance by the California Construction Industry Research Board. Available at http://www.dof.ca.gov/HTMLFILES_DATA/LatestEconData/FS_Construction.htm.

² Total acres based on State Water Resources Control Board data (SWRCB 2005). The city of Los Angeles covers 300,160 acres.

³ Mileage based on ongoing contract data available from the California Department of Transportation (CALTRANS 2005).

TABLE 1 Health Damage from Construction Pollution (by Air Basin)

Health Endpoint	Total Incidences					
	Statewide	South Coast	San Francisco Bay Area	San Diego	San Joaquin Valley	Sacramento Valley
Premature Deaths	1,132	731	154	89	49	39
Respiratory Hospitalizations	669	353	58	50	55	30
Cardiovascular Hospitalizations	417	274	61	33	14	12
Asthma and Other Lower-Respiratory Symptoms	30,118	20,841	3,406	2,127	1,264	790
Acute Bronchitis	2,494	1,729	284	177	107	66
Lost Work Days	182,940	123,439	25,713	14,014	6,241	4,617
Minor Restricted Activity Days	1,544,952	959,839	168,459	113,280	99,585	50,408
School Absences	331,040	175,356	18,472	24,689	33,282	17,492

NOTE: Values represent the mean annual incidence estimate for 2005.

California's Central Valley) round out the top five with 49 and 39 annual premature deaths, respectively.

Construction activity varies from city to city and, therefore, so does potential exposure to harmful diesel exhaust. Areas with high population density and construction activity are an obvious concern because construction equipment emissions are more likely to be occurring in close proximity to people. Nevertheless, the most densely populated cities are not the only areas with high potential for construction risk; evaluation of active construction projects finds areas outside major population centers also face risks since large-scale construction projects accompany regional population growth.

While incentive programs have begun to clean up some of this equipment, only statewide regulations can achieve the reductions in construction equipment pollution needed to truly protect public health. Cost-effective technology solutions that would help meet this regulatory goal already exist, and more will become available over the next few years. CARB should adopt a regulatory regime that will clean up existing construction equipment by retiring the oldest, most-polluting equipment and using retrofit technology where appropriate.

Chapter 1

DIESEL POLLUTION FROM CONSTRUCTION EQUIPMENT

Highway truck and bus engine manufacturers have had to meet increasingly stringent emission regulations since the late 1980s. Construction and other off-road equipment, however, did not face new particulate matter (PM) emission standards until 1996, with some engines unregulated as late as 2003.⁴ In 2004, the U.S. Environmental Protection Agency (EPA) finally forced construction equipment to meet similar standards to highway trucks and buses, requiring 90 percent reductions in nitrogen oxides (NOx) and PM for most engine sizes. These standards will phase in over a seven-year period starting in 2008, reaching full implementation in 2014 (EPA 2004).

Although these standards will significantly reduce pollutants from new engines, the full benefits will not be realized until sometime after 2030, when the long-lasting equipment currently in use today is finally retired. There are technology options available to clean up these existing machines, but neither the EPA nor the state of California currently requires them. As a result, if no additional requirements are put in place, the construction sector will continue emitting high levels of toxic and smog-forming pollution for the next two to three decades.

THE WORST OFFENDERS

The Union of Concerned Scientists (UCS) took a closer look at pollution from California's construction equipment to find out which types of

equipment emit the most toxic diesel PM (or "soot") and smog-forming NOx. Most people think of trucks and buses when they think of diesel pollution, but as it turns out, the equipment repairing the road near your home or operating at a construction site near your office may be many times more polluting. Diesel construction equipment ranges from backhoes and bulldozers to paving equipment and cranes; we have identified the worst offenders.

Out of 18 categories of construction equipment identified in the 2005 California Air Resources Board (CARB) emission inventory, the five highest-polluting categories are responsible for 65 percent of PM and 60 percent of NOx emissions. In descending order, they are excavators, tractors/loaders/backhoes, crawler tractors (commonly called bulldozers), rubber-tired loaders, and skid-steer loaders (CARB 2006c).

We compared PM and NOx emissions from these types of equipment with the number of miles a new heavy-duty tractor-trailer truck (or "big rig") would have to travel to emit the same amount of pollution. The emissions of a model year 2007 big rig were estimated based on a truck traveling 55 miles per hour and operating on recently available ultra-low-sulfur diesel fuel. Hourly construction equipment emissions were calculated from equipment population estimates and CARB's 2005 emission inventory.

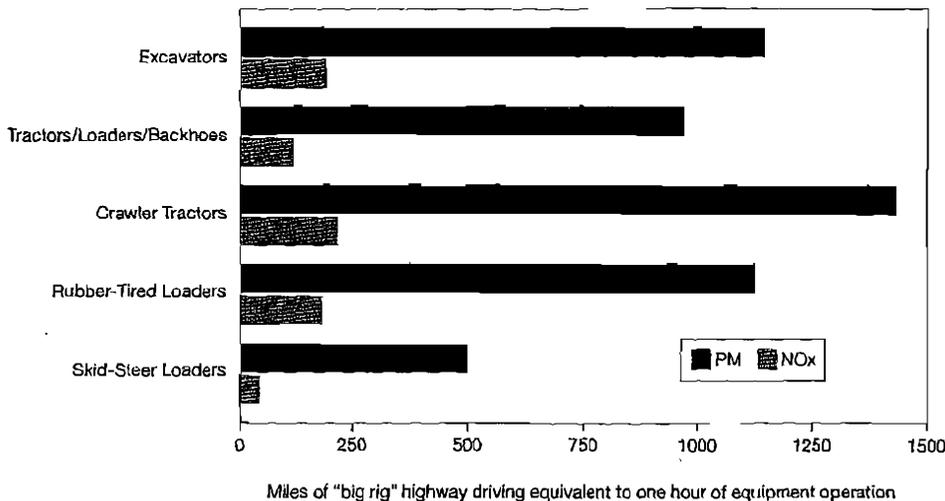
⁴ Tier 1 EPA nonroad engine standards did not include PM limits for engines of 50 to 175 horsepower.

TABLE 2 Emissions by Type of Construction Equipment

	Percent of Total PM from Construction Equipment	Percent of Total NOx from Construction Equipment	Useful Life (in years)
Excavators	17%	18%	17
Tractors/Loaders/Backhoes	16%	12%	18
Crawler Tractors (Tracked Bulldozers)	13%	13%	29
Rubber-Tired Loaders	12%	12%	21
Skid-Steer Loaders	7%	4%	13
Off-Highway Trucks	5%	9%	17
Rough-Terrain Forklifts	5%	3%	16
Graders	5%	5%	23
Off-Highway Tractors	4%	5%	31
Rollers	3%	3%	20
Trenchers	3%	2%	28
Scrapers	3%	1%	26
Cranes	3%	4%	19
Rubber-Tired Dozers	2%	2%	32
Pavers	2%	1%	26
Bore/Drill Rigs	1%	1%	10
Other Construction Equipment	0.4%	1%	16
Paving Equipment	0.3%	0.2%	24
Surfacing Equipment	0.04%	0.1%	22

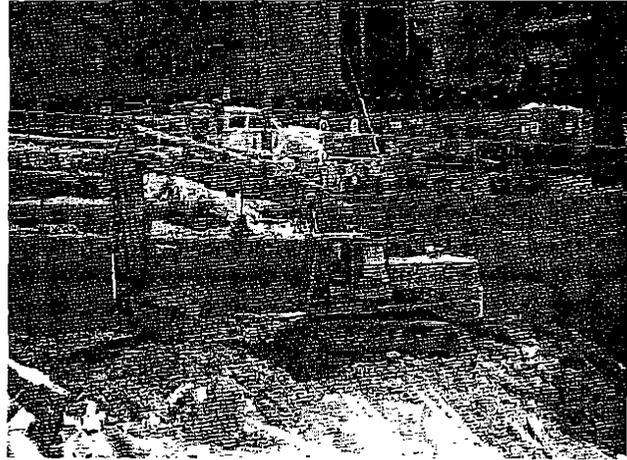
NOTE: Useful life is defined as the age at which half of the equipment of a given model year has been retired.
 SOURCE: Based on 2005 CARB construction emission inventory (updated as of September 2006).

FIGURE 1 Construction Equipment Emissions Compared with a New "Big Rig"



Excavators

There are an estimated 19,000 excavators in California, ranging in size from about 50 to 750 horsepower. The annual PM pollution from excavators accounts for 17 percent of all PM from construction equipment. On average, an excavator operating for one hour emits as much PM as a new big rig traveling 1,100 miles, while NOx emissions are equivalent to driving a big rig about 200 miles. The useful life of this equipment is 17 years.⁵



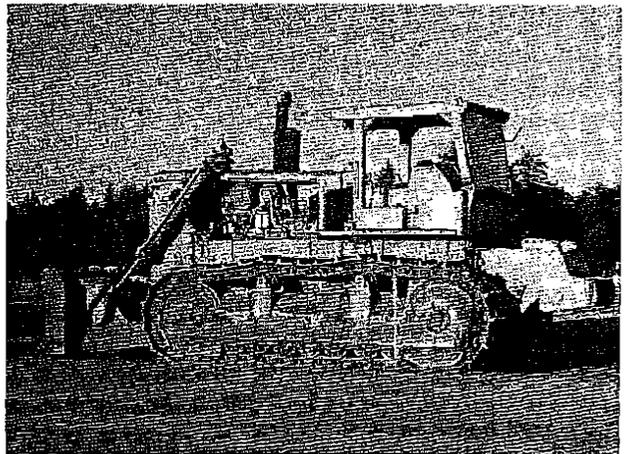
Tractors/loaders/backhoes

These versatile pieces of equipment are commonly used on construction sites and road repair projects. More than 30,000 backhoes are operated in California every year, emitting 16 percent of all PM from construction equipment. The PM produced by the average backhoe in one hour is equivalent to driving a big rig nearly 1,000 miles, while the NOx emissions are equivalent to driving more than 100 miles. The useful life of this equipment is 18 years.



Crawler tractors (bulldozers)

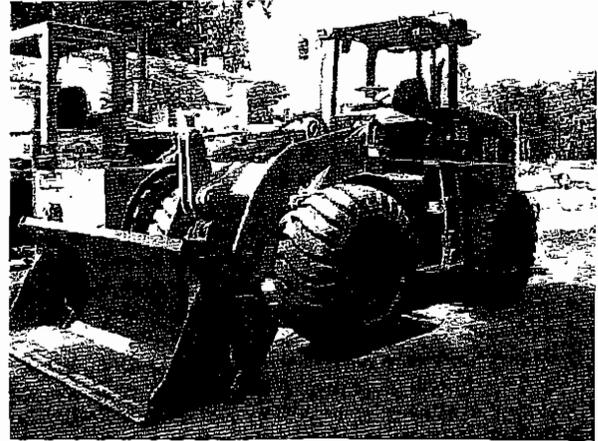
These tracked vehicles are used primarily for earthmoving operations. More than 16,000 bulldozers operate in California and emit 13 percent of all PM from construction equipment. The average bulldozer operating for one hour emits the same amount of PM as a new big rig driving 1,400 miles. The NOx emissions from an hour of operation are equivalent to driving a big rig 200 miles. The useful life of a crawler tractor is an impressive 29 years.



⁵ Useful life is defined as the age at which half of the equipment of a certain model year has been retired. The useful life, equipment populations, emissions, and other equipment specifics described in this section are based on CARB's updated off-road emission inventory model as of September 2006 (CARB 2006c).

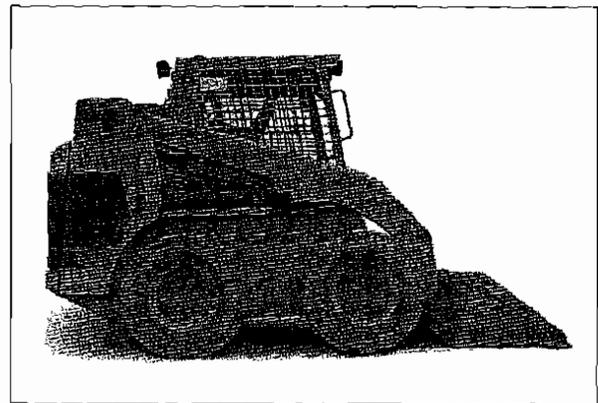
Rubber-tired loaders

These heavy-duty vehicles, commonly used to load trucks, represent the fourth largest source of diesel emissions from construction equipment; the estimated 19,000 rubber-tired loaders in California account for 12 percent of all construction pollution. The average loader operating for one hour emits PM equivalent to driving a new big rig 1,100 miles and NOx emissions equivalent to driving 200 miles. The useful life of rubber-tired loaders is 21 years.



Skid-steer loaders

More than 29,000 of these relatively small pieces of equipment operate in California on all types of construction projects, and account for seven percent of all PM from construction equipment. Even though the average skid-steer loader delivers less than 50 horsepower (a fraction of that provided by a big rig),⁶ its PM emissions from one hour of operation are equivalent to driving a new big rig 500 miles. The useful life of a skid-steer loader is 13 years.



6 A new big rig's engine can range anywhere from 300 to 600 horsepower.

*Chapter 2***HEALTH AND ECONOMIC DAMAGE FROM
CONSTRUCTION EQUIPMENT**

Emissions from construction equipment and other diesel vehicles are harmful to our health and well-being. The damage comes in the form of premature death, increased hospital admissions for respiratory and cardiovascular diseases, asthma attacks, and lost productivity through school absences and missed work days. Following established statistical methods, UCS has quantified the cost of diesel emissions from construction equipment in California.

The impact of several pollutants that comprise diesel exhaust must be taken into account:

- **Particulate matter (PM).** Also known as soot, these small particles (25 times smaller than the width of a human hair) are released directly from the tailpipe or formed indirectly from emissions of NO_x and sulfur oxides (SO_x). PM can penetrate deeply into the lungs, causing or aggravating a variety of respiratory and cardiovascular illnesses and even leading in some cases to premature death (Pope 2002, Krewski 2000, Samet 2000).
- **Smog-forming pollutants.** NO_x and hydrocarbons react in the presence of sunlight to form ozone (smog), which can damage the respiratory tract, reduce lung function, exacerbate asthma, aggravate chronic lung diseases, and also cause premature death (White 1994,

Koren 1995, Thurston 2001, Bell 2005). As much as 10 to 20 percent of all summertime hospital visits and admissions for respiratory illness are associated with ozone, and more than 90 percent of Californians live in areas that do not comply with federal ozone standards (Thurston 1992, 1994).

- **Air toxics.** The state of California has classified diesel exhaust and more than 40 compounds in diesel exhaust as toxic air contaminants.⁷ Exposure to these chemicals can cause cancer, damage to fetuses, and other serious health and reproductive problems. CARB has estimated that diesel exhaust is responsible for 70 percent of the state's risk of cancer from airborne toxics (CARB 1998).

**ESTIMATING HEALTH EFFECTS
OF CONSTRUCTION POLLUTION**

This analysis uses methods established by CARB and the EPA to quantify health and economic damage from diesel pollution. In March 2006, CARB released a study detailing the regional health and economic damage caused by California's goods movement system (CARB 2006a). A number of adverse health effects, or endpoints, strongly linked to diesel pollution were quantified along with an estimate of the economic costs associated with these endpoints.

⁷ According to the California Health and Safety Code, a toxic air contaminant is "an air pollutant which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health."



How Diesel Exhaust Damages Lungs

As PM from diesel exhaust travels through the air and is inhaled, the largest particles settle in the nose, throat, and lungs. The finest particles are able to evade the body's natural defenses (such as sneezing and coughing) and travel deep into the lungs. Once there, these particles can cause inflammation and scarring of air passageways and lung tissue, resulting in reduced oxygen flow to the rest of the body. Symptoms can range from coughing and shortness of breath to severe and fatal asthma attacks.

When inhaled, ozone—a key ingredient of smog—can also damage lungs by chemically burning delicate tissue and causing scarring. Recent evidence suggests that exposure to ozone can cause asthma in otherwise healthy children (McConnell 2002). On days with high ozone levels, health officials recommend reducing outdoor activities to lower exposure to this dangerous pollutant.

Using emission data specific to diesel construction equipment in California, we used the same methodology to quantify the damage from construction equipment pollution. Because our ability to quantify the public health impact of diesel pollution is limited, the health endpoints quantified in this analysis do not represent all of the potential damage associated with diesel pollution and are therefore conservative estimates.

Economic damage associated with construction equipment pollution is estimated by assigning each health endpoint an economic value. Economic valuations for each health endpoint are based on the cost of treating an illness, lost productivity or wages, or the value society is willing to pay to lower the risk of certain outcomes.

For further discussion of the methodology used to estimate the health and economic impact of construction pollution, please refer to the appendix.

Our analysis found that the economic and health damage caused by construction equipment pollution in California is staggering. More than 1,000 premature deaths per year can be attributed to these emissions, along with more than 1,000 hospitalizations for cardiovascular and respiratory illness, and more than 30,000 asthma attacks and other respiratory symptoms. Hundreds of thousands of lost work days and school absences equate to more than \$60 million in annual economic losses. In addition, Californians collectively experience millions of days each year when air pollution restricts their activities. Overall, construction equipment pollution costs the state more than nine billion dollars every year.

TABLE 3 Health and Economic Damage from Construction Pollution (Statewide)

Health Endpoint	Pollutants	Total Incidences	Costs (in thousands of 2005 dollars)
Premature Deaths (\$7.9 million/incidence)	PM and ozone	1,132 (328-1930)	8,944,256 (2,588,161-15,249,672)
Respiratory Hospitalizations (\$34,000/incidence)	PM and ozone	669 (398-933)	22,758 (13,530-31,795)
Cardiovascular Hospitalizations (\$41,000/incidence)	PM only	417 (263-646)	17,082 (10,795-26,491)
Asthma and Other Lower Respiratory Symptoms (\$19/incidence)	PM only	30,118 (11,686-48,110)	572 (222-914)
Acute Bronchitis (\$422/incidence)	PM only	2,494 (-609-5,408)	1,053 (-257-2,282)
Lost Work Days (\$180/incidence)	PM only	182,940 (155,031-210,810)	32,929 (27,906-37,948)
Minor Restricted Activity Days (\$60/incidence)	PM and ozone	1,544,952 (983,809-2,150,641)	92,697 (59,329-129,038)
School Absences (\$86/incidence)	Ozone only	331,040 (134,632-531,374)	29,131 (11,848-46,761)
Total Cost			9,140,480 (2,711,532-15,524,840)

DEFINITIONS:

Premature deaths: Premature deaths due to exposure to PM and ozone, including cardiopulmonary and lung cancer mortality.

Respiratory hospitalizations: Hospital admissions for respiratory illnesses (such as emphysema or chronic bronchitis) as a result of exposure to both PM and ozone.

Cardiovascular hospitalizations: Hospital admissions for cardiovascular illnesses (such as heart attacks or hypertension) as a result of exposure to PM.

Lower respiratory symptoms: Asthma attacks and other symptoms such as wheezing, coughing, and shortness of breath.

Acute bronchitis: Symptoms can include coughing, chest discomfort, and slight fever and can last several days.

Lost work days: Days of work missed due to symptoms resulting from exposure to PM or to take care of an individual with such symptoms.

Minor restricted activity days: Days in which high ozone and PM levels require less strenuous activities but do not result in a lost work day or school absence.

School absences: Days of school missed due to symptoms resulting from exposure to ozone.

NOTE: Mean estimates are shown in bold; ranges shown in parentheses represent the 95 percent confidence interval (i.e., there is a 95 percent chance that the actual value falls between the two values shown).

Chapter 3

CONSTRUCTION POLLUTION IMPACT BY REGION

The majority of the damage caused by construction equipment pollution occurs in areas where large numbers of people are exposed. Five of California's 15 air basins, home to more than 85 percent of the state's population, suffer more than 90 percent of the total health and economic damage from construction pollution. In each of these five air basins, which are the focus of this chapter, concerns exist in both urban and suburban areas.

Air basins are largely defined by physical features, such as mountain ranges, and meteorological conditions, such as air flow patterns, that restrict the movement of air pollution to another air basin. Air quality in a given air basin is influenced by the emission sources within it, and to a lesser degree by pollution entering from another air basin. Transport of air pollution from neighboring air basins is an ongoing area of research and, for the purposes of this analysis, construction equipment emissions are assumed to remain in the air basin in which they were generated.

WHERE PEOPLE AND CONSTRUCTION MIX

UCS also evaluated the likelihood of exposure to construction activity in specific cities within the five most-affected air basins. While construction equipment contributes to overall PM and ozone concentrations in each air basin, people who live or work near construction equipment may be at a higher risk of exposure to these dangerous pollutants.⁸ Using 2000 census data and

2005 construction permit data from the California State Water Resources Control Board (SWRCB), we have identified those cities that have a higher risk of exposure to construction activity. The results show that areas where construction activity and people mix are spread throughout each region, in both urban and suburban cities and towns.

The SWRCB requires permits for construction projects that disturb more than one acre of land through clearing, grading, or excavation. We used permits from the SWRCB database for our analysis because such land disturbance generally involves the use of diesel earthmoving construction equipment. By excluding local building permits, we attempted to eliminate small projects such as single-family home construction and remodeling work that may not require the use of diesel equipment. The permits selected for this analysis were either active or issued between January 1, 2005, and December 31, 2005 (SWRCB 2005).

We then created maps using geographic information system (GIS) software to display "Construction Risk Zones" related to construction activity in each of the five studied air basins. Construction Risk Zones represent the risk of exposure to construction pollution in a given city, based on its mixture of construction activity and population density. To determine the relative risk potential for each city, we multiplied the total acreage under construction permit during 2005

⁸ Northeast States for Coordinated Air Use Management showed increased concentrations of diesel PM near construction sites (NESCAUM 2003). Other studies have shown an elevated risk of cancer near diesel pollution sources; these studies include a health risk assessment at a California rail yard (CARB 2005).

by population density from the 2000 census. A city's risk potential is presented in relation to other cities within the air basin, ranging from a relatively high risk to a relatively low risk.

The resulting Construction Risk Zones are based on the best information available, but it is important to note that this is not a measure of actual exposure to emissions and is only one measure of the likelihood that people and construction equipment will be in proximity to one another. Actual exposure levels depend on the amount of emissions produced by specific equipment, the types of equipment on a construction site and the length of time they operate, wind patterns and atmospheric conditions, and proximity

to the emission source. These details are not available from the SWRCB permit database.

Also, because we have measured construction activity in terms of acreage, a multi-story project and a single-story project are treated equally. In addition, the construction permit data used to evaluate Construction Risk Zones does not include California Department of Transportation (Caltrans) highway projects—a major source of construction activity in the state.⁹ In spite of these limitations, our Construction Risk Zone evaluation captures a majority of the largest construction sites in the state.

Please see the appendix for further discussion of the SWRCB permit data.

⁹ For perspective, Caltrans contracts were worth eight billion dollars in 2005 (CALTRANS 2005) while building and construction contracts were valued at \$65 billion according to the California Department of Finance (CDF 2005).

SOUTH COAST

Comprising most of Los Angeles, San Bernardino, Riverside, and Orange counties, this air basin experiences the greatest degree of health and economic damage in the state from construction equipment emissions. For 2005, this includes estimates of:

- more than 700 premature deaths
- 650 hospitalizations for respiratory and cardiovascular disease
- more than 1,700 cases of acute bronchitis
- nearly 21,000 incidences of asthma attack and other lower respiratory symptoms
- 300,000 days of lost work and school absences
- close to one million days of restricted activity

This loss of life and productivity cost South Coast residents an estimated \$5.9 billion.

Within the air basin, 127 cities and towns had active construction permits during 2005 accounting for more than 70,000 acres of land under construction. Areas designated as high-risk are spread throughout the region, with cities in all four counties falling in the top 10 percent of Construction Risk Zones. San Bernardino and Riverside counties each have four such cities while Los Angeles has three and Orange two. The presence of less population-dense cities such as Murrieta and Temecula in this group reflects the fact that large developments of 50 acres or more are common in these cities.

TABLE 4 South Coast Construction Pollution Damage

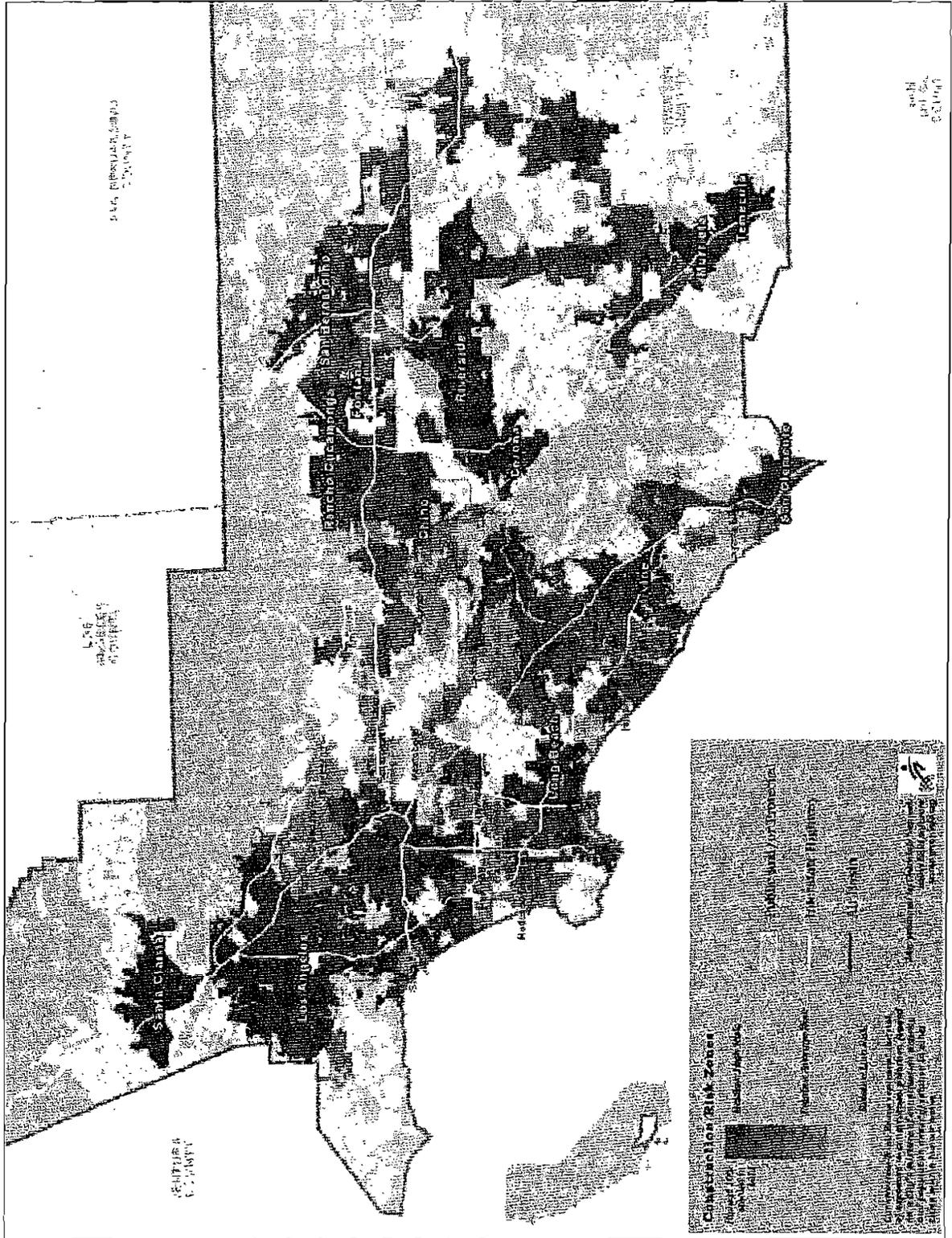
Health Endpoint	Mean Annual Incidences	Annual Costs (in thousands of 2005 dollars)
Premature Deaths	731	5,776,261
Respiratory Hospitalizations	383	13,019
Cardiovascular Hospitalizations	274	11,248
Asthma and Other Lower Respiratory Symptoms	20,941	368
Acute Bronchitis	1,729	730
Lost Work Days	129,439	22,219
Minor Restricted Activity Days	959,839	57,590
School Absences	175,339	15,430
Total Annual Cost		5,896,894

TABLE 5 Top 10 Percent of South Coast Construction Risk Zones

City	County
Long Beach	Los Angeles
Los Angeles	Los Angeles
Santa Clarita	Los Angeles
Irvine	Orange
San Clemente	Orange
Corona	Riverside
Murrieta	Riverside
Riverside	Riverside
Temecula	Riverside
Chino	San Bernardino
Fontana	San Bernardino
Rancho Cucamonga	San Bernardino
San Bernardino	San Bernardino

NOTE: Cities are listed in alphabetical order by county

FIGURE 2 Construction Pollution Risk in the South Coast Air Basin



SAN FRANCISCO BAY AREA

This air basin comprises nine counties and is second only to the South Coast air basin in health and economic damage from construction equipment emissions. For 2005, this includes estimates of:

- more than 150 premature deaths
- 100 hospitalizations for respiratory and cardiovascular disease
- more than 280 cases of acute bronchitis
- 3,000 incidences of asthma attack and other lower respiratory symptoms
- 44,000 days of lost work and school absences
- well over 100,000 days of restricted activity

This loss of life and productivity cost Bay Area residents an estimated \$1.2 billion.

Within the air basin, 80 cities and towns had active construction permits during 2005 accounting for more than 17,500 acres of land under construction. As in the South Coast, areas designated as high-risk are spread throughout the region. San Francisco and San Jose, both densely populated cities, fall in the top 10 percent of Construction Risk Zones along with less population-dense cities in Contra Costa, Alameda, and Solano counties (where large amounts of acreage are under construction).

It should be noted that the replacement of the Bay Bridge’s eastern span, a multi-year, multi-billion-dollar project involving large amounts of construction equipment, is not captured in this evaluation.

TABLE 6 San Francisco Bay Area Construction Pollution Damage

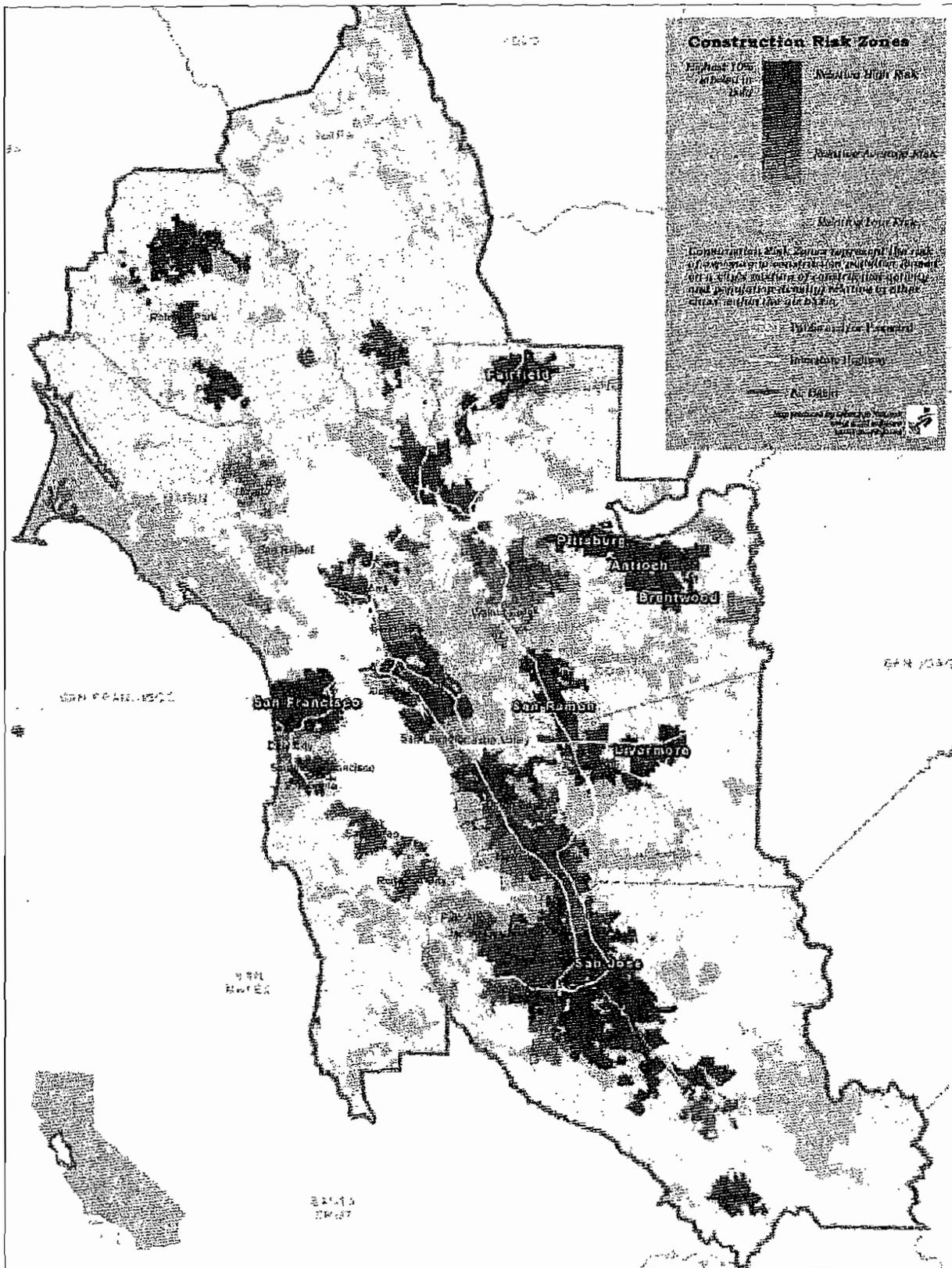
Health Endpoint	Mean Annual Incidences	Annual Costs (in thousands of 2005 dollars)
Premature Deaths	154	1,215,948
Respiratory Hospitalizations	56	1,914
Cardiovascular Hospitalizations	61	2,482
Asthma and Other Lower Respiratory Symptoms	3,406	65
Acute Bronchitis	284	120
Lost Work Days	25,713	4,628
Minor Restricted Activity Days	168,459	10,108
School Absences	18,472	1,628
Total Annual Cost		1,236,890

TABLE 7 Top 10 Percent of San Francisco Bay Area Construction Risk Zones

City	County
Livermore	Alameda
Anaheim	Contra Costa
Brentwood	Contra Costa
Pittsburg	Contra Costa
San Ramon	Contra Costa
San Francisco	San Francisco
San Jose	Santa Clara
Fairfield	Solano

NOTE: Cities are listed in alphabetical order by county.

FIGURE 3 Construction Pollution Risk in the San Francisco Bay Area Air Basin



SAN DIEGO

This air basin ranks third behind the South Coast and San Francisco Bay Area for damage from construction equipment pollution. For 2005, this includes estimates of:

- nearly 90 premature deaths
- more than 80 hospitalizations for respiratory and cardiovascular disease
- more than 170 cases of acute bronchitis
- more than 2,000 incidences of asthma attack and other lower respiratory symptoms
- 38,500 days of lost work and school absences
- more than 100,000 days of restricted activity

This loss of life and productivity cost San Diego residents an estimated \$718 million.

Within the air basin, 25 cities and towns had active construction permits during 2005 accounting for more than 22,500 acres of land under construction. San Diego is by far the most populated and largest city in the air basin falling in the top 10 percent of Construction Risk Zones; others include Chula Vista and Oceanside, which both have a population density similar to San Diego and more than 1,000 acres under construction permit in 2005.

TABLE 8 San Diego Construction Pollution Damage

Health Endpoint	Mean Annual Incidences	Annual Costs (in thousands of 2005 dollars)
Premature Deaths	89	703,222
Respiratory Hospitalizations	50	1,703
Cardiovascular Hospitalizations	33	1,357
Asthma and Other Lower Respiratory Symptoms	2,127	40
Acute Bronchitis	177	75
Lost Work Days	14,014	2,523
Minor Restricted Activity Days	113,280	6,797
School Absences	24,689	2,173
Total Annual Cost		717,890

TABLE 9 Top 10 Percent of San Diego Construction Risk Zones

City	County
Chula Vista	San Diego
Oceanside	San Diego
San Diego	San Diego

NOTE: Cities are listed in alphabetical order by county.

FIGURE 4 Construction Pollution Risk in the San Diego Air Basin



SAN JOAQUIN VALLEY

This air basin, comprising the southern counties of California’s Central Valley, ranks fourth for health and economic damage from construction equipment pollution. For 2005, this includes estimates of:

- nearly 50 premature deaths
- 70 hospitalizations for respiratory and cardiovascular disease
- more than 100 cases of acute bronchitis
- more than 1,200 incidences of asthma attack and other lower respiratory symptoms
- 39,000 days of lost work and school absences
- nearly 100,000 days of restricted activity

This loss of life and productivity cost San Joaquin Valley residents an estimated \$401 million.

Within the air basin, 66 cities and towns had active construction permits during 2005 accounting for more than 32,500 acres of land under construction. The seven cities comprising the air basin’s top 10 percent of Construction Risk Zones are spread throughout the valley (in six different counties) and correspond to the most populated areas.

TABLE 10 San Joaquin Valley Construction Pollution Damage

Health Endpoint	Mean Annual Incidences	Annual Costs (in thousands of 2005 dollars)
Premature Deaths	49	388,547
Respiratory Hospitalizations	55	1,858
Cardiovascular Hospitalizations	14	592
Asthma and Other Lower Respiratory Symptoms	1,284	24
Acute Bronchitis	107	45
Lost Work Days	8,241	1,123
Minor Restricted Activity Days	99,585	5,975
School Absences	33,282	2,929
Total Annual Cost		401,094

TABLE 11 Top 10 Percent of San Joaquin Valley Construction Risk Zones

City	County
Clovis	Fresno
Fresno	Fresno
Bakersfield	Kern
Merced	Merced
Stockton	San Joaquin
Modesto	Stanislaus
Visalia	Tulare

NOTE: Cities are listed in alphabetical order by county.

SACRAMENTO VALLEY

This air basin, comprising the northern counties of California’s Central Valley, ranks fifth for health and economic damage from construction equipment pollution. For 2005, this includes estimates of:

- nearly 40 premature deaths
- more than 40 hospitalizations for respiratory and cardiovascular disease
- more than 65 cases of acute bronchitis
- 790 incidences of asthma attack and other lower respiratory symptoms
- 22,000 days of lost work and school absences
- more than 50,000 days of restricted activity

This loss of life and productivity cost Sacramento Valley residents an estimated \$314 million.

Within the air basin, 52 cities and towns had active construction permits during 2005 accounting for more than 29,000 acres of land under construction. The cities falling in the top 10 percent of Construction Risk Zones include the city of Sacramento and its suburbs Elk Grove, Roseville, and Woodland, along with Yuba City in Sutter County.

TABLE 13 Top 10 Percent of Sacramento Valley Construction Risk Zones

City	County
Roseville	Placer
Elk Grove	Sacramento
Sacramento	Sacramento
Yuba City	Sutter
Woodland	Yolo

NOTE: Cities are listed in alphabetical order by county.

TABLE 12 Sacramento Valley Construction Pollution Damage

Health Endpoint	Mean Annual Incidences	Annual Costs (in thousands of 2005 dollars)
Premature Deaths	39	306,638
Respiratory Hospitalizations	30	1,003
Cardiovascular Hospitalizations	12	493
Asthma and Other Lower Respiratory Symptoms	790	15
Acute Bronchitis	66	28
Lost Work Days	4,817	831
Minor Restricted Activity Days	50,408	3,025
School Absences	17,492	1,539
Total Annual Cost		313,571

CONCLUSIONS

Construction equipment is operating in cities and towns throughout California, releasing harmful NO_x and PM emissions into the air and raising the risk of exposure to these pollutants for residents who live and work near construction sites. The likelihood of people living or working close to construction sites is highest in densely populated urban areas, but the suburbs are not

free of risk from construction equipment pollution. Many projects in these areas, including new commercial and residential developments, require extensive use of construction equipment for land clearing and grading operations. Road construction and maintenance projects occurring throughout the state add additional risk.

Construction equipment pollution is therefore a health concern for all Californians.

Chapter 4

BUILDING A CLEANER FUTURE

Because of its long working life, high replacement cost, and lagging emission standards, diesel construction equipment will continue to pollute for decades. That means Californians will suffer from increased hospital admissions for respiratory and cardiovascular disease, asthma attacks, acute bronchitis, and even premature death—unless the state takes action to dramatically reduce construction equipment pollution.

WHAT CAN CALIFORNIA DO?

Under the federal Clean Air Act, California has the unique authority to regulate construction equipment. The state should use this authority to establish stringent new regulations that would complement its recent efforts to clean up pollution from other on-road and off-road sources of diesel pollution.¹⁰ An effective regulatory regime for diesel construction equipment would:

- reduce diesel PM 75 percent below 2000 levels by 2010 and 85 percent below 2000 levels by 2020—which would reduce estimated annual premature deaths from construction equipment pollution by 790 (70 percent) compared with 2005
- phase out or retire the oldest, most polluting equipment
- install the best available retrofit technology on newer equipment

- require the strongest emission controls near sensitive locations such as schools, nursing homes, hospitals, and day care centers

Incentive programs have also proven effective in cleaning up construction equipment (UCS 2004). These programs should continue to fund equipment cleanup with the goal of achieving emission reductions above and beyond what regulations require.

There are a number of cost-effective ways to reduce emissions from construction and other off-road diesel equipment, allowing for flexibility in meeting reduction targets:¹¹

- **Refuel.** Switching to alternative diesel fuels can achieve modest reductions in pollutants. These fuels can also facilitate the use of advanced retrofit technologies, resulting in even less pollution.
- **Repower.** The body or chassis of some equipment can last many decades, beyond the life of the original engine. Installing a new low-emission engine in an older chassis can allow the machine to run cleanly for many more years. California's Carl Moyer incentive program is currently funding some repower projects for construction equipment.¹²
- **Replace.** Replacing old equipment with a new lower-emission model ahead of schedule can result in substantial pollution reductions.

¹⁰ CARB has passed numerous regulations under its Diesel Risk Reduction Plan that set strict emission reduction targets for specific types of diesel vehicles and equipment (CARB 2005a, 2005b, 2005c, 2004b, 2003a, 2003b, 2003c, 2000).

¹¹ Previous UCS analysis found that diesel cleanup through California's Carl Moyer incentive program achieves benefits valued at 10 times the cost of cleanup (UCS 2004).

¹² Repower projects funded by the Carl Moyer incentive program must meet stringent cost-effectiveness thresholds (CARB 2000a, 2004a).

- **Retrofit.** Existing engines that can be expected to run for many more years can be retrofitted with emission control technologies that reduce PM more than 90 percent.¹³
- **Reduce idling.** Idling equipment not only pollutes, but also wastes fuel. Limiting idle time, on the other hand, saves money by reducing fuel use and wear-and-tear on the engine.

Efforts around the country and around the world are proving that the technology exists to lower construction equipment emissions. In Switzerland, for example, an aggressive regulation to curtail diesel PM emissions from construction sites has resulted in thousands of retrofits (Mayer 2004, 2005). In 2003, New York City passed an ordinance requiring that diesel equipment on all city-funded construction sites use ultra-low-sulfur fuel and be retrofitted with the best available control technology (Bradley 2006). Boston's "Big Dig" incorporated more than 200 retrofit devices on construction equipment, and Connecticut's Harbor Crossing Corridor is following suit.

In California, some air districts are funding repowers and retrofits through the Carl Moyer incentive program and, for large projects, requiring the use of cleaner construction equipment.¹⁴ These and other groundbreaking efforts (MECA 2006) have proven the success of cleanup technology for construction equipment, but statewide action is necessary to achieve the greatest reductions and maximum health benefits.

WHAT CAN YOU DO?

By taking the following actions, individuals can help protect themselves from harmful diesel emissions and make sure that the appropriate

decision makers know that Californians want diesel-powered construction equipment cleaned up:

- File a visible smoke complaint with your air district (contact information can be found at <http://www.arb.ca.gov/capcoal/roster.htm>) or CARB (call 800-952-5588 or email vruiiz@arb.ca.gov) when you see plumes of diesel soot coming from construction equipment. Request that an inspector be sent to the site and investigate the emission source.
- Report illegal idling (commercial trucks that haul dirt or service construction sites cannot idle for more than five minutes) to CARB (visit <http://www.arb.ca.gov/enf/complaints/complaints.htm> or call 800-END-SMOG) or your local air district (contact information can be found at <http://www.arb.ca.gov/capcoal/roster.htm>). Citations for illegal idling can also be issued by local law enforcement.
- Tell your state legislative representatives (contact information can be found at <http://www.leginfo.ca.gov/yourleg.html>) and CARB (arbboard@arb.ca.gov) that cleaner construction equipment is important to you.
- Close your windows while diesel-powered equipment is operating near your home or office.
- Raise your concern about emissions from proposed construction in your neighborhood during the public review period, and demand that the project's environmental impact review assesses these emissions and includes a strategy for controlling them.
- Urge your city council to protect residents from construction pollution by enacting a clean-construction ordinance—especially around sensitive sites such as schools and day care centers.

¹³ CARB has verified retrofit technologies for use on off-road equipment. See <http://www.arb.ca.gov/diesel/verdev/verifiedtechnologies/cvr.htm>.

¹⁴ The Sacramento Metropolitan Air Quality Management District (<http://www.airquality.org/ceqa/index.shtml>) and San Luis Obispo County Air Pollution Control District (contact: Andrew Mutziger) require construction equipment pollution mitigation for some projects under the California Environmental Quality Act.

*Appendix***ESTIMATING THE HEALTH DAMAGE AND ECONOMIC COSTS OF CONSTRUCTION POLLUTION**

Our polluted air has provided researchers a real-world laboratory for studying the impact of air pollution on people's health. Numerous epidemiological studies tracking thousands of individuals have linked PM exposure to premature death as well as cardiovascular and respiratory illnesses. Similar studies have been carried out for exposure to ozone pollution. These studies provide the basis for estimating the health benefits of reducing air pollution and are used in this study to estimate the impact of construction pollution.

The health effects quantified in this report are based on peer-reviewed epidemiological studies used by both the EPA and CARB to evaluate the benefits of reducing air pollution. These studies establish a statistically significant relationship between exposure to PM and ozone and increased incidences of specific health endpoints, which can then be quantified through a concentration-response function. The uncertainty in these estimates is quantified by presenting results as both a mean estimate of the number of incidences and a range of estimates representing the 95 percent confidence interval.¹⁵

Our analysis links health and economic damage to construction equipment pollution by using California-specific air quality monitoring data, county baseline health incidence rates, population estimates, and a diesel construction equipment emission inventory. PM concentrations for specific air basins were measured by CARB when identifying diesel PM as a toxic air contaminant (CARB 1998). And CARB recently evaluated

concentration-response functions for specific health endpoints using diesel PM concentration estimates along with population data, baseline health incidence rates, and an inventory of diesel emission sources related to the movement of goods (CARB 2006a). As part of these efforts, air basin-specific factors were estimated (in tons of diesel pollution per incidence) for each health endpoint. UCS used these factors along with CARB's air basin-specific inventory of diesel PM, NO_x, and reactive organic gases (ROG) to estimate the health effects of PM and ozone from construction equipment (CARB 2006d).

Each health endpoint covered in this report is assigned a dollar value to estimate the economic impact of diesel pollution. The EPA uses economic valuations of health endpoints to perform cost-benefit analyses of air pollution reduction measures, and our analysis reflects changes made to the EPA's hospitalization endpoints and lost work days to better reflect California-specific wage and health care data (CARB 2006a).

Premature death is the most serious health endpoint related to diesel pollution and has the greatest economic impact. Estimates of premature death resulting from exposure to fine PM are based on long-term exposure for people 30 or older, and include all causes of death (Pope 2002). Individuals with existing respiratory and cardiovascular disease and the elderly are most vulnerable, and life expectancies are shortened by months or even years (Pope 2000). Economic valuation of premature death is based on a review of studies carried

¹⁵ For a list of the epidemiological studies used, see CARB 2006a and EPA 2004.

out by the EPA and on society's "willingness-to-pay" to lower the risk of premature death (EPA 1999).

CONSTRUCTION PERMIT DATA

The California State Water Resources Control Board (SWRCB) construction permit database was chosen as the primary source for representing construction activity in California. Residential and commercial building permit data were excluded from the study due to overlapping information with the SWRCB database and the inclusion of projects that may not involve the use of diesel construction equipment.

SWRCB construction permits, which we used to calculate Construction Risk Zones, are required under the federal Clean Water Act for projects that disturb more than one acre of land. According to the SWRCB Fact Sheet for Water Quality Order 99-08-DWQ:

Construction activity subject to this General Permit includes clearing, grading, disturbances to the ground such as stockpiling, or excavation that results in soil disturbances of at least one acre of total land area. Construction activity that results in soil disturbances of less than one acre is subject to this General Permit if the construction activity is part of a larger common plan of development that encompasses one or more acres of soil disturbance or if there is significant water quality impairment resulting from the activity.

Construction projects that disturb more than one acre of land generally involve the use of diesel earthmoving construction equipment. These permits, while not directly representing construction equipment activity, provide the best available indication of where large earthmoving equipment is being used.

Limitations of permit data. There are, however, some limitations to estimating construction activity from SWRCB permits.

Projects under permit may go through many different phases of construction before completion, not all of which require the use of diesel-powered construction equipment or sustained levels of construction equipment activity. Therefore, there is no guarantee that construction equipment was operated on site during a specific period of time, but permittees must pay an annual fee to the SWRCB to keep permits active. This monetary requirement should minimize the number of permittees holding active permits but not performing construction activity.

Additionally, there are some construction projects that will not appear in the SWRCB database. Projects in which storm runoff is captured in a combined sewer/storm water system do not require permits because the water treatment plant that receives the runoff is the permitted entity. Some projects in San Francisco and Sacramento, where a combined sewer system exists, may be excluded from the database as a result, but the majority of California cities do not have combined sewer/storm water systems.

Furthermore, some projects listed in the SWRCB database have incomplete location information. These details can include street address with or without number, street intersections with or without compass directions, pier number, and tract number. Mapping project location by city rather than zip code or street address allowed us to capture 90 percent of the acres under permit.

Because the size of a project is represented by the number of acres disturbed during construction, the amount of construction equipment activity may not have a linear relationship to the size

of the project. In general, large-acreage projects will likely have greater construction equipment activity than small-acreage projects. However, urban construction sites that are relatively small in area may have heavy construction equipment activity due to multi-story construction. For instance, a two-acre high-rise construction site in

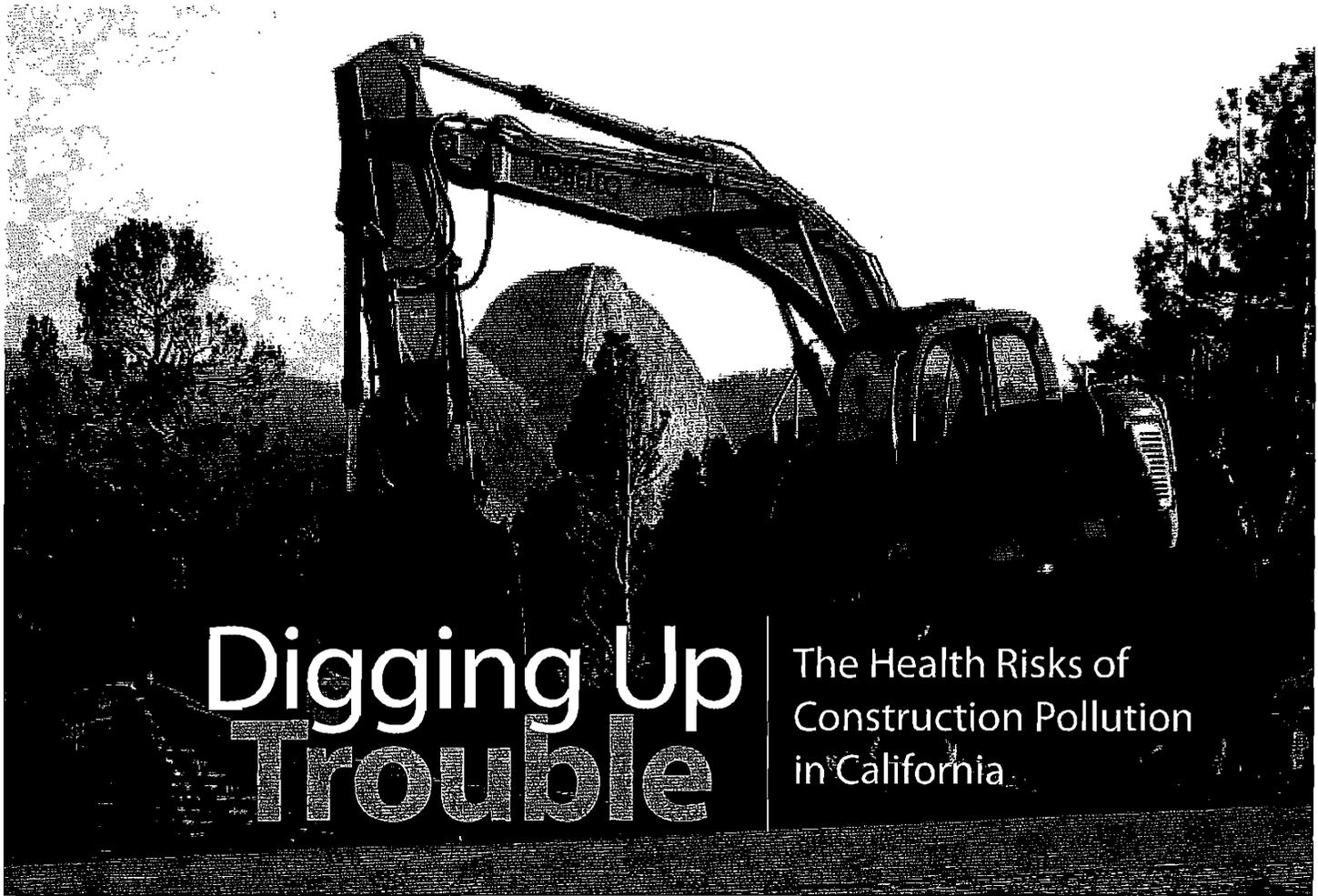
downtown Los Angeles may have a much higher sustained level of construction equipment activity than a two-acre single-family home construction site in the suburbs. The available data did not allow us to distinguish between single-story and multi-story construction.

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Digging Up Trouble

The Health Risks of
Construction Pollution
in California

Diesel engines may conjure up images of big rigs or transit buses, but construction equipment is a leading source of diesel pollution in California. Air pollution caused by construction equipment can result in severe cardiovascular and respiratory illnesses, asthma attacks, acute bronchitis, and even premature death.

This study quantifies the effect of construction pollution on California's public health and economy, both across the state and in the five most-affected regions. The risk of exposure to construction activity is evaluated for cities in each of these regions.

Construction equipment will continue to be a significant source of pollution over the next two to three decades unless California acts now. By adopting the cost-effective technology solutions that already exist (and those that will become available over the next few years), the state can reduce this public health threat and help all Californians breathe easier.

National Headquarters
Two Brattle Square
Cambridge, MA 02238-9105
Phone: (617) 547-5552
Fax: (617) 864-9405

Website www.ucsusa.org

West Coast Office
2397 Shattuck Ave., Ste. 203
Berkeley, CA 94704-1567
Phone: (510) 843-1872
Fax: (510) 843-3785

Email ucs@ucsusa.org

Washington, DC, Office
1707 H St. NW, Ste. 600
Washington, DC 20006-3962
Phone: (202) 223-6133
Fax: (202) 223-6162



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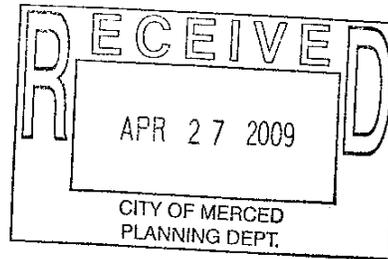
The commenter expresses concerns about the analysis of construction-generated emissions. Please see response to comments 30-D and 108-1. Information on detailed modeling input parameters, including the SJVAPCD-Recommended Construction Fleet spreadsheet is included in Appendix C to the DEIR, as stated on Page 4.2-29.

The commenter also recommends that the analysis of construction-generated emissions in the DEIR rely on information in a source called “Digging Up Trouble – The Health Risks of Construction Pollution in California, 2006” and attached a copy. The commenter suggests that the DEIR “implement the safety steps residents can take in protecting themselves from harmful construction equipment highlighted on page 32 of the study.” The study attached to the comment does not include a page 32 as it is less than 32 pages long. It is assumed that the commenter is referring to page 24 of the study. While the City can require mitigation measures on a project to reduce its impact, the City cannot impose mitigation measures on residents. The health risks associated with project construction are discussed under Impact 4.2-4 on page 4.2-43 of the DEIR. The analysis concluded that the incremental increase in health risk levels, including cancer risk and noncancer chronic risk, would not exceed applicable thresholds at nearby sensitive receptors and, as a result, this impact would be less than significant and no mitigation is required.

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March 28, 2009

Ms. Kim Espinosa
Planning Director
City of Merced Planning Department
678 W. 18th Street
Merced, CA 95340



Dear Kim,

Reading the Air Quality section of the Wal-Mart Distribution Center's DEIR, it is a stark reminder about how little rain fall we get here in the Valley. As you know, rain is always a welcomed sign for us in Merced. Acid rain is something that rarely crosses my mind, but if this distribution center brings additional air pollution to the Valley, this could be a very serious problem!

Dirty rain is bad for our health, our agricultural crops and our cars. It might be silly to mention cars, but I want to make the point that acid rain affects so many things in our lives. In fact on page 4.2-3, you even state "Ground level ozone also damages forests, agricultural crops, and some human-made materials, such as rubber, paint and plastics (City of Merced 1977)".

With all these trucks driving in and out of Merced and idling in the parking lot of the distribution center, there will be more unintended consequences than you might be aware of.

Thank you for your attention to this matter.

Vincent G. Rosales
Signature

Vincent G. Rosales
Print Name

137 Sweetwater Ave.
Address

Merced CA 95341
City, State Zip

(209) 777-3142
Phone Number

189-1

189-1

The commenter expresses concern about the proposed project's contribution to acid rain in the SJVAB. Rain is naturally acidic (i.e., with normal pH of approximately 5.0-5.6) due to dissolution of CO₂, a prevalent gas in the atmosphere, into rain droplets forming carbonic acid. When pH of rain approaches values below 5.0, then acid rain is considered to be an environmental problem. Acid rain is not a major concern in the Central Valley, and annual average pH of rain in California is greater than 5.5 (Ahrens 2003). Acid rain is primarily formed through dissolution of sulfur oxides or oxides of nitrogen into water droplets. Sulfur oxides are most often associated with large industrial sources, such as coal-fired power plants, which are more common in the northeastern United States. The northeastern United States is where most of the country's acid rain problems occur. The proposed project would not result in appreciable emissions of sulfur-containing compounds (such as sulfur dioxide [SO₂]). The project would result in emissions of oxides of nitrogen; however, since the central valley experiences low annual rainfall, the project would not substantially contribute to conditions that would result in acid rain.

Espinosa, Kim

From: Saan Saechao [saechao.s@live.com]
Sent: Friday, April 24, 2009 7:47 PM
To: Espinosa, Kim
Subject: RESPONSIBLE growth

I can fully understand the reason why some Mercedians would want the Wal-Mart distribution center to move in, employment. There would always be pros and cons in an argument but in this situation the pros have no competition against the cons. From traffic affecting school area to more taxes, it would be very ignorant for anyone living in the Merced area to accept the Wal-Mart distribution center. The best argument against the Wal-Mart distribution center is how it will effect the air we breathe everyday. The air in the Central Valley is already a problem so why feed flame to the fire? When summer rolls by you can bet the humidity would be extremely horrible. I would suggest the Central Valley Air Quality coalition (CVAQ) to get invovle in this matter. I am all in for growth in Merced but you have to do it the smart way, another word **RESPONSIBLE.**

190-1

Saan Saechao
Business Major
Merced Community College

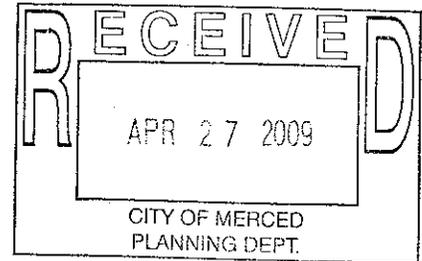
Rediscover Hotmail: Now available on your iPhone or BlackBerry [Check it out.](#)

190-1

The commenter generally addresses the merits of the project, although a couple of environmental issues are briefly mentioned, including traffic and air quality. The DEIR analyzes project-related impacts to traffic in Section 4.11 “Traffic and Transportation” and air quality in Section 4.2 “Air Quality.” The commenter does not raise issues related to the adequacy of the DEIR’s analysis. The comment is noted.

April 16, 2009

Ms. Kim Espinosa
Project Director
Merced Planning Division
678 W. 18th Street
Merced, CA 95340



Dear Ms. Espinosa:

After reading the Implementing Actions from our 2015 General Plan, listed in the Wal-Mart distribution center's environmental impact report, I am writing to learn how Merced will work with Wal-Mart to agree to alternatives which might replace or convert tractor trailer trucks used at the distribution center. I feel Wal-Mart should make sure that at the very least, 50% of it's truck fleet coming in and out of Merced be fitted with the cleanest burning engines possible.

191-1

Second, I know Wal-Mart subcontracts outside trucks. I hope Merced will ask Wal-Mart to make sure that at least 25% of the subcontract trucks used at the distribution center will also be outfitted with clean burning diesel engines.

191-2

These are simple and small steps that Merced can take to reduce the impacts on air quality.

Sincerely yours,

672 Santa Barbara Ave
Los Banos CA 93635

- 191-1 The commenter recommends that 50% of the Wal-Mart truck fleet be fitted with the cleanest engine technology available and 25% of the non-applicant-owned trucks using the distribution center would also be fitted with this clean engine technology. Please see mitigation measure 4.2-2c, which states that all Wal-Mart trucks would participate in EPA's SmartWay Transportation Partnership. However, the City does not have discretionary control of the non-applicant-owned trucks that would use the distribution center. Nonetheless, the requirement to continue Wal-Mart's membership in SmartWay would ensure that 40% of the total amount of trucks using the distribution center would use clean engine technology. Please also refer to response to comment 9-2.
- 191-2 The commenter recommends that 50% of the Wal-Mart truck fleet be fitted with the cleanest engine technology available and 25% of the non-applicant-owned trucks using the distribution center would also be fitted with this clean engine technology. Please see mitigation measure 4.2-2c, which states that all Wal-Mart trucks would participate in EPA's SmartWay Transportation Partnership. However, the City does not have discretionary control of the non-applicant-owned trucks that would use the distribution center. Nonetheless, the requirement to continue Wal-Mart's membership in SmartWay would ensure that 40% of the total amount of trucks using the distribution center would use clean engine technology. Please also refer to response to comment 9-2.

Espinosa, Kim

From: JULIA SANCHEZ [jsanchez-contreras@sbcglobal.net]
Sent: Thursday, February 26, 2009 10:35 AM
To: Espinosa, Kim
Cc: sjson@mercedsun-star.com
Subject: Wal Mart

Ms. Espinosa - My name is Julia Sanchez-Contreras I am a resident of Merced and have lived in Merced and Merced County for most of my life. I care deeply about our farm rich area and value our small town environment here in Merced.

I work in for a large insurance company and travel from Bakerfield up to Northern California. I travel lots of Freeways but am on the 99 on most days. About a year ago my work took me to Porterville where I would be spending the night for an early morning appointment. As I approached my hotel I noticed a Wal Mart sign on a building and as I approached the building got bigger and bigger. It turned out to be a Wal Mart Distribution Center.

As I checked in I commented on how terrible it must be to have a Wal Mart Warehouse right in front of the hotel. There must be so much pollution, traffic and noise. Not to mention the low paying jobs. I also made mention that I was from Merced and that we were battling the building of a Wal Mart center ourselves.

Out of the six from the hotel that I spoke with that and the next day and the several other people I spoke with in town about the same subject I got the same response. Wal Mart is considered to be a good partner to the community. That the traffic is paced and most of it done at night so that the town is not affected. The building itself does not create any pollution and that the only added pollution is from the trucks. The noise is also not a factor. The pay is good and most of those I spoke with either knew or were related to someone that worked there.

When I heard this I changed my view. I was very against it. Now I am for it so long as Wal Mart is paying a good wage, manages the traffic and creates minimal pollution what harm can it bring to Merced. In this uncertain economic time we certainly need the jobs. We need the revenue from the property and other applicable taxes.

In all the articles that I have read in the Merced Sun-Star I have never read about the Porterville Distribution Center. It is so close to use in distance and in likeness to our community. Why? Has anyone from the City Council or Board of Supervisors ever talked to their counter parts in Porterville. Have we talked to other communities that faced the same challenging decision?

Julia Sanchez-Contreras
3138 McKee Road
Merced, CA 95340

192-1

**Letter
192
Response**

Julia Sanchez-Contreras
February 26, 2009

192-1

The comment addresses the merits of the proposed project, recommends approval, and does not raise any issues regarding the adequacy of the DEIR. The comment is noted.

Espinosa, Kim

From: clayton sandy [clayton_clayton_mortal@yahoo.com]

Sent: Saturday, February 28, 2009 4:21 PM

To: Espinosa, Kim

Subject: Walmart Distribution Center

We need the Walmart distribution center. If we do not get the jobs your going to see crime really go up. This was their only hope in getting a job. You'll see more desparate people doing deparate things to survive in this bad economy. People with money will no longer be safe.

193-1

GIVE HOPE TO THE PEOPLE AND WE WILL LIVE IN A SAFER ENVIRONMENT.

GOD BLESS AMERICA!

clayton_clayton_mortal@yahoo.com

193-1

The comment addresses the merits of the proposed project, recommends approval, and does not raise any issues regarding the adequacy of the DEIR. The comment is noted.

Espinosa, Kim

From: Jeanne Sanford [jeannesanf@sbcglobal.net]
Sent: Saturday, February 28, 2009 2:16 PM
To: Espinosa, Kim
Subject: Wal-Mart Dist. Center

Dear Ms. Espinosa,

I'm a retired teacher from Weaver School District. My major concern is the health of children in the area of the proposed Wal-Mart Distribution Center. The incidence of asthma among children has risen alarmingly in the area where the center would be located. I urge that the Planning Commission and the City Council protect our children's health from the air pollution that would be caused by trucks coming, going, and idling in connection with their deliveries and possible layovers. Please give primary consideration to the well being of the children.

194-1

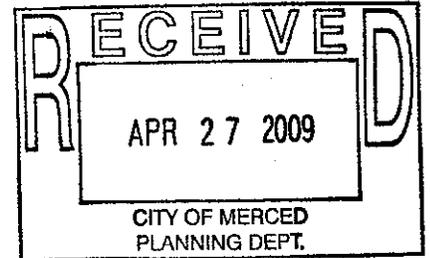
Sincerely,

**Jeanne Sanford
146 Madrona Dr.
Atwater, CA 95301**

194-1

The commenter expresses concern about the project's affects to children's health, including students at nearby schools who have respirator issues. Please refer to the response to comment 16-8 which discusses how the schools were included in the HRA performed for the project. Please refer to the Master Response 13 regarding the commenter's concern about project-generated emissions of air pollutants and the public health concerns (including asthma). Please refer to the response to comment 17-12, which discusses how the relative locations of nearby schools were analyzed in the traffic analysis.

William C. Sanford
146 Madrona Dr.
Atwater, CA 95301-2272
209/357-0701; wjsanford@sbcglobal.net



April 25, 2009

To the Planning Commissioners

Gentlepersons:

I write to comment on the proposed Wal-Mart Distribution Center.

Some citizens are offering thoughts in favor, and I need not speak for them.

Some citizens are raising issues in opposition, and neither they nor you need me to go over that ground for what the umpteenth time. No, my objective is strictly limited. I want to identify one point which may not have been given the attention I believe it deserves. My thought relates particularly to location.

In my view, the proposed location is seriously flawed. It is way too close to schools and residences. I'm under the impression that many people living in close proximity don't want this particular development to land in their neighborhood.

195-1

I ask then that you bring into consideration an ethical guideline common to at least seven of the world's major religions: Hinduism, Buddhism, Taoism, Confucianism, Judaism, Christianity and Islam. The guideline is often called "The Golden Rule." My personal favorite rendering is in Matthew 7:12 New English Bible: "Always treat others as you would like them to treat you."

But let me lay alongside that a negative rendering drawn from a Confucian source: "What you do not want done to yourself, do not do to others."

Expressed either way, the guidance seems clear to me. If I wouldn't want to live there, then I should not be a party to making someone else live there.

Much of the world gives the 'rule' lip service. I invite you to honor it by acting on it. That's my point. Thanks for considering it.

Yours truly,

A handwritten signature in cursive script that reads "Bill Sanford".

195-1

The commenter indicates that the project location is not appropriate. Please see Section 5 of the DEIR "Alternatives to the Proposed Project", which evaluates three alternative sites for the project. As indicated in Table 5-8 of the DEIR, the other locations evaluated generally result in greater impacts than the proposed project. See also Master Response 12: Alternatives. Please see responses to comments 29-21 and 17-12 regarding concerns about impacts to nearby schools and reference to mitigation for truck traffic. The commenter does not raise issues related to the adequacy of the DEIR's analysis. The comment is noted.

Espinosa, Kim

From: Dhruv Shah [dhruvshah@sbcglobal.net]
Sent: Saturday, April 18, 2009 10:48 AM
To: Espinosa, Kim
Subject: Approve Walmart Distribution Center.

Hi,

My name is Dhruv Shah and I'm the General Manager at the Quality Inn in Merced. I've to tell you this even though you all might already know, I've been managing the place since April of 2008 and I'm seeing over a 50% drop in business when comparing 08-09 Q1 reports. We are the worst hit area in the nation due to this economic downturn.

I honestly think that somethings needs to be done to bring Merced from the worst performing city and county and the Walmart Distribution Center is just the kind of boost we need in this area. 1200 Jobs is what the city and county needs and we've not seen a big employer like that in a long time, if we pass up this opportunity we'll not find another one like this anytime soon.

I can understand the effect that it will have the enviornment but at the same time we've to think about a healthy community mentally and financially and this is a perfect way to address these issues. I'm sure the grants from places will help ease some of the air pollution effects that people are talking about.

I hope this goes through and i'll praying everyday for this to happen. This is not just for my job security but for the security of the community that is falling apart due to high unemployment rates.

Thanks,

Dhruv Shah

2654 El Centro Rd.
Sacramento, CA 95833
Ph# 415-385-3291
Fax# 415-230-4704
dhruvshah@sbcglobal.net

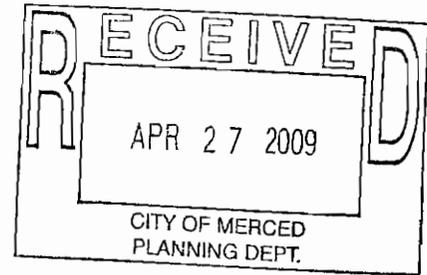
196-1

196-1

The comment addresses the merits of the proposed project and dismisses environmental issues. The comment does not raise any issues regarding the adequacy of the Draft EIR. The comment is noted.

April 24, 2009

**Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340**



Ms. Espinosa:

Thinking of transportation alternatives which could reduce the number of cars employees take to work, you should consider walking routes or trails that employees who live in Southeast Merced could take to the distribution center. It's a great way to get employees who live nearby out of their cars and getting a little exercise.

If new walking trails or paths have to be build, let's make sure that Wal-Mart pays for them. I don't feel taxpayers should be on the hook for this.

Please explore walking paths and trails as ways to commute in the Environmental Impact Report.

Thank you for your attention,

Jan Shaw
488 HYDRANGEA CT
MERCED CA 95341

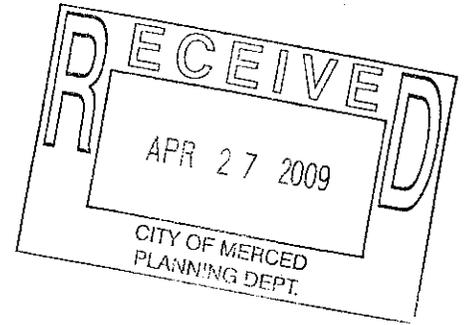
197-1

197-1

The comment recommends that the DEIR include analysis of various transportation alternatives. To be conservative, the DEIR transportation analysis assumed a worst-case scenario, in that employees would drive to the site and park. The assumptions regarding mode choice and potential affect to pedestrian, bicycle and transit operations are described in more detail on page 4.11-4 and in the Traffic Impact Analysis report in Appendix E of the DEIR. No further analysis is required.

April 20, 2009

Ms. Kim Espinosa
Planning Manager
City of Merced Planning Department
678 W. 18th St.
Merced, CA 95340



Dear Ms. Espinosa,

The construction period of the Wal-Mart Distribution Center is just as important to study as when the center is operational. I'm glad the draft environmental impact report addresses the issue, but I feel it does not go into enough specifics.

For example, some construction equipment will be noisier and more polluting than others. I don't see anything in the report that mentions this or what measures will be taken by Wal-Mart to reduce all of the impacts from the more obnoxious machinery than the less obnoxious ones.

198-1

Are there more details you can make available in the report?

Thank you,

*Terese Shaw
488 Hydrangea CT
Merced CA 95341*

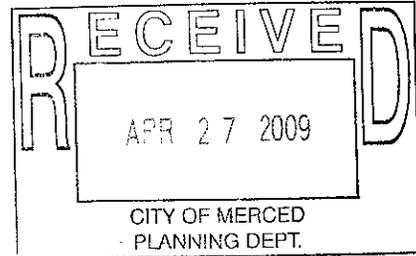
198-1

The comment states that some construction equipment would be louder than others and asks what is being done about the louder pieces of equipment. Noise levels from the loudest pieces of construction equipment associated with project implementation are presented in the DEIR on page 4.8-18 in Table 4.8-8. Construction noise was modeled using the Federal Highway Administration's Roadway Construction Noise Model and takes into account the loudest pieces of equipment that would be used during project construction. Mitigation Measure 4.8-1 "Regulate Short-Term Construction Noise" would apply to all pieces of construction equipment and would reduce construction noise to less-than-significant levels.

The comment also states that some construction equipment would have more emissions than others and asks what is being done about the "more obnoxious" pieces of equipment. Construction-generated emissions of criteria air pollutants are discussed in Impact 4.2-1 and mitigated by Impact 4.2-1a and Impact 4.2-1b. Construction-generated emissions of toxic air contaminants are discussed in Impact 4.2-4 and were found to be less than significant.

April 19, 2009

Kim Espinosa, Project Director
Merced Planning Division
678 W. 18th St.
Merced, CA 95340



Ms. Espinosa,

Why are you using data that is almost 10 years out-of-date in your asbestos assessment? I noticed that you are using a guide that was published in 2000. Seems to me that some recent data ought to be available. Please study this issue further. There are some very serious health concerns that you ought to explore.

199-1

Sincerely,

Carol Simmers-Tilma

*Carol Simmers-Tilma
7229 Tokay Circle
Winton, CA 95388*

**Letter
199
Response**

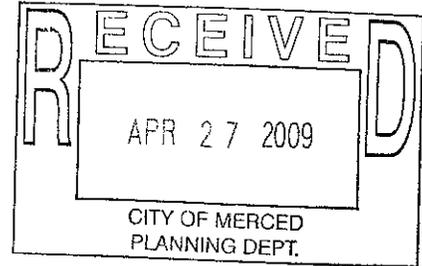
Carol Simmers-Tilma
April 19, 2009

199-1

Please see response to comment 178-1 regarding NOA.

April 12, 2009

Kim Espinosa
Planning Manager
Merced Planning Department
City of Merced
678 W. 18th St.
Merced, CA 95340



Re: Merced Wal-Mart Distribution Center Project

Kim,

As an avid naturalist, I was shocked to learn that the City was actually seriously considering the approval of a Wal-Mart Distribution Center on a property which provides over 200 acres of open space and nature. Having such a piece of land seems to be harder and harder to come by these days. Not only would residents not have the value of such a piece of property if it were replaced by pavement, buildings, and an endless parade of semi-trucks, but various wildlife species would be harmed in the process. While the area is close to human movement, constructing and developing the site would disrupt the wildlife that has considered this their home. I am more than against the idea of the project and would hope the City takes my sentiments and the sentiments of the many other citizens against the project into consideration.

200-1

Thank you.

A handwritten signature in black ink, appearing to read "Renee Smith".

Signature

Renee Smith

Print Name

318 Pomelo Ave - Los Banos, Ca, 98635

Address

(209) 675-6339

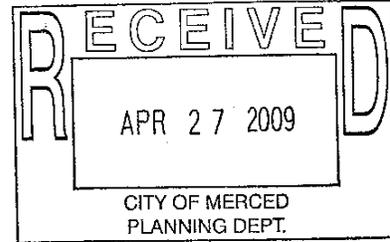
Phone

200-1

The commenter is concerned that implementation of the proposed project would harm various wildlife species and would disrupt their home. In addition, the commenter is opposed to the project. The project's biological impacts were evaluated in Section 4.3, "Biological Resources," of the DEIR. As described therein, the project would result in potentially significant impacts to wildlife, and mitigation is proposed to reduce these impacts to a level of less-than-significant (see page 4.3-10). In addition, please note that the project site is located within the City's Specific Urban Development Plan (SUDP) area. All land within the SUDP is planned for eventual development. Please refer to response to comment 121C-1 for further discussion.

The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided. This comment is noted for the City's consideration during review and approval of the project. No further response is necessary.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

The EIR for the Wal-Mart Distribution Center ought to have a specific plan to regulate the equipment monitoring and during the construction process.

The current Draft eir lacks specific details regarding the type, size and frequency of construction equipment being operated. How will the equipment be monitored to make certain it meets manufacturing specs detailed in the DEIR? Please do a better job on the final EIR.

201A-1

Many Thanks,

Lucy Snyder

Lucy Snyder

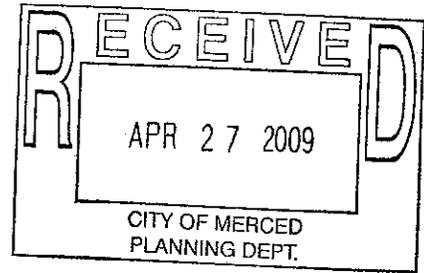
3554 Beals Ave

Merced, CA 95348

209-723-2342

March 22, 2009

Kim Espinosa
Merced Planning Department
678 West 18th Street
Merced, CA 95340



Dear Kim,

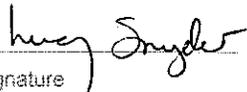
While I have shopped at Wal-Mart before, I am concerned with the construction of the proposed distribution center. I read in the Draft EIR that the construction of the buildings and pavement could lead to many pollution issues. The Draft EIR states increased impervious surfaces in the area in and around the site has resulted in higher rates of runoff during rainy season previously which has been a source of water pollution. My concern is that this increased pollution will affect our groundwater when it is recharged from the various polluted surface waters.

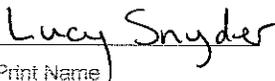
201B-1

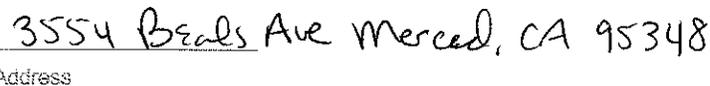
Additionally, increased runoff leads to the question of whether excessive flooding may occur. While there are already some parts which can flood during the rainy season, the increase in runoff would make flooding more rampant.

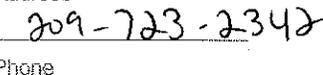
For these reasons, I ask the City not approve the construction of the distribution center in our community.

Sincerely,


Signature

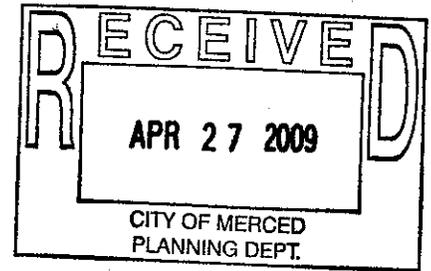

Print Name


Address


Phone

April 7, 2009

Kim Espinosa
Planning Manager
City of Merced
678 W. 18th St.
Merced, CA 95340



Re: Wal-Mart Distribution Center Project

Dear Ms. Espinosa:

In regards to the Draft Environmental Impact Report, I am opposed to the City building on this property.

This specific area is prime agriculture land and needs to be protected. There are economic benefits of this type of soil and building on it only hurts the local agriculture and farmland industry. The City has been responsible in protecting this type of land and should continue to support farmers and the agricultural community.

201C-1

Please deny this application and keep this site farmland. Thank you for your consideration.

Thank you.

Lucy Snyder
Signature

Lucy Snyder
Print Name

3554 Beals Ave
Address

Merced, CA

209-723-2342
Phone

**Letter
201A-C
Response**

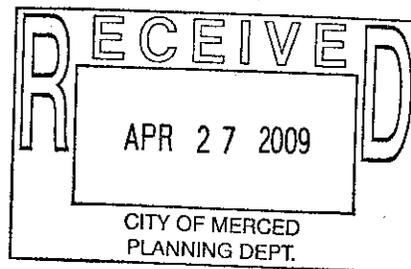
Lucy Snyder

- 201A–Undated ➤ 201B–March 22, 2009
 - 201C–April 7, 2009
-

- 201A-1 The commenter requests that the DEIR include more detail about the construction equipment expected to be used to construct the proposed project. Please refer to response to comment 30D-1. The commenter also questions how the equipment would be monitored to make certain it meets the manufacturer specifications, as require by Mitigation Measure 4.8-1. In order to provide additional clarity, please see Section 4 of the FEIR for specific changes to this mitigation measure.
- 201B-1 The commenter expresses general concern over contaminated runoff and flooding from the proposed project. Section 4.6 “Hydrology and Water Quality” presents analyses of pre- and post-development conditions and Mitigation Measure 4.6-2 addresses both volume and quality of stormwater runoff from proposed impervious surfaces. The final design specifications would be required to demonstrate to the City and MID that runoff generated as a result of the project would be properly contained and conveyed. Please also refer to Master Responses 8 and 9 which address issues related to surface and groundwater quality.
- 201C-1 The commenter states the prime agricultural land on the project site needs to be protected. The commenter identifies economic benefits of and the City’s responsibility to protect agricultural land. Please refer to Master Response 5: Agricultural Resources, which addresses the issue related to conversion of important farmland.

4.14.2009

Kim Espinosa
Planning Manager
Merced Planning Department
678 West 18th Street
Merced, CA 95340



Re: Merced Wal-Mart Distribution Center Project

Dear Ms. Espinosa:

I am voicing my concern against the development of a distribution center in our City. Mainly, I am against the project for the following reasons:

- The construction of the distribution center would create more impervious land, which would exacerbate the current flooding situation, which sometimes occurs when there is too much stormwater in our drainage systems. 202-1
- The distribution center would lead to more traffic which would not only congest the surrounding roads more but would also lead to more pollution including oils from the semi-trucks polluting water runoff. 202-2
- The development of a distribution center could potentially harm wildlife in the area, which I have grown accustomed to and enjoy. 202-3

For these reasons, I believe the City should deny the construction of the Wal-Mart distribution center.

White Soans
Signature

Celeste Soanes
Print Name

2355 Atwater Blvd.
Address

Atwater CA.

209 242-6187
Phone

- 202-1 The commenter expresses general concern over flooding resulting from the proposed project. Section 4.6 “Hydrology and Water Quality” presents analyses of pre- and post-development conditions and Mitigation Measure 4.6-2 addresses both volume and quality of stormwater runoff from proposed impervious surfaces. The final design specifications would be required to demonstrate to the City and MID that runoff generated as a result of the project would be properly contained and conveyed. Please also refer to Master Response 7: Detention Basins and Drainage, which provides a more detailed discussion regarding the proposed drainage system. The comment does not raise issues related to the adequacy of the DEIR’s analysis.
- 202-2 The commenter expresses general concern over contaminated runoff and flooding from the proposed project as a result of increase traffic. Section 4.6 “Hydrology and Water Quality” presents analyses of pre- and post-development conditions and Mitigation Measure 4.6-2 addresses both volume and quality of stormwater runoff from proposed impervious surfaces. The final design specifications would be required to demonstrate to the City and MID that runoff generated as a result of the project would be properly contained and conveyed. Please also refer to Master Response 7: Detention Basins and Drainage, which provides a more detailed discussion regarding the proposed drainage system and also refer to Master Response 8: Runoff Water Quality, which provides a more detailed discussion regarding surface water quality and stormwater runoff. Issues related to traffic are discussed in the DEIR under Section 4.11 “Traffic and Transportation.” The comment does not raise issues related to the adequacy of the DEIR’s analysis.
- 202-3 The commenter makes a general statement about the potential harm of wildlife resulting from implementation of the proposed project but does not disagree with the conclusions in the DEIR or otherwise question the adequacy of the document. Project-related impacts to wildlife are analyzed in Section 4.3 of the DEIR, “Biological Resources.” The comment is noted.

Espinosa, Kim

From: sspitler [bertaandsyd@comcast.net]
Sent: Saturday, April 18, 2009 10:13 AM
To: Espinosa, Kim
Subject: Hi Kim

Hi Kim,

Just a couple of thoughts about the Wal-Mart EIR.

The thing that I am having trouble understanding in this situation is why it is Wal-Mart feels it must be so intrusive. I can not argue the need for jobs in this city and county. But, I can argue with the placement of this business that will intrude on schools, noise levels (not just for the residents in the immediate area, but for all of Merced [we hear train and 99 traffic noise out here on Bellevue Road near the University, which will ultimately affect the value of all Merced homes]), pollution, and traffic. Wal-Mart does not have to place itself in an area that makes it the first and last thing Mercedians hear or think about every day.

203-1

Couldn't Wal-Mart move to an area in-between Merced and Chowchilla?

Will Wal-Mart be made to pay for its roads, take care of its wastewater and up-grade for its utilities? For the sake of just 900 (or more) jobs I'm wondering who's getting the best deal, our potential employees or Wal-Mart. And I'm quite tempted to this it is really Wal-Mart.

Syd Spitler

203-1

The comment describes concerns related to traffic, pollution, and noise. The commenter indicates that the proposed project should be placed at a different location (such as an area between Merced and Chowchilla). Regarding traffic and pollution, the Draft EIR analyzes these environmental issues under sections 4.2 “Air Quality,” 4.6 “Hydrology and Water Quality,” 4.10 “Public Health and Hazards,” and 4.11 “Traffic and Transportation.” Regarding placement of the site at a different location, alternative sites were evaluated in Section 5 of the Draft EIR “Alternatives to the Proposed Project.” Please see Response to Comment 111-2, which describes the impacts, relative to the proposed project, resulting from development of a more “remote” alternative site (Alternative Site #3). Although Section 5 does not evaluate an area between Merced and Chowchilla as an alternative site, Table 5-1 in the Draft EIR shows several other locations considered for the proposed project. However, the area between Chowchilla and Merced would pose extreme challenges that would make such a location infeasible. Because these areas are not associated with any municipality or public services district, provision of public services and utilities (such as sewer, water, and electrical service) would be extremely difficult. The lack of any formal interchange with SR 99 would create serious traffic hazards associated with 643 trucks and 1,756 passenger cars entering an exiting the freeway each day using an at “at-grade,” stop-controlled intersection. Note that one of the project objectives is to “locate industrial projects in areas with good access to major highway transportation links [...]” Although the applicant has not formally assessed this area as an alternative site to locate the project, it is not likely that this area would present a feasible option that would meet project objectives. For more discussion related to project alternatives, see Master Response 12: Alternatives.

The commenter also briefly questions whether Wal-Mart would be required to pay for infrastructure and utilities upgrades. The Draft EIR does not focus on the payment source of proposed utility and roadway improvements (although the Draft EIR does require the applicant to mitigate cumulative traffic impacts in the form of fair share payment for various improvements as indicated in Section 6); the Draft EIR focuses on the environmental impacts associated with the proposed improvements, as required by CEQA. The comment does not raise issues related to the adequacy of the Draft EIR.

Espinosa, Kim

From: Walker, Dawn on behalf of city, council
Sent: Tuesday, March 10, 2009 8:17 AM
To: city, council; Bill Spriggs (E-mail); Carlisle, John; Conway, Mike; Cortez, Joseph; Dawn Walker (E-mail); Ellie Wooten (E-mail 2); Ellie Wooten (E-mail); Gabriault, Michele; Jim Sanders (E-mail); Joe Cortez (E-mail); John Bramble; John Carlisle (E-mail); Lor, Noah; Lor, Noah; Michele Gabriault-Acosta (E-mail 2); Michele Gabriault-Acosta (E-mail); Sanders, Jim; Spriggs, Bill
Cc: Davidson, Dana; Quintero, Frank; Conway, Mike; Espinosa, Kim; Schechter, Jeanne
Subject: FW: Wal mart vote!!

From the website.

Dawn

Dawn Walker
Executive Secretary
City of Merced
678 West 18th Street
Merced, CA 95340
Phone: (209) 385-6834
Fax: (209) 385-1780

-----Original Message-----

From: Pamela Spiva [mailto:pamela.spiva@sbcglobal.net]
Sent: Monday, March 09, 2009 9:41 AM
To: city, council
Subject: Wal mart vote!!

I vote YES for Walmart!!!! WE NEED IT!!!!

| 204-1

Pamela M. Spiva, Realtor
Coldwell Banker Gonella Realty
701 W. Olive Avenue
Merced CA 95348
Cell: 209.761.8251
Office: 209.383.2171
Fax: 209.725.0423

**Letter
204
Response**

Pamela M. Spiva, Realtor
Coldwell Banker Gonella Realty
March 9, 2009

204-1

The comment addresses the merits of the proposed project, recommends approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

Espinosa, Kim

From: Bingaman, Jamie
Sent: Thursday, February 26, 2009 12:26 PM
To: Espinosa, Kim
Subject: FW: Wal-Mart Distribution Center

FYI

-----Original Message-----

From: Davidson, Dana
Sent: Thursday, February 19, 2009 11:21 AM
To: Bingaman, Jamie
Subject: FW: Wal-Mart Distribution Center

For the record.

From: Walker, Dawn **On Behalf Of** city, council
Sent: Thursday, February 19, 2009 10:00 AM
To: city, council; Bill Spriggs (E-mail); Carlisle, John; Conway, Mike; Cortez, Joseph; Dawn Walker (E-mail); Ellie Wooten (E-mail 2); Ellie Wooten (E-mail); Gabriault, Michele; Jim Sanders (E-mail); Joe Cortez (E-mail); John Bramble; John Carlisle (E-mail); Lor, Noah; Lor, Noah; Michele Gabriault-Acosta (E-mail 2); Michele Gabriault-Acosta (E-mail); Sanders, Jim; Spriggs, Bill
Cc: Davidson, Dana; Quintero, Frank; Conway, Mike; Espinosa, Kim; Rozell, Kenneth
Subject: FW: Wal-Mart Distribution Center

From the website.

Dawn

Dawn Walker
Executive Secretary
City of Merced
678 West 18th Street
Merced, CA 95340
Phone: (209) 385-6834
Fax: (209) 385-1780

-----Original Message-----

From: 4everdodgerblue@sbcglobal.net [mailto:4everdodgerblue@sbcglobal.net]
Sent: Saturday, February 14, 2009 3:14 PM
To: city, council
Subject: Wal-Mart Distribution Center

Let Wal-Mart in ! I can't believe that we are even debating this, It's a no-brainer. With unemployment at 15% in Merced county we need this distribution center more than ever and if we keep messing around, some other city will snag it up. Jobs are more important right now than any environmental impact.

205-1

2/27/2009

John & Vickie Stephan
1284 El Portal Dr.
Merced CA 95340

205-1

The comment addresses the merits of the proposed project, recommends approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

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Espinosa, Kim

From: KEN STEPHENSON [ken.stephenson@sbcglobal.net]

Sent: Friday, April 17, 2009 11:17 AM

To: Espinosa, Kim

Subject: Wal-Mart

Merced needs jobs !!. Not every one living here is wealthy. Lets get it done !. LETS GO FOR WAL-MART !. KENNETH E. STEPHENSON 851 ALABASTER CT. ATWATER, CA 95301

206-1

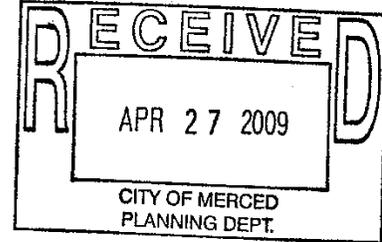
206-1

The comment addresses the merits of the proposed project, recommends approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

Espinosa, Kim

From: Kyle Stockard [kylestockard@clearwire.net]
Sent: Monday, April 27, 2009 11:28 AM
To: Espinosa, Kim
Cc: Kyle Stockard
Subject: Wal-Mart Distribution Center DEIR

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa:

After reading the DEIR for the Wal-Mart Distribution Center I have several concerns about the feasibility of the location of this project. While there are many areas of the report that could pose potential problems, I will limit myself to four areas of greatest concern.

(1) AIR QUALITY Impact findings in the DEIR

* The project is estimated to produce 74,812.1 tons of unmitigated carbon dioxide per year. For perspective, the world's largest cruise ship weighs 74,000 tons.

* In 2005, Merced County emitted 167 tons of carbon dioxide per day. That works out to 60,955 tons per year. This facility would more than double greenhouse gas emissions for the county.

* The study indicates a potential of 4 diesel trucks idling at any given time during a one hour period. Because state law requires that no truck can idle longer than 5 minutes continuously, this is significant because it means trucks will be moving with extreme frequency.

* Approving this project will create many more days of the year when children suffering from asthma won't be able to play outside because of the poor air quality.

207-1

(2) TRAFFIC Impact Findings in the DEIR

* The DEIR Traffic Study underestimates the project's traffic impacts, because it fails to measure those impacts against existing traffic conditions. Instead, the DEIR examines the project's traffic impacts against a hypothetical future traffic conditions that includes traffic from housing that may never be built or occupied.

* As a result, the DEIR masks the extent to which this project is a direct cause of traffic conditions going from acceptable to unacceptable at 4 intersection locations in the AM peak and 5 intersections in the PM peak.

* The DEIR Traffic Study underestimates the project's traffic impacts because its estimate of the project's trip generation is non-representative of the project's full potential. For example, for truck trips the DEIR's trip generation is based on observations taken in the month of August at

207-2

4/27/2009

only one other Wal-Mart Regional Distribution Center in Apple Valley, CA. Since sales of consumer shopping goods in some months are vastly higher than in August, the trip generation estimates do not represent a peak or even an average trip generation for the project. Auto trips may also be underestimated because the work force may also be supplemented in months of highest retail activity.

207-2
Cont'd

* The DEIR Traffic Study underestimates the project's traffic impacts because its of the project's trip generation is implausible. Even if the DEIR assumes that all the 1756 projected auto trips to and from the site daily are trips to and from work by the 1200 employees, this equals an average Vehicle occupancy rate of 1.37 persons per car. This is implausible since average vehicle occupancy in similar areas is typically about 1.10. Since many employee shifts apparently start and end in off- peak times, there is little incentive for ride sharing and virtually no likelihood of transit usage for commuting. In compiling the above 1.37 average vehicle occupancy statistic, all 1756 projected auto trips have been assumed to be employee commute trips between home and work. It must be recognized that some proportion of the 1756 trips will be for other purposes such as employees departing and returning in mid-shift for lunch or personal business, and other non-employees arriving and departing for routine business calls or job applications and the like. Therefore, the actual vehicle occupancy among worker commute trips implicit in the DEIR trip generation would actually be even larger than the 1.37 persons per car occupancy rate noted above, an occupancy level that is even more implausible. Therefore, the DEIR's estimate of auto trip generation of the project must be significantly understated. If it is assumed that the employee's average vehicle occupancy on commute trips is realistic at 1.10 persons per vehicle and that there would be 100 non-commute auto trips to and from the site each day, the net auto trip generation for the project would be 2282, 30 percent higher than the 1756 trips the DEIR estimates.

207-3

* The DEIR fails to estimate, disclose or mitigate the project's traffic impacts on residential quality of life along affected streets. The City of Merced adopted Neighborhood Calming Guidelines in January 2008. The DEIR makes no effort to evaluate whether project traffic conforms to or conflicts with goals and policies of the adopted traffic calming.

207-4

* The DEIR Traffic Study underestimates the project's traffic impacts, because it assumes that trucks will access the site on the south side using Campus Parkway and Gerard Avenue. Infact, truck traffic to and from the north using State Highway 99 will be as likely to use East Childs Avenue and its interchange to transition between State Highway 99 and the site. The DEIR should analyze this more realistic probability.

207-5

* The traffic assumptions input to the UBREMIS air quality model are not documented in the traffic section of the DEIR or its Appendix (E). The DEIR should document a quantified relationship between its traffic analyses and the traffic estimates assumed in the air quality modeling.

207-6

* Although project access is limited to two points, both intersecting Gerard Avenue, the DEIR does not include an analysis of the project's access intersections. Such an analysis should be provided.

207-7

* Although the project description claims that the project will provide a parking area for trucks tha arrive at hours when the project's entry gates are closed, the project site plan in the DEIR shows no such area.

207-8

(3) URBAN DECAY Findings in the DEIR

* The creation of a Wal-Mart distribution center will lower residential property values in the

207-9

4/27/2009

areas near the site. Noise, pollution and a nearby industrial location have all been shown to reduce property values in numerous economic studies.

* This area has already been hit hard by the current housing downturn, which is likely to persist for a while. Lower property values will make it even more difficult for some families to get out from under "upside down" mortgages thus increasing foreclosure rates.

* There is no guarantee that the few jobs created by this project will go to residents of Merced. You can expect that workers as far away as Modesto and Fresno will also take many of these jobs. It is likely that most of the benefits that these jobs will create will go outside City limits.

207-9
Cont'd

* The increased crime from urban decay, the costs of policing for noise mitigation, fire service, etc. will add considerably to the costs for the City of Merced. Will these costs be offset by taxes generated? Very possibly NO---the DEIR does not examine this issue, but citizens of Merced should be concerned.

* The distribution center will increase urban decay and blight in the area as property prices fall. Some home sites are partially completed and abandoned in the area and it will be harder for these sites to be restored. Increased crime is a result of such urban decay impacts.

* If Wal-Mart builds a distribution center in Merced it is very likely that it will expand its current store to a Supercenter or, as it often does, close its existing store (leaving a serious vacancy) and open a new Supercenter. Most of these new Supercenters in California are enormous---225,000 square feet---equal to about one and a half Costco's. They include a large grocery component and these stores typically sell at least as much as two very large grocery stores (e.g. Save Mart, Raleys, Food 4 Less) or 3-4 smaller grocery stores (e.g. Smart and Final, Grocery Outlet, etc.). In a city like Merced this can have a devastating impact on local shopping centers, which are typically anchored by grocery stores.

207-10

* The DEIR does not properly evaluate the impact of this proposed distribution center on Merced or the surrounding area. It is very likely that the center will cater to Wal-Mart's expanding line of groceries and lead to the further development of their Supercenter format stores in the north central valley. Without this evaluation the DEIR is inadequate --a DEIR is supposed to inform citizens what to expect, so they can make an intelligent decision.

(4) WATER IMPACT Findings in the DEIR

* The pattern of naturally occurring water runoff is at serious risk of being disturbed. By constructing on the 230 acre site, the project would reduce the amount of land that can absorb rain water, and such imperviousness could lead to bad flooding.

207-11

* The DEIR proposes to use an outdated Storm Water Pollution Plan called Best Management Practices to prevent flooding -- but many cities and counties in California have replaced that method with a far more effective standard called Integrated Management Practices which has been endorsed by the Governor and leaders of both political parties.

207-12

* The construction of the Distribution Center will lead to increased pollution of the area's water, including groundwater, in certain instances even to toxic levels. The DEIR notes that construction wastes such as solvents, fuels and the like could lead to the degradation of the existing water quality.

207-13

* The oil and grease associated with having semi-trucks going to and from the distribution center could seep not only into drainage, but possibly also Merced's groundwater supply.

207-14

4/27/2009

Without addressing the concerns of this letter, and the concerns of others in the community about the DEIR, I would conclude that this project is not a good fit for the community.

Sincerely,

Kyle Stockard
2499 E. Gerard Ave. #12
Merced, CA 95341
(209)722-0620

4/27/2009

- 207-1 The first two points in this comment are not about the adequacy of the DEIR.
- The third point in this comment reflects on the frequency of trucks that will visit the distribution center. Impact 4.2-4 demonstrates through performance of a health risk assessment that the project would have a less-than-significant impact associated with exposure to exhaust from trucks. The last aspect of this comment suggests that this project would result in many more poor air quality days. The project would contribute to regional air quality impacts as identified in Impacts 4.2-1 and -2. However, the project's emissions would be mitigated to less-than-significant levels, and therefore, the project would not result in a detectable increase in poor air quality days.
- 207-2 The commenter suggests that the traffic study inflates the baseline and assumes trip generation taken from a non-worst-case season and therefore underestimates the project's traffic-related impacts. The traffic analysis was prepared using industry standard methodologies and the traffic impact analysis guidelines of the City of Merced. Known approved projects were included in the 2010 Background Condition, and the traffic analysis was based on the information and appropriate assumptions at the time of the analysis. The trip generation forecast that was used in the traffic analysis was based on a survey of a similar facility in Apple Valley, CA and was conducted in a manner and during a timeframe that was considered representative of average conditions and appropriate for analysis.
- 207-3 The commenter suggests that the average vehicle occupancy assumed by the DEIR's traffic analysis is unrealistic. The trip generation forecast that was used in the DEIR's traffic analysis was based on surveys and accurately reflect the potential number of auto and truck trips. The surveys reflect the shift patterns of workers, the arrivals and departures during the morning and afternoon peak hours, and the average vehicle occupancy. The survey data was peer reviewed by an independent consultant and considered appropriate for use in the DEIR.
- 207-4 The commenter indicates that the DEIR does not appropriately analyze traffic-related impacts to residential quality of life, specifically indicating that the DEIR does not mention the Neighborhood Calming Guidelines adopted in January 2008. The comment suggests that many of the streets that would carry project traffic are residential in character, which is not consistent with the DEIR analysis, however. As noted on page 4.11-21 of the DEIR, 90% of the truck traffic is assumed to access the site via the SR 99/Mission Avenue interchange and Campus Parkway. Mission Avenue is designated as a divided arterial in the City of Merced General Plan, which means it is not addressed in the City of Merced Neighborhood Traffic Calming Guidelines and it is not eligible for construction of any traffic calming measures (page 6 of City of Merced Neighborhood Traffic Calming Guidelines). Arterial roadways serve a different function than residential or collector streets. With respect to the Goals and Policies of the City of Merced Neighborhood Traffic Calming Guidelines (page 5 of the Guidelines), a review of the DEIR analysis would not indicate that the proposed project would violate any of the seven goals or seven policies. The City of Merced Neighborhood Traffic Calming Guidelines outlines a procedure for addressing concerns such as pedestrian-bicyclist safety, gaps in traffic flow, speeding and other concerns. The transportation analysis of the proposed project evaluated congestion and service levels at intersections and along roadways that would potentially be used by project vehicles, and nothing in the DEIR analysis would lead to a conclusion that local

residential or collector streets would be adversely impacted. No changes to the DEIR are necessary.

- 207-5 The commenter suggests that the configuration the DEIR assumed for truck access is unlikely and an alternate access configuration should have been analyzed. Please refer the Master Response 6: Trucks and the Transportation Analysis, which addresses this issue.
- 207-6 The commenter states that “the traffic assumptions input to the URBEMS air quality model are not documented in the traffic section of the DEIR or its Appendix (E)” and requests that the DEIR “document a quantified relationship between its traffic analyses and the traffic estimates assumed in the air quality modeling.” The air quality modeling performed in URBEMIS was used to support the analysis and discussion under Impact 4.2-2 and Impact 4.2-6. The URBEMIS modeling used trip generation rates for the employee commute trips and truck trips that were based on the number of daily passenger vehicle trips (1,756) and daily truck trips (643) presented in Table 4.11-12 of THE DEIR. The default trip rate for a warehouse in URBEMIS is 4.96 trips per 1,000 square feet. This default value was changed to be consistent with the number of trips used in the traffic analysis and the size of the proposed distribution center:
- ▶ 1.46 trips per 1,000 square feet for employee commute trips and
 - ▶ 0.27 trips per 1,000 square feet for truck trips; and
 - ▶ 1.2 million square feet for the building size.
- These values are shown in the “Detail Reports for Annual Operational Unmitigated Emissions” from URBEMIS (sheets 7 and 9 in Appendix C of the DEIR)
- 207-7 The commenter indicates that the DEIR does not include an analysis of the project’s access intersections. The study intersections identified for analysis were developed in cooperation with City staff, and include those most likely to be impacted by the proposed project. Generally, access point intersections are often design issues that are managed through the design review process, as they are not city street intersections but rather mid-block driveways on Gerard Avenue.
- 207-8 The commenter questions why the DEIR’s project description indicates a parking area for trucks that arrive at hours when the project’s entry gates are closed, but no such area is indicated on the site plan. Neither the DEIR’s project description, nor the site plan included as Exhibit 3-3, indicate the after-hours parking area. However, Mitigation Measure 4.11-2a requires the project design to incorporate a designated on-site waiting area. Therefore, the site plan would require revision to include the waiting area.
- 207-9 The commenter indicates that the DEIR does not evaluate urban decay impacts and suggests that the implementation of the proposed project will impact property values which are already depreciated. The commenter further notes that the proposed project will make it more difficult for homeowners to get out from under their “upside down” mortgages and that there is no guarantee that the workers will originate from Merced. The commenter also indicates that the increased crime resulting from urban decay will increase the need for police protection and other public services. Master Response 11: Economics and Urban Decay addresses issues related to property values and the project’s potential to induce urban decay. Regarding issues associated with in-migration of workers and local hiring policies see Response to Comment 92-4. It should also be noted that the City will require Wal-Mart to pay approximately \$4.2 million in impact fees for public services (based on 2009 fee levels; see Response to Comment 16-5).
- 207-10 The commenter suggests that development of the proposed distribution center would likely result in the creation of a Wal-Mart Supercenter in Merced. Wal-Mart has indicated no plans to develop

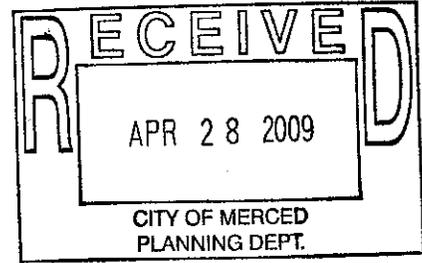
a Supercenter in Merced; therefore, the DEIR need not speculate. Please see Master Response 1: Growth Inducement and Expansion, which further addresses this issue. The potential economic impact the proposed distribution center could have on area businesses is described in Master Response 11: Economics and Urban Decay.

- 207-11 The commenter expresses general concern over flooding resulting from the proposed project. Section 4.6 “Hydrology and Water Quality” presents analyses of pre- and post-development conditions and Mitigation Measure 4.6-2 addresses both volume and quality of stormwater runoff from proposed impervious surfaces. Note that this mitigation measure has been revised. Please see Section 4 of this FEIR for the specific revised text. The final design specifications would be required to demonstrate to the City and MID that runoff generated as a result of the project would be properly contained and conveyed.
- 207-12 The commenter expresses general concern related to contaminated runoff from the proposed project and suggests the use of Integrated Management Practices. See response to comment 55-1 regarding Integrated Management Practices.
- 207-13 The comment raises issues associated with surface and groundwater contamination from construction activities. Mitigation Measure 4.6-1a describes the NPDES construction permit and SWPPP with the required performance standards that have been shown to prevent contamination to surface water and groundwater or reduce to less than significant levels.
- 207-14 The comment raises issues concerning the potential of contaminated runoff from truck traffic from the proposed project reaching drainage canals and groundwater. See Master Response 8: Runoff Water Quality regarding source control. Also see Comment 3-1. Source control measures are required under NPDES Industrial General Permit requirements.

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April 1, 2009

Ms. Kim Espinosa
Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Postmark 4-27-09

Ms. Espinosa:

I watched a special on CNBC about Wal-mart where they discussed the company's distribution methods. In the film Wal-mart would fill up one truck and then visit a series of stores making partial deliveries at each stop. This distribution method, as described by the film, helped keep Wal-mart's stocked because they didn't need to have large storage facilities. You can see the evidence of this when you drive on the 99 because there is ALWAYS a Wal-mart truck next to you.

It seems to me that there are a lot of Wal-mart trucks on the 99. Does the city have any idea how many trucks we're talking about? And you're always hearing about Wal-mart trying to build new stores. Is there a limit on how many stores that could be accommodated by this distribution center?

208-1

Thank you,

William Stockard
Signature

William Stockard
Print Name

2640 E. Car de la Rd.
Merced, CA 95340
Address

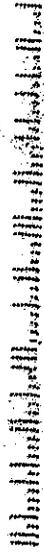
(209) 722-0620
Phone

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CA 952 1 L
27 APR 2009 PM

Ms. Kim Espinosa
Planning Manager
City of Merced Planning Division
678 W. 18th Street
Merced, CA 95340



95340+4700

HUMAN RIGHTS WATCH
Mr. & Mrs. William Stockard
2640 E Cardella Rd
Merced CA 95340
WWW.HRW.ORG

208-1

The comment poses a question to the City wondering if they understand “how many trucks we’re talking about.” The Draft EIR indicates that the proposed project would generate 643 truck trips per day. The commenter further questions if there is a limit on how many stores could be accommodated by the proposed distribution center. Please see Master Response 1: Growth Inducement and Expansion, which addresses this issue.

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Espinosa, Kim

From: Walker, Dawn on behalf of city, council
Sent: Tuesday, March 10, 2009 8:17 AM
To: city, council; Bill Spriggs (E-mail); Carlisle, John; Conway, Mike; Cortez, Joseph; Dawn Walker (E-mail); Ellie Wooten (E-mail 2); Ellie Wooten (E-mail); Gabriault, Michele; Jim Sanders (E-mail); Joe Cortez (E-mail); John Bramble; John Carlisle (E-mail); Lor, Noah; Lor, Noah; Michele Gabriault-Acosta (E-mail 2); Michele Gabriault-Acosta (E-mail); Sanders, Jim; Spriggs, Bill
Cc: Davidson, Dana; Quintero, Frank; Conway, Mike; Espinosa, Kim; Schechter, Jeanne
Subject: FW: Wal-Mart

From the website.

Dawn

Dawn Walker
Executive Secretary
City of Merced
678 West 18th Street
Merced, CA 95340
Phone: (209) 385-6834
Fax: (209) 385-1780

-----Original Message-----

From: Teri Strickland [mailto:tstrickland@gonellarealty.com]
Sent: Monday, March 09, 2009 10:12 AM
To: city, council
Subject: Wal-Mart

I want to voice my opinion regarding the Wal-Mart distribution center. Since Wal-Mart is known to be a "green" company and has tough restrictions on how long their trucks can continue to run when waiting in the yard, I feel this should not keep them from coming to Merced. Our city has suffered with many layoffs in recent months. We have an obligation to our citizens to do what we can to bring new jobs into the area.

209-1

I am in favor of the Wal-Mart distribution center making its home in Merced.

Teri Strickland, Realtor

Coldwell Banker Gonella Realty
701 W. Olive Avenue
Merced, Ca. 95348
(209) 386-3880 cell
(209) 383-2171 office
(209) 725-1242 fax
www.teristrickland.com

Oh by the way, I'm never too busy for your referrals.

3/10/2009

**Letter
209
Response**

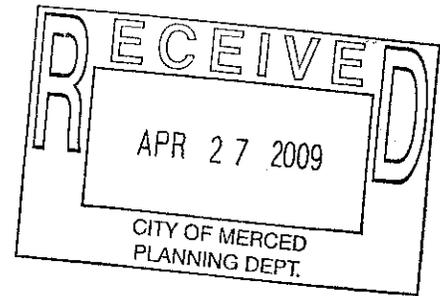
Teri Strickland, Realtor
Coldwell Banker Gonella Realty
March 9, 2009

209-1

The comment addresses the merits of the proposed project, recommends approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

March 21, 2009

Kim Espinosa
Planning Department
City of Merced
678 West 18th Street
Merced, CA 95340



Re: Merced Wal-Mart Distribution Center Project

Dear Ms. Espinosa:

I am very concerned with the proposed Wal-Mart Distribution Center Project and the ramifications it may have on the local environment. In particular, the Draft EIR for the project makes clear that construction may be contrary to the Open Space, Conservation and Recreation section of the City's Vision 2015 General Plan. The General Plan makes a specific goal to protect endangered or threatened species and their habitats. Among other things, the Distribution Center project would pose a threat to certain animal species including the Swainson's hawk.

210A-1

As a supporter of conservation for reasons such as the protection of existing animal species I question whether the City has really considered the impact the Project will have on local animal species. Given that the land has historically been undeveloped and agricultural in nature with orchards and fields, the creation of a Distribution Center and the associated movement of traffic would disrupt the natural habitat of many animal species.

210A-2

For such reasons, I beg the City to not approve this Project.

Peter T Swaney

Signature

Peter Swaney

Print Name

2164 E Bellevue Rd

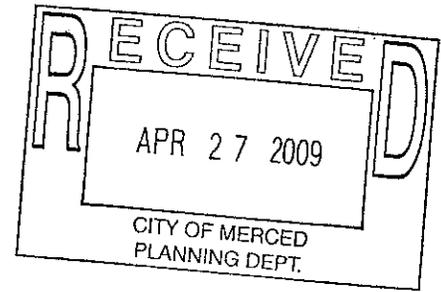
Address

(510) 593-3344

Phone

April 17, 2009

Ms. Kim Espinosa
Merced Department of Planning
678 West 18th St.
Merced, CA 95340



Kim,

I am concerned that construction of the Wal-Mart Distribution Project will have unintended consequences to the area's water supply. The Draft EIR notes that a groundwater well is located on a portion of the site of the proposed Project. The construction of the Distribution Center will lead to increased pollution of the area's water, including groundwater, in certain instances even to toxic levels. The Draft EIR notes that construction wastes such as solvents, fuels, and the like could lead to the degradation of the existing water quality. Additionally, the oil and grease associated with having semi-trucks going to and from the distribution center could seep not only into drainage, but possibly also Merced's groundwater supply. If the City were to consider the ramifications that construction wastes and the many years of use of the site as a distribution center may have on the City's water supply, they would see that this Project is not a good idea.

210B-1

Peter T Swaney

Signature

Peter Swaney

Print Name

2167 E Bellevue Rd.

Address

(510)593-3344

Phone

**Letter
210A-B
Response**

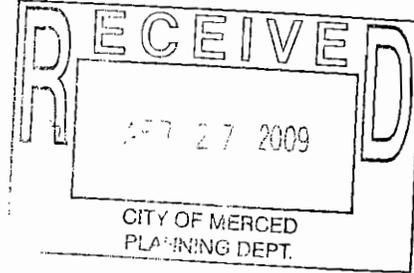
Peter T. Swaney
➤ 210A–March 21, 2009
➤ 210B–April 17, 2009

- 210A-1 The commenter states that the DEIR makes clear that construction may be contrary to the Open Space, Conservation, and Recreation section of the City’s Vision 2015 General Plan. Consistency with the City’s General Plan is addressed on under Impact 4.3-5 on page 4.3-12 of the DEIR. The impact is identified as significant, and mitigation is proposed that would reduce the impact to a less-than-significant level. The commenter appears to agree with the impact conclusion in the DEIR that the project could adversely affect the Swainson’s hawk. No issues regarding the adequacy of the EIR are raised in comment.
- 210A-2 The commenter suggests that the conversion of land that has historically been undeveloped and agricultural in nature to a Wal-Mart Distribution Center and the associated traffic would disrupt the natural habitats of many animal species. The commenter questions whether the City has really considered the impact the project would have on local animal species but does not specifically question the adequacy of the DEIR. The DEIR does address impacts to wildlife in accordance with the CEQA thresholds in the Biological Resources section of the DEIR. Effects on special-status wildlife are addressed under Impact 4.3-2 on page 4.3-10. Effects on wildlife movement are addressed under Impact 4.3-4 on page 4.3-23.
- 210B-1 The comment expresses concerns of potential contamination to the domestic well water supply through contaminated runoff to surface and groundwater from construction and operational activities of the proposed project. Mitigation Measure 4.6-1a describes the NPDES construction permit and SWPPP with the required performance standards that have been shown to prevent contamination to surface water and groundwater or reduce to less than significant levels. Additional information relating to groundwater is contained in Master Response 9. (Note also that the well in question is not on the project site.)

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April 5, 2009

Ms. Kim Espinosa
Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Kim:

I am confused. I read the traffic portion of the Wal-mart Distribution Center report. Why is a level of service of D and below allowed for traffic? Shouldn't we insist that the road be improved before Wal-mart opens?

211A-1

Creating new jobs is important - but we have to make sure the roads and infrastructure is good enough to support the jobs.

Thank you.

John A. Tabera
Signature

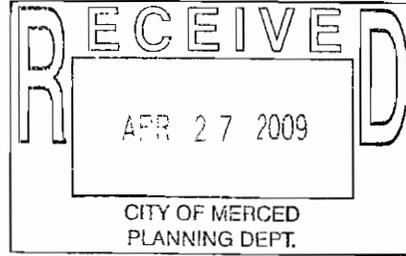
John A. Tabera
Print Name

1235 Pleasant Lane
Merced 95340
Address

Phone

April 20, 2009

Kim Espinosa
Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa:

I was reviewing the traffic portion of the Wal-mart distribution center EIR. I am concerned that the roadways in the area were not constructed in a manner such that they could support 2,400 trucks trips per day.

211B-1

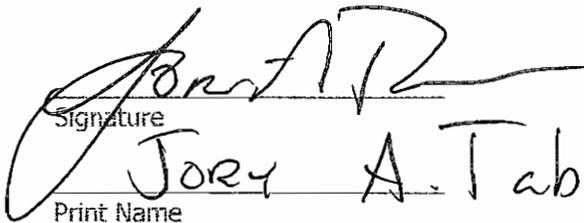
A simple drive down the 99 shows how much those trucks rip up the road – and how quickly. I don't think the city is doing enough to prepare for maintaining the roads in the area for that level of truck service.

211B-2

Could a special fee be placed on WM based on truck traffic to and from the facility to help pay to maintain the roads in the area? Its not like we're talking about 2,400 compact car trips. These are big 18-wheelers that will carry heavy loads, make wide turns and quickly chew up the roadways.

211B-3

Thank you for your consideration.


Signature
JOEY A. TABER
Print Name

1235 Pleasant lane
Merced 95340
Address

Phone

**Letter
211A-B
Response**

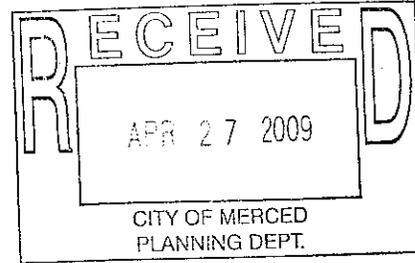
Jory A. Taber
➤ 211A–April 5, 2009
➤ 211B–April 20, 2009

- 211A-1 The commenter asks why LOS D and below is allowed for traffic. The thresholds for acceptable levels of service and assessment of impacts are outlined on page 4.11-17 of the DEIR.
- 211B-1 The commenter expresses concern that project-related truck traffic will result in impacts to local roadways. The DEIR analyzes impacts related to truck traffic in Section 4.11 “Traffic and Transportation.” Please also see Master Response 6: Trucks and the Transportation Analysis. For information related to roadway maintenance, please see Response to Comment 96B-5. The comment does not raise issues related to the adequacy of the DEIR. The comment is noted.
- 211B-2 The commenter expresses concern that project-related truck traffic will result in impacts to local roadways. See response to comment 211B-1.
- 211B-3 The commenter indicates that a fee should be required for wear and tear on local roadways by trucks. See response to comment 211B-1.

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April 17, 2009

Ms. Kim Espinosa, Project Director
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Ms. Espinosa:

In Mitigation Measure 4.2-2b, Wal-Mart would be required to hire and appoint an on-site Employee Transportation Coordinator to encourage car pooling among employees. While employee carpooling should be encouraged, I don't think it is realistically achievable in a rural county where employees reside sporadically around the Central Valley.

212-1

You make a correlation that carpooling will result in quantifiable decreases in NO_x and PM₁₀. Vanpools make sense in smart growth urban areas like large cities, but rural communities still require single-occupancy cars to drive to a van pool location. It's a nice theory, but it won't work in Merced. Therefore, this Mitigation Measure should be dismissed and the application be required to present a new one.

212-2

Sincerely,

Nancy Tapia
NANCY TAPIA
3581 CABRILLO CT.
MERCED, CA 95341

- 212-1 The commenter believes that one component of mitigation measure 4.2-2c (vanpooling) would be ineffective and would not be used by the employees. The commenter provides no reasoning to support this belief, however. In summary, Mitigation Measure 4.2-2b provides applicant with program and design options to reduce employee commute trips and associated mobile-source emissions.
- 212-2 The commenter believes that one component of mitigation measure 4.2-2b (car pooling and vanpooling) would be ineffective and would not be used by the employees because the project is located in a rural area. The commenter provides no reasoning to support this belief, however. In summary, Mitigation Measure 4.2-2b provides applicant with program and design options to reduce employee commute trips and associated mobile-source emissions. In addition, according to the *Recommended Guidance for Land Use Emission Reductions* (SMAQMD 2007), the measures listed under Mitigation Measure 4.2-2b result in quantifiable reductions in mobile-source emissions associated with industrial land uses and these reductions have been substantiated by research.

THOMAS H. TERPSTRA

ATTORNEY AT LAW
A PROFESSIONAL CORPORATION
578 N. WILMA AVENUE
SUITE A
RIPON, CA 95366

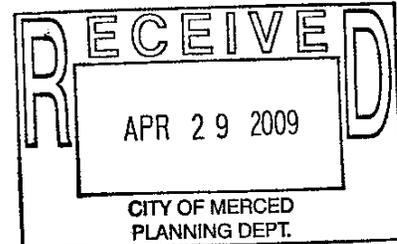
tterpstra@thtlaw.com

209.599.5003
F209.599.5008

April 27, 2009

Via Electronic Mail, U.S. Mail and Facsimile

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 W. 18th Street
Merced, California 95340



*Envelope Postmarked 4/27/09
Email Came In 4/27/09*

Re: Draft EIR for Wal-Mart Distribution Center

Dear Ms. Espinosa:

This office represents Lyons Investments in connection with the above-referenced matter, and has asked me to review the Draft EIR. My client is supportive of the proposed project, which will promote economic development and improve the employment base in the region. The project is located within, and is consistent with, the planned land uses in the Lyons Investments 484 acre industrial project which was approved by the City of Merced in 1998.

We have reviewed the Draft Environmental Impact Report, and would offer the following comments and questions.

1. Overall, the Draft EIR is well-written, and provides useful information to the decision-making bodies as to the environmental impacts associated with the proposed project. Our subsequent comments are intended to clarify certain issues raised within the Draft EIR.

213-1

2. Mitigation Measure 4.3-2, dealing with Swainson's Hawk and Burrowing Owl, is excessive and unnecessary under existing law. The mitigation measure for Swainson's Hawk specifically refers to the Department of Fish and Game's (DFG) Draft Non-Regulatory Guidelines for mitigation, requiring replacement habitat at specified ratios. The use of non-binding, non-regulatory guidelines from a 1994 Staff Report is inappropriate, given (a) 15 years have passed since the Staff Report was written, (b) the non-regulatory mitigation guidelines therein were never subsequently promulgated under applicable administrative procedures, and (c) the 1994 Staff Report expressly acknowledged its temporary status and contemplated subsequent revisions and refinements. Similarly, the Burrowing Owl mitigation requirements rely for their legal authority upon a 1995 DFG Staff Report to require a minimum of 6.5 acres of foraging habitat for each nesting pair of owls. This document shares the same non-regulatory, non-binding status as the 1994 Staff Report. A more

213-2

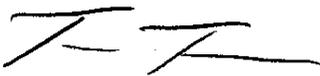
- appropriate mitigation measure, used in many jurisdictions, requires the applicant to consult with DFG at the time of project implementation, and to implement mitigation consistent with applicable law. | 213-2
Cont'd
3. Mitigation Measure 4.6-2 makes reference to several design criteria to be included in future updates to the City of Merced Storm Drain Master Plan and Standard Design requirements as well as aspects of the conceptual design prepared for the Project without specifically stating whether or not they are intended to be mandatory requirements. Please clarify the requirements of this mitigation measure. | 213-3
4. Impact 4.12-2, entitled "Demand for Wastewater Treatment and Conveyance Facilities", concludes that existing sewer trunk mains in Childs, Kibby and Gerard and the City's Wastewater Treatment Plant are sufficient to handle project sewage. There is a reference, however, to the Gerard trunk sewer needing to be replaced at a cost of \$6,000,000. The project's sewer connection charges are assumed to be "fair share" contributions toward this improvement. My client has discussed this issue with City staff, and has learned that portions of this facility have already been replaced, and that there is a funding mechanism (through sewer rates and connection fees) to fully fund this improvement. This should be stated in the EIR. | 213-4
5. Mitigation Measure 4.8-3 requires the construction of a sound barrier along the property line of certain affected residences. This should be clarified to apply only along the road frontage of affected parcels. | 213-5
6. On page 4.11-17 of the Draft EIR, the applicant is required to make "full right of way dedication and street improvements around the perimeter of the site, including Gerard Avenue, Childs Avenue and Tower Road". This should be more fully defined and explained. The term "full right of way dedication and street improvements" can vary from jurisdiction to jurisdiction. | 213-6
7. We have several questions regarding the Traffic Impacts section (Chapter 4.11 of the Draft EIR:
- a. Trip Generation. Were standard trip generation rates from the Institute of Transportation Engineers used in the analysis? If not, what is the source of the trip generation rates? | 213-7
- b. Intersection Analysis. We had some difficulty correlating the intersection delays on the LOS worksheets with the delay values shown in the Draft EIR. It is unclear from our review whether this would impact the LOS at intersections evaluated in the Draft EIR. Also, the peak hour factor of 1.0 assumes that traffic flows through the intersection at constant rates during the peak hour, which may not be the case. If the more commonly utilized peak hour factor of .92 was employed, would the resulting LOS be significantly different? | 213-8

- c. Gerard Avenue. The EIR concludes that in the cumulative condition, Gerard Avenue operates at Level of Service A with an average speed of 40 miles per hours. Would the operation of the site driveways on Gerard Avenue require a left turn pocket and acceleration and deceleration lanes to allow vehicles to turn into the site without impeding through travel? 213-9
- d. Significance Criteria. Did the EIR utilize the significance criteria of the City, the County or some other criteria? 213-10
- e. Mitigation Measures. For Mitigation Measures 6-1 through 6-8, we are unclear whether the applicant is being required to make a “fair share” contribution, and if so, the amount of such contribution. For Mitigation Measures 6-9, 6-10 and 6-11, we are unclear who is responsible for these improvements and the timing of the improvements. Finally, the DEIR indicates that the Project Applicant would be required to pay a special fee for traffic improvements as identified in the Development Agreement for Lyons Investments, which includes the Project site. The funds collected would be used to construct a “traffic signal at the SR 140 and Kibby Road and/or arterial roads, Eastern Beltway (now known as Campus Parkway), or collection streets within the vicinity of the Property.” All of the traffic improvements that would be funded by this special fee should be identified in the Final EIR. 213-11

Thank you for the opportunity to provide these comments. We would again emphasize our support for the project, and appreciate the opportunity to participate in the process.

Very truly yours,

Law Office of Thomas H. Terpstra



Thomas H. Terpstra
Attorney-at-Law

THT:rr

- 213-1 The comment compliments that quality of the Draft EIR and indicates that the comments following are intended to clarify certain issues raised in the Draft EIR. The comment is introductory to subsequent comments and does not, itself, raise environmental issues. The comment is noted.
- 213-2 The commenter states that Mitigation Measure 4.3-2 dealing with Swainson's hawk and burrowing owl is excessive and unnecessary under existing law. Please refer to Master Response 10, which addresses this comment and other comments regarding impacts and mitigation for Swainson's hawk and burrowing owl.
- 213-3 The comment requests clarification of Mitigation Measure 4.6-2. See response to comment 207-11.
- 213-4 The commenter requests that the DEIR text be clarified to indicate that the Gerard trunk sewer replacement would not be funded by "fair share" contributions. The commenter is correct, and the DEIR text has been revised. Please see Section 4 "Revisions and Corrections to the Draft EIR" for the specific text changes.
- 213-5 The comment states that sound barriers mentioned in Mitigation Measure 4.8-3 of the DEIR should be located along the road frontage rather than the property line of the affected residents. In Mitigation Measure 4.8-3, noise barrier location is stated as being along the property line of affected residences; this is synonymous with the road frontage of affected parcels. No changes have been made to the DEIR as a result of this comment.
- 213-6 The commenter requests clarification regarding "full right of way dedication and street improvements around the perimeter of the site, including Gerard Avenue, Childs Avenue, and Tower Road." The City of Merced requires that all development provide full dedication and improvement of adjacent streets when construction takes place (Merced Municipal Code sections 17.58.070, 18.32.010, 18.32.020, 18.32.030, and 18.20.180). Dedications were required with the parcel map that created the project site parcel. In the case of the applicant of the proposed project, they will be required to improve the streets to the standards contained in the City's Standard Designs (available at http://www.cityofmerced.org/depts/engineering_division/standard_designs/standard_designs___pdf_format.asp) and according to their designations in the General Plan Circulation Element. In the General Plan, Childs is a Minor Arterial (94 foot ROW), Gerard is a Collector (74 foot ROW) and Tower is a local road (64 foot ROW). Please refer to the street standards, ST-1 and ST-2.
- 213-7 The commenter asks for the source of the trip generation assumptions. The trip generation assumptions are described on page 4.11-20 and 4.11-21 of the DEIR. The forecast that was used in the traffic analysis was based on a survey of a similar facility in Apple Valley, CA, which has 1,201 employees and a similar fleet mix as the proposed facility in Merced. The survey of the Apple Valley facility analyzed the number of vehicles entering and exiting the site throughout the day and the type of vehicles (car, truck, etc.). The comment does not raise issues related to the adequacy of the DEIR's analysis.

- 213-8 The commenter asks for clarification regarding delay values and peak hour factor assumed in the DEIR. The summary of intersection analysis and impacted intersections are identified on Table 4.11-14 and Table 6-6 of the DEIR. A peak hour factor of 1.0 was applied consistently in the traffic analysis. This is often used for analysis of future conditions as it is not possible to forecast a future peak hour factor. The peak hour factor of 1.0 was also applied to existing conditions to allow for a common comparison between analysis conditions. This is an accepted analysis approach in planning level transportation studies. An analysis with a peak hour factor of 0.92 was not conducted, and thus it is not known if the analysis would be significantly different.
- 213-9 The commenter inquires whether turn lanes would be required for project driveways. The DEIR's analysis did not conclude that turn pockets and acceleration or deceleration lanes are required on Gerard Avenue. The commenter does not raise issues related to the adequacy of the DEIR's analysis.
- 213-10 The commenter inquires as to the sources of the significance criteria. The significance criteria are noted on page 4.11-17 of the DEIR, as prescribed by the City of Merced.
- 213-11 The commenter requests clarification regarding mitigation fees and timing for traffic mitigation. Please see Section 4 "Revisions and Corrections to the Draft EIR", which includes clarification to these mitigation measures. The "special fee" refers to a mitigation fee to pay for a traffic signal at the intersection of Kibby Road and State Route 140 and is described on page 4.11-17 of the DEIR.

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Espinosa, Kim

From: tom tran [tomtran86@yahoo.com]
Sent: Thursday, March 05, 2009 11:58 AM
To: Espinosa, Kim
Subject: WAL-MART

I am speaking Vietnamese and need no translation. Just build the Warehouse so people and students have something to do. Union folks look at GM/Ford - No profit equal to no jobs etc - Merced has 15 plus unemployment? Farm ??? no water ???

214-1

Address: 8311 Childs Ave, Le Grand

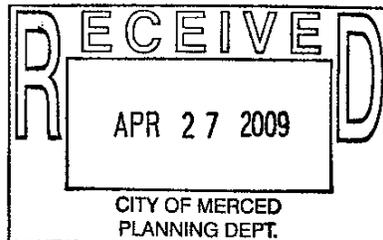
**Letter
214
Response**

Tom Tran
March 5, 2009

214-1

The comment addresses the merits of the proposed project, recommends approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

The EIR study for the Wal-Mart Distribution Center should include a detailed plan regarding the equipment monitoring and regulating during the project construction. The current DEIR lacks specific details regarding the type, size and frequency of construction equipment being operated. How will the equipment be monitored to make certain it meets manufacturing specs detailed in the DEIR? Please be more detailed in this area of the EIR.

215A-1

Thank you,

Anne Tressler

Name

2670 Ardell dr

Address

Merced CA 95348

City, State, Zip

Anne Tressler

Signature

4-23-09

Date

April 2, 2009

Ms. Kim Espinosa
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Ms. Espinosa:

I have asthma. Members of my family have asthma. A lot of people in this community have asthma. Building a distribution center is not going to help the thousands of locals who suffer from illnesses caused by poor air quality. I saw that a Health Risk Assessment was completed, but where are the findings?

215B-1

I think we all deserve to know exactly how bad this facility will be for our health.

Sincerely,

Anne Trexler
Signature

Anne Trexler
Print Name

2870 Ardell Dr
Address

Merced
201 2507
Phone

**Letter
215A-B
Response**

Anne Tressler
➤ 215A–April 23, 2009
➤ 215B–April 2, 2009

- 215A-1 The commenter requests that the DEIR include more detail about the construction equipment expected to be used to construct the proposed project. Please refer to response to comments 30D-1 and 201A-1.
- 215B-1 The commenter expresses concern about the effects of project-generated emissions on people in Merced County who have asthma or other respiratory conditions. Please refer to Master Comment 13. The commenter also requests the results of the HRA. Please refer to response to comment 12-23.

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Espinosa, Kim

From: Robert Tussey [tusseyrobert@sbcglobal.net]
Sent: Friday, March 06, 2009 8:41 AM
To: Espinosa, Kim
Subject: Wall Mart Disp Center

I support the Wall Mart Distribution Center we are at 18.9% unemployment accord to yesterdays Merced Sun Star. We are, even in the best of times, always high in unemployment compared to the rest of the state or nation. So we need the jobs.

216-1

My only concern deals with the traffic flow to and from the center. I have looked over the report and do not see a map depicting traffic flow for construction equipment during construction, or for trucks once the center is build. Will they use Gerard from Parsons Ave? I hope not. Mission would be ok. I live on Gerard and when they build the new out past housing near and past Pioneer School, the heavy truck traffic trashed Gerard and it is still in sad shape needing to be resurfaced. If Gerard is used to access the center during construction than they Wall Mart should have to resurface Gerard, then not use it for truck traffic after it is built.

216-2

I fully support the Center and want it in Merced, I will accept in my neighborhood, but just need to know about the traffic flow and what will happen on Gerard between Parsons and the Center.

**IF ANYONE CAN ANSWER MY SIMPLE QUESTIONS PLEASE E-MAIL ME AT:
tusseyrobert@sbcglobal.net**

**ROBERT L. TUSSEY
2499 E. GERARD Spc 98
MERCED CA 95341
209-383-1752**

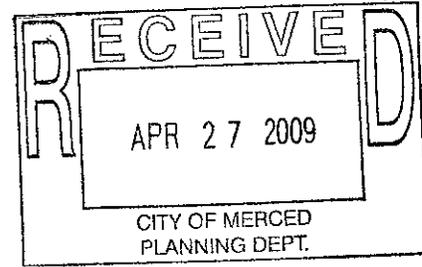
**Letter
216
Response**

Robert L. Tussey
March 6, 2009

- 216-1 The comment addresses the merits of the proposed project, recommends approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.
- 216-2 The commenter requests clarification regarding truck routes. Access to the proposed facility would be off of Gerard Avenue. Construction trip and other truck routing are discussed in Section 4.11 of the DEIR. Please also refer to Mitigation Measures 4.11-2b. Also see Master Response 6.

April 15, 2009

Kim Espinosa
Project Director
Merced Planning Division
678 West 18th Street
Merced, CA 95340



Ms. Espinosa:

In Section 4.2-21 of the DEIR on the Wal-Mart Distribution Center, you list "implementing actions" under the Merced Vision 2015 General Plan. Implementing Action 1.3a reads "The City of Merced will consider air quality when planning the land uses and transportation systems to accommodate the expected growth in this community". I appreciate this sentiment being included in our city's General Plan.

217-1

Does this action only address residential growth or does it also apply to commercial growth? If we are aware that a project will have negative impacts on the community, would the approval of said project violate our General Plan? As I understand, that is a violation of the law. I don't want to see Merced leaving itself open for legal actions.

217-2

Thank you,

Handwritten signature of Federico Salazar Jr. in cursive.

Signature

Handwritten print name: Federico Salazar Jr.

Print Name

Handwritten address: 4064 Toulon Ct.

Address

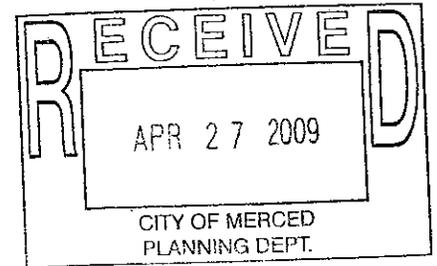
Handwritten city and zip code: Merced CA 95348

Handwritten phone number: (809) 658-2790

Phone

- 217-1 The comment expresses appreciation of the City’s General Plan policies related to air quality. The comment does not raise issues related to the proposed project or with the adequacy of the Draft EIR. The comment is noted.
- 217-2 The commenter questions whether the air quality policy mentioned in the previous comment applies only to “residential growth” or also to “commercial growth.” Note that the policy in question (Implementing Action 1.3a) directs the City to consider air quality when “planning the land uses and transportation systems to accommodate growth in this community.” The proposed project is a development project that is consistent with the land use designation identified in the City of Merced Vision 2015 General Plan. The proposed project does not include land use planning or transportation planning (beyond the immediate vicinity of the project site). Therefore, this specific policy does not apply to the proposed project. However, despite this fact, the City decision makers will consider impacts to air quality when they consider whether to certify the EIR for the project and whether to approve or deny the proposed project. It should be noted that the General Plan is a policy document and is not equivalent to a municipal code or ordinance; it is intended to guide decisions, and departure from policy is not enforceable by law. However, the Draft EIR includes as part of the “Regulatory Setting” (See Draft EIR page 4.2-20 as an example) the various General plan goals and policies that apply to the specific issue area. Any inconsistencies with those policies are addressed the Draft EIR. Therefore, the Draft EIR fully informs decision makers regarding the implications of their decision with respect to local, as well as state and federal, policy. The comment does not raise issues related to the adequacy of the Draft EIR.

Kim Espinosa, Directora de Planificación
Ciudad de Merced Departamento de Planificación
678 West 18th Street
Merced, CA 95340



Señorita Espinoza:

¿Por favor puido que la ciudad haga algo para hacer las partes del Wal-Mart EIR disponibles en idiomas diferentes? ¿Quizás escriba una informe más corto o más simple? Parece que tantas personas no podrán comprender lo que la propuesta dice, por lo menos pueden comunicarse con minorías.

1255 CAROL AV Merced CA
95341
MARIA VILLAFAN
[Handwritten signature]

The attached comment letter regarding the Wal-Mart Distribution Center Draft Environmental Impact Report has been translated by:

Juan F Olmos
Juan Olmos

Maintenance Worker III
Title

5-5-09
Date

English Transcription:

LETTER 10 (*Corresponds with LETTER #218*)

Kim Espinosa, Planning Director
City of Merced Planning Department
678 W. 18th Street
Merced CA 95340.

Miss Espinoza:

I please ask the city to do something to make parts of the Wal-Mart EIR available in different languages? Maybe write a shorter or simple inform? Seems that many persons will not comprehend what the proposal states, at least you can communicate with minorities.

218-1

1255 Carol Ave Merced CA 95341
Maria Villafán

218-1

This comment raises issues related to language barrier and translation of CEQA documents. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.

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Espinosa, Kim

From: Susan Wagoner [bluehalfmoon@sbcglobal.net]
Sent: Tuesday, April 21, 2009 1:47 PM
To: Espinosa, Kim
Subject: Wal-Mart

It sounds as if your minds are made up but I feel I need to let you know how I feel. I live in the Sand Castle subdivision that is very close to the proposed Wal-Mart Distribution Center. I drive on 99 every day back and forth to work. I see the hundreds of trucks that are already on the freeway and can't even imagine how horrible it will be to drive on that freeway once the Wal-Mart trucks are added to the problem. The gridlock it will create for people trying to access the new direct route (Mission Exit) and Campus Parkway to UC Merced will be effected in a very negative way, not to mention the pollution it will create. The Save Mart trucks are already using the Mission Exit. Doesn't UC Merced have a say in this??? I realize we need jobs but the valley doesn't need this type of polluting industry. We already have a huge pollution problem here where the dirty air just hangs over the valley trapped here by the surrounding mountains. I think the Wal-Mart Distribution Center is a bad idea. Michelle Obama (Washington DC) is coming to Merced and will no doubt be told about our problems here and pollution is a major problem not just jobs. There has to be a greener solution for Merced and I feel we should hold off the decision to build this monster here.

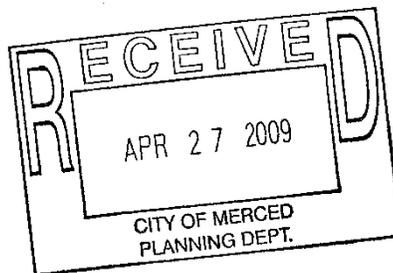
My name is Susan Wagoner and I live at 474 Hydrangea Court in Merced. I have lived here for almost seven years. I love Merced and one of the things I like the most about it is the traffic is so much better than say Modesto or even Turlock. That would certainly end with Wal-Mart trucks added on freeway.

219-1

219-1

The commenter raises concern regarding project-related truck traffic on local streets. The Draft EIR addresses truck traffic in Section 4.11 “Traffic and Transportation.” Please also refer to Master Response 6: Trucks and the Transportation Analysis. The comment does not raise issues regarding the adequacy of the DEIR’s analysis. It should be noted that UC Merced has opportunity to comment as part of the CEQA public review process.

Kim Espinoza, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340



Ms. Espinoza:

I'm seriously concerned by the proposal to build a Wal-Mart distribution center near a residential neighborhood. I'm a teacher at Golden Valley High School and I will have to deal every day with evading the big rig trucks rolling past the school and through all of South Merced.

220A-1

I read in the EIR that there are other potential sites where this project can be built, including an open site on the west side of Highway 99 near the airport. That would be a better location - it is not populated.

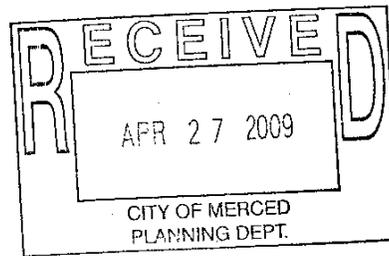
Why can't the City and Wal-Mart come to a sensible solution that at least one alternative is far better for this community than the current proposal? It isn't that I am against the distribution center as much as I am the location.

220A-2

Susan Wagoner
474 Hydrangea Ct.
Merced, CA 95341

Susan Wagoner
Susan Wagoner
Ph. 722-1374

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

As an educator in Merced schools, I'm deeply concerned that the Wal-Mart distribution center is a poorly chosen site because of the public safety dangers posed by the massive truck traffic near local schools.

220B-1

To mitigate such dangers, Wal-Mart should be barred from using the ramps at Childs and Highway 99 and from cutting through local streets to get to Highway 140.

220B-2

Although still a public safety impact on our school children, this would be one reasonable step toward making sure kids who walk to and from school will be safer.

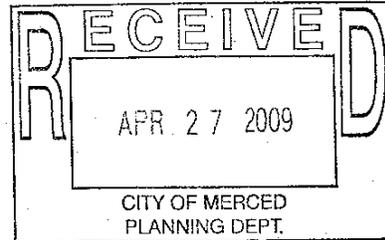
220B-3

Sincerely,

Susan Wagoner
474 Hydrangea Ct.
Merced, CA 95341

Susan Wagoner
Susan Wagoner
ph. 722-1374

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Re: Wal-Mart Distribution Center

Dear Ms. Espinosa,

The environmental study by the City of Merced needs to require details on how Wal-Mart will reduce electricity use. The study says that the Porterville facility uses 13.3 million kilowatt-hours per year, however I would like to see some comparisons between this consumption and what other similar distribution centers tend to use on an annual basis.

220C-1

City staff should require more details because we have had blackouts in the past on hot days and we need to know how this project might burden our electrical grid.

Sincerely,

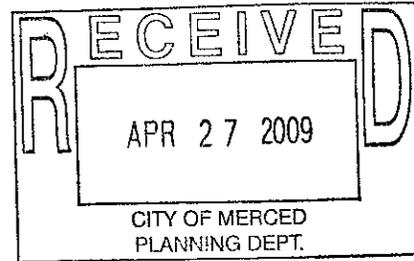
Susan Wagoner
474 Hydrangea Ct.
Merced, CA 95341

~~Susan Wagoner~~
Susan Wagoner
ph. 722-1374

- 220A-1 The commenter raises the issue of truck traffic in the proximity of schools. The issue of truck trips near schools was analyzed in the DEIR and Mitigation Measures 4.11-2b and 4.11-4 (an update to Safe Routes to School Plans) specifically address the issue of trucks and schools. Other mitigation measures were developed to address specific project impacts, including potential impacts at study intersections and on roadways. Safe Route to School Plans identify measures to improve school commuting, including issues associated with crossing the street, bicycling, walking and potential sources of conflicts with school-related vehicles.
- 220A-2 The commenter recommends that the project be developed at Alternative Site #3. Please see the discussions under Responses to Comments 94-3, 111-2, and 203-1, which describe the impacts associated with placement of the project at the Alternative Site #3 location. The comment does not raise issues with the adequacy of the DEIR.
- 220B-1 The commenter raises the issue of truck traffic in the proximity of schools. Please see Response to Comment 220A-1, which addresses this issue.
- 220B-2 The commenter raises the issue of truck traffic in the proximity of schools. Please see Response to Comment 220A-1, which addresses this issue. Also, with implementation of Mitigation Measures 4.11-2b and 4.11-4 the impacts would be reduced to a less-than-significant level; therefore, no further mitigation is necessary.
- 220B-3 The commenter raises the issue of truck traffic in the proximity of schools. Please see Response to Comment 220A-1, which addresses this issue.
- 220C-1 The commenter requests energy demand information of other similar distribution centers besides the Wal-Mart distribution center in Porterville. Although additional information regarding energy demand from other facilities may provide a broader context of energy demand, the comparison of two very similar facilities is appropriate for a general estimate for analyzing impacts associated with energy supply and demand. Energy demand information for other similar facilities is neither available nor necessary for the analysis of this proposed project. Additional information would not likely alter the conclusions of the DEIR.

April 16, 2009

Kim Espinosa
Planning Manager
Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Kim,

I believe the city has vastly underestimated how many trips per day a distribution center gets. First off, Wal-mart won't tell you how many stores they will service with this distribution center so how do we know how many trucks.

221A-1

Merced is in the middle of the State. How do we know Wal-mart won't close their distribution centers in other parts of the state and service all of their stores from the one center?

221A-2

Before the city approves this plan, we need to set a limit on exactly how many trucks can visit this center every day. I read the traffic plan – Wal-mart is saying 240 truck trips a day, but that seems very low.

221A-3

Thank you.

Toni Walery
Signature

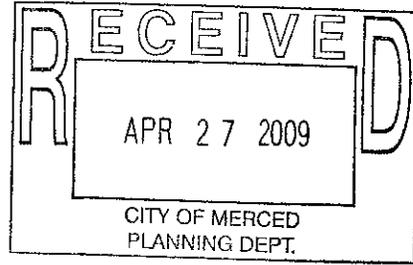
Toni Walery
Print Name

1140 E. 21st St.
Merced, CA 95340
Address

Phone

April 1, 2009

Ms. Kim Espinosa
Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Ms. Espinosa:

I watched a special on CNBC about Wal-mart where they discussed the company's distribution methods. In the film Wal-mart would fill up one truck and then visit a series of stores making partial deliveries at each stop. This distribution method, as described by the film, helped keep Wal-mart's stocked because they didn't need to have large storage facilities. You can see the evidence of this when you drive on the 99 because there is ALWAYS a Wal-mart truck next to you.

It seems to me that there are a lot of Wal-mart trucks on the 99. Does the city have any idea how many trucks we're talking about? And you're always hearing about Wal-mart trying to build new stores. Is there a limit on how many stores that could be accommodated by this distribution center?

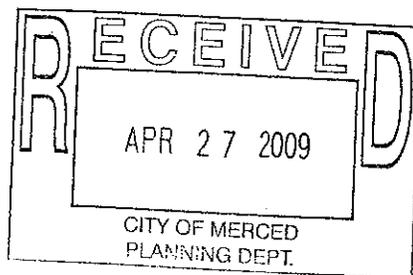
221B-1

Thank you,

Toni Walery
Signature
Toni Walery
Print Name
1140 E. 21st
Merced, CA 95340
Address

Phone

March 27, 2009



Ms. Kim Espinosa
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340

Ms. Espinosa,

I understand that the minimum level of traffic standards for the City of Merced and Caltrans is LOS D or better during peak traffic. That seems a little low to me, but this project doesn't appear to meet that goal. Why hasn't the city done more to require Walmart to fund better roads as part of the approval process?

221C-1

If built, this distribution center will be with us for generations. As a parent, I feel we need to make sure it meets our goals and not just minimum standards before we agree to having it built in our neighborhood.

221C-2

Sincerely,

Toni Walery
Signature

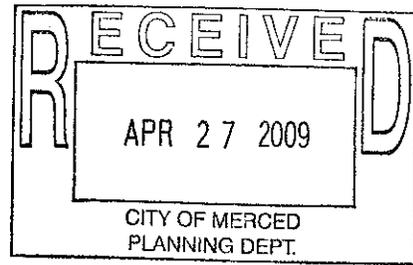
Toni Walery
Print Name

1140 E. 21st St.
Merced, CA 95340
Address

Phone

April 21, 2009

Kim Espinosa
Merced Planning Department
678 West 18th Street
Merced, CA 95340



Ms. Espinosa,

I have a comment about mitigation measure 4.2-2b in the Air Quality section of the distribution center environmental impact report. You discuss incentives for employees to take their children to daycare centers near the site. That's a great idea. Unfortunately, there aren't any in Southeast Merced, unless you include the three schools.

221D-1

Looks like you'll have to find some more mitigation ideas.

Sincerely,

Toni Watery

Signature

Toni Watery

Print Name

1140 E. 21st St.

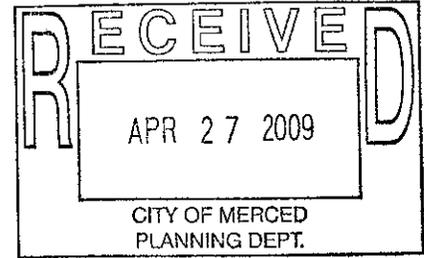
Address

Merced, CA 95340

Phone

April 5, 2009

Ms. Kim Espinosa
Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Kim:

I am confused. I read the traffic portion of the Wal-mart Distribution Center report. Why is a level of service of D and below allowed for traffic? Shouldn't we insist that the road be improved before Wal-mart opens?

221E-1

Creating new jobs is important – but we have to make sure the roads and infrastructure are good enough to support the jobs.

Thank you.

Toni Walery
Signature

Toni Walery
Print Name

1140 E. 21st St.
Merced, CA 95340
Address

Phone

Toni Walery

- 221A–April 16, 2009 ➤ 221B–April 1, 2009
 - 221C–March 27, 2009 ➤ 221C–April 21, 2009
 - 221D–April 5, 2009
-

- 221A-1 The commenter suggests that the project trip generation is underestimated. The trip generation forecast that was used in the traffic analysis was based on a survey of a similar facility in Apple Valley, CA, which has 1,201 employees and a similar fleet mix as the proposed facility in Merced. The survey of the Apple Valley facility analyzed the number of vehicles entering and exiting the site throughout the day and the type of vehicles (car, truck, etc.). The number of stores to be serviced from the Distribution Center is limited by the number of service bays, employees and other factors. However, the trip generation is based on the projected number of trucks likely to access the site, and the number of employees, and other delivery trips to the site (e.g., fuel, supplies, etc.).
- 221A-2 The commenter questions if Wal-Mart will close distribution centers in other parts of the state and service their stores from one center. Please refer to response to comment 150-2 regarding the project description for the proposed project, and associated CEQA matters. Please also refer to Master Response 1: Growth Inducement and Expansion. The DEIR is not required to speculate relative to future actions Wal-Mart may take relative to distribution centers elsewhere. No further response is necessary because no issues related to the adequacy of the environmental impact analysis in the DEIR were raised.
- 221A-3 The commenter suggests setting a limit on the number of trucks that can access the site per day. However, the commenter does not provide specific information related to which impact this limit would reduce. Please see Master Response 1: Growth Inducement and Expansion for a discussion related to the requirement of the City to perform additional CEQA review if operation of the project exceeds the level of operation described in the EIR. The commenter also indicates that 240 truck trips per day seems like a low estimate. It should be noted that the Draft EIR indicates that the proposed project would generate 643 truck trips per day.
- 221B-1 The commenter is concerned about Wal-Mart trucks on Highway 99, and asks if there is a limit on how many stores could be accommodated by the distribution center. Regarding traffic, the project’s traffic impacts were evaluated consistent with the requirements of CEQA in Section 4.11, “Traffic and Transportation,” of the DEIR. As described therein, the project would result in potentially significant traffic impacts, and mitigation is proposed to reduce these impacts to less-than-significant levels (see pages 4.11-26 to 4.11-32). The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided.
- Regarding the number of stores that could be accommodated by the distribution center, this issue is addressed in Master Response 1: Growth Inducement and Expansion. Please also refer to response to comment 150-2 regarding the project description for the proposed project, and associated CEQA matters. No further response is necessary because no issues related to the adequacy of the environmental impact analysis in the DEIR were raised.
- 221C-1 The commenter indicates that the project does not seem to meet the City’s level of service standards. The thresholds for acceptable levels of service and assessment of impacts are outlined on page 4.11-17 of the DEIR. The comments regarding funding better roads and minimum standards are noted.

- 221C-2 The commenter indicates that the proposed project needs to meet “goals” as opposed to minimum standards. The comment does not raise issues with the adequacy of the DEIR. The comment is noted.
- 221D-1 The commenter questions the effectiveness of mitigation measure 4.2-2b, specifically noting that there are not any daycare centers near the project site. An option within this measure is to provide an on-site daycare center, if deemed appropriate by SJVAPCD as a result of further health risk studies. If on-site daycare is not provided, there are several daycare centers available in Merced within a few miles of the project site. Also, Mitigation Measure 4.2-2b is a performance standard that can be achieved in any number of ways.
- 221E-1 The commenter challenges the adequacy of the City’s level of service standards. The commenter does not raise issues with the adequacy of the DEIR’s analysis. The comment is noted.

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Espinosa, Kim

From: Edward Walters [ewalters@guildmortgage.net]

Sent: Wednesday, March 25, 2009 7:02 PM

To: Espinosa, Kim

Hi Kim,

You obviously get a lot of mail and I am just one more businessman who has a few employees and we want to see our town grow. WE NEED THE WAL MART DISTRIBUTION CENTER! Please add us to a list of concerned citizens who do not want to see us just sit and rot and let a few nay sayers stop a good thing. Thank you

222-1

Ed Walters

767 East Yosemite Ave Suite D

Merced, CA 95340

(209) 384-4480 office

(209) 968-6132 cell



222-1

The comment addresses the merits of the proposed project, recommends approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

Espinosa, Kim

From: Willy 91 [circle91racing@hotmail.com]

Sent: Thursday, April 23, 2009 7:59 PM

To: Espinosa, Kim

Subject: WalMART

NO WE WILL NOT TOLERATE THIS WALMART DISTRIBUTION CENTER. A STUPID PLACE TO
PUT IT.

223-1

William Wasser
1523 Brimmer Rd.
Merced

Rediscover Hotmail®: Get e-mail storage that grows with you. [Check it out.](#)

223-1

The comment addresses the merits of the proposed project, recommends denial, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

Espinosa, Kim

From: rwebster@elite.net
Sent: Thursday, March 05, 2009 5:23 PM
To: Espinosa, Kim
Subject: To Ensure a fair CEQA/EIR process

Kim, This is a bit late getting to you- had the wrong email address-whoops.

Merced City Council Members and Planning Dept. Staff,
This is just a written follow-up to my comments at last night's city council meeting (March 2nd).
Now that the Draft E.I.R. for the Wal-Mart Regional Distribution Center is out, there are several things that would help insure that proper public review and input on this project is allowed.

1. An extension of the review period by 1-2 months.

Though the 60 day comment and review period is longer than the 45 required, it still is inadequate considering the formidable size and technical nature of the document. The Draft EIR plus its appendices are 1100 pages in length. To read through the material in its entirety would require almost 20 pages per day, every day, during the 60 day review period. And of course it does not read like a novel- it is complex and technical. After all, it was 3 years in the making. EDAW, who authored it, required several extensions to complete it- that with a team of technical experts and lawyers, guidance by Wal-Mart, and assistance from the Merced City Planning staff. Imagine the challenge for lay citizens to read and digest such content. In addition, time is needed to research other sources and to compose relevant and cogent comment.

224-1

As another speaker last night brought out- the council members themselves could probably use a wider window of time for them to adequately consider such a weighty and important project. It is very likely the largest, most ambitious, and most complex ever proposed within the city limits.

The CEQA review guidelines certainly allow an extension of the review period under "unusual circumstances" Besides the size and technical nature of the document, there are other "circumstances" that seem to demand more time. . . see item 2 that follows.

2. Critical information explaining the Wal-Mart regional distribution center project needs to be in multiple languages.

While understandably it is impractical to translate the entire document, certainly portions such as the executive summary, major impacts and mitigations, and opportunities for citizen involvement could be. Those living in the community nearby, hence those most impacted by the project, have a large number of residents who do not speak English or for whom it is a second language. Translations in Hmong and Spanish would not meet the needs of all groups but probably a large percentage. Even this effort would probably be minimal in encouraging public involvement in the CEQA process unless yet another step was taken . . . see item 3.

224-2

3. The City should hold public hearings and informational forums for those of all languages-

perhaps one dedicated to EACH of the major targeted groups (Hmong-speaking, Spanish-speaking, and English-speaking). Terms, concepts, and studies referred to in the EIR and its support appendices are technical in nature. Explanation and clarification are needed for all citizens, regardless of their language

224-3

3/6/2009

preference. Such sessions could also help citizens understand the CEQA process itself, its purpose, and their role and responsibility in it.

224-3
Cont'd

4. Make sure that an adequate supply of printed hard copies of all documents are available for purchase. Yesterday I went to city hall to purchase a copy of the Draft EIR and the supporting appendix. The appendix, by far the longer document, was not available. There have only been three working days since the EIR was made available to the public and supplies are depleted already. I paid for both volumes and have been assured that the second one will be available for pick up in one week. Granted not a major delay, but yet another example of why more time would be helpful to get materials into citizens hands and ensure an adequate review period. (I am aware that the entirety of the documents is available for viewing on line and on disc. But, reading off the computer screen for long periods does not work for me and also does not allow for highlighting, notes in the margin, and other working notations. It is important enough that I have paid \$90 to have hard copies to work from.)

224-4

In conclusion, CEQA (15105) has the expectation that the public is informed, has access to information, and has the opportunity to comment during the Draft EIR review process. Whatever can be done to ensure that this process is transparent and encourages citizen involvement (especially by those most impacted) should be seriously considered. All of the above seem reasonable and practical. Undoubtedly there are still other measures that can be added to make this a truly open and positive decision-making process.

224-5

Thank you for considering my comments,
Rod Webster
345 E. 20th St., Merced 95340
209-723-4747

**Letter
224
Response**

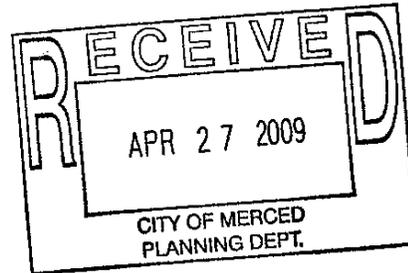
Rod Webster
March 5, 2009

- 224-1 This comment raises issues related to adequacy of the public review period of the Draft EIR. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses this issue.
- 224-2 This comment raises issues related to language barrier and translation of CEQA documents. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.
- 224-3 This comment raises issues related to language barrier and translation of CEQA documents. The comment recommends holding public hearings and information forums for all languages. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues. As indicated in Master Response 2, the City considered the issue at its March 16, 2009 City Council hearing and adopted a motion directing staff to work with the Lao Family Community and the Hispanic Chamber of Commerce and other community organizations to provide translation services at public hearings related to the project.
- 224-4 The commenter indicates that the appendix of the Draft EIR was not available for purchase, due to depleted supplies, and that there was a one-week delay in the delivery of the appendix. It is important to note that the commenter did not comment on the ability to purchase a Draft EIR in hard copy, only the appendix. It should also be noted that, although the appendix was not available for purchase, it was available in hard copy for review at the City and a copy of the technical appendices was made available for him to purchase the next day. As noted by the commenter, the Draft EIR and appendices were also available on the City's website and on compact disc. Therefore, the appendix to the Draft EIR was widely available to the commenter and the public, including a hard copy available for review at the City, which is required under CEQA. CEQA does not require that hard copies be available for purchase.
- 224-5 The comment concludes the letter and broadly reiterates issues of access to information, transparency, and encouraging public involvement. This comment does not raise any issues that were not addressed in the previous comments. Please see Responses to Comments 224-1 through 224-4.

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March 26, 2009

Kim Espinosa
Department of Planning
City of Merced
678 West 18th Street
Merced, CA 95340



RE: Wal-Mart Distribution Center

Kim,

I'm a teacher here in Southeast Merced and I encourage you and the city to look at moving the proposed site to the western side of 99. I think you can accomplish that the city is trying to do and at the same time, move it away from the neighborhoods down in Southeast. I sympathize with those folks and I wouldn't want to live across from a giant truck stop either. I certainly wouldn't want trucks driving down major roads in back of my house either.

225A-1

I really think you should explore alternative #2 and put it on the other side of Highway 99.

Sincerely,

Sheila A. Whitley
Signature

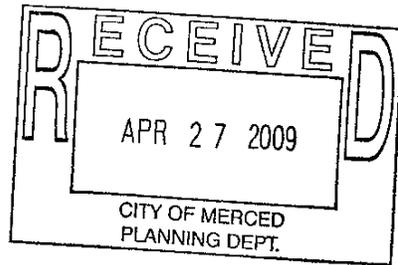
Sheila A. Whitley
Print Name

2579 Canal Dr.
Address

Atwater CA 95301

Phone
209-769-3260

Kim Espinosa, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340



Ms. Espinosa:

As a teacher in Merced I'm upset that the City of Merced is considering building the Wal-Mart distribution center near three local schools. The kids we teach every day have a number of different burdens on them that make their daily education unduly difficult. At school, they should be safe and able to focus on their studies. This distribution center will force more air pollution onto kids with serious respiratory problems. Kids who walk to school will have to dodge delivery trucks to and from school. Their homes and neighborhoods will become undesirable, depressed and will have a poor quality of life. This project will bring impacts that these kids and schools don't need. The City of Merced should recognize that this location just doesn't make any sense, and people's lives will be significantly hurt by it.

225B-1

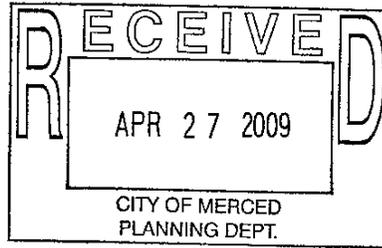
Sheila J. Whitley
Name

2579 Canal Dr
Address

Atwater CA 95301
City, State, Zip

Sheila J. Whitley
Signature

Kim Espinosa, Planning Manager
City of Merced Planning Department
678 West 18th Street
Merced, CA 95340



Ms. Espinosa:

I'm appalled by the recklessness of proposing to build a Wal-Mart distribution center at the edge of a residential neighborhood. I'm a teacher at Golden Valley High School and I will have to deal every day with dodging the big rig trucks rolling past the school and through all of South Merced. I read in the EIR that there are other potential sites where this project can be built, including an open site on the west side of Highway 99 near the airport. Nobody lives over there, the roads won't be made severely dangerous and the noise and pollution generated by this kind of operation won't diminish the immediate environment as directly as this current site. Why can't the City and Wal-Mart come to a sensible conclusion that at least one alternative is far better for this community than the current proposal?

225C-1

225C-2

Sheila G. Whitley
Name
2579 Canal Ave
Address
Atwater CA 95301
City, State, Zip
Sheila G. Whitley
Signature

**Letter
225A-C
Response**

Sheila A. Whitley

- 225A–March 26, 2009
 - 225B–Undated
 - 225C–Undated
-

- 225A-1 The commenter recommends that the project be developed at Alternative Site #2 or #3, both located west of SR 99. The DEIR analyzes the relative impacts associated with placing the project at these alternative sites (see Section 5: “Alternatives to the Proposed Project”). Please also see the discussions under Responses to Comments 94-3, 111-2, and 203-1, which describe the impacts associated with placement of the project at the Alternative Site #3 location. The comment does not raise issues with the adequacy of the DEIR.
- 225B-1 Please refer to the response to comment 92-3 for discussion about whether TAC emissions generated by off-site truck travel associated with the project would result in an impact. Impact 4.2-4 and the supporting HRA analyzes the effects of on-site diesel truck emissions and other on-site TACs on nearby receptors, including schools, residents, and workers. Please also refer to the response to comment 16-8 which discusses how the schools were included in the HRA performed for the project.
- 225C-1 The comment expresses concern related to increase truck trips and driver safety. The Draft EIR addresses traffic safety in Section 4.11 “Traffic and Transportation.” Specifically, Impact 4.11-2 (See p. 4.11-26) analyzes potential traffic safety hazards. It should be noted that Mitigation Measure 4.11-2b requires development and implementation of a truck route plan to restrict truck traffic to designated routes. The comment does not raise issues with the adequacy of the Draft EIR. The comment is noted.
- 225C-2 The commenter recommends that the project be developed at Alternative Site #3. Please see the discussions under Responses to Comments 94-3, 111-2, and 203-1, which describe the impacts associated with placement of the project at the Alternative Site #3 location. The comment does not raise issues with the adequacy of the DEIR.

Espinosa, Kim

From: WIRUSSELLWILLIAM@aol.com
Sent: Thursday, April 23, 2009 9:48 AM
To: Espinosa, Kim
Subject: walmart distribution center

Hi, Kim

Can you please clarify how this development will affect residents of sandcastle subdivision and surrounding areas which I currently live in and would like to continue staying in? How will exhaust and pollution affect us since we're so close and will be able to look out our front windows and see the center? How will this affect our already depleted property value? Because I'm one of those homeowners who are in an upside down mortgage, but haven't consider letting my home go into foreclosure until the talk of the distribution center. We just had an increase in our utilities such as water and electric how much more will it increase? Since most likely residents of Merced will be hit with the increase especially residents in this area. I'm not against the project but don't think I want to live so close to something that I already know will affect my family and neighbor health since it's such massive construction. Can you please give me some insight on our OPTION because really I don't think that there's any BECAUSE FROM HEAR SAY IT'S ALREADY A DONE DEAL. It's easy to say YES to something when it doesn't affect you or your neighbors if you don't live in the area which I doubt anyone on the city council do. I'm from Louisiana and have never seen Walmart go into an already developed community. I guess since the community need job it's okay. How many people can actually say yes to this if it was in their neighborhood **COULD YOU ? I just think there should have been other sights to consider instead of putting it in a residential area so close to schools and our homes since merced do have a lot of open land. Hope to hear back .**

226-1

226-2

226-3

226-4

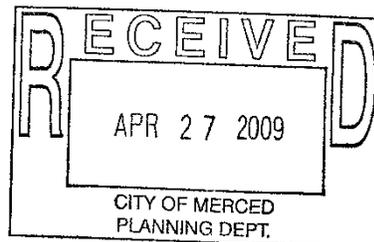
**ANGELA WILLIAMS
335 ALBERT DR.
MERCED, CA 95341**

[Big savings on Dell XPS Laptops and Desktops!](#)

- 226-1 The commenter requests information about how the project would affect residents of the Sandcastle subdivision. The DEIR analyzed environmental impacts to the residential communities affected by the proposed project, including Sandcastle subdivision. The commenter does not raise specific questions or issues related to the DEIR's analysis; therefore, no further response can be provided.
- The commenter also asks how project-generated exhaust would affect residents of the Sandcastle subdivision. A comprehensive HRA is included in Appendix C of the DEIR. Impact 4.2-4, Exposure of Receptors to Toxic Air Contaminants, includes discussion about the potential health risk from short-term construction-related emissions of TACs and long-term operation-related emissions of TACs. The methodology and results of the HRA are summarized in the discussion about long-term operation-related emissions of TACs on pages 4.2-43 through 4.2-45. This discussion analyzes the potential health effects of nearby residents, workers, and schools. Please also refer to Master Response 13.
- 226-2 The comment expresses concern that property values will remain low with implementation of the project, given the current downturn in the real estate market. Issues associated with property value are not considered environmental issues and are therefore not required to be analyzed under CEQA. Please see Master Response 11: Economics and Urban Decay, which addresses this issue.
- 226-3 The commenter states that utility costs, such as water and electric, just increased. The commenter asks how much more utilities costs will increase. The increasing cost of utilities in Merced is not relevant to the environmental impact analysis of this project and is not required to be analyzed under CEQA. Therefore, no further response is necessary.
- 226-4 The commenter indicates that other sites should have been considered that would reduce impacts to the community, particularly homes and schools, since Merced has an abundance of open land. The Draft EIR evaluated three alternative sites to the proposed project in Section 5 "Alternatives to the Proposed Project." Please see the discussions under Responses to Comments 94-3, 111-2, and 203-1, which describe the impacts associated with placement of the project in a more "remote" location.

April 2, 2009

Kim Espinosa
Planning Department
City of Merced
Merced, CA 95340



Dear Kim Espinosa,

Let me get this straight. Your environmental impact report says and I quote "local emissions are thought to be primarily responsible for the SJVAB's worst ozone air quality" 4.2-2. I would define "local emissions" as emissions which are created in the area where one lives, would you? This report admits that the distribution center will make our ozone worse. Does this not concern you?

227-1

I hope this sends you the signal that this distribution center SHOULD NOT be built. Why would we allow a project to be built that harms our health? It's like approving a death sentence.

Amanda Wilson
Signature

Amanda Wilson
Print Name

1565 Fork Ave
Address

Merced Ca 95340
City, State Zip

6884932
Phone Number

227-1

The comment does not raise issues with the adequacy of the DEIR. The comment is noted. Please refer to Master Response 13.

Espinosa, Kim

From: Jan Wilson [wilsonss304@earthlink.net]
Sent: Friday, April 17, 2009 8:37 AM
To: Espinosa, Kim
Subject: WalMart reply

I am fully FOR the Wal-Mart Distribution Center.

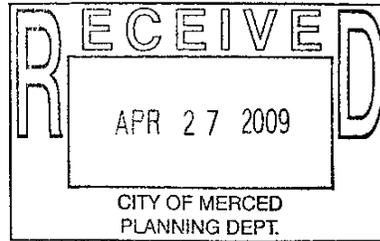
Jannis Wilson, 124 E. 21st Street, Merced, CA 95340

228-1

228-1

The comment addresses the merits of the proposed project, recommends approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

I am writing with regards to the Wal-Mart Distribution Center's Draft Environmental Impact Report (DEIR). The DEIR should have required a detailed landscaping plan from the applicant to better understand the water consumption issues associated with the project. I understand that the City has requirements regarding the implementation of water efficient landscaping, but the magnitude of this project requires further study at the steps they will take to a) downplay the visual magnitude of the distribution center through the use of landscaping and to b) be as water efficient with its landscaping without compromising the number of trees and bushes planted. The City should require the applicant to plant more mature trees, evergreen and deciduous trees, along the perimeter of the distribution center as a visual safeguard. It must further require a detailed irrigation and watering plan for all of its landscaping designs. Photos of Apple Valley's Distribution Center illustrate the lack of landscaping and greenery that should not be allowed at the Merced center.

229-1

229-2

Sincerely,


Name

156 South Fork
Address

Merced CA, 95341
City, State, Zip


Signature

4-16-09
Date

- 229-1 The commenter states that the DEIR should have required a detailed landscaping plan from the applicant to better understand water consumption issues, and is also concerned about water efficient landscaping requirements and steps the applicant will take to downplay the project's visual impacts. These concerns are addressed in previous responses to comments. Please refer to response to comment 121C-1 regarding landscaping, water consumption, water supply, and mitigation measures for visual impacts. Please also refer to response to comment 22-18 regarding visual resources impacts of the proposed project and associated mitigation. The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided.
- 229-2 The commenter states that the City should require the applicant to plant more mature trees along the perimeter of the site as a visual safeguard, and require a detailed irrigation and watering plan. Please refer to response to comment 121C-2 regarding visual resources impacts and mitigation measures. Please see response to comment 75G-3 regarding landscaping and irrigation plans. The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided. This comment is noted for the City's consideration during review and approval of the project. No further response is necessary.

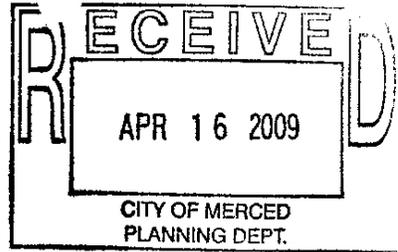
April 15, 2009

Kim Espinosa, Planning Manager

City of Merced Planning Division

678 West 18th Street

Merced, CA 95340



Dear City of Merced Planners and City Council,

RE: My comments on the Draft EIR.

You are being asked to make a decision that will affect not only the present generation but several generations to come, whether to allow the Wal-Mart Distribution Center to be built in South Merced. The California Air Board recommends that city planners take into account the configuration of existing distribution centers and avoid locating residences and other sensitive land uses near them. In this case it is the neighborhoods and schools who were there first, and you are considering locating a huge distribution center right in their midst! There are housing developments on either side of the planned distribution center and schools in very close proximity. The only sane plan is to scrap this project altogether!

230-1

The people in the San Joaquin Valley are already paying a high price for the bad air here, and the distribution center will make it worse. The cost of the health impacts from diesel pollution in California is \$21.5 billion per year. According to the California Air Resources Board report of Dec 2005, "The Californians who live near ports, rail yards and along high traffic corridors, are subsidizing the goods movement sector with their health." If this project is allowed to go through the people of Merced will have an increased risk of premature death, cardiovascular problems, asthma and allergies, which will be more pronounced in the children of the community.

EPS studies on diesel exhaust in the City of Commerce shows cancer rates are 180 times higher than the rest of the state. How can you consider putting the health and welfare of the citizens of Merced at risk this way? For the problems that will be brought upon the people of Merced if the Wal-Mart Distribution Center is allowed to be built, please see the power point presentation done for a similar area by the Air Resources Board, "BNSF Railroad Initial Draft Diesel PM Mitigation Plan for the Stockton Railyard" 3/19/09.

230-2

The Cumulative Air Quality Impact (Toxic Air Emissions). This impact is listed in the EIR as having Less-Than-Significant-Impact, and states that no mitigation is required. This is impossible! The EIR plainly states that the distribution center will cause the City of Merced to be out of compliance with the rules of the Air Board (CARB), rules and regulations that were painstakingly complied for the good of the whole. Diesel exhaust has 450 different chemicals, and 40 are known to cause cancer. Studies show that diesel emissions are extremely toxic and cancer-causing. The health of the residents of Merced are already endangered from train

locomotives that dump 5 tons of diesel particulate matter per year into the air, from diesel trucks on Highway 99 that dump 10 tons of diesel PM per year, and the millions of cars which contribute even more pollution than the diesel trucks!

230-2
Cont'd

4.2-1 (Generation of Short-Term Construction-Related Emissions of Criteria Air Pollutants and Precursors) The proposed mitigation for this impact states: “Construction of the proposed project shall comply with SJVAPCD’s ISR rule (Rule 9510) as required by law. The applicant shall submit and have approved an AIR Impact Assessment (AIR) application to SJVAPCD.” When will we see a copy of this Air Impact Assessment?

230-3

Cumulative Air Quality Impact (Construction and Operations), Cumulative Air Quality Impact (Carbon Monoxide) and Cumulative Air Quality Impact (Toxic Air Emissions). These are listed as “Less Than Significant” and state that “no mitigation is required.” I doubt the validity of these statements. It seems to me that they should be listed as “Significant.” These impacts in the EIR and the proposed mitigations (or lack of them) seem to be minimized, absent, confusing and incomplete, or need clarification.

If the Wal-Mart Distribution Center is built in South Merced it will have the cumulative effect of attracting similar projects in the area. To see what South Merced will look like in a few years if this is allowed to happen, please see “Air Quality in Mira Loma: Land Use is a Health Issue,” which can be found at www.CCAEJ.org. Click on Air Quality/Goods Movement, then Diesel Pollution. Mira Loma has the 4th highest levels of PM in the world, and a cancer rate of 1,265 per million. The pollution is highest around their distribution centers, and extends 50 -60 miles out.

230-4

I could not find a pollution calculation on the refrigeration units in the EIR. The California Air Resources Board states that “The activities associated with delivering, storing, and loading freight produces diesel PM emissions. Although TRU’s have relatively small diesel-powered engines, in the normal course of business, their emissions can pose a significant health risk to those nearby. In addition to onsite emissions, truck travel in and out of distribution centers contributes to the local pollution impact.” Source: (Air Quality and Land Use Handbook: A Community Health Perspective 2005, p 11).

4.2-2 Generation of Long-Term Operation-related (regional) Emissions of Criteria Air Pollutants & Precursor Emissions. The EIR states “Thus, project-generated, operation-related emissions of criteria air pollutants and precursors could violate or contribute substantially to an existing or projected air quality violation, and/or expose sensitive receptors to substantial pollutant concentrations, especially considering the nonattainment status of Merced County. In addition, because SJVAPCD’s significance thresholds approximately correlate with reductions from heavy-duty vehicles and land use project emission reduction requirements in the SIP, project-generated emissions could also conflict with any air quality planning efforts.”

230-5

Part of the proposed mitigations for the above state that the “applicant shall fully fund or contribute its fair share of funding for the development of a Class 11 Bike Lane along Childs

Avenue and Gerard Avenue.” I have lived and worked in the area, and I know that these roads are unsafe for bicycles already. With the traffic generated from the proposed project they will be even more unsafe. How can you think it would be OK to have children on bicycles anywhere near diesel trucks, and to have them breathing diesel emissions while riding their bicycles? Would you allow your children to ride bicycles in that neighborhood?

230-5
Cont'd

4.3-5: Consistency with Local Plans, Policies, and Ordinances. The Merced Vision 2015 General Plan states one of their goals is “Clean air with minimal toxic substances and odor, clean air with minimal particulate content, effective and efficient transportation infrastructure, and coordinated and cooperative inter-governmental air quality programs.” Proceeding with the Wal-Mart Distribution Center will be a blatant disregard of the City’s General Plan. According to the EIR, “Implementation of the project could conflict or be inconsistent with the City of Merced General Plan. This impact would be significant.”

230-6

Mitigation measure 4.3-2, states, “it would reduce the impact on consistency with the City’s General Plan to a less-than-significant level.” If the General Plan can be changed to suit Wal-Mart, then the General Plan can also be changed to accommodate green and sustainable businesses! It is never too late to call for a complete review of the City and County General Plans, and to implement sustainable community development instead of unsustainable sprawl and pollution.

4.8-1: Short-Term Construction Noise, 4.8-3 Long-Term Operational Traffic Noise, 4.8-4: Intermittent Single-Event Noise from Trucks Passing Off-Site Sensitive Receptors, and Cumulative Noise Impact. The mitigations proposed minimize the risks to health and the environment from this project.

230-7

Even if some of the noise impacts can be mitigated, where the Wal-Mart Distribution Center is planned is absolutely the WRONG PLACE. It will cause an increase in traffic accidents, and pedestrian safety will deteriorate. Along with the increase in pollution and noise there will be lights going 24/7, and there is no way to mitigate this light pollution.

230-8

230-9

4.10-1: Create a Safety Hazard to Construction Workers and the General Public from Potential Release of Unknown or Previously Undiscovered Hazardous Materials during Construction. 4.10-4: Create a Significant Hazard through the Transport of Hazardous Materials Adjacent to Schools in the Vicinity of the Project.? Hazardous materials and housing developments are not a healthy mix. Transporting hazardous materials adjacent to schools is completely unacceptable!

230-10

Cumulative Agricultural Land Impact. The City of Merced is negligent in designating Prime Farmland as Industrial Zoning in the first place. This should never have been done, and it is not too late to reverse this designation. The EIR states that there are impacts that not only cannot be mitigated but will lead to further denigration of the whole south side of Merced. Of gravest concern is the destruction of Prime Farmland, which will set precedence for further destruction

230-11

of farmland. The real value of this farmland will not even be realized until it is all gone. In this country we are now at the crossroads of dependence on foreign countries for our food supply. Relying on foreign countries for oil has not worked. It will be a complete disaster when we are totally dependent on them for food.

230-11
Cont'd

Cumulative Air Quality Impact (Greenhouse Gas Emissions), and 4.2-6 Generation of Emissions of Greenhouse Gases. The EIR states that “despite the mitigation measures, CO2 emissions attributable to the project would contribute to the existing and projected global warming trend.” In light of the fact that scientists now state that global warming is preceding much faster than known before, the City of Merced should be doing all that it can not to contribute to this problem! Has the EIR neglected to calculate the 6 to 10 tons of CO2 per year each car coming to the distribution center will release into the atmosphere? With over 1,000 workers coming to work each day, this will be significant and should not be left out.

The mitigation plans are woefully inadequate for the damage that will be inflicted on the area. Why does the EIR not give credit to the existing trees where the project is planned, for the work that they have been doing. The EIR states that it will provide a few trees for landscaping, when what is needed is a greenbelt to mitigate some of the traffic noise and air pollution. You should at least plant the same number of trees that you plan to destroy!

230-12

Urban trees improve the air, protect the water, save energy, and improve economic sustainability. Planting trees remains one of the cheapest, most effective means of drawing excess CO2 from the atmosphere. A healthy tree stores about 13 pounds of carbon annually - or 2.6 tons per acre each year. Each tree absorbs 10 pounds of air pollutants, including 4 pounds of ozone and 3 pounds of particulates, cleans 330 pounds of CO2 from the atmosphere, and returns oxygen back to the atmosphere. A single mature tree can absorb CO2 at a rate of 48 pounds per year, (the same amount of CO2 released by a car driven 500 miles), and release enough oxygen back into the atmosphere to support 2 human beings.

An acre of trees absorbs enough CO2 over one year to equal the amount produced by driving a car 26,000 miles. An estimate of carbon emitted per vehicle mile is between 0.88 lb. CO2/mi. – 1.06 lb. CO2/mi. (Nowak, 1993). Thus, a car driven 26,000 miles will emit between 22,880 lbs CO2 and 27,647 lbs. CO2. Thus, one acre of tree cover can compensate for automobile fuel use equivalent to driving a car between 7,200 and 8,700 miles. One acre of trees provides oxygen for 14 people every day.” Source(s): <http://www.coloradotrees.org/benefits.htm#carbon>

Cumulative Traffic Impact – Intersection Operations (2030 with Project). This is the only one of the traffic impacts that is listed as Significant. It doesn't take a specialist to determine that traffic around the three schools in the area is already overcrowded, and it will become a complete bottleneck if the distribution center is built.

230-13

Cumulative Visual Impact. As stated in the EIR, “Mitigation measures would not reduce these cumulative impacts to a less-than significant level.” The City Council must consider the quality

230-14

of life it will be imposing on the citizens of Merced. It is not too late to call for a complete review of the City and County General Plans, implementing Sustainable Community Development instead of unsustainable sprawl and pollution.

230-14
Cont'd

The Cumulative Social and Economic Impact of the Wal-Mart Distribution Center on South Merced was not included in the EIR. City Planners need to take a close look at the environmental justice aspect of this project. Other California studies have shown that lower income communities and communities of color were more likely to be close to major transportation routes and as a result, be exposed to excessive levels of diesel and gasoline exhaust in the air they breathe. To sacrifice the health and welfare of the community, especially vulnerable and defenseless children, is heartless, thoughtless and immoral.

230-15

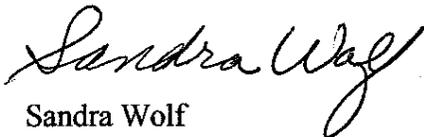
The jobs created by the distribution center will not be high-paying, with the overall effect of keeping the poor people down and stimulating medical need. People who already cannot afford medical insurance will be dependent on public assistance. People in south Merced and the workers at the distribution center will be using more medical services due to their increased exposure to air pollution and noise. This quick fix for the local economy will be more of the same stuff that has put our country into its present state. The jobs Wal-Mart provides will not bring more stability to our area.

Wal-Mart's economic monopoly will have an increasingly negative impact on Merced, and aiding the expansion of this giant should not be encouraged. Although Wal-Mart employs many people living in its communities, for most, the hours worked and the wages paid do not help these families transition out of poverty. Nationwide an estimated 20,000 families have fallen below the official poverty line as a result of the chain's expansion. Wal-Mart raises poverty rates in the counties where its stores are located (Social Science Quarterly - "Does Wal-Mart Increase Poverty Rates?" May 17, 2006).

230-16

During the last decade, dependence on the food stamp program nationwide increased by 8 percent, while in counties with Wal-Mart stores the increase was almost twice as large at 15.3 percent. The closing of "mom and pop" stores following the appearance of a Wal-Mart store leads to the closing of local businesses that previously supplied those stores including: wholesalers, transporters, logistics providers, accountants, lawyers and others. By displacing the local class of entrepreneurs, the Wal-Mart chain also destroys local leadership capacity.

Sincerely,



Sandra Wolf

601 Hemlock Avenue

Atwater, CA 95301

- 230-1 The comment does not raise issues with the adequacy of the DEIR. The comment is noted. Please refer to Master Response 13 for discussion about project-generated emissions of air pollutants and the public health concerns. Impact 4.2-4 and the supporting HRA in the DEIR analyzes the effects of on-site diesel truck emissions and other on-site TACs on nearby receptors, including schools, residents, and workers.
- 230-2 The commenter disputes the findings of the DEIR without providing any support for such dispute. Please refer to Master Response 13 for discussion about project-generated emissions of air pollutants and the public health concerns. Impact 4.2-4 and the supporting HRA in the DEIR analyzes the effects of on-site diesel truck emissions and other on-site TACs on nearby receptors, including schools, residents, and workers.
- The commenter also states that “the EIR plainly states that the distribution center will cause the City of Merced to be out of compliance with the rules of the Air Board (CARB).” The comment does not specify where this is stated in the DEIR, and this statement is incorrect. Please refer to Master Response 13.
- 230-3 The commenter would like to know when a copy of the Air Impact Assessment (AIA), which will be approved by SJVAPCD prior to issuance of building permits, will be available for review. There is no intended public involvement component anticipated as part of the AIA process.
- 230-4 The commenter questions the validity of the less-than-significant conclusions for cumulative air quality impacts. Cumulative impacts to air quality were evaluated in accordance with the guidance of SJVAPCD, which is to use project-level thresholds to determine the potential for the project to contribute considerably to a cumulative impact. Because mitigation measures 4.2-1a, 4.2-1b, 4.2-1c, 4.2-1d, 4.2-1e, 4.2-2a, 4.2-2b, 4.2-2c, and 4.2-2d would reduce impacts 4.2-1 and 4.2-2 to less-than-significant levels for project level impacts, it is reasonable to conclude (and is in accordance with the direction from the SJVAPCD) that the project would not contribute considerably to cumulative impacts. In addition, impacts 4.2-3, 4.2-4, 4.2-5, and 4.2-6 were evaluated as cumulative impacts. In other words, the CO, TAC, odor, and GHG analysis considered the effects of past, present, and foreseeable future projects when evaluating the proposed project’s contribution to cumulative effects.
- The commenter is also concerned about the potential for growth inducement that would occur in Merced as a result of the proposed project. Please see Master Response 1: Growth Inducement and Expansion, which addresses this issue.
- The commenter is concerned about diesel PM emissions generated by refrigeration units that would be present at the proposed project. Please see impact 4.2-4 (pages 4.2-43 through 4.2-45 of the DEIR) and appendix C of the DEIR, which includes a health risk assessment associated with the operation of TRUs and other sources of TACs. This impact analysis references the same source provided by the commenter (The California Air Resources Board’s Air Quality and Land Use Handbook, 2005).
- 230-5 The commenter questions the effectiveness of Mitigation Measure 4.2-2c, which recommends the project applicant contribute funds toward its fair share of bike lane improvements along roadways that access the project site. The commenter’s personal opinion is that the roads accessing the

project are unsafe for bicyclists. With addition of a Class II bike lane, bicyclist safety would be improved. Also, Mitigation Measure 4.2-2b is a performance standard that can be achieved in any number of ways.

- 230-6 The commenter misconstrues text in the DEIR related to biological resources with conclusions regarding the City’s air quality policies. The DEIR indicates that potential significant impacts related to conflicts with the City’s open space, conservation, and recreation policies would be mitigated to a less-than-significant level. Regarding operational air quality impacts associated with criteria pollutants, the DEIR also indicates that impacts would be reduced to a less-than-significant level with implementation of Mitigation Measures 4.2-2a through 4.2-2e. Therefore, the proposed project would not conflict with the policies identified by the commenter. No changes to the DEIR are required.
- 230-7 This comment is in opposition to the project site and is not related to the adequacy of the DIER.
- 230-8 This comment is in opposition to the siting of the proposed project and is not related to the adequacy of the DIER. Please note that the DEIR includes a discussion of other sites considered and specifically compares three alternative locations. Please see Section 5 “Alternatives to the Proposed Project.”
- 230-9 The commenter raises issues related to light pollution. Please refer to Response to Comment 5-5, which addresses this issue.
- 230-10 The commenter indicates that the transport of hazardous materials adjacent to schools is unacceptable. The issue of transport of hazardous materials is addressed in the DEIR Section 4.10 “Public Health and Hazards” (See Impact 4.10-3). The DEIR concludes that this impact is less-than-significant. The commenter does not raise specific issues related to the adequacy of the DEIR’s analysis; therefore, no further response can be provided.
- 230-11 The commenter raises issues related to the conversion of farmland. Please refer to Master Response 5: Agricultural Resources, which addresses this issue.
- 230-12 The commenter asks whether the DEIR included calculations of GHG emissions from with mobile sources associated with the proposed project. Table 4.2-10 contains GHG emissions estimates associated with employee commute trips.
- The commenter also recommends that an equal number of trees should be planted as replacement for the trees that would be removed and provides a list of environmental benefits that trees provide. Please see mitigation measure 4.2-6d, which includes mitigation to require off-site tree planting that would result in the equivalent carbon sequestration potential as the trees that would be removed from the project site.
- 230-13 The comment notes the significant cumulative impact identified in the DEIR, and implies that the project’s traffic-impact would be significant. The comment does not raise specific issues related to the adequacy of the DEIR’s analysis; therefore, no further response can be provided.
- 230-14 The commenter restates language from the DEIR relative to cumulative visual impacts, and states that the City Council must consider quality of life and a review of General Plans. Because this comment does not address the environmental analysis provided in the DEIR, no further response is necessary.
- 230-15 The commenter indicates that environmental justice issues are not evaluated in the DEIR. The subject of environmental justice is not addressed in the Draft EIR because CEQA does not require

analysis of economic or social effects, except when such effects would elicit physical changes in the environment. (State CEQA Guidelines Section 15131) The proposed project would not result in economic or social effects that would elicit such changes in the environment. As required by CEQA, the Draft EIR appropriately focuses on environmental effects; therefore, no changes to the Draft EIR are necessary.

230-16

The commenter generally states that jobs created by the project will not be high paying and that Wal-Mart jobs do not help people transition out of poverty and instead raises poverty rates in the communities it opens in. The commenter states the project will stimulate medical need because of increased exposure to air pollution and noise. The commenter provides several statistics on Wal-Mart's impact on poverty and local economies in the U.S. An evaluation of the economic and social impacts of a project is not required by CEQA (State CEQA Guidelines Section 15382). For more discussion related to economic issues, please refer to Response to Comment 12-14. Also see Master Response 11: Economics and Urban Decay. The commenter does not provide any evidence that showing how an economic impact would result in a physical change to the environment.

Espinosa, Kim

From: sandra wolf [sandywolf@hotmail.com]
Sent: Tuesday, March 03, 2009 4:02 PM
To: city, council; Espinosa, Kim
Subject: Extension of time to reply to EIR

March 3, 2009

Merced City Council
678 West 18th Street
Merced, Ca 95340

Dear Council Members,

I spoke last evening at the Regular Session of the City Council at 7pm in the Council Chambers to request that the time to reply to the Enviromental Impact Report for the Walmart Distribution Center be extended to 120 days instead of 60 days for the following reasons:

1. The report is very technical and lenthly, over 1,000 pages.
2. The scientific language of the report is difficult to understand.
3. People need more time to research the meanings of the impacts and proposed mitigations of the project, especially those marked Significant.

I just want it to go on record that I have asked for this extension of time. Thank you very much for considering this request.

Sincerely,

Sandra Wolf

231-1

Hotmail® is up to 70% faster. Now good news travels really fast. [Find out more.](#)

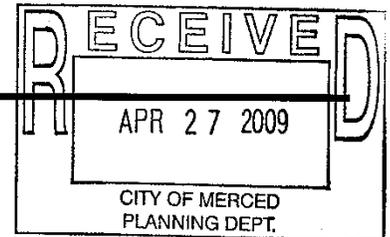
3/3/2009

231-1

This comment raises issues related to language barrier and translation of CEQA documents and also raises issues related to the adequacy of the public review period. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.

Espinosa, Kim

From: Byerly Woodward [byerlyca@me.com]
Sent: Monday, April 27, 2009 3:31 PM
To: Espinosa, Kim
Subject: response to the DEIR for Wal-Mart Distribution Center



My objections to the Wal-Mart Distribution Center being built in Merced:

Personally I do not think so highly of Wal-Mart business model in general because I do not care for the way its goods are produced in underdeveloped countries where the workers are paid pennies and have no rights. I have lived in some of these countries and have seen first hand the environmental problems this has caused. Too, I think the way Wal-Mart thrives by undercutting everyone in town has changed the face of America in a negative way. It may have made the Walton family rich but it has not made the American culture richer. Drive across America someday and off the interstate you will see nothing but little towns whose centers are dead and a big Wal-Mart store the only thing around showing life. This seems an unsustainable model for America. I am sure the founder of Wal-Mart is turning over in his grave from the way the organization has changed since he died. But this is not why I oppose the Wal-Mart Distribution Center in the city of Merced.

I think it is inappropriate to put a huge warehouse complex in close proximity to schools and neighborhoods. The Central Valley is already a very bad place for a person with breathing problems and adding a lot of diesel trucks coming and going twenty-four hours a day is not going to help, especially the people who live in the surrounding houses and the children in the nearby school. I have heard a lot of talk about all the jobs that this warehouse will bring into the area, but I do not believe there are any assurances from Wal-Mart that they will be bringing in sufficient jobs that will satisfy the unemployed people who live locally. This job argument is reminiscent of the arguments for building various housing tracts near Merced. Perhaps the developments caused a minor blip in construction employment in the area, but look what is left: acres of housing standing empty and vandalized and of course no jobs.

232-1

The community has a right to see a report about the ways the health of the community would be affected by the addition of this complex, especially what effects long-time exposure to CO, CO2, NOx, diesel particles and PAH could have on children. I think if the city does not address these issues now, there could come a time when they could be forced to in a court, should Wal-Mart build this. The University of California campus in Merced though it has just begun will eventually bring in industry and technology that will provide jobs with good futures that will sustain families in the Merced area. The Merced city government should show it can think long term about things--not approve projects that have only short term-or questionable gain for them and the community.

232-2

Byerly Woodward
5531 Canyon Drive
Merced, CA

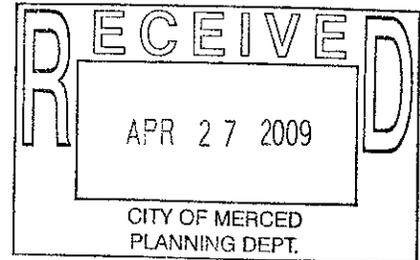
**Letter
232
Response**

Byerly Woodward
April 27, 2009

- 232-1 The commenter expresses concern about the project's close proximity to schools and neighborhoods. Please refer to responses to comments 29-21, 17-12, and 12-13.
- 232-2 The commenter expresses concerns about the long-term health effects and the emissions generated by the project. Please refer to Master Response 13.

April 11, 2009

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

I know the proposed development site for the Wal-Mart Distribution Center has been sprayed with pesticides for many years. I have concerns about the potential of these pesticides being re-circulated into the air and into the groundwater during construction of the distribution center.

233-1

Will the contracted DTSC consultant be on task throughout the construction process? And will this consultant be testing before ground is broken? How frequent will the testing take place? How will the nearby and public at large be notified?

233-2

Also, will construction be halted on days when Merced has a poor air quality levels? For instance, any days children are forced to stay inside each day, construction should be halted. The details of this should be more thoroughly defined in the DEIR.

233-3

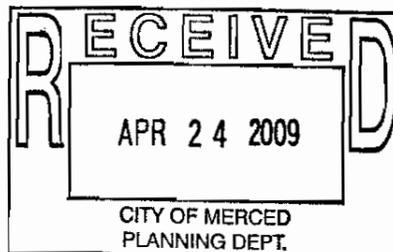
Best,

Dao Xiong
Signature
Dao Xiong
Name
844 Carol Ave
Address
Merced, Ca, 95341
City, State, Zip

- 233-1 The commenter expresses concern about the potential for pesticides at the site to be re-circulated into the air and groundwater during construction of the project. Mitigation Measure 4.10-1 of the DEIR (see Section 4.2, 'Public Health and Hazards', page 4.10-10 and 4.10-11) would reduce the potential exposure to hazardous materials that could pose a health risk to construction workers and the general public to a less than significant level. In addition, implementation of Mitigation Measures 4.2-1c and 4.2-1d of the DEIR would reduce exposure to contaminants through airborne emissions by ensuring compliance with Regulation VIII, which is required by law, and include additional San Joaquin Valley Air Pollution Control District-recommended control measures. As a result, generation of construction-related dust emissions would be reduced to a less-than-significant level. The commenter does not raise issues with the adequacy of the DEIR. The comment is noted.
- 233-2 The commenter asks questions concerning DTSC monitoring of potential hazardous materials. The commenter provides no specifics, but is assumed that the commenter is referring to the "qualified consultant registered in DTSC's Registered Environmental Assessor Program", which is required by Mitigation Measure 4.1-10 in the event that evidence of hazardous materials is observed during construction. It should be noted that Mitigation Measure 4.1-10 does not specify frequency of monitoring, but requires a DTSC Remedial Action Work Plan if required by the DTSC Preliminary Endangerment Assessment (only required if the qualified consultant identifies potential contamination). As specified in the mitigation measure, the agencies involved in the remediation activity would depend on the type and extent of contamination.
- 233-3 The commenter asks if construction activity would be "halted on when Merced has a poor air quality levels." Mitigation Measure 4.2-1a (page 4.2-32 of the DEIR) includes the requirement to "Cease construction activity on forecasted Spare the Air Days."

April 23, 2009

Mayor Ellie Wooten
City of Merced
678 W. 18th Street
Merced, CA 95340



RE: Wal-Mart Distribution Center

Dear Mayor Wooten:

As a community member of the City of Merced, I would like to forward the following petition from 233 Southeast Asian community members in support of the Wal-Mart Distribution Center to you and City Council members.

With the nation's current economic crisis, Merced has been deeply affected, having one of the highest unemployment rates in the nation (19.9%). As a Limited English Proficient (LEP) and low skilled workforce, the Southeast Asian community has been especially hard hit by this crisis. The distribution center will greatly benefit these community members by creating numerous attainable jobs.

We as community members strongly believe that the development of the distribution center will greatly enhance employment opportunities and the economy in Merced, and urge you to support the Wal-Mart Distribution Center.

Sincerely,

A handwritten signature in cursive script that reads "Henry Xiong".

Henry Xiong
Community Member

Encls.

234-1

**PETITION TO SUPPORT JOB CREATION
AND TO SUPPORT THE WAL-MART DISTRIBUTION CENTER**

To: Honorable Mayor and Members of the Merced City Council

November 21, 2008

As you may probably know Merced has one of the highest unemployment rates in the Nation. The high unemployment rate disproportionately impacts ethnic communities and the less educated. The Asian community, particularly those of Hmong, Lao, and Mien descent, in Merced City suffer disproportionately from the effects of the high rate of unemployment: poverty, gang violence, lack of health insurance, poor health and health care, among others. As elected leaders, we urge you to support policies that will create jobs, so that all communities can benefit. In particular, we support and urge you to support the Wal-Mart Distribution Center.

	Name	Address	Signature
1	Henry Xiong	1284 Hansen Ave, Merced 95340	Henry Xiong
2	Go Thao	473 Tolman Way Merced 95348	Go Thao
3	Diacha Vany	4398 N. Tamara Fresno 93722	Diacha Vany
4	Paul Xiong	3156 Loughborough Ln 6312979 - Reno	Paul Xiong
5	Cheng Thao	868 Marion Ct Merced	Cheng Thao
6	Cher Pao Vang	2273 Fern St Merced, CA 95318	Cher Pao Vang
7	Andy L. Yang	195 Della Dr. Atwater, CA 95301	Andy L. Yang
8	Kellen Vang	1226 Calaveras Ct Merced, CA	Kellen Vang
9	Fisher man	615 San Pedro St	Fisher man
10	Phan Anh	3214 Monte Vista Ct	Phan Anh
11	Lue Yang	2823 Elm Ave Merced, CA	Lue Yang
12	Nha Bee Thao	430 Vargas Ct Merced	Nha Bee Thao
13	Youna Sam Paul	405 Rice Ct Merced	Youna Sam Paul
14	Way Her Lee	3222 Dudley St Merced	Way Her Lee
15	Vang Pao Xiong	1292 HANSEN AVE - MERCED	Vang Pao Xiong
16	Yawa m qua	2071 Cambridge Atwater	Yawa m qua
17	Za Dan Hter	669 Junipero Ct Merced	Za Dan Hter
18	Vally Mova	2565 Stony Brook AVE	Vally Mova
19	Chong sue Xiong	117 La Parisima Ct Merced	Chong sue Xiong
20	Chong Za Xiong	1553 Sacramento St	Xiong Chong

2 of 13

21	Loe Chang	2882 Bea Ct merced	Loe Chang
22	Solution h	935. S. St Merced CA 95341	Solution h
23	Diana Gao	1015 Fawn Ct. Merced	Diana Gao
24	Paul Ge yan	732. W St merced CA	9534209 383 2636
25	Morathao	103 Mantona Ave Merced, CA 95340.	(209) 384-8160
26	Hanchy	3344 Bismark Dr Merced	95348 261-2748
27	Paul Thao	514 Swite Way merced	Paul Thao
28	James Vang	1840 Phoenix Way Merced, CA 95348	723-4388 Vang
29	Maly Thao	674 Seville Dr. merced	726-0346 maly Thao
30	Brian Dang	6693 Meadowlark Ave, Winter CA 95398	Brian Dang
31	Herpyang	1493 Hunters Dr.	Herpyang
32	Pell yan	3532 San Moritz Ave	Pell yan
33	LEE Xinyi	1302 W 1st St	LEE Xinyi
34	Kennedy Xiong	1282 Hansen Ave	489-0398
35	Tou Yang	2432 Driftwood merced	Tou Yang
36	Chae VUE	2432 Driftwood dr	Chae VUE
37	Panhia Xiong	1493 Hunters Drive	Panhia Xiong
38	Wendy Xiong	1302 West 1st Street	Wendy Xiong
39	Mai Ker Xiong	1302 W. 1st St.	Mai Ker Xiong
40	CHUE YANG	511 Margaret Ct	CHUE YANG
41	Juachan Xiong	3660 Syracuse Ct merced	Juachan Xiong
42	Jawwa Xiong	2933 Tenayadr	Jawwa Xiong
43	Ka Xiong	1892 Hansen Ave	Ka Xiong
44	Chong Chang	1284 Hansen Ave	Chong Chang
45	Lang Xiong	1301 N Denain Apt 58	Lang Xiong
46	Thu Ying Lee	1493 Hunters Dr.	Thu Ying Lee
47	Yeng Xiong	1284 Hansen Ave.	Yeng Xiong
48	Jin yan	3532 San Moritz Ave	Jin yan
49	Hastey Xiong	3660 Syracuse Ct.	Hastey Xiong
50	Kou Her	3312 Tabin Hark et	Kou Her

**PETITION TO SUPPORT JOB CREATION
AND TO SUPPORT THE WAL-MART DISTRIBUTION CENTER**

To: Honorable Mayor and Members of the Merced City Council

November 21, 2008

As you may probably know Merced has one of the highest unemployment rates in the Nation. The high unemployment rate disproportionately impacts ethnic communities and the less educated. The Asian community, particularly those of Hmong, Lao, and Mien descent, in Merced City suffer disproportionately from the effects of the high rate of unemployment: poverty, gang violence, lack of health insurance, poor health and health care, among others. As elected leaders, we urge you to support policies that will create jobs, so that all communities can benefit. In particular, we support and urge you to support the Wal-Mart Distribution Center.

	Name	Address	Signature
1	Ving Cha	9586 Liberty Ave Atwater	Ving Cha
2	Fai pha	3665 Bea Dr	Fai pha
3	Song Doua Cha	1803 Augusta Dr Atwater	Song Doua Cha
4	Fong Chan	4745 N Hwy 59 Merced	Fong Chan
5	Kong Chang	3065 Bea Dr.	Kong Chang
6	Keng Chang	3065 Bea Dr.	Keng Chang
7	Bona Tone Chang	-	Bona Tone Chang
8	Jonathan	480 E Santa Isc	Jonathan
9	Jianling	1516 Denver Way, Merced, CA 95340	Jianling
10	Mou Chang	6974 cottage st winter co 95354	Mou Chang
11	Xi Chang	405 Woodro w s 87530	Xi Chang
12	Kiu Chang	1111 Monticello Ct	Kiu Chang
13	CHENG SUE	579 Sainthteressa st Merced	Cheng Sue
14	Winghwe Chang	851 Brittany way	Winghwe Chang
15	Ricky Chang	2536 N Ave	Ricky Chang
16	Jou Hou Chang	1111 Monticello Ct merced	Jou Hou Chang
17	Nhiang Chang	527 Staccata Merced	Nhiang Chang
18	Chue Vne	7148 Tokay Cir. Wilton	Chue Vne
19	Cher Chang	4585 N Highway 59 #A	Cher Chang

21	Fong Chang	1093 Kelso St Atwater, CA	Fong Chang
22	Her Chang	1244 W 3rd St Merced, CA 95341	Her Chang
23	Cha xia Chang	7096 Asuzie St. Winton.	Cha xia Chang
24	Chester Chang	Merced CO, 95341	Chester Chang
25	Bee Lee	Merced 95300	Bee Lee
26	Tiong Vang	Merced CA 95348	Tiong Vang
27	Chou Toua Chang	Merced CA 95340	Chou Toua Chang
28	Teng Vang		Teng Vang
29	Houa Chang	530 East Santa Fe Ave. Merced CA 95340	Houa Chang
30	Chia Chang		Chia Chang
31	Aong Chang	7147 Tokay Cir. Winton CA	Aong Chang
32	Shamee Vang	480 E. Santa Fe Ave Merced CA	Shamee Vang
33	Bilida	1503 Lofstra Ave	Bilida
34	Joua Vang	9586 Liberty Avenue Atwater CA 95301	Joua Vang
35	Kalia Cha	9586 Liberty Avenue Atwater CA 95301	Kalia Cha
36	Pa Chang	1159 Monticello Ct Merced CA 95341	Pa Chang
37	Soua Vang	Merced 95341	Soua Vang
38	Ka Vang	Merced 95341	Ka Vang
39	Kaboo Thao	Merced 95341	Kaboo Thao
40	Julie Thao	4745 N. Hwy 59 Merced, CA 95348	Julie Thao
41	Mancy Vang	5820 N. Santa Fe Dr. Atwater 95301	Mancy Vang
42	Bao Nhia Xiong	809 San Juan Rd. 224 Sacramento 95834	Bao Nhia Xiong
43	Soua Vang	2204 Lobo Ave. Merced CA 95348	Soua Vang
44	Lee Vang	2204 Lobo Ave, Merced, CA 95348	Lee Vang
45	Bla Vue	2204 Lobo Ave. Merced, CA 95348	Bla Vue
46	See Vang	809 San Juan Rd. APT Sacramento CA 95834	See Vang
47	Mai Vue	6695 Hastings Dr Winton, CA 95358	Mai Vue
48	Her Chang	Merced CA	Her Chang
49	Her Chang	1623 Sacramento Dr	Her Chang
50	Ku Su	165 San Clemente	Ku Su

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	Name	Address	Signature
1	CRAW SHONGHER	1575 Thurman Ct	[Signature]
2	DAVID HONG	6538 Deann Ct Winston	[Signature]
3	Boua Souther	7730 Juniper Ct	[Signature]
4	Chouy HONG	687 Truckway	[Signature]
5	Chat HONG	648 Trudy way	[Signature]
6	Kham HONG	648 Trudy way	[Signature]
7	YONGCHUETHA	Merced	[Signature]
8	Wesling THAO	4538 Deann Ct.	[Signature]
9	HT KHONG	6538 Deann Ct Winston	[Signature]
10	YONG LOR HONG	778 SONOR AVE	95340
11	[Signature]	338 Leslie Ct	[Signature]
12	Wang Yung		[Signature]
13	Chang Yung	1933 Saratoga Ct	[Signature]
14	Lina HONG	1575 Thurman Ct, Merced	[Signature]
15	NAO VANG		[Signature]
16	THAO HONG		[Signature]
17	[Signature]		[Signature]
18	[Signature]		[Signature]
19	Phoua VANG		[Signature]
20	YEE VANG	1933 Saratoga Ct.	YEE VANG

21	Kang Her	1933 Sarasota Ct.	Kang Her
22	Chau Her	778 Sonora Ave Merced	Chau Her
23	Sandy Mowa	400 Brian Ct	M. Mowa
24	Kamnia	669 Junipero	Kamnia
25	Zang Ying/A	22 San Jose Ct	Zang Ying/A
26	Mona Mowa	Merced, CA	Mona Mowa
27	Tou Her	1933 Sarasota Court	Tou Her
28	Richard Her	1276 Hansen Ave	Richard Her
29	Mhia Her	22 Sunset Ct	Mhia Her
30	Crystal Vang	319 Noble Drive.	Crystal Vang
31	Oheng Lee	1276 Hansen Ave.	Oheng Lee
32	Yong Her	22 Sunset Ct	Yong Her
33	Yah gyen Y	22 sunset ct	Yah gyen Y
34	James Mow	5418 N. Hwy 99	James Mow
35	Seekhai Sangsanying	5418 HWY 99	Seekhai Sangsanying
36	Xiao's World	3317 BISMARCK DR	Xiao's World
37	Bing Chau Her	181 El Verano Way	Bing Chau Her
38	Lou Her	533 Santa Clara St.	Lou Her
39	Blakhan Her	479 Judy Ct Merced	Blakhan Her
40	Xang Thao	3670 Painters Ct	Xang Thao
41	MUON VANG	NVA 5418 59	MUON VANG
42	Winda Her	3931 Temple Ct	Winda Her
43	Long Thang Her	2931 Temple Ct	Long Thang Her
44	Lee Vang	316 S. Parsons Ave Apt #2	Lee Vang
45	Mai Her	316 S. Parsons Ave Apt. 2	Mai Her
46	CHAO HER	5323 CARRINGTON CR. #31	CHAO HER
47	Wang Jac Her	8128 Phinney Dr Sac, CA	Wang Jac Her
48	LA Her	8128 Phinney Dr Sac, CA	LA Her
49	Michelle VANG	8128 Phinney Dr Sac, CA	Michelle VANG
50	Diane Vang	18 Butterwick Ct. CA	Diane Vang

70713

**PETITION TO SUPPORT JOB CREATION
AND TO SUPPORT THE WAL-MART DISTRIBUTION CENTER**

To: Honorable Mayor and Members of the Merced City Council

November 21, 2008

As you may probably know Merced has one of the highest unemployment rates in the Nation. The high unemployment rate disproportionately impacts ethnic communities and the less educated. The Asian community, particularly those of Hmong, Lao, and Mien descent, in Merced City suffer disproportionately from the effects of the high rate of unemployment: poverty, gang violence, lack of health insurance, poor health and health care, among others. As elected leaders, we urge you to support policies that will create jobs, so that all communities can benefit. In particular, we support and urge you to support the Wal-Mart Distribution Center.

	Name	Address	Signature
1	Yanva Mena	2071 Cambridge Avenue	[Signature]
2	Mona Lia	1207 Devonwood Dr.	[Signature]
3	Cha Mue	1078 Independence Cir	[Signature]
4	Kishar ma	61 Sanpedro st	[Signature]
5	Xiachor Mena	1725 Cedar ave	[Signature]
6	Chue Mung	1853 22 ST	[Signature]
7	Ge Moun	6691 W. Yale Ave	[Signature]
8	Chong Moun	61 San Pedro St	[Signature]
9	Yong Yee Mwa	6538 Deann Ct	[Signature]
10	Billy Moun	5418 N HW 59	[Signature]
11	Kar Moun	2575 San Vincent Ave	[Signature]
12	Johnny Moun	1921 Lopez Ave	[Signature]
13	Jim Moun	61 San Pedro St	[Signature]
14	Hua Moun	61 San Pedro St	[Signature]
15	Nou Moun	61 San Pedro St.	[Signature]
16	Chang Yang	4780 E. Lane Ave	[Signature]
17	Tom Moun	340 Olive Ave	[Signature]
18	See Moun	632 El St	[Signature]
19	Vang Koun	335 Town Ave	[Signature]
20	Paul Moun	942 W. Sam St	[Signature]

8713

**PETITION TO SUPPORT JOB CREATION
AND TO SUPPORT THE WAL-MART DISTRIBUTION CENTER**

To: Honorable Mayor and Members of the Merced City Council

November 21, 2008

As you may probably know Merced has one of the highest unemployment rates in the Nation. The high unemployment rate disproportionately impacts ethnic communities and the less educated. The Asian community, particularly those of Hmong, Lao, and Mien descent, in Merced City suffer disproportionately from the effects of the high rate of unemployment: poverty, gang violence, lack of health insurance, poor health and health care, among others. As elected leaders, we urge you to support policies that will create jobs, so that all communities can benefit. In particular, we support and urge you to support the Wal-Mart Distribution Center.

	Name	Address	Signature
1	Jennifer Krumm	539 Leslie Ct. Merced CA 95348	
2	Adam Cox	1015 W. 23RD St. Merced	
3	EMMA Merino	1397 Esplanada Merced	
4	BRANDON Williams	10217 N. BURNACH RD WINTON 95386	
5	Sepranic Raymond	27101 Lexington merced, CA 95340	
6	Crystal Andersen	5727 W. Leland Ct., Atwater, CA 95301	
7	Sarima Thao	1386 W 1st St Merced, CA 95341	
8	Khao Nou Vang	2220 Dinkey Creek Ave Merced CA	
9	Lhee Lee	777 Loughborough APT 3 Merced, CA 95348	
10	Sarn Saefern	353 LA Mesa Ct Merced CA 95341	
11	Meng Xiong	575 Santa Clara St Merced 95340 CA	
12	Chang Xiong	575 Santa Clara St Merced CA 95340	
13	Youa Thao	575 Santa Clara St Merced CA 95340	
14	Sou Saeter n	1337 W. 2nd St Merced CA 95341	
15	Mamy Thao	1674 Seville Dr. Merced, CA 95341	
16	Dao Lor	573 Santa Clara St Merced, CA 95341	
17	Ker yang	17 E Lu purissima St CA Merced, 95341	
18	Shoua Thao	508 Santa Clara St Merced, CA 95341	
19	Zhi Lee	3465 Pinos Ave #4 Merced CA 95340	
20	Zei Lee	3465 Pinos Ave #4 Merced CA 95340	

9/7/13

21	Xang Xue	966 W 19 St	Xang
22	Kan Xue	564 N Pulson Ave	Kan
23	Zao Xue	422 Samana Ave	Zao Xue
24	Moua Kong	438 W. 12th St	Bong Moua
25	KHAO NON VANG	2220 DINKY CREEK AVE.	Chau Nong Vang
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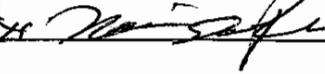
**PETITION TO SUPPORT JOB CREATION
AND TO SUPPORT THE WAL-MART DISTRIBUTION CENTER**

To: Honorable Mayor and Members of the Merced City Council

November 21, 2008

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	Name	Address	Signature
1	NAPANTE	33376 # B Merced	Napante
2	Shelly Lu	405 Rice Ct Merced	Shelly Lu
3	Koua Neng	1560 ELLEN CT APT#6	Neng
4	Mai V Lis	1560	Mai V Lis
5	yia Xiong	346 S parsons AVE #3	yia Xiong
6	Yee Jans	2861 N Franklin RD	Yee Jans
7	Kong Yang	1896 E 22nd street	Kong Yang
8	Chan Moua	540 N. St. Apt. A	Chan Moua
9	Wally Yang	2419 N. Shoemaker Ave	Wally Yang
10	Neng Vang	625 W 7th St	Neng Vang
11	Teng Moua	40 colony Ln Merced	Teng Moua
12	Zoua Xiong	2582 ashby RD	Zoua Xiong
13	Mang dee	218 R St Merced, CA	mang dee
14	Choua Thao	1586 Massassa Ct Merced	
15	Koua Cha	249 Julian Ct Merced, CA	
16	Ploua Thao		
17	NHA B Lee		
18	Chong Lee	442 N St Apt. B	
19	Chang Gen Xiong	2025 stretch rd merced	Chang Gen Xiong
20	Truman Xiong	2025 stretch rd. merced	Truman Xiong

21	Otto Xiong	2025 stretch net Merced	
22	NAO Tong Thu	1442 Conestoga Merced	
23	Nai Saephan	275 E 105th Merced CA9534	
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12 of 13

**PETITION TO SUPPORT JOB CREATION
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To: Honorable Mayor and Members of the Merced City Council

November 21, 2008

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	Name	Address	Signature
1	Teresa Cromwell	2332 Mariner Blvd	Teresa Cromwell
2	Neng Fung	9336 12th St Merced	Neng Fung
3	Richi Vang	579 Saint Teresa St.	Richi Vang
4	Solieda Mouna	289 S. P. St.	Solieda Mouna
5	Joshua Thur	2006 Knight's Feary Dr.	Joshua Thur
6	Faith Vang	1269 Esplanade Dr.	Faith Vang
7	Xun Yang	P.O. Box Atwater, CA 95301	Xun Yang
8	Chuck Yang	493 Briktang Way, Merced, CA 95341	Chuck Yang
9	Kc Xiong	2748 N. Weber Ave, Fresno, CA	Kc Xiong
10	ARCELIAG	1876 Belcher on	Arce Liag
11	Betty Cha	8837N CEDAR 101, FRESNO	Betty Cha
12	Konk Vants	2304 CRENSHAW MARINA CA 95301	Konk Vants
13	Lo Vern	3783 Alameda DR Merced	Lo Vern
14	Nov Mary	423 Petunia Ct	Nov Mary
15	Kec Chang	1772 Willowbrook	Kec Chang
16	Chio Suedern	1327 W 2nd St	Chio Suedern
17	Sung Sapper	577 Monique CT	Sung Sapper
18	Yun Vang	1149 S. 18th 2113	Yun Vang
19	Thao Hu	2307 S. Clara Ave Fresno	Thao Hu
20	XOZ THAO	3309 S. 10th	XOZ THAO

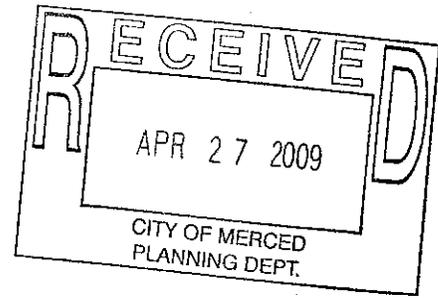
21	SAM Lee	29 Creeks EDGE LAY #B	916) 427-1306
22	Rosa Van	2651 W. Big Sandy Ave	(209) 725 9101
23	Nancy Lee	116 SISCO DE ASIS	(209) 383-1004
24	Vang Cheng		722 80116
25	Nhat Chon Hoa		304-2426
26	Sia Mouahel		725-8928
27	Junon Lee		726-7454
28	SYNTHIA SEW		631-8020
29	Mary Vang		916) 395-7128
30	Dr. Pak. Cha		(59) 360-4520
31	Kara Lee	1512 Rippaway, su, mend	209-726-1027
32	Polly Lee		722 3069
33	Tony King		209 384-2600
34	Chris		
35	DANNY		
36	XIANG		
37	Tony Vang		
38	TOU		
39	ROBERT F CHANG		
40	Kong		
41	Cheng		
42	Kim YN		
43	Xai		
44	Kao		
45	Melicy Mon		
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234-1

The comment addresses the merits of the proposed project recommends approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment letter serves as a transmittal to which several pages of a signed petition are attached. The comment is noted.

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Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



Dear Ms. Espinosa,

The EIR for the Wal-Mart project needs to adopt higher standards for the handling of airborne contaminants at the site during and after construction. "Recommended control measures" sounds very vague and non committal – please explain what this means. Are these measures the strictest and most effective measures available, or just the bare minimum?

235-1

The City should demand more than mediocre from this project. If we're hanging our economic future on this project as everyone says, why would we use less than the best environmental control methods? If Wal-Mart needs this project so badly, shouldn't Merced have leverage to demand the highest standards and quality in environmental protection?

235-2

Sincerely,

MAYNA YA

460 HYDRANGEA CT.
MERCED, CA 95341

235-1

The commenter suggests that the applicant will only comply with the SJVAPCD's "recommended control measures" to reduce air quality impacts during construction and operation and expresses concern about truck-generated emissions of diesel PM.

The DEIR does, in fact, go above and beyond SJVAPCD's recommended control measures for construction emissions. The project shall comply with SJVAPCD Regulation VIII. The purpose of Regulation VIII is to reduce the amount of PM10 entrained into the atmosphere as a result of emissions generated from anthropogenic (man-made) fugitive dust sources. The DEIR includes enhanced and additional fugitive dust control measures that go beyond compliance with Regulation VIII. The SJVAPCD's recommended approach to mitigating construction emissions focuses on a consideration of whether all feasible control measures are being implemented, which the project is complying with. The commenter does not clarify on why compliance with these recommended measures is not adequate and does not offer any additional mitigation measures.

SJVAPCD's GAMAQI includes a short list of recommended construction equipment mitigation measures. Mitigation measures 4.2-1a, 4.2-1b, and 4.2-1c all apply to construction equipment exhaust and are more specific and detailed than SJVAPCD's recommended list of measures. Thus, the DEIR includes all feasible mitigation measures to reduce construction emissions and is not restricted to SJVAPCD "recommended mitigation measures." In addition, implementation of these measures would reduce construction-related emissions to a less-than-significant level.

Similarly, SJVAPCD's GAMAQI recommends mitigation measures for different categories of operational emissions. In addition to compliance with SJVAPCD Rule 9510: Indirect Source Review, the DEIR includes mitigation measure 4.2-2e whereby the applicant will enter into an emissions reduction agreement with SJVAPCD. This measure is not "recommended" by the DEIR or required by SJVAPCD; it is required by the DEIR. Under this measure, the applicant shall fund projects in the SJVAB, such as replacement and destruction of old engines with new more efficient engines. The agreement requires the applicant to identify and propose opportunities for the reduction of emissions to fully mitigate the project's operational emissions of ROG and NO_x to less than 10 TPY, and includes opportunities for removal or retrofit of stationary, transportation, indirect, and/or mobile-source equipment. Thus, the project is doing its fair share to reduce or offset its emissions beyond compliance with SJVAPCD Rules and recommended mitigation measures. Implementation of these measures would reduce construction-related emissions to a less-than-significant level.

The commenter further argues that a more detailed mitigation plan be included in the DEIR. The DEIR lists required mitigation measures that will be incorporated into the project. In addition, construction and operation of the proposed project shall comply with SJVAPCD's ISR rule (Rule 9510), as required by law. The applicant shall have an AIA application approved by the SJVAPCD before issuance of a building permit from the City of Merced. The AIA shall quantify operational NO_x and PM₁₀ emissions associated with the project. This shall include the estimated operational baseline emissions (i.e., before mitigation), and the mitigated emissions for each applicable pollutant for the project, or each phase thereof, and shall quantify the offsite fee, if applicable. The ISR rule states that the applicant shall include in the AIA application a completed proposed MRS for on-site emission reduction measures selected that are not subject to other public agency enforcement. The MRS is a form listing on-site emission reduction measures committed to by the applicant that are not enforced by another public agency along with the

implementation schedule and enforcement mechanism for each measure. A proposed MRS shall outline how the measures will be implemented and enforced, and will include, at minimum, a list of on-site emission reduction measures included; standards for determining compliance, such as funding, record keeping, reporting, installation, and/or contracting; a reporting schedule; a monitoring schedule; and identification of the responsible entity for implementation. The AIA and MRS prepared for the project, and the emissions reduction agreement entered into with SJVAPCD, will be established and enforced and will ensure that the required emissions reductions are realized.

Please also refer to Response to Comment 93-1.

235-2

The commenter primarily addresses the merits of the project, but makes general statements regarding environmental impacts. The DEIR analyzes environmental impacts related to the project. The commenter does not raise issues related to the adequacy of the DEIR. The comment is noted. Please refer to response to comment 93-1 for more information related to air quality impacts.

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Espinosa, Kim

From: Bev Young [by94030@pacbell.net]
Sent: Monday, March 16, 2009 6:08 PM
To: Espinosa, Kim
Subject: Wal Mart Distribution Environmental Impacts

Dear. Ms. Espinosa,

It appears from the report that all environmental impacts of any significance will be satisfactorily mitigated.

This project must go forward; do not let another opportunity to help this community be squandered.

Thank you,

Bev Young
1884 Creekside Dr.
Merced, CA
95348

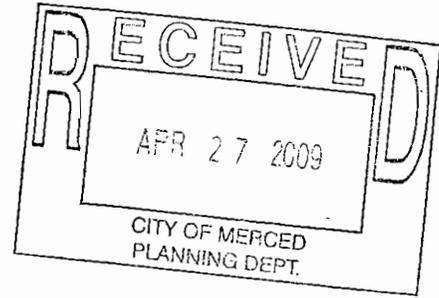
236-1

236-1

The comment addresses the merits of the proposed project, recommends approval, and dismisses environmental issues. The comment does not raise any issues regarding the adequacy of the Draft EIR. The comment is noted.

April 7, 2009

Kim Espinosa, Planning Manager
City of Merced Planning Division
678 West 18th Street
Merced, CA 95340



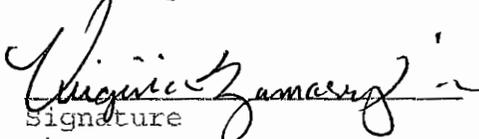
Re: Noise impacts of Wal-Mart Distribution Center

Dear Ms. Espinosa,

I have read the Section 4.8 Noise in the Wal-Mart Distribution Center DEIR and I have concerns with several issues. In particular I have concerns about noise. I have done some research on other Wal-Mart Distribution Centers and have learned that nearby residents can anticipate a diesel truck coming or leaving the distribution center every two minutes, 24 hours a day, every day of the year. The DEIR should specify the frequency of the 322 diesel trucks into and out of the distribution center by minute per hour. Additionally, it should detail the frequency in which the 1,200 employees will be entering and exiting the distribution center. In essence, my concern is that residents will be exposed to constant truck noise that currently does not exist. A sound wall will not mitigate diesel truck traffic every two minutes.

237-1

Sincerely,


Signature

Virginia Zamarripa
Print Name

445 Hydrangea Ct .
Address

(209) 383-4618
Phone

237-1

The comment states that the EIR should state how many trucks would be accessing the distribution center per minute and that the EIR should account for the employee's vehicle trips into the distribution center. Please see Response to Comment 126A-1,2,3.

The comment states that residents will be exposed to noise that does not currently exist and that a sound wall will not mitigate the noise generated by the additional traffic on affected streets. Noise resulting from increased truck traffic is discussed under Impact 4.8-3 and 4, as stated in these impacts noise mitigation in the forms of sound walls and sound proofing of buildings would reduce noise from increased truck traffic. As stated in Impact 4.8-3, noise from increased truck traffic would be significant and unavoidable.

Espinosa, Kim

From: Walker, Dawn on behalf of city, council
Sent: Monday, March 09, 2009 9:37 AM
To: city, council; Bill Spriggs (E-mail); Carlisle, John; Conway, Mike; Cortez, Joseph; Dawn Walker (E-mail); Ellie Wooten (E-mail 2); Ellie Wooten (E-mail); Gabriault, Michele; Jim Sanders (E-mail); Joe Cortez (E-mail); John Bramble; John Carlisle (E-mail); Lor, Noah; Lor, Noah; Michele Gabriault-Acosta (E-mail 2); Michele Gabriault-Acosta (E-mail); Sanders, Jim; Spriggs, Bill
Cc: Davidson, Dana; Quintero, Frank; Conway, Mike; Schechter, Jeanne; Espinosa, Kim
Subject: FW: Wal-Mart

From the website.

Dawn

Dawn Walker
Executive Secretary
City of Merced
678 West 18th Street
Merced, CA 95340
Phone: (209) 385-6834
Fax: (209) 385-1780

-----Original Message-----

From: HappyHoppy2@aol.com [mailto:HappyHoppy2@aol.com]
Sent: Saturday, March 07, 2009 6:37 PM
To: city, council
Subject: Wal-Mart

Build it we need the jobs and the money it will bring to Merced. Thanks Steve

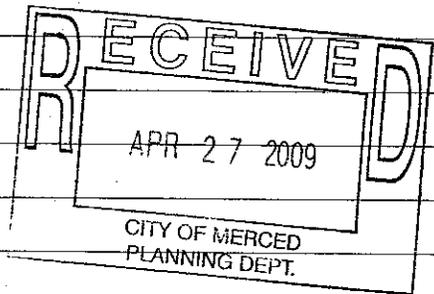
| 238-1

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!

238-1

The comment addresses the merits of the proposed project, recommends approval, and does not raise environmental issues or any issues regarding the adequacy of the Draft EIR. The comment is noted.

MINOR USE ES BENIGNO CONTRA LAS - I VIVO
En. 387 ALVAREZ DR. MERCED, CA
95391 - NO ESTOY DE ACUERDO
CON EL PROYECTO. PORSQUE
VA A TRAER MUCHAS EN
FERMEDADES - PARA TODOS
ES ESPECIALMENTE LOS NI
ÑOS - I LOS ANSIANOS
I PERSONAS CON ASMA
I NO DEJARIAN DORMIR COMO
DO AUNO QUE TRABAJA
I TAMBIEN CUANDO TIENES
UNA EMERGENCIA I TIENES
QUE SALIR RAPIDO I NO
PUEDES PODER LAS TROCAS



The attached comment letter regarding the Wal-Mart Distribution Center Draft Environmental Impact Report has been translated by:

Juan Olmos
Juan Olmos

Maintenance Worker III
Title

5-5-09
Date

English Transcription:

Letter 4 (Corresponds with LETTER #239)

My name is Benigno Contreras I live at 387 Alvest Dr. Merced. CA 95341
I do not agree with the project because it will bring many diseases for everybody especially the children and the older persons and persons with asthma. And will not let you sleep comfortable for those of us that work. Also when you have an emergency and you have to leave fast and you can't because of the trucks.

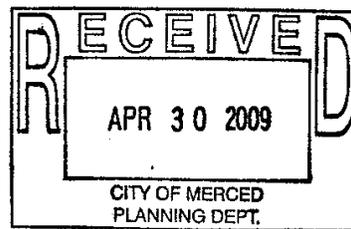
| 239-1

| 239-2

- 239-1 The commenter expresses concern about how the project's emissions would affect people with asthma. Please refer to Master Comment 13.
- 239-2 The commenter raises issues related to emergency access. This impact is addressed in the DEIR Section 4.11 "Traffic and Transportation", specifically under Impact 4.11-3. The DEIR concludes that with implementation of mitigation (providing an emergency access gate and driveway) the impact would be reduced to a less-than-significant level. If the commenter is referring to the project affecting the rate at which a resident could leave in case of an emergency, the DEIR includes an analysis of the project's affects on the level of service of the local roadway network, including intersections. The commenter does not raise issues related to the DEIR's analysis.

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John Honnette
2543 15th Avenue
Kingsburg, CA 93631
559-859-7800



City of Merced Planning Division
678 West 18th Street
Merced, CA 95340

Fax #: 209-725-8775

To City of Merced Planners:

I am opposed to the building of the proposed Wal-Mart distribution center near Merced for these reasons:

Air Quality Impact:

1. The project is estimated to produce 74,812.1 tons of unmitigated carbon dioxide per year. For perspective, the world's largest cruise ship weighs 74,000 tons.
2. In 2005, Merced County emitted 167 tons of carbon dioxide per day. That works out to 60,955 tons per year. This facility would more than double greenhouse gas emissions for the county.
3. Wal-Mart's Apple Valley distribution center uses multiple hybrid diesel trucks to reduce the impact of air emissions, but they have made no such commitments to Merced for doing anything like that.
4. Approving this project will create many more days of the year when children suffering from asthma won't be able to play outside because of the poor air quality.

240-1

240-2

Traffic Impact:

1. The DEIR Traffic Study underestimates the Project's traffic impacts because it fails to measure those impacts against existing traffic conditions. Instead, the DEIR examines those impacts against hypothetical future traffic conditions that include traffic from housing that may never be built or occupied.
2. As a result, the DEIR masks the extent to which this project is a direct cause of traffic conditions going from acceptable to unacceptable at 4 intersection locations in the a.m. peak and 5 intersections in the p.m. peak.
3. The DEIR fails to estimate, disclose or mitigate the Project's traffic impacts on residential quality of life along affected streets. The City of Merced adopted Neighborhood Traffic Calming Guidelines in January 2008. The DEIR makes no effort to evaluate whether Project traffic conforms to or conflicts with the goals and policies of the adopted traffic calming.
4. Although the project description claims that the Project will provide a parking area for trucks that arrive at hours when the Project's entry gates are closed, the Project site plan in the DEIR shows no such area.

240-3

240-4

240-5

Urban Decay Findings:

1. The creation of a Wal-Mart distribution center will lower residential property values in the area near the site. Noise, pollution and a nearby industrial location have all been shown to reduce property values in numerous economic studies.
2. This area has already been hit hard by the current housing downturn, which is likely to persist for awhile. Lower property values will make it even more difficult for some families to get out from under their "upside down" mortgages thus increasing foreclosure rates.

240-6

3. There is no guarantee that the few jobs created by this project will go to residents of Merced. You can expect that workers as far away as Modesto and Fresno will also take many of these jobs. It is likely that most of the benefits that these jobs create will go outside City limits.

4. The increased crime from urban decay, the costs of policing for noise mitigation, fire service, etc. will add considerably to the costs for the City of Merced. Will these costs be offset by taxes generated? Very possibly NO--the DEIR does not examine this issue, but citizens in Merced should be concerned.

240-7

Water Impact Findings:

1. The pattern of naturally occurring water runoff is serious at risk of being disturbed. The area of construction on the 230 acre site by this Project would reduce the amount of open land that can absorb rainwater, and such imperviousness could lead to bad flooding.

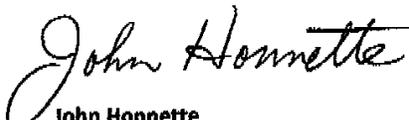
2. The Draft EIR proposes to use an outdated Storm Water Pollution Plan called Best Management Practices to prevent flooding--but many cities and counties in California have replaced that method with a far more effective standard called Integrated Management Practices which has been endorsed by the Governor and leaders of both political parties.

3. The construction of the Distribution Center will lead to increased pollution of the area's water, including groundwater, in certain instances even to toxic levels. The DEIR notes that construction wastes such as solvents, fuels, and the like could lead to the degradation of the existing water quality.

4. The oil and grease associated with having semi-trucks going to and from the Distribution Center could seep not only into drainage, but possibly also Merced's groundwater supply.

240-8

Thank you for considering my concerns with the proposed Wal-Mart distribution center near Merced.


John Honnette

TOTAL P.02

- 240-1 The first two points in this comment are not about the adequacy of the DEIR. This is not a comment about the adequacy of the DEIR. Also, the commenter does not provide the source of the information stated in the comment.
- 240-2 The commenter states that hybrid diesel trucks are used at the Wal-Mart's distribution center in Apple Valley, CA but no such requirement is included in the DEIR. This is not a comment about the adequacy of the DEIR. It shall be noted, nonetheless, that Mitigation Measure 4.2-2d includes the following requirement, where feasible:
- ▶ Purchase and operate electric or hybrid-powered yard tractors (e.g., Volk-brand tractors) to serve as "yard trucks" that move trailers to and from the trailer yard and loading docks.
- Impact 4.2-2 in the DEIR discusses operational emissions, including emissions from on-site yard trucks and long-haul truck trips. Mitigation Measures 4.2-2a, 4.2-2b, 4.2-2c, and 4.2-2e will ensure that operational emissions would be reduced to a less-than-significant level, as discussed on pages 4.2-41 and 4.2-22 of the DEIR. It is noted that Wal-Mart has launched a pilot program to test the feasibility of hybrid freight trucks; however, no data is available on the technical or economic feasibility of the program.
- 240-3 The commenter criticizes the DEIR's assumption for baseline. The traffic analysis was prepared using industry standard methodologies and the traffic impact analysis guidelines of the City of Merced. Known approved projects were included in the 2010 Background Condition, and the traffic analysis was based on the information and appropriate assumptions at the time of the analysis.
- 240-4 The commenter indicates that the DEIR does not address the City's Neighborhood Traffic Calming Guidelines adopted in 2008. Please see Response to Comment 207-4, which addresses this issue.
- 240-5 The commenter questions why the DEIR's project description indicates a parking area for trucks that arrive at hours when the project's entry gates are closed, but not such area is indicated on the site plan. Please see Response to Comment 207-8, which addresses this issue.
- 240-6 The commenter suggests that the project-related increase in truck traffic and subsequent noise and air pollution will decrease property values. The DEIR analyzes the potential for the proposed project to result in environmental impacts. Impacts related to air quality are discussed in Section 4.2 and impacts related to noise are discussed in Section 4.9. Project effects on property values alone do not constitute environmental impacts and therefore are not required to be analyzed under CEQA. However, urban decay resulting from such socioeconomic effects may be considered an impact to the environment. Please see Master Response 11: Economics and Urban Decay, which addresses this issue. With respect to local hiring policies please see Response to Comment 29-19.
- 240-7 The commenter indicates that the increased crime resulting from urban decay and noise mitigation will increase the need for police protection and other public services. Please see Responses to Comments 207-9 and 34-1, which address these issues.

240-8

The comment expresses concerns regarding flooding, requested Integrated Management Practices, and contaminated runoff to surface and groundwater and domestic water supply from construction and operational activities of the proposed project. Section 4.6 “Hydrology and Water Quality” presents analyses of pre- and post-development conditions and Mitigation Measure 4.6-2 addresses both volume and quality of stormwater runoff from proposed impervious surfaces. The final design specifications would be required to demonstrate to the City and MID that runoff generated as a result of the project would be properly contained and conveyed. See response to comment 55-1 regarding Integrated Management Practices. See response to comment 210B-1 addressing concerns of potential contamination to the domestic well water supply through contaminated runoff to surface and groundwater from construction and operational activities of the proposed project.

May 2, 2009

From:
Charles M. Ashley
Tollhouse, CA 93667
559-855-6376

To:
City of Merced Planning Division
678 West 18th Street, Merced

Re: Proposed Wal-Mart Distribution Center in Merced

Honored Members of the Merced Planning Commission:

Please do not approve construction of the Wal-Mart Distribution Center in Merced.

A huge distribution center such as this would affect not only Merced but all of the San Joaquin Valley in terms of negative impacts on air quality, traffic, water use, and community and cultural issues.

In terms of air quality, this project would produce an estimated 75,000 tons of CO₂ annually. This will double the amount of CO₂ currently produced in Merced. Moreover, because of the nature of air masses and currents in the San Joaquin Valley, this project would affect all areas in the Valley, especially areas located south and east of Merced.

241-1

As for water, this project would both use more of the limited water available in the San Joaquin Valley and contribute to water pollution. Effluvia from these vehicles (including oil, grease, and antifreeze) would cause water pollution.

241-2

As for traffic, the hundreds of large trucks entering and leaving this facility each day would add unacceptably to the already high traffic not only in Merced but throughout the San Joaquin Valley. Not only would traffic place unnecessary stress on infrastructure, but it would negatively impact neighborhoods through which trucks would drive.

241-3

Finally, negative effects to the culture, community, and economy of Merced would be devastating. Residential property values would decline in nearby neighborhoods. Noise and pollution would increase. Wal-Mart has decimated small business in the Valley, particularly “mom and pops” who can’t compete with Wal-Mart. So presumably building a large distribution center in Merced would lead to building more big box stores throughout the Valley and put even more small business owners out of business. Wal-Mart and similar big box stores lead to a monoculture that destroys community diversity. Therefore, even though these big box stores offer lower prices that are attractive to those with lower incomes, their negatively impact exceeds their positive contributions to lower income communities.

241-4

Thank you,
Charles M. Ashley
President, Save the Foothills Coalition— www.savethefoothills.org
Executive Board Member, Sierra Club Tehipite Chapter

- 241-1 The commenter raises issues related to GHG emissions and subsequent effects to the region. Please see Response to Comment 12-4, which addresses this issue.
- 241-2 The commenter expresses general concerns regarding effects on the water supply for the region, and water pollution. See response to comment 30B-1 for concerns regarding the amount of water the project would use. See response to comment 105-3 regarding an explanation of the stormwater treatment system to control water pollution from the proposed project.
- 241-3 The commenter expresses concern related to truck traffic on local streets. This impact is analyzed under DEIR Section 4.11 "Traffic and Transportation". Please also refer to Master Response 6: Trucks and the Transportation Analysis. The commenter does not raise issues with the adequacy of the DEIR's analysis. The comment is noted.
- 241-4 The commenter states that negative effects to the culture, community, and economy of Merced would be devastating. In addition, the commenter states that residential property values would decline, and building a distribution center in Merced would lead to building more big box stores throughout the Valley. The commenter does not substantiate these claims, and does not offer any evidence on how the project would result in a physical change in the environment. In addition, potential property value, small business failure, community diversity and related social and economic effects are not physical effects. Effects analyzed under CEQA must be related to a physical change in the environment (CEQA Guidelines Section 15358[b]). Economic and social effects are not considered environmental effects under CEQA. The commenter does not offer any evidence on how the project would result in significant physical change in the environment; therefore, no further response can be provided. Furthermore, no further response is necessary because no issues related to the adequacy of the environmental impact analysis in the DEIR were raised. Refer also, to Master Response 11: Economics and Urban Decay.
- The commenter states that noise and pollution would increase, but does not provide any specificity related to these issues. The project's potential noise, water quality, and air quality impacts were evaluated consistent with the requirements of CEQA in Sections 4.8, "Noise," 4.2, "Air Quality," and 4.6, "Hydrology and Water Quality," of the DEIR. As described therein, project impacts have been identified and mitigation recommended to reduce significant impacts to a less-than-significant level where feasible. Because the commenter does not provide any specific disagreements with the analysis provided in the DEIR, no further response can be provided.

4 REVISIONS AND CORRECTIONS TO THE DRAFT EIR

4.1 INTRODUCTION

This chapter includes revisions to the text in the Draft EIR following its publication and public review. The changes are presented in the order in which they appear in the original Draft EIR and are identified by Draft EIR page number. The changes shown in this chapter are the result of comments received on the Draft EIR that resulted in text modifications or corrections that occurred after circulation of the Draft EIR for public review and comments. The proposed text modifications do not affect the conclusions in the Draft EIR. Revisions are shown as excerpts from the Draft EIR text, with strikethrough (~~strikethrough~~) text for deletions and underline (underline) text for additions.

4.2 STAFF-INITIATED REVISIONS AND CORRECTIONS TO DRAFT EIR

After release of the Public Draft EIR for the Merced Wal-Mart Distribution Center Project, City staff noted several instances in the document that required minor text revision or clarification. City staff makes the following minor revisions for clarification purposes. These insignificant modifications do not alter the conclusions of the Draft EIR and do not constitute “substantial” new information as defined under Section 15088.5 of the *State CEQA Guidelines*, because these minor clarifications do not deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect or a feasible mitigation or avoidance measure. Recirculation of the Draft EIR is therefore not required. (*State CEQA Guidelines* Section 15088[b])

REVISIONS TO SECTION 1 “INTRODUCTION”

Page 1-3 is revised as shown below:

Rather, it would assess the potential environmental impact of businesses leaving the community, because of an inability to financially compete, resulting in vacant buildings. In other words, the financial impact on local business is not an environmental issue that ~~can be addressed in~~ is appropriate for consideration in an environmental impact report. However, if enough local retail businesses were forced to close as a result of a new project, this could lead to vacant buildings. Vacant buildings can have a variety of environmental impacts on a community ~~and would be considered a form of urban decay which is an environmental impact~~ (e.g. blight).

Page 1-5 is revised as shown below:

Significant Impact: CEQA Guidelines Section ~~21068- 15382~~ defines a significant impact as one that causes “a substantial, or potentially substantial, adverse change in any of the physical conditions in the area affected by the project.” Feasible mitigation measures or alternatives to the project must be considered to reduce the magnitude of significant impacts to less-than-significant levels.

REVISIONS TO SECTION 2 “EXECUTIVE SUMMARY”

Pages 2-2 and 2-5 (as well as all other DEIR references to this project objective including pages 5-2 and 5-40 and Tables 5-2, 5-3, 5-4, 5-5, 5-6, and 5-7 in Section 5 “Alternatives”) are revised as shown below:

- ▶ to construct a distribution/warehouse facility with sufficient space (approximately 1.21 million square feet) to allow operational efficiency and adequate distribution of goods to stores in a broad geographic area in California,

Table 2-1 on page 2-51 is revised as described below:

The significance before mitigation for Impact 4.13-2, “Substantial Degradation of the Visual Character or Quality of the Site and Surroundings” is hereby changed from SU to PS. The significance after mitigation for Mitigation 4.13-2, “Prepare and Submit a Landscaping Plan” is hereby changed from SU to LTS. This change corrects an inconsistency between the conclusions stated in Table 2-1 and the conclusions in Section 4.13 of the DEIR.

REVISIONS TO SECTION 3 “PROJECT DESCRIPTION”

Page 3-11 is revised as shown below:

This environmental impact report (EIR) uses as a reference document the City General Plan EIR (State Clearinghouse Number 95082050), which was adopted in 1997. The 1997 update of the City General Plan was the update that designated the general plan designation of Industrial for the eastern portion (east of the Kibby Road right-of-way) of the project site. This eastern portion of land was annexed as “Heavy Industrial” in 1999. The western portion (west of the Kibby Road right-of-way) was designated for Industrial use at least as far back as the 1981 City General Plan. This portion of land was annexed as “Heavy Industrial” in 1978.

In addition, a portion of the project site was included as part of the Lyon’s Annexation to the City of Merced, which was approved by LAFCO on January 28, 1999, and a Certificate of Completion was recorded on June 11, 1999. The Expanded Initial Study/Mitigated Negative Declaration prepared for the annexation includes several mitigation measures, which apply to any development approved within the annexation area. If approved, the proposed project would be required to comply with these mitigation measures. It should be noted that, because many of the mitigation measures required in the Merced Wal-Mart Distribution Center are more current and more effective than the Lyon’s Annexation mitigation, the City may consider, on a case-by-case basis, whether implementation of individual mitigation measures included in the Merced Wal-Mart Distribution Center EIR would meet the mitigation requirements for similar individual mitigation measures required under the Lyon’s Annexation project. A copy of the Mitigation Monitoring Plan adopted for the Lyon’s Annexation Project is available from the City upon request.

Page 3-13 is revised as shown below:

The distribution center would receive electrical power from either PG&E or Merced Irrigation District facilities, via an overhead line that exists within the Childs Road right-of-way. Gas service, to be provided by PG&E, would be extended to the site from a transmission line in Childs Road, approximately one-half mile east of Tower Road. AT&T would extend telephone service to the site from lines located in the rights-of-way of Childs Avenue and Gerard Avenue.

Page 3-15 is revised as shown below:

- ▶ daylight harvesting system;
- ▶ recycled, recyclable, and low toxicity finishes for interior office spaces;
- ▶ solar power;
- ▶ hydrogen fuel cell forklifts;
- ▶ paperless process for managing freight;
- ▶ waste recycling programs;
- ▶ Material Return Facilities to reduce the amount of waste generated and ensure re-use of shipping materials;
- ▶ “smart systems” that power down warehouse equipment when not in use.

Wal-Mart has indicated its intention to continue to monitor these technologies and incorporate those that are effective, reliable and make business sense.

Page 3-16 is revised as shown below:

- ▶ All corporate fleet vehicles based at the proposed Merced distribution center would be hybrid vehicles (not including the truck fleet). Hybrid vehicles dramatically reduce gasoline consumption and therefore have lower operating emissions.

REVISIONS TO SECTION 4.1 “AGRICULTURAL RESOURCES”

Page 4.1-1 is revised as shown below:

The majority of the soils on the project site are Wyman loam soils, totaling approximately ~~58%~~ 62%. The three types of Wyman soils span from the northwest corner of the project area, along Childs Avenue on the north boundary of the project area, then southerly through the mid-eastern region of the site, eventually spanning to the eastern and western boundaries in the southern region of the project site. The Wyman series consists of deep, well-drained soils that formed in alluvium from andesitic and basaltic rocks. Wyman soils are on terraces and alluvial fans that range from nearly level to strongly sloping and have slopes of 0 to 15%. The Wyman series is used extensively for orchard and truck crops, but some areas are used for vineyards, grain, alfalfa, and clover.

Page 4.1-4 is revised as shown below:

WILLIAMSON ACT PROGRAM

The Williamson Act establishes a mechanism for contracts between local governments and private landowners, restricting parcels of land to agricultural or related open space use and offering reduced property tax assessments as an incentive for the restrictions on land use. These contracts are valid for ten years and subject to renewal. Cancellation and/or breach of Williamson Act contracts carries stiff penalties. If a property owner decides not to renew, the annual tax assessment gradually increases until the end of the nonrenewal period, when the contract is terminated. However, development of the project site will not necessarily lead to increased property assessments on adjacent parcels—properties are only reassessed at the time of sale. Landowners are taxed on the capitalization of the income from the land rather than the fair market value, and local governments receive an annual subvention of forgone property tax revenues from the state via the Open Space Subvention Act of 1971. In return, the landowner retains their land in open space or agricultural use for at least 10 years. Land can be withdrawn from a Williamson Act contract through a 10-year process beginning with a nonrenewal filing, during which taxes gradually increase to full levies. In extraordinary, unforeseen situations, immediate termination is sometimes granted. No Williamson Act contract currently applies to the project site, but, as can be seen in Exhibit 4.1-2, a Williamson Act property is adjacent to the site to the east.

REVISIONS TO SECTION 4.2 “AIR QUALITY”

Please refer to Section 4.4, which includes the entire revised Air Quality section.

REVISIONS TO SECTION 4.3 “BIOLOGICAL RESOURCES”

Page 4.3-8 is revised as shown below:

1.1.b: Urban development should occur away from identified sensitive species habitat unless specific provisions to ensure adequate protection and monitoring exist.

Page 4.3-10 and Table 2-1 on page 2-22 are revised as shown below:

Mitigation Measure 4.3-2: Implement Measures to Minimize Potential Project Effects on Swainson’s Hawk and Burrowing Owl. To minimize potential project effects on Swainson’s hawk and burrowing owl, the planning

director shall ensure that project applicant shall do the following prior to issuance of grading permits and during construction, as applicable:

(The remainder of the mitigation measure remains unchanged)

REVISIONS TO SECTION 4.4 “CULTURAL RESOURCES”

Page 4.4-5 and Table 2-1 on page 2-22 are revised as shown below:

Mitigation Measure 4.4-1: Contact Cultural Resources Specialist for Potential Cultural Finds during Project-Related Ground-Disturbing Activities. If unrecorded cultural resources are encountered during project-related ground-disturbing activities, the contractor and/or the project proponent shall contact a qualified professional cultural resources specialist ~~shall be contacted~~ to assess the potential significance of the find.

(The remainder of the mitigation measure remains unchanged)

REVISIONS TO SECTION 4.5 “GEOLOGY, MINERALS, SOILS, AND PALEONTOLOGICAL RESOURCES”

Page 4.5-7 is revised as shown below:

Holocene Alluvium

By definition, to be considered a fossil, an object must be more than 10,000 years old; therefore, project-related activities in this rock formation, which is no greater than 10,000 years old, would have no effect on paleontological resources.

Page 4.5-15 is revised as shown below:

- ▶ Based on Appendix G of the State CEQA Guidelines, viewed in light of the professional paleontological standards described above (SVP [1995]), significant adverse environmental impacts on paleontological resources would result if the proposed project would directly or indirectly destroy a unique paleontological resource or site. For the purposes of this DEIR, an individual vertebrate fossil specimen may be considered unique or significant if it is identifiable and well preserved, and it meets one of the following criteria:

REVISIONS TO SECTION 4.6 “HYDROLOGY AND WATER QUALITY”

Pages 4.6-10 and Table 2-1 on pages 2-32 are revised as shown below:

Mitigation Measure 4.6-2. Develop and Implement a BMP and Water Quality Maintenance and Monitoring Plan. Design standards for water quality treatment are being formulated that would meet or exceed City of Merced Storm Drain Master Plan and Standard Design requirements. The applicant shall submit the completed design standards, when completed, will to the City’s Development Services Department. Prior to issuance of grading permits, the City Engineer shall ensure that the design standards incorporate the adopted City of Merced Master Storm Drain Plan and Design guidance (City of Merced 2002):

(The remainder of the mitigation measure remains unchanged)

REVISIONS TO SECTION 4.7 “LAND USE”

Page 4.7-1 is revised as shown below:

Land east of the site is primarily agricultural and outside of the Merced city limits (which is located just beyond the east property line). To the north and south of the project site are industrially zoned parcels primarily used for agricultural purposes with a few industrial facilities located north of Childs Road. West of the site is a ~~developing~~ newly developed single-family residential area with some areas still under construction. Farther west and northwest is central Merced, with historic residential areas and downtown commercial areas. The center of the City is bisected by SR 99, which runs in a northwest-southeast course through the City. Industrial areas are located west of central Merced, with suburban-style residential and commercial neighborhoods located north of central Merced. At the far northeast corner of the City’s planning area is the recently opened University of California at Merced campus.

REVISIONS TO SECTION 4.8 “NOISE”

Page 4.8-16 is revised as shown below:

Groundborne vibration impacts were ~~qualitatively~~ assessed based on existing documentation (e.g., vibration levels produced by specific construction equipment) and the distance of sensitive receptors from the given vibration source. Attenuation of groundborne vibration levels at receptors were calculated according to formulas and methodologies established by the Federal Transit Administration (FTA) (2006).

Page 4.8-17 is revised as shown below:

- **Land Use Compatibility with On-site Noise Levels.** Development of the proposed land uses would have a significant impact if predicted on-site ambient noise levels under existing or future cumulative conditions would exceed the “normally acceptable” land use compatibility standard established by the City of Merced Noise Compatibility Guidelines (Table 4.8-5) and pursuant to Policy N-1.4c of the *Merced Vision 2015 General Plan* Noise Element. As a light industrial land use the “normally acceptable” noise standard would be ~~7075~~ dBA for the proposed Wal-Mart distribution facility.

Page 4.8-20 is revised as shown below:

Mitigation Measure 4.8-1: ~~Regulate Short-Term Construction Noise. Regulate Construction before Approval of Implementation Plans. Prior to approval of Implementation Plans and subsequent projects, t~~he City shall require the applicant to regulate construction noise by implementing the measures listed below, as follows: These measures shall be clearly indicated on all grading and improvement plans, and the project contractor shall be responsible for ensuring implementation of all measures.

(The remainder of the mitigation measure remains unchanged)

Pages 4.8-24 and 4.8-25 are revised as shown below:

Mitigation Measure 4.8-3: Implement Measures to Reduce Exposure to Traffic Noise from Project. Prior to initiating site preparation, t~~he~~ project applicant shall implement the following measures to reduce the exposure of existing sensitive receptors to project-generated traffic noise levels:

- ▶ The applicant shall offer the owners of the two affected residences on the east side of Tower Road between SR 140 and Gerard Avenue and the single residence located on the south side of Gerard Avenue between Campus Parkway and the project site entrances the installation of a sound barrier along the property line of their affected residential properties. The sound barriers must be constructed of solid material (e.g., wood,

brick, adobe, an earthen berm, or combination thereof). All barriers shall blend into the overall landscape and have an aesthetically pleasing appearance that agrees with the color and rural character of the houses and the general area, and not become the dominant visual element of the community. Relocation of the driveway at each residence may be necessary in order to preclude having gaps in the sound barrier. Relocation of landscaping may also be necessary to achieve an aesthetically pleasing appearance. The owners of the affected properties may choose to refuse this offer; however, the offer shall not be made available to subsequent owners of the property. If an existing owner refuses these measures a deed notice must be included with any future sale of the property to comply with California state real estate law, which requires that sellers of real property disclose “any fact materially affecting the value and desirability of the property” (California Civil Code, Section 1102.1[a]) ~~and shall indicate that the applicant agrees to install a sound barrier, as described above.~~ The applicant shall be responsible for all costs incurred by the implementation of this mitigation measure.

- ▶ To ensure compliance with applicable noise standards, a site-specific noise study shall be conducted by the City or its approved consultant to determine specific noise barrier design. The study shall contain noise levels prior to and after noise barrier installation at all affected sensitive receptors and shall require the full disclosure of the effectiveness of the sound barrier. The applicant shall be responsible for all costs incurred by the implementation of this mitigation measure.

(The remainder of the mitigation measure remains unchanged)

Table 4.8-11 on Page 4.8-25 is revised as shown below:

**Table 4.8-11
Summary of Modeled Traffic Noise Levels Along Area Roads**

#	Roadway	From	To	L _{dn} (dBA) 100 ft from Centerline of Near Travel Lane ¹					
				2010 No Project	2010 + Project	Increase ⁴	2030 No Project	2030 + Project	Increase ⁴
1	SR 140	SR 99	Parsons Avenue	63.2	63.5	0.3	63.6	63.9	0.3
2	SR 140	Parsons Avenue	Santa Fe Avenue	62.3	62.6	0.3	64.7	64.9	0.3
3	SR 140 ²	Santa Fe Avenue	Kibby Road	64.9	65.1	0.2	65.1	65.2	0.1
4	SR 140	Kibby Road	Tower Road	62.6	63.1	0.6	64.4	64.6	0.2
5	Childs Avenue	SR 99	Parsons Avenue	63.1	63.2	0.1	64.1	64.2	0.1
6	Childs Avenue	Parsons Avenue	Coffee Street	62.3	62.5	0.2	62.3	62.5	0.2
7	Childs Avenue	Coffee Street	Campus Parkway ³	63.6	63.7	0.1	61.6	61.8	0.2
8	Childs Avenue	Campus Parkway ³	Kibby Road	61.9	61.9	0.0	62.8	62.8	0.0
10	Childs Avenue	Kibby Road	Tower Road	60.0	60.0	0.0	62.7	62.7	0.0
11	Gerard Avenue	Parsons Avenue	Coffee Street	54.2	54.2	0.0	54.0	54.1	0.1
12	Gerard Avenue	Coffee Street	Campus Parkway ³	56.5	57.3	0.8	61.3	61.3	0.1
13	Gerard Avenue	Campus Parkway ³	Site Entrance	56.5	66.9	10.5	59.8	65.5	5.7
14	Gerard Avenue	Site Entrance	Tower	45.5	55.9	10.4	51.5	55.2	3.7
16	Mission Ave	SR 99	Coffee Street	60.5	64.2	3.7	65.3	66.8	1.5
17	Campus Parkway ³	Coffee Street	Gerard Avenue	59.2	63.8	4.6	64.8	66.4	1.7
18	Campus Parkway ³	Gerard Avenue	Childs Avenue	53.0	53.5	0.5	61.0	61.6	0.6
19	Parson Avenue	Gerard Avenue	Childs Avenue	58.8	58.8	0.0	60.3	60.3	0.0
20	Parson Avenue	Childs Avenue	SR 140	60.6	60.7	0.1	60.0	60.0	0.0
21	Coffee Street	Mission Avenue	Parsons Avenue	60.6	60.6	0.0	58.8	58.8	0.0
22	Coffee Street	Gerard Avenue	Childs Avenue	60.4	60.6	0.2	58.5	58.7	0.2
23	Coffee Street	Childs Avenue	Baker Drive	58.2	58.3	0.1	52.3	52.3	0.0
24	Kibby Road	Childs Avenue	SR 140	60.0	60.0	0.0	54.5	54.5	0.0
25	Baker Drive	SR 140	Coffee Street	58.3	58.4	0.1	53.8	53.8	0.0
26	Tower Road	Gerard Avenue	Childs Avenue	45.5	57.2	11.8	45.5	53.2	7.7
27	Tower Road	Childs Avenue	SR 140	45.5	53.6	8.1	45.5	52.9	7.4

Notes: SR = State Route

¹ Traffic noise levels were predicted using the FHWA Traffic Noise Model RD77-108 based on traffic information (e.g., average daily traffic, vehicle speeds, roadway width) obtained from the data generated by DKS Associates used to prepare the traffic section for this DEIR. Modeled estimates assume no natural or human-made shielding (e.g., vegetation, berms, walls, buildings). Refer to Appendix D for modeling input assumptions and output results.

² It is anticipated that SR 140 between Santa Fe Avenue and Kibby Road will be widened from two lanes to four lanes before year 2030, as stated in the traffic report (DKS 2008).

³ The exact timing of the development of the planned Campus Parkway extension is not known at this time. The new road is projected to be completed after full buildout of the proposed project and before the year 2030.

⁴ Increases may not exactly reflect the difference between "no project" and "plus project" conditions due to rounding

Source: Modeling performed by EDAW in 2008

Page 4.8-30 is revised as shown below:

IMPACT 4.8-6 Land Use Compatibility of Proposed Project with On-Site Noise Levels. *As a light industrial land use, the proposed project would not be considered a noise sensitive receptor and existing and future projected noise levels are not expected to exceed the City's "normally acceptable" noise standard of ~~75~~70 L_{dn} for industrial land uses. Therefore, exposure of proposed facility to noise generated at surrounding land uses would be a **less-than-significant** impact.*

The proposed project would not be considered a noise-sensitive land use and would be located near other light industrial land uses (i.e., Central Valley Processing and McLane Pacific Grocery Distribution Center) to the north across Childs Avenue, agricultural land uses to the east and south, and residential neighborhoods located over 1,200 feet to the west. These nearby land uses are not expected to generate noise levels that would exceed the City's "normally acceptable" noise standard of ~~75~~70 L_{dn} for industrial land uses. In addition, future projected traffic noise levels on nearby roads are not expected to exceed ~~75~~70 L_{dn} at the project site, as shown in Table 4.8-11. Furthermore, the proposed project is not located within an airport land use plan or within 2 miles of a public airport or public use airport. The closest airport, Merced Municipal Airport, is located more than 4 miles away. Therefore, the development of a distribution facility at the proposed project site would be noise-compatible with surrounding land uses. As a result, this impact would be **less than significant**.

Mitigation Measure

No mitigation is required.

REVISIONS TO SECTION 4.9 "POPULATION AND HOUSING"

Page 4.9-8 is revised as shown below:

As described in Section 4.12, public water and wastewater infrastructure is in close proximity to the project site. For example, there are 16-inch diameter water lines in Childs Avenue and in Kibby Road, and a 16-inch line exists within the Kibby Road right-of-way that transects the site. With regard to wastewater infrastructure, there is a 12-inch line in Childs, a 36-inch line in Gerard Avenue, and a 30-inch line in Kibby. Like the water line, the wastewater line transects the site within the Kibby Road right-of-way. Other critical utility infrastructure, such as electricity, natural gas, and telecommunication are in place near the site. This existing infrastructure would have the ability to serve other development in the vicinity of the project site; no new major infrastructure is required to serve the project. The extent to which ~~this~~ the limited project infrastructure may induce growth in the area is discussed in Chapter 6 under "Growth Inducement."

REVISIONS TO SECTION 4.10 "PUBLIC HEALTH AND HAZARDS"

Page 4.10-15 is revised as shown below:

Mitigation Measure

Implementation of Mitigation Measure 4.11-2a~~b~~ would reduce significant impacts associated with the exposure of students to hazardous materials resulting from transportation accidents to a **less-than-significant** level by requiring a traffic safety plan during construction of the project and by designating specific truck routes during operation of the project.

REVISIONS TO SECTION 4.11 “TRAFFIC AND TRANSPORTATION”

Page 4.11-1 is revised as shown below:

This section establishes the relevant setting and describes the transportation impacts of the proposed Wal-Mart Distribution Center. This section outlines assumptions, methodology, and analysis conducted to determine the traffic impacts of the proposed project, as well as any impacts to transit, bicycle, and pedestrian facilities. Note that cumulative traffic impacts are addressed in Section 6 “Cumulative and Growth Inducing Impacts.”

Page 4.11-2 is revised as shown below:

2010 Background Condition

During the AM peak hour, one intersection, SR 140 at Baker Drive, would operate at LOS E. The intersections of Childs Avenue at SR 99 northbound off-ramp would operate at LOS F. The other intersections would continue to operate at acceptable LOS (LOS D or better). During the PM peak hour, ~~three~~ four intersections, SR 140 at Baker Drive, Childs Avenue at SR 99 southbound off-ramp, and Childs Avenue at SR 99 northbound off-ramp ~~and Childs Avenue at Parsons Avenue~~ would operate at deficient LOS (LOS F). All other intersections would continue to operate at acceptable LOS (LOS D or better). All study roadway segments would continue to operate at an acceptable LOS under 2010 Background Conditions during the AM and PM peak hours.

2030 Cumulative Condition

During the AM peak hour, ~~five~~ six intersections, SR 140 at Parsons Avenue, SR 140 at Baker Drive, SR 140 at Kibby Road, Childs Avenue at SR 99 southbound off-ramp, and Childs Avenue at SR 99 northbound off-ramp; ~~and Mission Avenue at Coffee Street~~ would operate at LOS F. Childs Avenue and Parsons Avenue would operate at LOS E while all other intersections would continue to operate at acceptable LOS (LOS D or better). During the PM peak hour, ~~four~~ five intersections, SR 140 at Baker Drive, SR 140 at Kibby Road, Childs Avenue at SR 99 southbound off-ramp, and Childs Avenue at SR 99 northbound off-ramp; ~~and Mission Avenue and Coffee Street~~ would all operate at LOS F. ~~One~~ Two intersections, Childs Avenue and Parsons Avenue ~~and Mission Avenue at SR 99 southbound off-ramp~~, would operate at LOS E. All other intersections would continue to operate at acceptable LOS (LOS D or better). The roadway segment of SR 140 between Santa Fe Avenue and Kibby Road would deteriorate from LOS D under 2010 Background Conditions to operate at LOS E under the 2030 Cumulative Conditions during the AM peak hour, but would continue to operate at acceptable LOS (LOS D) during the PM peak hour.

Two ~~One~~ intersections, Mission Avenue at SR 99 northbound off-ramps and Mission Avenue at SR 99 southbound off-ramps would experience a significant impact under the 2030 Cumulative with Project scenarios under the PM peak hour. ~~These is~~ These impacts would be mitigated by restriping the northbound, southbound and westbound approaches, ~~would~~ restoring the operations to an acceptable LOS of C, fully mitigating this impact resulting no significant impacts for the project.

Page 4.11-5 is revised as shown below:

STUDY AREA AND SCENARIOS

The following intersections and roadway segments were evaluated to determine the traffic conditions during the weekday a.m. and p.m. peak hours. The selection of the study intersections and roadway segments was based on traffic activities around the study area roadway network and the anticipated increase in traffic volumes due to the project, as well as the travel patterns of the project trips. The first phase, from the Mission Avenue interchange to Childs Avenue, of Campus Parkway is anticipated to begin construction in July 2008 and be built by July 2009. It is anticipated this new roadway would connect a new SR 99 interchange at Mission Avenue with Childs Avenue, near the proposed project site. The intersections of Childs Avenue at Campus Parkway and Gerard Avenue at

Campus Parkway were analyzed only under the future scenarios. For more information on the study area scenarios analyzed, and methodology, please refer to Traffic Study, included as Appendix E of this EIR.

Weekends and nights were not considered for the traffic analysis. The weekday AM and PM peak hours were analyzed in order to evaluate potential impacts under the City's significance threshold criteria, and to provide a basis for comparison with other transportation studies that evaluated weekday AM and PM peak hour conditions. Also, the combination of the project's peak hour traffic with the adjacent street network's peak hour traffic provided an analysis of the worst case traffic conditions that are anticipated.

Pages 4.11-29, 4.11-30, and Table 2-1 on page 2-46 are revised as shown below:

Mitigation Measure 4.11-2a: Accommodate All Delivery Truck Parking On-Site. ~~The~~ Prior to issuance of building permits, the Chief Building Official shall verify that project design the final site plan shall incorporate clearly identifies a designated on-site waiting area within the site between Gerard Road and the truck gate that is located further within the site. This area shall be large enough to accommodate at least 20 inbound delivery trucks. It is recommended that the access roadway be designed to have a temporary parking area located between Gerard Avenue and the truck entrance gate. The parking area shall be paved and marked as a designated waiting area for delivery trucks, and shall not impede access to the site. The holding area(s) shall be located in the interior of the project site and be more than 1,000 feet from all off-site residences, which is a distance threshold identified in the Noise Analysis of this EIR. If the waiting area(s) are located closer than 1,000 feet to off-site residences then sound barrier(s) shall be implemented into the design to ensure that on-site truck idling would not result in an exceedence of the nighttime standard of 45 A-weighted decibels energy-equivalent noise level established by the Merced General Plan (Table N-5).

Wal-Mart shall instruct all delivery truck drivers not to park, stand, wait, or stay overnight along local roadways. In order to minimize noise and vehicle emissions, idling in the waiting area shall be limited by Wal-Mart to 5 minutes, as required by 13 CCR Chapter 10, Section 2485.

Pages 4.11-31 and Table 2-1 on page 2-48 are revised as shown below:

Mitigation Measure 4.11-3: Provide Emergency Access Gate and Driveway. ~~†~~Prior to approval of the final site plan, the project applicant shall modify the site plan to show a third point of ingress and egress on Childs Avenue that is gated and available only for emergency purposes. The emergency access driveway on-site shall be indicated on the final site plan at a width and design acceptable to the City Engineer and shall provide unimpeded access to all structures on the site.

Pages 4.11-32 and Table 2-1 on page 2-48 are revised as shown below:

Mitigation Measure 4.11-4: Update Safe Routes to School Plan. ~~†~~Prior to issuance of certificates of occupancy, the City Engineer shall ensure that the Safe Routes to School Plans are appropriately updated such that school bus and pedestrian routes in the vicinity of the Wal-Mart are revised as appropriate to avoid potential conflicts taking into account the project's potential increase in truck traffic and potential truck routes.

REVISIONS TO SECTION 4.12 "UTILITIES AND PUBLIC SERVICES"

Page 4.12-6 is revised as shown below:

The project site is located in Fire District 4, and Station 54 at 1425 East 21st Street currently provides first-response service to the project area (City of Merced 2005b). Personnel at Station 54 are responsible for emergency out-of-town assignments and maintenance of all wildland equipment. Fires Station 54 is approximately ~~3.92~~2.6 miles northwest of the project site.

Page 4.12-13 is revised as shown below:

For the purpose of this analysis, the following thresholds of significance have been used to determine whether implementation of the proposed project would result in significant utilities and public services impacts. Based on questions included Appendix G of the State CEQA Guidelines (the CEQA checklist), a public services utilities impact is considered significant if implementation of the proposed project under consideration would do any of the following:

- ▶ create a need for the development of new service facilities (e.g., fire, police, schools), the construction of which could result in significant environmental impacts;
- ▶ create circumstances where existing services and facilities could not meet established performance standards (i.e., response times, provider per resident ratios);
- ▶ substantially impede existing services;
- ▶ generate solid waste beyond the capacity of existing landfills;
- ▶ violate federal, state, or local statutes and regulations related to solid waste; or
- ▶ result in inefficient, wasteful, and unnecessary consumption of energy (based on Appendix F of the State CEQA Guidelines).

A utilities public services impact is considered significant if implementation of the proposed project under consideration would do any of the following:

- ▶ create demand beyond available service or permit capacity;
- ▶ create demand for electrical or natural gas service that is substantial in relation to the existing demands;
- ▶ exceed wastewater treatment requirements of the Central Valley RWQCB;
- ▶ require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects; or
- ▶ have insufficient water supplies available to serve the project from existing or permitted entitlements and resources, or require new or expanded entitlements.

Page 4.12-18 and 4.12-19 are revised as shown below:

The proposed electrical utility improvements would be required to comply with all existing City, PG&E or MID, and CPUC requirements, and applicable Uniform Building Code and Building Energy Efficiency Standards (Title 24 of the California Code of Regulations) requirements. The City of Merced has identified the need to reduce energy demands in new development. To meet this goal, the proposed project would be required to implement additional energy efficiency measures, which is also consistent with the recommendations included in Appendix F of the CEQA Guidelines “Energy Conservation”; therefore, this impact would be *potentially significant*. It should also be noted that additional energy conservation measures, which further reduce the project’s energy consumption are identified in Section 3 “Project Description” under Subsection 2.7.6 “Proposed Sustainability and Energy Conservation Measures.” Furthermore, Section 4.2 “Air Quality” requires implementation of Mitigation Measures 4.2-2a through 4.2-2e, which would result in energy conservation both on-site and off-site (reduced vehicular fuel consumption off-site).

Pages 4.12-19 and Table 2-1 on page 2-49 are revised as shown below:

Mitigation Measure 4.12-4: Incorporated Energy Efficiency Features into Project Designs

~~¶~~Prior to the issuance of building permits, the project applicant shall prepare and submit a sustainability plan, to for review and approval of the City’s Planning Director, which shall incorporate the following energy efficiency features in project designs:

(The remainder of the mitigation measure remains unchanged)

REVISIONS TO SECTION 4.13 “VISUAL RESOURCES”

Pages 4.13-13 and Table 2-1 on page 2-51 are revised as shown below:

Mitigation Measure 4.13-2. Prepare and Submit a Landscaping Plan. ~~¶~~Prior to the issuance of building permits, the applicant shall prepare and submit a landscaping plan to the satisfaction of the City Planning Manager in consultation with the Public Works Director that includes the following features and accomplishes the following objectives on the site

(The remainder of the mitigation measure remains unchanged)

Pages 4.13-14 and Table 2-1 on page 2-52 are revised as shown below:

Mitigation Measure 4.13-3. Prepare and Submit a Lighting Plan. ~~¶~~Prior to the issuance of building permits, the applicant shall prepare a lighting plan for review and approval by the City of Merced Planning Director. The lighting plan shall identify the design and placement, orientation, and illumination level (in watts) of all light fixtures. The lighting plan shall be designed so that illumination is focused downward upon targeted horizontal surfaces. Illumination of vertical surfaces shall be minimized. The lighting plan shall specify that no illumination source (including light bulb and reflector) shall be visible at a point 100 feet or greater from the outside of the property line. The exception to this performance standard is at driveway intersections with public streets.

Page 4.13-15 is revised as shown below:

The City General Plan includes multiple goals and policies adopted to protect visual resources within the City of Merced and in the area of the project. Applicable City General Plan goals and policies are listed previously under Section 4.13.2 “Regulatory Setting”. Table 4.13-1 below outlines each of the applicable General Plan goals and policies and provides a brief evaluation regarding the project’s consistency with those goals and policies.

Table 4.13-1		
Project Consistency with City’s General Plan Goals and Policies Related to Visual Resources		
<u>Goal/Policy #</u>	<u>Goal Policy Text</u>	<u>Discussion of Project Consistency</u>
<u>GOAL UD-2</u>	<u>Overall Community Appearance</u> <ul style="list-style-type: none"> • <u>A Unique Community Image</u> • <u>Attractive Neighborhoods and Districts</u> 	<u>The proposed project would place a new distribution center with landscaping within an area that includes several other major warehouses and on a site that is designated and zoned for industrial use.</u>
<u>GOAL OS-1</u>	<u>Open Space for the Preservation of Natural Resources</u> <ul style="list-style-type: none"> • <u>Preservation of Scenic Corridors and Resources</u> 	<u>The project site is not located within a scenic corridor and does not include natural resources.</u>
<u>Policy L-2.5.</u>	<u>Maintain attractive industrial areas.</u>	<u>The proposed project would place a new distribution center with landscaping within an area that includes several other major warehouses and on a site that is designated and zoned for industrial</u>

**Table 4.13-1
Project Consistency with City's General Plan Goals and Policies Related to Visual Resources**

<u>Goal/Policy #</u>	<u>Goal Policy Text</u>	<u>Discussion of Project Consistency</u>
		use.
	2.5.a <u>Continue to require Site Plan Review of new industrial development and the application of standards regarding landscaping, appearance, circulation, access, and parking.</u>	<u>Site Plan Review is one of the entitlements required for the proposed project. The project is required to submit a landscape plan, and the proposed project would be required to comply with City standards related to circulation, access, and parking.</u>
	2.5.b <u>Consider requiring the planting of parking lot trees in industrial areas, perhaps at reduced standard instead of the one tree for each six parking spaces required in other areas, to provide shade, reduce glare, and reduce reflective heat.</u>	<u>The project applicant is required to submit a landscape plan, which requires shade trees in employee parking areas, but not in truck parking areas, consistent with City Municipal Code requirements.</u>
	2.5.c <u>Require the removal or screening of all rubbish, abandoned buildings, processing wastes, old equipment, or other forms of blight in industrial areas.</u>	<u>The project applicant is required to submit a landscape plan, which requires planting of trees no further than 30 feet apart along the perimeter roads surrounding the project site. This would substantially screen views of the site. Furthermore, the proposed project includes development of the site with a new distribution center and would not result in processing waste, abandoned buildings, or old equipment.</u>
	2.5.d <u>Investigate the possibility of regulating industrial development on the basis of or in combination with performance standards instead of strictly by definition of specific uses as in the Zoning Ordinance.</u>	<u>Not applicable. The proposed project is consistent with the Zoning for the site.</u>
<u>Policy UD-2.2</u>	Maintain and enhance the unique community appearance of Merced.	<u>The proposed project would place a new distribution center with landscaping within an area that includes several other major warehouses and on a site that is designated and zoned for industrial use. The proposed use is consistent with the surrounding uses and the City's planned use of the site.</u>
	2.2.b <u>Encourage the design of buildings that are in scale with adjacent development and harmonize with the character of the area or neighborhood.</u>	<u>The proposed distribution center is located within the vicinity of other major warehouse facilities.</u>
	2.2.c <u>Discourage the visual monotony along major streets created by designs which use uninterrupted walls or fences with little or no landscaping.</u>	<u>The project applicant is required to submit a landscape plan, which requires planting of trees no further than 30 feet apart along the perimeter roads surrounding the project site. The plan also requires planting of shade trees in the employee parking areas, but not in truck parking areas, consistent with the City Municipal Code requirements.</u>
	2.2.d <u>Encourage the development of methods to require acceptable levels of landscaping for new development and for effective maintenance in highly visible areas of the</u>	<u>The project applicant is required to submit a landscape plan, which requires planting of trees no further than 30 feet apart along the perimeter roads surrounding the project site. The plan also requires</u>

**Table 4.13-1
Project Consistency with City's General Plan Goals and Policies Related to Visual Resources**

<u>Goal/Policy #</u>	<u>Goal Policy Text</u>	<u>Discussion of Project Consistency</u>
	<u>community.</u>	<u>planting of shade trees consistent with the City Municipal Code requirements. Wal-Mart is required to maintain the landscaping.</u>
	<u>2.2.f Expand the city's policies which require architecturally suitable means of screening utility equipment and garbage containers.</u>	<u>Not applicable. This policy requires expansion of city policies.</u>
<u>Policy OS-1.3</u>	<u>Promote the protection and enhancement of designated scenic routes.</u>	<u>Not applicable. The proposed project is not located along a designated scenic route.</u>
	<u>1.3.a Identify, and where appropriate, designate scenic routes within the city's expanded SUDP.</u>	<u>Not applicable. The proposed project is not located along a designated scenic route.</u>
	<u>1.3.b Preserve the nine currently-designated Scenic Corridors.</u>	<u>Not applicable. The proposed project is not located along a designated scenic route.</u>
	<u>1.3.c Utilize established guidelines for the review of projects proposed within a designated Scenic Corridor.</u>	<u>Not applicable. The proposed project is not located along a designated scenic route.</u>
	<u>1.3.d Explore the feasibility of creating some scenic corridors in South Merced through the use of special landscaping standards. (As part of the specific planning process proposed for South Merced, potential scenic corridors can be identified and preliminary policies proposed for adoption.)</u>	<u>Not applicable. The proposed project is not located along a designated scenic route.</u>

Source: EDAW 2009

As indicated by Table 4.13-1, the proposed project is consistent with all applicable City of Merced General Plan Goals and Policies related to visual resources. The proposed project location is within industrial zoned and designated property, which is a planned future buildout area for Merced. Furthermore, the site is adjacent to existing manufacturing- and industrial-type development, and is visually compatible to these existing and future uses. The City General Plan states that due to the historical location of the Valley's urban centers, any growth or population expansion can be expected to impact productive agricultural land. The project would minimize future impacts on scenic resources in planned open space areas and corridors by locating in a planned development area. Therefore, the proposed project would have a *less-than-significant* impact.

REVISIONS TO SECTION 5 "ALTERNATIVES TO THE PROPOSED PROJECT"

Page 5-5 is revised as shown below:

In accordance with the City's existing land use regulations, the No Project alternative assumes that the site would be developed with a project that includes approximately 1.1 million square feet of warehouse or industrial use, similar to the proposed project. It is conceivable that another company would view the site as ideally suited for a regional distribution center similar to what is proposed by Wal-Mart. While the floor area ratio of 0.17 square foot per gross acre that is allowed in this zoning district would allow a 1.7-million-square-foot building, 1.1 million square feet, like that proposed, was the assumed size for the purposes of this alternatives analysis. The 1.1 million square feet is assumed to comprise one warehouse or industrial use given the prevalence of large warehouses in

the vicinity and because multiple warehouses or industrial uses on the site would require subdivision of the property, which would be inappropriately speculative for a No Project Alternative.

Page 5-8 is revised as shown below:

Because the No Project alternative assumes the site would be developed with a similar industrial use, impacts on public services under this alternative would be similar to those that would result from implementation of the proposed project. Public services impacts relate most closely to the incremental increase in service demands. Because these factors are the same for the proposed project as with this alternative, the public services impacts are anticipated to be similar. Similarly, because the No Project alternative assumes the site would be developed with a similar industrial use, impacts on utilities and service systems under this alternative would be similar to those that would result from implementation of the proposed project. Utilities and service systems impacts relate most closely to the incremental increase in service demands. Because these factors are the same for the proposed project as with this alternative, the utilities and service systems impacts are anticipated to be similar.

~~The proposed project would have cumulatively considerable impacts on wastewater treatment and disposal. The No Project alternative would not change that conclusion. [Similar]~~

Page 5-10 is revised as shown below:

This alternative assumes that the site would be developed with a revised version of the proposed project. The size and extent of development, the number of employees, and the number of vehicle trips would be the same as the proposed project. As with the proposed project, a majority of the site would be cleared of vegetation and graded to accommodate approximately 1.1 million square feet of building, parking and driveways, and landscaping. Buildings and other proposed features on-site have been shifted to the east under this alternative to provide an increased buffer to residential development to the west, although this would require relocation of the existing electrical transmission lines (note that specific impacts associated with relocating these lines cannot be analyzed without understanding the type, i.e., underground or above ground, or location of the transmission lines, but any environmental impacts would likely be associated with construction, although operational impacts could occur depending on location). This alternative has been identified as a means of reducing certain potential environmental impacts that cannot be sufficiently reduced in the proposed project solely through mitigation measures. This alternative is intended to reduce the following potential impacts on the closest residential communities in Merced: air quality, traffic, and noise. Areas west of the project site are designated for residential development.

Page 5-15 is revised as shown below:

Although the alternative would require re-routing of utilities including electrical transmission lines, because the redesigned site plan alternative would result in the same size and extent of development as the proposed project, utilities and public service demands would be similar to the proposed project.

~~The proposed project would have cumulatively considerable impacts on wastewater treatment and disposal. The Redesigned Site Plan alternative would not change that conclusion. [Similar]~~

Page 5-17 is revised as shown below:

This alternative assumes that the site would be developed with a reduced version of the proposed project. This alternative has been identified as a means of reducing several of the potential impacts of the proposed project to a greater level than could be achieved solely through mitigation measures. Although Twenty-five percent is an arbitrary reduction level, was selected solely for the purpose of this analysis, a range of percentage reductions – applicable to the size of the facility and/or the operations (i.e., employees and truck trips) – could also have been selected. This alternative is intended to reduce the potential impacts on the closest residential communities in Merced.

Page 5-15 is revised as shown below:

The aesthetic impacts would be similar to those of the proposed project. Both the redesigned site plan and the proposed project would convert the currently open space lot into a built environment that includes an approximately 1.1-million-square-foot building on the project site, with similar amounts of parking spaces, and lighting to be provided. Therefore, impacts would be similar to the project.

Page 5-21 is revised as shown below:

This alternative would contain the same use as the proposed project, with a 25% reduction in size. Because the changes proposed would provide some reduction in overall potential impacts, the significance of impacts on utilities and public services would be less than the proposed project.

~~The proposed project would have cumulatively considerable impacts on wastewater treatment and disposal. The Reduced Site Plan and Operations alternative would not likely change that conclusion. [Less]~~

Page 5-22 is revised as shown below:

The reduced site plan alternative would reduce the size of the building footprint by 25% to 825,000 square feet. The site is in proximity to existing warehousing and electric utilities, and the area is designated for industrial development, as are other vacant adjacent parcels. The reduction in size would not change the overall aesthetic characteristics of the site and surrounding area, which would continue to appear aesthetically as primarily industrial and scattered agriculture. Furthermore, the site is at the fringe of existing development, and contains the same land use as the proposed project. Therefore, the proposed alternative would have a similar impact on the project.

The proposed project would have cumulatively considerable visual impacts. The Reduced Site Plan and Operations alternative would not change that conclusion. [~~Less~~Similar]

Page 5-27 is revised as shown below:

Under this alternative, the size and extent of development would be the same as the proposed project, and utilities and public service demands would be similar to the proposed project. This alternative site is directly adjacent and south of the proposed project site, and utility infrastructure, including water and wastewater conveyance facilities, natural gas pipelines, and electrical and telecommunications transmission lines, is located within existing utility rights-of-way adjacent to the site. Similar to the proposed project, this alternative would connect to extensions of existing off-site utility infrastructure. Under this alternative, the size and extent of development would be the same as the proposed project, and utilities and service system demands would be similar to the proposed project.

~~The proposed project would have cumulatively considerable impacts on wastewater treatment and disposal. The Alternative Site #1 alternative would not change that conclusion. [Similar]~~

Table 5-5 on pages 5-28 and 5-29 is revised as shown below:

Table 5-5 Alternative Site #1 and Project Objectives		
Project Objective	Discussion	Fulfill Objective?
<u>City Objectives</u>		
To develop the industrially zoned area in the City with permitted industrial uses.	This site is zoned Heavy Industrial District.	Yes
To locate industrial projects in areas with good	The site is adjacent to existing and planned major	Yes

**Table 5-5
Alternative Site #1 and Project Objectives**

Project Objective	Discussion	Fulfill Objective?
access to major highway transportation links, and provide opportunities for buffers between industrial and nonindustrial uses.	roadway corridors and two State highways.	
To encourage development of industrial projects that will create jobs, including full-time, nonseasonal employment opportunities for local residents.	It is assumed full-time, year-round employment will be provided.	Yes
To encourage development of projects that will contribute toward improving roadways adjacent to the proposed development site.	Like the proposed project, this alternative would be evaluated relative to traffic impacts and mitigation measures to improve roadways would be required, as necessary.	Yes
To ensure that industrial areas are developed in an attractive manner.	All projects are subject to City review and approval.	Yes
<u>Applicant Objectives</u>		
To develop a project consistent with the City General Plan and zoning ordinance.	This alternative would be consistent with the City's General Plan and zoning ordinance. This site has the same designation as does the project site (Industrial) and the same zoning, <u>although the alternative would require LAFCO approval of annexation into the city.</u>	Yes
To develop a distribution/warehouse facility near other industrial uses.	Areas in the vicinity are also designated for industrial use.	Yes
To construct and operate a distribution/warehouse facility in Merced County to take advantage of the strategic location between large urban centers and smaller urban and rural markets throughout the Central Valley in California.	This alternative would involve a distribution/warehouse facility in Merced County.	Yes
To construct a distribution/warehouse facility on a site sufficiently large (a minimum of 230 acres) to allow necessary building space and parking for trucks and employees.	This alternative would involve a warehouse/distribution facility on a site of approximately 200-250 acres.	Yes
To construct a distribution/warehouse facility with sufficient space (approximately 1.2 million square feet) to allow operational efficiency and adequate distribution of goods to stores in a broad geographic area in California.	This alternative is assumed to develop with a warehouse/distribution facility of roughly the same amount of developed building space as proposed with the project.	Yes
To locate a distribution/warehouse facility with access to a regional roadway network including interstate, state, and regional roads.	This alternative would involve development of a warehouse/distribution facility with access to State Route (SR) 99, Highway 140, and other nearby transportation corridors.	Yes
To locate a distribution/warehouse facility in an area well served by major local thoroughfares to minimize truck traffic traveling through residential neighborhoods.	This alternative would involve development of a warehouse/distribution facility adjacent to SR 99, and therefore allowing transportation to occur largely along the highway corridor and avoid residential streets.	Yes
To provide sufficient parking for trucks and employees in order to minimize impacts to the surrounding area.	This alternative assumes that a similarly configured warehouse or industrial facility would be developed, given the existing land use designations and other factors. It is also assumed that a similar parking	Yes

Table 5-5 Alternative Site #1 and Project Objectives		
Project Objective	Discussion	Fulfill Objective?
	configuration could be designed, given the size of the project site.	
To take advantage of an existing labor pool living in the Merced area.	This alternative would involve industrial or warehouse uses in Merced County.	Yes
Source: Data compiled by EDAW in 2007.		

Page 5-32 is revised as shown below:

Under this alternative, the size and extent of development would be the same as the proposed project, and utilities and public service demands would be approximately the same as the proposed project. However, Alternative Site #2 would be located in an unincorporated area of Merced County. Fire and police protection services for this alternative would be provided by the County, and the alternative would increase demand on County fire and sheriff services. This additional demand may require additional County facilities. Water supplies would be provided by the Merced Irrigation District. Similar to the proposed project, this alternative would be required to pay its fair share of costs associated with the increased demand of fire and police services, and would include the same on-site security measures and incorporate all California Fire Code requirements as the proposed project. A water supply assessment would be required for this alternative to determine as to whether the Merced Irrigation District’s projected water supplies available would meet the water demand associated with this alternative, in addition to the existing and planned future uses. Because it is unknown if water supplies would be available to meet demands, this alternative could potentially result in greater impacts on utilities than the project.

~~The proposed project would have cumulatively considerable impacts on wastewater treatment and disposal. The Alternative Site #2 alternative would not change that conclusion. [Greater]~~

Page 5-32 is revised as shown below:

The aesthetic impacts would be similar to those of the proposed project. ~~The alternative site is located directly adjacent to the south of the proposed project site, and would be visible from many of the same viewpoints.~~ Both the alternative site and the proposed site would convert an open space lot into a built environment that includes an approximately 1-million-square-foot building, and would include similar amounts of parking spaces, and lighting. Furthermore, both the alternative site and the proposed project site are zoned for industrial or manufacturing uses. Therefore, the aesthetic environment would be impacted at a similar level.

REVISIONS TO SECTION 6 “CUMULATIVE AND GROWTH-INDUCING IMPACTS”

Page 6-5 is revised as shown below:

CUMULATIVE IMPACT Cumulative Air Quality Impact (Toxic Air Emissions). *Project operations would not result in the release of toxic air emissions that constitute a public health risk at existing or potential future sensitive receptors, based on SJVAPCD’s thresholds. This would not be a cumulatively considerable incremental contribution, and the project’s cumulative impact would be less than significant.*

The health risk assessment (HRA) performed to analyze the levels of health risk associated with operation toxic air contaminants (TAC) emissions determined that the maximum increase in cancer risk at a nearby sensitive receptor would be 7.3 in 1 million and the maximum increase noncancer chronic risk level would be an HI of 0.0086. Respectively, these levels of increased risk do not exceed SJVAPCD’s threshold of 10 in 1 million for

increased cancer risk (or an HI) of 1 for increased noncarcinogenic chronic risk. In addition to estimating the increased health risk at nearby existing receptors, the HRA also accounted for the increased health risk at future planned receptors that could potentially be approved by the City, developed, and then exposed to TAC emissions from project operations (as shown in Figure 2 on page 13 of the HRA in Appendix C). Based on an analysis of potential sources of toxic air emissions in the area, the project's contribution to health risk at existing and potential future (cumulative) nearby sensitive receptors is not cumulatively considerable and therefore the impact is *less than significant*. Nonetheless, the volume of vehicular traffic is anticipated to increase on area roadways under 2030 traffic conditions, including traffic on the extension of Campus Parkway. However, because of stricter vehicle emissions standards in newer cars, new technology, and increased fuel economy, future emission factors under cumulative conditions (analysis year 2030) are expected to be substantially lower than those under existing conditions. This is particularly the case for vehicles with diesel engines. Therefore, it is anticipated that the TAC emissions generated by future increased traffic volumes in combination with project activity would be outpaced by reductions in emission factors. As a result, exposure of offsite receptors to mobile-sources of TACs would also be less than cumulatively considerable and, therefore, less than significant under future (2030) conditions.

Pages 6-28 and Table 2-1 on page 2-65 are revised as shown below:

Mitigation Measure 6-9: Mission Avenue at SR 99 northbound off-ramp. Restriping the northbound and westbound approaches would mitigate the impact at this intersection. It is proposed to restripe the northbound approach from a left-through turning movement and a right-only turning movement to a left-through-right turning movement and a right-only turning movement. The westbound approach would be restriped from two through lanes and one right-turn only lane to one through lane, one through-right lane, and one right-turn only lane. Restriping could be accomplished within the existing right-of-way. Prior to issuance of occupancy permits, the applicant shall pay the project's fair share (9.0%) contribution for the restriping.

With these mitigation measures, the intersection of Mission Avenue at SR 99 northbound off-ramps would operate under LOS C conditions, fully mitigating the impact occurring in the p.m. peak hour under 2030 Cumulative with Project Conditions.

Pages 6-30 and Table 2-1 on page 2-66 are revised as shown below:

Mitigation Measure 6-10: SR 140 between Santa Fe Avenue and Kibby Road. The addition of project traffic would cause the segment of SR 140 between Santa Fe Avenue and Kibby Road to deteriorate from LOS D under the 2030 Cumulative No Project Condition to LOS E during the p.m. peak hour. All other study roadway segments would operate at an acceptable LOS (LOS D or better). The level of service on SR 140 between Santa Fe Avenue and Kibby Road is a significant cumulative impact. The project's contribution to this significant impact is cumulatively considerable; therefore, the project's cumulative impact would be *significant*.

By adding one lane in each direction in this segment, the roadway would be improved to operate at an acceptable LOS A. The widening of the roadway, however, may require right of way acquisition, the need for utility relocation and, approval by Caltrans. Prior to issuance of occupancy permits, the applicant shall pay the project's fair share contribution for the additional lanes. The project's fair share contribution for AM peak hour would be 1.5% and the contribution for PM peak hour would be 2.1%. With implementation of this mitigation measure, the cumulative impact would be reduced to a *less-than-significant* level.

Table 6-9 on Page 6-30 is revised as shown below:

Table 6-9 2030 Cumulative with Project Condition Signal Warrant Analysis						
Intersection	AM Peak Hour			PM Peak Hour		
	Criteria 1	Criteria 2	Warrant met?	Criteria 1	Criteria 2	Warrant met?
SR 140 / Baker Drive	No	Yes	Yes	No	Yes	Yes
SR 140 / Kibby Road	Yes	Yes	Yes	No	No	No
Childs Avenue / SR 99 Southbound Off-Ramp	Yes	Yes	Yes	Yes	Yes	Yes
Childs Avenue / SR 99 Northbound Off-Ramp	No	Yes	Yes	No	Yes	Yes
Mission Avenue / Coffee Street	No	Yes	Yes	Yes	Yes	Yes

Source: DKS Associates 2008

Pages 6-33 and Table 2-1 on page 2-67 are revised as shown below:

Mitigation Measure 6-11: It is recommended that the roadway segment between SR 140 and Gerard Avenue be improved to address these issues of poor pavement conditions and faded pavement markings. In addition, the Tower Road approaches to the intersection at Gerard Avenue (and the approaches along Gerard Avenue to Tower Road) should be improved to provide proper turning radii for standard trucks as classified under the Surface Transportation Assistance Act (STAA). Prior to issuance of occupancy permits, the applicant shall pay the project’s fair share contribution for the roadway improvements. The project’s fair share contribution would be 74% (average of 76% and 71%) for peak hour impacts. With implementation of the mitigation measure, the impact would be reduced to a *less-than-significant* level.

4.3 REVISIONS AND CORRECTIONS TO DRAFT EIR IN RESPONSE TO PUBLIC COMMENT

Several comments received during the public review period of the Draft EIR raised issues that require alteration to the Draft EIR. The majority of these issues consist of minor clarifications or correction of typographical errors. None of the issues require major revision to the Draft EIR text. The following insignificant modifications to the Draft EIR text, in response to public comment, do not alter the conclusions of the Draft EIR and do not constitute “substantial” new information as defined under Section 15088.5 of the *State CEQA Guidelines*, because these minor clarifications do not deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect or a feasible mitigation or avoidance measure. Recirculation of the Draft EIR is therefore not required. (*State CEQA Guidelines* Section 15088[b])

REVISIONS TO SECTION 3 “PROJECT DESCRIPTION”

In response to various public comments, page 3-15 is revised as shown below:

According to Wal-Mart representatives, to increase the efficiency of its vehicle fleet, all Wal-Mart-owned and operated tractor trailers domiciled at the Merced Distribution Center would comply with EPA 2010 truck fleet requirements, which would result in reduced emissions. Approximately 40-45% of all trucks associated with the proposed Distribution Center would be Wal-Mart-owned and operated. Wal-Mart plans to increase its truck fleet efficiency by 25 percent over the next three years and by 50% within 10 years. Following are specific steps Wal-Mart will take in order to reach that goal.

REVISIONS TO SECTION 4.6 “HYDROLOGY AND WATER QUALITY”

Pages 4.6-21 and Table 2-1 on pages 2-32 are revised as shown below:

The finish floor elevation of each structure on the site would be at least 2 feet above the existing ground elevation at the location of the structure, pursuant to City requirements for development within Zone A. The proposed project would meet or exceed City requirements for development within Zone A, and the stormwater management system would safely convey runoff from the 100-year storm. Preliminary calculations for the detention basins and conveyance facilities are conservative, i.e., they are sized larger than necessary to handle the 100-year storm event and would be refined at the final design phase. The detention basins would be as shallow as possible; target project depth for the detention basin or basins is 5 feet below ground surface (bgs), and although some areas may be deeper (8 to 10 feet) due to grading and terrain, the water depth would still be targeted at 5 feet. The berms would be designed and compacted pursuant to the final geotechnical report (ENGE0 2006b) for the project (Jim Emerson, pers. comm. 2009a).

An agreement with the Merced Irrigation District's (MID) will be required by the City on proposed project stormwater discharge points and drainage improvement details (Kim Espinosa, pers. comm. 2009). This agreement, which would reconcile differences in the requirements from the City and MID including stormwater holding times in the retention basins and release rates, contain the following conditions (per MID Letter to City of Merced [Comment 13 in the FEIR]):

- ▶ If storm water is to be discharged to any MID facility, the project proponent shall enter into a “Storm Drainage Agreement” with the MID Drainage Improvement district No. 1, and pay all applicable fees.
- ▶ The project proponent shall verify with MID stormwater discharge rates, means for connection to MID facilities, and water quality requirements so that MID can set final stormwater requirements. Depending on the approved route and discharge location (preferred alternative Fairfield Canal or the Farmdale Lateral/Doane Lateral) certain improvements including, but not limited to, pipelines, sensors, discharge structure assemblies and their appurtenances, would be required.
- ▶ The property owner must execute an appropriate agreement for all crossings over or under any MID facilities, including utilities, crossings, and pipelines.
- ▶ A signature block will be provided for MID on all project Improvement Plans that impact MID facilities.
- ▶ A “Construction Agreement” between the owner and the MID shall be executed for any work associated with MID facilities.
- ▶ Construction runoff into MID facilities is not allowed. Storm water discharges meeting MID requirements during the construction phase shall be agreed upon beforehand such that water quality is protected within the Doane Lateral and any downstream connected facilities or creeks.
- ▶ The west portion of the warehouse under the proposed project plan shall be realigned to avoid the existing electrical line, servicing City Well No. 10-R2 near the south end of the project site, within a new appropriately sized easement.
- ▶ MID shall receive a copy of the final, signed CEQA documents

City of Merced Storm Drain Master Plan standards have been applied to the formulation of the storm drain conveyance elements and stormwater detention basins at the primary local watershed level (see page 4.6-1), in order to accommodate stormwater runoff under buildout conditions pursuant to the City of Merced Vision 2015 General Plan. As with the stormwater detention and conveyance facilities, the preliminary stormwater quality

designs described in Mitigation Measure 4.6-2 at the conceptual phase are conservative (Jim Emerson, pers. comm. 2009).

The applicant is required to develop and implement a Spill Prevention, Control, and Counter measures to ensure that all pollutants are controlled and contained. An SPCC is required as part of the unified hazardous waste and hazardous materials management program (i.e. Unified Program) required by Senate Bill 1082 (1993). The Merced County Division of Environmental Health (MCDEH) is the Certified Unified Program Agency designated to oversee the SPCC. The Unified Program includes requirements for a SPCC pursuant to California Safety Code Sections 25270-25270.13 and U.S. CFR Title 40 Part 112. The following types of BMPs must be incorporated into the SPCC:

- ▶ Material Delivery and Storage Controls: Provide covered storage for materials, especially toxic or hazardous materials, to prevent exposure to stormwater. Toxic or hazardous materials shall also be stored and transferred on impervious surfaces that will provide secondary containment for spills. Vehicles and equipment used for material delivery and storage, as well as contractor vehicles, shall be parked in designated areas.
- ▶ Spill Prevention and Control: Ensure that spills and releases of materials are cleaned up immediately and thoroughly. Ensure that appropriate spill response equipment, such as spill kits preloaded with absorbents in an overpack drum, are provided at convenient locations throughout the site. Spent absorbent material must be managed and disposed of in accordance with applicable regulations. In particular, absorbents used to clean up spills of hazardous materials or waste must be managed as hazardous waste unless characterized as nonhazardous.
- ▶ Solid Waste Management: Provide a sufficient number of conveniently located trash receptacles to promote proper disposal of solid wastes. Ensure that the receptacles are provided with lids or covers to prevent windblown litter.
- ▶ Vehicle and Equipment Fueling: Fuel vehicles and equipment off site whenever possible. If off site fueling is not practical, establish a designated on site fueling area with proper containment and spill cleanup materials.
- ▶ Vehicle and Equipment Maintenance: Use off site maintenance facilities whenever possible. Any wash bays or on site maintenance areas must be protected from stormwater runoff to or from the area.
- ▶ Toxic debris requiring disposal, including discarded chemical containers, shall be disposed of in a landfill designed to satisfy the standards for protecting groundwater in as described in the design criteria and associated performance standards in the Federal statutes 40 CFR 258.4.

All wastewater generated by the truck wash bay would be discharged to the City's sanitary sewer system after initial processing by separators and other pretreatment approved by the City Environmental Control Officer. The wash bays would be protected from stormwater runoff pursuant to City requirements (Jim Emerson, pers. comm. 2009b).

REVISIONS TO SECTION 4.10 "PUBLIC HEALTH AND HAZARDS"

In response to Comment 96B-19, page 4.10-10 is revised as shown below:

The project site is located over 4 miles ~~west~~east of the Merced Municipal Airport and approximately 10 miles ~~northwest~~southeast of the Castle Airport. Therefore, the project is not located within an airport land use plan or within 2 miles of a public or private airport. As such, no safety hazards related to airports are anticipated, and this issue area will not be evaluated further in this DEIR.

REVISIONS TO SECTION 4.12 “UTILITIES AND PUBLIC SERVICES”

In response to Comment 213-4, pages 4.12-16 and 4.12-17 are revised as shown below:

Additional on-site wastewater conveyance facilities would be required to connect the proposed project into existing City sewer mains, and no extensions of off-site infrastructure would be required to serve the project. In the project area, a 12-inch sewer main is located on Childs Avenue, and a 36-inch sewer main is located on Gerard Avenue. A 30-inch trunk sewer main is located on Kibby Road and passes south through the project site to Gerard Avenue. The portion of this main on the project site would be relocated to an easement on the west side of the site within the property boundaries. (Frank, pers. comm., 2006.) The gravity sewer west of Kibby currently slopes toward Kibby. This would need to be replaced by a sewer sloping to the west, toward the replacement for the Kibby sewer scheduled to be installed along the western boundary of the property. The project’s internal wastewater conveyance system would be constructed, as needed, and would be adequately sized to accommodate project-related wastewater flows. The City’s wastewater system has been master planned for future development such as the proposed project. The Gerard trunk sewer is going to require major rehabilitation in the near future. This is a bituminous-lined, corrugated metal sewer installed in the 1950s and is badly deteriorated. It could be slip lined for an estimated \$6 million. As described in the City General Plan and the Merced Municipal Code, the project proponent would be responsible for paying sewer connection charges when the proposed project connects to the City’s sewer system. Payment of these fees would ensure the project proponent pays for its fair share of the cost of sewer infrastructure and WWTP services. (Frank, pers. comm., 2006.) This improvement will be funded by the connection fees and monthly charges for wastewater services (the City has an enterprise fund for wastewater); therefore, the applicant would pay a portion upon payment of sewer connection fees and through their monthly service charges. It should be noted that the sewer trunk replacement will occur regardless of whether the proposed project is approved. (Espinosa, pers. comm., 2009b)

In response to Comment 121B-1, page 4.12-18 is revised as shown below:

PG&E and MID facilities are located in the project area, and either utility provider could provide electrical service to the project site. PG&E facilities within the project area consist of two parallel transmission lines, a 115-kV line and a 230-kV. These transmission lines generally run north to south through the central area of the site and terminate northeast of the project site at the Wilson Substation. MID has a 12kV overhead line running through the site serving the City’s Water Well 10R2. This line would need to be placed underground and routed out of the way of the Wal-Mart facilities. The applicant would have the option of making an agreement with either MID or PG&E for the provision of electrical services. PG&E also indicated existing electrical facilities in the project are adequate to serve the project needs (Murphy, pers. comm., 2009).

In response to Comment 121B-1, page 4.12-19 is revised as shown below:

PG&E would provide natural gas to the project site. Natural gas lines are in the vicinity of the project site along Yosemite Parkway and Childs Avenue, and these lines parallel existing road rights-of-way (Frank, pers comm., 2006). Project development would connect to extensions of these existing off-site service lines, with the ultimate configuration to be approved by PG&E. Additional on-site service lines would be sized to meet the demands of the project, and public utility easements would be dedicated for all underground facilities. The location of infrastructure would be identified in the final project design. As part of the project approval process, the project applicant would coordinate with and meet the requirements of PG&E regarding the extension and locations of onsite infrastructure and comply with all existing City requirements. PG&E also indicated existing natural gas facilities in the vicinity are adequate to serve the project needs (Murphy, pers. comm., 2009).

4.4 REVISIONS AND CORRECTIONS TO THE DEIR AIR QUALITY SECTION 4.2

Because there were several minor changes made to Section 4.2 “Air Quality,” the entire revised section is included below. The revisions to Section 4.2 include both staff-initiated changes and changes made as a result of public comment. The following insignificant modifications to the Draft EIR text do not alter the conclusions of the Draft EIR and do not constitute “substantial” new information as defined under Section 15088.5 of the *State CEQA Guidelines*, because these minor clarifications do not deprive the public of a meaningful opportunity to comment upon a substantial adverse environmental effect or a feasible mitigation or avoidance measure. Recirculation of the Draft EIR is therefore not required. (*State CEQA Guidelines* Section 15088[b])

4.2 AIR QUALITY

This section includes a description of existing air quality conditions, summary of applicable regulations, and an analysis of potential short-term and long-term air quality impacts of the proposed project. The method of analysis for short-term construction, long-term regional (operational), local mobile source, odor, and toxic air contaminant (TAC) emissions in accordance with the recommendations of the San Joaquin Valley Air Pollution Control District (SJVAPCD). The analysis also includes consideration of the potential impact of the project on global climate change through the production of greenhouse gas emissions. In addition, mitigation measures are recommended, as necessary, to reduce significant air quality impacts.

4.2.1 ENVIRONMENTAL SETTING

The project site is located in Merced County, which is within the San Joaquin Valley Air Basin (SJVAB). The SJVAB also comprises all of Fresno, Kings, Madera, San Joaquin, Stanislaus, and Tulare counties, and the valley portion of Kern. The ambient concentrations of air pollutant emissions are determined by the amount of emissions released by pollutant sources and the atmosphere's ability to transport and dilute such emissions. Natural factors which affect transport and dilution include terrain, wind, atmospheric stability, and the presence of sunlight. Therefore, existing air quality conditions in the area are determined by such natural factors as topography, meteorology, and climate, in addition to the amount of emissions released by existing air pollutant sources, as discussed separately below.

TOPOGRAPHY, METEOROLOGY, AND CLIMATE

The SJVAB, which occupies the southern half of the Central Valley, is approximately 400 miles long (north-south) and, on average, 50 miles wide (east-west). The SJVAB is a well-defined climatic region, with distinct topographic features on three sides. The Coast Ranges, which have an average elevation of 3,000 feet, are located on the western border of the SJVAB. The San Emigdio Mountains, which are part of the Coast Ranges, and the Tehachapi Mountains, which are part of the Sierra Nevada, are both located on the south side of the SJVAB. The Sierra Nevada forms the eastern border of the SJVAB. The northernmost portion of the SJVAB is San Joaquin County. There is no topographic feature delineating the northern edge of the basin. The SJVAB is basically flat with a downward gradient in terrain to the northwest. Air flows into the SJVAB through the Carquinez Strait, the only breach in the western mountain barrier, and moves across the Sacramento–San Joaquin River Delta from the San Francisco Bay area. The mountains surrounding the SJVAB create a barrier to airflow, which leads to the entrapment of air pollutants when meteorological conditions are unfavorable for transport and dilution.

The inland Mediterranean climate type of the SJVAB is characterized by hot, dry summers and cool, rainy winters. The climate is a result of the topography and the strength and location of a semi-permanent, subtropical high-pressure cell. During summer, the Pacific high-pressure cell is centered over the northeastern Pacific Ocean, resulting in stable meteorological conditions and a steady northwesterly wind flow. Upwelling of cold ocean water from below to the surface as a result of the northwesterly flow produces a band of cold water off the California coast. Daily summer high temperatures often exceed 100° F, averaging in the low 90s in the north and high 90s in the south. In the entire SJVAB, daily summer high temperatures average 95° F. Over the last 30 years, temperatures in the SJVAB averaged 90° F or higher for 106 days a year, and 100° F or higher for 40 days a year. The daily summer temperature variation can be as high as 30° F (SJVAPCD 2002). In winter, the Pacific high-pressure cell weakens and shifts southward, resulting in wind flow offshore, the absence of upwelling, and the occurrence of storms. Average high temperatures in the winter are in the 50s, but lows in the 30s and 40s can occur on days with persistent fog and low cloudiness. The average daily low winter temperature is 45° F (SJVAPCD 2002).

A majority of the precipitation in the SJVAB occurs as rainfall during winter storms. The rare occurrence of precipitation during the summer is in the form of convective rain showers. The amount of precipitation in the SJVAB decreases from north to south primarily because of the Pacific storm track that often passes through the

northern part while the southern part remains protected by the Pacific high-pressure cell. Stockton in the north receives about 20 inches of precipitation per year, Fresno in the center receives about 10 inches per year, and Bakersfield at the southern end of the valley receives less than 6 inches per year. Average annual rainfall for the entire SJVAB is approximately 9.25 inches on the valley floor (SJVAPCD 2002).

The winds and unstable atmospheric conditions associated with the passage of winter storms result in periods of low air pollution and excellent visibility. Precipitation and fog tend to reduce or limit some pollutant concentrations. For instance, clouds and fog block sunlight, which is required to fuel photochemical reactions that form ozone. Because carbon monoxide (CO) is partially water-soluble, precipitation and fog also tend to reduce concentrations in the atmosphere. In addition, respirable particulate matter with an aerodynamic diameter of 10 micrometers or less (PM₁₀) can be washed from the atmosphere through wet deposition processes (e.g., rain). However, between winter storms, high pressure and light winds lead to the creation of low-level temperature inversions and stable atmospheric conditions resulting in the concentration of air pollutants (e.g., CO and PM₁₀).

Summer is considered the ozone season in the SJVAB. This season is characterized by poor air movement in the mornings and longer daylight hours which provides a plentiful amount of sunlight to fuel photochemical reactions between reactive organic gases (ROG) and nitrogen oxides (NO_x), which result in ozone formation. During the summer, wind speed and direction data indicate that summer wind usually originates at the north end of the San Joaquin Valley and flows in a south-southeasterly direction through the San Joaquin Valley, through Tehachapi pass, and into the Southeast Desert Air Basin (SJVAPCD 2002).

OZONE TRANSPORT

Ozone transport refers to the movement of ozone and precursors from other basins to the SJVAB, from the SJVAB to other air basins, and within the SJVAB. Transport can occur at ground level and also at higher altitudes (e.g., movement up mountain slopes during the day).

According to the SJVAB Extreme Ozone Attainment Demonstration Plan, the transport of pollutants within the SJVAB significantly contributes to high ozone concentrations (SJVAPCD 2005). As discussed above, prevailing winds blow from the northern part of the SJVAB to the south, and can transport pollutants from San Joaquin, Stanislaus, and Merced counties to the Fresno area. Pollutants transported from the San Francisco Bay area south to Fresno and Bakersfield are combined with those in the northern portion of the SJVAB because of the passage of air movement. Further south, eddy currents can transport pollutants along the east side of the SJVAB from Tulare County and northern Kern County to the Fresno area.

Ozone and precursors are transported from other basins to the SJVAB. On some days, according to an California Air Resources Board (ARB) assessment of ozone transport, pollutants transported from the San Francisco Bay area affect ozone air quality in the northern SJVAB, mixing with local emissions to contribute to violations of the national 1-hour ozone standard¹ (ARB 2001). On other days, violations of the standard are entirely from local emissions. The effect of San Francisco Bay area transport diminishes with distance so that ambient ozone concentrations in Fresno and Bakersfield are affected less. Overall, ARB rates the San Francisco Bay area's impact on SJVAB ozone air quality as ranging from inconsequential to overwhelming (i.e., alone can cause violations) depending on meteorological conditions occurring at the time of transport evaluation and in the receptor area. ARB also identifies the broader Sacramento area as a source of ozone and precursor transport to the SJVAB, but the effect only ranges from significant (i.e., contributes to a violation when combined with local emissions) to inconsequential. ARB's assessment of ozone transport found that pollutants transported from other air basins affect the SJVAB's ozone air quality, but the magnitude of the effect declines from north to south (ARB 2001). Local emissions are thought to be primarily responsible for the SJVAB's worst ozone air quality.

EXISTING AIR QUALITY—CRITERIA AIR POLLUTANTS

Concentrations of the following air pollutants: ozone, CO, nitrogen dioxide (NO₂), sulfur dioxide (SO₂), respirable and fine particulate matter (PM₁₀ and PM_{2.5}), and lead are used as indicators of ambient air quality conditions. Because these are the most prevalent air pollutants known to be deleterious to human health and extensive health-effects criteria documents are available, they are commonly referred to as “criteria air pollutants.”

A brief description of each criteria air pollutant including source types, health effects, and future trends is provided below along with the most current attainment area designations and monitoring data for the project area.

Ozone

Ozone is a photochemical oxidant, a substance whose oxygen combines chemically with another substance in the presence of sunlight, and the primary component of smog. Ozone is not directly emitted into the air, but is formed through complex chemical reactions between precursor emissions of ROG and NO_x in the presence of sunlight. ROG are volatile organic compounds that are photochemically reactive. ROG emissions result primarily from incomplete combustion and the evaporation of chemical solvents and fuels. NO_x are a group of gaseous compounds of nitrogen and oxygen that results from the combustion of fuels.

Ozone located in the upper atmosphere (stratosphere) acts in a beneficial manner by shielding the earth from harmful ultraviolet radiation that is emitted by the sun. However, ozone located in the lower atmosphere (troposphere) is a major health and environmental concern. Meteorology and terrain play a major role in ozone formation. Generally, low wind speeds or stagnant air coupled with warm temperatures and clear skies provide the optimum conditions for formation. As a result, summer is generally the peak ozone season. Because of the reaction time involved, peak ozone concentrations often occur far downwind of the precursor emissions. Therefore, ozone is a regional pollutant that often affects large areas. In general, ozone concentrations over or near urban and rural areas reflect an interplay of emissions of ozone precursors, transport, meteorology, and atmospheric chemistry (Godish 2004).

The adverse health effects associated with exposure to ozone pertain primarily to the respiratory system. Scientific evidence indicates that ambient levels of ozone affect not only sensitive receptors, such as asthmatics and children, but healthy adults as well. Exposure to ambient levels of ozone ranging from 0.10 to 0.40 parts per million (ppm) for 1 to 2 hours has been found to significantly alter lung functions by increasing respiratory rates and pulmonary resistance, decreasing tidal volumes, and impairing respiratory mechanics. Ambient levels of ozone above 0.12 ppm are linked to symptomatic responses that include such symptoms as throat dryness, chest tightness, headache, and nausea. In addition to the above adverse health effects, evidence also exists relating ozone exposure to an increase in the permeability of respiratory epithelia; such increased permeability leads to an increase in responsiveness of the respiratory system to challenges, and the interference or inhibition of the immune system’s ability to defend against infection (Godish 2004). Ground level ozone also damages forests, agricultural crops, and some human-made materials, such as rubber, paint, and plastics (City of Merced 1997).

Emissions of ozone precursors ROG and NO_x have decreased over the past several years because of more stringent motor vehicle standards and cleaner burning fuels. The ozone problem in the San Joaquin Valley ranks among the most severe in the State. Peak levels have not declined as much as the number of days that standards are exceeded. From 1985 to 2004, the maximum peak 8-hour indicator decreased only 2%. The number of national 8-hour standard exceedance days has been quite variable over the years. This variability is due, in part, to the influence of meteorology as well as changes to the monitoring network. The monitoring network was not as extensive during the 1980’s as it has been during the last 14 years. For this reason, the period of 1990 to 2005 provides a better indication of trends. During this period, there has been an 8% decrease in the three-year average of the number of exceedance days of the national 8-hour standard (ARB ~~2006~~2006a).

Carbon Monoxide

CO is a colorless, odorless, and poisonous gas produced by incomplete burning of carbon in fuels, primarily from mobile (transportation) sources. In fact, 77% of the nationwide CO emissions are from mobile sources. The other 23% consists of CO emissions from wood-burning stoves, incinerators, and industrial sources.

CO enters the bloodstream through the lungs by combining with hemoglobin, which normally supplies oxygen to the cells. However, CO combines with hemoglobin much more readily than oxygen does, resulting in a drastic reduction in the amount of oxygen available to the cells. Adverse health effects associated with exposure to CO concentrations include such symptoms as dizziness, headaches, and fatigue. CO exposure is especially harmful to individuals who suffer from cardiovascular and respiratory diseases (EPA ~~2006~~2006a).

The highest concentrations are generally associated with cold stagnant weather conditions that occur during the winter. In contrast to ozone, which tends to be a regional pollutant, CO problems tend to be localized.

Nitrogen Dioxide

Nitrogen dioxide (NO₂) is a brownish, highly reactive gas that is present in all urban environments. The major human-made sources of NO₂ are combustion devices, such as boilers, gas turbines, and mobile and stationary reciprocating internal combustion engines. Combustion devices emit primarily nitric oxide (NO), which reacts through oxidation in the atmosphere to form NO₂ (EPA ~~2006~~2006a). The combined emissions of NO and NO₂ are referred to as NO_x, which are reported as equivalent NO₂. Because NO₂ is formed and depleted by reactions associated with photochemical smog (ozone), the NO₂ concentration in a particular geographical area may not be representative of the local NO_x emission sources.

Inhalation is the most common route of exposure to NO₂. Because NO₂ has relatively low solubility in water, the principal site of toxicity is in the lower respiratory tract. The severity of the adverse health effects depends primarily on the concentration inhaled rather than the duration of exposure. An individual may experience a variety of acute symptoms, including coughing, difficulty with breathing, vomiting, headache, and eye irritation during or shortly after exposure. After a period of approximately 4 to 12 hours, an exposed individual may experience chemical pneumonitis or pulmonary edema with breathing abnormalities, cough, cyanosis, chest pain, and rapid heartbeat. Severe, symptomatic NO₂ intoxication after acute exposure has been linked on occasion with prolonged respiratory impairment with such symptoms as chronic bronchitis and decreased lung functions.

Sulfur Dioxide

SO₂ is produced by such stationary sources as coal and oil combustion, steel mills, refineries, pulp and paper mills. The major adverse health effects associated with SO₂ exposure pertain to the upper respiratory tract. SO₂ is a respiratory irritant with constriction of the bronchioles occurring with inhalation of SO₂ at 5 ppm or more. On contact with the moist mucous membranes, SO₂ produces sulfuric acid, which is a direct irritant. Concentration rather than duration of the exposure is an important determinant of respiratory effects. Exposure to high SO₂ concentrations may result in edema of the lungs or glottis and respiratory paralysis.

Particulate Matter

Respirable particulate matter with an aerodynamic diameter of 10 micrometers or less is referred to as PM₁₀. PM₁₀ consists of particulate matter emitted directly into the air, such as fugitive dust, soot, and smoke from mobile and stationary sources, construction operations, fires and natural windblown dust, and particulate matter formed in the atmosphere by condensation and/or transformation of SO₂ and ROG (EPA ~~2006~~2006a). Fine particulate matter (PM_{2.5}) includes a subgroup of smaller particles that have an aerodynamic diameter of 2.5 micrometers or less (ARB ~~2006~~2006a).

The adverse health effects associated with PM₁₀ depend on the specific composition of the particulate matter. For example, health effects may be associated with metals, polycyclic aromatic hydrocarbons, and other toxic substances adsorbed onto fine particulate matter, which is referred to as the piggybacking effect, or with fine dust particles of silica or asbestos. Generally, adverse health effects associated with PM₁₀ may result from both short-term and long-term exposure to elevated concentrations and may include breathing and respiratory symptoms, aggravation of existing respiratory and cardiovascular diseases, alterations to the immune system, carcinogenesis, and premature death (EPA ~~2006x2006a~~). PM_{2.5} poses an increased health risk because the particles can deposit deep in the lungs and may contain substances that are particularly harmful to human health.

Direct emissions of PM₁₀ have remained relatively unchanged between 1975 and 2005 and are projected to remain unchanged through 2020. PM₁₀ emissions in the San Joaquin Valley are dominated by emissions from areawide sources, primarily fugitive dust from vehicle travel on unpaved and paved roads, waste burning, and residential fuel combustion. Direct emissions of PM_{2.5} decreased from 1975 to 2005 and are projected to continue decreasing through 2020. PM_{2.5} emissions in the San Joaquin Valley are dominated by emissions from areawide sources, primarily fugitive dust from vehicle travel on unpaved and paved roads, waste burning, and residential fuel combustion (ARB ~~2006x2006a~~).

Lead

Lead is a metal found naturally in the environment as well as in manufactured products. The major sources of lead emissions have historically been mobile and industrial sources. As a result of the phase-out of leaded gasoline, as discussed in detail below, metal processing is currently the primary source of lead emissions. The highest levels of lead in air are generally found near lead smelters. Other stationary sources are waste incinerators, utilities, and lead-acid battery manufacturers.

Twenty years ago, mobile sources were the main contributor to ambient lead concentrations in the air. In the early 1970s, the U.S. Environmental Protection Agency (EPA) set national regulations to gradually reduce the lead content in gasoline. In 1975, unleaded gasoline was introduced for motor vehicles equipped with catalytic converters. EPA banned the use of leaded gasoline in highway vehicles in December 1995 (EPA ~~2006x2006a~~).

As a result of EPA's regulatory efforts to remove lead from gasoline, emissions of lead from the transportation sector have declined dramatically (95% between 1980 and 1999), and levels of lead in the air decreased by 94% between 1980 and 1999. Transportation sources, primarily airplanes, now contribute only 13% of lead emissions. A recent National Health and Nutrition Examination Survey reported a 78% decrease in the levels of lead in people's blood between 1976 and 1991. This dramatic decline can be attributed to the move from leaded to unleaded (EPA ~~2006x2006a~~).

The decrease in lead emissions and ambient lead concentrations over the past 25 years is California's most dramatic success story. The rapid decrease in lead concentrations can be attributed primarily to phasing out the lead in gasoline. This phase-out began during the 1970s, and subsequent ARB regulations have virtually eliminated all lead from gasoline now sold in California. All areas of the state are currently designated as attainment for the state lead standard (EPA does not designate areas for the national lead standard). Although the ambient lead standards are no longer violated, lead emissions from stationary sources still pose "hot spot" problems in some areas. As a result, ARB identified lead as a toxic air contaminant.

Emissions Inventory

Table 4.2-1 summarizes emissions of criteria air pollutants within Merced County for various source categories. According to Merced County's emissions inventory, mobile sources are the largest contributor to the estimated annual average air pollutant levels of CO and NO_x accounting for approximately 57% and 78%, respectively, of the total emissions. Areawide sources account for approximately 58%, 91%, and 85% of the County's ROG, PM₁₀ and PM_{2.5} emissions, respectively. Stationary sources account for approximately 67% of the County's oxides of sulfur emissions.

**Table 4.2-1
Summary of 2005 Estimated Emissions Inventory for Merced County**

Source Type/Category	Estimated Annual Average Emissions (Tons per Day)					
	ROG	CO	NO _x	SO _x	PM ₁₀	PM _{2.5}
Stationary Sources						
Fuel Combustion	0.55	11.25	3.33	0.79	0.24	0.24
Waste Disposal	0.02	0.00	0.00	–	0.00	0.00
Cleaning and Surface Coating	1.17	–	–	–	–	–
Petroleum Production and Marketing	0.62	–	–	–	–	–
Industrial Processes	1.57	0.62	3.10	0.08	1.71	0.90
Subtotal (Stationary Sources)	3.93	11.87	6.43	0.87	1.96	1.13
Areawide Sources						
Solvent Evaporation	5.02	–	–	–	–	–
Miscellaneous Processes	13.02	60.60	0.92	0.04	30.70	11.19
Subtotal (Areawide Sources)	18.04	60.60	0.92	0.04	30.70	11.19
Mobile Sources						
On-Road Motor Vehicles	6.67	78.33	15.98	0.12	0.48	0.34
Other Mobile Sources	2.55	16.35	9.98	0.28	0.63	0.57
Subtotal (Mobile Sources)	9.22	94.68	25.96	0.40	1.11	0.92
Grand Total for Merced County	31.19	167.15	33.31	1.30	33.77	13.24
Notes: Numbers may not match the County totals due to rounding. ROG = reactive organic gases; CO = carbon monoxide; NO _x = oxides of nitrogen; SO _x = oxides of sulfur; PM ₁₀ = respirable particulate matter; PM _{2.5} = fine particulate matter						
Source: ARB 2007 2007a						

Monitoring Station Data and Attainment Area Designations

Criteria air pollutant concentrations are measured at several monitoring stations in the SJVAB. The monitoring station closest to the proposed project site is located just west of the project site at 385 South Coffee Avenue and measures ozone and NO₂. The closest monitoring station that measures PM₁₀ and PM_{2.5} is located at 2334 M Street, which is approximately 3.7 miles northwest of the project site. Table 4.2-2 summarizes the air quality data from these two stations for the most recent 4 years, 2003 through 2006. The data is not necessarily representative of the project site, because of the distance from the monitor to the site and the monitor location was meant to measure the highest urban ozone concentrations (SJVAPCD 2005).

Both ARB and EPA use this type of monitoring data to designate areas according to attainment status for criteria air pollutants established by the agencies. The purpose of these designations is to identify those areas with air quality problems and thereby initiate planning efforts for improvement. The three basic designation categories are nonattainment, attainment, and unclassified. Unclassified is used in an area that cannot be classified on the basis of available information as meeting or not meeting the standards. In addition, the California designations include a subcategory of the nonattainment designation, called nonattainment-transitional. The nonattainment-transitional designation is given to nonattainment areas that are progressing and nearing attainment. The most current attainment designations for the Merced County portion of the SJVAB are shown in Table 4.2-3 for each criteria air pollutant.

**Table 4.2-2
Summary of Annual Ambient Air Quality Data (2003-2008) – Merced Stations¹**

	2005	2006	2007	2008
Ozone				
Maximum concentration (1-hr/8-hr, ppm)	0.100/0.093	0.102/0.091	0.105/0.096	<u>0.131/0.121</u>
Number of days state standard exceeded (1-hr)	6	4	5	<u>14</u>
Number of days national standard exceeded (1-hr/8-hr)	0/20	0/23	0/18	<u>3/33</u>
Nitrogen Dioxide (NO₂)				
Maximum concentration (1-hr, ppm)	0.062	0.062	0.050	<u>0.060</u>
Number of days state standard exceeded (1-hr)	0	0	0	<u>0</u>
Annual Average (ppm)	0.011	0.010	0.009	<u>0.009</u>
Fine Particulate Matter (PM_{2.5})				
Maximum concentration (µg/m ³)	54	56	82	<u>54</u>
Number of days national standard exceeded (measured ²)	1	1	1	<u>9</u>
Respirable Particulate Matter (PM₁₀)				
Maximum concentration (µg/m ³)	75	98	69	<u>76.8</u>
Number of days state standard exceeded (calculated ²)	29	47.4	36.5	<u>83</u>
Number of days national standard exceeded (calculated ²)	0	0	0	<u>0</u>
Notes: ppm = parts per million; µg/m ³ = micrograms per cubic meter				
¹ Measurements of ozone and NO ₂ are from the Coffee Avenue station, and measurements of PM ₁₀ and PM _{2.5} are from the M Street station.				
² Measured days are those days that an actual measurement was greater than the level of the state daily standard or the national daily standard. Measurements are typically collected every 6 days. Calculated days are the estimated number of days that a measurement would have been greater than the level of the standard had measurements been collected every day. The number of days above the standard is not necessarily the number of violations of the standard for the year.				
Sources: ARB 2008 2007b, EPA 2006 2006b, ARB 2009, Air Quality Data Statistics. Available: < http://www.arb.ca.gov/adam/welcome.html > Accessed June 30, 2009.				

Table 4.2-3 Ambient Air Quality Standards and Merced County Attainment Status						
Pollutant	Averaging Time	California		National Standards ¹		
		Standards ^{2,3}	Attainment Status ⁴	Primary ^{3,5}	Secondary ^{3,6}	Attainment Status ⁷
Ozone	1-hour	0.09 ppm (180 µg/m ³)	N (Severe)	- ⁹	-	-
	8-hour	0.070 ppm ⁸ (137 µg/m ³)	N	0.075 ppm (147 µg/m ³)	Same as Primary Standard	N(Serious)
Carbon Monoxide (CO)	1-hour	20 ppm (23 mg/m ³)	U ¹¹	35 ppm (40 mg/m ³)	-	U/A
	8-hour	9 ppm (10 mg/m ³)		9 ppm (10 mg/m ³)		
Nitrogen Dioxide (NO ₂) ¹²	Annual Arithmetic Mean	0.030 ppm (57 µg/m ³)	-	0.053 ppm (100 µg/m ³)	Same as Primary Standard	U/A
	1-hour	0.18 ppm (339 µg/m ³)	A	-		-
Sulfur Dioxide (SO ₂)	Annual Arithmetic Mean	-	-	0.030 ppm (80 µg/m ³)	-	-
	24-hour	0.04 ppm (105 µg/m ³)	A	0.14 ppm (365 µg/m ³)	-	U
	3-hour	-	-	-	0.5 ppm (1300 µg/m ³)	-
	1-hour	0.25 ppm (655 µg/m ³)	A	-	-	-
Respirable Particulate Matter (PM ₁₀)	Annual Arithmetic Mean	20 µg/m ³	N(Serious)	- ¹³	Same as Primary Standard	A ¹⁴
	24-hour	50 µg/m ³		150 µg/m ³		
Fine Particulate Matter (PM _{2.5})	Annual Arithmetic Mean	12 µg/m ³	N ¹⁵	15 µg/m ³	Same as Primary Standard	N
	24-hour	-	-	35 µg/m ³		
Lead ¹⁰	30-day Average Calendar Quarter	1.5 µg/m ³	A	-	Same as Primary Standard	-
	Rolling 3-Month Average	-	-	1.5 µg/m ³		
Sulfates	24-hour	25 µg/m ³	A	No National Standards		
Hydrogen Sulfide	1-hour	0.03 ppm (42 µg/m ³)	U			
Vinyl Chloride ¹⁰	24-hour	0.01 ppm (26 µg/m ³)	A			

**Table 4.2-3
Ambient Air Quality Standards and Merced County Attainment Status**

Pollutant	Averaging Time	California		National Standards ¹		
		Standards ^{2,3}	Attainment Status ⁴	Primary ^{3,5}	Secondary ^{3,6}	Attainment Status ⁷
Visibility-Reducing Particle Matter	8-hour	Extinction coefficient of 0.23 per kilometer — visibility of 10 miles or more (0.07—30 miles or more for Lake Tahoe) because of particles when the relative humidity is less than 70%.	U			

¹ National standards (other than ozone, PM, and those based on annual averages or annual arithmetic means) are not to be exceeded more than once a year. The ozone standard is attained when the fourth highest 8-hour concentration in a year, averaged over 3 years, is equal to or less than the standard. The PM₁₀ 24-hour standard is attained when 99% of the daily concentrations, averaged over 3 years, are equal to or less than the standard. The PM_{2.5} 24-hour standard is attained when 98% of the daily concentrations, averaged over 3 years, are equal to or less than the standard. Contact EPA for further clarification and current federal policies.

² California standards for ozone, CO (except Lake Tahoe), SO₂ (1- and 24-hour), NO₂, PM, and visibility-reducing particles are values that are not to be exceeded. All others are not to be equaled or exceeded. CAAQS are listed in the Table of Standards in Section 70200 of Title 17 of the California Code of Regulations. The California ambient air quality standard for NO₂ was amended on February 22, 2007 to lower the 1-hour standard to 0.18 ppm and establish a new annual standard of 0.030 ppm.

³ Concentration expressed first in units in which it was promulgated [i.e., parts per million (ppm) or micrograms per cubic meter (µg/m³)]. Equivalent units given in parentheses are based upon a reference temperature of 25°C and a reference pressure of 760 torr. Most measurements of air quality are to be corrected to a reference temperature of 25°C and a reference pressure of 760 torr; ppm in this table refers to ppm by volume, or micromoles of pollutant per mole of gas.

⁴ Unclassified (U): a pollutant is designated unclassified if the data are incomplete and do not support a designation of attainment or nonattainment. Attainment (A): a pollutant is designated attainment if the state standard for that pollutant was not violated at any site in the area during a 3-year period. Nonattainment (N): a pollutant is designated nonattainment if there was a least one violation of a state standard for that pollutant in the area. Nonattainment/Transitional (NT): is a subcategory of the nonattainment designation. An area is designated nonattainment/transitional to signify that the area is close to attaining the standard for that pollutant.

⁵ National Primary Standards: The levels of air quality necessary, with an adequate margin of safety, to protect the public health.

⁶ National Secondary Standards: The levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.

⁷ Nonattainment (N): any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant.
Attainment (A): any area that meets the national primary or secondary ambient air quality standard for the pollutant.
Unclassifiable (U): any area that cannot be classified on the basis of available information as meeting or not meeting the national primary or secondary ambient air quality standard for the pollutant.

⁸ This concentration effective May 17, 2006.

⁹ The 1-hour ozone NAAQS was revoked on June 15, 2005.

¹⁰ ARB has identified lead and vinyl chloride as toxic air contaminants with no threshold of exposure for adverse health effects determined. These actions allow for the implementation of control measures at levels below the ambient concentrations specified for these pollutants.

¹¹ Designation for Merced County; the designation is different for one or more other counties in the SJVAB.

¹² The CAAQS were amended on February 22, 2007, to lower the 1-hour standard to 0.18 ppm and establish a new annual standard of 0.03 ppm. These changes become effective after regulatory changes are submitted and approved by the Office of Administrative Law, expected later this year.

¹³ Because of a lack of evidence linking health problems to long-term exposure to coarse particle pollution, EPA revoked the annual PM10 standard on September 21, 2006.

¹⁴ On September 25, 2008, EPA redesignated the San Joaquin Valley to attainment for the PM10 NAAQS and approved the PM10 Maintenance Plan.

¹⁵ The SJVAB is designated nonattainment for the 1997 PM 2.5 federal standards. EPA designations for the 2006 PM 2.5 standards will be finalized in December 2009. The District has determined, as of the 2004-06 PM 2.5 data, that the Valley has attained the 1997 24-Hour PM 2.5 standard.

¹⁶ National lead standard, rolling 3-month average: final rule signed October 15, 2008.

Source: SJVAPCD ~~2006~~^{2006b}; ARB ~~2008~~^{2007c}, 2007d, ~~2006d~~; SJVAPCD 2008

EXISTING AIR QUALITY—TOXIC AIR CONTAMINANTS

Concentrations of TACs are also used as indicators of ambient-air-quality conditions. A TAC is defined as an air pollutant that may cause or contribute to an increase in mortality or in serious illness, or that may pose a hazard to human health. TACs are usually present in minute quantities in the ambient air; however, their high toxicity or health risk may pose a threat to public health even at low concentrations.

According to the 2005 edition of the California Almanac of Emissions and Air Quality (ARB ~~2006~~2006a), the majority of the estimated health risk from TACs can be attributed to relatively few compounds, the most important being PM from diesel-fueled engines (diesel PM). Diesel PM differs from other TACs in that it is not a single substance, but rather a complex mixture of hundreds of substances. Although diesel PM is emitted by diesel-fueled internal combustion engines, the composition of the emissions varies depending on engine type, operating conditions, fuel composition, lubricating oil, and whether an emission control system is present. Unlike the other TACs, no ambient monitoring data are available for diesel PM because no routine measurement method currently exists. However, ARB has made preliminary concentration estimates based on a PM exposure method. This method uses ARB emissions inventory's PM₁₀ database, ambient PM₁₀ monitoring data, and the results from several studies to estimate concentrations of diesel PM. In addition to diesel PM, benzene, 1,3-butadiene, acetaldehyde, carbon tetrachloride, hexavalent chromium, *para*-dichlorobenzene, formaldehyde, methylene chloride, and perchloroethylene pose the greatest existing ambient risk, for which data are available, in California.

Diesel PM poses the greatest health risk among these ten TACs mentioned. Based on receptor modeling techniques, ARB estimated the diesel PM health risk in 2000 to be 390 excess cancer cases per million people in the SJVAB. Since 1990, the health risk caused by diesel PM in the SJVAB has been reduced by 50%. Overall, levels of most TACs have gone down since 1990 except for *para*-dichlorobenzene and formaldehyde (ARB ~~2006~~2006a).

Existing Sources of TACs

Existing sources in the project vicinity include mobile-source emissions from surrounding freeways, McLane Pacific Grocery, and Central Valley Processing. Stationary TAC emission sources associated with McLane Pacific Grocery and Central Valley Processing may include boilers, backup emergency diesel generators, and above-ground fuel storage. According to ARB, there are no major existing stationary sources of TACs near the project site (ARB ~~2007~~2007e).

Naturally Occurring Asbestos

Naturally occurring asbestos may be found in at least 44 of California's 58 counties. Asbestos is the name for a group of naturally occurring silicate minerals. Exposure to asbestos may result in inhalation or ingestion of asbestos fibers, which over time may result in damage to the lungs or membranes that cover the lungs, leading to illness or even death.

According to the *General Location Guide for Ultramafic Rocks in California—Areas More Likely to Contain Naturally Occurring Asbestos* (Churchill and Hill 2000), the project site and off-site program elements are not located in areas that are more likely to contain naturally occurring asbestos.

EXISTING AIR QUALITY – ODORS

Typically, odors are generally regarded as an annoyance rather than a health hazard. However, manifestations of a person's reaction to foul odors can range from psychological (e.g., irritation, anger, or anxiety) to physiological (e.g., circulatory and respiratory effects, nausea, vomiting, and headache).

With respect to odors, the human nose is the sole sensing device. The ability to detect odors varies considerably among the population and overall is quite subjective. Some individuals have the ability to smell very minute quantities of specific substances; others may not have the same sensitivity but may have sensitivities to odors of other substances. In addition, people may have different reactions to the same odor and in fact an odor that is offensive to one person may be perfectly acceptable to another (e.g., fast food restaurant). It is important to also note that an unfamiliar odor is more easily detected and is more likely to cause complaints than a familiar one. This is because of the phenomenon known as odor fatigue, in which a person can become desensitized to almost any odor and recognition only occurs with an alteration in the intensity.

Quality and intensity are two properties present in any odor. The quality of an odor indicates the nature of the smell experience. For instance, if a person describes an odor as flowery or sweet, then the person is describing the quality of the odor. Intensity refers to the strength of the odor. For example, a person may use the word strong to describe the intensity of an odor. Odor intensity depends on the odorant concentration in the air. When an odorous sample is progressively diluted, the odorant concentration decreases. As this occurs, the odor intensity weakens and eventually becomes so low that the detection or recognition of the odor is quite difficult. At some point during dilution, the concentration of the odorant reaches a detection threshold. An odorant concentration below the detection threshold means that the concentration in the air is not detectable by the average human.

There are no discrete sources of odor in the vicinity of the project site. The agricultural lands located to the south and east of the project site do include dairy cattle, livestock, or other operations that involve large quantities of animal waste. The facilities operated by McLane Pacific Grocery and Central Valley Processing north of the project site sometimes harbor high volumes of diesel trucks. Exhaust odors from diesel engines operating at these nearby facilities were not noticeable during the 1-day site visit to the proposed project site. Typically, exhaust odors from diesel engines disperse rapidly with distance from the source.

EXISTING AIR QUALITY—GREENHOUSE GASES AND LINKS TO GLOBAL CLIMATE CHANGE

Various gases in the earth's atmosphere, classified as atmospheric greenhouse gases (GHGs), play a critical role in determining the earth's surface temperature. Solar radiation enters the earth's atmosphere from space. A portion of the radiation is absorbed by the earth's surface, and a smaller portion of this radiation is reflected back toward space. This absorbed radiation is then emitted from the earth, not as high-frequency solar radiation, but lower frequency infrared radiation. The frequencies at which bodies emit radiation are proportional to temperature. The earth has a much lower temperature than the sun; therefore, the earth emits lower frequency radiation. Most solar radiation passes through GHGs; however, infrared radiation is absorbed by these gases. As a result, radiation that otherwise would have escaped back into space is instead "trapped," resulting in a warming of the atmosphere. This phenomenon, known as the Greenhouse Effect, is responsible for maintaining a habitable climate on Earth. Without the Greenhouse Effect, Earth would not be able to support life as we know it.

Prominent GHGs contributing to the Greenhouse Effect are carbon dioxide (CO₂), methane (CH₄), ozone, nitrous oxide, hydrofluorocarbons, chlorofluorocarbons, and sulfur hexafluoride. Human-caused emissions of these GHGs in excess of natural ambient concentrations are responsible for intensifying the Greenhouse Effect and have led to a trend of unnatural warming of the earth's climate, known as global climate change or global warming (Ahrens 2003). It is *extremely unlikely* that global climate change of the past 50 years can be explained without the contribution from human activities (Intergovernmental Panel on Climate Change [IPCC] 2007). Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the industrial/manufacturing, utility, transportation, residential, and agricultural sectors (CEC ~~2006~~2006a). In California, the transportation sector is the largest emitter of GHGs, followed by electricity generation (CEC ~~2006~~2006a). Emissions of CO₂ are byproducts of fossil fuel combustion. Methane, a highly potent GHG, results from off-gassing (the release of chemicals from nonmetallic substances under ambient or greater pressure conditions) associated with agricultural practices and landfills. CO₂ sinks, or reservoirs, include vegetation and the ocean, which absorb CO₂ through sequestration and dissolution, respectively, two of the most common processes of CO₂ sequestration.

Climate change is a global problem. GHGs are global pollutants, unlike criteria air pollutants and TACs, which are pollutants of regional and local concern. Whereas pollutants with localized air quality effects have relatively short atmospheric lifetimes (about 1 day), GHGs have long atmospheric lifetimes (1 year to several thousand years). GHGs persist in the atmosphere for long enough time periods to be dispersed around the globe. Although the exact lifetime of any particular GHG molecule is dependent on multiple variables and cannot be pinpointed, it is understood that more CO₂ is emitted into the atmosphere than is sequestered by ocean uptake, vegetation, and other forms of sequestration. Of the total annual human-caused CO₂ emissions, approximately 54% is sequestered through ocean uptake, uptake by northern hemisphere forest regrowth, and other terrestrial sinks within a year, whereas the remaining 46% of human-caused CO₂ emissions remains stored in the atmosphere (Seinfeld and Pandis 1998).

Similarly, impacts of GHGs are borne globally, as opposed to localized air quality effects of CAPs and TACs. The quantity of GHGs that it takes to ultimately result in climate change is not precisely known; suffice to say, the quantity is enormous, and no single project alone would be expected to measurably contribute to a noticeable incremental change in the global average temperature, or to global, local, or micro climate. From the standpoint of CEQA, GHG impacts to global climate change are inherently cumulative.

Atmospheric Persistence in the Global Carbon Cycle

Unlike diurnal criteria air pollutants such as ozone, CO₂ emissions persist in the atmosphere for much longer periods, on the order of tens to hundreds of years. Although the exact lifetime of any particular CO₂ molecule is dependent on multiple variables and cannot be pinpointed, it is understood that more CO₂ is emitted into the atmosphere than is sequestered by ocean uptake, vegetation, and other forms of sequestration. Of the total annual human-caused CO₂ emissions, approximately 54% is sequestered through ocean uptake, uptake by northern hemisphere forest regrowth, and other terrestrial sinks within a year, whereas the remaining 46% of human-caused CO₂ emissions remains stored in the atmosphere (Seinfeld and Pandis 1998).

Feedback Mechanisms and Uncertainty

Many complex mechanisms interact within Earth's energy budget to establish the global average temperature and global and regional climate conditions. For example, increases in atmospheric temperature would lead to increases in ocean temperature. As atmospheric and ocean temperatures increase, sea ice and glaciers are expected to melt, adding more fresh water to the ocean and altering salinity conditions. Both increases in ocean temperature and changes in salinity would be expected to lead to changes in circulation of ocean currents. Changes in current circulation would further alter ocean temperatures and alter terrestrial climates where currents have changed. Several interacting atmospheric, climatic, aquatic, and terrestrial factors affecting global climate change are described below. These factors result in feedback mechanisms that could potentially increase or decrease the effects of global climate change. There is uncertainty about how some factors may affect global climate change because they have the potential to both intensify and neutralize future climate warming. Examples of these conditions are described below.

Direct and Indirect Aerosol Effects

Aerosols, including particulate matter, reflect sunlight back to space. As air quality goals for particulate matter are met and fewer emissions of particulate matter occur, the cooling effect of aerosols would be reduced, and the Greenhouse Effect would be further intensified. Similarly, aerosols act as cloud condensation nuclei, aiding in cloud formation and increasing cloud lifetime. Under some circumstances (see discussion of the cloud effect below), clouds efficiently reflect solar radiation back to space. With a reduction in emission of particulate matter, including aerosols, the indirect positive effect of aerosols on clouds would be reduced, potentially further amplifying the Greenhouse Effect.

The Cloud Effect

As global temperature rises, the ability of the air to hold moisture increases, facilitating cloud formation. As stated above, clouds can efficiently reflect solar radiation back to space. If an increase in cloud cover occurs at low or middle altitudes, resulting in clouds with greater liquid water content, such as stratus or cumulus clouds, more radiation would be reflected back to space than under current conditions. This would result in a negative feedback mechanism, in which the increase in cloud cover resulting from global climate change acts to balance the amount of further warming. If clouds form at higher altitudes in the form of cirrus clouds, however, these clouds allow more solar radiation to pass through than they reflect and ultimately act as a GHG themselves. This results in a positive feedback mechanism, in which the side effect of global climate change (an increase in cloud cover) acts to intensify the warming process. Because of the conflicting feedback mechanisms to which increasing cloud cover can contribute, this cloud effect is an area of relatively high uncertainty for scientists when projecting future global climate change conditions.

Other Feedback Mechanisms

As global temperature continues to rise, CH₄ gas trapped in permafrost is expected to be released into the atmosphere. As identified above in the description of CO₂ equivalents, CH₄ is approximately 21 times as efficient a GHG as CO₂; therefore, this release of CH₄ would accelerate and intensify global climate change if current trends continue. Additionally, as the surface area of polar and sea ice continues to diminish, Earth's albedo, or reflectivity, also is anticipated to decrease. More incoming solar radiation likely will be absorbed by the earth rather than be reflected back into space, further intensifying the Greenhouse Effect and associated global climate change. These and other both positive and negative feedback mechanisms are still being studied by the scientific community to better understand their potential effects on global climate change. It is not known at this time how much of an increase in global average temperature may result from the interaction of all the pertinent variables. Although the amount and rate of increase in global average temperature are uncertain, there is no longer much debate within the scientific community that global climate change is occurring and that human-caused GHG emissions are contributing to this phenomenon.

ATTRIBUTING CLIMATE CHANGE—GREENHOUSE GAS EMISSION SOURCES

Emissions of GHGs contributing to global climate change are attributable in large part to human activities associated with the industrial/manufacturing, utility, transportation, residential, and agricultural sectors (California Energy Commission [CEC] ~~2006~~2006a). In California, the transportation sector is the largest emitter of GHGs, followed by electricity generation (CEC ~~2006~~2006a). Emissions of CO₂ are byproducts of fossil fuel combustion. CH₄, a highly potent GHG, results from off-gassing (the release of chemicals from nonmetallic substances under ambient or greater pressure conditions) is largely associated with agricultural practices and landfills. CO₂ sinks, or reservoirs, include vegetation and the ocean, which absorb CO₂ through sequestration and dissolution, respectively, two of the most common processes of CO₂ sequestration.

California is the 12th to 16th largest emitter of CO₂ in the world (CEC ~~2006~~2006a). California produced 499 million gross metric tons of CO₂ equivalent (CO₂e) in 2004 (ARB ~~2007~~2008a). CO₂e is a measurement used to account for the fact that different GHGs have different potential to retain infrared radiation in the atmosphere and contribute to the Greenhouse Effect. This potential, known as the global warming potential (GWP) of a GHG, is dependent on the lifetime, or persistence, of the gas molecule in the atmosphere. For example, as described in Appendix C, "Calculation References," of the General Reporting Protocol of the California Climate Action Registry (CCAR 2007), 1 ton of CH₄ has the same contribution to the Greenhouse Effect as approximately 23 tons of CO₂. Therefore, CH₄ is a much more potent GHG than CO₂. Expressing emissions in CO₂e takes the contributions of all GHG emissions to the Greenhouse Effect and converts them to a single unit equivalent to the effect that would occur if only CO₂ were being emitted.

Combustion of fossil fuel in the transportation sector was the single largest source of California's GHG emissions in 2004, accounting for 40.7% of total GHG emissions in the state (CEC ~~2006~~2006a). This sector was followed by the electric power sector (including both in-state and out-of-state sources) (22.2%) and the industrial sector (20.5%) (CEC ~~2006~~2006a).

4.2.2 REGULATORY SETTING

Air quality within Merced County is regulated by EPA, ARB, and SJVAPCD. Each of these agencies develops rules, regulations, policies, and/or goals to comply with applicable legislation. Although EPA regulations may not be superseded, both state and local regulations may be more stringent.

FEDERAL PLANS, POLICIES, REGULATIONS, AND LAWS

U.S. Environmental Protection Agency

At the federal level, EPA has been charged with implementing national air quality programs. EPA's air quality mandates are drawn primarily from the federal Clean Air Act (CAA), which was enacted in 1970. The most recent major amendments made by Congress were in 1990.

The CAA required EPA to establish national ambient air quality standards (NAAQS). As shown in Table 4.2-2, EPA has established primary and secondary NAAQS for the following criteria air pollutants: ozone, CO, NO₂, SO₂, PM₁₀, PM_{2.5}, and lead. The primary standards protect the public health and the secondary standards protect public welfare. The CAA also required each state to prepare an air quality control plan referred to as a State Implementation Plan (SIP). The federal Clean Air Act Amendments of 1990 (CAAA) added requirements for states with nonattainment areas to revise their SIPs to incorporate additional control measures to reduce air pollution. The SIP is periodically modified to reflect the latest emissions inventories, planning documents, and rules and regulations of the air basins as reported by their jurisdictional agencies. EPA has responsibility to review all state SIPs to determine conformance to the mandates of the CAA, and the amendments thereof, and determine if implementation will achieve air quality goals. If EPA determines a SIP to be inadequate, a Federal Implementation Plan may be prepared for the nonattainment area that imposes additional control measures. Failure to submit an approvable SIP or to implement the plan within the mandated timeframe may result in sanctions being applied to transportation funding and stationary air pollution sources in the air basin.

In April 2007 the Supreme Court of the United States ruled that CO₂ is an air pollutant as defined under the CAA, and that EPA has the authority to regulate emissions of GHGs. However, there are no federal regulations or policies regarding GHG emissions applicable to the proposed project.

STATE PLANS, POLICIES, REGULATIONS, AND LAWS

California Air Resources Board

ARB is the agency responsible for coordination and oversight of state and local air pollution control programs in California and for implementing the California Clean Air Act (CCAA). The CCAA, which was adopted in 1988, required ARB to establish California ambient air quality standards (CAAQS) (Table 4.2-3). ARB has established CAAQS for sulfates, hydrogen sulfide, vinyl chloride, visibility-reducing particulate matter, and the above mentioned criteria air pollutants. In most cases the CAAQS are more stringent than the NAAQS. Differences in the standards are generally explained by the health effects studies considered during the standard setting process and the interpretation of the studies. In addition, the CAAQS incorporate a margin of safety to protect sensitive individuals.

The CCAA requires that all local air districts in the state endeavor to achieve and maintain the CAAQS by the earliest practical date. The act specifies that local air districts should focus particular attention on reducing the

emissions from transportation and areawide emission sources, and provides districts with the authority to regulate indirect sources.

Other ARB responsibilities include, but are not limited to, overseeing local air district compliance with California and federal laws, approving local air quality plans, submitting SIPs to EPA, monitoring air quality, determining and updating area designations and maps, and setting emissions standards for new mobile sources, consumer products, small utility engines, off-road vehicles, and fuels. There are 15 nonattainment areas for the national ozone standard and two nonattainment areas for the PM_{2.5} standard. The Ozone SIP and PM_{2.5} SIP must be adopted and sent to EPA by June 2007 and April 2008, respectively. The SIP must show how each area will attain the federal standards. To do this, the SIP will identify the amount of pollution emissions that must be reduced in each area to meet the standard and the emission controls needed to reduce the necessary emissions.

ARB and local air pollution control districts are currently developing plans for meeting new national air quality standards for ozone and PM_{2.5}. The Draft Statewide Air Quality Plan was released in April 2007 (ARB ~~2007x~~2007f).

Airborne Toxic Control Measures (ATCM) to Limit Diesel-Fueled Commercial Motor Vehicle Idling

As part of its diesel risk reduction plan, ARB has developed an air toxic control measure that limits stationary idling by diesel-fueled commercial trucks to 5 minutes (13 CCR Chapter 10 Section 2485).

Assembly Bill 1493

In 2002, then-Governor Gray Davis signed Assembly Bill (AB) 1493. AB 1493 requires that ARB develop and adopt, by January 1, 2005, regulations that achieve “the maximum feasible reduction of greenhouse gases emitted by passenger vehicles and light-duty trucks and other vehicles determined by ARB to be vehicles whose primary use is noncommercial personal transportation in the state.”

To meet the requirements of AB 1493, in 2004 ARB approved amendments to the California Code of Regulations (CCR) adding GHG emissions standards to California’s existing standards for motor vehicle emissions. Amendments to CCR Title 13, Sections 1900 and 1961 (13 CCR 1900, 1961), and adoption of Section 1961.1 (13 CCR 1961.1) require automobile manufacturers to meet fleet-average GHG emissions limits for all passenger cars, light-duty trucks within various weight criteria, and medium-duty passenger vehicle weight classes (i.e., any medium-duty vehicle with a gross vehicle weight rating less than 10,000 pounds that is designed primarily for the transportation of persons), beginning with the 2009 model year. Emissions limits are reduced further in each model year through 2016. Emissions requirements adopted as part of 13 CCR 1961.1 are shown in Table 4.2-4. For passenger cars and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 pounds or less, the GHG emission limits for the 2016 model year are approximately 37% lower than the limits for the first year of the regulations, the 2009 model year. For light-duty trucks with LVW of 3,751 pounds to gross vehicle weight (GVW) of 8,500 pounds, as well as medium-duty passenger vehicles, GHG emissions are reduced approximately 24% between 2009 and 2016.

**Table 4.2-4
Fleet-Average Greenhouse Gas Exhaust Emission Limits Included in CCR 13 1961.1**

Vehicle Model Year	Fleet-Average Greenhouse Gas Emissions (carbon dioxide equivalents in grams per mile)	
	Light-Duty Trucks 0-3,750 Pounds LVW and Passenger Cars	Light-Duty Trucks 3,751 Pounds LVW to 8,500 Pounds GVW and Medium-Duty Passenger Vehicles*
2009	323	439
2010	301	420
2011	267	390
2012	233	361
2013	227	355
2014	222	350
2015	213	341
2016	205	332

Notes: GVW = gross vehicle weight, LVW = loaded vehicle weight.

* Specific characteristics of passenger cars, light-duty trucks, and medium-duty passenger vehicles are provided in Title 13, Section 1900 of the California Code of Regulations as amended to comply with Assembly Bill 1493.

Source: California Code of Regulations, Title 13, Section 1961.1

In December 2004, a group of car dealerships, automobile manufacturers, and trade groups representing automobile manufacturers filed suit against ARB to prevent enforcement of 13 CCR Sections 1900 and 1961 as amended by AB 1493 and 13 CCR 1961.1 (*Central Valley Chrysler-Jeep et al. v. Catherine E. Witherspoon, in Her Official Capacity as Executive Director of the California Air Resources Board, et al.*). The suit, still in process, in the U.S. District Court for the Eastern District of California, contends that California’s implementation of regulations that, in effect, regulate vehicle fuel economy violates various federal laws, regulations, and policies. To date, the suit has not been settled, and the judge has issued an injunction stating that ARB cannot enforce the regulations in question before receiving appropriate authorization from EPA. In January 2007, the judge hearing the case accepted a request from the State Attorney General’s office that the trial be postponed until a decision is reached by the U.S. Supreme Court on a separate case addressing GHGs. In the Supreme Court case, *Massachusetts, et al., v. Environmental Protection Agency, et al.*, the primary issue in question was whether the CAA provides authority for EPA to regulate CO₂ emissions. EPA contended that the CAA does not authorize regulation of CO₂ emissions, whereas Massachusetts and 10 other states, including California, sued EPA to begin regulating CO₂. The U.S. Supreme Court ruled on April 2, 2007 that GHGs are “air pollutants” as defined under the CAA, and EPA is granted authority to regulate CO₂ (*Massachusetts v. U.S. Environmental Protection Agency* [2007] 549 U.S. 05-1120).

Executive Order S-3-05

Executive Order S-3-05, which was signed by Governor Schwarzenegger in 2005, proclaims that California is vulnerable to the impacts of climate change. It declares that increased temperatures could reduce the Sierra’s snowpack, further exacerbate California’s air quality problems, and potentially cause a rise in sea levels. To combat those concerns, the Executive Order established total greenhouse gas emission targets. Specifically, emissions are to be reduced to the 2000 level by 2010, the 1990 level by 2020, and to 80% below the 1990 level by 2050.

The Executive Order directed the Secretary of the California Environmental Protection Agency (CalEPA) to coordinate a multi-agency effort to reduce greenhouse gas emissions to the target levels. The Secretary will also

submit biannual reports to the governor and state legislature describing: (1) progress made toward reaching the emission targets; (2) impacts of global warming on California's resources; and (3) mitigation and adaptation plans to combat these impacts. To comply with the Executive Order, the Secretary of the CalEPA created the California Climate Action Team (CCAT) made up of members from various state agencies and commission. CAT released its first report in March 2006. The report proposed to achieve the targets by building on voluntary actions of California businesses, local government and community actions, as well as through state incentive and regulatory programs.

Assembly Bill 32, the California Climate Solutions Act of 2006

In September 2006, Governor Arnold Schwarzenegger signed AB 32, the California Climate Solutions Act of 2006. AB 32 establishes regulatory, reporting, and market mechanisms to achieve quantifiable reductions in GHG emissions and a cap on statewide GHG emissions. AB 32 requires that statewide GHG emissions be reduced to 1990 levels by 2020. This reduction will be accomplished through an enforceable statewide cap on GHG emissions that will be phased in starting in 2012. To effectively implement the cap, AB 32 directs ARB to develop and implement regulations to reduce statewide GHG emissions from stationary sources. AB 32 specifies that regulations adopted in response to AB 1493 should be used to address GHG emissions from vehicles. However, AB 32 also includes language stating that if the AB 1493 regulations cannot be implemented, then ARB should develop new regulations to control vehicle GHG emissions under the authorization of AB 32.

AB 32 requires that ARB adopt a quantified cap on GHG emissions representing 1990 emissions levels and disclose how it arrives at the cap; institute a schedule to meet the emissions cap; and develop tracking, reporting, and enforcement mechanisms to ensure that the state achieves the reductions in GHG emissions necessary to meet the cap. AB 32 also includes guidance to institute emissions reductions in an economically efficient manner and conditions to ensure that businesses and consumers are not unfairly affected by the reductions.

AB 32 does not explicitly apply to emissions from land development, though emissions associated with land development projects are closely connected to the utilities, transportation, and commercial end-use sectors. Further, because AB 32 imposes a statewide emissions cap, land development-related emissions will ultimately factor in to considerations of GHG emissions in the state.

Senate Bill 1368

SB 1368 is the companion bill of AB 32 and was signed by Governor Schwarzenegger in September 2006. SB 1368 requires the California Public Utilities Commission (PUC) to establish a greenhouse gas emission performance standard for baseload generation from investor owned utilities by February 1, 2007. The California Energy Commission (CEC) must establish a similar standard for local publicly owned utilities by June 30, 2007. These standards cannot exceed the greenhouse gas emission rate from a baseload combined-cycle natural gas fired plant. The legislation further requires that all electricity provided to California, including imported electricity, must be generated from plants that meet the standards set by the PUC and CEC.

Senate Bills 1771 and 527 and the California Climate Action Registry

The California Climate Action Registry (CCAR) was established in 2001 by Senate Bills 1771 and 527 as a nonprofit voluntary registry for GHG emissions. The purpose of CCAR is to help companies and organizations with operations in the state to establish GHG emissions baselines against which any future GHG emissions reduction requirements may be applied. CCAR has developed a general protocol and additional industry-specific protocols that provide guidance on how to inventory GHG emissions for participation in the registry.

Senate Bill 97

Senate Bill (SB) 97, signed August 2007, acknowledges that climate change is a prominent environmental issue that requires analysis under CEQA. This bill directs the State Office of Planning and Research (OPR) to prepare, develop, and transmit to the Resources Agency guidelines for the feasible mitigation of GHG emissions or the effects of GHG emissions, as required by CEQA by July 1, 2009. The Resources Agency is required to certify or adopt those guidelines by January 1, 2010. This bill also removes inadequate CEQA analysis of effects of GHG emissions from projects (retroactive and future) funded by the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006, or the Disaster Preparedness and Flood Protection Bond Act of 2006 (Proposition 1B or 1E) as a legitimate cause of action. This provision will be repealed on January 1, 2010, wherein inadequate CEQA analysis for those projects could then become a legitimate cause of action. This bill would only protect a handful of public agencies from CEQA challenges on certain types of projects for a few years time.

LOCAL PLANS, POLICIES, REGULATIONS, AND ORDINANCES

San Joaquin Valley Air Pollution Control District

The SJVAPCD seeks to improve air quality conditions in Merced County through a comprehensive program of planning, regulation, enforcement, technical innovation, and promotion of the understanding of air quality issues. The clean air strategy of the SJVAPCD includes the preparation of plans and programs for the attainment of ambient air quality standards, adoption and enforcement of rules and regulations, and issuance of permits for stationary sources. The SJVAPCD also inspects stationary sources, responds to citizen complaints, monitors ambient air quality and meteorological conditions, and implements other programs and regulations required by the CAA, CAAA, and the CCAA.

In January 2002, the SJVAPCD released a revision to the previously adopted guidelines document. This revised Guide for Assessing and Mitigation Air Quality Impact (GAMAQI) (SJVAPCD 2002) is an advisory document that provides lead agencies, consultants, and project applicants with uniform procedures for addressing air quality in environmental documents. The guide contains the following applicable components:

- ▶ criteria and thresholds for determining whether a project may have a significant adverse air quality impact;
- ▶ specific procedures and modeling protocols for quantifying and analyzing air quality impacts;
- ▶ methods available to mitigate air quality impacts; and
- ▶ information for use in air quality assessments that will be updated more frequently such as air quality data, regulatory setting, climate, and topography.

Air Quality Plans

The SJVAPCD prepares and submits Air Quality Attainment Plans in compliance with the requirements set forth in the CCAA. The CCAA also requires a triennial assessment of the extent of air quality improvements and emission reductions achieved through the use of control measures. As part of the assessment, the attainment plans must be reviewed and, if necessary, revised to correct for deficiencies in progress and to incorporate new data or projections. As a nonattainment area, the region is also required to submit rate-of-progress milestone evaluations in accordance with the CAAA. These milestone reports include compliance demonstrations that the requirements have been met for the nonattainment area. The air quality attainment plans and reports present comprehensive strategies to reduce ROG, NO_x, and PM₁₀ emissions from stationary, area, mobile, and indirect sources. Such strategies include the adoption of rules and regulations; enhancement of CEQA participation; implementation of a new and modified indirect source review program (Rule 9510); adoption of local air quality plans; and stationary-, mobile-, and indirect-source control measures. In the formulation of its attainment plans, SJVAPCD accounts for

all future projected growth and development in the SJVAB as provided by local governments, including the City of Merced, through the Merced County Association of Governments (MCAG). (More details about MCAG are provided under its own heading later in this section.) Table 4.2-5 summaries SJVAPCD's most current Air Quality Attainment Plans.

Table 4.2-5 Summary of San Joaquin Valley Air Pollution Control District Air Quality Plans			
Pollutant	Plan Title	Date	Status
Ozone	Extreme Ozone Attainment Demonstration Plan for the Revoked Federal 1-Hour Ozone Standard	October 2004, Amended October 2005, Clarifications adopted August 2008	On April 30, 2007 the Governing Board of the SJVAPCD voted to request EPA to reclassify the SJVAB as extreme nonattainment for the federal 8-hour ozone standards. On June 14, 2007, ARB approved this request. On October 16, 2008 EPA proposed to approve the plan [73 FR 613781].
	8-hour Ozone Reasonably Available Control Technology – State Implementation Plan (RACT SIP) Analysis	April 2006	Adopted by SJVAPCD in August 2006.
	8-hour Ozone Attainment Demonstration Plan for the San Joaquin Valley	April 2007	Adopted by SJVAPCD in April 2007. This request must be forwarded to EPA by ARB and would become effective upon EPA final rulemaking after a notice and comment process; it is not yet in effect.
Carbon Monoxide (CO)	2004 Revision to the California State Implementation Plan for Carbon Monoxide Updated Maintenance Plan For Ten Federal Planning Areas	July 2004	Adopted by ARB July 2004.
Respirable and Fine Particulate Matter (PM ₁₀ and PM _{2.5})	2007 PM ₁₀ Maintenance Plan and Request for Redesignation.	September 2007	Adopted by SJVAPCD in February 2006. EPA issued a Final Rule determining that the SJVAB had attained the NAAQS for PM ₁₀ [71 FR 63642] in October 2006.
	2008 PM _{2.5} Plan	April 2008	The SJVAB is designated nonattainment for the 1997 PM _{2.5} federal standards. EPA designations for the 2006 PM 2.5 standards will be finalized in December 2009. SJVAPCD has determined, as of the 2004-06 PM _{2.5} data, that the SJVAB has attained the 1997 24-Hour PM _{2.5} standard.
	Natural Events Action Plan for High Wind Events in the San Joaquin Valley	February 2006	Adopted by SJVAPCD in February 2006; Submitted to ARB
Source: SJVAPCD 2005, 2006a 2006b, 2007x 2006c, 2006x 2007x			

Rules and Regulations

As mentioned above, the SJVAPCD adopts rules and regulations. All projects are subject to SJVAPCD rules and regulations in effect at the time of construction. Specific rules applicable to the construction and operation of the proposed project may include, but are not limited to:

- ▶ Rule 2201 New and Modified Stationary Source Review
- ▶ Rule 2280 Portable Equipment Registration
- ▶ Rule 3135 Dust control Plan Fee
- ▶ Rule 4002 National Emission Standards for Hazardous Air Pollutants
- ▶ Rule 4101 Visible Emissions
- ▶ Rule 4102 Nuisance
- ▶ Rule 4103 Open Burning
- ▶ Rule 4601 Architectural Coatings
- ▶ Rule 4641 Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations
- ▶ Rule 4901 Wood Burning Fireplaces and Wood Burning Heaters
- ▶ Regulation VIII Fugitive PM₁₀ Prohibitions includes the following rules:
 - *Rule 8021*: Construction, demolition, excavation, and extraction; and other earthmoving activities;
 - *Rule 8031*: Handling and storage of bulk materials;
 - *Rule 8041*: Trackout/Carryout of dirt and other materials onto paved public roads;
 - *Rule 8051*: Open Areas;
 - *Rule 8061*: Construction and use of paved and unpaved roads; and
 - *Rule 8071*: Use of unpaved vehicle and/or equipment traffic areas; and
 - *Rule 8081*: Agricultural Sources.
- ▶ Rule 9510 Indirect Source Review. Indirect Source Review (ISR) applies to development and transportation or transit projects that have not yet gained discretionary approval. A discretionary permit is a permit from a public agency, such as a city or county that requires some amount of deliberation by that agency, including the potential to require modifications or conditions on the project. The purpose of the ISR program is to reduce emissions of NO_x and PM₁₀ from new development projects. In general, new development contributes to the air-pollution problem in the basin by increasing the number of vehicles and vehicle miles traveled and by associated construction activity. When a development project cannot reduce its emissions of NO_x and PM₁₀ to the level required by the rule, then the difference must be mitigated through the payment of a fee. The monies collected from each project fee is used by SJVAPCD to reduce emissions in the SJVAB on behalf of the respective project, with the goal of offsetting the emissions increase from the project by decreasing emissions elsewhere in the SJVAB. More specifically, the fees received are used in SJVAPCDs existing Emission Reduction Incentive Program to fund emission reduction projects. With regard to the development of light industrial facilities, this rule applies to any development project that would need a final discretionary approval and upon full buildout would include a minimum of 25,000 square feet of light industrial space. Thus, the proposed project would be subject to requirements set forth in the ISR rule.

City of Merced

Merced Vision 2015 General Plan

Air quality is addressed in the Sustainable Development element of the *Merced Vision 2015 General Plan* (City of Merced 1997). The following goals are included in the Sustainable Development Element as Goal Area SD-1:

- ▶ clean air with minimal toxic substances and odor,
- ▶ clean air with minimal particulate content,
- ▶ effective and efficient transportation infrastructure, and
- ▶ coordinated and cooperative inter-governmental air quality programs.

The policies and implementing actions of for the above-listed goals are presented below:

- ▶ Policy SD-1.1. Accurately determine and fairly mitigate the local and regional air quality impacts of projects proposed in the City of Merced.
 - Implementing Action 1.1.a. Develop uniform standards for mitigating air quality impacts resulting from development.
 - Implementing Action 1.1.b. Ensure that significant air quality impacts identified during CEQA review are consistently and fairly mitigated.
 - Implementing Action 1.1.c. All air quality mitigation measures should be feasible, implementable, and cost effective.
 - Implementing Action 1.1.d. Work with the [SJVAPCD] to identify regional cumulative transportation and air quality impacts.
 - Implementing Action 1.1.e. Reduce the air quality impacts of development projects that may be insignificant by themselves, but cumulatively are significant.
 - Implementing Action 1.1.f. Encourage innovative measures to reduce air quality impacts.
- ▶ Policy SD-1.2. Coordinate local air quality programs with regional programs and those of neighboring jurisdictions.
 - Implementing Action 1.2.a. Work with neighboring jurisdictions and affected agencies to address cross-jurisdictional and regional transportation and air quality issues.
 - Implementing Action 1.2.b. Consult with [SJVAPCD] during CEQA review for discretionary projects.
 - Implementing Action 1.2.c. Coordinate with other jurisdictions and other regional agencies in the San Joaquin Valley to establish consistent and uniform implementation measures (trip reduction ordinances, indirect source programs, etc.).
 - Implementing Action 1.2.d. Support cost-effective multi-use modeling and geographic information system (GIS) technology.
- ▶ Policy SD-1.3. Integrate land use planning, transportation planning, and air quality planning for most efficient use of public resources and for a healthier environment.
 - Implementing Action 1.3.a. The City of Merced will consider air quality when planning the land uses and transportation systems to accommodate the expected growth in this community.
 - Implementing Action 1.3.b. Transportation improvement should be consistent with the air quality goals and policies of the General Plan.
 - Implementing Action 1.3.c. The City of Merced will consult with transit providers to determine project impacts on long range transit plans and ensure that impacts are mitigated.
 - Implementing Action 1.3.d. Encourage the construction of low income housing developments that use transit-oriented and pedestrian-oriented design principles.

- Implementing Action 1.3.e. The City of Merced will work with Caltrans and the Merced County Association of Governments (MCAG) and the Regional Transportation Planning Agency to minimize the air quality, and mobility impacts of large scale transportation projects on existing neighborhoods.
- ▶ Policy SD-1.4. Educate the public on the impact of individual transportation, lifestyle, and land use decisions.
 - Implementing Action 1.4.a. Work to improve the public’s understanding of the land use, transportation, and air quality link.
 - Implementing Action 1.4.b. Support [SJVAPCD] efforts to encourage formation of local groups that provide air quality education programs.
- ▶ Policy SD-1.5. Provide public facilities and operations which can serve as a model for the private sector in implementation of air quality programs.
 - Implementing Action 1.5.a. Study implementing innovative employer-based trip reduction programs for their employees.
 - Implementing Action 1.5.b. Fleet vehicle operators should evaluate alternatives which include replacing or converting conventional fuel vehicles with clean fuel vehicles.
 - Implementing Action 1.5.c. Support the use of teleconferencing in lieu of employee travel to conferences and meetings when feasible.
 - Implementing Action 1.5.d. Make use of telecommuting programs as part of their trip reduction strategies.
 - Implementing Action 1.5.e. Encourage the development of state of the art communication infrastructure linked to the rest of the world.
- ▶ Policy SD-1.6. Reduce emissions of PM₁₀ and other particulates with local control potential.
 - Implementing Action 1.6.a. Work with the [SJVAPCD] to reduce, to the maximum extent feasible, particulate emissions from construction, grading, excavation, and demolition.
 - Implementing Action 1.6.b. Reduce PM10 emissions from City maintained roads to the maximum extent feasible.
- ▶ Policy SD-3.1: Promote the use of solar energy technology.
 - Implementing Action 3.1.a: Encourage the use of solar energy in design and management of all new construction in the City.
 - Implementing Action 3.1.c: Encourage developers and builders to properly design all structures on each building lot in the City to take fullest advantage of solar use in heating and cooling.
 - Implementing Action 3.1.d: Encourage developers and builders to maximize “passive” solar design, such as large south-facing windows for winter heat gains and overhangs for shading for summer heat protection.

In addition, Implementation Action 3.1.h of the Land Use element states that the city shall consider air quality and mobility when reviewing any proposed change to the land use pattern of this community.

- ▶ Policy SD-3.2: Encourage the use of energy conservation features and low emission equipment for all new residential and commercial development.
 - Implementing Action 3.4.c: Encourage new residential, commercial, and industrial development to reduce air quality impacts from area sources and from energy consumption.
- ▶ Policy OS-1.4. Maintain and expand the City’s urban forest and reduce the heat island effects of urban development.
- ▶ Implementing Action 1.4.b: Continue to require new development to plant street trees approximately 40 feet apart, at a maximum, along City streets.

Merced County Association of Governments

The Merced County Association of Governments (MCAG) was formed through a Joint Powers Agreement (JPA) signed by member jurisdictions on November 28, 1967, and the Governing Board is composed of all five members of the Merced County Board of Supervisors and one elected official from each of the six incorporated cities located within the political boundary of Merced County.

The Overall Budget and Work Program is a product of a cooperative effort of the MCAG Technical Planning Committee for Regional Transportation Planning (TPC), composed of local governmental technical staff members; the Citizens’ Advisory Committee for Regional Transportation Planning (CAC), composed of citizens appointed by the MCAG Governing Board, the MCAG Technical Review Board (TRB), composed of the chief administrative officers of all local governments within Merced County; the MCAG Executive Committee; and the MCAG Board.

The MCAG participates in air quality planning for which the purpose of the program is to inform and advise MCAG and member agencies on air quality issues and policies; to ensure that MCAG’s transportation plans, programs, and projects conform to the most recent air quality requirements; and to coordinate effectively with other government agencies on these matters.

Air quality conformity is the process wherein plans, programs, and projects are shown to meet the requirements of the CAA and CAAA, and the applicable SIP. Specific procedures for fulfilling the requirements of the CAAA are given in the Final Conformity Rule published by EPA in 1993 and updated in 2004. MCAG is responsible for fulfilling these requirements. Similar work is performed by the seven other Transportation Planning Agencies (TPAs) in the SJVAB. All SJVAB TPAs work closely with each other and with the SJAPCD on air quality issues, conformity determinations, and the development and implementation of Transportation Control Measures, with the ultimate goal of improving the air quality in the SJVAB. A Memorandum of Understanding exists between the Air District and the eight valley TPAs, for the purpose of ensuring coordinated and consistent valley-wide air quality planning.

MCAG recently prepared the final draft of the PM2.5 Air Quality Conformity Analysis for the Federally Approved 2004 Federal Transportation Improvement Program (FTIP) for Merced County (Merced County Association of Governments 2006). MCAG is also involved with the following activities, plans and programs:

- ▶ Air Quality Conformity Determinations for the Regional Transportation Plan (RTP) and FTIP;
- ▶ monitor State and Federal air quality regulations and plans, and advise the MCAG Governing Board and member jurisdictions;
- ▶ coordinate with the SJVAPCD and TPAs on air quality issues;
- ▶ ensure timely implementation of all required transportation control measures;

- ▶ collaborate with ARB and SJVAPCD on emission inventory development;
- ▶ provide vehicle miles travel (VMT) data to ARB for use in emission budgets; and
- ▶ prepare air quality conformity analyses for the RTP and FTIP amendments.

TOXIC AIR CONTAMINANTS

Air quality regulations also focus on TACs, or in federal parlance hazardous air pollutants (HAPs). In general, for those TACs that may cause cancer, there is no concentration that does not present some risk. In other words, there is no threshold level below which adverse health impacts may not be expected to occur. This contrasts with the criteria air pollutants for which acceptable levels of exposure can be determined and for which the ambient standards have been established (Table 4.2-3). Instead, EPA and ARB regulate HAPs and TACs, respectively, through statutes and regulations that generally require the use of the maximum or best available control technology for toxics (MACT and BACT) to limit emissions. These in conjunction with additional rules set forth by the SJVAPCD establish the regulatory framework for TACs.

Federal Hazardous Air Pollutant Programs

EPA has programs for identifying and regulating HAPs. Title III of the CAAA directed EPA to promulgate national emissions standards for HAPs (NESHAP). The NESHAP may differ for major sources than for area sources of HAPs. Major sources are defined as stationary sources with potential to emit more than 10 tons per year (TPY) of any HAP or more than 25 TPY of any combination of HAPs; all other sources are considered area sources. The emissions standards are to be promulgated in two phases. In the first phase (1992–2000), EPA developed technology-based emission standards designed to produce the maximum emission reduction achievable. These standards are generally referred to as requiring MACT. For area sources, the standards may be different, based on generally available control technology. In the second phase (2001–2008), EPA is required to promulgate health risk–based emissions standards where deemed necessary to address risks remaining after implementation of the technology-based NESHAP standards.

The CAAA also required EPA to issue vehicle or fuel standards containing reasonable requirements that control toxic emissions, at a minimum to benzene and formaldehyde. Performance criteria were established to limit mobile-source emissions of toxics, including benzene, formaldehyde, and 1,3-butadiene. In addition, Section 219 required the use of reformulated gasoline in selected areas with the most severe ozone nonattainment conditions to further reduce mobile-source emissions.

State and Local Toxic Air Contaminant Programs

TACs in California are primarily regulated through the Tanner Air Toxics Act (AB 1807) and the Air Toxics Hot Spots Information and Assessment Act of 1987 (AB 2588). AB 1807 sets forth a formal procedure for ARB to designate substances as TACs. This includes research, public participation, and scientific peer review before ARB can designate a substance as a TAC. To date, ARB has identified over 21 TACs, and adopted EPA’s list of HAPs as TACs. Most recently, diesel PM was added to the ARB list of TACs.

Once a TAC is identified, ARB then adopts an Airborne Toxics Control Measure for sources that emit that particular TAC. If there is a safe threshold for a substance at which there is no toxic effect, the control measure must reduce exposure below that threshold. If there is no safe threshold, the measure must incorporate BACT to minimize emissions (e.g., the Airborne Toxic Control Measure limits truck idling to 5 minutes [13 CCR Chapter 10 Section 2485]).

The Hot Spots Act requires that existing facilities that emit toxic substances above a specified level prepare a toxic-emission inventory, prepare a risk assessment if emissions are significant, notify the public of significant risk levels, and prepare and implement risk reduction measures.

ARB has adopted diesel exhaust control measures and more stringent emission standards for various on-road mobile sources of emissions, including transit buses, and off-road diesel equipment (e.g., tractors, generators). In February 2000, ARB adopted a new public transit bus fleet rule and emission standards for new urban buses. These new rules and standards provide for 1) more stringent emission standards for some new urban bus engines beginning with 2002 model year engines; 2) zero-emission bus demonstration and purchase requirements applicable to transit agencies; and 3) reporting requirements with which transit agencies must demonstrate compliance with the urban transit bus fleet rule. Upcoming milestones include the low sulfur diesel fuel requirement, and tighter emission standards for heavy-duty diesel trucks (2007) and off-road diesel equipment (2011) nationwide. Over time, the replacement of older vehicles will result in a vehicle fleet that produces substantially less TACs than under current conditions. Mobile-source emissions of TACs (e.g., benzene, 1-3-butadiene, diesel PM) have been reduced significantly over the last decade, and will be reduced further in California through a progression of regulatory measures [e.g., Low Emission Vehicle (LEV)/Clean Fuels and Phase II reformulated gasoline regulations) and control technologies. With implementation of ARB's Risk Reduction Plan, it is expected that diesel PM concentrations will be reduced by 75% in 2010 and 85% in 2020 from the estimated year 2000 level. Adopted regulations are also expected to continue to reduce formaldehyde emissions from cars and light-duty trucks. As emissions are reduced, it is expected that risks associated with exposure to the emissions will also be reduced.

ARB published the Air Quality and Land Use Handbook: A Community Health Perspective, which provides guidance concerning land use compatibility with TAC sources (ARB 2005). While not a law or adopted policy, the Handbook offers advisory recommendations for the siting of sensitive receptors near uses associated with TACs such as freeways and high-traffic roads, commercial distribution centers, rail yards, ports, refineries dry cleaners, gasoline stations, and industrial facilities to help keep children and other sensitive populations out of harm's way.

At the local level, air pollution control or management districts may adopt and enforce ARB control measures. Under SJVAPCD regulations II and VII, all sources that possess the potential to emit TACs are required to obtain permits from the district. Permits may be granted to these operations if they are constructed and operated in accordance with applicable regulations, including new source review standards and air toxics control measures. The SJVAPCD limits emissions and public exposure to TACs through a number of programs. The SJVAPCD prioritizes TAC-emitting stationary sources based on the quantity and toxicity of the TAC emissions and the proximity of the facilities to sensitive receptors.

Sources that require a permit are analyzed by the SJVAPCD (e.g., health risk assessment) based on their potential to emit toxics. If it is determined that the project would emit toxics in excess of SJVAPCD's threshold of significance for TACs, as identified below, sources have to implement the best available control technology for TACs (T-BACT) to reduce emissions. If a source cannot reduce the risk below the threshold of significance even after T-BACT has been implemented, the SJVAPCD will deny the permit required by the source. This helps to prevent new problems and reduces emissions from existing older sources by requiring them to apply new technology when retrofitting with respect to TACs. It is important to note that SJVAPCD's air quality permitting process applies to stationary sources; and properties, which are exposed to elevated levels of nonstationary type sources of TACs, and the nonstationary type sources themselves (e.g., on-road vehicles) are not subject to air quality permits. Further, because of feasibility and practicality reasons, mobile sources (cars, trucks, etc.) are not required to implement T-BACT, even if they do have the potential to expose adjacent properties to elevated levels of TACs. Rather, emissions controls on such sources (e.g., vehicles) are subject to regulations implemented on the state and federal level.

ODORS

The SJVAPCD has determined some common types of facilities that have been known to produce odors, including wastewater treatment facilities, chemical manufacturing plants, painting/coating operations, feed lots/dairies, composting facilities, landfills, and transfer stations. Because offensive odors rarely cause any

physical harm and no requirements for their control are included in state or federal air quality regulations, the SJVAPCD has no quantitative rules or standards related to odor emissions other than its nuisance rule. Any actions related to odors are based on citizen complaints to local governments and the SJVAPCD. According to the SJVAPCD, significant odor problems occur when there is more than one confirmed complaint per year averaged over a 3-year period or when there are three unconfirmed complaints per year averaged over a 3-year period (SJVAPCD 2002).

Two situations increase the potential for odor problems. The first occurs when a new odor source is located near existing sensitive receptors. The second occurs when new sensitive receptors are developed near existing sources of odor. In the first situation, the SJVAPCD recommends operational changes, add-on controls, process changes, or buffer zones where feasible to address odor complaints. In the second situation, the potential conflict is considered significant if the project site is at least as close as any other site that has already experienced significant odor problems related to the odor source. For projects locating near a source of odors where there is no nearby development that may have filed complaints, and for odor sources locating near existing sensitive receptors, the SJVAPCD requires the determination of potential conflict to be based on the distance and frequency at which odor complaints from the public have occurred in the vicinity of a similar facility (SJVAPCD 2002).

4.2.3 ENVIRONMENTAL IMPACTS

METHOD OF ANALYSIS

Emissions of short-term construction-related and long-term operation-related (i.e., regional and local) criteria air pollutants and precursors, odors, and TACs were assessed in accordance with SJVAPCD-recommended methodologies (SJVAPCD 2002, ~~2006x2006a~~, ~~2007x2007a~~, ~~2007x2007b~~, ~~2007x2007c~~, ~~2007x2007d~~).

Project-generated, construction-related emissions of criteria air pollutants (e.g., PM₁₀) and precursors (ROG and NO_x) were assessed in accordance with SJVAPCD-recommended methods. Where quantification was required, emissions were modeled using the URBEMIS 2007 Version 9.2.2 computer model (ARB ~~2007x2007g~~). Modeling was based on SJVAPCD-recommended parameters for composition of the construction equipment fleet (SJVAPCD ~~2007x2007a~~, ~~2007x2007b~~). Modeled project-generated, construction-related emissions were compared with applicable SJVAPCD thresholds for determination of significance.

Project-generated, operation-related (i.e., regional) emissions of criteria air pollutants and precursors (e.g. mobile- and area-sources) were also quantified using the URBEMIS 2007 Version 9.2.2 computer model (ARB ~~2007x2007g~~). Modeling was based on project-specific data (e.g., size and type of proposed use) and vehicle trip information from the traffic analysis prepared for this project (DKS Associates 2008). No adjustments were made to account for increased fuel efficiency of Wal-Mart's truck fleet due to its participation in the U.S. EPA's SmartWay Transport Partnership. The Partnership is a voluntary program; therefore, although the current Wal-Mart fleet would have better than average fuel efficiency, nothing mandates them to continue to stay in the program. Thus, this EIR uses a conservative, reasonably foreseeable scenario that considers that Wal-Mart could use a fleet that is more reflective of the average fleet. To the extent Wal-Mart continues to participate in the program, the analysis likely over-states actual emissions from Wal-Mart's truck fleet. Long-term stationary-source emissions were qualitatively assessed in accordance with SJVAPCD-recommended methodologies. Modeled project-generated, long-term operation-related emissions were compared with applicable SJVAPCD thresholds for determination of significance.

At this time, SJVAPCD has not adopted a methodology for analyzing short-term construction-related emissions of TACs and does not recommended the completion of health risk assessments (HRAs) for such emissions, with a few exceptions (e.g., where construction phase is the only phase of project) (Reed, pers. comm., 2007). Therefore, project-generated, construction-related emissions of TACs were assessed in a qualitative manner.

With respect to long-term operation-related exposure of sensitive receptors to emissions of TACs, a HRA was performed in accordance with *The Air Toxics Hot Spots Program Guidance Manual for Preparation of Health Risk Assessments* (OEHHA 2003) and SJVAPCD's *Guidance for Air Dispersion Modeling* (SJVAPCD ~~2007~~2007c). Refer to Appendix C for a copy of the HRA prepared for this project (ENSR 2007).

To date, SJVAPCD has not adopted a method for evaluating impacts associated with emissions of PM_{2.5}. However, because project-generated, construction- and operation-related emissions of PM_{2.5}, by definition, would be a subset of PM₁₀ emissions, SJVAPCD-recommended methodologies and mitigation measures for PM₁₀ would also be relevant to emissions of PM_{2.5}.

Project-generated emissions of GHGs would predominantly be in the form of CO₂. While emissions of other GHGs, such as methane, are important with respect to global climate change, the project is not expected to emit significant quantities of GHGs other than CO₂. The reason for this conclusion is that most emissions from the project are associated with vehicular emissions and, though vehicles also emit small quantities of N₂O and CH₄, the primary GHG emitted during fuel combustion is CO₂, even considering the higher global warming potential of N₂O and CH₄ (21 and 310 times that of CO₂, respectively [CCAR 2007]). Thus, project-generated emissions of CO₂ were used as a proxy for total emissions GHGs, unless otherwise noted.

With respect to the proposed project, the net increase in emissions of CO₂ would be primarily associated with an increase in truck and passenger vehicle activity, off-site and on-site, and consumption of electricity. Construction- and operation-related emissions of CO₂ were quantified using the URBEMIS 2007 Version 9.2.2 computer model (ARB ~~2007~~2007g). Modeling was based on project-specific data (e.g., size and type of proposed use) and vehicle trip information from the traffic analysis prepared for this project (DKS Associates 2008) and truck trip information from an existing Wal-Mart distribution centers in California (McAlexander, pers. comm., 2007). Indirect emissions of CO₂ associated with electricity consumption were estimated according to methodologies of the California Climate Action Registry General Reporting Protocol, Version 2.2 (CCAR 2007).

THRESHOLDS OF SIGNIFICANCE

Based on Appendix G of the State CEQA Guidelines and SJVAPCD, an air quality impact is considered significant if implementation of the proposed project would do any of the following:

- ▶ conflict with or obstruct implementation of the applicable air quality plan,
- ▶ violate any air quality standard or contribute substantially to an existing or projected air quality violation,
- ▶ result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable NAAQS or CAAQS (including releasing emissions which exceed quantitative thresholds for ozone precursors),
- ▶ expose sensitive receptors to substantial pollutant concentrations, or
- ▶ create objectionable odors affecting a substantial number of people.

As stated in Appendix G, the significance of criteria established by the applicable air quality management or air pollution control district may be relied upon to make the above determinations. Thus, as contained in the GAMAQI, implementation of the proposed project would result in significant air quality impacts if:

- ▶ all control measures in compliance with the requirements of Regulation VIII-Fugitive Dust Prohibition are not incorporated into project design or implemented during project construction;
- ▶ construction-related emissions of ROG or NO_x exceed SJVAPCD-recommended mass emissions threshold of 10 TPY;

- ▶ long-term operation-related regional emissions of ROG or NO_x exceed SJVAPCD-recommended mass emissions threshold of 10 TPY;
- ▶ construction- or operation-related emissions of PM₁₀ exceed SJVAPCD's applied mass emissions threshold of 15 TPY;
- ▶ construction- or operation-related emissions (i.e., regional and local) of criteria air pollutants or precursor emissions violate or substantially contribute to a violation of the NAAQS and/or CAAQS (e.g., 8-hour CO standard of 9 ppm);
- ▶ exposure of sensitive receptors to a substantial incremental increase in emissions of TACs that exceed 10 in 1 million for the carcinogenic risk (i.e., the risk of contracting cancer) and/or a noncarcinogenic Hazard Index (HI) of 1 for the Maximally Exposed Individual (MEI), as recommended in SJVAPCD's *Guidance for Air Dispersion Modeling* (SJVAPCD ~~2007~~2007c); or
- ▶ project implementation would locate receptors near an existing odor source where one confirmed complaint per year averaged over a three year period, or three unconfirmed complaints per year averaged over a three year period has been experienced by existing receptors as close as the project to the odor source; or by existing receptors in the vicinity of a similar facility considering distance, frequency, and odor control, where there is currently no nearby development and for proposed odor sources near existing receptors.

In addition, the following thresholds of significance have been used to determine whether implementation of the proposed project would result in significant impacts with respect to global climate change. A global climate change impact is considered significant if implementation of the proposed project under consideration would do any of the following:

- ▶ conflict with or obstruct state or local policies or ordinances established for the purpose of reducing greenhouse gas emissions, or
- ▶ result in a considerable net increase in greenhouse gases.

With regard to emissions of GHGs, no air district in California, including the SJVAPCD, has identified a significance threshold for analyzing project-generated emissions or a methodology for analyzing air quality impacts related to global warming. Nonetheless, by adoption of AB 32, California has identified that global climate change is a serious environmental issue, and has identified GHG reduction goals.

To meet AB 32 goals, California as a whole will ultimately need to generate substantially less GHG than current levels. It is recognized, however, that for most projects there is no simple metric available to determine if a single project would substantially increase or decrease overall emission levels of GHGs.

While AB 32 focuses on stationary sources of emissions, the primary objective of AB 32 is to reduce California's contribution to global warming by reducing California's total annual production emissions. The impact that emissions of GHGs have on global climate change is not dependent on whether they were generated by stationary, mobile, or area sources; or whether they were generated in one region or another. Thus, the net change in total levels of GHGs generated by a project or activity is the best metric for determining whether the proposed project would contribute to global warming.

The effect of GHG emissions as they relate to global climate change is inherently a cumulative impact issue. While the emissions of one single project will not cause global climate change, GHG emissions from multiple projects throughout the world could result in a cumulative impact with respect to global climate change. In the case of the proposed project, if the size of the increase in emissions from the project is considered to be substantial, then the impact of the project would be cumulatively considerable. Please refer to Chapter 6,

“Cumulative and Growth-Inducing Impacts,” of this EIR for a description of GHG related and other cumulative impacts of the project.

IMPACT ANALYSIS

IMPACT 4.2-1 **Generation of Short-Term Construction-Related Emissions of Criteria Air Pollutants and Precursors.** *Project-generated, construction-related emissions of ROG and NO_x would exceed SJVAPCD's significance threshold of 10 TPY. Project-generated, construction-related emissions of PM₁₀ would exceed SJVAPCD's significance threshold of 15 TPY. In addition, with respect to construction-related emissions of PM₁₀, SJVAPCD-recommended control measures beyond compliance with Regulation VIII-Fugitive Dust Prohibition are not incorporated into the project design. Thus, project-generated, construction-related emissions of criteria air pollutants and precursors could violate or contribute substantially to an existing or projected air quality violation, and/or expose sensitive receptors to substantial pollutant concentrations, especially considering the nonattainment status of Merced County. As a result, this would be a **significant impact.***

Construction-related emissions are described as “short term” or temporary in duration and have the potential to represent a significant impact with respect to air quality. Construction of the proposed project could begin as early as 2010 and would take 12 months for completion. Construction-related activities would result in project-generated emissions of criteria air pollutants (e.g., PM₁₀) and precursors (e.g., ROG and NO_x) from site preparation (e.g., excavation, grading, and clearing); off-road equipment, material delivery, and worker commute exhaust emissions; vehicle travel on unpaved roads, and other miscellaneous activities (e.g., asphalt paving and the application of architectural coatings).

Emissions of Ozone Precursors

Emissions of ozone precursors (e.g., ROG and NO_x) are primarily associated with off-road equipment exhaust. Worker commute trips and other construction-related activities (e.g., asphalt paving and the application of architectural coatings) also contribute to short-term increases in such emissions.

Project-generated, construction-related emissions of ROG and NO_x were modeled using the ARB-approved URBEMIS 2007 Version 9.2.2 computer program (ARB ~~2007x~~2007g). URBEMIS is designed to model construction emissions for land use development projects based on building size and type and allows for the input of project-specific information. Detailed information about the number and types of construction equipment needed, maximum daily acreage disturbed, number of workers, and hours of operation is not currently known at this time. Thus, values for these parameters were estimated using the default values of URBEMIS 2007, including vehicle emission factors that are specific to the SJVAB, and SJVAPCD's Recommended Construction Fleet spreadsheet (SJVAPCD ~~2007x~~2007a). SJVAPCD's spreadsheet provides estimates for the amount of maximum daily acreage disturbed and number and type of construction equipment that would be used on a project based on its total acreage and type (e.g., commercial, residential). SJVAPCD formulated this methodology to provide an accurate set of assumptions about the input parameters of a construction project while erring on the conservative side so as not to underestimate construction-generated emissions. The exhaust emissions of two off-road water trucks were also included as part of initial site preparation activity (e.g., grading). Table 4.2-6 summarizes the modeled project-generated, construction-related emissions of criteria air pollutants and ozone precursors from initial site preparation (e.g., grading) and building construction activities for the proposed project. Construction-related air quality effects were determined by comparing these modeling results with applicable SJVAPCD significance thresholds. Refer to Appendix C for detailed modeling input parameters, including the SJVAPCD-Recommended Construction Fleet spreadsheet, as well as modeling results.

Table 4.2-6 Summary of Modeled Project-Generated, Construction-Related Emissions of Criteria Air Pollutants and Precursors				
Source	Emissions (Tons/Year)			
	ROG	NO _x	PM ₁₀ (Total) ¹	PM _{2.5} (Total) ¹
Grading				
Fugitive Dust	0.0	0.0	16.7	3.5
Off-Road Diesel Exhaust	1.3	11.4	0.6	0.5
On-Road Diesel Exhaust	0.0	0.0	0.0	0.0
Worker Trips	0.0	0.0	0.0	0.0
Subtotal Unmitigated	1.4	11.4	17.3	4.0
Asphalt				
Off-Gas Emissions	0.1	0.0	0.0	0.0
Off-Road Diesel Exhaust	0.1	0.3	0.0	0.0
On-Road Diesel Exhaust	0.0	0.4	0.0	0.0
Worker Trips	0.0	0.0	0.0	0.0
Subtotal Unmitigated	0.2	0.7	0.1	0.0
Building Construction				
Off-Road Diesel Exhaust	1.0	11.9	0.4	0.4
Vendor Trips	1.0	11.8	0.6	0.5
Worker Trips	0.6	1.0	0.1	0.1
Subtotal Unmitigated	2.6	24.7	1.1	0.9
Architectural Coatings				
Off-Gas Emissions	12.9	0.0	0.0	0.0
Worker Trips	0.0	0.0	0.0	0.0
Subtotal Unmitigated	12.9	0.0	0.0	0.0
Total Unmitigated	17.0	36.8	18.4	5.0
Total with ISR Compliance	16.8	32.1	17.9	— ²
SJVAPCD Significance Threshold	10	10	<u>15</u> ³	— ³
Notes: See Appendix C for detailed input parameters and modeling results.				
¹ Shown for informational purposes only.				
² This estimate does not account for dust control mitigation measures. Fugitive PM dust emissions are discussed separately below.				
³ SJVAPCD has not identified mass emissions thresholds for construction-related emissions of PM ₁₀ or PM _{2.5} .				
Sources: Modeling performed by EDAW 2007				

As shown in Table 4.2-6, construction-related activities would result in project-generated annual unmitigated emissions of approximately 17 TPY of ROG and 37 TPY of NO_x. ~~PM₁₀ emissions from diesel equipment and worker commute trip exhaust are also shown in Table 4.2-6 because of their applicability to SJVAPCD Rule 9510, ISR rule, as discussed in detail below.~~

Based on the modeling conducted, construction-related activities would result in project-generated emissions of ROG and NO_x that exceed SJVAPCD's significance threshold of 10 TPY (refer to Table 4.2-6). Thus, project-generated, construction-related emissions of ozone precursors could violate or contribute substantially to an existing or projected air quality violation, and/or expose sensitive receptors to substantial pollutant concentrations, especially considering the nonattainment status of Merced County. As a result, this would be a *significant* impact.

Emissions of Fugitive PM Dust

Emissions of fugitive PM dust (e.g., PM₁₀ and PM_{2.5}), are associated primarily with ground disturbance activities during initial site preparation (e.g., grading) and vary as a function of such parameters as soil silt content, soil moisture, wind speed, acreage of disturbance area, and vehicle miles traveled (VMT) on- and off-site. Exhaust emissions from diesel equipment and worker commute trips also contribute to short-term increases in PM emissions, but to a much lesser extent (see Table 4.2-6).

As shown in Table 4.2-6, construction-related activities would result in project-generated annual unmitigated emissions of approximately 18 TPY of PM₁₀. Based on the modeling conducted, construction-related activities would result in project-generated emissions of PM₁₀ that exceed SJVAPCD's significance threshold of 15 TPY (refer to Table 4.2-6). Thus, project-generated, construction-related emissions of fugitive dust (i.e., PM₁₀ and PM_{2.5}) could violate or contribute substantially to an existing or projected air quality violation, especially considering the nonattainment status of Merced County. SJVAPCD's approach to CEQA analyses of the potentially adverse localized effects of construction-related fugitive PM₁₀ dust concentrations emissions is to require implementation of effective and comprehensive control measures rather than a detailed quantification. SJVAPCD-recommended control measures beyond compliance with Regulation VIII-Fugitive Dust Prohibition, which is required by law, are not incorporated into the project design. Thus, project-generated, construction-related emissions of fugitive dust (i.e., PM₁₀ and PM_{2.5}) could violate or contribute substantially to an existing or projected air quality violation, and/or expose sensitive receptors to substantial pollutant concentrations, especially considering the nonattainment status of Merced County. As a result, this would be a **significant** impact.

Mitigation Measure 4.2-1a: Comply with SJVAPCD's Indirect Source Review Rule (Rule 9510). Construction of the proposed project shall comply with SJVAPCD's ISR rule (Rule 9510), as required by law. The Applicant shall ~~submit and have approved~~ an Air Impact Assessment (AIA) application ~~to approved by SJVAPCD no later than applying for a prior to issuance of final discretionary approval with a building permit by the City of Merced.~~ The AIA application shall be submitted on a form provided by the SJVAPCD and contain, but not be limited to, the applicant's name and address, detailed project description, on-site emission reduction checklist, monitoring and reporting schedule, and an AIA. The AIA shall quantify construction NO_x and PM₁₀ emissions associated with the project. This assessment shall include: an estimate of construction emissions prior to the implementation of mitigation measures; a list of the mitigation measures to be applied to the project; an estimate of emissions for each applicable pollutant for the project, or each phase thereof, following the implementation of mitigation; and a calculation of the applicable off-site fee, if required by Rule 9510. The general mitigation requirements in the assessment, as contained in the ISR rule, shall include the following:

- ▶ Exhaust emissions for construction equipment greater than 50 horsepower used or associated with the development project shall be reduced by 20% of the total NO_x and by 45% of the total PM₁₀ emissions from the statewide average as estimated by ARB.
- ▶ Methods employed by the applicant to reduce construction emissions to the degree noted above include using less polluting construction equipment, including the use of add-on controls, cleaner fuels, or newer lower emitting equipment. The emissions reduction targets listed above shall be met through any combination of on-site emission reduction measures or offset fees, including those required and additional measures listed in Mitigation Measure 4.2-1b below.

The requirements listed above can be met through any combination of on-site emission reduction measures or offset fees, including those required and additional measures listed in Mitigation Measures 4.2-1b and 4.2-1c below; however, any on-site emission reductions must be both quantifiable and verifiable to be credited towards the requirements of the ISR Rule. Any off-site mitigation fees shall be paid by the applicant to SJVAPCD prior to issuance of a building permit by the City of Merced.

Mitigation Measure 4.2-1b: Implement Measures to Reduce Construction-Related Diesel Equipment Exhaust Emissions. The following required mitigation measures shall be implemented by the project applicant to reduce construction-related diesel equipment exhaust emissions regardless of whether the emission reductions can be quantified and documented. However, any emissions reductions attained by these measures that can be quantified and documented can be credited to achieve the ISR reduction goals discussed in Mitigation Measure 4.2-1a. These required measures are listed below. Prior to construction a requirement to implement these required measures shall be included in the contract language between the applicant and the builders of the project.

Required Measures to Reduce Construction-Related Diesel Equipment Exhaust Emission

- ▶ All off-road construction equipment used on the project site shall be powered by engines that meet, at a minimum, Tier II emission standards, as set forth in §2423 of title 13 of the California Code of Regulations and Part 89 of title 40 of the Code of Federal Regulations. The fleet of off-road construction equipment shall achieve a fleet average emissions factor equal to or less than the Tier II emissions standard of 4.8 grams per horsepower-hour for NO_x.
- ▶ Cease construction activity on forecasted Spare the Air Days.
- ▶ Staging areas for heavy-duty construction equipment shall be located as far as possible from sensitive receptors. They shall be located on site and not be within 1,000 feet of any off-site receptor~~the project boundary~~.
- ▶ Before construction contracts are issued, the project applicant shall perform a review of new technology in consultation with SJVAPCD, as it relates to heavy-duty diesel equipment, to determine what (if any) advances in emissions reductions are available for use and are economically feasible. Construction contract and bid specifications shall require contractors to utilize the available and economically feasible technology on a percentage of the equipment fleet, as determined by SJVAPCD.
- ▶ When not in use, idling of on-site equipment shall be minimized. Under no conditions shall on-site equipment be left idling for more than 5 minutes.
- ▶ Prohibit the use of trucks with off-road engines to haul materials on-site. Use trucks with on-road engines instead.

In addition, measures implemented to achieve the ~~above~~ ISR reduction goals required by Mitigation Measure 4.2-1a may include, but are not limited to the additional measures listed below.

Additional Operational Emission Reduction Measures

- ▶ Use alternate fuels and emission controls to further reduce NO_x and PM₁₀ exhaust emissions above the minimum requirements set forth in the ISR rule.
- ▶ Replace/substitute fossil-fueled (e.g., diesel) equipment with electrically driven equivalents (provided they are not run via a portable generator set).
- ▶ Use ARB-certified alternative fueled engines in construction equipment. Alternative fueled equipment may be powered by compressed natural gas, liquid propane gas, electric motors, or other ARB-certified off-road technologies. (To find engines certified by ARB, see <http://www.arb.ca.gov/msprog/offroad/cert/cert.php>.)
- ▶ Provide commercial electric power to the project site in adequate capacity to avoid or minimize the use of portable electric generators and equipment.

- ▶ Limit the hours of operation of heavy duty diesel equipment and/or the amount of equipment in use at any one time.

Mitigation Measure 4.2-1c: Implement an Emissions Reduction Agreement with SJVAPCD to Reduce Construction Emissions of ROG and NO_x. The Applicant shall enter into an emissions reduction agreement with SJVAPCD to reduce net ROG and NO_x emissions to less than 10 TPY. This agreement includes an emission reduction program, whereby the Applicant funds projects in the SJVAB, such as replacement and destruction of old engines with new more efficient engines. The agreement requires the Applicant to identify and propose opportunities for the reduction of emissions to fully mitigate the project's construction emissions to less than significant, and includes opportunities for removal or retrofication of stationary, transportation, indirect, and/or mobile-source equipment. Each proposal requires SJVAPCD approval and verification of emission reduction prior to receiving final discretionary approval of the project from the City of Merced. The emissions reduction agreement must be implemented *in addition to* the Required Measures to Reduce Construction-Related Diesel Equipment Exhaust Emission listed in Mitigation Measure 4.2-1b. Development and implementation of the emissions reduction agreement shall be fully funded by the Applicant. To the extent feasible, preference shall be given to off-site emission reduction projects that are located in or in close proximity to the City of Merced. If approved by SJVAPCD, the Applicant may develop an emissions reduction agreement that also fulfills the compliance requirements of SJVAPCD's ISR Rule (Rule 9510). The Applicant shall demonstrate to the City that it has successfully entered into an emission reduction agreement with the San Joaquin Valley Air Pollution Control District before issuance of the first building permit by the City.

Mitigation Measure 4.2-1d: Comply with SJVAPCD's Regulation VIII-Fugitive Dust Prohibitions and Implement All Applicable Control Measures. Construction of the proposed project shall comply with SJVAPCD's Regulation VIII-Fugitive Dust Prohibitions and implement all applicable control measures, as required by law. Regulation VIII contains, but is not limited to, the following required control measures:

- ▶ Prewater site sufficient to limit visible dust emissions (VDE) to 20% opacity.
- ▶ Phase work to reduce the amount of disturbed surface area at any one time.
- ▶ During active operations, apply water or chemical/organic stabilizers/suppressants sufficient to limit VDE to 20% opacity.
- ▶ During active operations, construct and maintain wind barriers sufficient to limit VDE to 20% opacity.
- ▶ During active operations, apply water or chemical/organic stabilizers/suppressants to unpaved haul/access roads and unpaved vehicle/equipment traffic areas sufficient to limit VDE to 20% opacity and meet the conditions of a stabilized unpaved road surface.
- ▶ An owner/operator shall limit the speed of vehicles traveling on uncontrolled unpaved access/haul roads within construction sites to a maximum of 15 miles per hour (mph).
- ▶ An owner/operator shall post speed limit signs that meet State and Federal Department of Transportation standards at each construction site's uncontrolled unpaved access/haul road entrance. At a minimum, speed limit signs shall also be posted at least every 500 feet and shall be readable in both directions of travel along uncontrolled unpaved access/haul roads.
- ▶ When handling bulk materials, apply water or chemical/organic stabilizers/suppressants sufficient to limit VDE to 20% opacity.
- ▶ When handling bulk material, construct and maintain wind barriers sufficient to limit VDE to 20% opacity and with less than 50% porosity.

- ▶ When storing bulk materials, comply with the conditions for a stabilized surface as listed above.
- ▶ When storing bulk materials, cover bulk materials stored outdoors with tarps, plastic, or other suitable material and anchor in such a manner that prevents the cover from being removed by wind action.
- ▶ When storing bulk materials construct and maintain wind barriers sufficient to limit VDE to 20% opacity and with less than 50% porosity. If utilizing fences or wind barriers, apply water or chemical/organic stabilizers/suppressants to limit VDE to 20% opacity or utilize a 3-sided structure with a height at least equal to the height of the storage pile and with less than 50% porosity.
- ▶ Limit vehicular speed while traveling on the work site sufficient to limit VDE to 20% opacity.
- ▶ Load all haul trucks such that the freeboard is not less than 6 inches when material is transported across any paved public access road sufficient to limit VDE to 20% opacity.
- ▶ Apply water to the top of the load sufficient to limit VDE to 20% opacity.
- ▶ Cover haul trucks with a tarp or other suitable cover.
- ▶ Clean the interior of the cargo compartment or cover the cargo compartment before the empty truck leaves the site; and prevent spillage or loss of bulk material from holes or other openings in the cargo compartment's floor, sides, and/or tailgate; and load all haul trucks such that the freeboard is not less than 6 inches when material is transported on any paved public access road, and apply water to the top of the load sufficient to limit VDE to 20% opacity; or cover haul trucks with a tarp or other suitable cover.
- ▶ Owners/operators shall remove all visible carryout and trackout at the end of each workday.
- ▶ An owner/operator of any site with 150 or more vehicle trips per day, or 20 or more vehicle trips per day by vehicles with three or more axles shall take actions for the prevention and mitigation of carryout and trackout.
- ~~▶ Within urban areas, an owner/operator shall prevent carryout and trackout, or immediately remove carryout and trackout when it extends 50 feet or more from the nearest unpaved surface exit point of a site.~~
- ~~▶ Within rural areas, construction projects 10 acres or more in size, a~~An owner/operator shall prevent carryout and trackout, or immediately remove carryout and trackout when it extends 50 feet or more from the nearest unpaved surface exit point of a site.
- ▶ For sites with paved interior roads, an owner/operator shall prevent and mitigate carryout and trackout.
- ▶ Cleanup of carryout and trackout shall be accomplished by manually sweeping and picking-up; or operating a rotary brush or broom accompanied or preceded by sufficient wetting to limit VDE to 20% opacity; or operating a PM₁₀-efficient street sweeper that has a pick-up efficiency of at least 80%; or flushing with water, if curbs or gutters are not present and where the use of water would not result as a source of trackout material or result in adverse impacts on storm water drainage systems or violate any National Pollutant Discharge Elimination System permit program.

An owner/operator shall submit a Dust Control Plan to the Air Pollution Control Officer (APCO) before the start of any construction activity on any site that will include 10 acres or more of disturbed surface area for residential developments, or 5 acres or more of disturbed surface area for nonresidential development, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials on at least 3 days. Construction activities shall not commence until the APCO has approved or conditionally approved the Dust Control Plan. An owner/operator shall provide written notification to the APCO within 10 days before the commencement of earthmoving activities via fax or mail. The requirement to submit a dust control

plan shall apply to all such activities conducted for residential and nonresidential (e.g., commercial, industrial, or institutional) purposes or conducted by any governmental entity. Prior to issuance of grading or building permits from the City of Merced, the applicant shall demonstrate to the satisfaction of the SJVAPCD that mitigation measures identified above will be met, and identify and an individual responsible for enforcing the measures.

Mitigation Measure 4.2-1e: Implement SJVAPCD-Recommended Enhanced and Additional Dust Control Measures. The following SJVAPCD-recommended enhanced and additional control measure shall be implemented to further reduce emissions of fugitive PM₁₀ dust.

- ▶ Install sandbags or other erosion control measures to prevent silt runoff to public roadways from adjacent project areas with a slope greater than 1%.
- ▶ Suspend excavation and grading activity when winds exceed 20 mph.
- ▶ Limit area subject to excavation, grading, and other construction activity at any one time.
- ▶ Prior to issuance of grading or building permits from the City of Merced, the applicant shall demonstrate to the satisfaction of the SJVAPCD that mitigation measures identified above will be met, and identify and an individual responsible for enforcing the measures.

Implementation of Mitigation Measures 4.2-1a and -1b would result in the required minimum 20% reduction in NO_x emissions and a 45% reduction in PM₁₀ emissions from heavy-duty diesel equipment, as compared with statewide average emissions. ~~In addition,~~ implementation of these measures would also result in a 5% reduction in ROG emissions from heavy-duty diesel equipment. All or part of the reductions may result from on-site equipment and fuel selection; the remainder would result from off-site reductions achieved through the payment of fees. Implementation of Mitigation Measure 4.2-1c would ensure the additional emissions reduction necessary to reduce construction-generated ROG and NO_x emissions to levels below 10 TPY. By prohibiting construction activity on forecasted Spare the Air days, Mitigation Measure 4.2-1b will also prevent construction-related emissions of ozone precursors from contributing substantially to an existing or projected air quality violation. As a result, this impact (generation of construction-related ROG and NO_x emissions) would be reduced to a ***less-than-significant*** level.

With respect to fugitive PM₁₀ dust emissions, implementation of Mitigation Measures 4.2-1d and 4.2-1e would ensure compliance with Regulation VIII, which is required by law, and include additional SJVAPCD-recommended control measures. These dust control measures typically reduce fugitive PM₁₀ dust emissions by 75% to approximately 4.2 TPY, which is less than SJVAPCD's recommended threshold of 15 TPY. As a result, this impact (generation of construction-related fugitive PM₁₀ dust emissions) would be reduced to a ***less-than-significant*** level.

IMPACT 4.2-2 **Generation of Long-Term Operation-Related (Regional) Emissions of Criteria Air Pollutants and Precursor Emissions.** *Operation-related activities would result in project-generated emissions of ROG and NO_x that exceed SJVAPCD's significance threshold of 10 TPY (refer to Table 4.2-7). Operation-related activities would result in project-generated emissions of PM₁₀ that exceed SJVAPCD's significance threshold of 15 TPY (refer to Table 4.2-7). Thus, project-generated, operation-related emissions of criteria air pollutants and precursors could violate or contribute substantially to an existing or projected air quality violation, and/or expose sensitive receptors to substantial pollutant concentrations, especially considering the nonattainment status of Merced County. In addition, because SJVAPCD's significance thresholds approximately correlate with reductions from heavy-duty vehicles and land use project emission reduction requirements in the SIP, project-generated emissions could also conflict with any air quality planning efforts. As a result, this would be a ***significant*** impact.*

Area- and Mobile-Source Emissions

Project-generated, regional area- and mobile-source emissions of ROG, NO_x, PM₁₀, and PM_{2.5} were estimated using URBEMIS 2007 Version 9.2.2 computer program (ARB ~~2007x2007g~~), which is designed to model emissions for land use development projects. URBEMIS allows land use selections that include project location and trip generation rates. URBEMIS accounts for area-source emissions from the usage of natural gas, landscape maintenance equipment, and consumer products; and mobile-source emissions associated with vehicle trips. Regional area- and mobile-source emissions were estimated based on the proposed land uses type and size identified in Chapter 3, "Project Description," the increase in trip generation from the traffic analysis prepared for this project (DKS Associates 2008), Section 4.11 "Traffic and Transportation," and default and SJVAPCD-recommended settings and parameters attributable to land use type and site location (SJVAPCD ~~2007x2007b~~). This analysis does account for the fact that some outbound delivery truck trips from the Merced Distribution Center to the 49 existing Wal-Mart stores that it would serve would replace outbound delivery truck trips that are currently based at other existing Wal-Mart distribution centers. Results of the URBEMIS modeling, including the net results, are shown in Table 4.2-7.

Source	Emissions (Tons/Year) ¹			
	ROG	NO _x	PM ₁₀	PM _{2.5}
Area Source²				
Natural Gas	0.0	0.3	0.0	0.0
Landscaping	0.0	0.0	0.0	0.0
Architectural Coatings	1.3	0.0	0.0	0.0
Mobile Source				
Employee Commute Trips	5.1	3.6	1.6	0.4
Outbound Delivery Truck Trips³				
Proposed Project ⁴	11.7	176.1	104.5	22.9
Existing ⁵	6.7	122.5	73.9	16.0
Net ⁶	5.0	53.6	30.6	6.9
Inbound Receivable Truck Trips³				
Proposed Project ⁷	12.0	220.5	133.1	28.8
Existing ⁷	12.0	220.5	133.1	28.8
Net Change ⁶	0.0	0.0	0.0	0.0
On-Site Truck Activity				
Haul Truck Idling ⁸	0.5	2.9	0.2	0.2
Haul Truck Travel ⁸	0.6	4.9	0.1	0.1
Yard Truck Idling ⁹	0.8	6.1	0.4	0.3
Yard Truck Travel ⁹	0.2	1.4	0.1	0.1
Total (Net) Unmitigated	13.5	72.7	32.9	8.0
Total with ISR Compliance) ¹⁰	No ISR requirement	48.7	16.5	No ISR requirement
SJVAPCD Significance Threshold	10	10	15 ⁻¹¹	— ¹¹
¹ Except for emissions generated by on-site haul truck activity, all emissions were modeled using the URBEMIS 2007 Version 9.2.2 computer model, based on trip generation rates obtained from the traffic analysis, and implementing SJVAPCD's Recommended Standard Changes to URBEMIS Default Values (SJVAPCD 2007x2007b). <u>No adjustments were made to account for the fact the lower emission rates of Wal-mart-operated trucks that participate in the U.S. EPA's SmartWay Transport Partnership.</u>				
² Emissions from the periodic testing of the back-up generator and fire-water pump are not included because the amount of operation from periodic testing and maintenance would be nominal at an estimated 52 hours per year. Refer to stationary-source emissions discussion below.				
³ According to the traffic analysis, a total of 644 truck trips would be generated by the proposed Merced Distribution Center. It is assumed that half of these truck trips would be associated with truck deliveries from the distribution center to retail stores (322 <i>outbound</i> delivery truck trips)				

**Table 4.2-7
Summary of Modeled Project-Generated, Operation-Related Emissions
of Criteria Air Pollutants and Precursors**

Source	Emissions (Tons/Year) ¹			
	ROG	NO _x	PM ₁₀	PM _{2.5}
<p>and that the other half of trips would be associated with deliveries of goods to the distribution center (322 <i>inbound</i> receivable truck trips). The emission estimates for outbound and inbound truck trips do not account for Wal-Mart's participation in EPA's SmartWay Transport Partnership or installation of auxiliary power units on its overnight truck fleet, which aim to increase energy efficiency and reduce emissions from ground freight carriers (EPA 2007).</p> <p>⁴ It is assumed that the average trip distance for all 322 outbound delivery truck trips would be equal to the average trip distance (in the San Joaquin Valley Air Basin) from the proposed distribution center to the 49 existing Wal-Mart stores that would be served by the Merced Distribution Center, which is 83.0 miles per trip, as provided by Wal-Mart (McAlexander, pers. comm., 2007).</p> <p>⁵ The trip generation rate and average trip distance (106.2 miles in the San Joaquin Valley Air Basin per trip) for existing outbound delivery trucks are based on existing conditions data provided by Wal-Mart for the 49 existing stores that would be supplied by the Merced Distribution Center (McAlexander, pers. comm., 2007).</p> <p>⁶ Net emissions are equal to emissions generated by the proposed project minus existing emissions.</p> <p>⁷ It is assumed that the average trip distance in the San Joaquin Valley Air Basin for all inbound receivable truck trips, with and without the proposed project, would be equal to the average existing trip distance of 106.2 miles between the 49 existing Wal-Mart stores that would be served by the Merced Distribution Center and their exist distribution center currently used by such trucks; these existing centers are located in Red Bluff and Porterville.</p> <p>⁸ Emissions generated by on-site travel and idling by haul trucks were estimated separately using emission factors from the EMFAC2007 Version 2.3 model (ARB 2006x2006b).</p> <p>⁹ Emissions generated by on-site travel and idling by off-road yard trucks were estimated using emission factors derived from URBEMIS 2007 Version 9.2.2 (ARB 2007x2007g).</p> <p>¹⁰ SJVAPCD's ISR Rule (Rule 9510) requires a 33% reduction in operational emissions of NO_x and a 50% reduction in PM₁₀ over 10 years.</p> <p>¹¹ The SJVAPCD has not identified a mass emissions thresholds for operational emissions of PM₁₀ and PM_{2.5}.</p> <p>See Appendix C for detailed input parameters and modeling results.</p> <p>Sources: Modeling performed by EDAW 2007</p>				

In addition, emissions from on-site activity by on-road haul trucks and off-road yard trucks were estimated separately using emission factors from EMFAC2007 Version 2.3 (ARB ~~2006x2006b~~) and project-specific assumptions for on-site travel distances and idling times used in the HRA prepared for this project (Refer to Impact 4.2-4).

Results of the URBEMIS modeling, including the net results of changes in regional truck operations and emissions from on-site truck activity, are shown in Table 4.2-7. As shown in the Table 4.2-7, operation-related activities would result in project-generated annual unmitigated emissions of approximately 14 TPY of ROG, 73 TPY of NO_x, 33 TPY of PM₁₀ and 8 TPY of PM_{2.5}. Based on the modeling conducted, operation-related activities would result in project-generated emissions of ROG and NO_x that exceed SJVAPCD's significance threshold of 10 TPY and in emissions of PM₁₀ that exceed SJVAPCD's significance threshold of 15 TPY (refer to Table 4.2-7). Thus, project-generated, operation-related emissions of criteria air pollutants and precursors could violate or contribute substantially to an existing or projected air quality violation, and/or expose sensitive receptors to substantial pollutant concentrations, especially considering the nonattainment status of the San Joaquin Valley Air Basin within (and outside of) Merced County. In addition, because SJVAPCD's significance thresholds approximately correlate with reductions from heavy-duty vehicles and land use project emission reduction requirements of the SIP, project-generated emissions could also conflict with current air quality planning efforts. As a result, this would be a *significant* impact.

Stationary-Source Emissions

The proposed project would include stationary sources of pollutants that would be required to obtain permits to operate under SJVAPCD Rule 2201-New and Modified Stationary Sources. These sources could include, but not

be limited to, diesel-engine generators for emergency power generation and a charcoal grill at the employee cafeteria. The permit process would assure that these sources would be equipped with the required emission controls, and that individually, these sources would not cause a significant environmental impact. These sources would not be subject to the ISR rule. An HRA for these sources, as well as on-site activity by diesel-engine trucks is discussed in Impact 4.2-4. Nonetheless, the emissions from these sources would be additive to modeled area- and mobile-source emissions described above.

Mitigation Measure 4.2-2a: Comply with SJVAPCD's Indirect Source Review Rule (Rule 9510)

Similar to Mitigation Measure 4.2-1a, which addresses construction-related emissions, operation of the proposed project shall comply with SJVAPCD's ISR rule (Rule 9510), as required by law. The applicant shall ~~submit~~ have an AIA application ~~to approved by SJVAPCD no later than applying prior to issuance of for a final discretionary approval with a building permit from~~ the City of Merced. The AIA application shall be submitted on a form provided by the SJVAPCD and contain, but not be limited to, the applicant's name and address, detailed project description, on-site emission reduction checklist, monitoring and reporting schedule, and an AIA. The AIA shall quantify operational NO_x and PM₁₀ emissions associated with the project. This shall include the estimated operational baseline emissions (i.e., before mitigation), and the mitigated emissions for each applicable pollutant for the project, or each phase thereof, and shall quantify the off-site fee, if applicable. General mitigation requirements, as contained in the ISR rule, include the following:

- ▶ Applicants shall reduce 33.3%, of the project's operational baseline NO_x emissions over a period of ten years as quantified in the approved AIA.
- ▶ Applicants shall reduce 50% of the project's operational baseline PM₁₀ emissions over a period of ten years as quantified in the approved AIA.

The requirements listed above can be met through any combination of on-site emission reduction measures or offset fees, including those required and additional measures listed in Mitigation Measures 4.2-2b, 4.2-2c, 4.2-2d, and 4.2-2e for emissions of CAPs and ozone precursors; and Mitigation Measures 4.2-6b and 4.2-6d for emissions of GHGs below; however, any on-site reductions of CAP and ozone precursor emissions must be both quantifiable and verifiable to be credited towards the requirements of the ISR Rule. Any off-site mitigation fees shall be paid by the Applicant to SJVAPCD prior to issuance of a building permit by the City of Merced.

Mitigation Measure 4.2-2b: Develop and Implement Design Features and Program Incentives to Reduce an Employee Commute Trips Reduction Program to Reduce Operational Emissions.

The applicant shall ~~develop and implement design features and develop program incentives that discourage employees from commuting in single occupant vehicles (SOVs) in order to reduce associated mobile-source emissions. an employee trip reduction program that minimizes the percentage of employee commute trips in single occupancy vehicles. At a minimum, the program shall ensure that at least 25% of employee commute trips occur by some other transportation mode than a single occupancy vehicle. This program~~ These measures shall be fully funded by the applicant, ~~and details of the program, including how the 25% performance standard will be measured and monitored, shall be developed in consultation with the City of Merced, the Transit Joint Powers Authority for Merced County, and SJVAPCD.~~ Measures that result in quantifiable trip reductions can also be counted as reductions in NO_x and PM₁₀ emissions with respect to compliance with the ISR rule mentioned in Mitigation Measure 4.2-2a. The program shall be managed by an on-site Employee Transportation Coordinator employed and appointed by the applicant. ~~A designated Transportation Manager shall also be on duty during each shift to manage the program. The 25% reduction in single occupancy vehicle trips by employees shall be achieved within 3 years of the opening of the distribution center. The design measures and development of program incentives reduction program and its their effectiveness shall be evaluated annually and reported to the City of Merced. As part of the program, the applicant shall provide a display case or kiosk that displays all of the program information in a prominent area accessible to employees (e.g., break room, cafeteria, or entrance). Elements of the~~

employee trip reduction program may include, but are not limited to, the following measures: The City recognizes that, pursuant to California Health and Safety Code Section 40717.9, no city, air district, city, or congestion management agency can require an employer to implement an employee trip reduction program. However, the City can require feasible mitigation measures, including design features and program incentives, that strive to reduce the total number of employee commute trips. Mitigation Measure 4.2-2b consists of a list of measures that are required, as well as a list of additional measures that shall be implemented only if determined to be feasible by the applicant and the City.

Required Design Features to Reduce Employee Commute Trips and Associated Mobile-source Emissions

The following measures are considered feasible at the time of writing this EIR and shall be implemented within one year of opening the distribution center:

- ▶ Design and provide preferential parking for HOVs carpool and vanpool vehicles. Design features may include a separate parking lot for carpool and vanpool vehicles HOVs that is closer to the employee building entrance than the parking lot for single occupancy vehicles SOVs and/or covered parking spaces for HOVscarpool and vanpool vehicles. Other potential design features include connecting the preferential parking lot for HOVs to the employee entrance of the building with shaded, landscaped walkways or with open-air, covered walkways.
- ▶ ~~Provide adequate bicycle parking/racks in a covered, secure area.~~
- ▶ Provide an adequate number of showers, changing areas, and locker facilities to accommodate employees who bike to work (typically one shower and 3 lockers for every 25 employees of a shift).
- ▶ Provide a display case or kiosk that displays up-to-date information regarding area bus transit routes, bicycle routes, and other information concerning measures designed to reduce the number of employees commuting in SOVs, in a prominent area accessible to employees (e.g., break room, cafeteria, or entrance).
- ▶ Provide on-site shops and services for employees including a cafeteria and a bank/ATM within 6 months of opening the facility.
- ▶ ~~Fund the design and installation of bikeways or bike lanes along local roads that provide access to the site.~~
- ▶ ~~Implement compressed work schedules for employees (e.g., 4 shifts per week for full time employees).~~

Additional Measures to Reduce Employee Commute Trips and Associated Mobile-source Emissions

The following additional measures may be implemented, if feasible:

- ▶ Fund the design and installation of bikeways or bike lanes along local roads that provide access to the site.
- ▶ Operate free employee shuttle or vanpool system that serves employees according to their shift times and places of residence. Low-emissions shuttle or vanpool vehicles shall be used (e.g., hybrid, CGN, or electric). Provide a covered area for the on-site employee shuttle stop or vanpool parking lot and an open-air, covered walkway connection to the employee entrance of the building to provide summertime shade and protection from rain.
- ▶ Provide incentives for employees who take their children to child daycare centers to select nearby centers and designate these centers as official stops of the free employee shuttle or vanpool system. Incentives may include, but are not limited to, the subsidization of daycare rates or the negotiation of group discounts for

children of employees at these childcare providers. An on-site child daycare center ~~shall~~ may be provided only if supported by the findings of a comprehensive HRA performed in consultation with SJVAPCD.

- ▶ ~~Time-Schedule~~ employee work shifts according to the class times at nearby K–12 schools and/or have employee shuttles or vanpools make stops at nearby K–12 schools.
- ▶ Provide adequate bicycle parking/racks in a covered, secure area.
- ▶ Provide carpool ride matching assistance for employees, ~~assistance with vanpool formation, and provisions of vanpool vehicles.~~
- ▶ Provide a separate site entrance or access route exclusively for high-occupancy vehicles (HOVs) (e.g., employee shuttles, carpools, vanpools [if vanpools are used by employees, public transit [when available]], and cyclists that allows for more convenient and expedient access to and from the site during peak turnover periods (i.e., shift changes).
- ▶ ~~Make available free public transit passes to all employees if~~ public transit service is expanded to serve the project site during times of the day that serve any of the employee shifts at the facility, subsidize public transit passes to all affected employees.
- ▶ Offer and implement compressed work schedules to employees (e.g., 4 shifts per week for full time employees).
- ▶ Implement parking fees for ~~single occupancy vehicle~~ SOV commuters or a parking cash-out program for employees. A parking cash-out program consists of a financial contribution to employees who do not commute by SOV.

Mitigation Measure 4.2-2c: Implement Recommended Mitigation Measures to Reduce Operational Emissions.

The following required mitigation measures shall be implemented by the project applicant to reduce operation-related emissions regardless of whether the emission reductions can be quantified and documented for compliance with the ISR rule required by Mitigation Measure 4.2-2a or whether they result in a quantifiable reduction of employee commute trips in single occupancy vehicles. However, any emissions reductions attained by these measures that can be quantified and documented can be credited to achieve the ISR reduction goals discussed in Mitigation Measure 4.2-2a. or employee trip reduction goals discussed in Mitigation Measure 4.2-2b. These required measures are listed below.

- ▶ The applicant's participation in EPA's SmartWay Transport Partnership (EPA 2007) shall include the portion of its haul truck fleet that is based at or serves the Merced distribution center and shall continue participation of this truck fleet in the Partnership for as long as the Partnership or a similar successor program exists. This measure would apply to the 40% of truck trips generated by the project that are operated by Wal-Mart trucks. Once each year the applicant shall provide to the City of Merced a letter from EPA confirming the project's participation in the SmartWay Transport Partnership.
- ▶ The Applicant shall fully fund or contribute its fair share of funding for the development of a Class II Bike Lanes along Childs Avenue and Gerard Avenue from Parsons Avenue to the project's eastern boundary line that would connect the proposed project to nearby land uses, including the residential neighborhoods to the west along Childs Avenue and Gerard Avenue. Building bicycle lanes at these locations is consistent with the City of Merced Bicycle Plan, which was adopted on October 20, 2008 and meets requirements of the California Bicycle Transportation Act (1994) and qualifies the City of Merced to receive state funding for bicycle projects. The City shall determine the Applicant's fair share monetary contribution to the development of these bicycle lanes and the Applicant shall pay its fair share at the same time building permit fees are due to the City.

- ▶ ~~Provide on-site shops and services for employees including a cafeteria and a bank/ATM within 6 months of opening the facility.~~
- ▶ As part of its landscaping plan to be prepared for the project (which is also mentioned in Mitigation Measure 4.13-2) the Applicant shall select plant species and landscaping coverage that require minimal maintenance with mechanically-powered equipment such as gasoline-powered lawn mowers. The Applicant and/or its contractors shall not use gasoline-powered leaf blowers on site. Use only electric-powered landscape maintenance equipment for routine maintenance of to care for landscaped areas, where routine maintenance activities include mowing, leaf blowing, and other activities that occur 3 or more times per year. If this work is hired out to a landscaping company, then the contract shall prohibit the use of gasoline- or diesel-powered leaf blowers. landscape maintenance equipment.
- ▶ Building and site design shall include electrical outlets around the exterior of the units to enable use of electric landscape maintenance equipment.

Mitigation Measure 4.2-2d: Implement Additional Operational On-Site Emission Reduction Measures.

Where feasible, additional measures shall be implemented to reduce operational emissions. Such measures shall include, but are not limited to the additional measures listed below. If, however, the additional measures listed below are technologically or economically infeasible, the Applicant shall submit a written report to the City of Merced Planning & Permitting demonstrating such infeasibility. The report shall be reviewed by a sustainability expert who is selected by the City and the review costs should be funded by the Applicant. Approval of this report shall be received by the Applicant prior to ~~receiving final discretionary approval of the project from the City of Merced issuing a building permit for the project.~~

- ▶ Purchase and operate electric or hybrid-powered yard tractors (e.g., Volk-brand tractors) to serve as “yard trucks” that move trailers to and from the trailer yard and loading docks.
- ▶ Provide electric maintenance equipment, install solar, low-emission, or central water heaters, increase building insulation beyond Title 24 requirements, orient buildings to take advantage of solar heating and natural cooling and use passive solar designs, energy efficient windows (double pane and/or Low-E), highly reflective roofing materials, cool pavement, radiant heat barrier, install photovoltaic cells, programmable thermostats for all heating and cooling systems, awnings or other shading mechanisms for windows, patio, and walkway overhangs, ceiling fans, utilize passive solar cooling and heating designs, utilize day lighting systems such as skylights, light shelves, and interior transom windows.
- ▶ The project shall include as many clean alternative energy features as possible to promote energy self-sufficiency (e.g., photovoltaic cells, solar thermal electricity systems, small wind turbines).

Mitigation Measure 4.2-2e: Implement an Emissions Reduction Agreement with SJVAPCD to Reduce Operational Emissions of ROG, ~~and~~ NO_x, and PM₁₀.

The Applicant shall enter into an emissions reduction agreement with SJVAPCD to reduce net ROG and NO_x emissions to less than 10 TPY and net PM₁₀ emissions to less than 15 TPY. This agreement includes an emission reduction program, whereby the applicant funds projects in the SJVAB, such as replacement and destruction of old engines with new more efficient engines. The agreement requires the Applicant to identify and propose opportunities for the reduction of emissions to fully mitigate the project’s operational emissions of ROG and NO_x to less than 10 TPY and PM₁₀ emissions to less than 15 TPY, and includes opportunities for removal or retrofit of stationary, transportation, indirect, and/or mobile-source equipment. Each proposal requires SJVAPCD approval and verification of emission reduction prior to receiving final discretionary approval of the project from the City of Merced. The emissions reduction agreement shall be implemented *in addition to* the Employee Trip Reduction Program required by Mitigation Measure 4.2-2b, the set of Recommended Mitigation Measures to Reduce Operational Emissions required by Mitigation Measure 4.2-2c, and the set of Additional Operational On-Site

Emission Reduction Measures required by Mitigation Measure 4.2-d. However, any emission reductions achieved through these measures that are quantifiable and verifiable could effectively reduce the amount of additional, off-site reductions that must be obtained through the emissions reduction agreement. (Furthermore, any quantifiable and verifiable emissions of CAPs and ozone precursors that would result as an added benefit from implementation of Mitigation Measures 4.2-6b and 4.2-6d, which are designed to achieve GHG reductions as discussed under Impact 4.2-6 below, could also effectively reduce the amount of additional, off-site reductions that must be obtained through the emissions reduction agreement.) To the extent feasible, the selection of programs for reducing operational emissions of CAPs and ozone precursors established in the agreement shall give preference to off-site emission reduction projects that are located in or in close proximity to the City of Merced. If approved by SJVAPCD the Applicant may develop an emissions reduction agreement that also fulfills the compliance requirements of SJVAPCD's ISR Rule (Rule 9510) discussed in Mitigation Measure 4.2-2a. Development and implementation of the emissions reduction agreement shall be fully funded by the Applicant. The Applicant shall demonstrate to the City that it has successfully entered into an emission reduction agreement with the San Joaquin Valley Air Pollution Control District be achieved before issuance of the first building permit by the City.

Implementation of Mitigation Measure 4.2-2a would result in at least the required minimum 33.3% reduction in NO_x emissions and a 50% reduction in PM₁₀. If these reductions are not attained by the on-site measures described above, they would occur through off-site reductions as a result of payment of fees collected by SJVAPCD. Implementation of Mitigation Measure 4.2-2b would result in emissions generated by employee commute trips. (Implementation of Mitigation Measure 4.2-2b may also have the added benefit of lessening traffic congestion and traffic noise levels on area roads.) According to the Recommended Guidance for Land Use Emission Reductions (SMAQMD 2007), the measures listed under Mitigation Measure 4.2-2b result in quantifiable reductions in mobile-source emissions associated with industrial land uses and these reductions have been substantiated by research. Implementation of these measures as well as Mitigation Measures 4.2-2c and 4.2-2d would reduce project-generated, operational emissions of ROG, ~~and~~ NO_x and PM₁₀. Implementation of Mitigation Measure 4.2-2e would ensure the additional emissions reduction necessary to reduce operational emissions of ROG and NO_x to levels below 10 TPY and operational emissions of PM₁₀ to levels below 15 TPY. As a result, this impact would be reduced to a *less-than-significant* level.

IMPACT 4.2-3 **Generation of Long-Term, Operation-Related (Local) Mobile-Source Emissions of CO.** *Based on SJVAPCD's screening criteria, project-generated long-term operational local mobile-source emissions of CO would not result in or substantially contribute to emissions concentrations that exceed the 1-hour ambient air quality standard of 20 ppm or the 8-hour standard of 9 ppm, respectively. As a result, this impact would be less than significant.*

CO concentration is a direct function of motor vehicle activity, particularly during peak commute hours, and meteorological conditions. Under specific meteorological conditions, CO concentrations may reach unhealthy levels with respect to local sensitive land-uses such as residential areas, schools, and hospitals. As a result, the SJVAPCD recommends analysis of CO emissions at a local rather than a regional level. Because of the fact that increased CO concentrations are usually associated with roadways that are congested and with heavy traffic volume, the SJVAPCD has established preliminary screening criteria to determine with fair certainty that, if not violated, project-generated long-term operational local mobile-source emissions of CO would not result in or substantially contribute to emissions concentrations that exceed the 1-hour ambient air quality standard of 20 ppm or the 8-hour standard of 9 ppm, respectively. SJVAPCD's preliminary screening criteria consist of the following:

- ▶ A traffic study for the project indicates that the Level of Service (LOS) on one or more streets or at one or more intersections in the project vicinity would be reduced to LOS E or F, or

- ▶ A traffic study for the project indicates that implementation would substantially worsen an already existing LOS F on one or more streets or at one or more intersections in the project vicinity (SJVAPCD 2002).

According to the traffic analysis prepared for this project, all affected signalized intersections would operate at LOS D or better under 2010 background plus project conditions and under cumulative plus project (2030) conditions during both AM and PM peak hours. The intersections of SR 140 and Baker Drive, Childs Avenue and the SR 99 southbound off-ramp, and Childs Avenue and the SR 99 northbound off-ramp are projected to be at LOS E or F during the AM and/or PM peak hours under 2010 background conditions with or without the project (DKS Associates 2008). However, these intersections are unsignalized (all-way stop controlled) and would not serve heavy traffic volumes that could generate substantial localized concentrations of CO. Also, traffic generated by the project would not result in excessive idling or substantially worsen any area street segments in any other way.

Intersections controlled by stop signs do not experience high enough traffic volumes and associated congestion to result in violations of the AAQS; therefore, CO modeling is not recommended for unsignalized intersections (Garza et al. 1997). Because the intersections controlled by stop signs would accommodate fewer vehicles than signalized intersections, it is reasonable to conclude that congestion at the intersections controlled by stop signs would not result in CO concentrations that exceed the AAQS.

Some signalized intersections ~~in the vicinity of affected by the project-generated traffic area~~ are predicted to operate at an unacceptable LOS (i.e., LOS E or F) under cumulative conditions in the year 2030 with or without the traffic that would be generated by the proposed project (DKS Associates 2008). ~~Because of stricter vehicle emissions standards in newer cars, new technology, and increased fuel economy, future CO emission factors under cumulative conditions (analysis year 2030) would be substantially lower than those under existing conditions.~~

Thus, based on the screening criteria above, project-generated long-term operational local mobile-source emissions of CO would not result in or substantially contribute to emissions concentrations that exceed the 1-hour ambient air quality standard of 20 ppm or the 8-hour standard of 9 ppm, respectively. As a result, this impact would be *less than significant*.

Mitigation Measure

No mitigation is required.

IMPACT 4.2-4 Exposure of Sensitive Receptors to Emissions of Toxic Air Contaminants. *Construction and operation of the proposed project would result in increased health risk levels associated with short-and long-term emissions of diesel PM and other TACs. However, the incremental increase in health risk levels, including cancer risk and noncancer chronic risk, would not exceed applicable thresholds at nearby sensitive receptors. As a result, this impact would be less than significant.*

The exposure of sensitive receptors to emissions of TACs from on-site sources during construction and operation of the proposed project are discussed separately below.

Short-term Construction-Related Emissions

Construction-related activities would result in temporary, short-term project-generated emissions of diesel PM from the exhaust of off-road heavy-duty diesel equipment for site preparation (e.g., demolition, excavation, grading, and clearing); paving; application of architectural coatings; and other miscellaneous activities. As shown in Table 4.2-6, off-road diesel-powered equipment operated during project construction would generate approximately 2 tons of diesel PM exhaust emissions at the project site during the one-year construction effort (i.e., off-road diesel exhaust during site preparation, actual building construction, and asphalt paving). This

amount would be lower with implementation of Mitigation Measure 4.2-1a because the NO_x and PM₁₀ reduction measures required by the ISR rule would also result in reduced emissions of diesel PM. Diesel PM was identified as a TAC by ARB in 1998. The potential cancer risk from the inhalation of diesel PM, as discussed below, outweighs the potential for all other health impacts (ARB 2003). At this time, SJVAPCD has not adopted a methodology for analyzing such impacts and does not recommended the completion of HRAs for construction-related emissions of TACs, with a few exceptions (e.g., where construction phase is the only phase of project) (Reed, pers. comm., 2007).

In January 2001, EPA promulgated a Final Rule to reduce emission standards for 2007 and subsequent model year heavy-duty diesel engines. These emission standards represent a 90% reduction in NO_x, 72% reduction of nonmethane hydrocarbon emissions, and 90% reduction of PM emissions in comparison to the 2004 model year emission standards. In December 2004, ARB adopted a fourth phase of emission standards (Tier 4) in the Clean Air Non-road Diesel Rule that are nearly identical to those finalized by EPA on May 11, 2004. As such, engine manufacturers are now required to meet after treatment-based exhaust standards NO_x and PM starting in 2011 that are more than 90% lower than current levels, putting emission factors from off-road engines virtually on par with those from on-road heavy-duty diesel engines.

The dose to which receptors are exposed is the primary factor used to determine health risk (i.e., potential exposure to TAC emission levels that exceed applicable standards). Dose is a function of the concentration of a substance or substances in the environment and the duration of exposure to the substance. Dose is positively correlated with time, meaning that a longer exposure period would result in a higher exposure level for the maximally exposed individual. Thus, the risks estimated for a maximally exposed individual are higher if a fixed exposure occurs over a longer period of time. According to the Office of Environmental Health Hazard Assessment, health risk assessments, which determine the exposure of sensitive receptors to TAC emissions, should be based on a 70-year exposure period; however, such assessments should be limited to the period/duration of activities associated with the proposed project (Salinas, pers. comm., 2004). Thus, because the use of off-road heavy-duty diesel equipment would be temporary in combination with the highly dispersive properties of diesel PM (Zhu and Hinds 2002) and further reductions in exhaust emissions, project-generated, construction-related emissions of TACs would not expose sensitive receptors to substantial emissions of TACs. Compliance with the ISR rule, as required by law, would also reduce diesel PM exhaust emissions. As a result, this impact would be *less than significant*.

Long-Term Operation-Related Emissions

A HRA was performed to assess the potential health risk associated with TACs generated by the operation of the proposed project, which would occur for an indefinite length of time. This HRA was performed, according to the recommendation of the SJVAPCD, to determine the exposure (i.e., risk levels) of existing nearby sensitive-receptors (e.g., residences, worker locations, and schools) from on-site TAC emission sources. The need to conduct a site-specific HRA was also supported by the recommendations of ARB in its Air Quality and Land Use Handbook, which suggest that an HRA be performed before locating a distribution center and sensitive receptors within 1,000 feet of each other (ARB 2005).

Implementation of the proposed project would result in TAC emissions from various operation-related activities, including diesel PM from on-site travel and idling by haul trucks and yard trucks, transport refrigeration units, the diesel-powered backup generator and fire-water pump; and naphthalene and polycyclic aromatic hydrocarbons from the grill in the employee cafeteria.

For emission sources of diesel PM, air quality dispersion modeling was conducted using the EPA AERMOD model (Version 07026) with the ISC-AERMOD View interface (Version 5.6) (Lakes Environmental Software 2007) to determine the concentration levels at existing nearby sensitive receptors. Emission rates for (on-road) haul trucks, (off-road) yard trucks, transport refrigeration units, backup generator, and the fire-water pump were based on those in the SJVAPCD Modeling Guidance, equipment manufacturer specifications, or particulate

matter standards for the pertinent class of diesel-powered internal combustion engines. To evaluate potential health risk associated with operation of the cafeteria, dispersion and risk modeling were performed using the Hotspots Analysis Reporting Program (HARP) software package (Version 1.3, updated October 2006) developed by ARB for conducting health risk assessments (ARB ~~2006x2006c~~). Emissions of organic gases from the on-site cafeteria were evaluated using an air toxic pollutant surrogate for the total mass estimate for organic gases, in accordance with SJVAPCD Modeling Guidance (SJVAPCD 2007~~c~~^x). In addition to emission rate information, all air dispersion modeling was based on five sequential years of hourly preprocessed meteorological data provided by SJVAPCD and terrain data from the U.S. Geological Survey (U.S. Geological Survey 2006). Variable emission correction factors were incorporated into the modeling to account for proportionally higher levels of emissions activity during peak daytime hours compared to late evening hour and early morning hours when operational activity is generally lower.

The HRA evaluated increased cancer risk and chronic noncancer health hazards at specific nearby locations where people may be exposed to emissions of TACs, including residences, schools, and worker sites (A detailed map of these discrete receptor locations is shown in Figure 2 of Appendix C. Carcinogenic risks and potential chronic noncancer health effects were assessed using the dispersion modeling, as described in the preceding sections, and numerical values of toxicity provided by OEHHA (OEHHA 2003). The HRA evaluated cancer and noncancer health effects from inhalation exposure at individual sensitive receptors, including nearby residences, worker sites, and schools. Exposure levels at both existing and future planned sensitive receptors were assessed. Because the pollutants of concern do not have published toxicity factors for short-term (acute) exposure, this HRA evaluated only potential long-term health impacts.

Health risk impacts were identified at actual locations of residential and worker receptors within a 1-mile radius of the proposed project site. A summary of maximum cancer risk and noncancer health impacts values is shown in Table 4.2-8.

Of the 10 residential locations identified (as shown in Figure 2 of the HRA in Appendix C) for evaluating the maximum increase in individual health risk impacts, the incremental increase in cancer risk at the Maximum Exposed Individual Receptor (MEIR) was determined to be 7.3 in 1 million (Table 4.2-8). The HI for increased noncancer chronic risk at the MEIR was determined to be 0.0086 (Table 4.2-8). Both the MEIR for increased cancer risk and highest HI for noncancer chronic risk occurred at the same residential receptor, an existing residence located less than a mile southwest of the proposed project site.

Individual Receptor Type	Health Risk Impact ¹	
	Cancer Risk	Noncancer Risk
Residential Receptors		
Maximum Exposed Individual Receptor (MEIR)	7.3	0.0086
Worker (Occupational) Receptors		
Maximum Exposed Individual Worker (MEIW)	2.4	0.0034
School Receptors		
Maximum Exposed Individual Child (MEIC)	0.18 ^(c) , 1.3 ^(w)	0.000054 ^(c) , 0.0019 ^(w)
Threshold	10	1.0
¹ Cancer risk shown is total cancer risk, expressed in cases per million people, from diesel particulate matter, polycyclic aromatic hydrocarbons, and naphthalene. Cancer risk for residential receptor is based on a 70-year exposure. Cancer risk for worker receptors is based on an adjusted worker exposure in accordance with OEHHA (OEHHA 2003) and the SJVAPCD Modeling Guidance (SJVAPCD 2007x2007c). Two cancer risk impacts were estimated for the schools. The first cancer risk shown (c) is based on a 9-year student exposure using inhalation and body weight factors developed by OEHHA for children. The second (w) cancer risk is based on a 40-year worker exposure. See Appendix C for detailed input parameters and modeling results. Sources: Modeling performed by ENSR 2007		

Two worker locations were identified for evaluating the maximum increased individual health risk impacts at the Maximum Exposed Individual Worker (MEIW). As shown in Table 4.2-8, increased cancer risk at the MEIW, based on worker exposure assumptions, was determined to be 2.4 in one million. The HI for increased noncancer chronic risk at the MEIW was 0.0034. This worker receptor occurs north of the proposed project site along Childs Avenue.

Four schools were identified within 2.5 miles of the proposed project site, all of which are located to the west. For evaluating school receptors, two health risk analyses were conducted. The first was to evaluate the increase in potential health risk impacts to children that attend the schools using the 9-year exposure scenario available in the HARP model to estimate health risk for children. This exposure scenario accounts for the higher breathing rate to body mass ratio of a child compared to an adult and is appropriate for use in estimating exposure to children. The second assessment treated the schools as worker receptors, similar to the analysis performed for identification of impacts at the MEIW, to account for adult staff employed at the schools.

The levels of increased cancer risk at all receptors estimated in this health risk analysis were less than the SJVAPCD significance level of 10 in one million. In addition, operation of the project would not result in HIs for noncancer chronic risk at any receptor that would exceed SJVAPCD's recommended threshold of 1.0. In summary, based on the results of this HRA, human health risks and effects from long-term operational on-site emissions associated with the proposed project would not result in the exposure of any off-site sensitive receptors to levels that exceed applicable thresholds. As a result, this is a *less-than-significant* impact.

Mitigation Measure

No mitigation is required.

IMPACT **Exposure of Sensitive Receptors to Emissions of Odors.** *Construction and operation of the proposed project would not result in the frequent exposure of receptors to substantial objectionable odor emissions. As a result, this impact would be less than significant.*

The project site currently consists of undeveloped and fallow farmlands and orchards with no buildings or sensitive receptors on-site. The nearest off-site sensitive receptors to the project site include the new housing development located approximately 1,250 feet west of the project site (across an existing almond orchard zoned for future industrial development), a farm house located across Gerard Avenue approximately 450 feet from the southwest corner of the project site, a farm house located over 700 feet from the project site's southeast corner, and a farm house located approximately 100 feet east of the project site (across Tower Road). The exposure of sensitive receptors to odors from project construction and operation are discussed separately below.

Short-Term Construction-Related Emissions

The predominant source of power for construction equipment is diesel engines. Exhaust odors from diesel engines, as well as emissions associated with asphalt paving and the application of architectural coatings may be considered offensive to some individuals. However, because odors would be temporary and would disperse rapidly with distance from the source, construction-generated odors would not result in the frequent exposure of off-site receptors to objectionable odor emissions.

Long-Term Operation-Related Emissions

The primary odor source from project operations would be diesel exhaust from on-site travel and idling of haul trucks and yard trucks. With the exception of trucks checking in at the truck entrance on the west side of the project site, most truck activity would occur near the center of the project site. The truck gate area would be located approximately 100 feet from the project site's west boundary and the closest off-site receptor would be the new housing development located across the almond orchard at a distance of approximately 1,350 feet. Because this is a substantial distance with respect to the rapid dispersion rate of diesel exhaust and because an ARB air

toxic control measure limits truck idling to 5 minutes (13 CCR Chapter 10 Section 2485), on-site diesel emissions are not expected to generate odor complaints at off-site receptors.

Odor may also be generated by the charbroil grill in the employee cafeteria. During a 2-day site visit to the Wal-Mart distribution center in Apple Valley, CA odors from the charbroil grill were not observed from any location on the site, including indoor and outdoor areas near the employee cafeteria. In addition, because the employee cafeteria is located near the center of the project site in the warehouse building any noticeable odors would likely disperse to an unnoticeable level before reaching the site boundary.

Both project construction and project operations are not expected to result in the frequent exposure of off-site receptors to substantial objectionable odor emissions. As a result, this impact would be considered *less than significant*.

Mitigation Measure

No mitigation is required.

IMPACT 4.2-6 **Generation of Emissions of Greenhouse Gases.** *Construction- and operation-related activities of the proposed project would result in a considerable net increase in emissions of CO₂ and other greenhouse gases. These levels would constitute a considerable net increase in GHG emissions. In addition, this increase would conflict with the state's AB 32 goals, which require reductions in statewide emissions levels of GHGs. As a result, this impact would be considered **significant**.*

Construction- and operation-related emissions of CO₂ associated with implementation of the proposed project were estimated using URBEMIS 2007 Version 9.2.2 computer program (ARB ~~2007x~~2007g), which is designed to model construction and operational emissions for land use development projects. Construction emissions were estimated based on default parameters of the URBEMIS 2007 model and SJVAPCD-recommended parameters for composition of the construction equipment fleet, ground disturbance acreage, worker trips, and material haul trips (SJVAPCD ~~2007x~~2007a). The URBEMIS 2007 model does not account for CO₂ emissions associated with the production of concrete or other building materials used in project construction. Operation-related emissions were estimated based on the proposed land uses type and size, vehicle trip information from the traffic analysis prepared for this project (DKS Associates 2008), Section 4.11 "Traffic and Transportation," truck trip information from an existing Wal-Mart distribution centers in California (McAlexander, pers. comm., 2007), electricity and natural gas consumption from the Wal-Mart distribution center in Porterville, CA (Gordon, pers. comm., 2007), and SJVAPCD's recommended standard changes to URBEMIS Default Values (SJVAPCD ~~2007x~~2007b). In addition, emissions from on-site activity by on-road haul trucks and off-road yard trucks were estimated separately using assumptions about on-site travel distances and idling times, and indirect-source GHG emissions were estimated using the California Climate Action Registry Protocol, Version 2.2 (CCAR 2007) and electricity consumption data for the existing Wal-Mart distribution center in Porterville, CA (Gordon, pers. comm., 2007). Modeled construction and operational emissions of CO₂ are summarized in Tables 4.2-9 and 4.2-10, respectively.

**Table 4.2-9
Summary of Modeled Project-Generated Construction-Related Emissions of Carbon Dioxide**

Source	Carbon Dioxide Emissions (Tons/Year) ¹
Grading	
Fugitive Dust	0.0
Off-Road Diesel Exhaust	984.9
On-Road Diesel Exhaust	0.0
Worker Trips	30.6
Subtotal Unmitigated	1,015.4
Asphalt	
Off-Gas Emissions	0.00
Off-Road Diesel Exhaust	21.8
On-Road Diesel Exhaust	41.8
Worker Trips	1.6
Subtotal Unmitigated	65.2
Building Construction	
Off-Road Diesel Exhaust	1,329.8
Vendor Trips	1,722.09
Worker Trips	1,079.0
Subtotal Unmitigated	4,130.8
Architectural Coatings	
Off-Gas Emissions	0.0
Worker Trips	15.3
Subtotal Unmitigated	15.3
Total	5,226.7
Notes: See Appendix C for detailed input parameters and modeling results.	
¹ Emissions generated by construction were estimated using URBEMIS 2007 Version 9.2.2 (ARB 2007x 2007g) and SJVAPCD-recommended input parameters (SJVAPCD 2007x 2007a). The URBEMIS 2007 model does not account for CO ₂ emissions associated with the production of concrete or other building materials used in project construction.	
Source: Modeling performed by EDAW 2007	

**Table 4.2-10
Summary of Modeled Project-Generated Operation-Related Emissions of Carbon Dioxide**

Source	Carbon Dioxide Emissions (Tons/Year) ¹
Area Source²	
Natural Gas ³	344.2
Landscaping	0.0
Architectural Coatings	0.3
Mobile Source	
Employee Commute Trips	2,619.1
Outbound Delivery Truck Trips⁴	
Proposed Project ⁵	24,170.7
Existing ⁶	21,108.4
Net ⁷	3,062.3
Inbound Receivable Truck Trips⁴	
Proposed Project ⁸	37,995.2
Existing ⁸	37,995.2
Net ⁷	0.0
On-Site Truck Activity	
Haul Truck Idling ⁹	311.3
Haul Truck Travel ⁹	296.6
Yard Truck Idling ¹⁰	578.1
Yard Truck Travel ¹⁰	132.9
Indirect Sources	
Electricity Consumption ¹¹	5,363.7
Total Unmitigated¹²	12,708.4

¹ Emissions were modeled using the URBEMIS 2007 Version 9.2.2 computer model, based on trip generation rates obtained from the traffic analysis, and implementing SJVAPCD's Recommended Standard Changes to URBEMIS Default Values (SJVAPCD ~~2007x2007b~~).

² Emissions from the periodic testing of the back-up generator and fire-water pump are not included because the amount of operation from periodic testing and maintenance would be nominal at an estimated 52 hours per year.

³ Emissions from natural gas usage were calculated using recent natural gas usage rates at the Porterville distribution center, as provided by Wal-Mart staff (Gordon, pers. comm., 2007).

⁴ According to the traffic analysis, a total of 644 truck trips would be generated by the proposed Merced Distribution Center. It is assumed that half of these truck trips would be associated with truck deliveries from the distribution center to retail stores (322 *outbound* delivery truck trips) and that the other half of trips would be associated with deliveries of goods to the distribution center (322 *inbound* receivable truck trips). The emission estimates for outbound and inbound truck trips do not account for Wal-Mart's participation in EPA's SmartWay Transport Partnership, which aims to increase energy efficiency and reduce emissions from ground freight carriers (EPA 2007).

⁵ It is assumed that the average trip distance for all 322 outbound delivery truck trips would be equal to the average trip distance (in and beyond the San Joaquin Valley Air Basin) from the proposed distribution center to the 49 existing Wal-Mart stores that would be served by the Merced Distribution Center, which is 109.1 miles per trip, as provided by Wal-Mart (McAlexander, pers. comm., 2007).

⁶ The trip generation rate and average trip distance (171.5 miles in and beyond the San Joaquin Valley Air Basin) for existing outbound delivery trucks are based on existing conditions data provided by Wal-Mart for the 49 existing stores that would be supplied by the Merced Distribution Center (McAlexander, pers. comm., 2007).

⁷ Net emissions are equal to emissions generated by the proposed project minus existing emissions.

⁸ It is assumed that the average trip distance for all inbound receivable truck trips (in and beyond the San Joaquin Valley Air Basin), with and without the proposed project, would be equal to the average existing trip distance of 171.5 miles between the 49 existing Wal-Mart stores that would be served by the Merced Distribution Center and their existing distribution center in Red Bluff or Porterville.

⁹ Emissions generated by on-site travel and idling by haul trucks were estimated separately using default emission factors derived from the EMFAC2007 Version 2.3 model (ARB ~~2006x2006b~~).

¹⁰ Emissions generated by on-site travel and idling by off-road yard trucks were estimated using emission factors derived from URBEMIS 2007 Version 9.2.2 (ARB ~~2007x2007g~~).

¹¹ Carbon dioxide (CO₂) emissions associated with electricity consumption were estimated according to methodologies of the *California Climate Action Registry General Reporting Protocol, Version 2.2* (CCAR 2007). According to the Protocol an additional 1.03 CO₂-equivalent/year of CH₄ and 7.65 CO₂-equivalent/year of N₂O would be generated by electricity consumption.

¹² The SJVAPCD has not identified mass emissions thresholds for CO₂ emissions. This estimate total does not account for the depletion of carbon sequestration associated with the removal of the existing on-site almond orchard.

See Appendix C for detailed input parameters, calculations, and modeling results.
Source: Modeling performed by EDAW 2007

As shown in Table 4.2-8, construction of the project would generate approximately 5,226.7 tons of CO₂ during the 12-month construction period. Though the construction period is projected to last for one year, the CO₂ emissions generated during that year-long period would persist in the atmosphere for much longer periods of time, on the order of tens to hundreds of years. As shown in Table 4.2-9, operation of the project would generate annual emissions of approximately 12,595 tons of CO₂ during each year of the life of the project. There are no adopted numeric thresholds above or below which a significant increase in greenhouse gas emissions would occur. Absent this type of guidance, and given the cumulative nature of contribution of these emissions to global climate change, these levels would constitute a considerable net increase in GHG emissions. In addition, this increase could conflict with the state's AB 32 goals, which require reductions in statewide GHG emission levels. As a result, this impact would be *significant*.

Mitigation Measure 4.2-6a: Implement Mitigation Measures 4.2-1a and 4.2-1b.

The applicant shall implement Mitigation Measures 4.2-1a and 4.2-1b, which will have the added benefit of reducing construction-related emissions of CO₂.

Mitigation Measure 4.2-6b: Ensure On-Site Yard Trucks are Maintained and Meet On-Road Truck Emissions Standards.

The applicant shall ensure that all on-site "yard trucks" have ARB-approved on-road truck engines that meet on-road truck emissions standards and are maintained in proper working condition according to manufacturer specifications. The applicant shall provide an inventory list of all on-site yard trucks to SJVAPCD prior to operating the facility and the applicant shall grant SJVAPCD permission to verify the inventory at the project site if desired by SJVAPCD.

Mitigation Measure 4.2-6c: Implement Mitigation Measures 4.2-2a, 4.2-2b, 4.2-2c, and 4.2-2d.

The applicant shall implement Mitigation Measures 4.2-2a, 4.2-2b, 4.2-2c, and 4.2-2d, which will have the added benefit of reducing project-generated, operation-related emissions of CO₂.

Mitigation Measure 4.2-6d: Implement Effective Mitigation Measures.

The following measures, as well as any other effective mitigation measures, shall be implemented by the project applicant to further reduce operation-related emissions of CO₂.

- ▶ Install solar panels or other types of alternative energy sources (e.g., wind turbines) in all available areas of the project site, including the roof of the warehouse building, the buffer areas surrounding the paved truck yards and employee parking lot, and covered parking areas, walkways and outdoor areas, to supply electricity for on-site use. This measure would be consistent with the Merced Vision 2015 General Plan Policy SD-3.1, which is to promote the use of solar energy technology (City of Merced 1995). Wal-Mart shall submit a plan to achieve this measure prior to the first day of project operations and this measure shall be achieved within one year after the first day of project operations.
- ▶ ~~Determine which local electricity provider, Pacific Gas and Electric Company or Merced Irrigation District, produces electricity with the lowest CO₂-equivalent output emission rate (lb/MWh) and select this provider to meet remaining electricity demand of on-site operations.~~
- ▶ If the applicant purchases electricity and/or natural gas from PG&E for operation of the proposed project then it shall participate in PG&E's ClimateSmart® program for the purchase of any and all electricity and natural gas consumed on-site by the proposed facility. Participation in PG&E's ClimateSmart® program shall commence prior to receiving its first monthly energy bill from PG&E. Participation in the ClimateSmart® program shall continue for as long as the program, or similar program offered by PG&E, is in existence.

- ▶ Retain the portion of the existing almond orchard located between the proposed truck gate and future Campus Parkway. For all almond trees that are subject to removal, participate in an urban and community forestry program (such as the UrbanWood program managed by the Urban Forest Ecosystems Institute [Urban Forest Ecosystems Institute 2007]) in which tree wood is harvested for an end-use that would retain its carbon sequestration (e.g., furniture building, cabinet making). For all nonharvestable almond trees that are subject to removal, develop an off-site tree program that includes a level of tree planting that, at a minimum, increases carbon sequestration by an amount equivalent to what would have been sequestered by the almond orchard during its lifetime. This program shall be funded by the applicant and reviewed for comment by an independent Certified Arborist unaffiliated with the Applicant. Final approval of the program shall be provided by the City prior to tree removal. Components of the program may include, but not be limited to, providing urban tree canopy in the City of Merced, or reforestation in suitable areas outside the City. Upon its completion, the California Urban Forestry Greenhouse Gas Reporting Protocol shall be used to assess this mitigation program. At the time of writing this document, the Center for Urban Forest Research expects to complete the California Urban Forestry Greenhouse Gas Reporting Protocol with the California Climate Action Registry sometime in 2008 (Center for Urban Forest Research 2007). All unused vegetation and tree material shall be shipped to the nearest composting facility, or landfill that is equipped with a methane collection system, or biomass power plant. Tree and vegetative material should not be burned on or off-site unless used as fuel in a biomass power plant.

- ▶ The applicant shall inventory all emissions of GHGs associated with operation of the project according to the most recently established methodologies of the CCAR, the Climate Registry, or ARB. The inventory shall be verified by a verifier who is accredited by the applicable registry within one year of opening the facility and the inventory and verification shall be shared with the City of Merced. This inventory shall include mobile-source GHG emissions associated with trips by Wal-mart trucks traveling to and from the distribution center, and on-site vehicles that are part of Wal-mart's vehicle fleet. At the time of writing this report the most recently established methodology is the California Climate Action Registry's General Reporting Protocol, Version 2.2 (CCAR 2007).

Implementation of the Mitigation Measures 4.2-6a through 4.2-6d above would result in reductions of emissions of CO₂ and offsets; however, at the time of writing this EIR these reductions cannot be fully quantified. In addition, implementation of Mitigation Measure 4.2-1c and Mitigation Measure 4.2-2e, which require the Applicant to implement an emissions reduction agreement with SJVAPCD to reduce construction and operational emissions of ROG and NO_x to less than the SJVAPCD-established threshold for ROG and NO_x 10 TYP, will have the added benefit of reducing construction and operational GHG emissions. However, the size of the associated GHG reduction cannot be quantified at the time of writing this EIR and, more significantly, there is not established methodology for verifying the associated GHG reductions from emission reduction agreements. Moreover, the net increase in GHG emissions would ~~may~~ still be of an amount that would be considered substantial. Because the project would potentially still result in a net increase in CO₂ emission levels and conflict with the state's AB 32 goals, this impact would be remain *significant and unavoidable*.

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6 REPORT PREPARERS

EDAW, Inc

Gary Jakobs, AICP Principal-in-Charge
Randy Chafin, AICP..... Project Manager
Mike Parker Assistant Project Manager
Jason Barrett Environmental Planner
John Hope, AICP..... Environmental Planner
Kristin Stoner Environmental Planner
Wendy Copeland Environmental Planner
Alexander Quinn Director of Sustainable Economics
Honey Walters Air Quality/Noise Specialist
Austin Kerr Air Quality/Noise Analyst
Ted Daum Hydrology/Water Quality Specialist
Brian Ludwig, Ph.D..... Senior Archaeologist
Amber Giffin Publications

Remy, Thomas, Moose, and Manley (Legal Review)

Ashle Crocker Attorney
Jason Holder Attorney

DKS Associates (Traffic and Transportation)

Mark Spencer, PE Traffic Engineer

ENSR (Health Risk Assessment)

Greg Wolfe Senior Program Manager

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APPENDIX A

Proposed Merced Wal-Mart Distribution Center Mitigation Monitoring Plan

MERCED WAL-MART DISTRIBUTION CENTER ENVIRONMENTAL IMPACT REPORT CITY OF MERCED

Mitigation Monitoring Program

MITIGATION MONITORING CONTENTS

This mitigation monitoring program includes a brief discussion of the legal basis and purpose of the mitigation monitoring program, a key to understanding the mitigation monitoring table, a discussion of noncompliance complaints, and the mitigation monitoring table itself.

LEGAL BASIS AND PURPOSE OF THE MITIGATION MONITORING PROGRAM

Public Resource Code (PRC) 21081.6 requires public agencies to adopt mitigation monitoring or reporting programs whenever certifying an environmental impact report or mitigated negative declaration. This requirement facilitates implementation of all mitigation measures adopted through the California Environmental Quality Act (CEQA) process.

The City of Merced has adopted its own “Mitigation Monitoring and Reporting Program” (MMC 19.28). The City’s program was developed in accordance with the advisory publication, *Tracking CEQA Mitigation Measures*, from the Governor’s Office of Planning and Research.

As required by MMC 19.28.050, the following findings are made:

- 1) The requirements of the adopted mitigation monitoring program for the Merced Wal-Mart Distribution Center shall run with the real property that is the subject of a General Plan Amendment and site plan. Successive owners, heirs, and assigns of this real property are bound to comply with all of the requirements of the adopted program.
- 2) Prior to any lease, sale, transfer, or conveyance of any portion of the subject real property, the applicant shall provide a copy of the adopted program to the prospective lessee, buyer, transferee, or one to whom the conveyance is made.

MITIGATION MONITORING PROCEDURES

In most cases, mitigation measures can be monitored through the City’s construction plan approval/plan check process. When the approved project plans and specifications, with mitigation measures, are submitted to the City Development Services Department, a copy of the monitoring checklist will be attached to the submittal. The Merced Wal-Mart Distribution Center EIR Mitigation Monitoring Checklist will be filled out upon project approval with mitigation measures required. As project plans and specifications are checked, compliance with each mitigation measure can be reviewed.

In instances where mitigation requires on-going monitoring, the Mitigation Monitoring Checklist will be used until monitoring is no longer necessary. The Development Services Department will be required to file periodic

reports on how the implementation of various mitigation measures is progressing or is being maintained. Department staff may be required to conduct periodic inspections to assure compliance. In some instances, outside agencies and/or consultants may be required to conduct necessary periodic inspections as part of the mitigation monitoring program. Fees may be imposed per MMC 19.28.070 for the cost of implementing the monitoring program.

NONCOMPLIANCE COMPLAINTS

Any person or agency may file a complaint asserting noncompliance with the mitigation measures associated with the project. The complaint shall be directed to the Director of Development Services in written form providing specific information on the asserted violation. The Director of Development Services shall cause an investigation and determine the validity of the complaint. If noncompliance with a mitigation measure has occurred, the Director of Development Services shall cause appropriate actions to remedy any violation. The complainant shall receive written confirmation indicating the results of the investigation or the final action corresponding to the particular noncompliance issue. Merced Municipal Code (MMC) Sections 19.28.080 and 19.28.090 outline the criminal penalties and civil and administrative remedies which may be incurred in the event of noncompliance. MMC 19.28.100 spells out the appeals procedures.

MITIGATION MONITORING TABLE

Table 1 identifies the mitigation measures proposed specifically for the Merced Wal-Mart Distribution Center. The columns in the table are defined as follows:

- ▶ **Mitigation Number** – This column lists the mitigation measures by number as identified in the environmental impact report.
- ▶ **Mitigation Measure** – This column provides the text of the mitigation measures identified in the environmental impact report.
- ▶ **Timing/Schedule** – This column identifies the time frame in which the mitigation will take place.
- ▶ **Implementation Responsibility** – This column identifies the entity responsible for complying with the requirements of the mitigation measure.
- ▶ **Verification** –The “Action” column describes the type of action taken to verify implementation. The “Date Completed” column is to be dated and initialed by the project manager, or his/her designee, based on the documentation provided by qualified contractors, or through personal verification by City of Merced representatives.

MERCED WAL-MART DISTRIBUTION CENTER EIR MITIGATION MONITORING CHECKLIST

Project Name: _____ **File Number:** _____

Approval Date: _____ **Project Location:** _____

Brief Project Description: _____

The following environmental mitigation measures were incorporated into the Conditions of Approval for this project in order to mitigate identified environmental impacts to a level of insignificance. A completed and signed checklist for each mitigation measure indicates that this mitigation measure has been complied with and implemented, and fulfills the City of Merced’s Mitigation Monitoring Requirements (MMC 19.28) with respect to Assembly Bill 3180 (Public Resources Code Section 21081.6).

Table 1 Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center					
Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
Air Quality					
4.2-1a	<p>Comply with SJVAPCD’s Indirect Source Review Rule (Rule 9510).</p> <p>Construction of the proposed project shall comply with SJVAPCD’s ISR rule (Rule 9510), as required by law. The Applicant shall have an Air Impact Assessment (AIA) application approved by SJVAPCD prior to issuance of a building permit by the City of Merced. The AIA application shall be submitted on a form provided by the SJVAPCD and contain, but not be limited to, the applicant’s name and address, detailed project description, on-site emission reduction checklist, monitoring and reporting schedule, and an AIA. The AIA shall quantify construction NO_x and PM₁₀ emissions associated with the project. This assessment shall include: an estimate of construction emissions prior to the implementation of mitigation measures; a list of the mitigation measures to be applied to the project; an estimate of emissions for each applicable pollutant for the project, or each phase</p>	Prior to issuance of building permits	Project applicant		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
	<p>thereof, following the implementation of mitigation; and a calculation of the applicable off-site fee, if required by Rule 9510. The general mitigation requirements in the assessment, as contained in the ISR rule, shall include the following:</p> <ul style="list-style-type: none"> ▶ Exhaust emissions for construction equipment greater than 50 horsepower used or associated with the development project shall be reduced by 20% of the total NO_x and by 45% of the total PM₁₀ emissions from the statewide average as estimated by ARB. ▶ Methods employed by the applicant to reduce construction emissions to the degree noted above include using less polluting construction equipment, including the use of add-on controls, cleaner fuels, or newer lower emitting equipment. The emissions reduction targets listed above shall be met through any combination of on-site emission reduction measures or offset fees, including those required and additional measures listed in Mitigation Measure 4.2-1b below. <p>The requirements listed above can be met through any combination of on-site emission reduction measures or offset fees, including those required and additional measures listed in Mitigation Measures 4.2-1b and 4.2-1c below; however, any on-site emission reductions must be both quantifiable and verifiable to be credited towards the requirements of the ISR Rule. Any off-site mitigation fees shall be paid by the applicant to SJVAPCD prior to issuance of a building permit by the City of Merced.</p>				

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
4.2-1b	<p>Implement Measures to Reduce Construction-Related Diesel Equipment Exhaust Emissions.</p> <p>The following required mitigation measures shall be implemented by the project applicant to reduce construction-related diesel equipment exhaust emissions regardless of whether the emission reductions can be quantified and documented. However, any emissions reductions attained by these measures that can be quantified and documented can be credited to achieve the ISR reduction goals discussed in Mitigation Measure 4.2-1a. These required measures are listed below. Prior to construction a requirement to implement these required measures shall be included in the contract language between the applicant and the builders of the project.</p> <p>Required Measures to Reduce Construction-Related Diesel Equipment Exhaust Emission</p> <ul style="list-style-type: none"> ▶ All off-road construction equipment used on the project site shall be powered by engines that meet, at a minimum, Tier II emission standards, as set forth in §2423 of title 13 of the California Code of Regulations and Part 89 of title 40 of the Code of Federal Regulations. The fleet of off-road construction equipment shall achieve a fleet average emissions factor equal to or less than the Tier II emissions standard of 4.8 grams per horsepower-hour for NOX. ▶ Cease construction activity on forecasted Spare the Air Days. ▶ Staging areas for heavy-duty construction equipment shall be located as far as possible from sensitive receptors. They shall be located on site and not be within 1,000 feet of any off-site receptors. 	<p>During grading and construction; prior to issuance of grading permit</p>	<p>Project applicant</p>		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
	<ul style="list-style-type: none"> ▶ Before construction contracts are issued, the project applicant shall perform a review of new technology in consultation with SJVAPCD, as it relates to heavy-duty diesel equipment, to determine what (if any) advances in emissions reductions are available for use and are economically feasible. Construction contract and bid specifications shall require contractors to utilize the available and economically feasible technology on a percentage of the equipment fleet, as determined by SJVAPCD. ▶ When not in use, idling of on-site equipment shall be minimized. Under no conditions shall on-site equipment be left idling for more than 5 minutes. ▶ Prohibit the use of trucks with off-road engines to haul materials on-site. Use trucks with on-road engines instead. <p>In addition, measures implemented to achieve the ISR reduction goals required by Mitigation Measure 4.2-1a may include, but are not limited to the additional measures listed below.</p> <p>Additional Operational Emission Reduction Measures</p> <ul style="list-style-type: none"> ▶ Use alternate fuels and emission controls to further reduce NOX and PM10 exhaust emissions above the minimum requirements set forth in the ISR rule. ▶ Replace/substitute fossil-fueled (e.g., diesel) equipment with electrically driven equivalents (provided they are not run via a portable generator set). ▶ Use ARB-certified alternative fueled engines in construction equipment. Alternative fueled equipment may be powered by compressed natural gas, liquid propane gas, electric motors, or other ARB-certified off-road technologies. (To find engines certified by ARB, see http://www.arb.ca.gov/msprog/offroad/cert/cert.php.) 				

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
	<ul style="list-style-type: none"> ▶ Provide commercial electric power to the project site in adequate capacity to avoid or minimize the use of portable electric generators and equipment. ▶ Limit the hours of operation of heavy duty diesel equipment and/or the amount of equipment in use at any one time. 				
4.2-1c	<p>Implement an Emissions Reduction Agreement with SJVAPCD to Reduce Construction Emissions of ROG and NO_x. The Applicant shall enter into an emissions reduction agreement with SJVAPCD to reduce net ROG and NO_x emissions to less than 10 TPY. This agreement includes an emission reduction program, whereby the Applicant funds projects in the SJVAB, such as replacement and destruction of old engines with new more efficient engines. The agreement requires the Applicant to identify and propose opportunities for the reduction of emissions to fully mitigate the project's construction emissions to less than significant, and includes opportunities for removal or retrofication of stationary, transportation, indirect, and/or mobile-source equipment. Each proposal requires SJVAPCD approval and verification of emission reduction prior to receiving final discretionary approval of the project from the City of Merced. The emissions reduction agreement must be implemented <i>in addition to</i> the Required Measures to Reduce Construction-Related Diesel Equipment Exhaust Emission listed in Mitigation Measure 4.2-1b. Development and implementation of the emissions reduction agreement shall be fully funded by the Applicant. To the extent feasible, preference shall be given to off-site emission reduction projects that are located in or in close proximity to the City of Merced. If approved by SJVAPCD, the Applicant may develop an emissions reduction agreement that also fulfills the compliance requirements of SJVAPCD's ISR Rule (Rule 9510). The Applicant shall demonstrate to the City that it has successfully entered into an emission reduction agreement with the San Joaquin Valley Air Pollution Control District before issuance of the first building permit by the City.</p>	Prior to issuance of grading permits	Project applicant		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
4.2-1d	<p>Comply with SJVAPCD’s Regulation VIII-Fugitive Dust Prohibitions and Implement All Applicable Control Measures.</p> <p>Construction of the proposed project shall comply with SJVAPCD’s Regulation VIII-Fugitive Dust Prohibitions and implement all applicable control measures, as required by law. Regulation VIII contains, but is not limited to, the following required control measures:</p> <ul style="list-style-type: none"> ▶ Prewater site sufficient to limit visible dust emissions (VDE) to 20% opacity. ▶ Phase work to reduce the amount of disturbed surface area at any one time. ▶ During active operations, apply water or chemical/organic stabilizers/suppressants sufficient to limit VDE to 20% opacity. ▶ During active operations, construct and maintain wind barriers sufficient to limit VDE to 20% opacity. ▶ During active operations, apply water or chemical/organic stabilizers/suppressants to unpaved haul/access roads and unpaved vehicle/equipment traffic areas sufficient to limit VDE to 20% opacity and meet the conditions of a stabilized unpaved road surface. ▶ An owner/operator shall limit the speed of vehicles traveling on uncontrolled unpaved access/haul roads within construction sites to a maximum of 15 miles per hour (mph). ▶ An owner/operator shall post speed limit signs that meet State and Federal Department of Transportation standards at each construction site’s uncontrolled unpaved access/haul road entrance. At a minimum, speed limit signs shall also be posted at least every 500 feet and shall be readable in both directions of travel along uncontrolled unpaved access/haul roads. 	Prior to and during site grading, preparation, and construction activities; prior to issuance of grading and building permits	Project applicant or designated agent		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
	<ul style="list-style-type: none"> ▶ When handling bulk materials, apply water or chemical/organic stabilizers/suppressants sufficient to limit VDE to 20% opacity. ▶ When handling bulk material, construct and maintain wind barriers sufficient to limit VDE to 20% opacity and with less than 50% porosity. ▶ When storing bulk materials, comply with the conditions for a stabilized surface as listed above. ▶ When storing bulk materials, cover bulk materials stored outdoors with tarps, plastic, or other suitable material and anchor in such a manner that prevents the cover from being removed by wind action. ▶ When storing bulk materials construct and maintain wind barriers sufficient to limit VDE to 20% opacity and with less than 50% porosity. If utilizing fences or wind barriers, apply water or chemical/organic stabilizers/suppressants to limit VDE to 20% opacity or utilize a 3-sided structure with a height at least equal to the height of the storage pile and with less than 50% porosity. ▶ Limit vehicular speed while traveling on the work site sufficient to limit VDE to 20% opacity. ▶ Load all haul trucks such that the freeboard is not less than 6 inches when material is transported across any paved public access road sufficient to limit VDE to 20% opacity. ▶ Apply water to the top of the load sufficient to limit VDE to 20% opacity. ▶ Cover haul trucks with a tarp or other suitable cover. ▶ Clean the interior of the cargo compartment or cover the cargo compartment before the empty truck leaves the site; and prevent spillage or loss of bulk material from holes or other openings in the cargo compartment's floor, sides, and/or tailgate; and load all 				

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
	<p>haul trucks such that the freeboard is not less than 6 inches when material is transported on any paved public access road, and apply water to the top of the load sufficient to limit VDE to 20% opacity; or cover haul trucks with a tarp or other suitable cover.</p> <ul style="list-style-type: none"> ▶ Owners/operators shall remove all visible carryout and trackout at the end of each workday. ▶ An owner/operator of any site with 150 or more vehicle trips per day, or 20 or more vehicle trips per day by vehicles with three or more axles shall take actions for the prevention and mitigation of carryout and trackout. ▶ An owner/operator shall prevent carryout and trackout, or immediately remove carryout and trackout when it extends 50 feet or more from the nearest unpaved surface exit point of a site. ▶ For sites with paved interior roads, an owner/operator shall prevent and mitigate carryout and trackout. ▶ Cleanup of carryout and trackout shall be accomplished by manually sweeping and picking-up; or operating a rotary brush or broom accompanied or preceded by sufficient wetting to limit VDE to 20% opacity; or operating a PM₁₀-efficient street sweeper that has a pick-up efficiency of at least 80%; or flushing with water, if curbs or gutters are not present and where the use of water would not result as a source of trackout material or result in adverse impacts on storm water drainage systems or violate any National Pollutant Discharge Elimination System permit program. <p>An owner/operator shall submit a Dust Control Plan to the Air Pollution Control Officer (APCO) before the start of any construction activity on any site that will include 10 acres or more of disturbed surface area for residential developments, or 5 acres or more of disturbed surface area for nonresidential development, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials on at least 3 days. Construction activities shall not commence until the APCO has</p>				

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
	<p>approved or conditionally approved the Dust Control Plan. An owner/operator shall provide written notification to the APCO within 10 days before the commencement of earthmoving activities via fax or mail. The requirement to submit a dust control plan shall apply to all such activities conducted for residential and nonresidential (e.g., commercial, industrial, or institutional) purposes or conducted by any governmental entity. Prior to issuance of grading or building permits from the City of Merced, the applicant shall demonstrate to the satisfaction of the SJVAPCD that mitigation measures identified above will be met, and identify and an individual responsible for enforcing the measures.</p>				
4.2-1e	<p>Mitigation Measure 4.2-1e: Implement SJVAPCD-Recommended Enhanced and Additional Dust Control Measures.</p> <p>The following SJVAPCD-recommended enhanced and additional control measure shall be implemented to further reduce emissions of fugitive PM₁₀ dust.</p> <ul style="list-style-type: none"> ▶ Install sandbags or other erosion control measures to prevent silt runoff to public roadways from adjacent project areas with a slope greater than 1%. ▶ Suspend excavation and grading activity when winds exceed 20 mph. ▶ Limit area subject to excavation, grading, and other construction activity at any one time. ▶ Prior to issuance of grading or building permits from the City of Merced, the applicant shall demonstrate to the satisfaction of the SJVAPCD that mitigation measures identified above will be met, and identify and an individual responsible for enforcing the measures. 	<p>During site grading, preparation, and construction activities; prior to issuance of grading or building permits</p>	<p>Project applicant or designated agent</p>		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
	<p>Implementation of Mitigation Measures 4.2-1a and -1b would result in the required minimum 20% reduction in NO_x emissions and a 45% reduction in PM₁₀ emissions from heavy-duty diesel equipment, as compared with statewide average emissions. Implementation of these measures would also result in a 5% reduction in ROG emissions from heavy-duty diesel equipment. All or part of the reductions may result from on-site equipment and fuel selection; the remainder would result from off-site reductions achieved through the payment of fees. Implementation of Mitigation Measure 4.2-1c would ensure the additional emissions reduction necessary to reduce construction-generated ROG and NO_x emissions to levels below 10 TPY. By prohibiting construction activity on forecasted Spare the Air days, Mitigation Measure 4.2-1b will also prevent construction-related emissions of ozone precursors from contributing substantially to an existing or projected air quality violation. As a result, this impact (generation of construction-related ROG and NO_x emissions) would be reduced to a <i>less-than-significant level</i>.</p> <p>With respect to fugitive PM₁₀ dust emissions, implementation of Mitigation Measures 4.2-1d and 4.2-1e would ensure compliance with Regulation VIII, which is required by law, and include additional SJVAPCD-recommended control measures. These dust control measures typically reduce fugitive PM₁₀ dust emissions by 75% to approximately 4.2 TPY, which is less than SJVAPCD's recommended threshold of 15 TPY. As a result, this impact (generation of construction-related fugitive PM₁₀ dust emissions) would be reduced to a <i>less-than-significant level</i>.</p>				
4.2-2a	<p>Comply with SJVAPCD's Indirect Source Review Rule (Rule 9510)</p> <p>Similar to Mitigation Measure 4.2-1a, which addresses construction-related emissions, operation of the proposed project shall comply with SJVAPCD's ISR rule (Rule 9510), as required by law. The applicant shall have an AIA application approved by SJVAPCD prior to issuance of a building permit from the City of Merced. The AIA application shall be submitted on a form provided by the SJVAPCD and contain, but not be limited to, the applicant's name and address, detailed project</p>	Prior to issuance of building permits; project operation	Project applicant		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
	<p>description, on-site emission reduction checklist, monitoring and reporting schedule, and an AIA. The AIA shall quantify operational NO_x and PM₁₀ emissions associated with the project. This shall include the estimated operational baseline emissions (i.e., before mitigation), and the mitigated emissions for each applicable pollutant for the project, or each phase thereof, and shall quantify the off-site fee, if applicable. General mitigation requirements, as contained in the ISR rule, include the following:</p> <ul style="list-style-type: none"> ▶ Applicants shall reduce 33.3%, of the project’s operational baseline NO_x emissions over a period of ten years as quantified in the approved AIA ▶ Applicants shall reduce 50% of the project’s operational baseline PM₁₀ emissions over a period of ten years as quantified in the approved AIA. <p>The requirements listed above can be met through any combination of on-site emission reduction measures or offset fees, including those required and additional measures listed in Mitigation Measures 4.2-2b, 4.2-2c, 4.2-2d, and 4.2-2e for emissions of CAPs and ozone precursors; and Mitigation Measures 4.2-6b and 4.2-6d for emissions of GHGs below; however, any on-site reductions of CAP and ozone precursor emissions must be both quantifiable and verifiable to be credited towards the requirements of the ISR Rule. Any off-site mitigation fees shall be paid by the Applicant to SJVAPCD prior to issuance of a building permit by the City of Merced.</p>				
4.2-2b	<p>Develop and Implement Design Features and Program Incentives to Reduce Employee Commute Trips.</p> <p>The applicant shall implement design features and develop program incentives that discourage employees from commuting in single occupant vehicles (SOVs) in order to reduce associated mobile-source emissions. These measures shall be fully funded by the applicant. Measures that result in quantifiable trip reductions can also be counted as reductions in NO_x and PM₁₀ emissions with respect to compliance with the ISR rule mentioned in Mitigation Measure 4.2-2a. The program</p>	Prior to issuance of building permits; prior to and during project operation	Project applicant		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<p>shall be managed by an on-site Employee Transportation Coordinator employed and appointed by the applicant. The design measures and development of program incentives and their effectiveness shall be evaluated annually and reported to the City of Merced. The City recognizes that, pursuant to California Health and Safety Code Section 40717.9, no city, air district, city, or congestion management agency can <i>require</i> an employer to implement an employee trip reduction program. However, the City can require feasible mitigation measures, including design features and program incentives, that strive to reduce the total number of employee commute trips. Mitigation Measure 4.2-2b consists of a list of measures that are required, as well as a list of additional measures that shall be implemented only if determined to be feasible by the applicant and the City.</p> <p>Required Design Features to Reduce Employee Commute Trips and Associated Mobile-source Emissions</p> <p>The following measures are considered feasible at the time of writing this EIR and shall be implemented within one year of opening the distribution center:</p> <ul style="list-style-type: none"> ▶ Design and provide preferential parking for HOVs. Design features may include a separate parking lot for HOVs that is closer to the employee building entrance than the parking lot for SOVs and/or covered parking spaces for HOVs. Other potential design features include connecting the preferential parking lot for HOVs to the employee entrance of the building with shaded, landscaped walkways or with open-air, covered walkways. ▶ Provide an adequate number of showers, changing areas, and locker facilities to accommodate employees who bike to work (typically one shower and 3 lockers for every 25 employees of a shift). ▶ Provide a display case or kiosk that displays up-to-date information regarding area bus transit routes, bicycle routes, and other information concerning measures designed to reduce the number of employees commuting in SOVs, in a prominent area accessible to employees (e.g., break room, cafeteria, or entrance). 				

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Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<ul style="list-style-type: none"> ▶ Provide on-site shops and services for employees including a cafeteria and a bank/ATM within 6 months of opening the facility. <p>Additional Measures to Reduce Employee Commute Trips and Associated Mobile-source Emissions</p> <p>The following additional measures may be implemented, if feasible:</p> <ul style="list-style-type: none"> ▶ Fund the design and installation of bikeways or bike lanes along local roads that provide access to the site. ▶ Operate free employee shuttle or vanpool system that serves employees according to their shift times and places of residence. Low-emissions shuttle or vanpool vehicles shall be used (e.g., hybrid, CGN, or electric). Provide a covered area for the on-site employee shuttle stop or vanpool parking lot and an open-air, covered walkway connection to the employee entrance of the building to provide summertime shade and protection from rain. ▶ Provide incentives for employees who take their children to child daycare centers to select nearby centers and designate these centers as official stops of the free employee shuttle or vanpool system. Incentives may include, but are not limited to, the subsidization of daycare rates or the negotiation of group discounts for children of employees at these childcare providers. An on-site child daycare center may be provided only if supported by the findings of a comprehensive HRA performed in consultation with SJVAPCD. ▶ Schedule employee work shifts according to the class times at nearby K–12 schools and/or have employee shuttles or vanpools make stops at nearby K–12 schools. ▶ Provide adequate bicycle parking/racks in a covered, secure area. ▶ Provide carpool ride matching assistance for employees. ▶ Provide a separate site entrance or access route exclusively for high-occupancy vehicles (HOVs) (e.g., employee shuttles, 				

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<p>carpools, vanpools [if vanpools are used by employees, public transit [when available]] and cyclists that allows for more convenient and expedient access to and from the site during peak turnover periods (i.e., shift changes).</p> <ul style="list-style-type: none"> ▶ If public transit service is expanded to serve the project site during times of the day that serve any of the employee shifts at the facility, subsidize public transit passes to all affected employees. ▶ Offer and implement compressed work schedules to employees (e.g., 4 shifts per week for full time employees). ▶ Implement parking fees for SOV commuters or a parking cash-out program for employees. A parking cash-out program consists of a financial contribution to employees who do not commute by SOV. 				
4.2-2c	<p>Implement Recommended Mitigation Measures to Reduce Operational Emissions.</p> <p>The following required mitigation measures shall be implemented by the project applicant to reduce operation-related emissions regardless of whether the emission reductions can be quantified and documented for compliance with the ISR rule required by Mitigation Measure 4.2-2a or whether they result in a quantifiable reduction of employee commute trips in single occupancy vehicles. However, any emissions reductions attained by these measures that can be quantified and documented can be credited to achieve the ISR reduction goals discussed in Mitigation Measure 4.2-2a.or employee trip reduction goals discussed in Mitigation Measure 4.2-2b. These required measures are listed below.</p> <ul style="list-style-type: none"> ▶ The applicant’s participation in EPA’s SmartWay Transport Partnership (EPA 2007) shall include the portion of its haul truck fleet that is based at or serves the Merced distribution center and shall continue participation of this truck fleet in the Partnership for as long as the Partnership or a similar successor program exists. This measure would apply to the 40% of truck trips generated by the project that are operated by Wal-Mart trucks. Once each year 	<p>Prior to issuance of building permits; prior to and during project operation</p>	<p>Project applicant</p>		

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Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<p>the applicant shall provide to the City of Merced a letter from EPA confirming the project's participation in the SmartWay Transport Partnership.</p> <ul style="list-style-type: none"> ▶ The Applicant shall fully fund or contribute its fair share of funding for the development of a Class II Bike Lanes along Childs Avenue and Gerard Avenue from Parsons Avenue to the project's eastern boundary line that would connect the proposed project to nearby land uses, including the residential neighborhoods to the west along Childs Avenue and Gerard Avenue. Building bicycle lanes at these locations is consistent with the City of Merced Bicycle Plan, which was adopted on October 20, 2008 and meets requirements of the California Bicycle Transportation Act (1994) and qualifies the City of Merced to receive state funding for bicycle projects. The City shall determine the Applicant's fair share monetary contribution to the development of these bicycle lanes and the Applicant shall pay its fair share at the same time building permit fees are due to the City. ▶ As part of its landscaping plan to be prepared for the project (which is also mentioned in Mitigation Measure 4.13-2) the Applicant shall select plant species and landscaping coverage that require minimal maintenance with mechanically-powered equipment such as gasoline-powered lawn mowers. The Applicant and/or its contractors shall not use gasoline-powered leaf blowers on site. If this work is hired out to a landscaping company, then the contract shall prohibit the use of gasoline- or diesel-powered leaf blowers. 				
	<ul style="list-style-type: none"> ▶ Building and site design shall include electrical outlets around the exterior of the units to enable use of electric landscape maintenance equipment. 				

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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4.2-2d	<p>Implement Additional Operational On-Site Emission Reduction Measures.</p> <p>Where feasible, additional measures shall be implemented to reduce operational emissions. Such measures shall include, but are not limited to the additional measures listed below. If, however, the additional measures listed below are technologically or economically infeasible, the Applicant shall submit a written report to the City of Merced Planning & Permitting demonstrating such infeasibility. The report shall be reviewed by a sustainability expert who is selected by the City and the review costs should be funded by the Applicant. Approval of this report shall be received by the Applicant prior to the City of Merced issuing a building permit for the project.</p> <ul style="list-style-type: none"> ▶ Purchase and operate electric or hybrid-powered yard tractors (e.g., Volk-brand tractors) to serve as “yard trucks” that move trailers to and from the trailer yard and loading docks. ▶ Provide electric maintenance equipment, install solar, low-emission, or central water heaters, increase building insulation beyond Title 24 requirements, orient buildings to take advantage of solar heating and natural cooling and use passive solar designs, energy efficient windows (double pane and/or Low-E), highly reflective roofing materials, cool pavement, radiant heat barrier, install photovoltaic cells, programmable thermostats for all heating and cooling systems, awnings or other shading mechanisms for windows, patio, and walkway overhangs, ceiling fans, utilize passive solar cooling and heating designs, utilize day lighting systems such as skylights, light shelves, and interior transom windows. ▶ The project shall include as many clean alternative energy features as possible to promote energy self-sufficiency (e.g., photovoltaic cells, solar thermal electricity systems, small wind turbines). 	Prior to issuance of building permits; prior to and during project operation	Project applicant		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
4.2-2e	<p>Mitigation Measure 4.2-2e: Implement an Emissions Reduction Agreement with SJVAPCD to Reduce Operational Emissions of ROG, NO_x, and PM₁₀.</p> <p>The Applicant shall enter into an emissions reduction agreement with SJVAPCD to reduce net ROG and NO_x emissions to less than 10 TPY and net PM₁₀ emissions to less than 15 TPY. This agreement includes an emission reduction program, whereby the applicant funds projects in the SJVAB, such as replacement and destruction of old engines with new more efficient engines. The agreement requires the Applicant to identify and propose opportunities for the reduction of emissions to fully mitigate the project's operational emissions of ROG and NO_x to less than 10 TPY and PM₁₀ emissions to less than 15 TPY, and includes opportunities for removal or retrofit of stationary, transportation, indirect, and/or mobile-source equipment. Each proposal requires SJVAPCD approval and verification of emission reduction prior to receiving final discretionary approval of the project from the City of Merced. The emissions reduction agreement shall be implemented <i>in addition to</i> the Employee Trip Reduction Program required by Mitigation Measure 4.2-2b, the set of Recommended Mitigation Measures to Reduce Operational Emissions required by Mitigation Measure 4.2-2c, and the set of Additional Operational On-Site Emission Reduction Measures required by Mitigation Measure 4.2-d. However, any emission reductions achieved through these measures that are quantifiable and verifiable could effectively reduce the amount of additional, off-site reductions that must be obtained through the emissions reduction agreement. (Furthermore, any quantifiable and verifiable emissions of CAPs and ozone precursors that would result as an added benefit from implementation of Mitigation Measures 4.2-6b and 4.2-6d, which are designed to achieve GHG reductions as discussed under Impact 4.2-6 below, could also effectively reduce the amount of additional, off-site reductions that must be obtained through the emissions reduction agreement.) To the extent feasible, the selection of programs for reducing operational emissions of CAPs and ozone precursors established in the agreement shall give preference to off-site emission reduction projects that are located in or in close proximity to the City of Merced. If approved by SJVAPCD the Applicant may develop an emissions reduction</p>	Prior to issuance of building permits; prior to and during project operation	Project applicant		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
	<p>agreement that also fulfills the compliance requirements of SJVAPCD's ISR Rule (Rule 9510) discussed in Mitigation Measure 4.2-2a. Development and implementation of the emissions reduction agreement shall be fully funded by the Applicant. The Applicant shall demonstrate to the City that it has successfully entered into an emission reduction agreement with the San Joaquin Valley Air Pollution Control District be achieved before issuance of the first building permit by the City.</p> <p>Implementation of Mitigation Measure 4.2-2a would result in at least the required minimum 33.3% reduction in NO_x emissions and a 50% reduction in PM₁₀. If these reductions are not attained by the on-site measures described above, they would occur through off-site reductions as a result of payment of fees collected by SJVAPCD. Implementation of Mitigation Measure 4.2-2b would result in emissions generated by employee commute trips. (Implementation of Mitigation Measure 4.2-2b may also have the added benefit of lessening traffic congestion and traffic noise levels on area roads.) According to the <i>Recommended Guidance for Land Use Emission Reductions</i> (SMAQMD 2007), the measures listed under Mitigation Measure 4.2-2b result in quantifiable reductions in mobile-source emissions associated with industrial land uses and these reductions have been substantiated by research. Implementation of these measures as well as Mitigation Measures 4.2-2c and 4.2-2d would reduce project-generated, operational emissions of ROG, NO_x and PM₁₀. Implementation of Mitigation Measure 4.2-2e would ensure the additional emissions reduction necessary to reduce operational emissions of ROG and NO_x to levels below 10 TPY and operational emissions of PM₁₀ to levels below 15 TPY. As a result, this impact would be reduced to a <i>less-than-significant</i> level.</p>				
4.2-6a	<p>Implement Mitigation Measures 4.2-1a and 4.2-1b.</p> <p>The applicant shall implement Mitigation Measures 4.2-1a and 4.2-1b, which will have the added benefit of reducing construction-related emissions of CO₂.</p>	<p>Prior to issuance of building permits; during grading and construction; prior to issuance of construction contracts</p>	<p>Project applicant</p>		

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Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
4.2-6b	<p>Ensure On-Site Yard Trucks are Maintained and Meet On-Road Truck Emissions Standards.</p> <p>The applicant shall ensure that all on-site “yard trucks” have ARB-approved on-road truck engines that meet on-road truck emissions standards and are maintained in proper working condition according to manufacturer specifications. The applicant shall provide an inventory list of all on-site yard trucks to SJVAPCD prior to operating the facility and the applicant shall grant SJVAPCD permission to verify the inventory at the project site if desired by SJVAPCD.</p>	During project operation	Project applicant		
4.2-6c	<p>Implement Mitigation Measures 4.2-2a, 4.2-2b, 4.2-2c, and 4.2-2d.</p> <p>The applicant shall implement Mitigation Measures 4.2-2a, 4.2-2b, 4.2-2c, and 4.2-2d, which will have the added benefit of reducing project-generated, operation-related emissions of CO₂.</p>	Prior to issuance of building permits; prior to and during project operation	Project applicant		
4.2-6d	<p>Implement Effective Mitigation Measures.</p> <p>The following measures, as well as any other effective mitigation measures, shall be implemented by the project applicant to further reduce operation-related emissions of CO₂.</p> <ul style="list-style-type: none"> ▶ Install solar panels or other types of alternative energy sources (e.g., wind turbines) in all available areas of the project site, including the roof of the warehouse building, the buffer areas surrounding the paved truck yards and employee parking lot, and covered parking areas, walkways and outdoor areas, to supply electricity for on-site use. This measure would be consistent with the Merced Vision 2015 General Plan Policy SD-3.1, which is to promote the use of solar energy technology (City of Merced 1995). Wal-Mart shall submit a plan to achieve this measure prior to the first day of project operations and this measure shall be achieved within one year after the first day of project operations. 	Prior to issuance of building permits	Project applicant		

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Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<ul style="list-style-type: none"> ▶ If the applicant purchases electricity and/or natural gas from PG&E for operation of the proposed project then it shall participate in PG&E's ClimateSmart® program for the purchase of any and all electricity and natural gas consumed on-site by the proposed facility. Participation in PG&E's ClimateSmart® program shall commence prior to receiving its first monthly energy bill from PG&E. Participation in the ClimateSmart® program shall continue for as long as the program, or similar program offered by PG&E, is in existence. ▶ Retain the portion of the existing almond orchard located between the proposed truck gate and future Campus Parkway. For all almond trees that are subject to removal, participate in an urban and community forestry program (such as the UrbanWood program managed by the Urban Forest Ecosystems Institute [Urban Forest Ecosystems Institute 2007]) in which tree wood is harvested for an end-use that would retain its carbon sequestration (e.g., furniture building, cabinet making). For all nonharvestable almond trees that are subject to removal, develop an off-site tree program that includes a level of tree planting that, at a minimum, increases carbon sequestration by an amount equivalent to what would have been sequestered by the almond orchard during its lifetime. This program shall be funded by the applicant and reviewed for comment by an independent Certified Arborist unaffiliated with the Applicant. Final approval of the program shall be provided by the City prior to tree removal. Components of the program may include, but not be limited to, providing urban tree canopy in the City of Merced, or reforestation in suitable areas outside the City. Upon its completion, the California Urban Forestry Greenhouse Gas Reporting Protocol shall be used to assess this mitigation program. At the time of writing this document, the Center for Urban Forest Research expects to complete the California Urban Forestry Greenhouse Gas Reporting Protocol with the California Climate Action Registry sometime in 2008 (Center for Urban Forest Research 2007). All unused vegetation and tree material shall be shipped to the nearest composting facility, or landfill that is equipped with a methane collection system, or biomass power plant. Tree and vegetative 				

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<p>material should not be burned on or off-site unless used as fuel in a biomass power plant.</p> <ul style="list-style-type: none"> ▶ The applicant shall inventory all emissions of GHGs associated with operation of the project according to the most recently established methodologies of the CCAR, the Climate Registry, or ARB. The inventory shall be verified by a verifier who is accredited by the applicable registry within one year of opening the facility and the inventory and verification shall be shared with the City of Merced. This inventory shall include mobile-source GHG emissions associated with trips by Wal-mart trucks traveling to and from the distribution center, and on-site vehicles that are part of Wal-mart's vehicle fleet. At the time of writing this report the most recently established methodology is the California Climate Action Registry's General Reporting Protocol, Version 2.2 (CCAR 2007). <p>Implementation of the Mitigation Measures 4.2-6a through 4.2-6d above would result in reductions of emissions of CO₂ and offsets; however, at the time of writing this EIR these reductions cannot be fully quantified. In addition, implementation of Mitigation Measure 4.2-1c and Mitigation Measure 4.2-2e, which require the Applicant to implement an emissions reduction agreement with SJVAPCD to reduce construction and operational emissions of ROG and NO_x to less than the SJVAPCD-established threshold for ROG and NO_x 10 TYP, will have the added benefit of reducing construction and operational GHG emissions. However, the size of the associated GHG reduction cannot be quantified at the time of writing this EIR and, more significantly, there is not established methodology for verifying the associated GHG reductions from emission reduction agreements. Moreover, the net increase in GHG emissions would still be of an amount that would be considered substantial. Because the project would potentially still result in a net increase in CO₂ emission levels and conflict with the state's AB 32 goals, this impact would be remain <i>significant and unavoidable</i>.</p>				

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
Biological Resources					
4.3-2	<p>Implement Measures to Minimize Potential Project Effects on Swainson’s Hawk and Burrowing Owl.</p> <p>To minimize potential project effects on Swainson’s hawk and burrowing owl, the planning director shall ensure that project applicant shall do the following prior to issuance of grading permits and during construction, as applicable:</p> <p>Swainson’s Hawk</p> <ul style="list-style-type: none"> ▶ Loss of Swainson’s hawk foraging habitat shall be compensated for by preservation and management of foraging habitat of at least a similar quality at an appropriate off-site location. Specific measures to offset the loss of foraging habitat shall be developed in consultation with DFG pursuant to DFG’s “Draft Non-regulatory Guidelines for Determining Appropriate Mitigation for Impacts to Swainson’s Hawks (<i>Buteo swainsoni</i>).” Compensatory mitigation shall be provided for any loss of suitable foraging habitat, including fallow or active agricultural fields (not orchards), before any grading on the site begins. ▶ Mitigation lands shall be either grassland or croplands (i.e., row crops or alfalfa) that provide suitable Swainson’s hawk foraging habitat and shall be located within 10 miles of a known active nest site. In accordance with DFG mitigation guidelines (DFG 1994), habitat shall be provided at a ratio of 0.75 acre of mitigation land for each acre of foraging habitat that would be lost within 5 miles of, but greater than 1 mile from, the nearest active nest. ▶ Long-term protection of mitigation lands shall be ensured through fee title acquisition, conservation easement, or other suitable mechanisms. Long-term management of mitigation lands shall be ensured by establishing a management endowment or other suitable funding source. 	Prior to issuance of the first grading permit and during project construction	Project applicant		

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Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification			
				Action	Date Completed		
	<p>Burrowing Owl</p> <ul style="list-style-type: none"> ▶ The project applicant shall hire a qualified biologist to conduct preconstruction surveys for burrowing owl to determine whether burrowing owls occupy the site during the breeding and/or nesting season. The timing and methodology for the surveys shall be consistent with DFG and Burrowing Owl Consortium survey guidelines. Winter surveys shall be conducted on four separate days between December 1 and January 31. Nesting season surveys shall be conducted on four separate days between February 1 and August 31, with at least two of the survey days during the peak nesting season (April 15–July 15). ▶ If no burrowing owls are documented during the surveys, the site shall be regularly maintained in a manner that ensures owls do not occupy the site in the future (e.g., regular discing of open areas). No further mitigation shall be necessary. ▶ If burrowing owls are discovered on the project site, the project applicant shall immediately notify and coordinate with DFG regarding implementation of passive relocation methods to exclude the owls from the site prior to initiating construction activities. Exclusion shall be conducted through installation of one-way doors at the burrow entrances and subsequent destruction of the burrows to preclude re-occupation. Passive relocation may only be conducted during the non-nesting season (September 31–January 31). After relocation, the site shall be regularly monitored to confirm that burrowing owls have not re-occupied the site. If the site is re-occupied, exclusion measures shall be repeated, in coordination with DFG. 						

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Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<ul style="list-style-type: none"> ▶ In addition to exclusion of the owls from the site, the project applicant shall consult with DFG to provide appropriate compensation for loss of burrowing owl habitat. To offset the loss of foraging and burrow habitat on the project site, DFG recommends, in their 1995 Staff Report on Burrowing Owl Mitigation, a minimum of 6.5 acres of foraging habitat (calculated on a 100 meter {approximately 300 ft.} foraging radius around the burrow) per pair or unpaired resident bird, should be acquired and permanently protected. The protected lands should be adjacent to occupied burrowing owl habitat and at a location acceptable to the Department. Mitigation for loss of Swainson's hawk foraging habitat could, upon approval by DFG, be used concurrently to mitigate for the loss of burrowing owl habitat. ▶ Long-term protection of mitigation lands shall be ensured through fee title acquisition, conservation easement, or other suitable mechanisms. Long-term management of mitigation lands shall be ensured by establishing a management endowment or other suitable funding source. 				
4.3-5	<p>Implement Measures to Minimize Conflict with the City's General Plan.</p> <p>Implementation of Mitigation Measure 4.3-2 would reduce the impact on consistency with the City's General Plan to a less-than-significant level.</p>	Prior to issuance of the first grading permit	Project applicant		
Cultural Resources					
4.4-1	<p>Contact Cultural Resources Specialist for Potential Cultural Finds during Project-Related Ground-Disturbing Activities.</p> <p>If unrecorded cultural resources are encountered during project-related ground-disturbing activities, the contractor and/or the project proponent shall contact a qualified professional cultural resources specialist to assess the potential significance of the find.</p> <p>If an inadvertent discovery of cultural materials (e.g., unusual amounts of shell, animal bone, bottle glass, ceramics, structure/building remains) is made during project-related construction activities, ground</p>	During site grading, preparation, and construction	Project applicant or designated agent		

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Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
	disturbances in the area of the find will be halted and a qualified professional archaeologist will be notified regarding the discovery. The archaeologist shall determine whether the resource is potentially significant per the CRHR and develop appropriate mitigation. The preferred mitigation would be preservation in place. If that is not feasible, a mitigation plan would be prepared and implemented and could include, but not necessarily be limited to documentary research; subsurface testing; data recovery; the analysis of excavated materials; preparation of a technical report; and curation of the collection and supporting documentation at a qualified institution.				
4.4-2	<p>Stop Potentially Damaging Work if Human Remains Are Uncovered during Construction, Assess the Significance of the Find, and Pursue Appropriate Management.</p> <p>In accordance with the California Health and Safety Code, if human remains are uncovered during ground-disturbing activities, the contractor and/or the project proponent shall immediately halt potentially damaging excavation in the area of the burial and notify the Merced County Coroner and a professional archaeologist to determine the nature of the remains. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or state lands (Health and Safety Code Section 7050.5[b]). If the coroner determines that the remains are those of a Native American, he or she must contact the Native American Heritage Commission (NAHC) by phone within 24 hours of making that determination (Health and Safety Code Section 7050[c]). Following the coroner's findings, the property owner, contractor or project proponent, an archaeologist, and the NAHC-designated Most Likely Descendent (MLD) shall determine the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human interments are not disturbed. The responsibilities for acting on notification of a discovery of Native American human remains are identified in California PRC Section 5097.9.</p>	During site grading, preparation, and construction	Project applicant or designated agent		

<p align="center">Table 1 Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center</p>					
Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
	<p>Implementation of Assembly Bill (AB) 2641 requires that the following procedures be implemented:</p> <p>Upon the discovery of Native American remains, the procedures above regarding involvement of the County Coroner, notification of the NAHC, and identification of a MLD shall be followed. The landowner shall ensure that the immediate vicinity (according to generally accepted cultural or archaeological standards and practices) is not damaged or disturbed by further development activity until consultation with the MLD has taken place. The MLD shall have 48 hours to complete a site inspection and make recommendations after being granted access to the site. A range of possible treatments for the remains, including nondestructive removal and analysis, preservation in place, relinquishment of the remains and associated items to the descendants, or other culturally appropriate treatment may be discussed. AB 2641 suggests that the concerned parties may extend discussions beyond the initial 48 hours to allow for the discovery of additional remains. AB 2641(e) includes a list of site protection measures and states that the landowner shall comply with one or more of the following:</p> <ol style="list-style-type: none"> (1) Record the site with the NAHC or the appropriate Information Center (2) Utilize an open-space or conservation zoning designation or easement (3) Record a document with the county in which the property is located 				
<p>Geology, Minerals, Soils, and Paleontological Resources</p>					
4.5-1	<p>Implement Construction Personnel Training and Recover Paleontological Resources if Encountered.</p> <p>To minimize potential adverse impacts on unique, scientifically important paleontological resources, the project applicant shall do the following:</p>	<p>During site grading, preparation, and construction</p>	<p>Project applicant or designated agent</p>		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<ul style="list-style-type: none"> ▶ Before the start of grading or excavation activities, construction personnel involved with earth-moving activities shall be informed of the possibility of encountering fossils, the appearance and types of fossils likely to be seen during construction activities, and proper notification procedures should fossils be encountered. This worker training shall be prepared and presented by a qualified paleontologist or archaeologist. ▶ If paleontological resources are discovered during earth-moving activities, the construction crew shall immediately cease work in the vicinity of the find and shall notify the City planning department. The project applicant shall retain a qualified paleontologist to evaluate the resource and prepare a proposed mitigation plan in accordance with SVP guidelines (1995). The proposed mitigation plan may include a field survey, construction monitoring, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations determined by the lead agency to be necessary and feasible shall be implemented before construction activities can resume at the site where the paleontological resources were discovered. 				
4.5-3a	<p>Prepare a Final Geotechnical Design Report and Implement All Applicable Recommendations.</p> <p>Before the approval of grading plans for all project phases, a final geotechnical subsurface investigation report shall be prepared by the project applicant(s) for the proposed development and shall be submitted to the City. The final geotechnical engineering report shall address and make recommendations on the following:</p> <ul style="list-style-type: none"> ▶ site preparation; ▶ appropriate sources and types of fill; ▶ potential need for soil amendments; ▶ road, pavement, and parking areas; 	Prior to issuance of grading permit	Project applicant		

Table 1 Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center					
Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<ul style="list-style-type: none"> ▶ structural foundations, including retaining wall design; ▶ grading practices; ▶ erosion/winterization; ▶ expansive/unstable soils; and ▶ liquefaction. <p>The geotechnical investigation shall include subsurface testing of soil and groundwater conditions and determine appropriate foundation designs that are consistent with the CBC. Recommendations contained in the geotechnical engineering report shall be noted on the grading plans and implemented as appropriate before the issuance of building permits. Design and construction of all new development in all phases of the project shall be in accordance with the CBC. It is the responsibility of the project applicant(s) to provide for engineering inspection and certification that earthwork has been performed in conformity with recommendations contained in the report.</p>				
4.5-3b	<p>Provide On-Site Construction Monitoring by a Geotechnical Engineer.</p> <p>All earthwork shall be monitored by a geotechnical engineer retained by the project applicant(s). The geotechnical engineer shall provide oversight during all excavation, placement of fill, and disposal of materials removed from and deposited on the subject site and other sites. Before export/import of any soil to/from an off-site location, the project applicant(s) shall obtain a grading permit from the City Inspection Services Division.</p>	During construction (including excavation, placement of fill, and materials disposal activities)	Project applicant		
4.5-4	<p>Prepare and Implement a Grading and Erosion Control Plan.</p> <p>A grading and erosion control plan shall be prepared by a California Registered Civil Engineer retained by the project applicant(s) for all project phases. The grading and erosion control plan shall be submitted to the City Inspection Services Division before issuance of grading permits for all new development within the project site. The plan shall</p>	Prior to issuance of grading permits	Project applicant or designated agent		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<p>be consistent with Appendix Chapter A33 of the CBC as well as the City's National Pollutant Discharge Elimination System (NPDES) permit and shall include the site-specific grading associated with development for all project phases. The plan shall include the location, implementation schedule, and maintenance schedule of all erosion and sediment control measures, a description of measures designed to control dust and stabilize the construction-site road and entrance, and a description of the location and methods of storage and disposal of construction materials. Erosion and sediment control measures could include the use of detention basins, berms, swales, wattles, and silt fencing. Stabilization of construction entrances to minimize trackout (control dust) is commonly achieved by installing filter fabric and crushed rock to a depth of approximately 1 foot. The project applicant(s) shall ensure that the construction contractor is responsible for securing a source of transportation and deposition of excavated materials.</p> <p>Implement Mitigation Measures 4.5-4 and 4.6-1a.</p>				
4.5-5	Implement Mitigation Measures 4.5-3a and 4.5-3b.	Prior to issuance of grading permit; during construction (including excavation, placement of fill, and materials disposal activities)	Project applicant		
Hydrology and Water Quality					
4.6-1a	<p>Acquire Appropriate Regulatory Permits and Implement SWPPP and BMPs.</p> <p>Before the approval of grading permits and improvement plans, the project applicant for all project phases shall consult with the City of Merced, the SWRCB, and the Central Valley RWQCB to acquire the appropriate regulatory approvals that may be necessary to obtain a SWRCB statewide NPDES stormwater permit for general construction activity, and any other necessary site-specific Waste Discharge Requirements WDRs or waivers under the Porter-Cologne Act. The project applicant shall prepare and submit the appropriate Notice of</p>	Prior to issuance to grading permit, and approval of improvement plans; approval of final site plan; during all project-related construction activities	Project applicant or designated agent		

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Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<p>Intent (NOIs) and prepare the SWPPP and any other necessary engineering plans and specifications for pollution prevention and control. After completion of construction and issuance of a Notice of Completion by the City of Merced, the project applicant shall prepare and submit the appropriate Notice of Termination (NOT) of the NOI. The SWPPP and best management practices (BMPs) therein shall identify and specify:</p> <ul style="list-style-type: none"> ▶ the use of erosion and sediment-control BMPs, including construction techniques that will reduce the potential for runoff as well as other measures to be implemented during construction. These may include but not be limited to sedimentation ponds, inlet protection, perforated riser pipes, check dams and silt fences; ▶ the means of waste disposal; ▶ the implementation of approved local plans, nonstormwater-management controls, permanent postconstruction BMPs, and inspection and maintenance responsibilities; ▶ the pollutants that are likely to be used during construction that could be present in stormwater drainage and nonstormwater discharges, and other types of materials used for equipment operation; ▶ spill prevention and contingency measures, including measures to prevent or clean up spills of hazardous waste and of hazardous materials used for equipment operation, and emergency procedures for responding to spills; ▶ personnel training requirements and procedures that will be used to ensure that workers are aware of permit requirements and proper installation methods for BMPs specified in the SWPPP; and ▶ the appropriate personnel responsible for supervisory duties related to implementation of the SWPPP. 				

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Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<p>Where applicable, BMPs identified in the SWPPP shall be in place throughout all site work and construction and shall be used in all subsequent site development activities. BMPs shall include the following measures:</p> <ul style="list-style-type: none"> ▶ Implementing temporary erosion-control measures in disturbed areas to minimize discharge of sediment into nearby drainage conveyances. These measures may include silt fences, staked straw bales or wattles, sediment/silt basins and traps, geofabric, sandbag dikes, and temporary vegetation. ▶ Establishing permanent vegetative cover to reduce erosion in areas disturbed by construction by slowing runoff velocities, trapping sediment, and enhancing filtration and transpiration. ▶ Using drainage swales, ditches, and earth dikes to control erosion and runoff by conveying surface runoff down sloping land, intercepting and diverting runoff to a watercourse or channel, preventing sheet flow over sloped surfaces, preventing runoff accumulation at the base of a grade, and avoiding flood damage along roadways and facility infrastructure. <p>All construction contractors shall retain a copy of the approved SWPPP on the construction site. Implementation of Mitigation Measure 4.6-1a would reduce the potentially significant impact of water quality degradation from project-related construction activities to a less-than-significant level because the project applicant would conform to applicable local and state regulations regulating construction discharges and successfully implement the SWPPP. However, Mitigation Measure 4.6-1b, discussed below, is necessary to assure that the measures put in place by Mitigation Measure 4.6-1a are properly maintained during the life of the project.</p>				

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Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
4.6-1b	<p>Establish a Maintenance Entity for BMPs.</p> <p>The project applicant shall establish a maintenance district, Community Facilities District (CFD), or other maintenance entity acceptable to the City of Merced and the MID, prior to recordation of any Final Maps, to provide funding for the operation, maintenance, and replacement costs of the stormwater BMPs. The maintenance entity shall insure that stormwater runoff shall meet all state and local water quality requirements, through modification of BMPs or stormwater pretreatment measures if required.</p>	Prior to recordation of Final Maps	Project applicant		
4.6-2	<p>Develop and Implement a BMP and Water Quality Maintenance and Monitoring Plan.</p> <p>Design standards for water quality treatment are being formulated that would meet or exceed City of Merced Storm Drain Master Plan and Standard Design requirements. The applicant shall submit the completed design standards to the City's Development Services Department. Prior to issuance of grading permits, the City Engineer shall ensure that the design standards incorporate the adopted City of Merced Master Storm Drain Plan and Design guidance (City of Merced 2002):</p> <ul style="list-style-type: none"> ▶ Excavated Open Channels – 60-foot right-of-way open channels would convey runoff through areas where the estimated peak flow rates from a watershed exceed the capacity of a 66-foot storm drain. These open channels would include landscaping and bike paths for recreational opportunities. They shall be turfed or otherwise protected to prevent erosion. A minimum of 1 foot of freeboard shall be maintained above the design 10-year water surface elevation to the top of the banks. One side of the channel shall provide for all weather maintenance unless the channel is adjacent to a public road. ▶ Storm Drains – Underground storm drain pipelines would be utilized. Storm drain trunk lines would be sized to convey the 10-year discharges operating under uniform flow conditions, and shall be located in public streets. 	Prior to approval of final site plan	Project applicant or designated agent		

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Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<ul style="list-style-type: none"> ▶ Stormwater Detention Facilities – The two stormwater detention basins, one draining the north portion of the proposed project site and the other draining the south portion, have been designed to accommodate runoff generated during a 50-year 24-hour storm event under General Plan buildout conditions, with the rate of outflow being limited to the discharge generated by the watershed during a 2-year storm event under existing conditions. Detention basins have been conceptually designed with a maximum depth of 5 feet below ground surface due to the relatively shallow depth to groundwater in some of the areas surrounding the proposed Project. One foot of freeboard from the 50-year 24-hour storm to the top of the basin has also been included in the conceptual design. ▶ Pump Stations – Due to the relative flatness of the proposed Project terrain, pump stations would be used to augment the gravity flow draining of the detention basins. The pumps have been conceptually designed to handle the 2-year discharge flow from the basins. Facilities would consist of a low flow pump, a high flow pump, and a backup pump. <p>The stormwater treatment system would reduce the increased amount of stormwater runoff and associated erosion created by the proposed project site. The runoff would be collected by overland flow and an underground storm sewer system into detention ponds to control the quantity of runoff exiting the site. The quality of runoff would be controlled by sedimentation ponds, biological treatment of the water by vegetation, infiltration of the water into the ground and a skimmer plate to skim floatable objects from the water surface. Implementation of these mitigation measures would reduce impacts to a less-than-significant level.</p> <p>Design Criteria and Methodology</p> <p>To design a treatment system that meets or exceeds the City and MID guidelines and standards for stormwater quantity and quality that must be met or exceeded, the site was analyzed to determine the peak discharge rates for the predeveloped and developed conditions under various storm event scenarios (Carter-Burgess 2007). The City requires the detention ponds to be designed (1) to store water deposited on site</p>				

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	<p>by the so-called 50-year storm and (2) to control the allowable discharge from developed conditions so as not to exceed the 2-year predeveloped discharge (City of Merced 2002). The City also has a requirement that the ponds be dry in 48 hours, if the maximum discharge rate will allow it. The MID requires that the allowable discharge from developed conditions not exceed the 10-year storm. However, the MID requested that the maximum allowable discharge be 2,200 gpm (gallons per minute), which is less than both the 10-year storm and the 2-year predeveloped discharge rates. The MID maximum allowable rate of 2,200 gpm, lower than the City's discharge rate of 8,960 gpm, was agreed on by the City and MID (Carter-Burgess 2007).</p> <p>The 24-hour rainfall values were selected from NMFS Atlas 14, Volume I by the National Oceanic and Atmosphere Administration. Time of concentration values were computed based on the methods in the Soil Conservation Service Technical Report Manual SCS TR-55, widely used for calculating stormwater runoff in small urban watersheds (USDA 1986). The detention ponds were size based on volume required to hold the stormwater runoff from a 100-year storm event. The computer program Interconnected Pond Routing by Streamline Technologies, Inc., a FEMA approved stormwater modeling system, was utilized to rout the various storms through the detention ponds and the pump station. The 2-year, 10-year, 25-year, 50-year and 100-year 24-Hour Storms were used in the analysis to size the stormwater conveyances such that they would handle the water volumes of all of those stormwater volumes.</p> <p>Pre- and Postdevelopment Conditions</p> <p>The site is currently used as farmland, with cultivation of alfalfa and almonds being the primary crops. Site topography indicates that the site slopes from northeast to southwest, with elevations ranging from approximately 195 feet msl near the northeast corner to approximately 187 feet msl at the southwest corner. Stormwater runoff from the site currently ponds in a low lying area near the southwest corner of the site and eventually spills over to a roadside ditch running to the west along the north side of Gerard Avenue.</p>				

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Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<p>The development of the approximately 235 acre site would create approximately 110 acres of impervious surface area. To offset the additional impervious area, a series of detention ponds would be constructed around the perimeter of the site area to store stormwater runoff (Exhibit 4.6-2). The detention ponds would be utilized to control the quantity and quality of runoff. The retention time of the stormwater in the ponds would allow additional stormwater infiltration into the soil (Infiltration rates are described in Mitigation measure 4.6-4).As determined by MID based on their review of the proposed Project Preliminary Site Drainage Analysis (Carter-Burgess 2007), stormwater would be pumped from the detention ponds into a connection to an existing irrigation canal. The preferred pump location is shown on Exhibit 4.6-2.</p> <p>The preferred project canal to receive the stormwater runoff would be MID Fairfield Canal (Exhibit 4.6-3). This is the canal preferred by the MID as well based on their review of the proposed Project Preliminary Site Drainage Analysis (Carter-Burgess, 2007). To discharge in to this canal, a pump station would be located near the northeast corner of the development. Stormwater would be pumped in a closed system within the property owned by Wal-Mart, City right-of-way and MID easement/property to Fairfield Canal. In the event the Fairfield Canal could not be utilized, the alternative canal to receive the flow would be the Farmdale Lateral (Exhibit 4.6-4). To reach the Farmdale Lateral, a pump station would be located near the southwest corner of the development (Exhibit 4.6-5). Stormwater would be pumped in a closed system within the property owned by Wal-Mart, City right-of-way or easement and MID easement/property to the Farmdale Lateral. The detention ponds and the drainage channels would be grassed-lined to help filter stormwater runoff. In addition all of the ponds would be interconnected to each other and a discharge pipe would connect the detention ponds to the wet well basin of the pump station. The inlet side of this discharge pipe would have a skimmer plate on it to prevent floating contaminants from entering the wet well basin and leaving the site.</p>				

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Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<p>Using the maximum discharge rate of 2,200 gpm as required by the MID, the ponds could not be drained within 48 hours for the 10-year storm, as required by the City. Therefore the City would agree to allow longer drawdown duration time for the system. The drawdown durations for the 10-year, 25-year, 50-year and 100-year would be approximately 72 hours, 88 hours, 95 hours and 108 hours, respectively. These drawdown times assume that once the pumps start pumping they would operate continuously; however, the pumps would be controlled by MID. If MID determined that downstream conditions warranted the discharge from the proposed project site be discontinued, then MID would have the ability to shut the pumps down to discontinue the discharge. This would then increase the duration stormwater would remain in the ponds and the additional volume that could infiltrate into the soil. The 10-year, 24-Hour storm runoff volume for the entire 235 acre site for predeveloped conditions is 10.7 af and for developed conditions is 26.2 af.</p> <p>Permanent water quality improvement BMPs may include but not be limited to unlined detention ponds for filtration, biological treatment of runoff over vegetation, skimmer plates on discharge structures and sedimentation basins. The expected pollutant removal success rates listed in Table 4.6-1 suggest that multiple BMPs, when properly installed and maintained, can achieve nearly 100% sediment removal. Multiple temporary construction and permanent BMPs would therefore be used in combination to achieve this result. Although 100% contaminant removal is often infeasible, BMPs would be selected and designed with the objective of achieving maximum contaminant removal, using the best available technology that is economically feasible, and explicitly identifying the expected level of BMP effectiveness in removing contaminants.</p> <p>In summary, the stormwater management design for the proposed project would consist of the following measures to safely convey on-site and off-site flows through the project site, and prevent increased flood hazard on downstream areas by limiting peak discharges to below pre-project levels.</p>				

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Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<ul style="list-style-type: none"> ▶ Stormwater would be captured and conveyed in a closed system within the property owned by Wal-Mart, City right-of-way and MID easement/property ▶ Detention ponds in the system would be sized based on volume required to hold the stormwater runoff from a 100-year storm event ▶ Stormwater would be conveyed to Fairfield Canal (preferred) or Farmdale Lateral (alternative) ▶ Discharge would be limited to 2,200 gpm for all storm events. <p>The finish floor elevation of each structure on the site would be at least 2 feet above the existing ground elevation at the location of the structure, pursuant to City requirements for development within Zone A. The proposed project would meet or exceed City requirements for development within Zone A, and the stormwater management system would safely convey runoff from the 100-year storm.</p>				
4.6-6	<p>Comply with SB 5 Criteria Establishing 200-Year Urban Flood Protection.</p> <p>Prior to submittal to the City of development agreements, tentative maps or rezones after 2015, but potentially sooner depending on when the Central Valley Flood Protection Plan takes effect, the project applicant would be required to show that one of three conditions would be met:</p> <ul style="list-style-type: none"> ▶ flood management facilities provide level of protection necessary to withstand 200-year flood event; ▶ the development agreement or other entitlements include conditions that provide protections necessary to withstand 200-year flood event; or ▶ the local flood management agency has made adequate progress on construction of a flood protection system that will result in protections necessary to withstand 200-year flood event by 2025. 	Prior to submittal of development agreements and approval of final site plan	Project applicant		

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Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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Noise					
4.8-1	<p>Regulate Short-Term Construction Noise. The City shall require the applicant to regulate construction noise by implementing the measures listed below. These measures shall be clearly indicated on all grading and improvement plans, and the project contractor shall be responsible for ensuring implementation of all measures.</p> <ul style="list-style-type: none"> ▶ Construction shall occur only in the daytime hours between 7 a.m. to 6 p.m., daily. ▶ Construction staging areas shall be set back from nearby off-site sensitive receptors, as much as possible, including the new Crossing at River Oaks/Sandcastle housing development located west of the site, the existing farmhouse located across Gerard Avenue near the southwest corner of the site, and the existing farmhouse located east of the site across Tower Road. ▶ Construction equipment mufflers shall be well tuned and maintained according to the manufacturer's specifications, and the equipment's standard noise reduction devices shall be maintained in good working order. ▶ Construction equipment noise shall be minimized during project construction by muffling and shielding intakes and exhaust on construction equipment (according to the manufacturers' specifications) and by shrouding or shielding impact tools. All equipment shall have sound-control devices no less effective than those provided by the manufacturer. ▶ To further address the nuisance impact of project construction, construction contractors shall implement the following: <ul style="list-style-type: none"> • Signs shall be posted at the construction site that include permitted construction days and hours, a day and evening contact number for the job site, and a day and evening contact number for the City in the event of problems. 	Prior to issuance of grading permits and during all project-related construction activities.	Project applicant or designated agent		

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Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
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	<ul style="list-style-type: none"> • An on-site complaint and enforcement manager shall be posted to respond to and track complaints and questions related to noise. ▶ The transportation management plan that is required by Mitigation Measure 4.11-2a and 2b in Section 4.11, “Traffic and Transportation,” shall route construction-related traffic away from Weaver Elementary School, Pioneer Elementary School, and residences in the area. 				
4.8-3	<p>Implement Measures to Reduce Exposure to Traffic Noise from Project. Prior to initiating site preparation, the project applicant shall implement the following measures to reduce the exposure of existing sensitive receptors to project-generated traffic noise levels:</p> <ul style="list-style-type: none"> ▶ The applicant shall offer the owners of the two affected residences on the east side of Tower Road between SR 140 and Gerard Avenue and the single residence located on the south side of Gerard Avenue between Campus Parkway and the project site entrances the installation of a sound barrier along the property line of their affected residential properties. The sound barriers must be constructed of solid material (e.g., wood, brick, adobe, an earthen berm, or combination thereof). All barriers shall blend into the overall landscape and have an aesthetically pleasing appearance that agrees with the color and rural character of the houses and the general area, and not become the dominant visual element of the community. Relocation of the driveway at each residence may be necessary in order to preclude having gaps in the sound barrier. Relocation of landscaping may also be necessary to achieve an aesthetically pleasing appearance. The owners of the affected properties may choose to refuse this offer; however, the offer shall not be made available to subsequent owners of the property. If an existing owner refuses these measures a deed notice must be included with any future sale of the property to comply with California state real estate law, which requires that sellers of real property disclose “any fact materially affecting the value and desirability of the property” (California Civil Code, Section 1102.1[a]). The applicant shall be responsible for all costs incurred by the implementation of this mitigation measure. 	Prior to initiating site preparation; during project operation and construction	Project applicant		

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	<ul style="list-style-type: none"> ▶ To ensure compliance with applicable noise standards, a site-specific noise study shall be conducted by the City or its approved consultant to determine specific noise barrier design. The study shall contain noise levels prior to and after noise barrier installation at all affected sensitive receptors and shall require the full disclosure of the effectiveness of the sound barrier. The applicant shall be responsible for all costs incurred by the implementation of this mitigation measure. ▶ The cost to fully implement this mitigation measure, including related studies, and design and installation shall be completely funded by the applicant. ▶ The applicant shall maintain its truck fleet in proper working condition, including truck mufflers and exhaust systems, according to manufacturers' specifications. 				
Public Health and Hazards					
4.10-1	<p>Remediate Unknown or Previously Undiscovered On-Site Hazardous Materials.</p> <p>If, during site preparation and construction activities, previously undiscovered or unknown evidence of hazardous materials contamination is observed or suspected through either obvious or implied indicators (i.e., stained or odorous soil), construction activities shall immediately cease in the area of the find.</p> <p>MCDEH and the City of Merced Environmental Health Division staff shall be immediately consulted, and the project applicant shall contract with a qualified consultant registered in DTSC's Registered Environmental Assessor Program to assess the extent to which soil and/or groundwater has been adversely affected by past activities. This investigation shall follow DTSC guidelines and shall include, as necessary, analysis of soil and/or groundwater samples taken at or near the potential contamination sites. If necessary, risk assessments shall include a DTSC Preliminary Endangerment Assessment or no further action determination, or equivalent. Any required remediation shall</p>	During site grading, preparation, and construction activities	Project applicant or designated agent		

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Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

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	include a DTSC Remedial Action Work Plan or equivalent. The site shall be remediated in accordance with recommendations made by a qualified environmental consultant registered in DTSC's Registered Environmental Assessor Program; MCDEH; the City of Merced Environmental Health Division staff; Central Valley RWQCB; DTSC; or other appropriate federal, state, or local regulatory agencies as generally described above. The agencies involved would be dependent on the type and extent of contamination. Site preparation and construction activities shall not proceed until remediation is completed to the satisfaction of MCDEH and the City of Merced Environmental Health Division.				
Traffic and Circulation					
4.11-2a	<p>Accommodate All Delivery Truck Parking On-Site.</p> <p>Prior to issuance of building permits, the Chief Building Official shall verify that the final site plan clearly identifies a designated on-site waiting area within the site between Gerard Road and the truck gate that is located further within the site. This area shall be large enough to accommodate at least 20 inbound delivery trucks. It is recommended that the access roadway be designed to have a temporary parking area located between Gerard Avenue and the truck entrance gate. The parking area shall be paved and marked as a designated waiting area for delivery trucks, and shall not impede access to the site. The holding area(s) shall be located in the interior of the project site and be more than 1,000 feet from all off-site residences, which is a distance threshold identified in the Noise Analysis of this EIR. If the waiting area(s) are located closer than 1,000 feet to off-site residences then sound barrier(s) shall be implemented into the design to ensure that on-site truck idling would not result in an exceedence of the nighttime standard of 45 A-weighted decibels energy-equivalent noise level established by the Merced General Plan (Table N-5).</p> <p>Wal-Mart shall instruct all delivery truck drivers not to park, stand, wait, or stay overnight along local roadways. In order to minimize noise and vehicle emissions, idling in the waiting area shall be limited by Wal-Mart to 5 minutes, as required by 13 CCR Chapter 10, Section 2485.</p>	Prior to issuance of building permits; project operation	Project applicant		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
4.11-2b	<p>Manage Truck Traffic on Local Streets.</p> <p>To reduce hazards on local roadways associated with truck traffic during <i>construction operations</i>, Wal-Mart Stores East LP shall ensure that its primary construction contractor implements the following measures:</p> <p>a. Develop and implement a construction truck traffic safety plan in coordination with the City of Merced, County of Merced, and Caltrans. The construction contractor shall develop a plan for traffic safety assurance for the County roadways in the project vicinity. The contractor shall submit the plan to the City Development Services Department for approval before the initiation of construction-related activity that could adversely affect traffic on City, County, and State roadways. The plan(s) may call for the following elements, based on the requirements of each agency:</p> <ul style="list-style-type: none"> ▶ posting warnings about the potential presence of slow-moving construction vehicles; ▶ using traffic control personnel when appropriate; ▶ scheduling truck trips outside of peak morning and evening traffic periods to the extent feasible; ▶ placing and maintaining barriers and installing traffic control devices necessary for safety, as specified in Caltrans's <i>Manual of Traffic Controls for Construction and Maintenance Works Zones</i> and in accordance with City and County requirements; and ▶ maintaining routes for passage of emergency response vehicles through roadways affected by construction activities. <p>The contractor shall train construction personnel in appropriate safety measures as described in the plan(s), and shall implement the adopted plan(s).</p> <p>b. <i>Minimize the accumulation of mud and dirt on local roadways.</i> All operations shall limit or expeditiously remove the accumulation of</p>	Prior to issuance of grading permits; during project construction activities	Project applicant or designated agent		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
	<p>project-generated mud or dirt from adjacent public streets at least once every 24 hours when operations are occurring. The construction contractor shall sweep the paved roadways (water sweeper with reclaimed water recommended) at the end of each day if substantial volumes of soil material have been carried onto adjacent paved, public roads from the project sites.</p> <p>To reduce hazards on local roadways associated with truck traffic during <i>ongoing operations</i>, Wal-Mart Stores East LP shall ensure implement the following measures:</p> <p>c. <i>Develop and implement a truck route plan.</i> Tractor trailers approaching and departing from the distribution center shall be limited to the following roadways from SR 99 and SR 140: Campus Parkway, Mission Avenue west of Campus Parkway, Gerard Avenue east of Campus Parkway, and Tower Road. Wal-Mart shall regularly and routinely instruct its employees, contract truck drivers, and vendors of these roadway limitations.</p>				
4.11-3	<p>Provide Emergency Access Gate and Driveway.</p> <p>Prior to approval of the final site plan, the project applicant shall modify the site plan to show a third point of ingress and egress on Childs Avenue that is gated and available only for emergency purposes. The emergency access driveway on-site shall be indicated on the final site plan at a width and design acceptable to the City Engineer and shall provide unimpeded access to all structures on the site.</p>	Prior to approval of final site plan	Project applicant		
4.11-4	<p>Update Safe Routes to School Plan.</p> <p>Prior to issuance of certificates of occupancy, the City Engineer shall ensure that the Safe Routes to School Plans are appropriately updated such that school bus and pedestrian routes in the vicinity of the Wal-Mart are revised as appropriate to avoid potential conflicts taking into account the project's potential increase in truck traffic and potential truck routes.</p>	Prior to issuance of certificates of occupancy	City of Merced		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
6-9	<p>Mission Avenue at SR 99 Northbound Off-Ramp.</p> <p>Restriping the northbound and westbound approaches would mitigate the impact at this intersection. It is proposed to restripe the northbound approach from a left-through turning movement and a right-only turning movement to a left-through-right turning movement and a right-only turning movement. The westbound approach would be restriped from two through lanes and one right-turn only lane to one through lane, one through-right lane, and one right-turn only lane. Restriping could be accomplished within the existing right-of-way. Prior to issuance of occupancy permits, the applicant shall pay the project's fair share (9.0%) contribution for the restriping.</p>	Prior to issuance of occupancy permits.	Project applicant		
6-10	<p>SR 140 between Santa Fe Avenue and Kibby Road.</p> <p>The addition of project traffic would cause the segment of SR 140 between Santa Fe Avenue and Kibby Road to deteriorate from LOS D under the 2030 Cumulative No Project Condition to LOS E during the p.m. peak hour. All other study roadway segments would operate at an acceptable LOS (LOS D or better). The level of service on SR 140 between Santa Fe Avenue and Kibby Road is a significant cumulative impact. The project's contribution to this significant impact is cumulatively considerable; therefore, the project's cumulative impact would be <i>significant</i>.</p> <p>By adding one lane in each direction in this segment, the roadway would be improved to operate at an acceptable LOS A. The widening of the roadway, however, may require right of way acquisition, the need for utility relocation and, approval by Caltrans. Prior to issuance of occupancy permits, the applicant shall pay the project's fair share contribution for the additional lanes. The project's fair share contribution for AM peak hour would be 1.5% and the contribution for PM peak hour would be 2.1%. With implementation of this mitigation measure, the cumulative impact would be reduced to a <i>less-than-significant</i> level.</p>	Prior to issuance of occupancy permits	Project applicant		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
6-11	<p>Tower Road between SR 140 and Gerard Avenue.</p> <p>It is recommended that the roadway segment between SR 140 and Gerard Avenue be improved to address these issues of poor pavement conditions and faded pavement markings. In addition, the Tower Road approaches to the intersection at Gerard Avenue (and the approaches along Gerard Avenue to Tower Road) should be improved to provide proper turning radii for standard trucks as classified under the Surface Transportation Assistance Act (STAA). Prior to issuance of occupancy permits, the applicant shall pay the project's fair share contribution for the roadway improvements. The project's fair share contribution would be 74% (average of 76% and 71%) for peak hour impacts. With implementation of the mitigation measure, the impact would be reduced to a <i>less-than-significant</i> level.</p>	Prior to issuance of occupancy permits	Project applicant		
Utilities and Public Services					
4.12-4	<p>Incorporate Energy Efficiency Features into Project Designs</p> <p>Prior to the issuance of building permits, the project applicant shall prepare and submit a sustainability plan, for review and approval of the City's Planning Director, which shall incorporate the following energy efficiency features in project designs:</p> <ul style="list-style-type: none"> ▶ providing electric maintenance equipment; ▶ using solar, low-emissions, or central water heaters; ▶ increasing building insulation beyond Title 24 requirements; ▶ orienting buildings to take advantage of solar heating and natural cooling; ▶ limiting the amount of glass on the south and west facades and providing solar protection for south-facing walls through landscaping or earth sheltering; ▶ installing thermal insulation, double-paned windows, high-tech window glazing, vapor barriers, and controlled air filtration to reduce energy consumption; 	Prior to the issuance of building permits	Project applicant		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
	<ul style="list-style-type: none"> ▶ installing skylights, light pipes, light shelves, exterior shade panels, and reflectors to transfer light to the interior of the building; and ▶ using clean alternative energy features, such as photovoltaic cells, solar panels, small wind turbines, and/or fuel cells, to generate power and reduce power consumption. 				
4.12-5	<p>Implement Mitigation Measures 4.12-4.</p> <p>The applicant shall implement Mitigation Measure 4.12-4 above to reduce potentially significant impacts associated with increased demands for energy to a less-than-significant level by ensuring the proposed project includes energy efficiency measures in project designs.</p>	Prior to approval of final construction drawings	Project applicant		
Visual Resources					
4.13-2	<p>Prepare and Submit a Landscaping Plan. Prior to the issuance of building permits, the applicant shall prepare and submit a landscaping plan to the satisfaction of the Planning Manager in consultation with the Public Works Director that includes the following features and accomplishes the following objectives on the site:</p> <ul style="list-style-type: none"> ▶ The developer shall plant trees (minimum 15 gallon) no further than 30 feet apart, on site along the perimeter roads surrounding the project site, including Childs Avenue, Gerard Avenue, and Tower Road. These trees are in addition to the street trees required every 40 feet per City Standards. Shrubs and turf shall be combined with the trees in a minimum 15-foot wide landscape strip along the entire project perimeter which abut public streets. Irrigation shall be provided to all landscape areas. A detailed landscape and irrigation plan per MMC 17.60 shall be approved by City staff at the building permit stage. ▶ Parking lot trees at a minimum of one for each six spaces (per MMC 20.58.385) shall be required in all employee and visitor parking areas on site. Parking lot trees, however, shall not be required in truck or trailer parking areas. 	Prior to issuance of building permits	Project applicant		

**Table 1
Mitigation Monitoring Checklist for the Merced Wal-Mart Distribution Center**

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
	<ul style="list-style-type: none"> ▶ Existing almond trees shall be preserved in any areas of the site that are to be left undeveloped by buildings, parking areas, driveways, drainage basins, etc. The developer shall submit a plan showing the location of existing trees and the proposed development and the City shall approve a plan at the building permit stage for preserving as many trees as feasible. ▶ All vegetation shall be maintained by an automatic irrigation system. The landscaping and irrigation plans and details shall be subject to review and approval by the City. The City shall create and adopt a mechanism that will ensure that Wal-Mart Stores East, LP maintains the landscaping in accordance with the adopted plan. 				
4.13-3	<p>Prepare and Submit a Lighting Plan.</p> <p>Prior to the issuance of building permits, the applicant shall prepare a lighting plan for review and approval by the Planning Director. The lighting plan shall identify the design and placement, orientation, and illumination level (in watts) of all light fixtures. The lighting plan shall be designed so that illumination is focused downward upon targeted horizontal surfaces. Illumination of vertical surfaces shall be minimized. The lighting plan shall specify that no illumination source (including light bulb and reflector) shall be visible at a point 100 feet or greater from the outside of the property line. The exception to this performance standard is at driveway intersections with public streets.</p>	Prior to issuance of building permits	Project applicant		

Copies of This Form Distributed To:

_____	City Council	_____	City Manager	_____	Dev Serv Director	_____	Public Works Director	_____	City Engineer
_____	Police Chief	_____	Leisure Serv. Dir.	_____	County of Merced (Dept. _____)	_____	Other (List _____)		
_____	Responsible Agency: (List _____)								

I hereby certify that I have inspected the project site and that the above information is true to the best of my knowledge.

Name: (Print) _____ Representing: (Agency/Firm) _____

Signature: _____ Date: _____

APPLICABLE MITIGATION MEASURES OF THE GENERAL PLAN EIR — WAL-MART DISTRIBUTION CENTER

Mit. No.	Mitigation Measure	Timing/Schedule	Implementation Responsibility	Verification	
				Action	Date Completed
XX					
XX					
XX					

**MERCED VISION 2015 GENERAL PLAN
MITIGATION MEASURE MONITORING CHECKLIST – FORM B**

Monitoring Phase: _____ Pre-Construction _____ Construction

Project File Number: _____

Project Name: _____

Brief Project Description: _____

Project Location: _____

Requirement Met:

Date	Yes	No	Description of Mitigation Measures
_____	_____	_____	1. _____
_____	_____	_____	2. _____
_____	_____	_____	3. _____
_____	_____	_____	4. _____
_____	_____	_____	5. _____

Requirement On-Going:

Date	Yes	No	Description of Mitigation Measures
_____	_____	_____	1. _____
_____	_____	_____	2. _____
_____	_____	_____	3. _____
_____	_____	_____	4. _____
_____	_____	_____	5. _____

Trustee Agency

Trustee Agency	Date	Yes	No
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____

Copies of This Form Distributed To:

_____	City Council	_____	City Manager	_____	Dev Serv Dir.	_____	Public Works Dir.
_____	City Engineer	_____	Fire Chief	_____	Police Chief	_____	Leisure Services Dir.
_____	County of Merced (Dept _____)		Other (List _____)				
_____	Responsible Agency: (List _____)						

I hereby certify that I have inspected the project site and that the above information is true to the best of my knowledge.

Name: (Print) _____ Representing: (Agency/Firm) _____

Signature: _____ Date: _____

APPENDIX B

Mutual Aid Agreement and Pending Court Case Information

CALIFORNIA DISASTER AND CIVIL DEFENSE

MASTER MUTUAL AID AGREEMENT

This agreement made and entered into by and between the STATE OF CALIFORNIA, its various departments and agencies, and the various political subdivisions, municipal corporations, and other public agencies of the State of California;

W I T N E S S E T H :

WHEREAS, It is necessary that all of the resources and facilities of the State, its various departments and agencies, and all its political subdivisions, municipal corporations, and other public agencies be made available to prevent and combat the effect of disasters which may result from such calamities as flood, fire, earthquake, pestilence, war, sabotage, and riot; and

WHEREAS, It is desirable that each of the parties hereto should voluntarily aid and assist each other in the event that a disaster should occur, by the interchange of services and facilities, including, but not limited to, fire, police, medical and health, communication, and transportation services and facilities, to cope with the problems of rescue, relief, evacuation, rehabilitation, and reconstruction which would arise in the event of a disaster; and

WHEREAS, It is necessary and desirable that a cooperative agreement be executed for the interchange of such mutual aid on a local, county-wide, regional, state-wide, and interstate basis;

NOW, THEREFORE, IT IS HEREBY AGREED by and between each and all of the parties hereto as follows:

1. Each party shall develop a plan providing for the effective mobilization of all its resources and facilities, both public and private, to cope with any type of disaster.

2. Each party agrees to furnish resources and facilities and to render services to each and every other party to this agreement to prevent and combat any type of disaster in accordance with duly adopted mutual aid operational plans, whether heretofore or hereafter adopted, detailing the method and manner by which such resources, facilities, and services are to be made available and furnished, which operational plans may include provisions for training and testing to make such mutual aid effective; provided, however, that no party shall be required to deplete unreasonably its own resources, facilities, and services in furnishing such mutual aid.

3. It is expressly understood that this agreement and the operational plans adopted pursuant thereto shall not supplant existing agreements between some of the parties hereto providing for the exchange or furnishing of certain types of facilities and services on a reimbursable, exchange, or other basis, but that the mutual aid extended under this agreement and the operational plans adopted pursuant thereto, shall be without reimbursement unless otherwise expressly provided for by the parties to this agreement or as provided in Sections 1541, 1586, and 1587, Military and Veterans Code; and that such mutual aid is intended to be available in the event of a disaster of such magnitude that it is, or is likely to be, beyond the control of a single party and requires the combined forces of several or all of the parties to this agreement to combat.

4. It is expressly understood that the mutual aid extended under this agreement and the operational plans adopted pursuant thereto shall be available and furnished in all cases of local peril or emergency and in all cases in which a STATE OF EXTREME EMERGENCY has been proclaimed.

5. It is expressly understood that any mutual aid extended under this agreement and the operational plans adopted pursuant thereto, is furnished in accordance with the "California Disaster Act" and other applicable provisions of law, and except as otherwise provided by law that: "The responsible local official in whose jurisdiction an incident requiring mutual aid has occurred shall remain in charge at such incident including the direction of such personnel and equipment provided him through the operation of such mutual aid plans." (Sec. 1564, Military and Veterans Code.)

6. It is expressly understood that when and as the State of California enters into mutual aid agreements with other states and the Federal Government that the parties to this agreement shall abide by such mutual aid agreements in accordance with law.

7. Upon approval or execution of this agreement by the parties hereto all mutual aid operational plans heretofore approved by the State Disaster Council, or its predecessors, and in effect as to some of the parties hereto, shall remain in full force and effect as to them until the same may be amended, revised, or modified. Additional mutual aid operational plans and amendments, revisions, or modifications of existing or hereafter adopted mutual aid operational plans, shall be adopted as follows:

(a) County-wide and local mutual aid operational plans shall be developed by the parties thereto and are operative as between the parties in accordance with the provisions of such operational plans. Such operational plans shall be submitted to the State Disaster Council for approval. The State Disaster Council shall notify each party to such

operational plans of its approval, and shall also send copies of such operational plans to other parties to this agreement who did not participate in such operational plans and who are in the same area and affected by such operational plans. Such operational plans shall be operative as to such other parties 20 days after receipt thereof unless within that time the party by resolution or notice given to the State Disaster Council, in the same manner as notice of termination of participation in this agreement, declines to participate in the particular operational plan.

(b) State-wide and regional mutual aid operational plans shall be approved by the State Disaster Council and copies thereof shall forthwith be sent to each and every party affected by such operational plans. Such operational plans shall be operative as to the parties affected thereby 20 days after receipt thereof unless within that time the party by resolution or notice given to the State Disaster Council, in the same manner as notice of termination of participation in this agreement, declines to participate in the particular operational plan.

(c) The declination of one or more of the parties to participate in a particular operational plan or any amendment, revision, or modification thereof, shall not affect the operation of this agreement and the other operational plans adopted pursuant thereto.

(d) Any party may at any time by resolution or notice given to the State Disaster Council, in the same manner as notice of termination of participation in this agreement, decline to participate in any particular operational plan, which declination shall become effective 20 days after filing with the State Disaster Council.

(e) The State Disaster Council shall send copies of all operational plans to those state departments and agencies designated by the Governor. The Governor may, upon behalf of any department or agency, give notice that such department or agency declines to participate in a particular operational plan.

(f) The State Disaster Council, in sending copies of operational plans and other notices and information to the parties to this agreement, shall send copies to the Governor and any department or agency head designated by him; the chairman of the board of supervisors, the clerk of the board of supervisors, and County Disaster Council, and any other officer designated by a county; the mayor, the clerk of the city council, the City Disaster Council, and any other officer designated by a city; the executive head, the clerk of the governing body, or other officer of other political subdivisions and public agencies as designated by such parties.

8. This agreement shall become effective as to each party when approved or executed by the party, and shall remain operative and

effective as between each and every party that has heretofore or hereafter approved or executed this agreement, until participation in this agreement is terminated by the party. The termination by one or more of the parties of its participation in this agreement shall not affect the operation of this agreement as between the other parties thereto. Upon approval or execution of this agreement the State Disaster Council shall send copies of all approved and existing mutual aid operational plans affecting such party which shall become operative as to such party 20 days after receipt thereof unless within that time the party by resolution or notice given to the State Disaster Council, in the same manner as notice of termination of participation in this agreement, declines to participate in any particular operational plan. The State Disaster Council shall keep every party currently advised of who the other parties to this agreement are and whether any of them has declined to participate in any particular operational plan.

9. Approval or execution of this agreement shall be as follows:

- (a) The Governor shall execute a copy of this agreement on behalf of the State of California and the various departments and agencies thereof. Upon execution by the Governor a signed copy shall forthwith be filed with the State Disaster Council.
- (b) Counties, cities, and other political subdivisions and public agencies having a legislative or governing body shall by resolution approve and agree to abide by this agreement, which may be designated as "CALIFORNIA DISASTER AND CIVIL DEFENSE MASTER MUTUAL AID AGREEMENT." Upon adoption of such a resolution, a certified copy thereof shall forthwith be filed with the State Disaster Council.
- (c) The executive head of those political subdivisions and public agencies having no legislative or governing body shall execute a copy of this agreement and forthwith file a signed copy with the State Disaster Council.

10. Termination of participation in this agreement may be effected by any party as follows:

- (a) The Governor, upon behalf of the State and its various departments and agencies, and the executive head of those political subdivisions and public agencies having no legislative or governing body, shall file a written notice of termination of participation in this agreement with the State Disaster Council and this agreement is terminated as to such party 20 days after the filing of such notice.

(b) Counties, cities, and other political subdivisions and public agencies having a legislative or governing body shall by resolution give notice of termination of participation in this agreement and file a certified copy of such resolution with the State Disaster Council, and this agreement is terminated as to such party 20 days after the filing of such resolution.

IN WITNESS WHEREOF this agreement has been executed and approved and is effective and operative as to each of the parties as herein provided.

/signed/ EARL WARREN

GOVERNOR

On behalf of the State of
California and all its De-
partments and Agencies

ATTEST:
November 15, 1950

/signed/ FRANK M. JORDAN
Secretary of State

(GREAT SEAL)

NOTE:

There are references in the foregoing agreement to the California Disaster Act, State Disaster Council, and various sections of the Military and Veterans Code.

Effective November 23, 1970, by enactment of Chapter 1454, Statutes 1970, the California Disaster Act (Sections 1500 ff., Military and Veterans Code) was superseded by the California Emergency Services Act (Sections 8550 ff., Government Code), and the State Disaster Council was superseded by the California Emergency Council.

Section 8668 of the California Emergency Services Act provides:

(a) Any disaster council previously accredited, the State Civil Defense and Disaster Plan, the State Emergency Resources Management Plan, the State Fire Disaster Plan, the State Law Enforcement Mutual

Aid Plan, all previously approved civil defense and disaster plans, all mutual aid agreements, and all documents and agreements existing as of the effective date of this chapter, shall remain in full force and effect until revised, amended, or revoked in accordance with the provisions of this chapter.

In addition, Section 8561 of the new act specifically provides:

"Master Mutual Aid Agreement" means the California Disaster and Civil Defense Master Mutual Aid Agreement, made and entered into by and between the State of California, its various departments and agencies, and the various political subdivisions of the state, to facilitate implementation of the purposes of this chapter.

Substantially the same provisions as previously contained in Section 1541, 1564, 1586 and 1587 of the Military and Veterans Code, referred to in the foregoing agreement, are now contained in Sections 8633, 8618, 8652 and 8653, respectively, of the Government Code.

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JUN 25 2008
CITY ATTORNEY

FILED
MERCED COUNTY

08 JUN 23 PM 4:39

CLERK OF THE SUPERIOR COURT

BY TISA M HYDER
DEPUTY

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

MERCED CITIZENS FOR
RESPONSIBLE PLANNING, a California
non-profit unincorporated association, and
VALLEY ADVOCATES, a California
non-profit public benefit corporation,

Plaintiffs and Petitioners,

vs.

CITY OF MERCED, a California
municipal corporation, and MERCED
CITY COUNCIL, a body politic,

Defendants and Respondents,

BELLEVUE RANCH-MERCED, L.P., a
California limited partnership;
CROSSWINDS AT BELLEVUE RANCH
NORTH, LLC, a California limited
liability company; CROSSWINDS BRE II,
LLC, a California limited liability
company; CROSSWINDS HOMES AT
BELLEVUE, LLC, a California limited
liability company; ENVISION HOMES,
LLC, a California limited liability
company; GRUPE INVESTMENT
COMPANY, INC., a California
corporation; KB HOME CENTRAL
VALLEY, INC., a California corporation;

Case No. 150872

**RESPONDENTS' DEMURRER TO
PETITIONERS' SECOND AMENDED
PETITION-DECISION**

RESPONDENTS' DEMURRER TO PETITIONERS' SECOND AMENDED PETITION
Merced Superior Court Case No.-150872

1 KIMBALL HILL BELLEVUE RANCH,
2 LLC, a California limited liability
3 company; L.J. STEINER, LLC, a
4 California limited liability company;
5 MERCED PASEO, LLC, a California
6 limited liability company; MERCED
7 RENAISSANCE, L.P., a California limited
8 partnership; MERCED SANCASTLE L.P.,
9 a California limited partnership; RYLAND
10 HOMES OF CALIFORNIA, INC., a
11 Delaware corporation; SUMMERTON
12 HOMES, LLC, a California limited
13 liability company; WOODSIDE
14 PRAIRIES, INC., a California corporation;
15 WAL-MART REALTY COMPANY, an
16 Arkansas corporation; and DOES 1
17 through 50, inclusive,

18 Real Parties in Interest.

19 Mr. Harriman, counsel for Petitioners, states that the City of Merced has a mandatory
20 duty not to authorize builders to erect homes and improvements which are in excess of 1.5 miles
21 distant from the nearest fire department station. The court finds, however, that the second
22 amended petition does not sufficiently plead such a mandatory duty upon Respondents.

23 The Court also finds that other pleading impediments have been conceded or were not
24 addressed by Petitioners: the bar of 90-day statute of limitations and lack of standing (exhaustion
25 of administrative remedies).

26 The demurrer to the second amended Petition is sustained without leave to amend.

27 DATED: June 23, 2008

28 
GLENN A. RITCHEY, JR.
Judge of the Superior Court

COPY

1 CITY OF MERCED
Gregory G. Diaz, City Attorney (State Bar No. 156318)
2 Jeanne Schechter, Deputy City Attorney (State Bar No. 149457)
678 West 18th Street
3 Merced, California 95340
Telephone: 209-385-6868
4 Facsimile: 209-723-1780

Exempt From Filing Fee Pursuant
to Government Code § 6103

2008 JUN 16 PM 2:39

CLERK OF THE SUPERIOR COURT
BY TAWN SAEPHANH
DEPUTY

5 RUTAN & TUCKER, LLP
M. Katherine Jenson (State Bar No. 110772)
6 Robert S. Bower (State Bar No. 70234)
611 Anton Boulevard, Fourteenth Floor
7 Costa Mesa, California 92626-1931
Telephone: 714-641-5100
8 Facsimile: 714-546-9035

9 Attorneys for Defendants and Respondents
CITY OF MERCED, and MERCED CITY COUNCIL

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF MERCED

13 MERCED CITIZENS FOR RESPONSIBLE
PLANNING, a California non-profit
14 unincorporated association, and VALLEY
ADVOCATES, a California non-profit public
15 benefit corporation,

16 Plaintiffs and Petitioners,

17 v.

18 CITY OF MERCED, a California municipal
corporation, and MERCED CITY COUNCIL, a
19 body politic,

20 Defendants and Respondents.

Case No. 150872

**RESPONDENTS' REPLY TO
PETITIONERS' UNTIMELY OPPOSITION
TO CITY'S DEMURRER TO SECOND
AMENDED PETITION FOR WRIT OF
MANDAMUS**

Hearing:
Date: June 20, 2008
Time: 8:15 a.m.
Courtroom: 4

Date Action Filed: December 17, 2007
Trial Date: None

21 BELLEVUE RANCH-MERCED, L.P., a
22 California limited partnership; CROSSWINDS
AT BELLEVUE RANCH NORTH, LLC, a
23 California limited liability company;
CROSSWINDS BRE II, LLC, a California
24 limited liability company; CROSSWINDS
HOMES AT BELLEVUE, LLC, a California
25 limited liability company; ENVISION HOMES,
LLC, a California limited liability company;
26 GRUPE INVESTMENT COMPANY, INC., a
California corporation; KB HOME CENTRAL
27 VALLEY, INC., a California corporation;
KIMBALL HILL BELLEVUE RANCH, LLC,
28 a California limited liability company; L.J.
STEINER, LLC, a California limited liability

1 company; MERCED PASEO, LLC, a
2 California limited liability company; MERCED
3 RENAISSANCE, L.P., a California limited
4 partnership; MERCED SANDCASTLE, L.P., a
5 California limited partnership; RYLAND
6 HOMES OF CALIFORNIA, INC., a Delaware
7 corporation; SUMMERTON HOMES, LLC, a
8 California limited liability company;
9 WOODSIDE PRAIRIES, INC., a California
10 corporation; WAL-MART REALTY
11 COMPANY, an Arkansas corporation; and
12 DOES 1 through 50, inclusive,

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Real Parties in Interest.

1 **I. INTRODUCTION.**

2 Petitioners' "opposition" to the City's demurrer was filed without explanation or
3 permission **three days late**. It essentially concedes the points in the City's demurrer, and asks for
4 leave to file a *fourth* pleading because the need to do so is "clear in light of the effect of
5 Defendants' Memorandum of Points and Authorities." Reply, p. 2. This mirrors the "no effort"
6 response that Petitioners filed in "opposition" to the second demurrer, except for the fact that
7 response was only two days late.

8 Consistent with the "three strikes" warning the Court gave Petitioners at the last hearing,
9 no future leave should be granted.

10 This Reply is being submitted one court day late. This was unavoidable since the City did
11 not receive the opposition until the afternoon of June 12. Due to other hearing commitments by
12 the City's co-counsel, she was unable to complete the reply papers until this weekend. The City
13 apologizes to the Court for this delay.

14 **II. PETITIONERS WAIVED THE RIGHT TO OPPOSE THE CITY'S DEMURRER**
15 **BY FAILING TO FILE A TIMELY OPPOSITION.**

16 Once again, Petitioners refuse to play by the rules. Petitioners' opposition to the demurrer
17 was required to be filed and served by June 9th. (Code Civ. Proc. § 1005(b).) Without
18 explanation or permission from this Court, Petitioners did not file or serve their opposition until
19 June 12th, three court days beyond the statutory deadline. Petitioners' dilatoriness cannot be
20 explained-away by any Herculean efforts required on their part, as their papers consisted of a mere
21 five pages of text consisting mostly of headings and quotations of irrelevant statutes, and which, at
22 least initially, concedes that as is the pleading is defective.

23 The California Rules of Court expressly provide that the Court, in its discretion, may
24 refuse to consider these late-filed oppositions. (CRC Rule 3.1300(d); *Hobson v. Raychem Corp.*
25 (1999) 73 Cal.App.4th 614, 622-625.) In addition, the Merced County Superior Court Rules
26 expressly provide:

27 Failure to file a memorandum of points and authorities by the filing
28 deadline . . . is a **waiver of the memorandum**. . . (Rule 3(c),
emphasis added.)

1 Consequently, Petitioners' opposition papers should be deemed waived and should not be
2 considered by the Court. Moreover, because of Petitioners' cavalier treatment of judicial
3 resources and the opportunities already afforded them, the City's demurrer should be sustained
4 without leave to amend.

5 **III. EVEN IF PETITIONERS' UNTIMELY OPPOSITION IS CONSIDERED, IT ONCE**
6 **AGAIN CONCEDES THAT THE CITY'S DEMURRER SHOULD BE GRANTED**
7 **AND OFFERS NO GLIMMER THAT THE NEXT PETITION WOULD STATE A**
8 **CLAIM.**

9 Petitioners begin their late opposition with the following incomplete thought:

10 Based on the Defendants' Memorandum of Points and Authorities
11 ("MPA") in Support of their Demurrer to the Second Amended
12 Petition ("SAP"), (sic) seek leave of Court to file a Third Amended
13 Petition which will amend the relief sought to seek relief solely
under the provisions of Government Code (Govt. C.) sections
66499.33 and 66499.36.

14 The suggestion that Petitioners can retool their fire service allegations as causes of action
15 under these Government Code sections misses the mark. Sections 66499.33 and 66499.36 have no
16 relevance to Petitioners' fire service claims.

17 Section 66499.33 creates no rights. It states only that the Subdivision Map Act will not bar
18 any legal rights an aggrieved person might have to enjoin an attempted subdivision of property in
19 violation of the Subdivision Map Act or the local ordinance enacted thereto. There is no
20 allegation in the Second Amended Petition or in the opposition of a violation of the Subdivision
21 Map Act or of Title 18 of the Merced Municipal Code dealing with subdivisions (Merced
22 Municipal Code § 18.04 *et seq.*).¹

23 Nor is section 66499.36 any closer to the mark. It requires a local agency, if it obtains
24 knowledge that a property has been subdivided in violation of the Subdivision Map Act or the
25 local agency's subdivision ordinance, to issue a notice and hold a hearing on the violation.

26 Again, no violation of the Subdivision Map Act or of Title 18 of the Merced Code has

27
28 ¹ Petitioners seem to be confusing the City's Subdivision Ordinance, enacted as Title 18 of its
Municipal Code, with a Planning Commission Resolution which also has no bearing on
Petitioners' fire service claims.

1 been alleged or identified in the opposition. Instead, Petitioners appear to desire a City Council
2 hearing on the issue of whether issuing a water or sewer connection is a discretionary act. That is
3 not authorized, let alone mandated, by section 66499.36, and is nonsensical to boot.

4 As best the City can discern from Petitioners' muddled opposition papers, Petitioners want
5 to amend their pleadings to attack subdivision maps that have been finalized under a theory that
6 the City's processing of those final maps somehow violated a mandatory fire service standard that
7 left the City Council no choice but to disapprove the final maps. This proposition is wholly
8 without merit. As explained in the City's moving papers, General Plans do not state specific
9 mandates or prohibitions. Rather, they state "policies," and set forth "goals." (*Napa Citizens for*
10 *Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 378 [attached
11 to moving papers].) Because these policies reflect a range of competing interests, the public entity
12 must be allowed to balance the General Plan's policies when applying them, and it has broad
13 discretion to construe its policies in light of the Plan's purposes. (*Id.* at 386.)

14 The documents relied upon by Petitioners to purportedly create a mandatory duty clearly
15 reflect the *discretionary nature* of the City's provision of fire services to its residents. Simply
16 because these documents set forth goals of responding to fires within a certain timeframe and
17 providing for fire stations within a certain distance of residential areas, does not convert these
18 goals into mandates that must be met before development can occur. (*See, e.g.*, [Exhibits to the
19 Second Amended Petition] Exhibit A - 1982 Mitten Report, pp. 2, 6-7, 9-10 [described itself as a
20 "policy guide" for managing fire services in the community, setting forth "goals and objectives"
21 and "targets" in order "to give the fire department an opportunity to direct the community toward a
22 reasonable level of fire protection **within the allocated local resources;**" expressly recognized
23 that "[a] certain level of losses from fire must be accepted as tolerable **simply because of the**
24 **limited resources of the community;**" Exhibit B- the Master Plan, pp. 2, 7, 9 described "reflex
25 time" not as a mandatory requirement, but as "an important aspect in **policy issues when**
26 **considering an adequate service level;**" Exhibit C, the 1987-2002 Facilities Study, pp. 2, 5,
27 discussed "average response distance," "priorities" and expressly recognized that "due to the
28 complexities associated with projected growth and development and the major expenditures

1 associated with [a fire facilities] program, that the time frames of providing facilities “be
2 considered **general in nature**. . . .;” Exhibit D - the 1990 Service Level Report, pp. 2, 3 described
3 “recommendations” and “goals;” Exhibit E - the 1992 Strategic Plan, pp. 3, 7, discussed
4 “objectives,” “strategy,” and “standard criteria;” and Exhibit F, -the 1997 Strategic Plan, p. 2,
5 talked of “goals and objectives,” not mandates.)

6 Most importantly, the General Plan sections set forth as Exhibits to the Petition
7 unambiguously illustrate the discretionary nature of the City’s fire protection services. Exhibit G
8 describes what the City “should” (not “shall”) do in terms of fire protection; Exhibit H discusses
9 the “goal of maintaining” a certain response time (p. 4); and Exhibits I, J, K, and M all talk of
10 “goals’ and “policies” and “targets,” and what the City “may” or “should” do.

11 The General Plan’s policy related to fire protection services is Policy P-2.1 and is found in
12 Goal Area P-2 of Section 5.4. Not only is this provision clearly labeled as simply a “policy”
13 rather than a mandate, but by its express terms it *qualifies* the need to provide fire services:

14 The City is committed to assuring that facilities, equipment and
15 staffing levels of its fire and police service units meet the highest
16 standard **that can be accommodated within the resource
constraints of the City.**

17 (SAP, 14:8-10, and Ex. K, p. 2, emphasis added.) Thus, the General Plan standard regarding fire
18 protection facilities is specifically limited by the ability of the City (financially or otherwise) to
19 actually provide such facilities.

20 Petitioners’ claims are completely undercut by Exhibit N to the Petition, which is an
21 Administrative Report (“Report”) approved by the City Council in 2007. The Report established
22 “priorities” for the development of fire stations in the City. Moreover, the Report discusses the
23 relocation of two fire stations and the construction of four new stations **in a 20-year time frame,**
24 and provides that the fire stations “are to be constructed **as growth occurs,**” **not prior to growth**
25 **occurring.** (SAP, Ex. N, p. 3.) By approving the Report, the City **expressly determined that it**
26 **was currently unable to provide the requested fire stations within its financial resource**
27 **constraints:**

28 Existing balances and expected revenues in fire-related impact fee
funds **are not sufficient to build a new fire station in the coming**

1 **three fiscal years.** If a station is to be constructed in that time
2 frame, it is likely that **the Council would need to authorize**
3 **transfers from other impact fee funds**, provided that the other
4 funds have money available.

5 (SAP, Ex. N, p. 6, emphasis added.) Thus, far from establishing a mandate, the City Council, in
6 its legislative discretion, determined that (i) the City lacked sufficient funds to construct a new fire
7 station within the City until 2010 at the earliest; and (ii) it would need to authorize a transfer of
8 money from other funds (perhaps the quintessential exercise of legislative discretion) to do that.
9 Thus, Petitioners' allegation that the City is violating the General Plan by allowing residential
10 development prior to the construction of certain fire stations is **directly contradicted** by
11 Petitioners' own allegations, and therefore entirely without merit.

12 Petitioners' opposition fails to explain away the fundamental problem Petitioners face in
13 seeking a writ to force the City to construct certain fire stations and enjoining development until
14 those stations are open - they are asking the Court to interfere with, and reverse, the City Council's
15 exercise of legislative discretion in determining the timing of construction of its fire stations, as
16 well as the availability of funding therefor. As outlined in the moving papers, the courts are
17 unanimous in refusing to countenance such gross interference with the exercise of legislative
18 discretion. (*Cairns v. County of Los Angeles* (1997) 62 Cal.App.4th 330, 334 [attached to moving
19 papers] [decisions regarding fire protection services are within the policy-makers' absolute
20 discretion]; *Cal. Slurry Seal Assn. v. Dept. of Indus. Relations* (2002) 98 Cal.App.4th 651, 662
21 [mandamus may not compel a public agency with discretionary power to act in a particular
22 manner]; *Pipe Trades Dist. Council No. 51 v. Aubry* (1996) 41 Cal.App.4th 1457, 1468-1469 [rule
23 against judicial interference "is subject to even more rigorous adherence when what is involved is .
24 . . legislative discretion"]; *Sklar v. Franchise Tax Board* (1986) 185 Cal.App.3d 616, 624-626
25 ["judicial power relative to legislative acts is severely circumscribed"].) The prohibition on
26 interference with legislative discretion is especially strong here, where Petitioners fail to allege
27 any mandatory City duty.

28 Petitioners' opposition fails to even address this issue.

1 **IV. NO LEAVE TO AMEND SHOULD BE GRANTED.**

2 As the City pointed out in the last round of pleadings, Petitioners had treated the first two
3 rounds of pleading as nothing more than a “warm up” exercise. They have done the same thing
4 once again. Petitioners insist on not playing by the rules at the very same time they are requesting
5 an extension of the game.

6 In the face of three successive demurrers by the City, Petitioners have yet to file a single
7 timely response to any of the City’s pleadings, and in Petitioner’s two late responses (including
8 this round’s tardy response) Petitioners have taken the unusual tack of admitting that the
9 demurrers are well grounded and should be sustained.

10 By way of example, in round two, although Petitioners were indisputably on notice of the
11 vagueness defects in their pleadings from the first Demurrer, their First Amended Petition
12 contained the same meaningless allegations regarding unnamed approvals for unspecified
13 residential development projects. Indeed, after the City demurred to the that version of the
14 Petition, Petitioners admitted in their *untimely* opposition that *they had not even attempted to*
15 *address those deficiencies.* (Plaintiffs’ Opposition to Demurrer, 2:5-7 [**“Plaintiffs concede that**
16 **the demurrer should be granted** with leave to amend, **because there is a lack of specificity in**
17 **the allegations** which support the claims alleged in their First Amended Petition...”].)

18 Not surprisingly, the Court sustained the City’s second demurrer, noting that Petitioners
19 were improperly attempting to interfere with the discretion of the City Council. Although
20 Petitioners urged the Court to give them extra time to amend their pleadings, the Court recognized
21 that Petitioners were not treating the litigation seriously and gave Petitioners only 14 days leave to
22 amend, stating that it was giving leave to amend only because it believed in giving parties three
23 chances (essentially warning Petitioners, “three strikes and you’re out”).

24 On June 10th, the Court attempted to hold the Case Management Conference in this case.
25 There were no appearances. Mr. Harriman had apparently disregarded the Court’s order to notify
26 the City of the Conference.

27 With regard to this third Demurrer, Petitioners opposition was filed three days late, and
28 once again concedes that the demurrer is well founded and again requests leave to file a **fourth**

1 pleading, disregarding the "three strikes" admonishment the Court gave at the last hearing. *Id.*,
2 ¶ 17.

3 Petitioners proposed new claims under Government Code section 66499.33 and 66499.36
4 completely miss the mark. Those sections deal with property subdivided in violation of the
5 Subdivision Map Act. That has nothing to do with Petitioners' fire service claims.

6 In light of circumstances outlined above, no further leave should be granted.

7 **V. CONCLUSION.**

8 Unlike Petitioners, the City does not view these proceedings as a meaningless exercise.
9 Petitioners have tacitly admitted that their litigation is frivolous by the cavalier manner in which
10 they have proceeded, continuously acting as if state statutes and this Court's local rules and
11 admonitions do not apply to them. Although given repeated chances to plead their case, they have
12 failed to even attempt to do so in any serious way.

13 The time to put an end to this litigation has come. The City respectfully requests that the
14 Court deny Petitioners' request and bring this matter to conclusion.

15 Dated: June 16, 2008

RUTAN & TUCKER, LLP
M. KATHERINE JENSON
ROBERT S. BOWER



17
18
19 By: _____

M. Katherine Jenson
Attorneys for Respondents/Defendants
CITY OF MERCED and MERCED CITY
COUNCIL

20
21
22 Dated: June 16, 2008

MERCED CITY ATTORNEY'S OFFICE
GREGORY G. DIAZ
JEANNE SCHECHTER

23
24
25 By: _____



Gregory G. Diaz
Co-Counsel for Defendants and Respondents
CITY OF MERCED, and MERCED CITY
COUNCIL

1 CITY OF MERCED
Gregory G. Diaz, City Attorney (State Bar No. 156318)
2 Jeanne Schechter, Deputy City Attorney (State Bar No. 149457)
678 West 18th Street
3 Merced, California 95340
Telephone: 209-385-6868
4 Facsimile: 209-723-1780

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5 RUTAN & TUCKER, LLP
M. Katherine Jenson (State Bar No. 110772)
6 Robert S. Bower (State Bar No. 70234)
611 Anton Boulevard, Fourteenth Floor
7 Costa Mesa, California 92626-1931
Telephone: 714-641-5100
8 Facsimile: 714-546-9035

9 Attorneys for Defendants and Respondents
CITY OF MERCED, and MERCED CITY COUNCIL

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF MERCED

13 MERCED CITIZENS FOR RESPONSIBLE
PLANNING, a California non-profit
14 unincorporated association, and VALLEY
ADVOCATES, a California non-profit public
15 benefit corporation,

16 Plaintiffs and Petitioners,

17 v.

18 CITY OF MERCED, a California municipal
corporation, and MERCED CITY COUNCIL, a
19 body politic,

20 Defendants and Respondents.

Case No. 150872

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEFENDANTS AND RESPONDENTS'
DEMURRER TO SECOND AMENDED
PETITION FOR WRIT OF MANDAMUS**

Hearing:
Date: June 20, 2008
Time: 8:15 a.m.
Courtroom: 4

Date Action Filed: December 17, 2007
Trial Date: None

21 BELLEVUE RANCH-MERCED, L.P., a
22 California limited partnership; CROSSWINDS
AT BELLEVUE RANCH NORTH, LLC, a
23 California limited liability company;
CROSSWINDS BRE II, LLC, a California
24 limited liability company; CROSSWINDS
HOMES AT BELLEVUE, LLC, a California
25 limited liability company; ENVISION HOMES,
LLC, a California limited liability company;
26 GRUPE INVESTMENT COMPANY, INC., a
California corporation; KB HOME CENTRAL
27 VALLEY, INC., a California corporation;
KIMBALL HILL BELLEVUE RANCH, LLC,
28 a California limited liability company; L.J.
STEINER, LLC, a California limited liability

Rutan & Tucker, LLP
attorneys at law

1 company; MERCED PASEO, LLC, a
California limited liability company; MERCED
2 RENAISSANCE, L.P., a California limited
partnership; MERCED SANDCASTLE, L.P., a
3 California limited partnership; RYLAND
HOMES OF CALIFORNIA, INC., a Delaware
4 corporation; SUMMERTON HOMES, LLC, a
California limited liability company;
5 WOODSIDE PRAIRIES, INC., a California
corporation; WAL-MART REALTY
6 COMPANY, an Arkansas corporation; and
DOES 1 through 50, inclusive,

7
8 Real Parties in Interest.

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION AND SUMMARY OF ARGUMENT**

3 Petitioners filed this action last year, seeking a court order that, among other things, would
4 shut down all residential development in the City of Merced ("City") until such time as fire
5 stations are constructed and operating within 1.5 miles of said development. The City demurred
6 successfully to Petitioners' pleadings on two occasions. Most recently, on April 21, 2008, the
7 Court sustained the City's demurrer in its entirety, granting Petitioners 14 days leave to amend.

8 Petitioners have now filed a Second Amended Petition for Writ of Mandate ("SAP"). The
9 SAP remains fatally defective, principally because it is still based on the misconception that the
10 City's General Plan mandates that before residential construction can proceed in the City, a fire
11 station must be operating within 1.5 miles of the development. Because the General Plan contains
12 no such mandate, the Petition, in effect, requests that the Court reverse the City Council's
13 determinations regarding the timing of construction of its fire stations, as well as the availability of
14 funding therefor. Because judicial interference in the exercise of legislative discretion is
15 prohibited as a matter of law, the SAP fails to state facts sufficient to constitute a cause of action.

16 The SAP also fails to cure the other key defects that the Court found to exist in the first
17 two petitions, in that: (i) Petitioners' claims are barred by applicable statutes of limitation; (ii) the
18 SAP is impermissibly uncertain with regard to what specific approvals are purportedly illegal; and
19 (iii) Petitioners fail to allege facts that would establish their standing to bring this action.

20 **II. STANDARD OF REVIEW FOR DEMURRER**

21 "A demurrer tests the sufficiency of the allegations in a complaint as a matter of law."
22 (*Mez Industries, Inc. v. Pacific Nat. Ins. Co.* (1999) 76 Cal.App.4th 856, 864.) The burden is on
23 the plaintiff to plead facts sufficient to establish "every element of each cause of action"
24 (*Rakestraw v. California Physicians' Service* (2000) 81 Cal.App.4th 39, 43), and a demurrer is
25 properly sustained where the plaintiff fails to plead facts sufficient to show the existence of each
26 element of a cause of action (Code Civ. Proc., §§ 430.10, 430.30). A demurrer also should be
27 sustained where a complete defense appears from the face of the complaint. (Code Civ. Proc.
28 § 430.30, subd. (a); *Guardian North Bay v. Superior Court* (2001) 94 Cal.App.4th 963, 971-972.)

1 **III. ALLEGATIONS OF THE PETITION**

2 The SAP's claims proceed along the following mistaken line of reasoning:

3 1. The conditions of approval in unidentified pre-annexation development agreements
4 and for unidentified development projects in the area north of Cardella Road and in areas of south
5 Merced (SAP, ¶¶ 4, 32) (the "Development Projects") allegedly contain a standard condition that
6 provides "[a]ll other applicable codes, ordinances, policies, etc. adopted by the City of Merced
7 shall apply." (SAP, ¶¶ 20, 22.)

8 2. This standard condition purportedly requires that all building permits, certificates
9 of occupancy, sewer connections, water service connections, and other development entitlements
10 (the "Ministerial Permits") issued in connection with the Development Projects must comply with
11 the City's General Plan. (SAP, 1:16-25; ¶¶ 34.)

12 3. The City's General Plan purportedly **mandates** that before residential development
13 in the City can proceed, a fire station must be operating within 1.5 miles of that development, and
14 thus this mandate applies to the Development Projects. (SAP, 1:13-14; ¶¶ 22, 24-27, 29, 33.)

15 4. Because the City has not constructed certain planned fire stations, the Development
16 Projects are, or will be, in violation of the purported mandate of the General Plan. Therefore, the
17 Court should order the City to stop issuing all Ministerial Permits, shutting down all development
18 within the Development Projects, until the requisite fire stations are constructed. (*Id.*)

19 **IV. BECAUSE THE FIRE PROTECTION PROVISIONS OF THE GENERAL PLAN**
20 **ARE NOT MANDATORY, THE PETITION IMPERMISSIBLY REQUESTS THE**
21 **COURT TO CONTROL THE CITY'S EXERCISE OF ITS DISCRETION**

22 Even were Petitioners' challenge not barred as explained in Sections V, VI, and VII herein,
23 the Petition fails to state a cause of action because the provisions of the General Plan regarding
24 time and distance standards for fire stations are mere goals and objectives; they are **not** mandatory,
25 and thus there is no requirement that certain fire protection facilities be constructed before
26 residential development can occur.

27 General Plans do not state specific mandates or prohibitions. Rather, they state "policies,"
28 and set forth "goals." (*Napa Citizens for Honest Government v. Napa County Bd. of Supervisors*

1 (2001) 91 Cal.App.4th 342, 378 [attached].) Because these policies reflect a range of competing
2 interests, the public entity must be allowed to balance the General Plan’s policies when applying
3 them, and it has broad discretion to construe its policies in light of the Plan’s purposes. (*Id.* at
4 386.) General Plan policies relate to disparate issues, and most projects involve trade-offs. Such
5 flexibility does not equate to “inconsistency.” (*Defend the Bay v. City of Irvine* (2004) 119
6 Cal.App.4th 1261, 1268-69 [in upholding an approval against a General Plan inconsistency
7 challenge, the court stated, “We are not dealing with assaying of minerals here. Balance does not
8 require equivalence, but rather a weighing of pros and cons to achieve an acceptable mix”].)

9 A governing body’s conclusion that a particular project is consistent with the relevant
10 General Plan carries a strong presumption of regularity that can be overcome only by a showing of
11 abuse of discretion. (*Napa Citizens, supra*, 91 Cal.App.4th at 357; *Friends of Lagoon Valley v.*
12 *City of Vacaville* (2007) 154 Cal.App.4th 807, 816; *Sequoyah Hills Homeowners Assn. v. City of*
13 *Oakland* (1993) 23 Cal.App.4th 704, 717.) A court may neither substitute its view for that of the
14 agency, nor reweigh conflicting evidence presented to the agency. Courts accord great deference
15 to a local agency’s determination of consistency with its own General Plan, recognizing that the
16 body which adopted the General Plan policies in its legislative capacity has unique competence to
17 interpret those policies when applying them in particular situations. A reviewing court’s role is
18 simply to decide whether the city officials considered the applicable policies and the extent to
19 which the proposed project conforms with those policies. (*San Franciscans Upholding the*
20 *Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656, 677-78.)

21 Here, the City’s determination that the Development Projects are consistent with its
22 General Plan is entitled to that same deference. Indeed, the issue is not even close, as the various
23 documents relied upon in the Petition, including the General Plan, clearly reflect the *discretionary*
24 *nature* of the City’s provision of fire services to its residents. Simply because these documents set
25 forth goals of responding to fires within a certain timeframe and providing for fire stations within
26 a certain distance of residential areas does not convert these goals into mandates that must be met
27 before development can occur. For example, Exhibit A to the Petition, the 1982 Mitten Report,
28 described itself as a “policy guide” for managing fire services in the community (SAP, Ex. A, pp.

1 2, 6), setting forth “goals and objectives” and “targets” (*id.*, pp. 5, 7, 10) in order “to give the fire
2 department an opportunity to direct the community toward a reasonable level of fire protection
3 **within the allocated local resources**” (*id.*, p. 7). Indeed, the Report expressly recognized that
4 “[a] certain level of losses from fire must be accepted as tolerable **simply because of the limited**
5 **resources of the community.**” (*Id.* at 9.)

6 Similarly, Exhibit B, the Master Plan, described “reflex time,” the concept so heavily
7 relied upon by Petitioners, not as a mandatory requirement, but as “an important aspect in **policy**
8 **issues when considering an adequate service level.**” (SAP, Ex. B, p. 2.) Indeed, the Plan was
9 simply a series of recommendations to establish a standard, not a mandatory requirement in and of
10 itself. (*Id.*, pp. 7, 9.)

11 Exhibit C, the 1987-2002 Facilities Study, discussed “average response distance” (SAP,
12 Ex. C, p. 2) and “priorities” (*id.*, p. 5), and expressly recognized that “due to the complexities
13 associated with projected growth and development and the major expenditures associated with [a
14 fire facilities] program, that the time frames of providing facilities “be considered **general in**
15 **nature. . . .**” (*Id.*, p.5.)

16 Similarly, Exhibit D, the 1990 Service Level Report, described “recommendations” and
17 “goals” (SAP, Ex. D, pp. 2, 3); Exhibit E, the 1992 Strategic Plan, discussed “objectives,”
18 “strategy,” and “standard criteria” (SAP, Ex. E, pp. 3, 7); and Exhibit F, the 1997 Strategic Plan,
19 talked of “goals and objectives,” not mandates (SAP, Ex. F, p. 2).

20 Most importantly, however, the General Plan sections set forth as Exhibits to the Petition
21 unambiguously illustrate the discretionary nature of the City’s fire protection services. Exhibit G
22 describes what the City “should” (not “shall”) do in terms of fire protection; Exhibit H discusses
23 the “goal of maintaining” a certain response time (p. 4); and Exhibits I, J, K, and M all talk of
24 “goals’ and “policies” and “targets,” and what the City “may” or “should” do.¹

25 _____
26 ¹ Even where a statute uses the word “shall,” it is not always obligatory rather than permissive.
27 Other factors can indicate “that apparent obligatory language was not intended to foreclose a
28 governmental entity’s or officer’s exercise of discretion.” (*Cochran v. Herzog Engraving Co.*
(1984) 155 Cal.App.3d 405, 411 [attached], quoting *Morris v. County of Marin* (1977) 18 Cal.3d
901, 910-11, n. 6 [the *Cochran* court expressed doubt that city code sections that used “shall” with
regard to fire protection activities were mandatory rather than discretionary].) In the case at bar,
where “should” is used, there can be no doubt that the provisions are discretionary.

1 The General Plan's policy related to fire protection services is Policy P-2.1 and is found in
2 Goal Area P-2 of Section 5.4. Not only is this provision clearly labeled as simply a "policy"
3 rather than a mandate, but by its express terms it *qualifies* the need to provide fire services:

4 The City is committed to assuring that facilities, equipment and
5 staffing levels of its fire and police service units meet the highest
6 standard **that can be accommodated within the resource
constraints of the City.**

7 (SAP, 14:8-10, and Ex. K, p. 2, emphasis added.) Thus, the General Plan standard regarding fire
8 protection facilities is specifically limited by the ability of the City (financially or otherwise) to
9 actually provide such facilities.

10 The complete undoing of Petitioners' claims is then provided in Exhibit N to the Petition,
11 an Administrative Report ("Report") approved by the City Council in 2007. The Report
12 established "priorities" for the development of fire stations in the City. "Priorities," however, are
13 not mandates, as they merely establish the order of preference for competing alternatives.
14 Moreover, the Report discusses the relocation of two fire stations and the construction of four new
15 stations **in a 20-year time frame**, and provides that the fire stations "are to be constructed as
16 **growth occurs,**" **not prior to growth occurring.** (SAP, Ex. N, p. 3.) Finally, by approving the
17 Report, the City **expressly determined that it was currently unable to provide the requested**
18 **fire stations within its financial resource constraints:**

19 Existing balances and expected revenues in fire-related impact fee
20 funds **are not sufficient to build a new fire station in the coming**
21 **three fiscal years.** If a station is to be constructed in that time
22 frame, it is likely that **the Council would need to authorize**
transfers from other impact fee funds, provided that the other
funds have money available.

23 (SAP, Ex. N, p. 6, emphasis added.) Thus, far from establishing a mandate, the City Council, in
24 its legislative discretion, determined that (i) the City lacked sufficient funds to construct a new fire
25 station within the City until 2010 at the earliest; and (ii) it would need to authorize a transfer of
26 money from other funds (perhaps the quintessential exercise of legislative discretion) to do that.
27 Thus, Petitioners' allegation that the City is violating the General Plan by allowing residential
28 development prior to the construction of certain fire stations is **directly contradicted** by

1 Petitioners' own allegations, and therefore entirely without merit.

2 In seeking a writ ordering the City to construct certain fire stations and enjoining
3 development until those stations are open, the SAP asks this Court to interfere with, and reverse,
4 the City Council's exercise of legislative discretion in determining the timing of construction of its
5 fire stations, as well as the availability of funding therefor. The courts are unanimous in refusing
6 to countenance such gross interference with the exercise of legislative discretion. (*Cairns v.*
7 *County of Los Angeles* (1997) 62 Cal.App.4th 330, 334 [attached] [decisions regarding fire
8 protection services are within the policy-makers' absolute discretion]; *Cal. Slurry Seal Assn. v.*
9 *Dept. of Indus. Relations* (2002) 98 Cal.App.4th 651, 662 [mandamus may not compel a public
10 agency with discretionary power to act in a particular manner]; *Pipe Trades Dist. Council No. 51*
11 *v. Aubry* (1996) 41 Cal.App.4th 1457, 1468-1469 [rule against judicial interference "is subject to
12 even more rigorous adherence when what is involved is . . . legislative discretion"]; *Sklar v.*
13 *Franchise Tax Board* (1986) 185 Cal.App.3d 616, 624-626 ["judicial power relative to legislative
14 acts is severely circumscribed"].) The prohibition on interference with legislative discretion is
15 especially strong here, where Petitioners fail to allege any mandatory City duty.

16 **V. PETITIONERS' CLAIMS ARE BARRED BY THE 90-DAY STATUTE OF**
17 **LIMITATIONS OF GOVERNMENT CODE SECTION 66499.37**

18 Even if Petitioners could control the City Council's discretion, their claims would be
19 barred by the 90-day statute of limitation. If Petitioners believed the Development Projects were
20 approved in violation of the Subdivision Map Act because they were not within 1.5 miles of a fire
21 station as purportedly mandated by the City's General Plan, Petitioners had **90 days from the**
22 **approval of the tentative tract maps to file and serve** any challenge to the approvals. (Gov.
23 Code § 66499.37; *Maginn v. City of Glendale* (1999) 72 Cal.App.4th 1102, 1108-10 [limitations
24 periods to be strictly enforced because "litigation involving the Subdivision Map Act must be
25 resolved as quickly as possible consistent with due process"].)

26 The Subdivision Map Act (Gov. Code §§ 66410 *et seq.*) vests the authority to control the
27 design and improvement of subdivisions in the legislative bodies of local agencies. (Gov. Code
28 § 66411.) It requires an agency to approve both a *tentative* tract map and a *final* tract map. (Gov.

1 Code § 66426.) A tentative map is made for the purpose of showing the “design and
2 improvement” of a proposed subdivision. (Gov. Code § 66424.5.) It is at this stage that the local
3 agency exercises discretion in conditioning the project and in requiring certain public
4 improvements be constructed (fire stations, roads), dedications made (schools, parks), and fees
5 paid, so as to ensure consistency of the project with the agency’s General Plan. (Gov. Code
6 §§ 66418, 66419.) Indeed, approval of the tentative map **depends on** a determination by the
7 agency that the map is **consistent with the agency’s** plans and ordinances, including the **General**
8 **Plan**. (Gov. Code §§ 66473, 66473.5, 66474(a), 66474.2; *Woodland Hills Residents Assn. v. City*
9 *Council* (1979) 23 Cal.3d 917, 936.)

10 The final adjudicatory administrative decision with regard to determining General Plan
11 consistency is the action approving the *tentative* map, and the statute of limitations for initiating a
12 judicial challenge to a project approval runs from that date. (*Hensler v. City of Glendale* (1994) 8
13 Cal.4th 1, 22 and n. 11.) Thus, any challenge by Petitioners here to the Development Projects
14 based on their purported inconsistency with the City’s General Plan had to be filed and served
15 within 90 days of the approval of the tentative maps thereon.²

16 Moreover, once the legislative body finds a final map to be in substantial compliance with
17 the previously approved tentative map, the final map must be deemed to be consistent with the
18 General Plan in effect at the time of tentative map approval, since the tentative map was
19 determined at its approval to have been consistent with the General Plan. (Gov. Code § 66473.5)
20 That consistency finding is conclusive unless challenged within the limitations period set forth in
21 section 66499.37. (*Camp v. Board of Supervisors* (1981) 123 Cal.App.3d 334, 358-59 [attached]
22 [although trial court correctly ruled county had adopted an inadequate General Plan, and it was
23 thus appropriate to invalidate three tract maps that had been timely challenged, trial court’s order
24 enjoining the approval of *any* final maps was overbroad; county could approve final maps and
25

26 ² In contrast to the discretionary approval of a tentative map, approval of a *final* map merely
27 depends on a determination that the final map is in substantial compliance with the previously
28 approved tentative map. (Gov. Code §§ 66474.1, 66442.) Approval of a final map is ministerial
(*Beck Development Co. v. Southern Pacific Transportation Co.* (1996) 44 Cal.App.4th 1160,
1199), and the agency has no discretion to disapprove it or to redetermine matters. (Gov. Code
§ 66474.1.)

1 allow projects to proceed where tentative maps had not been timely challenged, even though the
2 county's General Plan was admittedly deficient at the time of tentative map approvals].)

3 Here, Petitioners seek to shut down the City's approvals of the Development Projects until
4 such time as certain fire stations have been constructed even though there is no express condition
5 requiring such construction as a prerequisite to development. In effect, Petitioners are claiming
6 the map approvals were *inconsistent* with the General Plan even though the City specifically found
7 that the Projects *were consistent*, a fact that is now conclusively presumed because Petitioners
8 failed to challenge that determination under Government Code section 66499.37. (*Camp, supra*,
9 123 Cal.App.3d at 358-59.)

10 Petitioners attempt to evade the bar of section 66499.37 by seeking to stay the issuance of
11 the Ministerial Permits, rather than by challenging the underlying development approvals. Such a
12 backdoor challenge to the City's previous land use approvals is precluded for two reasons:

13 First, a General Plan consistency challenge is foreclosed at the permit stage. Although
14 such a challenge may be made with reference to a discretionary land use decision or zoning
15 decision, it is not allowed with regard to a ministerial approval, such as a building permit. The
16 law simply does not does not prohibit issuance of building and other ministerial permits that are
17 inconsistent with the General Plan if the permits are consistent with underlying zoning and land
18 use approvals. (*Camp, supra*, 123 Cal.App.3d at 358-59; *Elysian Heights Residents Assoc. v. City*
19 *of Los Angeles* (1986) 182 Cal.App.3d 21, 29, 32 [petitioner argued building permits were void
20 because the zoning was inconsistent with the general plan; court rejected this argument because
21 building permits were consistent with then-existing zoning laws, and thus valid, even though
22 inconsistent with the General Plan]; *Hawkins v. County of Marin* (1976) 54 Cal.App.3d 586, 594-
23 95 [no requirement that permits issued pursuant to county code be reviewed for consistency with
24 the General Plan].) Thus, a consistency challenge must be made to the discretionary land use or
25 zoning approval, and if such a challenge is not made, a party may not challenge an underlying
26 ministerial permit on consistency grounds even if the underlying land use decision or zoning
27 ordinance is not consistent with the General Plan.

28 ///

1 Second, the stated intent of establishing short statutes of limitations periods in the land use
2 context is to give governmental land use decisions certainty, to permit land use decisions to take
3 effect quickly, and to give property owners the necessary confidence to proceed with approved
4 projects. (See, e.g., Gov. Code, § 65009(a).) Failure to comply with these short time periods is
5 **fatal**, and all persons are forever barred from any further challenge. (Gov. Code § 65009(e).) It
6 would exalt form over substance to allow a challenge to a particular permit to be used as a vehicle
7 for an untimely collateral attack on a project. (*Honig v. San Francisco Planning Dept.* (2005) 127
8 Cal.App.4th 520, 528 [attached] [challenge to building permit barred because the attack on the
9 building permit was nothing more than an untimely challenge to a previously approved variance];
10 *A Local & Regional Monitor v. City of Los Angeles* (1993) 16 Cal.App.4th 630, 648-649 (*ALARM*)
11 [action challenging EIR as inconsistent with general plan barred since challenge constituted “an
12 untimely collateral attack on the city’s general plan itself”].)

13 Here, Petitioners never bothered to challenge any of the subdivision approvals for the
14 Development Projects or any other discretionary approvals. They now attempt to mount a
15 backdoor challenge to these unchallenged projects (which are now unchallengeable because of the
16 passage of time), and request that this Court order the City to cease issuance of building and other
17 ministerial permits “in those areas which are not in compliance with the City’s General Plan fire
18 protection standards. . . .” (SAP, ¶ 34.) Petitioners seek to avoid the bar of section 66499.37 by
19 arguing that they are merely seeking to enforce approval conditions, not the approvals themselves.
20 As *ALARM* and *Honig* make clear, this is an inappropriate attempt to exalt form over substance.
21 The attack on the Ministerial Permits is, in reality, nothing more than a challenge to the underlying
22 Project approvals because the Ministerial Permits’ alleged defects are entirely dependent on the
23 Projects’ alleged defects. This challenge comes too late under section 66499.37.

24 **VI. THE PETITION REMAINS IMPERMISSIBLY UNCERTAIN**

25 The petition in a mandamus proceeding both frames and limits the issues before the Court.
26 (*Comm. on Children’s Television v. General Foods Corp.* (1983) 35 Cal.3d 197, 212 [superseded
27 by statute on other grounds].) It also limits the extent of the writ of mandate this Court may issue.

28 ///

1 (Code Civ. Proc. § 1086; *Dormax Oil Co. v. Bush* (1940) 42 Cal.App.2d 243, 244-245 [court
2 denied writ for failing to allege sufficient facts that would entitle them to the relief sought].)

3 Accordingly the petition must allege **specific** facts showing the invalidity of the challenged
4 action. Plaintiffs, “to state a cause of action warranting judicial interference with the official acts
5 of defendants, must allege much more than mere conclusions of law; they **must aver the specific**
6 **facts** from which the conclusions entitling them to relief would follow.” (*California State*
7 *Psychological Assn. v. County of San Diego* (1983) 148 Cal.App.3d 849, 861 (“*CSPA*”); *Perry v.*
8 *Chatters* (1953) 121 Cal.App.2d 813, 815 [“In order to state a cause of action the petition for writ
9 of mandamus must set forth facts showing that plaintiff is entitled to the relief he seeks”];
10 *Faulkner v. Cal. Toll Bridge Authority* (1953) 40 Cal.2d 317, 330.)

11 In *CSPA*, the petitioner nonprofit corporation alleged that the county had adopted a local
12 mental health program that did not comply with state law. (148 Cal.App.3d at 851-852.) The
13 county demurred on the ground that the petitioner failed to plead facts with adequate specificity.
14 The court granted the county’s demurrer, holding that the “first amended complaint fails to set out
15 facts or law establishing a mandatory duty upon the County.” (*Id.* at 858.) Instead, the “petition
16 contain[ed] only conclusory allegations,” and failed to allege any facts in support thereof. (*Id.* at
17 858-859.) Moreover, the petition had only alleged a failure to comply with “permissive statutes
18 and regulations” (*i.e.*, those permitting the county to exercise its discretion). (*Id.* at 860.) The
19 petition was therefore not sufficient to withstand demurrer. (*Id.* at 860-861.)

20 As in *CSPA*, the SAP once again fails to allege with any degree of specificity the facts
21 central to its claims, and contains only conclusory allegations. Petitioners fail to allege any facts,
22 specific or otherwise, establishing that the City is allowing the violation of any conditions of
23 approval to any subdivision map, development agreement or annexation agreement – they seek to
24 enforce “the standard TSM Conditions of Approval incorporating City General Plan Goals,
25 Policies, Objectives, and Implementing Actions, and other adopted development standards,
26 including the City’s Fire Protection Master Plan, Subdivision Map Conditions of Approval, and
27 Development Agreement Conditions of Approval....” (SAP, 1:16-25; 2:20-26; ¶¶ 27, 29, 33;
28 Prayer, 1, 2.)

1 However, the SAP utterly fails to specify which subdivision maps, development
2 agreements or annexation agreements the City is allegedly allowing to violate City laws and
3 would therefore be at issue. Instead, Petitioners merely name sixteen Real Parties in Interest,
4 along with a reference to the area of the City where these entities allegedly own property and an
5 Assessors Parcel Number Book and page number. These vague and conclusory allegations
6 provide no guidance whatsoever as to objects of their challenge. In this respect, the SAP is similar
7 to the insufficient petition in *CSPA*, as Petitioners have alleged a violation of law (failure to abide
8 by conditions of approval), but have not alleged **any facts** to support these conclusory allegations.
9 And, it is entirely unclear what has been violated – Petitioners have not alleged what conditions of
10 approval were imposed on which project, when they were imposed, what entitlements are
11 currently at issue and being challenged in which project, and how the specific entitlements
12 purportedly violate the law. Thus, not only is the SAP devoid of specific facts to support its
13 conclusory allegations, but the conclusory allegations themselves are insufficient to provide any
14 guidance as to what Petitioners challenge. The SAP neither frames nor limits the issues to be
15 litigated in this matter, and as such, fails as a matter of law.

16 **VII. PETITIONERS HAVE NOT CURED THEIR LACK OF STANDING**

17 The Court has already granted demurrers to Petitioners' earlier pleadings based on lack
18 standing to maintain their claims. Petitioners have failed to cure the stated defects in the SAP.

19 **A. Petitioners Are Not Beneficially Interested Parties And Do Not Possess The**
20 **Attributes Of "Citizen Litigants"**

21 The only new allegations in the SAP related to standing are that: (i) Richard Harriman,
22 counsel for Petitioners, and one Kamila Young, are now the only identified members of MCFRP
23 (one of Petitioners) and they are residents who live one mile from a City fire station (SAP ¶ 1);
24 and (ii) students, faculty, and administrators at Merced Community College and UC Merced may
25 buy or rent homes in areas "underserved" by current fire stations (SAP 2:8-19, ¶ 37). These new
26 allegations fail to bestow standing on Petitioners.

27 "Standing is a jurisdictional issue. . . . In order to pursue a cause of action, the plaintiff's
28 standing must be established in some appropriate manner." (*Waste Management of Alameda*

1 *County v. County of Alameda* (2000) 79 Cal.App.4th 1223, 1232.) Generally, a writ of mandate
2 may only be issued to a “beneficially interested” party. (*Ibid.*; Code Civ. Proc. § 1086.) A
3 beneficially interested party is an individual who will be directly harmed and whose interest is
4 “over and above the interest held in common by the public at large.” (*Waste Mnmt., supra*, 79
5 Cal.App.4th at 1233.) Since Petitioners are currently within one mile of a fire station, they are not
6 parties beneficially interested in the construction of new fire stations.

7 The major exception to the beneficial interest standard is “citizen standing,” which applies
8 if the challenged issue involves a public right or duty. (*Waste Mnmt., supra*, 79 Cal.App.4th at
9 1236.) Several factors must be satisfied for a “nonhuman entity” such as Petitioners to qualify for
10 “citizen standing.” The foremost factor in qualifying for citizen standing is that the right or duty
11 in issue must be one that impacts the **public as a whole**, and not just select individuals; indeed, it
12 must be a “public right” or “public duty.” (79 Cal.App.4th at 1236-1237; *Green v. Obledo* (1981)
13 29 Cal.3d 126, 144; *Hoffman v. Warren* (1948) 32 Cal.2d 351, 357 [citizen standing upheld
14 because issue affected “entire city and county of San Francisco”]; *American Friends Service*
15 *Committee v. Procurier* (1973) 33 Cal.App.3d 252 [nonprofit organizations had standing because
16 issue (the state’s correctional facilities system) was of statewide concern][overruled on other
17 grounds in *Englemann v. State Board of Education* (1991) 2 Cal.App.4th 47].)

18 Even if a nonhuman entity establishes that the issue is of broad public concern, it must still
19 “demonstrate it should be accorded the attributes of a citizen litigant.” (*Waste Mnmt., supra*, 79
20 Cal.App.4th at 1237.) A key factor in this determination is whether beneficially interested persons
21 “would find it difficult or impossible to seek vindication of their own rights.” (*Id.* at 1238.)

22 Under these factors, Petitioners lack standing to maintain the SAP as a “citizen’s action.”
23 The first factor alone precludes any standing argument Petitioners may make, as the issue being
24 litigated is not of broad public concern. Petitioners claim the Development Projects do not
25 comply with the City’s fire protection standards because they are up to 3.2 miles from a fire
26 station, as opposed to 1.5 or 2 miles. (SAP ¶ 29.) As such, Petitioners’ challenge seeks to
27 vindicate the rights of the few – those residents of the Development Projects – and not those of the
28 City as a whole. This is a far cry from the broad public duties at issue in *Hoffman, supra*, 32

1 Cal.2d at 357 [issue affected “entire city and county of San Francisco”] and *American Friends*
2 [issue was of statewide concern].

3 Even if vindication of the alleged rights of a limited number of individual homeowners and
4 academicians were somehow deemed a broad public right, Petitioners fail to demonstrate that they
5 should be “accorded the attributes of a citizen litigant,” as Petitioners fail to allege why the
6 individual homeowners and academicians actually affected “would find it difficult or impossible
7 to seek vindication of their own rights.” (*Waste Mnmt., supra*, 79 Cal.App.4th at 1238.)

8 **B. There Is No Threat Of Liability To Residents Based On The City’s Provision**
9 **Of Fire Protection Services**

10 Petitioners attempt to assert standing by alleging that they are suing on behalf of the
11 incoming students, faculty, and administrators of Merced Community College and the UC,
12 Merced, who are described as “business invitees.” (SAP, 2:8-19; ¶¶ 25, 37.) This is an obvious,
13 but futile, attempt to assert that the City owes a higher duty of care to these people due to some
14 sort of “special relationship.” If they could be considered the business invitees of anyone,
15 however, these students, faculty, and administrators would be the invitees of the state community
16 college and UC systems, not the City.

17 The SAP also alleges there is “a substantial public interest to all residents and taxpayers of
18 the City of Merced, because of the significant potential threat of legal liability to the City of
19 Merced and to the taxpayers in the event of property damage and/or personal injury or death
20 caused by inadequate fire safety services.” (SAP, 2:17-19; see ¶¶ 26, 31, 38.) Such allegations
21 are disingenuous, for the City has no statutory or common law duty to provide fire protection
22 services whatsoever, and has absolute immunity from liability for any services it does provide.
23 (Gov. Code §§ 850, 850.2.) Thus, these allegations fail to provide standing for Petitioners.

24 For example, under the California Tort Claims Act, a public entity is liable only if a statute
25 so provides, and even so, specific immunity provisions will prevail over all statutes imposing
26 liability. (Gov. Code § 815; *Cairns v. County of Los Angeles, supra*, 62 Cal.App.4th at 334.)
27 Thus, even were the City under a mandatory duty to provide a certain level of fire protection
28 service (which it is not), the City would be immune because a specific immunity applies. (*Ibid.*)

1 Government Code section 850 provides that “[n]either a public entity nor a public
2 employee is liable for failure to establish a fire department or otherwise to provide fire protection
3 services.” Further, Government Code section 850.2 provides that “[n]either a public entity that
4 has undertaken to provide fire protection service, nor an employee of such a public entity, is liable
5 for any injury resulting from the failure to provide or maintain sufficient personnel, equipment or
6 other fire protection facilities.” As was stated by the court in *Cairns*, and which is particularly
7 pertinent to the case at bar regarding the discretionary nature of the City’s policies:

8 Whether fire protection should be provided at all, and **the extent to**
9 **which fire protection should be provided, are political decisions**
10 **which are committed to the policy-making officials of**
11 **government.** To permit review of these decisions by judges and
juries would remove the ultimate decision-making authority from
those **politically responsible** for making the decisions.

12 (*Cairns, supra*, 62 Cal.App.4th at 335, citations omitted, emphasis added.)

13 In *Cairns*, homeowners brought an action for fire damage, alleging the city’s failure to
14 repair and reopen a closed public roadway for purposes of a fire road constituted a dangerous
15 condition or a nuisance, resulting in fire trucks being unable to respond to their fires. A demurrer
16 was sustained without leave to amend, and the court of appeal affirmed the judgment for the city,
17 stating that the decision regarding the road was “precisely the sort of decision left to the policy-
18 makers’ absolute discretion by the broad immunity of section 850 regarding ‘failure . . . otherwise
19 to provide fire protection service.’” (62 Cal.App.4th at 335; see, also, *Heieck and Moran v. City*
20 *of Modesto* (1966) 64 Cal.2d 229, 232-34 [there is no statutory or common law duty owed by city
21 to prevent destruction of property by fire]; *People ex rel. Grijalva v. Superior Court* (2008) 159
22 Cal.App.4th 1072, 1078 [Gov. Code §§ 850 and 850.2 “preclude an action against a public entity
23 for ‘failure to arrive at a fire in a timely manner,’ even where that failure is caused by the
24 firefighters’ negligence or willful misconduct”]; *City and County of San Francisco v. Superior*
25 *Court* (1984) 160 Cal.App.3d 837, 842 [plaintiff’s home burned down when members of fire
26 engine company located 300 feet from plaintiff’s property were away at unauthorized social
27 gathering and thus did not timely respond to the fire; court affirmed summary judgment for the
28 city, holding that even though “getting to the fire quickly is of the very essence of firefighting,”

1 city was immune under the failure "to provide fire protection service" provisions of Gov. Code
2 § 850]; *Cochran v. Herzog Engraving Co., supra*, 155 Cal.App.3d at 411-13 [even if the city had a
3 mandatory duty to abate the hazardous conditions that caused a worker's death during a fire, city
4 was still immune from liability under Gov. Code §§ 850 and 850.2]; *New Hampshire Ins. Co. v.*
5 *City of Madera* (1983) 144 Cal.App.3d 298, 305-06 [city's adoption of Uniform Fire Code that
6 required all fire-protective systems to be "maintained in operative condition at all times," did not
7 impose a mandatory duty of care toward persons or property within city so as to provide a basis of
8 civil liability where a city water valve was left closed, preventing water from reaching the fire].)

9 Because the City would be absolutely immune from liability for any failure to provide fire
10 protection services consistent with an adopted response standard or goal, Petitioners have failed to
11 establish any standing to bring this action on behalf of the City's taxpayers.

12 **VIII. CONCLUSION**

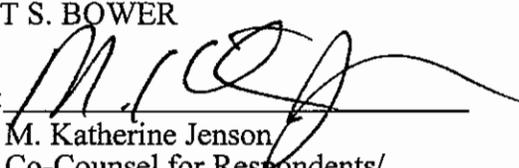
13 By seeking an order to shut down development until the City constructs certain fire
14 stations, Petitioners ask this Court to dictate the discretion of the City Council, something the
15 Court cannot do as a matter of law. Moreover, Petitioners have failed to allege sufficient facts to
16 establish standing to maintain their claims, have mounted an untimely backdoor challenge to
17 underlying discretionary land use approvals, and have not alleged any facts in support of their
18 claims that the City has violated conditions of approval to unknown land use approvals. As these
19 deficiencies are incurable, the demurrer should be sustained without leave to amend.

20

21 Dated: May 27, 2008

22 RUTAN & TUCKER, LLP
23 M. KATHERINE JENSON
24 ROBERT S. BOWER

MERCED CITY ATTORNEY'S OFFICE
GREGORY G. DIAZ
JEANNE SCHECHTER

25 By: 
26 M. Katherine Jenson
27 Co-Counsel for Respondents/
28 Defendants CITY OF MERCED and
MERCED CITY COUNCIL

By: _____
Gregory G. Diaz
Co-Counsel for Defendants and
Respondents CITY OF MERCED,
and MERCED CITY COUNCIL

1 city was immune under the failure "to provide fire protection service" provisions of Gov. Code
2 § 850]; *Cochran v. Herzog Engraving Co., supra*, 155 Cal.App.3d at 411-13 [even if the city had a
3 mandatory duty to abate the hazardous conditions that caused a worker's death during a fire, city
4 was still immune from liability under Gov. Code §§ 850 and 850.2]; *New Hampshire Ins. Co. v.*
5 *City of Madera* (1983) 144 Cal.App.3d 298, 305-06 [city's adoption of Uniform Fire Code that
6 required all fire-protective systems to be "maintained in operative condition at all times," did not
7 impose a mandatory duty of care toward persons or property within city so as to provide a basis of
8 civil liability where a city water valve was left closed, preventing water from reaching the fire].)

9 Because the City would be absolutely immune from liability for any failure to provide fire
10 protection services consistent with an adopted response standard or goal, Petitioners have failed to
11 establish any standing to bring this action on behalf of the City's taxpayers.

12 **VIII. CONCLUSION**

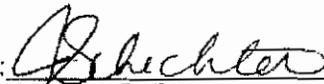
13 By seeking an order to shut down development until the City constructs certain fire
14 stations, Petitioners ask this Court to dictate the discretion of the City Council, something the
15 Court cannot do as a matter of law. Moreover, Petitioners have failed to allege sufficient facts to
16 establish standing to maintain their claims, have mounted an untimely backdoor challenge to
17 underlying discretionary land use approvals, and have not alleged any facts in support of their
18 claims that the City has violated conditions of approval to unknown land use approvals. As these
19 deficiencies are incurable, the demurrer should be sustained without leave to amend.

20
21 Dated: May 27, 2008

22 RUTAN & TUCKER, LLP
23 M. KATHERINE JENSON
24 ROBERT S. BOWER

MERCED CITY ATTORNEY'S OFFICE
GREGORY G. DIAZ
JEANNE SCHECHTER

25 By: _____
26 M. Katherine Jenson
27 Co-Counsel for Respondents/
28 Defendants CITY OF MERCED and
MERCED CITY COUNCIL

By:  _____
Gregory G. Diaz
Co-Counsel for Defendants and
Respondents CITY OF MERCED,
and MERCED CITY COUNCIL

1 CITY OF MERCED
Gregory G. Diaz, City Attorney (State Bar No. 156318)
2 Jeanne Schechter, Deputy City Attorney (State Bar No. 149457)
678 West 18th Street
3 Merced, California 95340
Telephone: 209-385-6868
4 Facsimile: 209-723-1780

5 RUTAN & TUCKER, LLP
M. Katherine Jenson (State Bar No. 110772)
6 Robert S. Bower (State Bar No. 70234)
611 Anton Boulevard, Fourteenth Floor
7 Costa Mesa, California 92626-1931
Telephone: 714-641-5100
8 Facsimile: 714-546-9035

9 Attorneys for Defendants and Respondents
CITY OF MERCED, and MERCED CITY COUNCIL

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF MERCED

13 MERCED CITIZENS FOR RESPONSIBLE
PLANNING, a California non-profit
14 unincorporated association, and VALLEY
ADVOCATES, a California non-profit public
15 benefit corporation,

16 Plaintiffs and Petitioners,

17 v.

18 CITY OF MERCED, a California municipal
corporation, and MERCED CITY COUNCIL, a
19 body politic,

20 Defendants and Respondents.

21 BELLEVUE RANCH-MERCED, L.P., a
22 California limited partnership; CROSSWINDS
AT BELLEVUE RANCH NORTH, LLC, a
23 California limited liability company;
CROSSWINDS BRE II, LLC, a California
24 limited liability company; CROSSWINDS
HOMES AT BELLEVUE, LLC, a California
25 limited liability company; ENVISION HOMES,
LLC, a California limited liability company;
26 GRUPE INVESTMENT COMPANY, INC., a
California corporation; KB HOME CENTRAL
27 VALLEY, INC., a California corporation;
KIMBALL HILL BELLEVUE RANCH, LLC,
28 a California limited liability company; L.J.
STEINER, LLC, a California limited liability

FILED
Exempt From Filing Fee Pursuant
to Government Code § 6103

2008 MAY 28 PM 1:17

CLERK OF THE SUPERIOR COURT

BY ~~JAMES J. ...~~ DEPUTY

Case No. 150872

**DEFENDANTS AND RESPONDENTS'
NOTICE OF DEMURRER AND
DEMURRER TO SECOND AMENDED
PETITION FOR WRIT OF MANDAMUS**

Hearing:
Date: June 20, 2008
Time: 8:15 a.m.
Courtroom: 4

Date Action Filed: December 17, 2007
Trial Date: None

1 company; MERCED PASEO, LLC, a
2 California limited liability company; MERCED
3 RENAISSANCE, L.P., a California limited
4 partnership; MERCED SANDCASTLE, L.P., a
5 California limited partnership; RYLAND
6 HOMES OF CALIFORNIA, INC., a Delaware
7 corporation; SUMMERTON HOMES, LLC, a
8 California limited liability company;
9 WOODSIDE PRAIRIES, INC., a California
10 corporation; WAL-MART REALTY
11 COMPANY, an Arkansas corporation; and
12 DOES 1 through 50, inclusive,

Real Parties in Interest.

13 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

14 PLEASE TAKE NOTICE that on June 20, 2008, at 8:15 a.m., or as soon thereafter as the
15 matter may be heard in Courtroom 4 of the above-captioned Court, located at 627 W. 21st Street,
16 Merced, California, Respondents and Defendants City of Merced and Merced City Council
17 (“Respondents”) will and hereby do demur to the entirety of Petitioners and Plaintiffs Merced
18 Citizens for Responsible Planning and Valley Advocates’ (“Petitioners”) Second Amended
19 Petition for Writ of Mandate (“Petition”), on the basis that (1) the Court has no jurisdiction of the
20 subject of the cause of action alleged because the Petition impermissibly requests the Court to
21 control the City’s exercise of its legislative discretion; (2) the Petition fails to state a claim against
22 Respondents due to the fact that the each cause is barred by the 90-day statute of limitations
23 (Government Code sections 65009 and 66499.37) and by Petitioners’ lack of standing; and (3) the
24 Petition is uncertain. Therefore, Respondents are entitled to judgment as a matter of law as to the
25 Petition and all causes of action therein. The Demurrer is brought pursuant to Code of Civil
26 Procedure Section 430.10(a), (e) and (f).

27 Respondents request that their demurrer be granted without leave to amend.

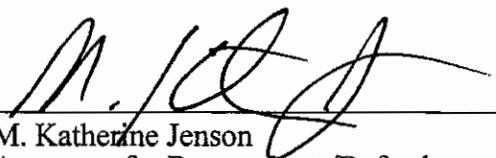
28 This Demurrer is based on this Notice of Demurrer and Demurrer, the Memorandum of
Points and Authorities attached hereto, the pleadings, papers and records on file in this action, any

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matters of which the Court may take judicial notice, and on such other evidence and argument as may be presented at or prior to the hearing on the demurrer.

Dated: May 27, 2008

RUTAN & TUCKER, LLP
M. KATHERINE JENSON
ROBERT S. BOWER

By: 
M. Katherine Jenson
Attorneys for Respondents/Defendants
CITY OF MERCED and MERCED CITY
COUNCIL

Dated: May 27, 2008

MERCED CITY ATTORNEY'S OFFICE
GREGORY G. DIAZ
JEANNE SCHECHTER

By: _____
Gregory G. Diaz
Co-Counsel for Defendants and Respondents
CITY OF MERCED, and MERCED CITY
COUNCIL

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3 Dated: May 27, 2008

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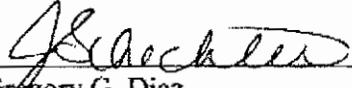
6 By: _____

M. Katherine Jenson
Attorneys for Respondents/Defendants
CITY OF MERCED and MERCED CITY
COUNCIL

9 Dated: May 27, 2008

MERCED CITY ATTORNEY'S OFFICE
GREGORY G. DIAZ
JEANNE SCHECHTER

12 By: _____


Gregory G. Diaz
Co-Counsel for Defendants and Respondents
CITY OF MERCED, and MERCED CITY
COUNCIL

1 **DEMURRER TO SECOND AMENDED PETITION FOR WRIT OF MANDAMUS**

2 Respondents and Defendants City of Merced and Merced City Council (“Respondents”)
3 demur to Petitioners and Plaintiffs’ Merced Citizens for Responsible Planning and Valley
4 Advocates’ (“Petitioners”) Second Amended Petition for Writ of Mandate (“SAP”) for the
5 following reasons:

6 **DEMURRER TO SAP AS IMPERMISSIBLY REQUESTING THE COURT TO**
7 **CONTROL THE CITY’S EXERCISE OF ITS DISCRETION**

8 1. The SAP impermissibly requests the Court to control the City’s exercise of its
9 legislative discretion. The Court does not have jurisdiction to do so, and the cause of action fails
10 to state facts sufficient to constitute a cause of action. (Code of Civ. Pro. §§ 430.10(a) and (e);
11 *Conroy v. Civil Service Com.* (1946) 75 Cal.App.2d 450, 457; *Cal. Slurry Seal Ass’n v. Dep’t of*
12 *Indus. Relations* (2002) 98 Cal.App.4th 651, 662; *Pipe Trades Dist. Council No. 51 v. Aubry*
13 (1996) 41 Cal.App.4th 1457, 1468-1469; *Sklar v. Franchise Tax Board* (1986) 185 Cal.App.3d
14 616, 624-626.)

15 **DEMURRER TO SAP AS BARRED BY STATUTE OF LIMITATIONS**

16 2. The SAP is barred because its claims are barred by the 90-day statute of
17 limitations of Government Code sections 65009 and 66499.37. (Code Civ. Pro. § 430.10(e);
18 *Camp v. Board of Supervisors* (1981) 123 Cal.App.3d 334, 358-59; *Elysian Heights Residents*
19 *Assoc. v. City of Los Angeles* (1986) 182 Cal.App.3d 21, 29, 32; *Honig v. San Francisco Planning*
20 *Dept.* (2005) 127 Cal.App.4th 520, 528.)

21 **DEMURRER TO THE SAP AS IMPERMISSIBLY UNCERTAIN**

22 3. The SAP is impermissibly uncertain. (Code Civ. Pro. § 430.10(f); *California State*
23 *Psychological Association v. County of San Diego* (1983) 148 Cal.App.3d 849, 861; *Perry v.*
24 *Chatters* (1953) 121 Cal.App.2d 813, 815; *Faulkner v. Cal. Toll Bridge Authority* (1953) 40
25 Cal.2d 317, 330.)

26 **DEMURRER TO THE SAP FOR LACK OF STANDING**

27 4. The SAP is barred because Petitioners do not have standing. (Code Civ. Pro.
28 § 430.10(e); *Waste Management of Alameda County v. County of Alameda* (2000) 79 Cal.App.4th

1 1223.)

2 Respondents request that the Court sustain the demurrer without leave to amend as the
3 above deficiencies are incurable.

4 Dated: May 27, 2008

RUTAN & TUCKER, LLP
M. KATHERINE JENSON
ROBERT S. BOWER

6 By: 

7 M. Katherine Jenson
8 Co-Counsel for Respondents/Defendants
9 CITY OF MERCED and MERCED CITY
COUNCIL

10 Dated: May 27, 2008

MERCED CITY ATTORNEY'S OFFICE
GREGORY G. DIAZ
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13 Gregory G. Diaz
14 Co-Counsel for Defendants and Respondents
15 CITY OF MERCED, and MERCED CITY
16 COUNCIL

28

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4 Dated: May 27, 2008

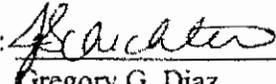
RUTAN & TUCKER, LLP
M. KATHERINE JENSON
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6 By: _____

7 M. Katherine Jenson
8 Co-Counsel for Respondents/Defendants
9 CITY OF MERCED and MERCED CITY
COUNCIL

10 Dated: May 27, 2008

MERCED CITY ATTORNEY'S OFFICE
GREGORY G. DIAZ
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PROOF OF SERVICE BY OVERNITE EXPRESS

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed by the law office of Rutan & Tucker, LLP in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 611 Anton Boulevard, Fourteenth Floor, Costa Mesa, California 92626-1931.

On May 27, 2008, I served on the interested parties in said action the within:

DEFENDANTS AND RESPONDENTS' NOTICE OF DEMURRER AND DEMURRER TO SECOND AMENDED PETITION FOR WRIT OF MANDAMUS

by depositing in a box or other facility regularly maintained by Overnite Express, an express service carrier, or delivering to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed as stated below, with fees for overnight delivery provided for or paid.

Richard L. Harriman, Esq.
Law Offices of Richard L. Harriman
191 West Shaw Avenue, Suite 205-B
Fresno, CA 93704-2826

Counsel for Plaintiffs/Petitioners
Telephone: (559) 226-1818
Facsimile: (559) 226-1870

Executed on May 27, 2008, at Costa Mesa, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Lauren Ramey
(Type or print name)



(Signature)

