

**FINAL ENVIRONMENTAL IMPACT REPORT**

FOR THE

**BELLEVUE RANCH  
MASTER DEVELOPMENT PLAN**

**FEBRUARY, 1995**

**PREPARED FOR  
CITY OF MERCED  
PLANNING DEPARTMENT**

**PREPARED BY**



**WILLDAN ASSOCIATES**  
ENGINEERS & PLANNERS

1. The first part of the document discusses the importance of maintaining accurate records of all transactions.

2. It is essential to ensure that all entries are supported by appropriate documentation and receipts.

3. Regular audits should be conducted to verify the accuracy of the records and identify any discrepancies.

4. The second part of the document outlines the procedures for handling disputes and resolving conflicts.

5. It is important to establish clear communication channels and protocols for addressing any issues that arise.

6. The third part of the document provides a detailed overview of the financial statements and their components.

7. This section includes a breakdown of the income statement, balance sheet, and cash flow statement.

8. The fourth part of the document discusses the various factors that can impact the overall financial performance of the organization.

9. These factors include market conditions, operational efficiency, and the effectiveness of the financial management team.

10. The fifth part of the document concludes with a summary of the key findings and recommendations for future action.

11. It is recommended that the organization continue to monitor its financial performance and implement the suggested improvements.

12. The sixth part of the document provides a list of references and sources used in the preparation of this report.

13. Finally, the seventh part of the document includes a list of appendices and supporting documents.

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# FINAL ENVIRONMENTAL IMPACT REPORT



## BELLEVUE RANCH MASTER DEVELOPMENT PLAN

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**BELLEVUE RANCH MASTER DEVELOPMENT PLAN  
FINAL ENVIRONMENTAL IMPACT REPORT**

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<sup>1</sup>

As a supplement to their comments, these individuals also submitted written comments reiterating their oral remarks. A response to each written comment is provided in the Written Comments and Responses section of this Final EIR.

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# INTRODUCTION

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## **I. Introduction**

### **Document Format**

This document, together with the Draft Environmental Impact Report (DEIR) for the Bellevue Ranch Master Development Plan, constitute the Final Environmental Impact Report (FEIR). The DEIR is incorporated by reference, consistent with CEQA Guidelines Sec. 15150. Pursuant to the requirements of the California Environmental Quality Act (CEQA) and State CEQA Guidelines, the Merced City Council must certify the FEIR as complete and adequate prior to final approval of the Bellevue Ranch project.

This Final EIR contains individual responses to all comment letters received during the public review period for the DEIR. The DEIR was circulated for public and agency review for 45 days beginning September 27, 1993 and closing on November 12, 1993. Copies of the comment letters are provided immediately preceding responses. To supplement the public record on the environmental process, this FEIR also addresses oral comments which were recorded at the Planning Commission Study Session held on November 10, 1993.

This Final EIR also contains a summary of all changes, corrections and additions made to the EIR text between the Draft and Final stages. This summary, or errata, is an important reference tool used to identify specific text modifications.

The FEIR is a comprehensive document which includes, as an attachment, a Mitigation Monitoring Program (MMP). California law (Public Resources Code 21081.6) requires public agencies to adopt mitigation monitoring programs when the agency approves a project with mitigation measures. The purpose of the MMP for Bellevue Ranch is to ensure that the measures, as identified in the Draft EIR and identified by the City Council, are carried out over the life of the project.

### **EIR Certification and Project Approval**

Approval or disapproval of the Bellevue Ranch Master Development Plan will occur at a public hearing before the Merced City Council. The City of Merced may require, as conditions of approval, the implementation of the mitigation measures identified in the FEIR. After the EIR is certified and all information is presented, it will remain the City Council's responsibility to act on the project.



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WRITTEN COMMENTS AND RESPONSES

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## II. WRITTEN COMMENTS AND RESPONSES

The following section contains comment letters and written responses to comments on the Draft EIR. CEQA only requires that this document respond to those comments that are specific to the Draft EIR. However, every attempt has been made to respond to comments which address the Project in general. Changes to DEIR text resulting from comments and subsequent responses are identified as *additions* and *deletions*.

### LIST OF COMMENTATORS

1. **Pacific Gas and Electric Yosemite Division**, Mel Bradley, Division Manager, November 8, 1993
2. **Pacific Gas and Electric Region Land Department**, Greg A. Parker, Land Project Analyst, November 9, 1993
3. **San Joaquin Valley Unified Air Pollution Control District**, David Stagnaro, Environmental Planner, November 5, 1993
4. **Merced County Department of Public Works**, Paul A. Fillebrown, Director of Public Works, November 10, 1993
5. **Spink Corporation**, Stephen Au Clair, Senior Principal, November 10, 1993
6. **Merced County Association of Governments**, Thomas F. Humphrey, Regional Planner, November 8, 1993
7. **California Department of Fish and Game**, George D. Nokes, Region 4 Manager, November 10, 1993
8. **Merced Union High School District**, Michael Belluomini, Director of Facilities Planning, November 10, 1993
9. **Merced Union High School District**, Michael Belluomini, November 12, 1993
10. **Merced City School District**, Suzanne Burrows, Special Assistant to the Superintendent, November 10, 1993
11. **Merced City School District**, Suzanne Burrows, November 11, 1993
12. **Kittelson & Associates**, Ann C. Olson, Senior Engineer, November 10, 1993
13. **California Department of Transportation**, Mitchell W. Baker II, Chief, Transportation Planning Branch B, November 10, 1993
14. **Merced County Planning Department**, Mohammad Khorsand, Planner II, November 10, 1993
15. **LAFCo of Merced County**, William Nicholson, Assistant Executive Officer, November 10, 1993
16. **Flanagan, Mason, Robbins, Gnass & Corman**, William E. Gnass, November 10, 1993
17. **Michael Boykin**, citizen, November 10, 1993



**Pacific Gas and Electric Company**

Yosemite Division  
3185 M Street  
Merced, CA 95348

November 8, 1993



**Bellevue Ranch Master Development Plan  
Draft Environmental Impact Report (SCH #92102055)  
City Of Merced**



Planning Department  
City Of Merced  
678 West 18th Street  
Merced, Ca. 95340

Mr. Dave Daly:

Thank you for the opportunity to respond to the Draft Environmental Impact Report concerning the above project. In the proposed project areas, PG&E owns and operates gas and electric transmission facilities that are within or cross the proposed project area.

General Order 95, 112-D, and 128 of the California Public Utilities Commission (CPUC) requires that specific clearances be maintained around gas and electric facilities. For this reason, there are restrictions on development activities and improvements such as grading, landscaping, roads and structures near PG&E facilities/easements. To ensure that site development in the vicinity of PG&E facilities does not damage their integrity, prior to a developer obtaining any permits, the developer should be required to submit all plans for review as follows:

1-1

Pacific Gas and Electric Company  
Yosemite Division Capital Investment Department  
3185 M Street  
Merced, Ca. 95348

If the project meets PG&E's standards to protect our facilities, we will grant the developer a written consent. The following is potential wording to be included in the mitigation measure of an EIR or Negative Declaration: "Provide a Consent Agreement from Pacific Gas and Electric Company prior to issuance of any permits for any development within any PG&E transmission easement".

PG&E will also need to install additional gas and electric transmission facilities within and around the project boundaries in order to adequately serve the new customers in this area. Based on the information provided in the draft EIR, it appears that a 5 acre electric substation site would be required around the intersection of Bellevue Road and G Street. If the substation site is not adjacent to our existing 230KV transmission line, we would also need to identify an acceptable route for extending the 230KV transmission line. We would be glad to work with the developer in preparing a study for siting these facilities so that they could be included in your final EIR.

As I am sure you are aware, The California Department of Education recently adopted a policy which recommends minimum distances between new schools and the edge of right-of-way of transmission lines. It is assumed that these guidelines will be observed in the siting and development of this particular project. PG&E will be happy to assist you in defining existing rights-of-way within the project area so that you may plan accordingly when a more detail proposal is developed.

The Draft EIR makes several references to **Electric and Magnetic Fields (EMF)** and possible adverse health effects. PG&E would like to offer the following information and recommendations:

#### Standards of Significance

Electric and magnetic fields are found whenever electricity is flowing. This includes not only utility transmission lines, but also in the building wires in homes, offices and schools and in the appliances and machinery used in these locations. Typical magnetic fields from these sources can range from below 1.0 milligauss (mG) to above 1 Gauss or 1,000 mG. An example of this can be seen in the attached gauss meter readings—first in a fast food restaurant; and second, in a two-day measurement of a home. (Attachment 1 & Attachment 2)



## Standards of Significance (cont)

The Environmental Impact Report (EIR) quotes the California Department of Health Services (DHS) as not being able to set a "safe" or "dangerous" level of magnetic field exposure from available scientific information. The DHS explains why at this time it is inappropriate to try to set levels:

"A number of research studies are now under way to determine with greater certainty if magnetic fields do indeed pose any health risk and, if so, what aspect of the field is harmful. At this time, for example, no one knows the relative importance of average long term exposure, exposure to sudden high intensities, exposure to different frequencies, or various combinations of all these with other factors.

Stronger fields may not always pose a greater risk than weaker fields, and we don't have enough information to say that "more is worse"."

Strength or the intensity of a magnetic field is only one characteristic or way to measure EMF. Take weather, for example: knowing the temperature outside does not tell you if you need an umbrella or whether it's windy. The same is true with the various characteristics of EMF. Looking only at the strength of a field may or may not tell you anything about that characteristic that in the future may be found to be relevant to your health.

The Environmental Protection Agency document titled "Questions and Answers About Electric and Magnetic Fields (EMF)" discusses biological effects and setting magnetic field exposure levels. The report states:

"Some laboratory studies have shown that extremely low frequency (ELF) electric and magnetic fields can affect various activities of cells. The laboratory studies on biological effects also are uncertain. For example, many of the positive results have only been found in one laboratory. Usually, before a result is accepted as proof by scientists, it has been seen by several different investigators.

### Standards of Significance (cont)

Additionally, it is not clear whether some of the biological effects seen in laboratory studies of cells would be harmful effects if they also occurred in people or whether they are minor changes that our bodies could adjust to.

The bottom line is that there is no established cause and effect relationship between EMF exposure and cancer or other disease. For this reason, we can't define a hazardous level of EMF exposure."

We encourage you to consider the recommendations of the leading health agency in the state and environmental regulatory agency of the nation in formulating your conclusions.

### Research On the Health Risks

Hundreds of major studies have been conducted over the last 20 or more years on EMF, in areas of epidemiology, animal research and cellular studies. To consider only the Swedish epidemiology study and the Wertheimer-Leeper study in developing a conclusion, disregards a massive collection of credible and valued research. The multi-disciplined groups which have studied the EMF issue have included this total collection of studies and research in their reviews. Even considering JUST epidemiological childhood cancer studies, it would be necessary to review studies with both positive and negative findings (Attachment 3). Even in those studies with positive findings, their results contradict each other. For example, one study finds a positive correlation with leukemia and not brain tumors, and another with brain tumors but not leukemia. Careful study by qualified epidemiologists in conjunction with other scientists reviewing research in their areas of expertise is needed to come to a credible conclusion.

It is standard practice in risk assessment and resulting policy-making to go to those multi-disciplined groups recognized nationally and internationally for their findings and consensus opinions. Many such groups (see Attachment 4) have released reports in 1992 and 1993. It is their ability to bring experts from a

### **Research On the Health Risks (cont)**

variety of disciplines together to review the full body of research on this very complex issue which gives their reports the credibility and recognition they have received. None of these groups concluded that EMF causes adverse health affects nor did they feel standards were appropriate or reasonable at this time. This EIR refers to a "potentially significant electromagnetic hazard of 1.0 milligauss adjacent to transmission lines." We encourage you to look at the conclusions from the wealth of knowledge and expertise in these international review groups, before finalizing your conclusions.

### **Established Standards In Other Jurisdictions**

No long term exposure health-based national, international or state standards/regulations have been developed. International standards based on induced body currents have been developed by the International Radiological Protection Association (IRPA). (Attachment 5) These standards have been adopted by many countries in Europe and also in Australia. State regulations have been developed for magnetic fields in New York and Florida at levels of 150 mG and 200 mG, which are based on limiting exposure on new facilities to no greater than existing facilities.

In October 1991, the California Public Utilities Commission (CPUC) requested recommendations for interim actions from an EMF Consensus Group in response to potential health effects from power-frequency electric and magnetic fields. The EMF Consensus Group was a committee of seventeen people representing utilities, government, unions, special interest groups and citizens. In March 1992, the Consensus Group presented several consensus recommendations for the CPUC to consider regarding public, scientific, and policy concerns relevant to the issue of EMF. These are divided into four categories: Research, Education, Policy, and Procedural. (See Executive Summary, Attachment 6)

**Established Standards In Other Jurisdictions (cont.)**

One policy recommendation from the Consensus Group was for the CPUC to adopt an interim policy that authorizes utilities to implement no-cost and low-cost steps to reduce fields in response to public concern and scientific uncertainty regarding EMF exposure and health in California. These no-cost and low-cost steps are proposed for new and upgraded electric facilities only. The Commission adopted this recommendation on November 2, 1993 and it becomes effective in 30 days. We will be glad to forward you a copy of their complete order as soon as it becomes available.

1-6

Using this concept with site planning, a similar approach could be applied to designs which can at no or low cost (as defined by the CPUC) to the developer can be modified to reduce people's exposure to EMF. More expensive changes or restrictions than that would not be justified. Undergrounding and reconfiguring existing powerlines would in most situations involve high cost measures and cannot be justified.

**Relationship Between Distance From Transmission Lines and Magnetic Field Exposure**

While the Bonneville Power Administration magnetic field measurements are average readings for their transmission lines, the PG&E table of magnetic field calculations (p. 4.14-6) are not meant to be an average for PG&E's transmission lines. These calculated milligauss readings are based on transmission lines carrying their maximum thermal limit for that type of conductor. The amount of current carried in an actual line will vary depending on the customer load demand at any given time. Transmission lines rarely carry the maximum current, and most lines would not have peak current readings even near their maximum ratings. Therefore, the PG&E information as quoted in the EIR is not a comparable reading to average readings.

1-7

In reviewing various exposure measures of magnetic field in epidemiology studies, one can see how important it is to define how data was measured or collected (see Attachment 7). Because epidemiological studies are historical, exposures must be estimated or guessed at. This can be done in a variety of ways, none of which can accurately provide the real exposure which occurred.

1-8

## Relationship Between Distance From Transmission Lines and Magnetic Field Exposure (cont)

The methods to estimate exposure include wire codes, calculated fields, distance, spot measurement and 24-hour measurement.

Wire coding is a way to estimate exposure at a home by observing the power lines near the house. By looking at the distance from the home and the size and pattern of the wires, a code is assigned determining the "Wire Code".

Calculated fields are estimated by taking recorded amounts of current from past years and applying them to computer models. These models calculate average magnetic fields over those years. Distance is based only on the measured distance from lines. Spot measurements are one time milligauss readings recorded by a gaussmeter, normally taken in the center of rooms or near electric appliances. Twenty-four hour measurements are similar, but recorded for the whole day, and then averaged for the 24 hours.

The outcomes of these studies vary depending on how magnetic field exposure was estimated. The studies which performed spot and 24-hour measurements of magnetic fields do not show the same association with disease as studies where wire code information was collected. As a result of the variations which different measuring methods provide, it is essential that any comparisons of estimated fields must be made using the same methodology. Comparisons within the EIR must be revised accordingly.

### Conclusion

Major scientific panels of national and international recognition have reviewed this issue. Their conclusions are unanimous in finding that the weight of the evidence does not show EMF causes adverse health effects. Both the DHS and the EPA have clearly stated that standards are not recommended at this time. It is not known what characteristic of magnetic fields would be appropriate to regulate. We ask that you consider these numerous conclusions and recommendations as you review this EIR.

**Conclusion (cont)**

A proactive step in setting EMF policy has been made by the CPUC. Recommended unanimously by a group of the affected stakeholders, a policy of no-cost and low-cost measures has been instituted by the Commission. This was not done in response to conclusive science, but instead in response to public concern and scientific uncertainty. This approach has received international attention. A similar approach could be used with developers, where no-cost and low-cost measures (as defined by the CPUC) could be considered in the design phase. This would provide the City with a recognized proactive strategy without getting into the uncertainty and unrecommended approach of regulation.

We would again like to thank you for the opportunity to respond to this Draft EIR. If you have any questions or need additional information, please feel free to contact our Capital Investment Director, Kris Buchholz, at (209) 726-6310.

*Mel Bradley / TRA*

Mel Bradley  
Yosemite Division Manager

TRAlbrigo (866-6408)

POWER TECHNOLOGIES, INC.

## MAGNETIC FIELD DURING FAST FOOD LUNCH

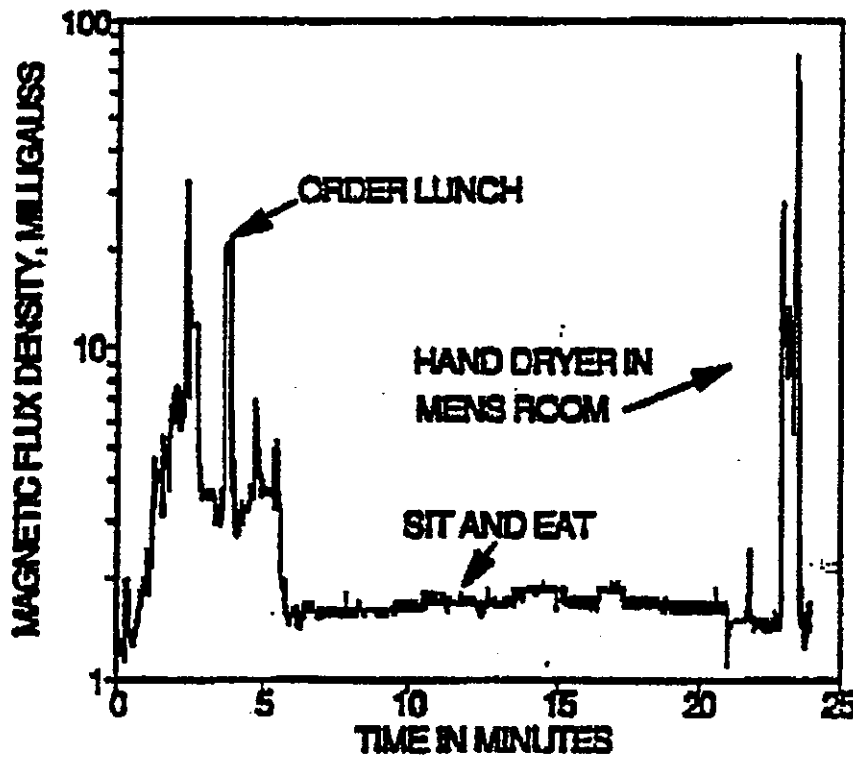
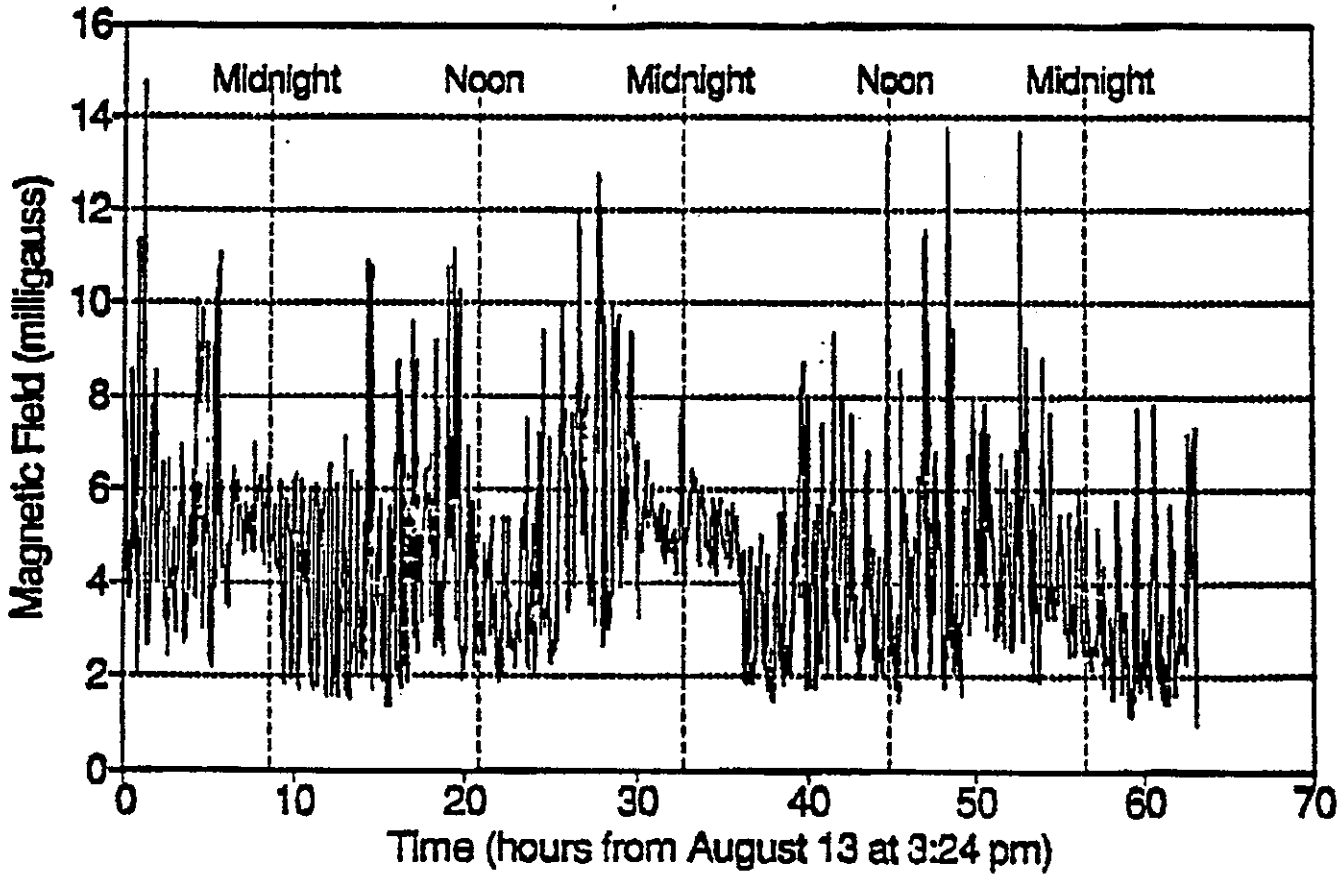


Figure 3. Magnetic Field Measurements in Everyday Life  
"Measurement of 60 Hz Magnetic Fields: Procedures and Pitfalls"

ATTACHMENT 2

POWER TECHNOLOGIES, INC.

### Magnetic Field Variation (1 sample/min) Main Street, USA



### Magnetic Field Variation in Typical Home (1 sample/minute)



ATTACHMENT 3

RESIDENTIAL CANCER STUDIES: CHILDREN

Investigators	Exposure Measure	Combined Cancer	Leukemia	Lymphoma	Central Nervous/Brain
Wertheimer & Leeper (1979)	Wire Code	Yes	Yes	Yes	Yes
Fulton (1980)	Calculated Fields	—	No	—	—
McDowall (1986)	Distance	No	No	No	—
Tornelius (1986)	Distance	Yes	No	No	Yes
Savitz (1988)	Wire Code	Yes	No	No	Yes
Coleman (1989)	Distance	—	No	—	—
Myers (1990)	Calculated Fields	No	No	—	—
London (1991) - Peters study	Wire Code	—	Yes	—	—
Olsen (1992)	Calculated Fields	Yes	No	Yes	No
Feychting & Ahlbom (1992)	Calculated Fields	No	Yes	—	No

Source: Bailey Research Associates, Inc.  
New York, NY  
May 27, 1993

— = Not determined in study

## ATTACHMENT 4

**1992-1993 LITERATURE REVIEWS****1992**

- **The Electromagnetic Health Effects Committee, Public Utilities Commission of Texas, March 1992.**
- **The Environmental Protection Agency, Science Advisory Board, April 1992.**
- **The Connecticut Academy of Science and Engineering, April 1992.**
- **The Health Council of the Netherlands, April 1992.**
- **The Illinois Department of Public Health and the Illinois Environmental Protection, 1992.**
- **The National Radiological Protection Board of the United Kingdom, 1992.**
- **The Universities Consortium on Electromagnetic Fields Investigation in Power Line Frequency EMF and Its Risks to Health, Colorado, March 1992.**
- **The Oak Ridge Universities Consortium, Department of Labor, June 1992.**
- **Report of the Panel on Electromagnetic Fields and Health to the Victorian Government, September 1992**

**1993**

- **Virginia Department of Health (Monitoring of Ongoing Research on the Health Effects of High Voltage Transmission Lines), 8th Annual Report, April 1993.**
- **Connecticut 1993 Report on Task Force Activities to Evaluate Health Effects from Electric and Magnetic Fields, March 1993, Interagency Task Force Studying EMF (Department of Environmental Protection/Department of Health Services).**
- **Inserm (National Institute of Health & Medical Research), February 1993, Synthesis of the Literature on Health Effects from Very Low Frequency EMF.**
- **National Radiological Protection Board, March 1993, Electromagnetic Fields and the Risk of Cancer.**
- **Minnesota Environmental Quality Board Review of EMF, October 1993**

## ATTACHMENT 5

**SYNOPSIS OF THE INTERIM GUIDELINES ON LIMITS OF EXPOSURE TO 50/60 Hz  
ELECTRIC AND MAGNETIC FIELDS**

International Non-ionizing Radiation Committee (INIRC) of the  
International Radiation Protection Association (IRPA)  
Approved 3 May 1989

The scientific basis of the guidelines is to limit current densities induced in the human body by continuous exposure to 50/60 Hz EMF to no more than the current density normally found in the body. The guidelines are designed to be conservative in that they are based on the assumption that current densities induced by external electric or magnetic fields should not significantly exceed this value.

The exposure limits are based on *established or predicted effects* of exposure to 50/60 Hz fields, and are intended to protect the health of humans from the potentially harmful effects of exposure to power-frequency EMF. The effects that have been observed range from minor biological effects at low induced current densities to acute health hazards at very high current densities.

The INIRC recognizes the conflicting conclusions from epidemiological and laboratory studies and state that scant laboratory evidence is available to support the hypothesis that there is an association between 50/60 Hz fields and an increased cancer risk, and that adverse human health effects from exposure to ELF electric fields at strengths normally encountered in the workplace or environment have not been established. They indicate that there are areas of research where questions have been raised that need to be addressed. The guidelines recommend that EMF exposure to members of the general population should be limited, based on the current state of the science. The guidelines will be revised as necessary with advancements in science and research.

Exposure characteristics	Electric field strength kV/m	Magnetic flux density mG
<b>Occupational</b>		
Whole working day	10	5000
Short term	30	50,000
Limbs	—	250,000
<b>General Public</b>		
Up to 24 hours/day	5	1000
Few hours/day	10	10,000

In summary, the EMF exposure limits in the interim guidelines are based on not exceeding the normal current densities in the human body. The INIRC is aware of the conflicting conclusions in the current research, including epidemiological, animal, and laboratory studies, and therefore, does not base the exposure limits solely on this current body of science.

**RESIDENTIAL CANCER STUDIES: CHILDREN**  
Reported Associations with Various Exposure Measures

Investigators	Wire Code	Calculated <sup>1</sup> Fields	Distance <sup>2</sup>	Spot Measurement	24-Hour Measurement
Wertheimer & Leeper (1979)	Yes	—	—	—	—
Fulton (1980)	No	No	No	—	—
McDowall (1986)	—	—	No	—	—
Tornøhus (1986)	—	—	Yes/No	Yes	—
Savitz (1988)	Yes	—	—	No	—
Coleman (1989)	—	No	No	—	—
Myers (1990)	—	No	No	—	—
Peters (1991)	Yes	—	—	No	No
Olsen (1992)	—	Yes	—	—	—
Feychting & Ahlbom (1992)	—	Yes	Yes/No	No	—

Source: **Bailey Research Associates, Inc.**  
 New York, NY  
 May 27, 1993

<sup>1</sup> Methods of calculation differ between studies

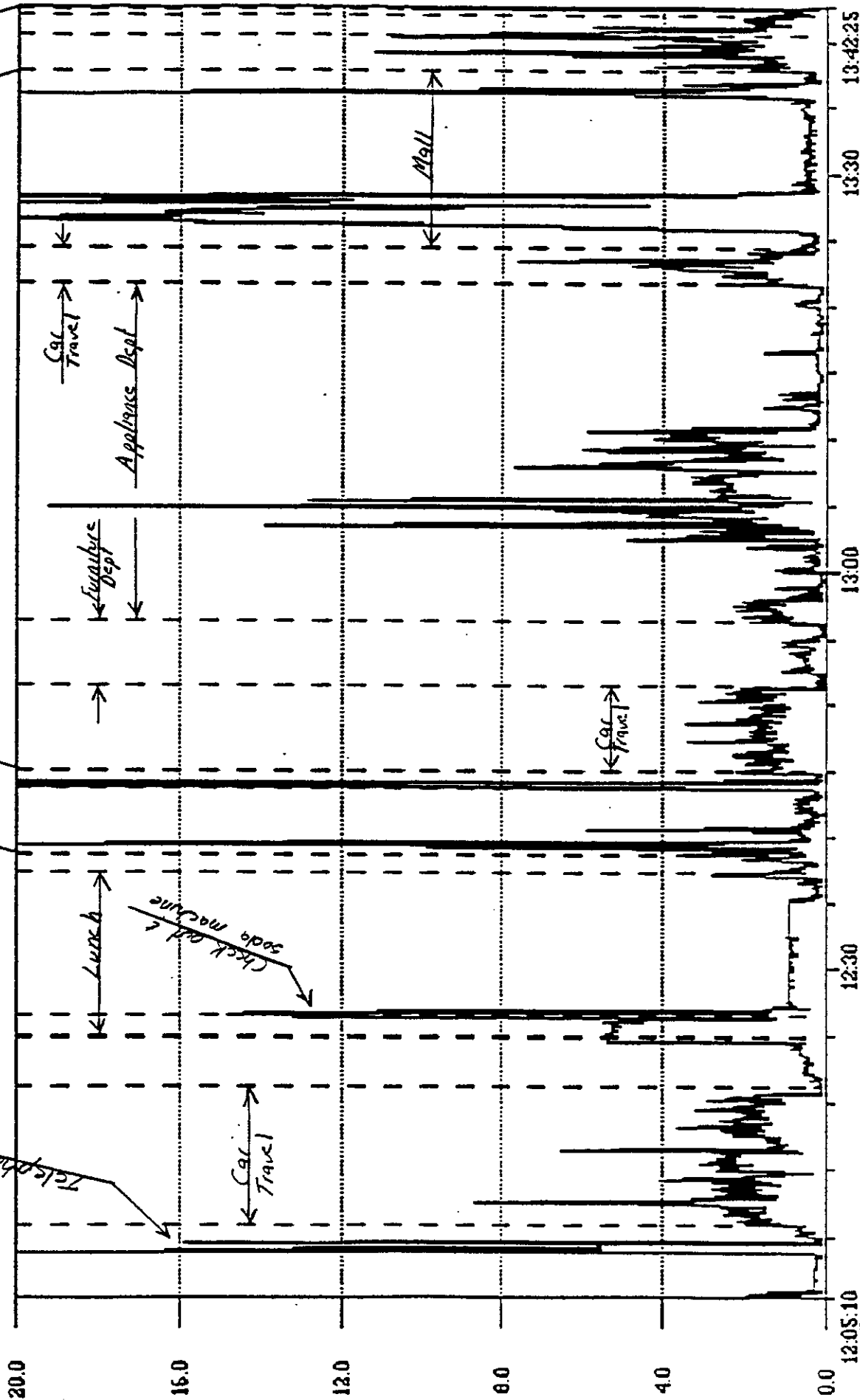
<sup>2</sup> Distance is a factor in 'Wire Code'

— = Not determined in study

File: MERCED.MDX

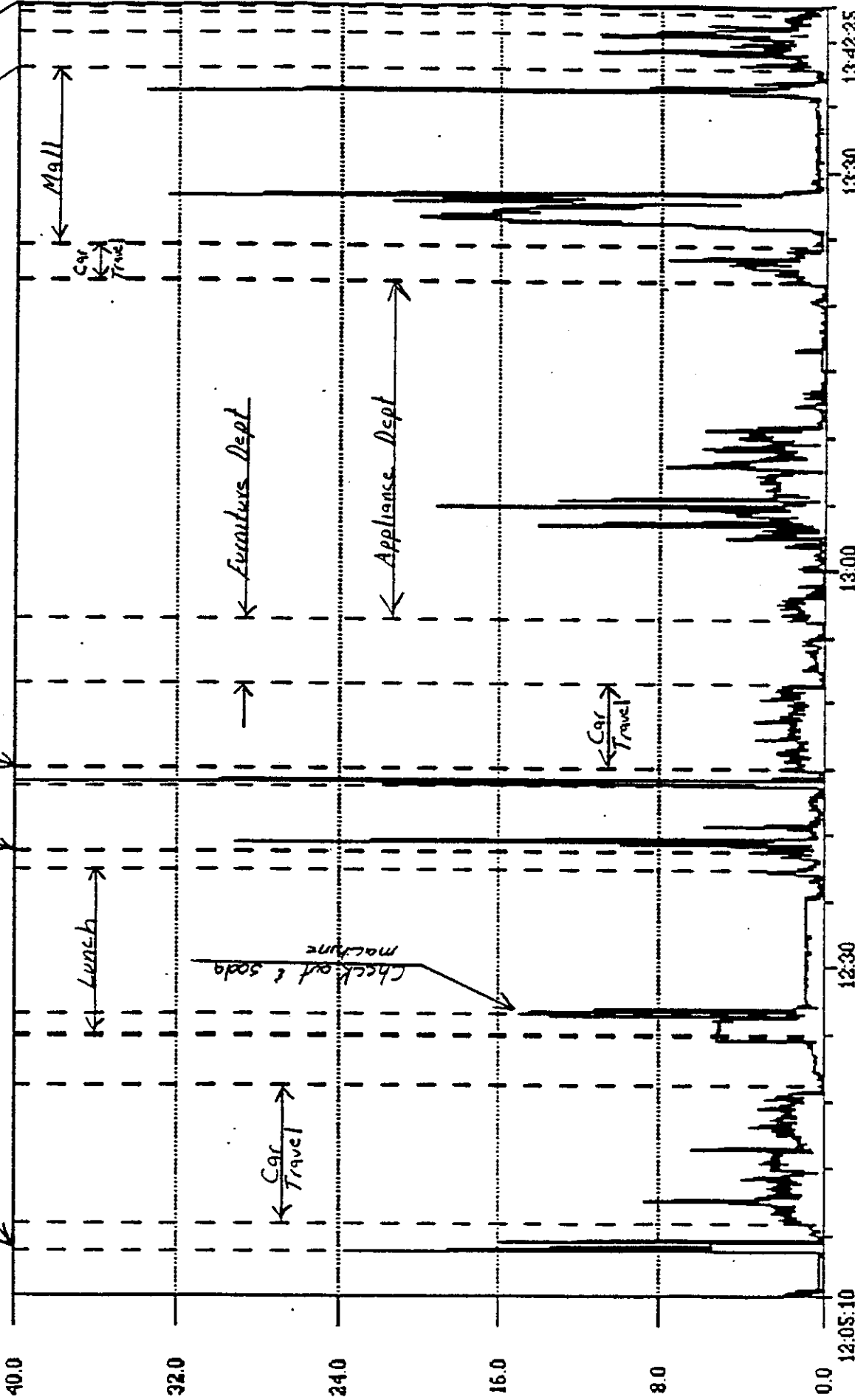
Data: Broad Resultant

Label: TRA'S TRAVEL THRU MERCED



Attachment 2

File: MERCED.MDX Data: Broad Resultant Label: TRA'S TRAVEL THRU MERCED



13:42.25  
13:30  
13:00  
12:30

12:05.10  
Nov 07, 1993

Attachment 9

Travis Nathan & t  
East on Yosemite

Crossed store  
frozen food section

Telephone Co

SUN  
Nov 07, 1993

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

**REPORT OF THE CALIFORNIA  
EMF CONSENSUS GROUP**

**Issues and Recommendations for Interim  
Response and Policy Addressing  
Power Frequency  
Electric and Magnetic Fields (EMFs)**

**Submitted by the California  
EMF Consensus Group  
March 20, 1992**

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## ACKNOWLEDGEMENTS

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The Consensus Group would like to acknowledge the work of Geoff Ball, Toni Lasko, and Jannie Dresser. Geoff facilitated the consensus process, Toni provided administrative support, and Jannie served as technical editor. The Consensus Group greatly appreciates their tireless efforts. Without their help this report would not have been possible.

The Consensus Group would also like to acknowledge the assistance of Commission staff members Bill Meyer, Jody London, and George Hersh, who provided guidance, continuity, and patience to the Consensus Group's process. Their help was invaluable.

Finally, the Consensus Group acknowledges the timely and professional assistance of Beverly Parker of PG&E, and Perry Rice, Vick Jow, and the Publishing Unit in the Public Utilities Commission's Division of Ratepayer Advocates.

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- C. Relevant Rulings and Decisions
- D. Protocols of EMF Consensus Group
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- F. The Present State of Research: Why More is Needed
- G. Review of the California Public Utilities Commission  
EMF Consensus Group Draft Chapter on Research
- H. Research Scientists' Reports and Recommendations

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## STATEMENT OF TRANSMITTAL

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In Decision 91-10-032 the Public Utilities Commission approved an earlier Administrative Law Judge ruling creating the EMF Consensus Group. This Group of seventeen "stakeholders," representing various organizations involved with the EMF health effect issue, was asked to develop consensus recommendations on interim policies for dealing with EMF health concerns.

The attached report is the culmination of the EMF Consensus Group's meetings and discussions. It reflects a variety of perspectives on the EMF question and advises the California Public Utilities Commission on an interim regulatory response.

Our process was unusual. Traditionally, environmental issues have been handled in an adversarial manner. Yet, in a five-month period, representatives from utilities, unions, and state agencies, as well as citizen, consumer, and environmental groups were able to work together in a cooperative spirit to develop interim EMF strategy recommendations. There was recognition on all sides that while electricity benefits everyone, society can no longer ignore the warnings that EMF is a potential problem.

We believe that the consensus process that produced this report will enable the California Public Utilities Commission to better understand the EMF issue and develop a policy based on the views of all interested parties. While we were not able to reach consensus on all issues, we believe our report delineates the various perspectives on this controversial issue and captures the range of viewpoints in California at this time.

In spite of the diversity of opinion expressed within our Group, there were significant agreements. We all agreed that more research was needed. We also recognized the need for unbiased public information and education, and for appropriate no-cost and low-cost field management. We found a lot of common ground in the areas of research, education, and policy.

We know that California's utilities, customers, and others can work together to protect public health by setting sound policy based on the best scientific information available. We are proud to have participated in this process and are pledged to cooperate in ensuring the creation and implementation of our recommendations.

Where we were unable to reach agreement we chose to delineate the various perspectives under non-consensus proposals and discussions. The EMF Consensus Group participants signify by their signatures below that they endorse the consensus recommendations only. These signatures should not be construed to indicate support or agreement with any other position expressed in this report.

We hope that the PUC will move promptly to hold evidentiary hearings and adopt our consensus positions.

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## EXECUTIVE SUMMARY

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In October 1991, the California Public Utilities Commission requested recommendations for interim actions from the EMF Consensus Group in response to potential health effects from power-frequency electric and magnetic fields. The EMF Consensus Group, a committee of seventeen people representing diverse interests and perspectives, presents its recommendations in the following report.

There is both scientific uncertainty and public concern about potential health risks from the power-frequency electric and magnetic fields (EMFs) which result from California's use of electricity. At this time, the scientific community has not concluded whether or not there is a health risk.

Nevertheless, electric utilities, the California Public Utilities Commission, the California Energy Commission, and the California Department of Health Services continue to receive requests for information on EMFs. Failure to respond to these requests in a meaningful, credible, timely, and consistent manner may generate fear and distrust, which could result in inconsistent public policy decisions and inefficient uses of public and private resources.

The Consensus Group believes that California needs an integrated EMF Program because there is controversy about both the nature of the risk, if any, and the costs and benefits of any proposed actions. The Consensus Group supports a regulatory strategy which:

- Sets the foundations for obtaining answers to key questions
- Provides for public education and information
- Takes public concern into account
- Allows for appropriate interim responses
- Is consistent with our knowledge
- Does not disproportionately allocate public resources
- Can be updated as new information becomes available
- Allows for an open decision-making process which includes public participation

The Consensus Group formulated several consensus recommendations for the PUC to consider regarding public, scientific, and policy concerns relevant to the issue of electric and magnetic fields. These are divided into four categories: Research, Education, Policy, and Procedural. A key goal of these recommendations is to help prepare California for an

uncertain future regarding potential adverse health effects associated with power-frequency electric and magnetic fields, if any exist.

The task has been difficult, and the Consensus Group worked hard to achieve agreement in these areas. Within each category, however, additional topics were discussed on which consensus could not be reached; when this was the case, comments reflecting differing viewpoints were included in this report.

The Consensus Group agreed to delineate different perspectives in non-consensus discussion and proposals, although the authors of the different views will not be named, nor will the numbers of members supporting a point of view be stated. This report includes an overview of these discussions to provide the Commission with an understanding of a range of views on the various issues. These proposals appear in italics in the report.

The Consensus Group's recommendations and non-consensus proposals are printed below and described in greater detail in the body of this report.

## **Research Recommendations**

The Consensus Group makes the following Research recommendations:

### **RESEARCH CONSENSUS RECOMMENDATION 1: RESEARCH PROGRAM**

The Consensus Group recommends that the Public Utilities Commission (PUC) authorize utilities to conduct further EMF research and hold hearings to determine appropriate expenditures for this research. The Consensus Group believes that California would benefit from a coordinated research effort. While investor-owned utilities (IOUs) presently may seek to increase their expenditures for EMF research during their general rate cases, the Consensus Group recommends that the Public Utilities Commission allow IOUs (and/or other parties) to file individual or joint testimony to request authorization for appropriate funding levels, based on their research needs and goals.

### **RESEARCH CONSENSUS RECOMMENDATION 2: RESEARCH PROGRAM MANAGEMENT**

The Commission should establish a management structure to implement and manage the California EMF research program as recommended in #1. This structure should

ensure that the management structure include the following attributes: 1) independent oversight; 2) stakeholder involvement; and 3) ability to communicate progress and results to the Commission and the California Department of Health Services. The California Department of Health Services should manage this program and make annual reports to the Commission. The Commission should appoint a Stakeholder Advisory Committee assisted by scientific advisors to oversee the research program and advise the Commission on the conduct of the research program and provide reports to the Commission. While the Department of Health Services has the responsibility to identify the program manager, we feel that project management should have the following characteristics: 1) accountability; 2) independence; 3) expertise in program management and administration; 4) working knowledge of EMFs; and 5) relevant scientific expertise.

### **RESEARCH CONSENSUS RECOMMENDATION 3: RESEARCH PROGRAM PRIORITIES**

With the advice of a distinguished group of scientific advisors, the Consensus Group reviewed the possible categories of research activities and prioritized them as follows:

1. Items which should be funded by California at this time because they are likely to provide timely information:
  - Policy Option Research
  - Dose Exploration/Replication
  - Biological Mechanism Research
  - Human Exposure Assessment
  - Clarifying Epidemiology
  - Mitigation Research

We recognize that the level of funding in these areas is determined by the overall amount of the available funds. However, policy options and dose exploration/replication should be researched regardless of the level of funding. Quality control and good management are critical to all of the above categories.

2. Items which should not be funded by California at this time because they are less likely to provide timely information are:

- Physical Mechanism Research
- Epidemiology for New Effects
- Animal Cancer and Reproduction Bioassays
- Experimental Search for New Effects

**RESEARCH CONSENSUS RECOMMENDATION 4:  
ROLE OF INDIVIDUAL UTILITY AND ELECTRIC POWER RESEARCH INSTITUTE  
(EPRI) RESEARCH**

The Consensus Group recognizes that California utilities have supported EMF-related research on their own and recommends that this should continue. This is distinct from the research described elsewhere in this report which would be under the oversight of the Stakeholder Advisory Committee (SAC) and managed by the Department of Health Services.

**RESEARCH CONSENSUS RECOMMENDATION 5:  
RELATION TO FEDERAL OR NATIONAL PROGRAMS**

The California EMF research program will coordinate with international, national, federal, state, and privately funded research to avoid unnecessary duplication and where appropriate to engage in collaborative agreements which leverage California resources.

**RESEARCH CONSENSUS RECOMMENDATION 6:  
ESTABLISHMENT OF NATIONAL EMF RESEARCH PROGRAM**

The Commission, working with the California Department of Health Services, the California Energy Commission, and California's utility industry, should actively work to facilitate the establishment of a national EMF research program. This program would provide for the coordination of effort and the pooling of federal and private resources.

It would include health, engineering, and policy research, and an educational component. California utilities should participate in such a national program once it is established.

The level of funding for the California EMF Research program was an issue on which no consensus was achieved. The Commission may wish to consider it in future PUC deliberations.

## **Education Recommendations**

The Consensus Group makes the following Education recommendations:

### **EDUCATION CONSENSUS RECOMMENDATION 1: COORDINATED EMF EDUCATION PLAN**

The EMF Consensus Group recommends that the Commission should implement a coordinated EMF Education Plan for electric utility personnel, customers, and other groups. Elements of this plan include:

- Involvement of the California Department of Health Services in the implementation of the Education Plan, contingent on the availability of funds
- Policy and informational materials from each utility
- Annual informational bill inserts
- Informational materials for electric utility personnel who work around energized equipment.

**EDUCATION CONSENSUS RECOMMENDATION 2:  
PROGRAM FUNDING**

The EMF Consensus Group recommends that the Commission allocate funds and provide support to implement the EMF Education Plan, including funds for the Stakeholder Advisory Committee, subject to evidentiary hearings.

**EDUCATION CONSENSUS RECOMMENDATION 3:  
STAKEHOLDER ADVISORY COMMITTEE**

The EMF Consensus Group recommends that the Commission continue to seek advice and input from relevant constituents in the form of a Stakeholder Advisory Committee (SAC). The SAC will advise the Commission on the implementation of the Consensus Recommendations. The SAC would have the responsibility to advise the Commission on the implementation of the Education Plan, specifically the content, media, and audiences for information about EMFs. This Stakeholder Advisory Committee is the same as discussed throughout this document (see Procedural, Research, and Policy Chapters).

**EDUCATION CONSENSUS RECOMMENDATION 4:  
TECHNICAL ASSISTANCE FROM THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES**

The PUC should request technical assistance from the California Department of Health Services (DHS), to assist in the development of an EMF Education Plan, prepare technical and informational materials, and conduct educational workshops, contingent on the availability of funds.

**EDUCATION CONSENSUS RECOMMENDATION 5:  
COORDINATION WITH OTHER AGENCIES**

The PUC should coordinate the California EMF Education Plan activities with federal programs, other states, and California state and local agencies, including the California Energy Commission, the California Occupational Safety and Health Administration, and the California Department of Education.



## **EDUCATION CONSENSUS RECOMMENDATION 6: COMPONENTS OF AN EMF EDUCATION PLAN**

**California's EMF Education Plan should have components which are responsive to concerns, explain what is known and not known, and allow for full participation by concerned individuals in decisions about EMFs.**

- **When information on EMFs is provided, it should be understandable, balanced, and placed in perspective to allow for informed judgment.**
- **This information should include discussion of options that people can take, including descriptions of "prudent avoidance."**

## **EDUCATION CONSENSUS RECOMMENDATION 7: APPROPRIATE CALIFORNIA DEPARTMENT OF HEALTH SERVICES ACTIVITIES**

**The Consensus Group identifies the following as appropriate activities for the California Department of Health Services (DHS), but recognizes that the DHS does not currently have funding to support these activities. Consensus could not be reached on whether or not utilities should support these Department of Health Services activities with ratepayer funds:**

- **Develop and exercise the capability of responding to requests for technical assistance about EMF exposures or alleged EMF-related illness from state and local government agencies and other groups.**
- **Develop a repository for information on EMF and alleged EMF disease clusters.**
- **Provide workshops and training for local government, including school districts.**
- **Investigate or coordinate the investigation of reported apparent EMF-related disease clusters.**
- **Conduct workshops with electrical and electronic appliance, toy, and computer manufacturers to develop multi-disciplinary approaches to responding to the EMF issue.**
- **Conduct workshops with building industry, planning and zoning representatives,**

and local governments, to develop multi-disciplinary approaches to responding to the EMF issue.

The Commission may also wish to consider the following non-consensus proposals in order to address them in future PUC deliberations:

1. Measurement Protocol
2. Measurement Results
3. Disclosure
4. Telephone Hotline
5. Audio/Visual Materials
6. EMF-Tagging Program
7. Brochure Development
8. Responsibility of Electric Utilities and Individuals
9. DHS Responsiveness

## **Policy Recommendations**

The Consensus Group makes the following Policy recommendations:

### **POLICY CONSENSUS RECOMMENDATION 1: FIELD REDUCTION**

The PUC should adopt an interim policy that authorizes utilities to implement no-cost or low-cost steps to reduce fields in response to public concern and scientific uncertainty regarding EMF exposure and health in California. There is consensus that no-cost or low-cost steps are justified now even though there are differences on what "low cost" means. This is discussed under non-consensus items. There is agreement that it would be inappropriate to take no action at this time.

## **POLICY CONSENSUS RECOMMENDATION 2: GUIDANCE FOR THE PUBLIC**

The Consensus Group wishes to convey to the Public Utilities Commission and to the Department of Health Services that people who are concerned about EMF consider exercising reasonable judgment in educating themselves on issues of EMF and deciding if they wish to avoid EMF exposure. In the absence of specific knowledge of health impacts from EMFs, or which characteristics of EMF might be of concern, individuals should make their own decisions for action, including "prudent avoidance." People may elect to avoid unnecessary EMF exposure according to their individual values, beliefs, and resources.

## **POLICY CONSENSUS RECOMMENDATION 3: GUIDANCE FOR UTILITY WORKERS**

- A. The Commission should encourage utilities to actively involve workers and their designated representatives to:
- Educate employees on the EMF issues relevant to their work environment.
  - Evaluate new work practices with the goal of implementing no-cost and low-cost measures that tend to reduce worker exposures while maintaining the usual commitment to worker safety and are consistent with the need to maintain system reliability and availability.
- B. The Commission should encourage utilities to measure workplace EMF exposures for employees upon their request or the request of their bargaining representatives with results provided to the employees and their representatives.

## **POLICY CONSENSUS RECOMMENDATION 4: FACILITY SITING**

The Public Utilities Commission should recommend that utilities take public concern about EMF into account when siting new electric facilities.

**POLICY CONSENSUS RECOMMENDATION 5:  
EXTENT TO WHICH UTILITIES SHOULD PLAN ADDRESSING EMFs**

The PUC should direct investor-owned utilities (IOUs) to continue research regarding strategies to reduce exposure to EMF and estimate their relative costs and impacts. The utilities should be encouraged to exchange information regarding these strategies.

**POLICY CONSENSUS RECOMMENDATION 6:  
RESIDENTIAL MEASUREMENTS**

The Commission should authorize utilities to make EMF measurements at the residences of customers at the customer's request. A utility's residential magnetic field measurement program should be available to both homeowners and tenants. The results of EMF measurements made at a tenant's request should also be made available to the property owner upon request.

**POLICY CONSENSUS RECOMMENDATION 7:  
WORKPLACE MEASUREMENTS**

Utilities should do workplace measurements only if the employer will provide information to employees requesting that information.

**POLICY CONSENSUS RECOMMENDATION 8:  
COOPERATIVE DIALOGUE AMONG INDUSTRIES**

The PUC should encourage utilities to work with a broad spectrum of industries, such as appliance, electrical equipment, toy and electronic equipment manufacturers, and the building industry to respond to EMF issues.

The Commission may also wish to consider the following non-consensus proposals in order to address them in future PUC deliberations:

1. "Least Field" Alternatives
2. Public Facilities and Siting Constraints
3. Schools and Childcare Centers
4. EMF Mitigation Strategies Report
5. Contingency Plans
6. Equitable Field Exposure Levels
7. Conflict Resolution
8. Response to Disease Clusters and EMF Concerns
9. Risk Assessment Analysis
10. Field Strength Standards
11. Disclosure to Third Parties
12. Social Equity and Economic Justice
13. Customer Notice of Higher Fields
14. EMF Reduction Through Energy Conservation

### **Procedural Recommendations**

The Consensus Group makes the following Procedural recommendations:

#### **PROCEDURAL CONSENSUS RECOMMENDATION 1: PUBLIC PARTICIPATION HEARINGS**

The EMF Consensus Group recommends that the PUC convene Public Participation Hearings as soon as possible. This will allow for comments from a wide representation of California citizens.

**PROCEDURAL CONSENSUS RECOMMENDATION 2:  
STAKEHOLDER ADVISORY COMMITTEE**

The Commission should appoint an EMF Stakeholder Advisory Committee (SAC) to guide the Commission on the implementation of California's EMF program. This Committee should include broad representation, including labor, electric utilities, ratepayers, citizens, and local government. No more than ten people should be on this Committee. Members should be appointed by the Commission.

**PROCEDURAL CONSENSUS RECOMMENDATION 3:  
ONGOING REVIEW**

The EMF Consensus Group recommends that the interim policy options shall be reviewed every three years or when the California Department of Health Services or the Stakeholder Advisory Committee (as discussed in this report) agrees that such things as significant new scientific information or public concern warrants such review by the Commission.

**PROCEDURAL CONSENSUS RECOMMENDATION 4:  
IMPLEMENTING RECOMMENDATIONS**

The Consensus Group recommends that the Commission hold hearings to implement Consensus Group recommendations. The Consensus Group recognizes that the Commission only regulates investor-owned utilities. The Consensus Group recommends that California electric utilities not regulated by the Commission voluntarily adopt Commission decisions on EMFs.

**PROCEDURAL CONSENSUS RECOMMENDATION 5:  
EN BANC HEARING**

**The Consensus Group recommends that the PUC convene an en banc hearing prior to the start of evidentiary hearings in order to review the recommendations contained in this report and provide an opportunity for the entire Consensus Group to respond to questions and/or concerns that this report may raise.**

**The Consensus Group appreciates the opportunity to provide this report to the Commission and urges the Commission to move quickly in developing a comprehensive EMF policy for California.**

California Public Utilities Commission

**NEWS RELEASE**

505 Van Ness Avenue San Francisco, CA 94102-3298

CONTACT: Dianne Dienstein  
415-703-2423

November 2, 1993 CPUC -81  
(I.91-01-012)

**CPUC ADOPTS INTERIM EMF POLICY FOR ENERGY UTILITIES**

The California Public Utilities Commission (CPUC) today adopted interim measures, pending scientific/medical conclusions, to address public concern about and potential health effects from utility electric facilities and power lines. The Commission's order is effective in 30 days. Electric and magnetic fields (EMFs) associated with telecommunications facilities are being addressed in a separate phase of this proceeding.

The interim EMF requirements apply to Pacific Gas & Electric, Southern California Edison, San Diego Gas & Electric, Sierra Pacific Power, and Pacific Power & Light. Municipal utilities are not under CPUC jurisdiction although they may voluntarily follow the measures.

The Commission emphasized that the scientific community has not isolated the impact on health, if any, of exposures to EMFs from utility facilities. EMFs come from many sources beyond the control of utilities including household appliances used daily.

Pending conclusive scientific evidence of possible harm, government has generally adopted the policy of avoiding any unnecessary new exposure if it can be avoided at a cost reasonable in light of the risk identified. The Commission will rely on the state Department of Health Services (DHS) to provide guidance about any future identified public health risk.

The Commission today ordered seven interim measures to address EMFs related to electric facilities and power lines. The measures are based on recommendations contained in a March 1992 EMF Consensus Group report. The group was convened by the CPUC to define near-term research objectives and develop interim procedures to guide electric utilities in educating customers, reducing EMF measurement levels, and responding to potential health concerns. Its 17 members represented the public,



**PROCEDURAL CONSENSUS RECOMMENDATION 5:  
EN BANC HEARING**

**The Consensus Group recommends that the PUC convene an en banc hearing prior to the start of evidentiary hearings in order to review the recommendations contained in this report and provide an opportunity for the entire Consensus Group to respond to questions and/or concerns that this report may raise.**

**The Consensus Group appreciates the opportunity to provide this report to the Commission and urges the Commission to move quickly in developing a comprehensive EMF policy for California.**

consumers, environmental groups, state agencies, unions and utilities. The interim measures ordered by the Commission are:

- o No-cost and low-cost steps to reduce EMF levels.
- o Workshops for utilities to develop EMF design guidelines which incorporate the concepts and criteria required by today's Commission order.
- o Uniform residential and workplace EMF measurement programs.
- o Stakeholder and public involvement in development of research and education programs.
- o A \$1,489,000 four-year education program.
- o A \$5.6 million four-year non-experimental and administrative research program directed by DHS.
- o Authorization for utilities to contribute to federal experimental research conducted under the National Energy Policy Act of 1992.

**No-cost/Low-cost Measures:** no-cost measures should be used for all projects. **Low-cost measures:** a benchmark funding level for EMF mitigation guidelines for new and upgraded facilities of four percent of total budgeted project costs. Utilities can recover the costs of low-cost measures in the same way they recover other costs for customer service. The CPUC will take additional testimony on possible mitigation measures for EMFs found at existing facilities.

The CPUC did not set specific field reductions finding it inappropriate to adopt or set a specific numerical standard until there is a scientific basis for doing so.

**EMF Design Guidelines:** utilities are to establish written EMF policies incorporating concepts and criteria required by the Commission order, standardize the guidelines where possible, and exchange information. The CPUC Commission Advisory and Compliance Division, with involvement of the CPUC Safety Division, will schedule and chair a public workshop to develop EMF design guidelines which incorporate concepts and criteria in the Commission order. Utilities are to submit draft guidelines prior to the workshop.

Final guidelines should incorporate EMF mitigation options such as siting new facilities in alternative locations, increasing right-of-way widths, altering tower line geometry

using higher voltages to reduce current levels, and undergrounding. They are to be submitted to all workshop participants, CACD, the Safety Division, and the Public Advisor, and be available to utility customers on request.

**Residence and Workplace Measurement:** utilities already make these measurements and recover the costs in rates. Development of a consistent measurement policy by all CPUC-regulated utilities is desirable and will be addressed in the workshop. The policy should provide for measurement of EMFs at customer residences and workplaces on customer request; and the customer should be given written measurement results and educational materials about EMF sources, including electric appliances and electronic equipment.

The Commission stated that since the research and education programs adopted today and described below will be implemented by DHS, it is asking DHS to manage those programs to the extent DHS is able to do so within its statutory authority and available funding. The Commission will continue to work closely with DHS in ongoing development of EMF policy.

**EMF Education:** to provide credible, meaningful, consistent and timely EMF information to electric utility customers, employees, and the public. DHS will coordinate a uniform EMF education program to supplement, but not duplicate, those most electric utilities already have. utilities without programs should implement one as soon as possible. CPUC-related utilities can use ratepayer funding to contribute their share of the \$1.49 million program development funding based on the ratio of each utility's prior calendar year's electric sales to the total regulated and municipal electric utilities prior calendar year's electricity sales in California.

**EMF Research:** DHS will manage the research program. Utility participation in state, national and international research should be pursued to the extent that it benefits ratepayers. Utilities are authorized to participate in an experimental research program to be conducted by the federal government pursuant to the 1992 National Energy Policy Act. Funding will be the same as for the EMF educational program. ###

**LETTER 1 Pacific Gas and Electric Yosemite Division, Mel Bradley, Division Manager,  
November 8, 1993**

**RESPONSE TO COMMENT 1-1**

As a result of additional research on Electric and Magnetic Fields (EMFs), as well as a thorough review of the Report of the California EMF Consensus Group (March 20, 1992) and the California Public Utilities Commission interim EMF policies (November 2, 1993), Mitigation Measures 4.14.6 and 4.14.7 on page 4.14-15 have been deleted and replaced with the following measures:

*MM 4.14.6 Prior to approval of final maps, the project applicant shall submit all plans for review to PG&E, Yosemite Division Capital Investment Department, to ensure that site development does not conflict with existing PG&E facilities and accommodates new utility requirements. The project applicant must obtain a Consent Agreement from PG&E prior to the issuance of any permits for development within PG&E transmission easements.*

*MM 4.14.7 Land uses which will limit the exposure of humans to electric and magnetic fields, such as parks, open space, trails, and other non-residential uses, will be encouraged in and around transmission line easements. Ultimate land use determination will be dependent upon City design review (outside of easements) and PG&E consent (within easements) during tentative map review and approval. Tentative maps will also comply with California Department of Education regulations for the setback of school property lines from power line easements.*

This change re-emphasizes that the relationship between health risks and EMFs is non-conclusive, which was initially acknowledged on page 4.14-7 of the DEIR. Because of the important nature of the subject matter (human health), the original intent of the DEIR was to mitigate on the conservative side of the EMF issue.

After reviewing the EMF Consensus Group Report, the Group's recommendations, and the resulting California Public Utilities Commission (CPUC) interim policies, this EIR has been updated with the most current and accepted information available.

Although this revised mitigation reflects PG & E's and the Consensus Group's recommendation that specific setbacks and standards should not yet be established until scientific evidence warrants, these measures do reflect the CPUC interim policy which recommends "avoiding any unnecessary new exposure [to EMFs] if it can be avoided at a cost reasonable in light of the risk identified." The Executive Summary of the Consensus Group report, as well as the CPUC interim policies have been reproduced within section IV of this FEIR for reference.

#### **RESPONSE TO COMMENT 1-2**

Comment regarding the required 5-acre substation is noted. Pursuant to revised Mitigation Measure 4.14.6, final maps will demonstrate accommodation of new utility requirements, including this substation. Should analysis show that an off-site location is preferable, the applicant will work with PG&E and the City to secure the required permitting and easements.

#### **RESPONSE TO COMMENT 1-3**

See Response to Comment 1-1.

#### **RESPONSE TO COMMENT 1-4**

Comments regarding Standards of Significance are noted. In response to additional research on EMFs, page 4.14-9 of the Draft EIR has been edited to delete the 1.0 milligauss exposure level standard. Revised Mitigation Measures 4.14.6 and 4.14.7 reflect this change. Exact text edits are contained within the errata portion of this Final EIR.

#### **RESPONSE TO COMMENT 1-5**

Comments regarding additional EMF studies are noted. The studies referenced in the Draft EIR on page 4.14-7 were originally cited in order to illustrate that the conclusions from various sources are **not** consistent. The original conclusions presented in the Draft EIR were based on the general uncertainty of EMF risks, as illustrated by the results of various studies. The Draft EIR and original mitigation strategy therefore took a worst case approach to this particular issue. See Response to Comments 1-1 and 1-4 for specific refinements to mitigation measures and standards of significance.

#### **RESPONSE TO COMMENT 1-6**

Comments regarding CPUC interim policy is noted. Strategies for reducing new exposure to EMFs for this project are based upon land use and design strategies, consistent with CPUC policies.

#### **RESPONSE TO COMMENT 1-7**

Comment regarding the EIR's analysis of magnetic field calculations is noted. The PG & E calculations, shown on page 4.14-6 of the Draft EIR, should be referenced as "based upon maximum current." Specific text changes are contained within the errata section of this Final EIR.

#### **RESPONSE TO COMMENT 1-8**

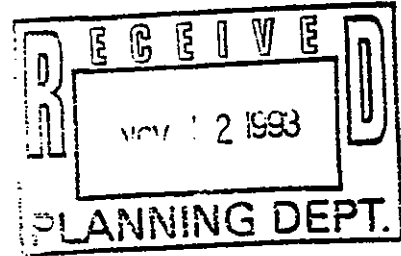
Comments regarding variances in EMF measurement methodology are noted. Specific comparisons between studies, where measurement methodology is different, is acknowledged.

**RESPONSE TO COMMENT 1-9**

Conclusion is noted. Please see Response to Comment 1-1.

Pacific Gas and Electric Company

650 O Street  
Fresno, CA 93760-0001  
209/442-0909



November 9, 1993

Responsible Agency Review  
City of Merced  
Draft Environmental Impact Report  
Bellevue Ranch Master Development Plan  
County of Merced  
603



Dale Daly  
Assistant Planner  
City of Merced  
678 West 18th Street  
Merced, CA 95340

Dear Mr. Daly:

Thank you for the opportunity to review the Bellevue Ranch Master Development Plan Draft EIR. Our analysis of this project indicates potential impact to this company's electric system. These impacts are discussed below and should be addressed in the mitigation measures.

As you are aware, PG&E owns and operates several transmission lines that lie within the proposed project. General Orders 95, 112D and 128 of the California Public Utilities Commission (CPUC) code requires the maintenance of specific clearances around gas and electric facilities. For this reason, PG&E and the local agencies must enforce restrictions on development activities and improvements such as grading, holding ponds, fencing, wells, roads and structures near PG&E facilities and within their associated rights-of-way and easements. To ensure that site development in the vicinity of PG&E operations, prior to a development, the developer should be required to submit all plans for review as follows:

2-1

Pacific Gas and Electric Company  
Region Land Department  
650 "O" Street  
Fresno, CA 93760

If the proposed project meets PG&E's standards to protect our facilities, PG&E will grant the developer a written consent outlining specific uses and development requirements. The following is potential wording to be included in the Mitigation Requirements:


City of Merced  
November 9, 1993  
Page Two

"Provide a consent agreement from Pacific  
Gas and Electric Company prior to issuance  
of any permits for development within any  
PG&E easements".

Please contact me at (209) 263-5238 if you have any questions.

Thank you for your time and assistance concerning this very important matter.

Sincerely,



Greg A. Parker  
Land Project Analyst

GAP:al



**LETTER 2 Pacific Gas and Electric Region Land Department, Greg A. Parker, Land  
Project Analyst, November 9, 1993**

**RESPONSE TO COMMENT 2-1**

See Response to Comment 1-1.





San Joaquin Valley  
Unified Air Pollution Control District **PLANNING DEPT.**

November 5, 1993

Dave Daly, Assistant Planner  
City of Merced  
678 West 18th Street  
Merced, CA 95340

**SUBJECT: BELLEVUE RANCH MASTER DEVELOPMENT PLAN DRAFT ENVIRONMENTAL IMPACT REPORT (SCH #92102055)**

The San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) has reviewed the above referenced DEIR and offers the following comments:

The entire San Joaquin Valley Air Basin (SJVAB) is nonattainment for ozone and Fine Particulate Matter (PM<sub>10</sub>). As stated in the DEIR, increases in emissions of reactive organic gases, oxides of nitrogen, and PM<sub>10</sub> from this development may delay attainment of air quality standards in the entire San Joaquin Valley Air Basin.

Air quality impacts will remain one of the insufficiently mitigated aspects of this project. The District recommends that all mitigation measures mentioned in the DEIR be implemented to the maximum extent possible. Furthermore, as stated in the DEIR, the level of significance after mitigation will be significant and unavoidable. Therefore, a Statement of Overriding Considerations should be adopted if the project is approved.

Because it has been determined in the DEIR that the project will have a significant impact on air quality which cannot be mitigated to a less than significant level, the District strongly suggests that as many feasible mitigation measures as possible be included as requirements for Bellevue Ranch project approval. Additional mitigation measures that can be implemented to lessen the air quality impact of the project are as follows:

The project proponent should consider infrastructure improvements that will allow for the use of increasingly common technologies that provide an alternative to conventional motor fuel use. Among these opportunities are Compressed Natural Gas (CNG) fueling stations (quick-fill and slow-fill) and charging stations for electric vehicles.

**David L. Crow**

*Executive Director/Air Pollution Control Officer*

1999 Tuolumne Street, Suite 200 • Fresno, CA 93721 • (209) 497-1000 • FAX (209) 233-2057

**Northern Region**

4230 Kiernan Avenue, Suite 130 • Modesto, CA 95356  
(209) 545-7000 • Fax (209) 545-8652

**Central Region**

1999 Tuolumne Street, Suite 200 • Fresno, CA 93721  
(209) 497-1000 • Fax (209) 233-2057

**Southern Region**

2700 M Street, Suite 275 • Bakersfield, CA 93301  
(209) 861-3682 • Fax (209) 861-3260

CNG quick-fill sites can be integrated into existing and proposed gasoline and diesel stations. Slow-fill sites could be made available for fleet dependent business' and homeowners. Provisions for CNG service could be included as an upgrade or option to private residences and commercial/industrial sites along with other possible property enhancements.

Charging stations for electric vehicle owners could be made available in a similar manner, with dedicated outlets being placed at service stations, residential garages and business/commercial sites.

Page 4.11-13. MM 4.11.1: The second sentence should read "This plan shall..." instead of "should" to remain consistent with the wording in the first sentence. In the second sentence, the word "generation" could be deleted or other words added to make it appropriate within the sentence structure. Suggest substituting the term "high winds" with "equal to or greater than 20 mph". Delete remainder of the sentence.

Page 4.11-14, MM 4.11.2: Since it appears that the Bellevue Ranch development will be the most significant growth inducing factor in the immediate area, the District suggests that the project proponent assist the City of Merced, to the maximum extent feasible, in implementing a Transportation Demand Program (TDP).

The District suggests changing the last sentence of MM 4.11.2 to read: Such improvements shall include public transportation dedications, bikeway/paths, transit improvements/amenities, and pedestrian access facilities. A development of this magnitude should integrate all of these improvements in order to encourage transportation alternatives and lessen air quality impacts.

Page 4.11-15, MM 4.11.6: Suggest changing the word "backyard" to "perimeter" in regard to electrical outlets to allow for the use of electric lawn mowers and leaf blowers completely around the dwellings.

Page 4.11-15, MM 4.11.7: The District suggests that wording be changed to allow for a maximum of one EPA certified pelletstove, woodstove or fireplace insert be installed per residence. The District also suggests that a copy of District Rule 4901 RESIDENTIAL WOOD BURNING (Adopted July 15, 1993) be supplied to each homeowner with such an appliance. (copy enclosed)

Suggest adding MM 4.11.9 to request that bank ATM's and Postal Service Centers be placed in high traffic areas (e.g. shopping centers, planned transit centers) to allow for "one stop" provision of services to the residents of Bellevue Ranch.

↑  
3-3  
3-4  
3-5  
3-6  
3-7  
3-8

The applicant should also be aware of the SJVUAPCD's Regulation VIII, which will become effective December 10, 1993. The intent of Regulation VIII is to reduce the amount of PM<sub>10</sub> entrained into the ambient air as a result of emissions generated from anthropogenic (man-made) fugitive dust sources by requiring actions to prevent, reduce, or mitigate PM<sub>10</sub> emissions. This project will be subject to the rules included in Regulation VIII if construction occurs on or after the effective date. (copy enclosed)

3-9

The applicant should be aware that any equipment (emergency generators and pumps, etc.) that have the potential to emit air pollutants may be subject to permitting by the District. If there are any questions regarding operating permits the applicant should contact the Permit Services section of this office.

3-10

Thank you for the opportunity to comment on this project. If you have any questions, please call me at 545-7000.

Sincerely,



David J. Stagnaro  
Environmental Planner  
Northern Region

enclosures

c: Russell Colliau  
Office of Planning and Research  
1400 Tenth Street  
Sacramento, CA 95814

- 3.23 Wood heater: an enclosed, wood burning appliance capable of and intended for space heating or domestic water heating that meets all of the following criteria:
- 3.23.1 An air-to-fuel ratio in the combustion chamber averaging less than 35-to-1 as determined by the EPA test procedure set forth in Part 60.534, Title 40 Code of Federal Regulations,
  - 3.23.2 A usable firebox volume less than 20 cubic feet,
  - 3.23.3 A minimum burn rate less than 11 lbs/hr as determined by the test procedure set forth in Part 60.534, Title 40 Code of Federal Regulations, performed at an accredited laboratory, and
  - 3.23.4 A maximum weight of less than 1,764 lbs. In determining the weight of an appliance for these purposes, fixtures and devices that are normally sold separately, such as flue pipe, chimney, and masonry components that are not an integral part of the appliance or heat distribution ducting, shall not be included.

#### 4.0 Exemptions

- 4.1 Pellet-fueled wood heaters shall be exempt from the provisions of section 5.1
- 4.2 Residences whose sole source of heat is a solid fuel burning device shall be exempt from the provisions of section 5.6.
- 4.3 EPA-certified, Oregon-certified, and pellet-fueled wood heaters shall be exempt from the provisions of section 5.6.1.
- 4.4 Residences where natural gas service is not available shall be exempt from the provisions of section 5.6.
- 4.5 Residences 3000 feet or more above mean sea level shall be exempt from the provisions of section 5.6.
- 4.6 Solid fuel burning devices sold as appurtenances to real property in an escrow transaction shall be exempt from the provisions of section 5.2.

#### 5.0 Requirements

- 5.1 No person shall sell, offer for sale, supply, install, or transfer a new wood heater unless it meets EPA's Phase II emission and performance requirements set forth in Part 60, Title 40, Subpart AAA Code of Federal Regulations.

Plastic products,  
Rubber products,  
Waste petroleum products,  
Paints and paint solvents,  
Coal, or  
Any other material not intended by a manufacturer for use as fuel in a solid fuel burning device.

## 5.6 Voluntary curtailment

The following sections shall be in effect during the months of November through February.

5.6.1 Level I voluntary curtailment: Notwithstanding the provisions of section 4.3, the APCO shall request voluntary curtailment of the operation of any solid fuel burning device whenever a Pollutant Standards Index (PSI) value of 100 or greater and less than 150 is predicted for the geographical region in which the solid fuel burning device is located.

5.6.2 Level II voluntary curtailment: The APCO shall request voluntary curtailment of the operation of any solid fuel burning device whenever a PSI value of 150 or greater is predicted for the geographical region in which the solid fuel burning device is located.

## 5.7 Curtailment notice

Notice to the public of voluntary curtailment shall be provided by any of the following methods:

5.7.1 Written notice in a newspaper of general circulation within the District;

5.7.2 Oral notice presented at least four times during a twelve hour period by at least two radio or television stations operating in the District;

5.7.3 A recorded telephone message for which the telephone number is published in the telephone directory or newspaper of general circulation within the District; or

5.7.4 Such other method as the APCO determines is appropriate.

## 6.0 Administrative requirements

6.1 Certification: Upon request of the APCO, the manufacturer shall demonstrate that each wood heater subject to the requirements of sections 5.1 or 5.2 has been tested

**LETTER 3 San Joaquin Valley Unified Air Pollution Control District, David Stagnaro,  
Environmental Planner, November 5, 1993**

**RESPONSE TO COMMENT 3-1**

Comments noted. Conditions within the San Joaquin Valley Air Basin are reflected in the DEIR, Section 4.11, Existing Setting and Impacts.

**RESPONSE TO COMMENT 3-2**

In response to SJVUAPCD's concern that air quality impacts are significant and unavoidable, the following mitigation measure has been added to page 4.11-15 to encourage the use of alternative fuels and related infrastructure:

***MM 4.11.9 In conjunction with applications for discretionary approvals the project applicant may be required to incorporate current practices to promote the use of alternative fuels within the proposed development. Implementations of this measure may include the use of alternative fuel facilities (Compressed natural gas filling stations and charging stations) for automobiles. Electrical service standards may also be incorporated for commercial, residential, and industrial sites that would provide adequate capacity to allow installation of recharging facilities as needed in the future.***

**RESPONSE TO COMMENT 3-3**

Mitigation Measure 4.11.1 has been modified to read:

**MM 4.11.1 ...This plan ~~should~~ shall specify the methods of control that will be utilized, demonstrate the availability of needed equipment and personnel, and identify a reasonable individual who, if needed, can authorize ~~generation~~ the implementation of additional measures if needed.**

The Construction Mitigation plan should, at a minimum, include the following:

- Suspend earthmoving or other dust-producing activities during period of **high winds greater than 20 mph.** ~~when dust control measures are unable to avoid visible dust plumes.~~

**RESPONSE TO COMMENT 3-4**

Comments regarding implementation of a Transportation Demand Program (TDP) are noted, and discussed in MM 4.11.2.



### RESPONSE TO COMMENT 3-5

Comment noted. The last sentence of MM 4.11.2 has been modified to read as follows:

...Such improvements ~~may~~ **shall** include public transportation dedications, bikeway/paths, transit improvements/amenities, and pedestrian **access** facilities.

### RESPONSE TO COMMENT 3-6

Comment noted. The language of Mitigation Measure 4.11.6 has been revised as follows:

MM 4.11.6 Prior to the issuance of certificates of occupancy, individual homes will require the installation of low NOx space and water heaters, ~~the provision of electric lawn mowers and blowers with the sale of residential units, and~~ include in residential units ~~an~~ **perimeter** electrical outlets **to allow the use of electrical mowers and blowers** and **provide** a natural gas line to the backyard of each residence to provide an alternative to charcoal barbecues.

### RESPONSE TO COMMENT 3-7

In response to SJVUAPCD's concerns regarding the use of wood stoves and similar devices, Mitigation Measure 4.11.7 has been replaced to read as follows:

MM 4.11.7 ***In conjunction with the processing of tentative maps, the applicant will provide a maximum of one EPA-certified pellet stove, wood stove or fireplace inserts per residence.***

### RESPONSE TO COMMENT 3-8

Regarding proposed mitigation for the location of bank ATMs and Postal Service Centers, the Villages Concept Design Guidelines detail the types of uses encouraged within a project of this type. The Design Guidelines explain the environmental and social benefits of grouping high-traffic, high intensity uses into village centers, which would also include ATMs, postal facilities, and other daily needs of project residents. Design review by the City Planning Department will ensure the application of the Design Guidelines, warranting no further mitigation measures.

### RESPONSE TO COMMENT 3-9

Comment noted. Mitigation Measure 4.11.1 is intended to meet the requirements of the SJVUAPCD's Regulation VIII.

**RESPONSE TO COMMENT 3-10**

Comment noted. The proposed project, as currently described, would not appear to require the use of equipment that would be subject to permitting by the district.

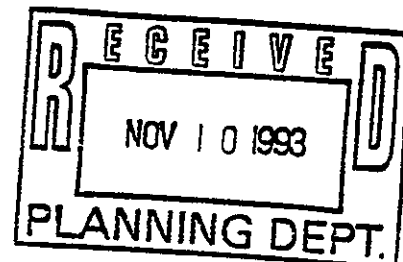


DEPARTMENT OF PUBLIC WORKS  
ROAD DIVISION

715 "J" STREET  
TELEPHONE (AREA CODE 209) 385-7601  
MERCED, CALIFORNIA 95340  
FAX # 722-7690

PAUL A. FILLEBROWN  
Director  
LINCOLN CLENDENIN  
Assistant Director  
STEPHEN J. HAMILTON  
Deputy Director

November 10, 1993



Mr. John Hofmann  
City of Merced  
678 West 18th Street  
Merced, CA 95340

SUBJECT: BELLEVUE RANCH DRAFT EIR

Dear Mr. Hofmann:

We have reviewed the Draft EIR for the proposed Bellevue Ranch Master Development Plan. It appears that a significant amount of effort has gone into the document.

The Draft EIR has identified numerous significant impacts resulting from the development of Bellevue Ranch. In addition, numerous mitigation measures have been identified in the document to reduce the impacts to a less-than-significant level.

The Merced County Department of Public Works is concerned about the subsequent mitigation measure monitoring program. The mitigation measure monitoring program needs to be written to provide the development with reasonable means to appropriately implement the mitigation measures. Without appropriate implementation of the mitigation measures, Merced County is concerned that adjacent County roadways may be significantly impacted as a result of the development of Bellevue Ranch.

It has been our experience that the formation of a zone of benefit for the establishment of a fee structure to allow a development to pay for its proportionate share of improvements can be used to implement mitigation measures while satisfying the fee requirements of Section 66000, et. seq., of the California Government Code. Merced County has successfully established zones of benefit for the communities of Winton and Delhi using the provisions included in Section 66484 of the California Government Code. We are currently pursuing the establishment of similar fee structures for the communities of Hilmar, Franklin-Beachwood, Planada, and Santa Nella.

We recommend that the mitigation measure monitoring program for implementation of the Traffic and Circulation mitigation measures require that the development participate in the formation of a zone of benefit to provide for the collection of fees to fund the improvements that have been identified in the EIR.

4-1

Mr. John Hofmann  
November 10, 1993  
Page 2

If you have any questions in regards to the contents of this letter, or if I can be of any further assistance, please feel free to call me at (209) 385-7601.

Sincerely,

PAUL A. FILLEBROWN  
DIRECTOR OF PUBLIC WORKS

By   
\_\_\_\_\_  
Steven E. Rough  
Supervising Engineer

SER:jlw

**LETTER 4** Merced County Department of Public Works, Paul A. Fillebrown, Director of Public Works, November 10, 1993

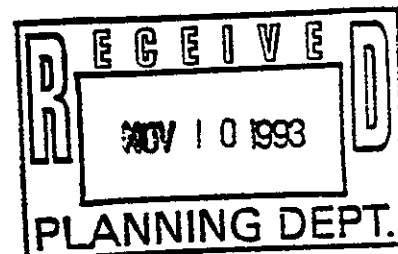
**RESPONSE TO COMMENT 4-1**

Comment recommends a "zone of benefit" for the establishment of traffic mitigation fee structures. Implementation of the mitigation measures identified in the Draft EIR will be ensured through project conditions of approval and/or specific development agreements between the City of Merced and the project applicant. The mitigation monitoring program, once complete, will identify the timing and responsibility for specific traffic mitigation based upon a fee structure as identified by the City. On-site improvements may be mitigated using a different fee structure than off-site improvements, as off-site facilities may require a zone of benefit of similar system.

**Spink**

November 10, 1993

Mr. Dave Daly  
 City of Merced  
 Planning and Community Development Dept.  
 678 West 18th Street  
 Merced, California 95340

**BELLEVUE RANCH DRAFT EIR COMMENTS**

Dear Dave:

We appreciate the opportunity to review the Bellevue Ranch Draft EIR and provide you with our comments. The following comments have been prepared by the project sponsor, D.R. Stephens Company and The Spink Corporation with assistance from Craig Estes of Murray Smith Associates. Additional comments regarding traffic mitigation will be delivered under separate cover by Kittleson & Associates, Inc. The focus of our comments have been to seek clearer understanding of the EIR preparer's intent, provide responses where we believe mitigation measures may be more practically implemented and to assist in the facilitating of mitigation measures into conditions of approval. We have first addressed the condensed mitigation measures found in Section Two and continued with additional comments found in subsequent sections. We hope our comments provide a positive contribution to the development of the Final EIR document.

**MM 4.1.3 (page 2.0-4)**

- ~ We request that "tentative map" be revised to "building permit".

] 5-1

**MM 4.1.1 (page 2.0-5)**

- ~ The specific alignments of major roadways are not controlled or set by General Plan Circulation elements. Natural constraints such as a creek (Fahrens) are accommodated by adjusting road alignment at the development of the Specific Plan or tentative map. This seems overstated as an EIR issue and should be eliminated as a "significant impact".

] 5-2

**MM 4.1.2 (page 2.0-6)**

- ~ The project has been set up in general conformance with the Merced Villages Concept Plan except where project proponents and staff have made adjustments to create a change responding to site constraints. This is a planning detail and not an EIR Impact.

] 5-3

**MM 4.2.1 (Page 2.0-7)**

- ~ We are unclear as to what constitutes an interim buffer. Since the project will be providing buffers created by roads, creeks and other open spaces along the project boundaries, we do not believe that an additional interim buffer is necessary.

] 5-4  
]

**MM 4.3.4 (page 2.0-9)**

- ~ Based on our experience we believe that the existing Eucalyptus trees should be removed due to safety and maintenance concerns associated with this type of tree.

] 5-5  
]

**MM 4.3.3 (page 2.0-10)**

- ~ The reference to Conditional Use Permits and at which phase they will be required is unclear.

] 5-6  
]

**MM 4.3.1 (page 2.0-10)**

- ~ We request that "detailed" be revised to "conceptual" or "general".

] 5-7  
]

**MM 4.9.3 (page 2.0-22)**

- ~ We request that "tentative map" be revised to "Conditional Permit".

] 5-8  
]

**MM 4.9.5 (page 2.0-22)**

- ~ This project has participated in and is being assessed for bonds within the North Merced Sewer Improvement District #21. The project has previously paid for this service and therefore we do not believe that this will constitute a significant impact.

] 5-9  
]

**MM 4.9.11 (page 2.0-24)**

- ~ We request that "provide" be changed to "reserve or designate".

] 5-10  
]

**MM 4.11.5 (page 2.0-25)**

- ~ Should be changed to MM 4.10.5.

] 5-11  
]

**MM 4.11.4 (page 2.0-34)**

- ~ We are concerned about how compliance with this mitigation measure will be achieved as a condition of approval of a tentative map. Why would project design affect the ability to tele-communicate?

] 5-12  
]

**MM 4.11.6 and 4.11.7 (page 2.0-34)**

- ~ Electric lawn mowers and blowers should not be required but should be encouraged with the sale of units. We believe that the mitigation measure should be written to be consistent with currently adopted measures required by the Regional Air Quality Board.

5-13

**MM 4.12.2 (page 2.0-35)**

- ~ This measure is contradicted by mitigation measure 4.12.1 calling for a noise study. We believe that this condition should be eliminated.

5-14

**MM 4.13.1 (page 2.0-38)**

- ~ How is compliance with the City's affordable housing goals demonstrated? This issue needs to be quantified with staff for adoption of the plan by the City Council.

5-15

**Additional Comments**

- ~ Page 2.0-4 Under Residential Land Use item 1) Single Family Detached Standard Homes; 596 acres should be revised to 598 acres.

5-16

- ~ Page 3.0-5 and 6 Under Open Space Parks and Transit Station, Park Areas; acreage should be 49.2 acres. At the top of page 6, the sum of all open space and recreation areas equates to 186.1 acres.

5-17

- ~ We understand that the population projections used in the Draft EIR were taken from regional projection sources. We believe that these projections are high, therefore associated impacts are overstated.

5-18

- ~ Figure 4.7-4 is incorrect with regard to the location of the meandering sidewalk. A corrected figure is attached for your use.

5-19

- ~ Figure 4.10-14 does not agree with the text on page 4.10-69 with regard to extension of "R" Street. The text refers to extending "R" Street to 1/2 mile north of Cardella while the Figure shows "R" Street extending only to Cardella.

5-20

- ~ Table 4.10-26 does not include the project's share of traffic on Old Lake Road.

5-21

- ~ Tables 4.10-27, 4.10-28 and 4.10-29 are all listed as the PM peak hour. One of the lists in each table should be the AM peak hour.

5-22

- ~ Figure 4.7-3 should be replaced with current figure which is attached.

5-23

- ~ Figure 4.7-4 should be replaced with current figures which are attached.



- ~ Page 4.7.2. The last sentence in the third paragraph requires clarification. The Corps of Engineers is currently revising the design for the Merced County Streams Group project. Fahrens Creek Channel improvements may ultimately extend upstream through a portion or all of the proposed Bellevue Ranch development project boundaries. 5-24
- ~ Page 4.7-5. The first sentence in the first full paragraph requires clarification. The initial design for the Bellevue Ranch development includes the construction of a "passive flood control bypass channel system." Passive means that as the streams within the development boundary begin rising, they will overtop their banks at pre-determined locations and begin flowing into the adjacent flood bypass channels. Ultimately, the existing channels may be altered and the Corps project includes realignment of both Fahrens and Cottonwood Creeks. No mention is made in the Corps design memorandum regarding Parkinson Creek. 5-25
- ~ Page 4.10-64. MM 4.11.5 should be changed to MM 4.10.5. 5-26
- ~ Page 4.14-14. MM 4.14.6 and 4.14.7 each provide two alternative mitigation measures for potential electromagnetic radiation. Due to the fact that there is no conclusive research to verify if there is any risk to human health associated with exposure to EMF's, the mitigation proposed is not warranted. If future studies show that the EMF sources within the Bellevue Ranch project warrant mitigation, the utility company responsible for the transmission lines should be required to acquire the appropriate easement. In addition, these two mitigation measures are not included in the Summary Table in Section 2; the table states that no mitigation is available. If these mitigations are proposed, they should be included in the summary table. 5-27
- ~ Based on traffic projections, we believe that "R" Street should be a 2 lane road from Bellevue Road to 1/2 mile north of Bellevue Road. According to the Draft EIR, there is not any additional off-site traffic accessing "R" Street 1/2 mile north of Bellevue Road, so there should not be any need for the street to increase from 2 to 4 lanes at this point. 5-28
- ~ The northern limit of the project extends to the centerline of Old Lake Road. Therefore, the project responsibility for Old Lake Road should be limited to a 2-lane road. 5-29
- ~ The cost estimates for roadway improvements given in the Draft EIR Technical Appendices appear to be in order of magnitude costs and are not appropriate to be used in a cost sharing or financing plan. More refined and detailed cost estimates should be developed for use in the financing plan. 5-30
- ~ Regarding off-site roadway improvements, it is appropriate that off-site mitigation be limited to providing additional capacity for the project's traffic impacts only. It is not appropriate to include curb, gutter, sidewalk, landscaping, streetlights, and other items that do not provide additional traffic capacity. Any cost sharing should be scoped to only finance oversizing of improvements and not frontage improvements. 5-31

Mr. Dave Daly  
November 10, 1993  
Page 5

We trust this information is of sufficient detail to assist in your review of the environmental document. We look forward to further discussing the issues with you at your convenience.

Sincerely,

*The Splink Corporation*



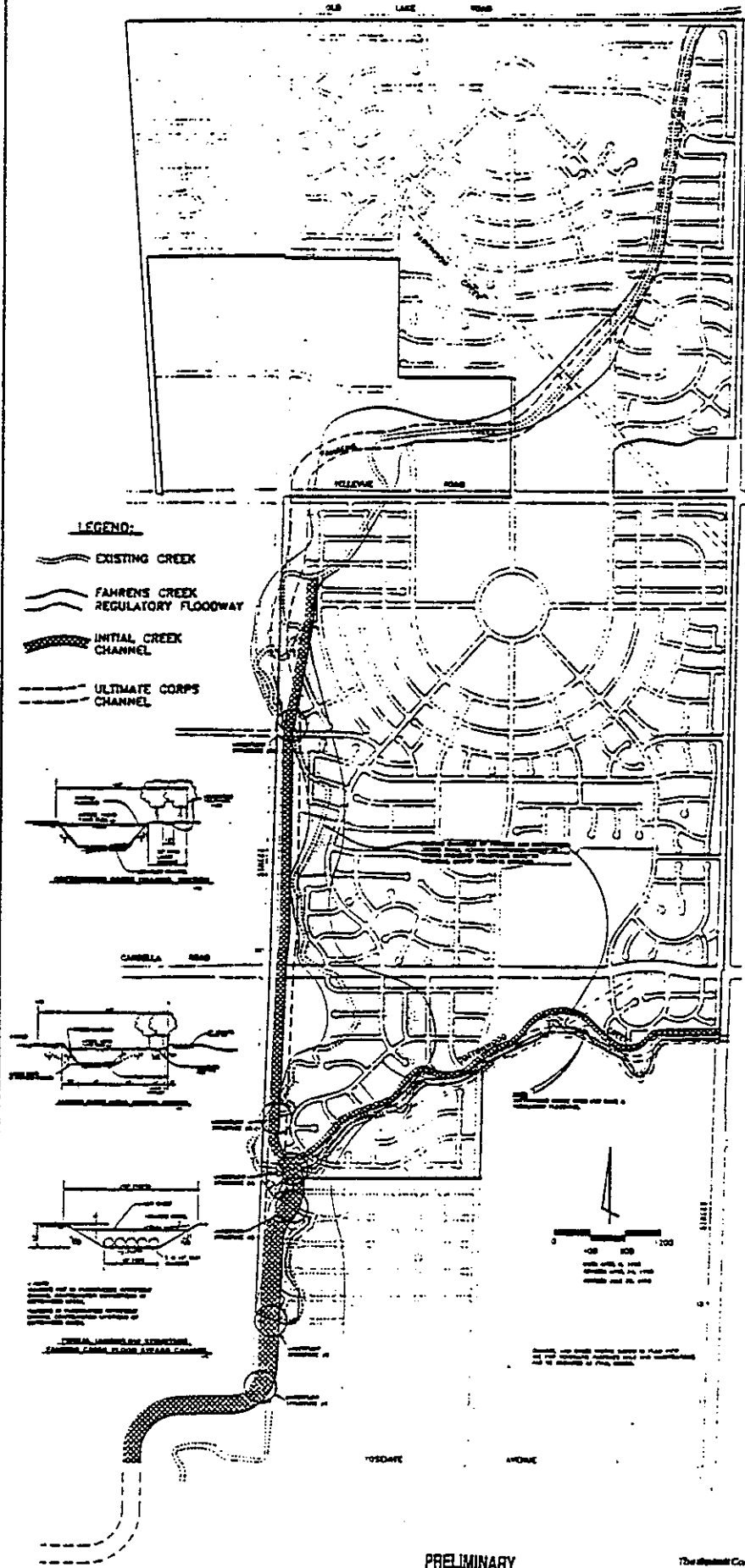
Stephen R. Au Clair  
Senior Principal

SRA/am:mmm

c: Glenn Matsuhara  
Phil Block  
Steve Stroud  
Jeff Pemstein  
Craig Estes

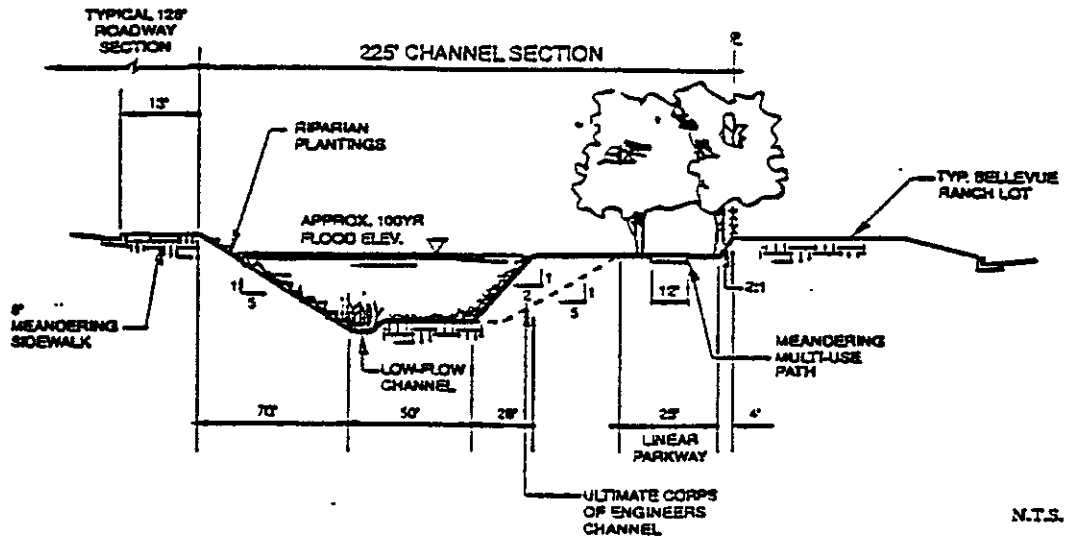
SEE\_SPLINK

# INITIAL CHANNEL IMPACTS ON EXISTING CREEKS BELLEVUE RANCH

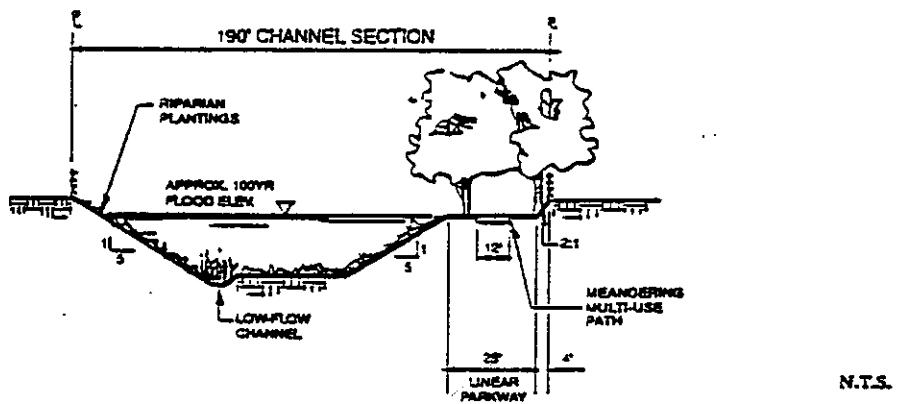


PRELIMINARY

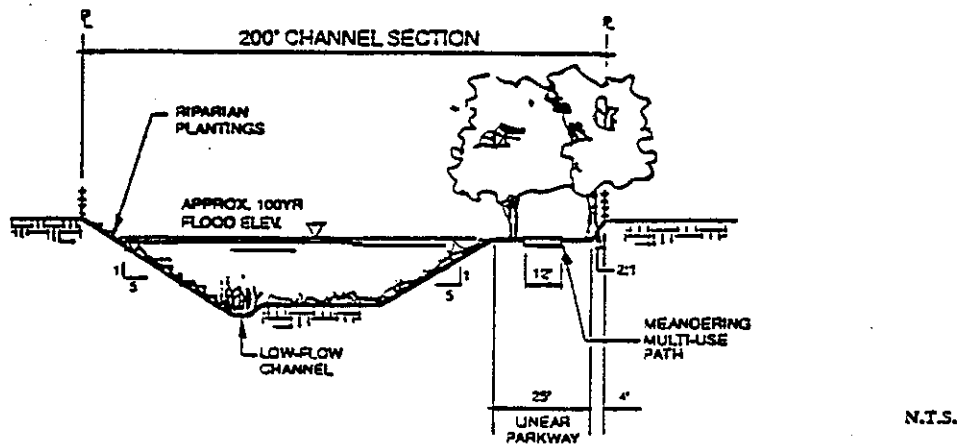
The Skanska Corporation  
This report is for the  
 project only and is not  
 to be used for any other  
 purpose without the  
 written consent of  
 Skanska Corporation.



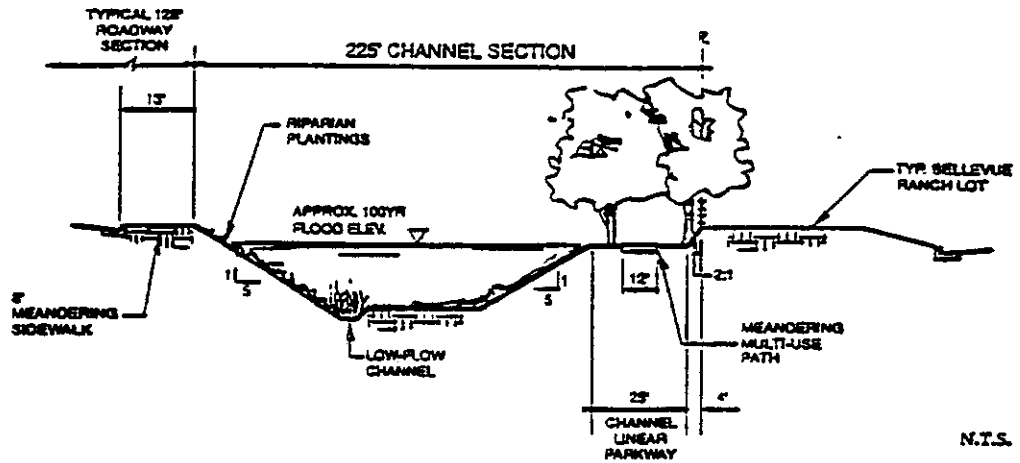
**FAHREN'S CREEK INTERIM CHANNEL SECTION**  
 From Bellevue Road to Yosemite Avenue



**FAHREN'S CREEK ULTIMATE CHANNEL - SECTION A**  
 From Old Lake Road to Parkinson's channel

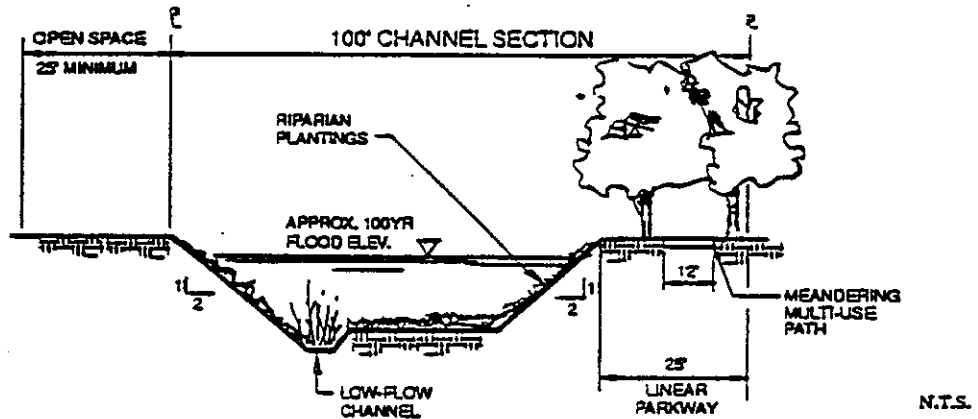


**FAHREN'S CREEK ULTIMATE CHANNEL - SECTION B**  
 From Parkinson's channel to Bellevue Road

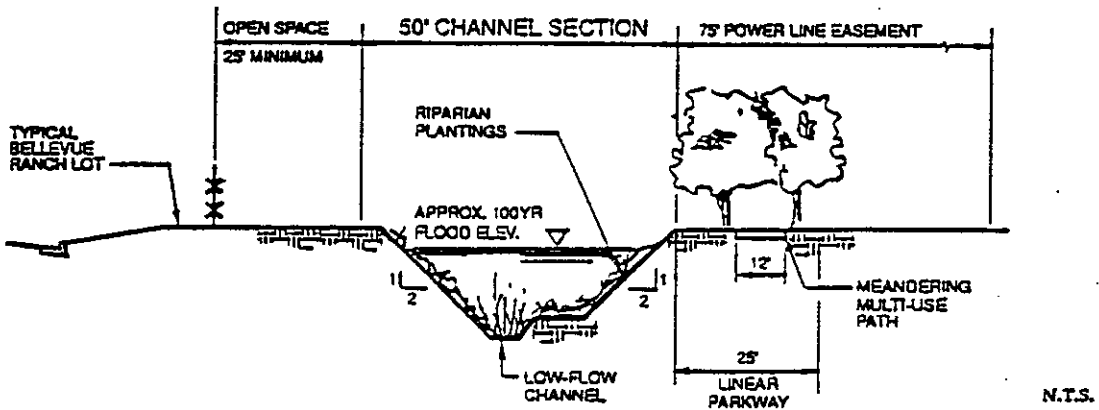


**FAHREN'S CREEK ULTIMATE CHANNEL - SECTION C**  
 From Bellevue Road to Yosemite Avenue

The sections below illustrate the proposed improvements for Cottonwood Creek and Parkinson's channel.



**COTTONWOOD CREEK - SECTION D**



**PARKINSON'S CHANNEL - SECTION E**

**RESPONSE TO COMMENT 5-1**

Comment requests that mitigation timing be changed from "tentative map" to "building permit." MM 4.1.3 has been drafted to ensure that landscape and building placement plans for Bellevue Ranch, including conceptual plant palettes, are in place at the appropriate stage of the development process. The requirement of such plans at the tentative map stage is consistent with the City's requirements as outlined in the City's Planned Development ordinance and Conditional Use Permit process.

**RESPONSE TO COMMENT 5-2**

As discussed on page 4.1-14 of the DEIR, the proposed alignment of R Street deviates from the City's Circulation Element and infringes adjacent property. According to the standards of significance on page 4.1-12, this constitutes a significant land use impact given that the proposal is inconsistent with the General Plan. Fahrens Creek will be channelized and is not considered a constraint to planning R Street along the project property line. MM 4.1.1 requires that the roadway follow a straightened alignment. If the project is approved by the City with R Street aligned as proposed, modification will be required to the City's Circulation Element.

**RESPONSE TO COMMENT 5-3**

As discussed in the Project Description of the DEIR, it is acknowledged that the project, as proposed, is generally consistent with the Merced Villages Concept Plan. MM 4.1.2 is an important monitoring measure to ensure that future projects, including Bellevue Ranch, develop in accordance with the principles and goals set forth by the City of Merced.

**RESPONSE TO COMMENT 5-4**

The purpose of providing interim agricultural buffers, as required in MM 4.2.1, is to ensure that existing agricultural uses adjacent to the project do not result in a land use conflict as Bellevue Ranch develops. On most boundaries, the project is already separated from agricultural uses by a roadway or open space corridor. Whether or not that "buffer" is sufficient to eliminate land use conflicts, however, will be determined prior to approval of tentative maps for those areas. Additional buffer area between project development and agricultural uses, if any, will be determined based upon adjacent crop type, pesticide application methods, prevailing winds and dust, or other factors as identified by the City.

**RESPONSE TO COMMENT 5-5**

It is the intent of the City of Merced to preserve the on-site stands of mature eucalyptus trees, where possible, and incorporate these features into the land plan. As explained on page 4.3-6 of the Draft EIR, the trees are identified within the City's Parks and Open Space Master Plan as significant visual and open space features and are referenced as such by General Plan policy

(DEIR page 4.3-4). In light of possible safety concerns, however, the following qualifier has been added to MM 4.3.4:

MM 4.3.4 ...project applicant shall demonstrate that the mature stands of existing eucalyptus trees found on site have been designed into the land uses of the Master Development Plan, *unless the trees are confirmed by the City's arborist to present a significant safety hazard to proposed development.*

#### **RESPONSE TO COMMENT 5-6**

Comment requests clarification as to when Conditional Use Permits, as they apply to MM 4.3.3, will be required.

The City of Merced's Planned Development (PD) establishment process, Section 20.42.060, outlines the required components of the PD application. Included in these requirements are the lighting, signage, fencing, and landscape plans as discussed in MM 4.3.3.

In addition, a conditional use permit shall be required for any and all uses in a PD zone, as described in Section 20.42.050.

The detailed plans outlined in the PD Ordinance (including lot design, parking, street improvements, and setbacks) can be addressed at the time of subsequent CUP approvals for Bellevue Ranch, allowing the Master Plan to move through the environmental process and initial City review. Linking the detailed plans to the CUP process (instead of within the initial Master Plan submittal) is intended to allow flexibility within the Planned Development application process.

#### **RESPONSE TO COMMENT 5-7**

Comment requests that the wording of MM 4.3.1 be amended to require "conceptual landscape plans" rather than "detailed landscape plans". Section 20.42.060 B.2 of the City's PD ordinance, Site Details, is the source for the language of this mitigation measure. It is recommended that the applicant coordinate with the City Planning Department to confirm the expected content and level of detail for landscape plans as required by the PD Ordinance.

#### **RESPONSE TO COMMENT 5-8**

Comment regarding timing of water conservation measures is noted. MM 4.9.3 has been modified to remain consistent with other measures, and reads as follows:

MM 4.9.3 Prior to the approval of ~~a tentative map~~ *conditional use permits*, the project applicant will submit to the City Planning Department for review and approval detailed landscape plans...

#### **RESPONSE TO COMMENT 5-9**

Comment is regarding previous project participation in bond assessments within Sewer Improvement District #21, in relation to MM 4.9.5.

Regardless of previous project contributions toward sewer financing, the project does increase wastewater generation beyond current service systems and treatment facility capacity. MM 4.9.5 calls for the placement of appropriate financing mechanisms to be in place for future improvements.

#### **RESPONSE TO COMMENT 5-10**

The current language of MM 4.9.11 is appropriate for fire protection mitigation. The suggested changes do not improve or clarify the mitigation measure.

#### **RESPONSE TO COMMENT 5-11**

Comment noted and reflected in the errata.

#### **RESPONSE TO COMMENT 5-12**

MM 4.11.4 is provided as a proactive air quality measure intended to ensure that individual tentative maps, particularly for the Village Centers, plan for uses such as satellite work centers where residents can conduct their business without physically leaving the project area. Compliance with this mitigation would therefore occur at the tentative map or project design level.

For residential areas, compliance would occur with the review of conceptual project architecture, to ensure that new residences are designed with interior space which could be utilized as home offices.

#### **RESPONSE TO COMMENT 5-13**

This comment concerns the requirement of electric lawn mowers and blowers with the sale of units. This mitigation has been modified. Please see Response to Comment 3-6 and 3-7.

#### **RESPONSE TO COMMENT 5-14**

MM 4.12.2 outlines appropriate mitigation to reduce significant noise impacts, based upon predicted traffic volumes at project buildout. These measures, such as development setbacks from roadways and sound rated windows, are accurate guidelines for development based on the noise study conducted for this EIR. The additional studies suggested in MM 4.12.1 are not mandated, but are recommended to confirm the current noise environment as phased development occurs.



Additionally, if future land use assumptions or other factors which may affect traffic volumes should change within North Merced, additional noise studies would also be warranted at that time.

**RESPONSE TO COMMENT 5-15**

As noted on page 4.13-11 of the Draft EIR, Table 4.13-6 quantifies the number of affordable housing units the project must contribute to the City's affordable housing goals. Compliance with this measure is met by providing housing product types which qualify, to the satisfaction of the City, as very low, low, and moderate income housing. MM 4.13.1 also states that the applicant can engage in rehabilitation or conservation of similar housing elsewhere in the City. These two methods of compliance may also be combined to reach the City's housing goals.

**RESPONSE TO COMMENT 5-16**

Comment regarding residential acreage is noted and reflected in the errata.

**RESPONSE TO COMMENT 5-17**

Comment regarding open space and park acreage is noted and reflected in the errata.

**RESPONSE TO COMMENT 5-18**

As noted on page 4.13-1 of the Draft EIR, two different population growth forecasts have been made. The first assumes the civilian reuse of Castle Air Force Base which is the scenario adopted by the Merced County Association of Governments (MCAG). The second forecast assumes both base reuse and the location of a new University of California campus in the Merced area. The MCAG scenario is generally accepted as the most accurate information available.

As noted on page 4.13-13 of the Draft EIR, the resulting socioeconomic impacts of the project would be primarily beneficial. Bellevue Ranch would result in the construction of between 4,181 and 6,894 new dwelling units and accommodate between 16% and 28% of the population increase anticipated to occur in the planning area between 1990 and 2010.

**RESPONSE TO COMMENT 5-19**

Please see Response to Comment 5-23.

**RESPONSE TO COMMENT 5-20**

With regard to the extension of "R" Street, this comment questions the consistency between Figure 4.10-14 and the text on page 4.10-69. In response to this comment and to further clarify this issue, the following changes shall be made on page 4.10-69 of the Draft EIR.

The R Street improvement #2 contains a typographical error. The sentence should read:

~~Extend R Street (2 lanes) from 1/2 mile north of Yosemite Avenue to 1/2 mile north of Cardella Road.~~

***Extend R Street (2 lanes) from present terminus at Yosemite Avenue to Cardella Road.***

The text of R Street improvement #5 incorrectly states that R Street should be widened to 4 lanes from 1/2 mile north of Yosemite Avenue to 1/2 mile north of Cardella Road, and that R Street should extend to 1/2 mile north of Bellevue Road. At 17% buildout of Phase III, R Street does not require extension north of Bellevue Road. The text should state:

~~Widen R Street to 4 lanes for 1/2 mile north of Yosemite Avenue to 1/2 mile north of Cardella Road. Extend R Street (2 lanes) from Bellevue Road to 1/2 mile south of Old Lake Road.~~

***Widen R Street to 4 lanes from present terminus at Yosemite Avenue to Cardella Road.***

From a capacity standpoint, R Street is not required to be 4 lanes north of Bellevue Road with only development of Bellevue Ranch. The text of R Street improvement #6 should read:

~~Widen R Street to 4 lanes from 1/2 mile north of Cardella Road to 1/2 mile north of Bellevue Road. Extend R Street (2 lanes) from 1/2 mile north of Bellevue Road to Old Lake Road.~~

***Widen R Street to 4 lanes from Cardella Road to Bellevue Road. Extend R Street (2 lanes) from Bellevue Road to Old Lake Road.***

Figure 4.10-14 is correct.

#### **RESPONSE TO COMMENT 5-21**

This comment concerns the project's share of traffic on Old Lake Road. Although this road may represent an important planning issue for the City of Merced, Old Lake Road was not included in the scope of work as a study roadway. Therefore, no traffic information was provided in the Draft EIR.

#### **RESPONSE TO COMMENT 5-22**

Tables 4.10-27, 4.10-28, and 4.10-29 of the Draft EIR each summarize the project's share of traffic at the study intersections. Each table consists of an upper half and a lower half. In the DEIR, the lower half of each table is mislabeled "PM Peak Hour", instead of "AM Peak Hour". This change is noted for the record.

### RESPONSE TO COMMENT 5-23

This comment involves modifications to figure 4.7-3 and 4.7-4. For consistency purposes, channel designs evaluated within the Draft EIR respond to the figures contained within the Bellevue Ranch Master Development Plan originally submitted to the City. Modifications to that plan which respond to issues identified within the EIR will be considered at subsequent hearings on the project.

### RESPONSE TO COMMENT 5-24

This comment involves clarification of the Corps of Engineers (COE) improvements to Fahrens Creek. In response to this comment and to clarify the COE improvements at the time of preparation of this FEIR, the following text changes shall be made of page 4.7-2, third paragraph, last sentence, of the Draft EIR.

~~The Army Corps project does not involve any channel improvements or reconfiguration for the remainder of Fahrens Creek located within the proposed Bellevue project boundaries.~~  
*The COE is currently updating the design for the Merced County Streams Group project. Fahrens Creek channel improvements may ultimately extend upstream through all proposed Bellevue Ranch project boundaries. Current designs, however, terminate at Bellevue Road.*

### RESPONSE TO COMMENT 5-25

Comments regarding the project's passive flood control channel system are noted. Regarding Parkinson Creek, it is true that the COE's Design Memorandum No. 11 does not include plans for this man-made irrigation channel, as it is currently no more than a shallow depression within the project boundaries. References to Parkinson's Creek within the Draft EIR refer to project-level storm drainage improvements only. "Parkinson Creek" (as shown on the Development Plan) is proposed to be aligned under power-line/open space easements as an open channel. Incidentally, open storm drainage channels are inconsistent with current City design standards, and it is recommended that alternative storm drainage facilities be considered.

In response to the comment, the first full paragraph on page 4.7-5 of the Draft EIR has been amended as follows:

#### **Flooding**

*Initial phases of the Bellevue Ranch development will include the construction of a "passive flood control bypass system". Passive means that as streams within the development boundary begin to rise, they will overtop their banks at pre-determined locations and flow into adjacent flood bypass channels. The proposed Bellevue Ranch project at latter phases, however, will involve installation of a complete master storm drainage system consisting of underground pipes and open channels, as well as alternation of Fahrens Creek, and Cottonwood Creek, and Parkinson's Creek to provide for storm*

drainage capacity. In general, storm water runoff will be diverted by curb and gutter, collected by drop inlets, and discharged into either Fahrens Creek, Cottonwood Creek, or the *newly-created* ~~realigned~~ "Parkinson Creek" drainage channel. The preliminary drainage plan details major pipe sizes ranging from 24 to 60 inches.

#### **RESPONSE TO COMMENT 5-26**

In response to this comment and to correct a typographical error, MM 4.11.5 on page 4.10-64 of this Draft EIR shall be changed to Mitigation Measure 4.10.5.

#### **RESPONSE TO COMMENT 5-27**

Please see Response to Comment 1-1, 1-4, 1-5, 1-6, 1-7 and, 1-8.

#### **RESPONSE TO COMMENT 5-28**

Please see Response to Comment 5-20.

#### **RESPONSE TO COMMENT 5-29**

This comment concerns the responsibility of Bellevue Ranch to make improvements to Old Lake Road. Based on capacity requirements, Old Lake Road does not require widening to 4 lanes with only development of Bellevue Ranch. A 2 lane arterial will accommodate traffic generated by anticipated development through 2010 on this road, which essentially serves only Bellevue Ranch traffic. In response to this comment, the following text modifications shall be made to Mitigation Measure 4.10.31 on page 4.10-67 of this Draft EIR:

~~MM 4.10.31 Extend Old Lake Road from G Street to SR 59 (possibly) incorporating existing Nevada Street. Construct Old Lake Road as a 4 lane divided arterial (ultimate curb to curb width of 84 feet) between G and R Streets, and as a 2 lane undivided road between R Street and SR 59.~~

*MM 4.10.31 Extend Old Lake Road from G Street to SR 59 as a 2-lane undivided road, (possibly) incorporating existing Nevada Street.*

#### **RESPONSE TO COMMENT 5-30**

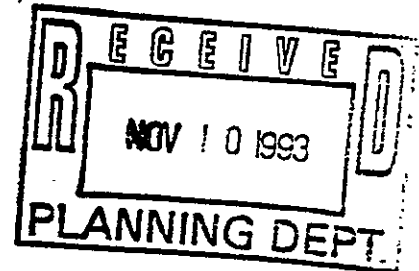
This comment involves the use of cost estimates for roadway improvements in the Draft EIR Technical Appendices. The estimates used in the Draft EIR are stated as "order of magnitude" and are provided for informational and comparative purposes. They were not intended to be considered appropriate to be used in a cost sharing or financing plan without more detail and refinement.


**Merced  
County  
Association of  
Governments**

1770 M Street ■ Merced, CA 95340 ■ Phone (209)723-3153 ■ FAX (209)723-0322

November 8, 1993

Dave Daly, Assistant Planner  
 Merced City Planning Department  
 678 West 18th Street  
 Merced, CA 95340



RE: Bellevue Ranch Master Development Plan Draft EIR

Dear Dave:

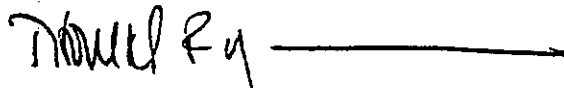
As you know, MCAAG's charter as the Congestion Management Agency (CMA) for Merced County is to determine the potential impacts of new projects on the Congestion Management Program (CMP) regional road network. After reviewing and modeling this master development plan we have determined that there will be a reduction in locally accepted levels of service (LOS) over the next seven years (refer to the attached Memorandum).

We have projected the annual average daily trips (AADTs) generated for Bellevue Ranch and other planned land uses in the immediate area through the year 2000. It appears that the greatest number of vehicle trips (and LOS deterioration) will occur on SR 99 between V & R Streets and on SR 59 north of 16th Street. Santa Fe Drive which is a CMP primary arterial will also be adversely effected by this project. Therefore we endorse the improvements recommended to you by the consultants as mitigation measures. I expect that these measures will eventually be incorporated into a deficiency plan for the segments that we have identified.

6-1

We appreciate the opportunity to comment and would like to be informed of all future development related activities that may have regional planning implications.

Sincerely,



Thomas F. Humphrey, AICP  
 Regional Planner MCAAG

Enclosure

## **RESPONSE TO COMMENT 5-31**

This comment concerns the financing a various off-site transportation improvements. As noted in Response to Comment 5-28, the cost estimates for off-site improvements were included for informational purposes. Cost estimates for roadway construction include the entire cost of building the road such as sidewalks, curbs, and gutters, drainage, and lighting. The actual itemization of cost the project is required to pay is to be negotiated between the City and the applicant.

## COUNTY-WIDE CMP YEAR 2000 DEFICIENCY LIST

Segment	Location	Total Volume	LOS	Responsibility
I-5	Btwn Whitworth & SR 33	40,600-40,800	D	Merced County
I-5	Intersect with SR 152	38,200-42,400	D	Merced County
I-5	Intersect with SR 165	43,600	D	Merced County
SR 33 N	N Co Line to Canal Sch	10,700-11,300	D	Merced County
SR 33 N	Canal School to SR 140	19,300	E	County/Gustine
SR 33 N	Fahey Road to Centinella	9,500-15,300	D-E	Merced County
SR 33 S	Dairy Lane to Carmellia	11,000-11,800	D	Merced County
SR 59 N	Oakdale Rd to Cardella	11,800-13,600	D	Merced County
SR 59 N	Cardella Rd to Santa Fe	16,100-22,600	E	Merced County
SR 59 N	Santa Fe Drive to SR 99	21,900-36,100	E-F	County/Merced
SR 59 S	SR 99 to Childs Avenue	22,900-32,100	F	Merced City
SR 59 S	Childs Avenue to Gerard	18,800-25,300	E-F	Merced City
SR 59 S	Gerard to South Co Line	10,300-16,400	D-E	County/Merced
SR 99 *	Stanislaus to Madera Co	49,600-65,800	D-F	County/Cities *
SR140 W	Quinley Ave to Thornton	10,200-23,600	D-E	Merced County
SR140 W	Thornton Road to SR 99	22,900-33,100	E-F	County/Merced
SR140 E	SR 99 to Santa Fe Avenue	16,000-19,600	E	Merced City
SR140 E	Santa Fe to Plainsburg	16,400-20,300	E	County/Merced
SR152	Ortgalita to West I St	32,100-32,400	E-F	Los Banos
SR165	N Co Line to Geer Road	15,500-23,000	E	Merced County
SR165	Geer Road to Bloss Ave	13,800	D	Merced County
SANTAFE	Gurr Road to Franklin	32,900-33,000	F	Merced County
SANTAFE	Franklin Rd to Beachwood	29,900	D	Merced County
SANTAFE	Beachwood Drive to SR 59	33,200-36,280	F	Merced County
WTN WAY	Atwater Blvd to SR 99	32,200-32,700	F	County/Merced Atwater

\* The cities of Merced, Atwater and Livingston will be responsible for deficiency reports on segments of SR 99 within their corporate boundaries. It is understood that State Improvements scheduled or underway may alleviate some deficiencies, however the preparation of deficiency plans is still required in order to associate specific improvements with deficient segments.

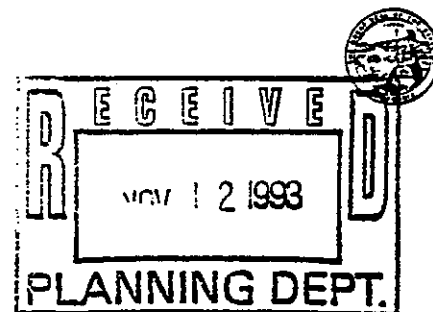
**LETTER 6** Merced County Association of Governments, Thomas F. Humphrey, Regional Planner, November 8, 1993

**RESPONSE TO COMMENT 6-1**

Comments regarding MCAG's concurrence with the traffic findings of the Draft EIR are noted.



DEPARTMENT OF FISH AND GAME  
 REGION 4  
 1234 East Shaw Avenue  
 Fresno, CA 93710  
 (209) 445-6152



November 10, 1993

Mr. John Hoffman  
 City of Merced  
 678 W. 18th Street  
 Merced, California 95340

Dear Mr. Hoffman:

Draft EIR Bellevue Ranch  
 Master Development Plan  
 SCH # 92102055

We have reviewed the Draft Environmental Impact Report (EIR) for the above referenced proposed project, a "villages concept" development plan intended to provide 5,971 - 6,894 dwelling units, commercial development, office development, parks, schools, transit facilities, open space, and a fire station on a 1,365.5 acre site in Merced County just north of Merced Community College. Plant and wildlife resources including two streams, wetland and riparian habitat, vernal pools that possibly provide habitat for several sensitive species, and non-native grasslands that support a variety of wildlife species exist on the site. We believe that project impacts to these resources are significant, that all impacts to wetland and riparian habitat have not been disclosed, and that mitigation measures proposed in the Draft EIR do not reduce all impacts to less-than-significant levels. Our specific comments follow.

During the last century nearly 95% of the State's wetland and riparian habitat has been lost resulting in a corresponding decrease in associated fish and wildlife resources. Both the Legislature and the Department recognize and give priority to maintenance of wetland and riparian habitat in California. The Department considers any project that results in the net loss of wetland and/or riparian habitat quantity or quality to have significant adverse environmental impact.

This project has the potential to adversely impact riparian habitat along Fahrens and Cottonwood Creeks, vernal pools and other seasonal wetlands. We believe that mitigation measures 4.8.1 and 4.8.2, summarized on page 2.0-20 of the Draft do not assure against loss of riparian and wetland habitat if this project is approved.

Mr. John Hoffman  
November 10, 1993  
Page Two

The Draft fails to adequately identify all project impacts to riparian and wetland associated wildlife by deferring wetland delineations and rare plant and animal surveys until after approval of the document. We believe any Lead Agency decision regarding significance of impacts would necessarily need to rely on the results of these investigations. Surveys should be completed and circulated for review prior to any approvals of the project or ground-disturbing activities.

7-2

Loss of any riparian or wetland habitat should be clearly identified as a significant project impact and mitigation measures should be provided to mitigate losses. Mitigation should include: (1) riparian restoration, (2) set-backs including grassland buffers along Fahrens and Cottonwood Creeks, (3) on-site and (4) off-site compensation wetland areas as suggested in the Bellevue Ranch Biological Assessment pages 13 and 14.

7-3

If State-listed plant species such as Orcuttia are found during spring surveys, specific protection and mitigation features will need to be developed. These features must be approved by the Department prior to any ground disturbance at the site. We encourage the project applicant and/or Lead Agency to contact the Department early in this development process.

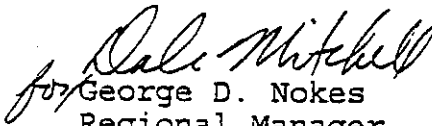
7-4

Absent additional locational survey results and more specific mitigation proposals we believe all significant impacts to plant and wildlife resources have not been adequately disclosed or mitigated. Approval of an EIR for a project causing significant environmental impacts requires a "Finding of Overriding Consideration" by the Lead Agency.

7-5

If you have any questions regarding comments on this project please contact Ms. Donna Daniels, Environmental Specialist III, at the address or telephone number provided on this letterhead.

Sincerely,

  
for George D. Nokes  
Regional Manager

**LETTER 7** California Department of Fish and Game, George D. Nokes, Region 4 Manager,  
November 10, 1993

**RESPONSE TO COMMENT 7-1**

This comment concerns the loss of wetland and riparian habitat. As part of compliance with the Clean Water Act, the project proponent will be required to prepare a wetland mitigation plan to compensate for any impacts to jurisdictional wetlands or Waters of the U.S. In addition to review by the U.S. Army Corps of Engineers, such mitigation plans are typically reviewed by the U.S. Fish and Wildlife Service, the Environmental Protection Agency, the California Department of Fish and Game, and other regulatory agencies. These mitigation plans must meet the goal of no-net loss in wetland acreage and values, and often require replacement of wetland acreage at greater than 1:1 ratios. As such, the project will not result in a net-loss of wetlands.

The Draft EIR characterizes the riparian habitat along Cottonwood Creek as "discontinuous . . . (and lacking a) riparian understory (page 4.8-2)." The woody riparian vegetation along Fahrens Creek consists of widely scattered willows. There is no continuous corridor of riparian vegetation anywhere on the Bellevue Ranch site.

In addition, the Draft EIR indicates that all of Cottonwood Creek along the southern boundary of the project site and part of Fahrens Creek on the southwestern boundary of the site are slated to be channelized as part of the Merced Area Streams Group Project, constructed by the U.S. Army Corps of Engineers (Design Memorandum No. 11: Merced County Streams Levee and Channel Improvements, 1983). This plan specifies riparian restoration standards to be implemented following channel modifications, including riparian revegetation.

**RESPONSE TO COMMENT 7-2**

This comment concerns wetland delineations and rare plant and animal surveys. Please see Response to Comment 7-4 and 7-5 below.

**RESPONSE TO COMMENT 7-3**

Impacts to wetland habitats, including isolated wetlands and the creeks, are considered to be a significant impacts as indicated on pages 4.8-9 and 4.8-10 of the Draft EIR. Corresponding mitigation measures for biotic resource impacts are addressed on pages 4.8-10 through 4.8-12.

MM 4.8.2 has been modified as follows to address the concerns of CDFG, and to strengthen the link between project flood control improvements, the Federal 404 permitting process, and the conditions of approval (design details) required by the City:

- MM 4.8.2 Prior to issuance of grading permits in *affected* wetland areas, the project applicant shall secure a permit to fill wetlands consistent with Section 404 of the Clean Water Act, *and the corresponding 1603 Streambed Alteration permit required by the State of California*. Such a permitting shall

include a wetlands mitigation plan consistent with the policy of "no net loss in wetlands acreage or value." The applicant shall consult with the City, *the California Department of Fish and Game*, and the COE during the preparation of this plan to develop a consolidated mitigation program, within the guidelines of the COE.

Due to the proposed U.S. Army Corps of Engineers levee and channel improvement plan, the project applicant has two options regarding modifications to Fahrens and Cottonwood Creeks. The applicant shall:

1) Postpone modifications to creek channels until U.S. Army Corps of Engineers begins the Merced-area project (estimated to be late 1996; Lauren Renning, personal communication). Mitigation for wetland impacts associated with this project would then be the responsibility of the U.S. Army Corps of Engineers.

or,

2) Make modifications to creek channels ~~consistent with the Merced County streams project~~, subject to approval by *the City of Merced* and the U.S. Army Corps of Engineers. Mitigation for wetland impacts associated with creek modifications shall be the responsibility of the project applicant. The mitigation plan for impacts to Fahrens and Cottonwood Creeks shall include a detailed native vegetation *and restoration* planting plan consistent with the Merced Streams Project (Merced Streams Project-Design Memorandum No. 11, 1983). *Vegetation and riparian restoration plans will be subject to review by the City of Merced, in consultation with the California Department of Fish and Game. All plans must be deemed adequate by City standards as a condition of approval for flood control improvements.*

The mitigation plan for impacts to isolated wetlands shall include on-site preservation/compensation areas, off-site compensation areas, or a combination of the two with the intent of providing for a consolidated mitigation area. Compensation wetlands must be located in Merced County and meet the following success criteria:

- 1) Compensation wetlands will remain inundated or saturated for sufficient duration to support hydrophytic vegetation.
- 2) Compensation wetlands will exhibit plant and invertebrate species richness comparable to existing wetlands on site.
- 3) Compensation wetlands will be monitored each year for five years, and a report of monitoring results will be submitted to the U.S. Army Corps of Engineers for review.

#### **RESPONSE TO COMMENT 7-4**

This comment concerns the occurrence of state-listed plant species during spring-time plant surveys. In May 1993, the project biologist (Sugnet & Associates) did revisit the site to conduct surveys for orcutt grasses. No populations of orcutt grasses were found. Draft EIR text within Section 4.8 will be clarified within the errata to document this survey as well as the February 1993 survey for Fairy and Tadpole shrimp.

#### **RESPONSE TO COMMENT 7-5**

As noted in the Biotic Resource section of the Draft EIR, initial field surveys for Bellevue Ranch were conducted in September and October 1992. No special-status species were seen during these surveys, and only wetland habitats on site were judged to have the potential to harbor special-status plant and animals. As noted in Response to Comment 7-4 above, no special-status wetland plants were located on site during the subsequent surveys in May, 1993.

All significant biological impacts resulting from this project have been disclosed pursuant to the standards set forth by the California Environmental Quality Act and commensurate practices for biological surveys conducted in conjunction with an EIR. The proposed mitigation strategy, as currently drafted, is as specific as possible given the unknown timing of Corps of Engineer channel improvements. Proposed mitigation for isolated wetlands is also adequate, as it allows for flexibility between on-site or off-site mitigation. Such flexibility is important at these early stages of project planning.

The City of Merced, as the lead agency, will also be responsible for extensive mitigation monitoring. The mitigation measures proposed within the DEIR will be restated by the City as conditions of approval within the City's Planned Development (PD) process.



# MERCED UNION HIGH SCHOOL DISTRICT

P.O. BOX 2147  
 MERCED, CALIFORNIA 95344

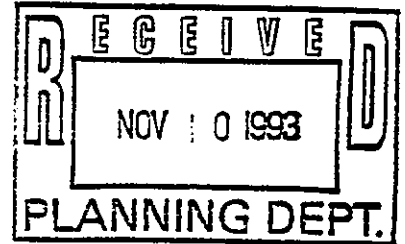
PHONE: (209) 385-6400  
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 EDWARD F. SOWERS  
 Human Resources/  
 Administrative Services

November 10, 1993

Mr. Philip Block, Planning Director  
 Merced City Planning Department  
 678 West 18th Street  
 Merced, CA 95340



REF: Bellevue Ranch EIR

Dear Phil,

In regard to the draft Environmental Impact Report for the Bellevue Ranch project, state clearing house #92102055, the Merced Union High School District (MUHSD) has the following comments.

The MUHSD is a provider of a public service to new development. It serves a role similar to that of the city's role of providing public services such as roads for traffic circulation and parks for recreational activity. The district is the authority on the degree of impact of new development on its ability to provide school services.

The MUHSD operates Merced, Atwater, and Livingston High Schools. District-wide existing student permanent classroom capacity is 5,944 according to state standards and actual enrollment is 8,200. The District is seriously impacted. New development permitted by the project WILL have significant adverse impact on the public service of schools. To accommodate growth schools must be enlarged or new ones built. Residents of the housing built as a result of this project will attend Merced High School or Golden Valley High School. Capacity versus enrollment for high schools in the Merced area are as follows:

<u>Permanent Classroom Capacity 1993</u>	<u>Enrollment 1993</u>	<u>Need in 1993</u>	<u>Enrollment in 1998</u>	<u>Permanent Classroom Capacity 1998</u>	<u>Need in 1998</u>
3,209	4,117	908	6,099	5,209	890

8-1

Further documentation of the existing and future need for school facilities, the cost of those facilities, and the impact of new development on those facilities is contained in the report "Analysis of Need for School Facilities in the Merced Union High School District" which was

*"The Foundation of Every State is the Education of its Youth"*

the city council on September 21, 1992, "Development Fee Justification Study, November 1992" sent to the city manager in November of 1992 and the adopted "Five Year Facility Plan, April 1993, for MUHSD" sent to the planning commission for review for consistency with the city general plan in early 1993, all these are incorporated herein by reference

The Environmental Impact report contains inaccurate information regarding the fees charged by the school district and the impact of the development on school facilities. Page 4.9-16 of the EIR, third paragraph indicates that the high school district collects a fee of \$1.55/sq.ft. of development from a total fee of \$3.65/sq.ft. on new development. As of November 3, the Merced Union High School District and Merced City Elementary School District charge a maximum of developer school fee of \$1.65/per sq.ft. which the two districts share with \$0.55 going to the Merced Union High School District. This paragraph in the EIR should be corrected to reflect the current status of fees in the district.

Page 4.9-17 Cites Fee Justification Studies prepared by Michael Paoli and Associates in 1990 for the Merced Union High School District, it should be noted that updates of this Fee Justification Studies have been prepared and are available. The MUHSD Fee Justification Study is dated November 1992.

Page 4.9-18, table 4.9-4 "Student Generated Rates" is confused and inaccurate. The second column of the table is labeled Single Family Attached Housing which is a residential category not specified in the EIR. The EIR specifies three residential categories: single family detached, patio home detach, and multi family. Based on the number of dwellings listed for single family attached in table 4.9-5 it appears that single family attached is a reference to patio homes detached listed elsewhere in the EIR. It is inaccurate and inappropriate to use student generation rates for apartments for single family detached patio homes, which are much more similar to single family detached homes than they are to apartments. The student generation rate of .079 listed under single family attached houses student generation is actually the student generation rate for multi family apartments reported in the Paoli Study. The third column of table 4.9-4, multi family housing list the student generation rate that is inaccurate for the high school district, the student generation rate for multi family housing is .079. Consequently the generation of students illustrated in table 4.9-6 on page 4.9-19 for high school students is completely inaccurate.

Single family attached should show a generation rate identical to single family detached (SFR) of .219 and multi family (MFR) should illustrate a generation rate of .079. The number of students generated by this project illustrated in table 4.9-6 for single family detached is correct, for single family attached, the title should be changed to single family detached patio homes and use a generation factor of .219 and show up to 464 students being generated by single family patio homes. The number of students generated by multi family dwellings should be based on a generation factor of .079 yielding 142 students. The total number of students then generated for high school facilities by this project is 1,258. The EIR should be corrected to reflect these numbers.



Further more the EIR does not detail the cost of providing school facilities for the number of students generated. Below is an illustration of the likely costs of providing school facilities for the Bellevue Ranch project for high school facilities only.

ILLUSTRATION OF PROBABLE IMPACT BY  
BELLEVUE RANCH DEVELOPMENT PROJECT

	<u>SFR</u>	<u>MFR</u>
Number of homes	5,097	1,797
Students from each home	.219	.079
Total number of students	1,116	142
Classroom and other school space needed by the project at 90 sq.ft./high school student		113,220 sq.ft.
Total cost to provide permanent facilities for high school students generated by the project at \$160/sq.ft. (estimate based on new school construction including land)		\$18,115,200
High school district share of developer fees to be collected at \$1.65/sq.ft. split 1/3 (\$0.55/sq.ft.) to MUHSD and 2/3 to elementary school district (1400 sq.ft./dwelling for SFR, and 750 sq.ft./dwelling for MFR)	\$3,924,690	\$741,262
<b>Difference needed to pay for the impact of the project on the MUHSD</b>		<b>\$13,449,248</b>
Costs per house of difference needed to pay for the impact on MUHSD	\$2,383	\$725

8-5

The mitigation measures recommended in the Environmental Impact report are inadequate. Mitigation measure 4.9.15 on page 4.9-19 states that the developer can mitigate the impact by paying the maximum impact fee to respective school districts as permitted by state law. This mitigation measure ignores the other options for mitigating the impact of new development on schools besides the state authorized developer fee. State law allows the use Mello Roos community facilities districts to establish taxes on new housing to pay the

8-6

cost of providing public facilities including schools. Under Government Code Section 65995 and 65996 the city of Merced has the power to condition development to require the mitigation of school impacts cost by that development through the use of a land owner vote community facilities district under the Mello Roos Community Facilities District Act of 1982. (Government Code Section 53311 and following). The new development such as Bellevue Ranch can not be asked to fix any of the existing over crowding within the system but solely to provide a mechanism whereby the influx of new students from the new development itself can be mitigated. As the EIR points out Bellevue Ranch will generate 1258 new high school students. Although the law prohibits cities and counties from denying projects on the basis of inadequate school facilities the law does not prohibit legislative bodies from conditioning development to provide for the mitigation of the effects of the project on school facilities. The city would in fact be approving the development but conditioned on mitigation of its impact on school facilities. (See attached legal opinion).

Bellevue Ranch property owner representatives met with representatives of the Merced City Elementary School District and MUHSD in March 1992. The parties agreed in writing to use their best efforts to form a Mello-Roos Community Facilities financing district to fund the developers cost of mitigating a minimum of 50% of the true cost of providing school facilities needed by the project. The developer has shown a willingness to mitigate the impact of the project on schools through the use of a Mello-Roos District. The Bellevue Ranch property owners representative also agreed in writing with the school districts representative that Bellevue Ranch would support the school districts in urging the City Council to establish by ordinance or policy the requirement that all developers of major subdivisions in the city mitigate the impact of their development on school facilities by at least 50% of the true cost of providing those facilities. The school districts made this request to the City Council in October 1992 and it was denied.

The law expressly exempts Mello Roos districts from the dollar limitations of \$1.65/sq.ft. provided by section 65995. That section of the law emphatically states that nothing in this section shall be interpreted to limit or prohibit the use of (Mello Roos districts) to finance the construction or reconstruction of school facilities. This provision has been validated by the California Supreme Court in their decision of the Grupe Development case in which the court held that a city-wide voted special tax on new development for school facilities was invalid because it exceeded \$1.65/sq.ft. The special tax was included within the scope of the limitation on fees, charges, dedication charges, or other requirements limited by section 65995. It was not a Mello Roos special tax which the court emphasized is expressly excluded from the limitation of section 65595. The court specifically states that if the tax had been a Mello Roos special tax then it would have not been limited to the \$1.65/sq.ft.

The city has the authority to condition the approval of the Environmental Impact report with the mitigation measure requiring the formation of a Mello Roos district to fully mitigate the impact of the development on school facilities. The city could also attach this condition to the annexation agreement it will enter into with the developer. Although the city has the authority to condition development to mitigate the impact on schools, it should also be aware that the case of the Murietta Valley School District versus the County of Riverside (1991) held that a school district could sue for violation of the California Environmental Quality Act in adopting a community plan which did not mitigate the impacts on school facilities. In the Mira Development Corporation versus San Diego (1988) the court held that a rezone was legislative action and section 65996 limiting the fee to \$1.65/sq.ft. applied only to administrative actions. This was followed by the case of a requested general plan amendment in Hart Union High School District versus County of Los Angeles (1991) which reaffirmed the distinction between conditioning administrative actions versus legislative actions.

8-9

Besides the establishment of Mello Roos Community Facilities District other methods for mitigating the impact on school facilities include 1) the increase use of apartments which generate fewer students per apartment than single family housing, 2) the use of senior citizen restricted housing which does not generate as many students as single family housing, 3) project phasing contingent on the availability of school facilities and/or funding, and 4) voluntary supplemental fee payments by the developer to the school districts involved in order to mitigate the impact. General reference to potential state funding or discussion which does not address reliable mitigation of the short fall is nonresponsive. The EIR must propose mitigation measures in the contexts of adequacy, feasibility, and relationship to other measures. Mitigation measures which require the participation of other developers or large numbers of the public such as a district wide general obligation bond measure or a Mello Roos covering a part of the school district beyond the project boundaries and/or requiring a election involving voters living outside the project boundaries are nonresponsive. This project must provide mitigation of its impacts on school facilities reliably independent of the actions of others.

8-10

The mitigation measure MM4.9.16 requires reservation of a 40 acre site for a future high school when a 42.6 acre site net of right of ways is actually needed according to state standards.

8-11

No reliable source of school funding is available. This is substantial evidence of possible significant adverse impact on school facilities caused by this project.

8-12

California Government Code Sections 65300-65302 require that every California city and county have a general plan which includes certain prescribed elements. Government Code Section 65300.5 specifically requires that the general plan and elements and parts thereof "comprise an integrated, internally consistent and compatible statement of policies."

8-13

The General Plan for the City of Merced appears to violate the above described statutory requirements in the following respects:

A. The Urban Expansion Policies element of the City's General Plan provides in pertinent part that:

3. The City should strive to achieve a highly efficient form of urban expansion. The City should control the timing, density, and location of new land uses through the following policies:

...  
b. The City should require that all new development be contiguous to existing urban areas and have reasonable access to public services and facilities.

c. The City should adequately plan for public improvements/services to support the designated land uses for all areas as they become suited for new development. The City should also create the means to swiftly evaluate the cost of providing various services to new development and establish a clear policy for meeting the costs of new development.

d. The planning for land uses in newly developing areas should reflect a mixture of land uses which will support a neighborhood, including a variety of residential densities and price ranges, as well as neighborhood and convenient shopping facilities, schools, parks, and other uses necessary at the neighborhood level.

(Emphasis added.)

Contrary to these mandates, the Bellevue Ranch Project provides for development within the District's boundaries without appropriate financing mechanisms for required school facilities being in place, and without any arrangements having been made with the District for the provision of adequate school facilities.

B. The Public Facilities Element of the General Plan states in relevant part:

GOALS: The City should support a system of public services and facilities which will meet the following goals:

- ...
- minimize adverse impacts on the environment and adverse fiscal, economic, and social impacts on the community.
  - protect the health, safety, and general welfare of Mercedes' residents by providing a level of service consistent with the needs of individual neighborhoods and the community as a whole.
- ...

**B. SCHOOL POLICIES**

1. Continue to work closely with the local school districts in all facets of school site and facilities planning.
2. Work with the various districts in solving problems that affect that location, design and type of schools needed to best serve the community, and incorporate these solutions in the General Plan

(Emphasis added.)

Notwithstanding these clear statements of intent, the Bellevue Ranch Project fails to incorporate any meaningful terms or conditions to assure that adequate school facilities will be provided; nor has the City met its obligation to work with the District in effectively mitigating the impact of new development upon public schools.

Additionally, Government Code Section 65860 requires that zoning ordinances be consistent with the General Plan. Although charter cities are generally exempt from this policy under Section 65863, the City of Merced has adopted a local mandate to require ongoing consistency between zoning ordinances and the General Plan. (See page 9-4 of the Merced General Plan, adopted in 1987.) In order for the city to make a valid finding that such consistency exists, the General Plan must be legally adequate. Approval of the Bellevue Ranch Project is not consistent with the General Plan in that the General Plan itself is inadequate, as previously alleged.

Furthermore, the Bellevue Ranch Project is not consistent with the General Plan in that there has not been analysis of the cumulative effect of the lack of school facilities, despite the fact that the District has provide specific information that it is unable to provide the necessary school facilities to serve new development in the area covered by said project. The City has yet to assist the District in developing full mitigation alternatives in order to lessen the impact of Bellevue Ranch Project upon the District to an acceptable level.

The EIR for the Bellevue Ranch project, as currently written, does not provide substantial evidence supporting the city's ability to conclude that mitigation measures regarding the impact of the new development on school facilities will be effective in minimizing that impact. The EIR as currently structured is inadequate in that regard. The EIR is required by CEQA guidelines to identify specific mitigation measures. Mitigation measures are not specific in several places in the EIR for several impacts. Where several mitigation measures are available, each mitigation measure should be discussed separately; and the reasons for choosing one over the other should be stated. There are several mitigation measures to the impact of the project on school facilities and other significant impacts identified in the EIR. These alternative and potential mitigation measures are not discussed individually. The EIR presents several uncertainties regarding the projects potential to cause environmental impacts, which have not been resolved through the mitigation measures described. It is contrary to the California Environmental Quality Act to defer



8-14

8-15

environmental assessment and development of mitigation measures until after project approval because approval of the project reduces or eliminates the city's flexibility to subsequently change it's course of action.

Furthermore, it is essential that mitigation measures and environmental analysis be understood by the public in general and the decision making body prior to the approval of the EIR yet this EIR calls for approval of several mitigation measures based on a future agreement to be arrived at between city staff and the developer. Future agreements between city staff and the developer, which will occur outside the public review permitted by an EIR process, may be inadequate to mitigate the impact to the satisfaction of the City Council or the public. However, no opportunity will exist for the public to comment. If specific detailed mitigation measures cannot be developed at this time then a commitment in the EIR by the developer and the city to performance criteria within certain parameters should be identified. This would permit the public some assurance that the mitigation measures would be adequate. The EIR raises questions which need to be addressed so that a project of this importance and magnitude would be fully understood.

On page 4.9-2 the Environmental Impact Report states that 16,000 additional persons can be accommodated by the water master plan prepared for the city of Merced, yet the EIR identifies that the project alone will generate 21,371 new residents by the year 2,010. Thus it would appear that the project would generate approximately 5,000 more residents than the master water plan for the City of Merced can accommodate, not considering other developments in the City. What specific mitigation measure will be used to mitigate this impact on the aquifer and system?

The traffic section of the EIR identifies several intersections that will be used by the public in general, including the school district students and student buses at a level of service below D, that is E or F, which is highly congested. These include the intersections of Olive Avenue with M Street, near the existing high school, and the intersection of Cardella at G Street near the proposed high school. On page 4.10-39 it is identified that Bellevue Ranch will create a significant impact to nine intersections in the Merced area by the year 2005 because it changes service levels from acceptable to unacceptable or adds more than 5% to intersections already experiencing levels E or F. The intersection of Olive Avenue and G Street is also identified as having a level of service below D as a result of the Bellevue Ranch project. The EIR addresses these traffic impacts by stating that the project will mitigate more than its portion of the increased traffic at these intersections. However, these mitigation measures do not reduce the impact on traffic circulation to an insignificant level.

The impact of this project on schools, traffic, water, and the provision of affordable housing are identified in the EIR. When mitigation measures are adequately identified, even then the financing mechanisms for paying for the required mitigations are not specified. The environmental impact report should state the financing mechanisms or alternative financing mechanisms proposed to be used to mitigate the impacts of the project on the environment including the dollar amounts per household, or per acre, that would be required in order to

↑  
8-16  
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↓

Letter to Philip Block  
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raise sufficient funds to mitigate the impact. The cost of carrying the burden of mitigating the impact of this project on the environment and on public services should be clear and the parties expected to carry the cost should also be clear. The school districts are unable to carry the cost of providing school facilities to new development based on the developer fee of \$1.65 per square foot, and that should be clearly stated in the EIR.

No reliable source of school funding is available. This is substantial evidence of possible significant adverse impact on school facilities caused by this project. In the case of the Mira Development Corporation vs. the City of San Diego (1988) the courts specifically found that certain development proposals, that is those requiring legislative-type approvals, are not subject to the limitations set forth in Government Code Section 65996 regarding schools.

In the case of the Murieta Valley Unified School District vs. the County of Riverside (1991) the court held that the school district had a valid cause of action for violation of the California Environmental Quality Act (CEQA) due to the county approval of the project with 8-19 unmitigated impacts on schools.

Public Resources Code Section 2100 ET. SEQ. requires the assessment of the impacts of development projects or proposals on public facilities including schools. Identifications of these impacts is still a part of the CEQA process. (See PRC 21003.1, 21004, 210061, 210080.3, 21080.4, 21080) (a) and subject to full CEQA review.

Therefore the MUHSD requests that the City of Merced Planning Commission and City of Merced City Council require the mitigation of the impact of the Bellevue Ranch development project on schools facilities be fully mitigated through the use of a community facilities district (Mello Roos) and/or combination of other mitigation measures, or the city council deny the project. Please transmit this letter to each of the planning commissioners and members of the city council prior to the public hearing on this application. Please include this letter as part of the record of the hearing on this application by the commission and the city council.

Respectfully submitted,



Michael Belluomini  
Director of Facilities Planning

MB:sd

cc: Ron Tiffie  
Suzanne Burrows  
Ski Harrison, Rutan & Tucker





**LETTER 8 Merced Union High School District, Michael Belluomini, Director of Facilities Planning**

**RESPONSE TO COMMENT 8-1**

Comments regarding classroom capacity and enrollment are noted. All current studies prepared for MUHSD have been obtained and used for the preparation of this Final EIR.

**RESPONSE TO COMMENT 8-2**

Comments regarding development impact fees are noted. At the time of publication of the Draft EIR, school impact fees for residential development were structured differently than current fees. With the ballot failure of ACA6, development fees reverted to levels which were in place prior to the passage of SB 1287. This repealed an additional \$1.00 per square foot and eliminated the possibility of a "blow-up" clause, which would have allowed school districts authority to raise mitigation fees to whatever level could be justified.

Current impact fees have been provided by the school districts (\$1.10 for elementary schools and \$0.55 for high schools) and will be incorporated into the DEIR on page 4.9-16. These changes are reflected in the errata section of this document.

**RESPONSE TO COMMENT 8-3**

Comment noted. The November 1992 edition of the Fee Justification Study for the Merced Union High school District has been obtained and utilized for this Final EIR.

**RESPONSE TO COMMENT 8-4**

Comments regarding student generation rates and corresponding total student generation are noted. Tables 4.9-4, 4.9-5 and 4.9-6 on pages 4.9-18 and 4.9-19 of the Draft EIR have been revised as follows:

**TABLE 4.9-4  
STUDENT GENERATION RATES**

	Single-Family Detached	Single-Family Attached	Multi-Family
Elementary (K-8)	.558	.558	.380
High School (9-12)	.219	.219	.079

Source: Michael Paoli and Associates

**TABLE 4.9-5  
GENERATION OF K-8 STUDENTS**

Unit Type	No. of Dwellings	Generation Rate	No. of Students
Single Family Detached	2,384-2,981	.558	1,330-1,663
Patio Homes (detached)	1,790-2,116	.558	999-1181
Multi-family	1,797	.220	395
<b>Total</b>	<b>5,971-6,894</b>	<b>n/a</b>	<b>2,724-3,239</b>

**TABLE 4.9-6  
GENERATION OF STUDENTS GRADE 9-12**

Unit Type	No. of Dwellings	Generation Rate	No. of Students
Single Family Detached	2,384-2,981	.219	1,330-1,663
Patio Homes (detached)	1,790-2,116	.219	392-463
Multi-family	1,797	.079	142
<b>Total</b>	<b>5,971-6,894</b>	<b>n/a</b>	<b>1,056-1,258</b>

The original intent of the DEIR analysis was to provide a separate generation rate for patio homes, which is not represented in the Development Fee Justification Study. This category of residential dwelling is a detached unit, although more comparable to a town-home in terms of square footage and number of bedrooms. With these characteristics, it was assumed that the student generation rate for patio homes would fall somewhere between Single Family and Multi-Family rates. In order to categorize patio homes, an average of the Single Family and Multi-Family rates was calculated.

Although the adequacy of this method has not been disproved, this generation rate has been removed from the student generation analysis. Patio homes will be calculated using Single-Family generation rates, as reflected in the revised tables above, until such time that an accurate generation rate for patio homes is established.

### RESPONSE TO COMMENT 8-5

Comments regarding possible financial project impacts to schools are noted. Although recognized as a critical issue for the school districts, a fiscal analysis demonstrating financial impacts of a project is not a required component of CEQA analysis. CEQA Guidelines Sec. 15131(a) states:

"Economic or social information may be included in an EIR or may be presented in whatever form the agency desires. Economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes."

As such, the Draft EIR is not required to detail the costs of providing school facilities. The analysis focussed upon the generation of students and the physical facilities (schools) needed to accommodate those students.

### RESPONSE TO COMMENT 8-6

It is the position of the City of Merced that adequate measures have been included in the Draft EIR to mitigate anticipated school impacts to the fullest extent of the law. Mitigation Measure 4.9.15 requires the project developer to pay all legally required fees to the respective districts as required by law. Additional language has been added to Mitigation Measure 4.9.15, however, in order to account for fluctuations in mandated school fees and to recognize the potential for future funding mechanisms. The measure has been amended as follows:

MM 4.9.15    The developer of each subdivision within the Bellevue Ranch *project* shall pay ~~the maximum impacts fee to the respective districts as permitted by State law~~ *all City and school district fees in effect on the date of this approval, as permitted by State law, and any increases in those fees, and any new fees which are in effect at the time the building permits are issued.*

Comments regarding an agency's authority to condition project approvals are noted.

### RESPONSE TO COMMENT 8-7

Comments noted. As a separate agency, local school districts may form financing districts with developers such as a Mello-Roos District. The agreement cited by the commentor did include language requesting a city ordinance which would require all developers to mitigate project impacts upon local schools. This request was denied by the Merced City Council in October 1992.

#### RESPONSE TO COMMENT 8-8

Comments regarding the use of Mello-Roos Districts for financing school facilities are noted.

#### RESPONSE TO COMMENT 8-9

Comments regarding the City's authority to condition the approval of projects is noted.

#### RESPONSE TO COMMENT 8-10

Suggested methods for mitigating school impacts are noted for the record. Methods such as requiring specific housing types (apartments or senior housing) or monitoring project phasing contingent on the availability of school facilities and funding are policy and planning decisions to be made by the City of Merced and set forth in the General Plan. The mitigation measures within the EIR for Bellevue Ranch are not required to direct City policy or require specific funding mechanisms for school financing.

#### RESPONSE TO COMMENT 8-11

Comments regarding required acreage for high schools sites are noted. Mitigation Measure 4.9.16 on page 4.9-19 of the Draft EIR has been amended to read as follows:

MM 4.9.16 The developer of the Bellevue Ranch project shall reserve one ~~40-acre~~ ~~minimum~~ high school site *of at least 40 acres (net of right of ways), as consistent with state standards*, to the Merced Union High School District, ~~and Developer~~ shall also reserve ~~two to three~~ *between two and four 10 acre (net)* minimum elementary school sites for acquisition to the Merced City Elementary School District. The actual number of elementary school sites will depend upon school enrollment and the District's ability to adjust attendance boundaries of existing schools.

#### RESPONSE TO COMMENT 8-12

Comments regarding school funding are noted. Please see Response to Comment 8-6.

#### RESPONSE TO COMMENT 8-13

Comments regarding project consistency with the City's General Plan are noted. Urban Expansion Policy A(3), as cited by the commentor, pertains to controlling the "timing, density, and location of new land uses" when considering urban expansion. In terms of environmental analysis, the project does have reasonable access to public services and facilities and does adequately plan for public improvements and services. The identification of the costs of providing public services will be detailed in a subsequent Public Facilities Master Plan (or related document) to be prepared for review and approval by the City.

#### **RESPONSE TO COMMENT 8-14**

Page 10.0-2 of the Draft EIR discusses the cumulative need for school facilities through the year 2010. As discussed on page 10.0-2, the Merced School District is estimated to need between one new K-5 and 0.7 of a 6-8 school by 1994, to a maximum of 11 new K-5 and 4.7 6-8 schools by the year 2009.

The High School District will require one new high school by the year 1994, at least two more new high schools by 1999, up to four new high schools by 2004, and up to five new high schools by 2009. This identification of cumulative school facility requirements is consistent with CEQA requirements.

#### **RESPONSE TO COMMENT 8-15**

Comments noted. The school facility mitigation measures proposed within the EIR require the payment of school development fees to the maximum allowed by State law. As discussed in Response to Comment 8-10, mitigation strategies beyond the current state requirement are a policy decision to be made by the City of Merced for the financing of public facilities.

The Findings for the project will be considered when the project is submitted to the City Council for consideration. The project Findings will discuss which mitigation measures are not feasible, as well as impacts which cannot be mitigated. The Draft EIR has identified the need for additional school facilities and has proposed mitigation to minimize impacts. As discussed above, impacts included within the EIR analysis focus upon the physical impacts, rather than the financial impacts, of project implementation.

The commentators citation of CEQA Guidelines Sec. 15126(c) is noted. This section states that, where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified if one has been selected. In the case of Bellevue Ranch, feasible mitigation for the provision of school facilities is currently limited to the payment of required development fees, based upon all available information.

#### **RESPONSE TO COMMENT 8-16**

Comment noted. As discussed on page 4.7-3 of the Draft EIR, the City of Merced entered into an agreement with MID in 1992 for additional surface water supplies which would extend the City's water resources beyond the year 2013. Mitigation Measure 4.9-4 of the Draft EIR assures that tentative maps may only be approved after the project applicant demonstrates adequate water supply, as well as distribution facilities.

The existing Water Master Plan discusses available water resources and safe yield from the existing aquifer, taking into consideration planned growth of the City. Bellevue Ranch is consistent with the City's planned growth. Future projects which would tax the safe yield of the immediately available aquifer must demonstrate supply availability of water from other sources.

For clarification purposes, page 4.13-13 of the Draft EIR also indicates that the potential population range for the project is between 12,375 and 21,371 persons, with 21,371 representing a maximum population scenario.

**RESPONSE TO COMMENT 8-17**

Comments are regarding the discussion of Year 2005 traffic impacts within Section 4.10 of the Draft EIR. To clarify, page 4.10-39 discusses those project impacts which would occur due to the project with no mitigation to area roadways. The mitigation measures listed on pages 4.10-65 through 4.10-67 *will* mitigate the projected cumulative impacts to a less-than-significant level.

Page 4.10-60 describes that the proposed traffic mitigation reflects a greater level of improvement than what is needed for Bellevue Ranch alone, and that the project will contribute equitable funding to cumulative, off-site improvements.

**RESPONSE TO COMMENT 8-18**

Regarding the specificity of funding mechanisms and the level of detail regarding fiscal impacts, please see Response to Comment 8-13.

**RESPONSE TO COMMENT 8-19**

Conclusionary remarks are noted.

# MERCED UNION HIGH SCHOOL DISTRICT

P.O. BOX 2147  
MERCED, CALIFORNIA 95344

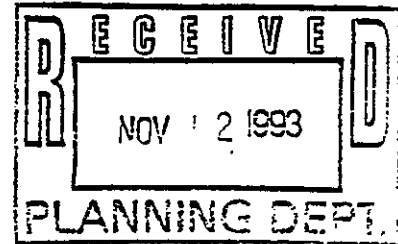
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CAPPI QUIGLEY, Vice President  
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Assistant Superintendents  
GALEN CHASTAIN  
Business Services  
MICHAEL E. CRASS  
Instructional Services  
EDWARD F. SOWERS  
Human Resources/  
Administrative Services

November 12, 1993

Philip Block, Planning Director  
City of Merced  
678 W. 18th Street  
Merced, CA 95340



REF: Bellevue Ranch Project - EIR

Dear Phil,

The Merced Union High School District hereby makes comments on the Bellevue Ranch project EIR SCH 92102055 in addition to those contained in the letter of November 10, 1993 presented to the Planning Commission.

The mix of housing types and affordability are important issues for the district. The Bellevue Ranch project plan illustrates what will be the third high school in the Merced area. When the high school district recently developed the attendance area boundary for the Golden Valley High School it worked diligently to achieve a balance of ethnic groups at the new high school and at Merced High School which is nearly identical. This avoids pockets within attendance areas that are bused to campuses to achieve ethnic balance. The district wants to achieve the same or very similar proportions of ethnic groups at each high school in the Merced area. Many ethnic groups are newcomers to this nation with socio-cultural-educational-economic disadvantages and are unable to afford market rate housing. In order to avoid or minimize busing to ethnically balance enrollment at the high school planned for the Bellevue Ranch project, it is essential that each neighborhood include a variety of housing types and a range of housing costs. Unless the housing mix provides for affordable housing sufficient to permit all income groups to be housed it is likely that school busing will be needed to ethnically balance student enrollment.

9-1

On page 4.13-15 of the EIR states that "The proposed project description does not include any affordable housing targets". This is a significant impact that is then mitigated on page 4.13-16 by the proviso that "In no case shall the share of very low income housing provided be below 4.33%, the share of low income housing be below 6.63%, or the share of moderate income housing be below 6.35% of total project housing." These percentages add up to 17.61%. All the housing included in these percentages is provided for persons who earn less than 120% of the county median

9-2

*"The Foundation of Every State is the Education of its Youth"*

income. The median income is that below which half the people fall. In short, the EIR allows for 82% of the housing to be built for the wealthiest 40% of the population. This is a significant impact to the city's affordable housing goal and the high school district's goal of ethnically balancing student enrollments at its campuses with minimal busing.

There seems to be little profit in developing low cost housing. Besides setting affordable housing goals the EIR should explain how the affordable housing will be financed, subsidized, and otherwise made to happen. Specific or alternative financing schemes should be included in the EIR. How the Bellevue Ranch project will achieve affordable housing goals should be further explained in the EIR and the minimum goals for non-market rate housing in each neighborhood increased.

Respectfully submitted,

*Michael Belluomini*

Michael Belluomini  
Director of Facilities Planning

MB:sd

cc: Galen Chastain  
Ron Tiffie  
Suzanne Burrows  
Ski Harrisson, Ruttan & Tucker



**LETTER 9 Merced Union High School District, Michael Belluomini**

**RESPONSE TO COMMENT 9-1**

Comments noted. The mix of housing unit types proposed in the Bellevue Ranch project is consistent with the goals, policies and objectives of the Merced General Plan. CEQA does not recognize ethnic diversity or busing issues as warranting environmental analysis. Please see Response to Comment 8-5 for the CEQA discussion regarding social impacts.

**RESPONSE TO COMMENT 9-2**

Comment noted. The intent of Mitigation Measure 4.13.1 is to ensure that the City's affordable housing goals are met, as outlined within the City's Housing Element.

**RESPONSE TO COMMENT 9-3**

The Draft EIR for Bellevue Ranch does not set City affordable housing goals, but rather ensures that the proposed project is consistent with those goals. The housing goals of the City of Merced are described in detail within the City's Housing Element. Housing goals for the time period between 1992 and 1997 are quantified on page 110 of the Housing Element and restated on page 4.13-12 of the Draft EIR. Mitigation Measure 4.13.1 ensures that Bellevue Ranch will supply appropriate percentages of affordable housing based upon the number of newly constructed housing units anticipated by the City for the time period between 1992 and 1997. Please refer to Table 4.13-6 of the Draft EIR.



# Merced City School District

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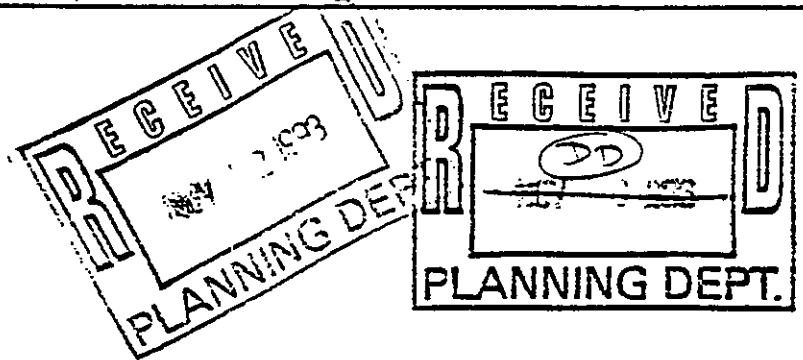


Diversity our strength  
Children our promise

Superintendent: Donald V. De Long, Ed. D.  
Board of Education: Della Temple, President, Ron Cortez, Clerk, Justin Brink, Kathryn Hansen, Leo Hernandez

November 10, 1993

Mr. Dave Daly, Assistant Planner  
City of Merced  
678 West 18th Street  
Merced, CA 95340



SUBJECT: Bellevue Ranch - Draft Environmental Impact Report

Dear Dave:

The Bellevue Ranch Project encompasses 17% of the area designated within the Village Plan. The size of the project, 1365.5 acres is equal to 13% of the total acreage of the City today. The approximately 6700 dwelling units represent an increase of 37% to the number of households in Merced at the time of the 1990 census. The anticipated increase in population to the City of Merced from this project accounts for 26% of the growth anticipated by the year 2010. In addition, the Project will account for approximately 3739 Kindergarten through eighth grade students by the year 2005. This represents a 32% increase in enrollment from today's numbers and 59% of the total growth projected for the District by 2010.

10-1

The Bellevue Ranch Project is to be phased-in over 15 years, but it seems that the population growth can be expected within the first 10 years as this appears to be when the majority of residential development is planned. Should this be the case, the impact of growth to the Merced City School District could be as great as 122% of the enrollment projected for the year 2005.

Regardless of when this Project is completed, it will have a very significant effect upon both the City and County of Merced. Therefore, the importance of good planning and clear direction now is extremely important. This is true not only because 15 years is a long time to project accurately, but also because this is the first project within the Village Plan and any error on the Project could have serious ramifications on all future planning.

With this thought in mind, I found the DEIR to be vague and to defer remedies to some future date without specificity. In other instances, some of the stated impacts seem inconsistent with information previously aired. Some examples can be found in the following areas.

10-2

- Water Facilities: "... no significant impacts related to the availability of water services are anticipated." See Groundwater pp 4.7-3, 4.7-4
- Sewage Facilities: See mm 4.9.5
- Police Services: See mm 4.9.9 and 4.9.10
- Fire Services: See mm 4.9.14 and 4.9.11
- Air Quality: See mm 4.11.2
- Jobs/Housing Balance: See #1 pg 2.0-38
- Hazardous Materials: See #8 and 9 pg 2.0-41

Regarding the matter of school facilities:

The DEIR does not adequately address the mitigation of growth in school population associated with the Bellevue Ranch Project.

The DEIR uses the composite single family generation rate, defined by Paoli as single family residences already in the community, as opposed to new dwelling units to represent the growth in number of students attributable to single family attached units. This is a misrepresentation of the data presented in the Development Fee Justification Study prepared for the District in October, 1990.

Therefore, Table 4.9-5 on page 4.9-18 is incorrect as shown. In fact, the number of students generated from single family dwellings, whether attached or detached, should be 2,330-2,845, 15% higher than that shown. When added with multi-family dwellings, the number of students expected to be generated from this Project total 2,725-3,240.

The impact of this growth upon the district can be equated to cost through the following formula:

Number of students from this project	3,240
Square footage necessary to house students (53.35/sq.ft.)	173,437
Cost to provide permanent facilities (\$141.51/sq.ft.)	\$24,543,070
<u>Cost of land (\$704.40/student)</u>	<u>2,282,256</u>
Total cost to house students	\$26,825,326

Based on the Statutory fee of today, \$1.65/sq. ft. total, \$1.10/sq. ft. for MCSD, mm 4.9.15 recommended by the DEIR would provide \$9,100,080 (6,894 residences @ 1200 sq.ft. = 8,272,800 sq. ft. x \$1.10 = \$9,100,080.) or only about 34% of the total cost of mitigation needed from this Project alone. The remaining \$17,725,246 or 66% would be left to the community to pay through State and/or local taxes.

The failure of Proposition 170 and Measure A in the last election provide little hope for the District to achieve the necessary 66% from local sources, or even 33% (\$8,862,623) if the State continues to fund 50% of new school

construction. The mandate is clear! New development must mitigate its full impact upon the community.

Further, mm 4.9.16 requires the developer to reserve two to three 10 acre minimum sites for elementary schools. This is an incorrect representation of the students generated by this Project. The number of K-5 students which can be expected from this Project is 1221. The maximum number to be housed at one elementary school on a year-round calendar is 930 students. In addition, we can expect 590 middle school students from this project. The maximum number of middle school students housed at one site falls between 850 and 1100. Based on this data, the Merced City School District projects a need for at least 1 elementary school site at a minimum of 10 acres and 1 middle school site at a minimum of 20 acres to mitigate the impact of this project on existing District facilities and to minimize busing, thereby reducing ongoing costs to provide services to this Project.

California Government Code Sections 65300-65302 require that every California city and county have a general plan which includes certain prescribed elements. Government Code Section 65300.5 specifically requires that the general plan and elements and parts thereof "comprise an integrated, internally consistent and compatible statement of policies."

The General Plan for the City of Merced violates the above statutory requirements in the following respects:

A. The Urban Expansion Policies Element of the City's General Plan provides in pertinent part that:

3. The City should strive to achieve a highly efficient form of urban expansion. The City should control the timing, density, and location of new land uses through the following policies: (Emphasis added.)

b. The City should require that all new development be contiguous to existing urban areas and have reasonable access to public services and facilities.

c. The City Should adequately plan for public improvements/ services to support the designated land uses for all areas as they become suited for new development. The City should also create the means to swiftly evaluate the cost of providing various services to new development and establish a clear policy for meeting the costs of new development.

10-4

10-5

- d. The planning for land uses in newly developing areas should reflect a mixture of land uses which will support a neighborhood, including a variety of residential densities and price ranges, as well as neighborhood and convenient shopping facilities, schools, parks, and other uses necessary at the neighborhood level.

Contrary to these mandates, the Draft Environmental Impact Report for the Bellevue Ranch Master Development Plan, September, 1993 (SCH NO. 92102055) provides for development within the District's boundaries without appropriate financing mechanisms for required school facilities being in place, and without any arrangements having been made with the District for the provision of adequate school facilities.

- B. The Public Facilities Element of the General Plan states in relevant part: (Emphasis added.)

GOALS The City should support a system of public services and facilities which will meet the following goals:

...  
-minimize adverse impacts on the environment and adverse fiscal, economic, and social impacts on the community.

-protect the health, safety, and general welfare of Merced's residents by providing a level of service consistent with the needs of individual neighborhoods and the community as a whole.

...  
B. SCHOOL POLICIES

1. Continue to work closely with the local school districts in all facets of school site and facilities planning.
2. Work with the various districts in solving problems that affect the location, design and type of schools needed to best serve the community, and incorporate these solutions in the General Plan.

Notwithstanding these clear statements of intent, the Bellevue Ranch Development Plan DEIR totally fails to incorporate any meaningful terms or conditions to assure that adequate school facilities will be provided; nor has the City met its obligation to work with the District in effectively mitigating the impact of new development on public schools.

Additionally, Government Code Section 65860 requires that zoning ordinances be consistent with the General Plan. Although charter cities are

generally exempt from this policy under Section 65863, the City of Merced has adopted a local mandate to require ongoing consistency between zoning ordinances and the General Plan (see pages 9-4 of the Merced General Plan adopted in 1987.) In order for the City to make a valid finding that such consistency exists, the General Plan must be legally adequate. The Project is not consistent with the General Plan in that the General Plan itself is inadequate, as previously alleged.

10-6

Furthermore, this Project is not consistent with the General Plan in that there has been no analysis of the cumulative effect of the lack of school facilities, despite the fact that the District has provided specific information that it is unable to provide the necessary school facilities to serve new development in the area covered by the Project. The City has yet to assist the District in developing full mitigation alternatives in order to lessen the impact of the Project upon the District to an acceptable level.

10-7

As stated earlier, this project will have a significant adverse impact upon the environment, as school facilities must be constructed (a physical impact), additional school bus miles may be driven ( a potentially significant impact on air quality and traffic), and an absence of adequate school facilities due to insufficient funding may potentially cause a hardship on the human environment. Identified significant impacts must be mitigated by measures proposed in the EIR.

10-8

#### Recommended scope and content of EIR.

1. The EIR and Project description should clearly indicate or project the number and types of dwelling units that would be allowed beyond the Bellevue Ranch Project, but within the Village Plan. There are significant growth areas proposed in the District (converting low-density rural agricultural land to urban densities). The quantification and development timeline of impacts for the remaining area should be fully discussed.
2. The EIR should use the student generation factor provided by the District for new single family dwelling units to correctly state the number of students by grade level expected per type of dwelling unit.
3. Current and projected availability of classrooms should be based upon current information from the District, as established by the policy of the Board of Education. As of this date overcrowding is expected in all MCSD schools serving the Project area.
4. The EIR should indicate the number of existing and projected unhoused students, based on State criteria.

10-9

10-10

10-11

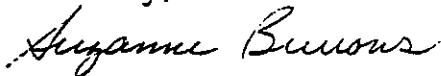
10-12

5. The EIR should include analysis of the number, type, and general location of projected needed elementary and middle schools, based upon the proposed land use diagrams and student generation factors. 10-13
6. The EIR should indicate the expected cost impact of housing the current and future unhoused students using the data supplied by the District, based upon real costs of acquiring land and constructing and furnishing facilities. 10-14
7. Expected fees paid under Government Code 53080 will only partially mitigate the cost impact. Details on the amount of shortfall and how the full costs of mitigating the impacts will be generated should be clearly indicated.
8. The EIR should discuss possible mitigation measures, including but not limited to:
  - a. Mello-Roos Districts.
  - b. General Obligation Bonds.
  - c. Dedication of land and on-and off-site improvements to lessen cost impacts.
  - d. Supplemental fees.
  - e. Denial of legislative acts (general plan amendments and rezones). 10-15
  - f. Reduced number of dwelling units.
9. The Mitigation Monitoring Program should include reference to all school-related conditions and mitigation measures.

General reference to continued reliance on potential State funding is non-responsive. Proposed mitigation measures should be discussed in the context of adequacy, feasibility, and relationship to other measures. 100% assured local financing should be examined fully. 10-16

Should you have any questions or wish to obtain data from the District, please call me at (209) 385-6660.

Sincerely,



Suzanne Burrows, Ed. D.  
Special Assistant to the Superintendent  
Planning/Policy Development

SB:cj

c: D. De Long  
R. Tiffie  
M. Belluomini



**LETTER 10 Merced City School District, Suzanne Burrows, Special Assistant to the Superintendent**

**RESPONSE TO COMMENT 10-1**

Comments regarding project statistics and phasing are noted. The comment states that the project will account for approximately 3,739 K-8 students by the year 2005. Please note in Response to Comment 8-4, Table 4.9-5, that the project will generate a *maximum* of 3,239 K-8 students at project buildout. In addition, this figure is calculated using a single-family student generation rate for patio homes, which is anticipated to be artificially high.

**RESPONSE TO COMMENT 10-2**

Comments regarding apparent Draft EIR inconsistencies are noted. Please see Response to Comment 8-16 for a discussion of groundwater and water supply impacts.

**RESPONSE TO COMMENT 10-3**

Comments regarding student generation rates are noted. Please see Response to Comment 8-4 for revised Tables 4.9-5 and 4.9-6.

Square footage requirements and costs are noted. Please refer to Response to Comment 8-5 regarding financial impacts.

**RESPONSE TO COMMENT 10-4**

As illustrated in revised Tables 4.9-5 and 4.9-6 (Response to Comment 8-4), the range of students generated for grades K-8 is between 2,724 and 3,239. In response to these generation figures, Mitigation Measure 4.9-16 has been amended to assure the provision of up to four elementary school sites or applicable fees to be determined based upon any modifications to the District's attendance boundaries.

Although it is recognized that middle school students will also be generated by this project, the project design does not contain a middle school site within its boundaries. This is consistent with residential planning practice, which cannot necessarily be expected to "self contain" each expected facility requirement. All school sites (elementary, middle, and high school) must be reviewed with the affected districts to assure that siting will be effective in relation to various district boundaries. Where a large scale project (such as Bellevue Ranch) does not provide one type of school site, it may provide an excess of another, or pay applicable fees.

**RESPONSE TO COMMENT 10-5**

Please see Response to Comment 8-13. Goals and policies regarding public facilities and schools, and the intent of those goals and policies, are noted. The City of Merced, as well as the project applicant, have met with the local school districts regarding school facilities. The City intends to continue to coordinate with the districts regarding facility planning, siting, and financing.

**RESPONSE TO COMMENT 10-6**

Comments regarding the linkage between local zoning ordinances, the adequacy of the General Plan, and the project are noted. The project is consistent with the Urban Expansion polices of the General Plan, as well as the Village Concept Design Guidelines, and is planned to implement these policies and guidelines consistent with the intent of the Merced 2030 Plan.

**RESPONSE TO COMMENT 10-7**

Please see Response to Comment 8-14.

**RESPONSE TO COMMENT 10-8**

Construction impacts, which would include the construction of schools generally focus on temporary noise and air quality impacts. Such impacts are discussed in the their respective sections. Physical impacts relative to schools referenced by the commentator are discussed within the project as a whole, consistent with a CEQA analysis. Schools are not and should not be identified as a "project within a project", with an individual set of impacts.

**RESPONSE TO COMMENT 10-9**

Comments noted. Section 4.13, Population, Housing, and Employment thoroughly discusses future growth within the SUDP, within the Village Concept Planning Area, and within the County as a whole. The type of dwelling units projected, however, is beyond the scope of this EIR.

**RESPONSE TO COMMENT 10-10**

The EIR utilized student generation factors provided by the school districts for determining the projected number of students generated by the project. Students generated are divided into two categories: Kindergarten through grade 8, and grades 9 through 12. This is an appropriate level of detail for a CEQA analysis and is consistent with the District's generation factors.

**RESPONSE TO COMMENT 10-11**

The focus of a CEQA level of analysis for school impacts is to assess the impact of this project on existing facilities. This has been accomplished by illustrating student generation resulting from new development. The EIR recommends measures to mitigate an influx of new students, and recognizes on page 4.9-16 that existing facilities are at or over capacity.

#### **RESPONSE TO COMMENT 10-12**

The number of existing and projected unhoused students is more applicable to a cumulative impacts discussion of school facilities. Such data has been supplied by the Merced City School District for grades K-8, and is contained within Letter 11. This data, although illustrative, is not a requirement in a CEQA level public facilities analysis to determine project impacts upon schools.

#### **RESPONSE TO COMMENT 10-13**

The Master Development Plan for Bellevue Ranch, which is included as an attachment within the Draft EIR, does locate the number, type, and general location of elementary schools. A possible middle school is also identified along the western boundary of the project site, but outside of the project boundaries.

#### **RESPONSE TO COMMENT 10-14**

For a discussion of cost impacts and CEQA requirements, please refer to Response to Comment 8-5.



# Merced

## City School District

444 West 23rd St., Merced, CA 95340

Phone (209) 385-6600  
 FAX (209) 385-6746

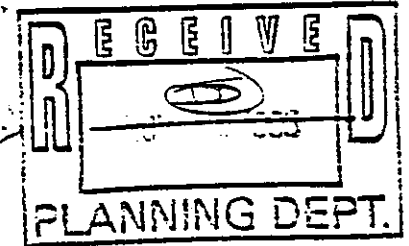
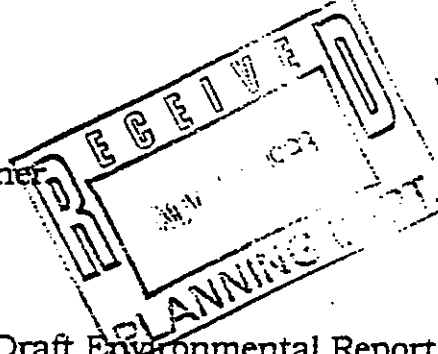


Diversity our strength  
 Children our promise

Superintendent: Donald V. De Long, Ed. D.  
 Board of Education: Deila Temple, President, Ron Cortez, Clerk, Justin Brink, Kathryn Hansen, Leo Hernandez

November 11, 1993

Mr. Dave Daly, Assistant Planner  
 City of Merced  
 678 West 18th Street  
 Merced, CA 95340



SUBJECT: Bellevue Ranch - Draft Environmental Report  
 Addendum to Letter of November 10, 1993

Dear Dave:

These comments along with those included in my letter to you of November 10th on this same subject are in response to the DEIR for the Bellevue Ranch Project.

The Merced City School District (MCS D) is a provider of public service to new development in a similar role to that of the City's role in providing for traffic circulation and recreation and parks. As such the Board of Education has established a position which opposes all new development which does not provide full mitigation of its impact on school facilities and services.

The District operates 14 elementary, and middle schools in addition to preschool and child care programs serving the City of Merced. A new middle school is under construction and projected to open for the 1994-95 school year. This school will be at full capacity by the time 6, 7, and 8 grade students are present in either its second or third year of operation.

The area in which the Bellevue Ranch Project is located is served by Peterson and Sheehy Elementary Schools (K-5) and Rivera Middle School. The capacities and other pertinent information about these schools follow:

	Permanent Classroom Capacity	YRE Capacity	1993-94 enrollment	Projected impact of Project	Total Students	Unhoused Students
Peterson	686	930	890	611	1501	571
Sheehy	686	930	604	610	1214	284
Rivera	955	N/A	1244*	590	1834	879

\*Projected to be 947 with full operation of Cruickshank Middle School. It is this number that will be used in the Total and Unhoused Students columns.

November 11, 1993

As this is such a lengthy Project, as well as such a large one, it seems appropriate to review the capacities of all schools and their present and projected populations, without the addition of Bellevue Ranch, using District projections.

	Permanent Classroom Capacity	YRE Capacity	1993-94 enrollment	Unhoused Students	Projected enrollment 2010	Unhoused Students
Burbank	582	732	676	(56)		
Chenoweth	582	732	756	24		
Franklin	582	732	709	(23)	INFORMATION	
Fremont	582	732	654	72		
Givens	582	732	587	5	NOT	
Gracey	686	930	918	(12)		
Muir	582	732	706	(26)	AVAILABLE	
Peterson	686	930	890	(40)		
Reyes	698	942	892	(50)	BY SCHOOL	
Sheehy	686	930	604	(82)		
Wright	<u>582</u>	<u>732</u>	<u>588</u>	<u>6</u>		
Total K-5	6830	8856	7980	(182)	<u>12,444</u>	<u>(3,588)</u>
Cruickshank	1128 (1354)	N/A				
Hoover	841	N/A	<u>1136</u>	<u>295</u>		
Rivera	955	N/A	1244	289		
Tenaya	<u>879</u>	<u>N/A</u>	<u>1152</u>	<u>273</u>		
Total 6-8	3,803 (4,029)	N/A	<u>3,532</u>	857	<u>5,618</u>	<u>(1,589)</u>
Grand Total	10,633 (10,859)	12,885	11,512	675	18,062	(5,177)

Bellevue Ranch, assuming build out by 2010, would increase the number of unhoused K-5 students to 4,809 and the number of unhoused 6-8 students to 2179 for a grand total of 6,988 unhoused students. As the projected 5177 unhoused students by 2010 are attributable only to projected births and the very light to moderate housing starts over the last three years, it would be a misrepresentation to assume that this Project has been factored into the District's projections. Therefore, the impact of the new growth brought to the District by the Bellevue Ranch Project must stand by itself, and be fully mitigated accordingly.

Ltr Daly Bellevue Ranch Add

Page 3

November 11, 1993

A restatement of the impact of this Project is stated below using District standards and actual land and construction costs of our newest four schools.

Impact of the Bellevue Ranch Project

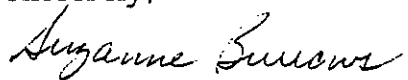
Number of dwelling units:	Single: 5097	Multiple: 1797
Students per unit (K-8 composite rate)	.5581	.220
Total number of students generated	2845	395
		3240
Square footage needed to house students (53.53)		173,437
Cost to provide facilities (\$141.51/sq. ft.)		\$24,543,070
Cost of land (\$704.40 per student)		2,282,256
Total cost to house students		\$26,825,326
MCS D share of statutory fee (\$1.10/sq.ft.)- (1400 sq.ft./SF; 750 sq.ft./MF unit)	\$7,849,280	\$1,482,525
Difference needed to pay for the impact of the Project on MCS D		\$17,493,421
Added cost per dwelling unit needed to pay for full impact on MCS D	\$3,081	\$995

As was mentioned by Michael Belluomini at last night's hearing, MCS D is also dependent upon planned community growth which encourages within the project, the diverse ethnic and socio-economic mixture of our existing community. As a school district we are committed to maintaining a balance of ethnicity and socio-economic factors which reflects the community as closely as possible. Our constituents are demanding neighborhood schools. To balance these seemingly opposing positions, we are dependent upon the City to ensure at least an opportunity for an appropriate mixture of ethnic and socio-economic levels in new neighborhoods by insuring a variety of housing.

This matter is of great importance as we plan to grow. In the Project objectives on page 3.0-3 it simply states "Provide a diversity of housing types." Further, in the description of residential land use on pages 3.04,5, this does not appear to be addressed. Neither does there appear to be a relationship between the needs represented in Table 4.13-6 on page 4.13-12. Mitigation Measure 4.13.1 does not appear to adequately address this matter nor does it neutralize the impact of a housing rich area with a very low job ratio.

Again, I thank you for the opportunity to respond. If you have questions or need additional information, please call me at (209) 385-6660.

Sincerely,



Suzanne Burrows, Ed. D.  
Special Assistant to the Superintendent  
Planning/Policy Development

SB:cj

c: D. De Long  
R. Tiffie  
M. Belluomini

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**O**RRICK, HERRINGTON  
& SUTCLIFFE

February 19, 1993

**New Development May Still be Conditioned on Fully  
Mitigating School Impacts Using The Mello-Roos  
Community Facilities Act of 1982, Despite SB 1287.**

The State bond funding program, even supplemented with the statutory developer fees, leaves an enormous chasm of unmet need for school facilities. The legislature very specifically provided a mechanism to bridge this chasm: the Mello-Roos Community Facilities Act of 1982. The recent enactment of SB 1287 has not changed or limited this mechanism.

In 1986, the legislature passed, and the Governor signed, Government Code Sections 65995 and 65996. SB 1287 changed those sections effective January 1, 1993.

Under the 1986 law, the City or County (whichever has development approval authority) had the power to condition development under §65996 of the Government Code to require the mitigation of the school impacts of development through the use of a landowner-vote community facilities district under the Mello-Roos Community Facilities Act of 1982 (Government Code §53311 and following). It is important to understand that new development could not and cannot be required to fix any existing overcrowding within a system, but solely to provide a mechanism whereby the influx of new students from the new development itself can be mitigated.

There was a misconception among some members of the development community, that cities and counties did not have the power to impose this condition. They referred to the last sentence of §65996 which originally read:

"No public agency shall, pursuant to ...  
[CEQA or the Subdivision Map Act], deny  
approval of a project on the basis of the  
adequacy of school facilities."

It was not contended, however, that local legislative bodies had the power to deny development, but rather to condition development, because the first sentence of §65996 originally read:



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& SUTCLIFFE

The following provisions shall be the exclusive methods of mitigating environmental effects related to the adequacy of school facilities when considering the approval or the establishment of conditions for the approval of a development project, as defined by . . . [CEQA]:

\* \* \*

(6) [Mello-Roos]

\* \* \*

[emphasis added]

SB 1287 amended this section, effective January 1, 1993 (with the proviso that the current law is automatically reinstated if ACA 6 does not pass -- it is on the ballot for June, 1994) to read:

(a) The following provisions shall be the exclusive methods of mitigating environmental effects related to the adequacy of school facilities when considering the approval or the establishment of conditions for the approval of a development project by administrative or legislative action pursuant to . . . [CEQA]:

\* \* \*

(6) [Mello-Roos]

\* \* \*

(b) No public agency shall, pursuant to . . . [CEQA or the Subdivision Map Act], deny approval of a project on the basis of the adequacy of school facilities, or impose conditions on the approval of a project for the purpose of providing school facilities that exceed the amounts authorized pursuant to this chapter.

[emphasis added]

What are the amounts authorized by the chapter? The reference appears to be to \$65995. In SB 1287, there is a new \$65995 and a new \$65995.3.

Both versions of \$65995 (the former version, and the version in SB 1287) provide the familiar limitation of \$1.50 (subject to inflation that now has reached \$1.65) per square foot of residential construction (with the 25¢ initial figure for commercial and industrial construction) which the "fee, charge, dedication or other requirement" may not exceed. The new \$65995 puts the limitation on conditions imposed either by "administrative" or "legislative" action -- an obvious reference

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& SUTCLIFFE

to the Mira, Hart, and Murrieta decisions, discussed below. Again, if ACA 6 is defeated at the polls, the "new" \$65995 disappears, and the "old" one is reinstated.

[\$65995.3 specifically adds, to the amounts authorized under \$65995 for residential construction, an additional \$1.00 per square foot. The section is automatically repealed if ACA 6 fails of passage.]

Therefore, the new monetary limitations, in \$65996, on the conditions of approval of a development project, appear to be those contained in \$65995. But it is precisely here that the legislature provided the relief valve from total disaster for growing school districts. In addition to providing Mello-Roos as a means of mitigation under \$65996, it expressly exempted Mello-Roos from the dollar limits of \$65995, by providing, in subsection (f) of \$65995 itself:

Nothing in this section shall be interpreted to limit or prohibit the use of ... [Mello-Roos] to finance the construction or reconstruction of school facilities.  
[emphasis added]

This provision was not amended by SB 1287, and the recent California Supreme Court decision in the Grupe Development case discussed below, has clarified that, indeed, this provision of the law does exempt Mello-Roos from the dollar limits that apply to other mitigation measures.

The legislature has given Mello-Roos a special and unique place in school finance by its reference in these two statutes (\$ 65995 and \$65996). Cities and counties still have the power to condition development on mitigating its school impacts using Mello-Roos, and Mello-Roos has been specifically exempted from any dollar limitation on that mitigation (again remembering that a development cannot be conditioned to do more than mitigate its own impacts).

- - - - -

A brief discussion of the court cases is in order. In Mira Development Corp. v. San Diego (1988) 205 Cal.App.3d 1201, 252 Cal.Rptr. 825, 834; Review Denied 1989, a rezone was denied because of its impact on schools. The developer sued claiming that \$65996 said the City could not deny. The court refused relief on the basis that a rezone was "legislative" action, and

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§65996 applied only to "administrative" action. This was followed, in the case of a requested general plan amendment, in Hart Union High School District v. County of Los Angeles (1991) 226 Cal.App.3d 1612, 277 Cal.Rptr. 645. Note that neither case reached the question of what conditions could have been imposed if the actions had been administrative rather than legislative -- that is, if §65996 had applied.

More recently, the case of Murrieta Valley School District v. County of Riverside (1991) 228 Cal.App.3d 1212, 279 Cal.Rptr. 421 (Review denied May 5, 1991) held that a school district could sue a County for violation of CEQA in adopting a community plan which did not mitigate the impacts on school facilities (or adopt an adequate statement of overriding considerations in not doing so); and for adopting an internally inconsistent general plan which called for mitigating the impact of school facilities and then failed to provide a mechanism for doing so. The court approved of both Mira and Hart, and rejected the argument that the legislature had acted to overrule them. In Murrieta, the court discussed §§65995 and 65996 in a slightly different context. It noted that:

County ... contends that the state also has preempted the field of mitigation measures which may be imposed to ameliorate such adverse effects of development on school facilities. (228 Cal.App.3d at 1229, 279 Cal.Rptr. at 431)

The court followed Mira in holding §§65995 and 65996 inapplicable to a general plan amendment:

Therefore, under the holding of Mira, the [Community Plan] is not a "development project" and, as a result, not subject to the exclusive mitigation measures stated in section 65996. (Id.)

As noted, SB 1287 attempts to say that now you cannot deny (or condition above the level of the developer fee) a project whether it is administrative or legislative action that is taken (that is: §65996 applies in either case).

But the rules that govern in the event that §65996 does apply have not yet been litigated. There may be some guidance in Murrieta. The clear implication from the above-quoted excerpts from the Murrieta case is that had the county been dealing with a

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ORRICK, HERRINGTON  
& SUTCLIFFE

"development project" (that is, an adjudicative or administrative action rather than a legislative one), that the "exclusive mitigation measures stated in section 65996" would have been available. The equally clear implication from this is that if the project had been approved without using those available mitigation measures, it still would have been a violation of CEQA absent a proper statement of overriding considerations.

Without meaning to belabor the point, one of those available mitigation measures is Mello-Roos, unlimited by \$65995.

In the just decided Grube Development Company v. Superior Court (February 11, 1993) Daily Appellate Report of February 16, 1993, page 2025, the California Supreme Court held a voted special tax on new development, for school facilities (which tax had been approved by the voters prior to the 1986 legislation), was nonetheless subject to the limitation of \$65995 and hence invalid because the school district was also levying the maximum school fee permitted by that section. The Court made reference to the additional dollar developer fee legislation which only became effective on January 1, 1993. Thus the Court was clearly deciding the case under current law. One of the arguments the Court used to bolster its opinion that the subject special tax was included within the scope of the limitation on "fees, charges, dedications, or other requirements" in \$65995 was that Mello-Roos special taxes were expressly excluded from the limitation of \$65995, and hence the special tax in question (which was not Mello-Roos) had not been excluded.

Many developers in California recognize the importance of schools to their marketing program and voluntarily form such districts. For those who do not, however, school districts rely upon cities and counties, as the development approval authority, to condition development upon the use of Mello-Roos to mitigate school impacts.

Some municipal counsel believe that the imposition of conditions is strengthened if the local agency General Plan contains policy statements that require the timely construction of new school facilities to accompany growth from new development. We heartily support the adoption of such general plan policies. We wish to point out, however, that the statutory scheme does not appear to require the adoption of such policies prior to the imposition of such conditions.

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Finally, of course, various school districts and developers have used various and creative methods of mitigating school impacts which have neither been Mello-Roos nor within the previous developer fee limits, but have looked suspiciously like developer fees. These arrangements have been worked out mutually, and there has been either explicit or implicit agreement not to challenge their legality. Nothing in SB 1287 provides any additional prohibition on the continuation of this practice.

Daniel C. Bort

**LETTER 11 Merced City School District, Suzanne Burrows, Special Assistant to the Superintendent**

**RESPONSE TO COMMENT 11-1**

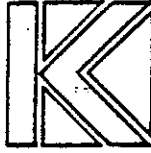
District data regarding school enrollment and predicted numbers of unhoused students is noted. Please refer to Response to Comment 8-4 (Table 4.9-5) for anticipated number of students generated by the project. The impact of new growth within the district is discussed on page 4.9-18 (MM4.9-16) of the Draft EIR, which indicates that two to three new elementary schools will be required to house students generated by Bellevue Ranch. This mitigation has been modified, however, to reflect more current information. Please see Response to Comment 8-11.

**RESPONSE TO COMMENT 11-2**

Costs and square footage of data for new school facilities is noted for the record.

**RESPONSE TO COMMENT 11-3**

Please see Response to Comments 9-2 and 9-3.

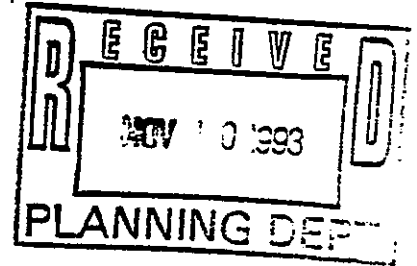


**KITTELSON & ASSOCIATES, INC.**  
**TRANSPORTATION PLANNING/TRAFFIC ENGINEERING**

1455 RESPONSE ROAD, SUITE 120 • SACRAMENTO, CA 95815 • (916) 649-9033 • FAX (916) 649-9034

November 10, 1993

Mr. Dave Daly, Assistant Planner  
City of Merced  
678 West 18th Street  
Merced, CA 95340



RE: Bellevue Ranch DEIR

Dear Mr. Daly:

Kittelison & Associates has been retained by D.R. Stephens Company to review the transportation element of the Bellevue Ranch DEIR. On behalf of D.R. Stephens Company, we are submitting the following comments. Our concerns lie in two primary areas:

- The conservative assumptions and methodologies used in the EIR.
- The use of the EIR to size, cost, phase, and assign financial responsibility for infrastructure improvements.

The DEIR presents a "worst-case" assessment of potential project impacts, and consequent mitigations, by making a series of conservative assumptions regarding trip generation, internalization, cost, and project contribution. While this may be acceptable for an environment document, the results should not be used to assess costs for infrastructure improvements. It is not common practice nor is it appropriate to size, cost, and phase long-range off-site improvements based strictly on information contained in an EIR because this document does not contain a sufficient level of detail necessary to accurately size or phase region-wide infrastructure.

12-1

Assumptions/Methodologies

Our concern that the DEIR may overstate the project's impact is based on the following:

*Trip Generation:* The DEIR uses Institute of Transportation Engineers (ITE) trip generation rates for the residences within Bellevue Ranch. These rates are derived from typical suburban land use patterns and do not reflect "neo-traditional" design. For the commercial land uses, the study uses trip generation rates from the San Diego Association of Governments (SANDAG) which tend to be higher than ITE trip rates for comparable land uses. The above rates were used to size the roadways and assess project impacts.

12-2

The potential benefits of neo-traditional planning are discussed in the Technical Appendix; however, they are not reflected in the DEIR analysis which sized the infrastructure, and determined facility cost and project contribution. The technical appendix states that a typical neo-traditional design would result in a 25% reduction in daily automobile trip generation rates when compared to a typical suburban design. This reduction should be applied to the trip generation of the project and to other neo-traditional projects.

*Modeling Techniques / Tools:* The DEIR analysis used a "gravity-based" regional traffic model, containing 634 land use zones, to predict future background traffic in the project area. The project trips were then assigned to the study roadways using a "manual" assignment technique. Travel paths using a manual assignment are selected by the user. The traffic study states that, whenever possible, new facilities were favored over existing facilities when assigning project traffic. This may result in unrealistic estimate of the project's impact and cost share for new facilities.

*Internalization:* The regional traffic forecasting model was used by the DEIR preparers to estimate the number of trips that would remain internal to each traffic zone. The Technical Appendix states that the internalization for Bellevue Ranch was estimated at between 1% and 3% depending on the level of project development. This would be very low even for a suburban, mixed-used development of this size.

However, the DEIR preparers have indicated that the Technical Appendix mistakenly contained a version of the impact analysis which has been superseded, and the DEIR traffic impact analysis reflects a project internalization rate of 20% to 30% depending on the level of project development. However, even a 20% to 30% internalization rate may be low. Our analysis shows that if only 50% of the project's household-generated shopping, recreational, and school trips were to remain internal to the project, then the daily level of internalization would be 40%.

*Minimum Roadway Improvements:* The DEIR assumed a certain level of roadway improvements and then checked the predicted traffic volumes to see if the assumed roadway sizes would accommodate the expected volumes. However, the analysis did not include any recommendations for downsizing the assumed roadway system when traffic volumes would allow.

In summary, the highly conservative assumptions and methodologies used as part of the DEIR analysis appear to overstate the project impacts and result in roadways that may be larger than is necessary to support development (both project and non-project). The conservative nature of the assumptions may also advance the study year in which an improvement is warranted. For example, R Street (from Yosemite to Cardella) is planned to be 4 lanes by the Year 2000 even though the EIR states that this roadway is expected to carry only 5,400 vpd which is well within the capacity of a 2 lane roadway. The document also states that in Year 2005 16,700 vpd will be present on this street which is just over the

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12-3

12-4

12-5

12-6

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threshold between a 2 lane road and a 4 lane road; therefore, a 4 lane roadway must be provided. Even if the assumptions presented in the EIR only slightly overstate the impact of local development it is likely that 4 lanes would not be warranted by the Year 2005.

Two additional examples of potential roadway oversizing are R Street (from Bellevue Road to Old Lake Road) and Old Lake Road (between R Street and G Street) which were assumed to be 4 lane roads (in 2010) for the purpose of the EIR analysis. The DEIR preparers have subsequently stated that these roadways will support traffic and operate acceptably as 2 lane roads although they will ultimately need to be widened to 4 lanes.

### Infrastructure Sizing, Cost, and Responsibility

As stated previously, EIR's should not be used to size regional infrastructure, develop final roadway plans, estimate roadway costs, or calculate "Project Contribution". However, as this analysis was done as part of this document the following presents our comments on some of the assumptions and methodologies used to develop roadway improvements, costs, and "Project Contribution".

*Cost Estimates:* The cost estimates are very gross, and we would want to see the source documents for "base" numbers. The estimates also include a relatively high 44% factor to account for signing and striping (which is unusual), engineering, and "General Unknowns". The 24% "General Unknowns" factor is of particular concern. The DEIR states that the data was based on unit costs from recent construction bids in Tracy and Manteca. Given that these unit costs were taken from actual bids, the 24% "General Unknowns" factor may be high and potentially overstates the cost of infrastructure improvements.

*Project Contribution:* The analysis in the document appears to be based on the "uses" principal of cost sharing in which the traffic utilizing a facility pays its proportionate share of any improvements to the facility. The primary components to traffic on any facility consists of existing traffic, non-project growth traffic, project traffic, and existing and new "through" traffic. Our concerns lie in two primary areas:

Existing Traffic: The preparers of the DEIR stated that it was difficult to estimate the amount of existing traffic that will divert to new facilities. This was particularly true for the SR 59 Expressway and Yosemite Bypass for which they did not assume any existing traffic would divert to these facilities (only future traffic was assigned to these roads). Therefore, the project's share of the cost of both the expressway and the bypass is potentially overstated.

Through Travel: Trips which do not begin or end within the City will consume some of the capacity on City streets. It does not appear that the document accounts for the presence of this "through" travel. New

Mr. Dave Daly  
November 10, 1993  
Page 4

developments should not be held financially responsible for either new or existing through traffic on a roadway, and appropriate reductions in roadway costs should be made to account for the proportionate share of through traffic.

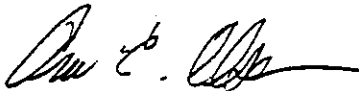
In summary, the roadway sizes in the local area may be larger than needed to accommodate both project traffic and other local growth. In addition, the calculation of "Project Contribution" does not appear to account for all components of traffic which uses a facility; therefore, may potentially overstate the project's contribution to the cost of a facility.

### Summary

The assumptions and methodologies used to develop the circulation element of the Bellevue Ranch DEIR are conservative and may overstate the project's impact on the local circulation network.

In addition, an EIR is not typically used to develop the infrastructure program for an area because it lacks the detail necessary to produce an accurate plan. Therefore, we would advise against using the Bellevue Ranch EIR to size, cost, and assign financial responsibility for roadway improvements throughout northern Merced. As this area develops, further analysis should be done to refine the roadway requirements, costs, and phasing associated with potential developments.

Sincerely,  
KITTELSON & ASSOCIATES, INC.



Ann C. Olson, C.E., T.E.  
Senior Engineer

ACO/mrd

ra:lr

cc: Steve AuClair - Spink  
Doug Walters - Spink  
Glenn Matsuhara - D.R. Stephens Co.

12-10

**LETTER 12 Kittelson & Associates, Ann C. Olson, Senior Engineer**

**RESPONSE TO COMMENT 12-1**

See Response to Comment 12-2.

**RESPONSE TO COMMENT 12-2**

This comment involves the assumptions and methodologies used to calculate automobile trip generation. For the Bellevue Ranch Project, the trip generation rates used are conservative, especially for neo-traditional land uses, but are valid and appropriate to use in preparing a legally adequate and defensible EIR.

A sensitivity analysis was performed indicating that neo-traditional land use may reduce trip generation by about 25%. This finding is based on survey data of traditional urban neighborhoods that neo-traditional land use models. The sensitivity analysis included the effects of the reduced trip generation on intersection service levels and found, on average, a 5% to 10% improvement. This information was provided to the City to be used at their discretion, and reflects what we hope will occur with development of the Village Concept.

However, there have been no engineering studies of neo-traditional communities to date, and the survey data we used has not been generally accepted in the industry as valid for use in traffic studies. Therefore, to prepare a legally defensible EIR we had no choice but to assume the worst case and use published and accepted trip generation rates from standard sources.

The SANDAG trip generation rates for commercial land use were used because the land use data was given in terms of acres. Rather than make assumptions to convert acres to KSF of leasable floor area, we chose to use available per acre rates from a standard source. The SANDAG rates are similar to trip rates used in the Merced County Congestion Management Program: 730 trips per acre for neighborhood commercial and 750 trips per acre for general commercial.

**RESPONSE TO COMMENT 12-3**

This comment involves possible unrealistic estimates of the project's impact and cost share for new facilities. Project traffic was assigned to planned or assumed new roadways because these facilities have the capacity to accommodate traffic. Additionally, most of the project's access requires use of a new road to travel anywhere, i.e. R Street and M Street.

Traffic is assigned using capacity restraint methods; if a roadway is the most direct route but becomes over-loaded, traffic is assigned to the next most direct route with available capacity as long as it represents a reasonable diversion. We do not feel that the project's impacts are overstated on new facilities.

It must be remembered that there are only four routes that project traffic can use to access Merced. These are SR 59, R Street, M Street, and G Street, only one of which currently extends

into the project's boundaries. Because of this, most of the project's traffic must use a new road to travel anywhere, and all new roads connect to existing roads.

**RESPONSE TO COMMENT 12-4**

Comment noted.

**RESPONSE TO COMMENT 12-5**

This comment concerns the downsizing of the assumed roadway system. The traffic analysis in the EIR began by assuming certain minimum roadways would be in place based on the initial circulation system reviewed by City staff. In nearly all cases, the assumed roadway improvements were required or required further upgrading. Only two roadway segments were not downsized from initial assumptions, Old Lake Road and R Street north of Bellevue Road. These road segments were not quantitatively analyzed in the EIR.

At the applicant's request we reviewed these road segments and have downsized them appropriately. Please see Response to Comment 5-21 and 5-27.

**RESPONSE TO COMMENT 12-6**

This comment questions the conservative assumptions and methodologies used as part of the traffic analysis Draft EIR. As noted, the analysis is based on conservative assumptions, but road sizes are appropriate for projected traffic volumes. Please see Response to Comment 12-2 and 12-5.

**RESPONSE TO COMMENT 12-7**

Comment noted. See Response to Comment 12-5.

**RESPONSE TO COMMENT 12-8**

This comment involves infrastructure sizing, cost, and responsibility. The cost estimates used in the EIR are stated to be order of magnitude. The source of the estimates are construction costs for improvements in Tracy, Manteca, and Stockton used in the traffic consultant's work for the Tracy Growth Management Plan. An itemized breakdown of the estimates has been provided to the applicant. The applicant has indicated that they can provide more accurate cost estimations.

**RESPONSE TO COMMENT 12-9**

Comment 12-9 involves the principal of cost sharing. The project contribution of traffic on mitigated roadways is based on the "uses" principle as the commentator states. Diversion of existing traffic is an issue on only one mitigated facility, the Yosemite Bypass. The tools were not available to estimate how much existing traffic would divert to this facility once it was in place. This was stated in the EIR document. Through travel is an issue on the mitigated

segments of State Route 59 and the Yosemite Bypass, where the project's share of traffic may be adjusted based on through traffic when reliable forecasts are available. The remaining mitigated road segments are in the northern growth area of the City and are not through travel routes. The projections on these roads consists primarily of traffic from Bellevue Ranch and other new development in northern Merced.

#### **RESPONSE TO COMMENT 12-10**

This comment advises against using the Bellevue Ranch Draft EIR to size, cost, and assign financial responsibility for roadway improvements. Comment noted. EIR's are informational documents intended to provide jurisdictions with an objective analysis of potential impacts so that they can make informed decisions. The commentator is correct in that EIR's are not commonly used to develop regional infrastructure or cost share programs.



DEPARTMENT OF TRANSPORTATION

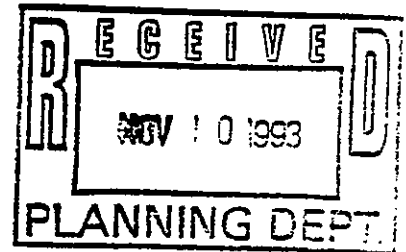
P.O. BOX 2048 (1976 E. CHARTER WAY)  
STOCKTON, CA 95201



(209) 948-3803

November 10, 1993

10-Mer-59-18.0/19.0  
City of Merced  
"Bellevue Ranch"  
Bellevue Road and  
"G" Street in Merced  
DEIR-Specific Plan  
SCH #92102055



Mr. Mark Goss  
State Clearinghouse  
1400 Tenth Street  
Sacramento, CA 95814

Dear Mr. Goss:

Caltrans appreciates the opportunity to comment on the Master Development Plan and Draft Environmental Impact Report (DEIR) for the proposed development of 1,365-acres called "Bellevue Ranch" in the northern portion of the City of Merced.

General Concern Regarding The Proposal and Associated Land Use

The proposal is to utilize the "Villages" design concept, mixing land use in high density "town centers" in order to encourage pedestrian travel and reduce auto travel. It proposes to develop 7,000 dwelling units with associated schools, parks, circulation, open space and office use on 1,276-acres. It will also include 89-acres of commercial land use.

The location of the site of the development is approximately one-quarter mile east of the intersection of State Route 59 and Bellevue and Cardella Roads, respectively, and extends eastward to "G" Street. The site is also approximately one-half mile west of a new residential proposal called the "Yosemite Lake Project" (1,449 dwelling units on 720-acres), and two miles north of State Routes 99 and 140.

13-1

The two proposals will increase the population of Merced from 60,000 to approximately 90,000, at full build-out. We are concerned about the cumulative impact of both proposals on State Routes 59 and 99, and their intersections with key arterial streets in the City of Merced.

Specific Comments on the Draft Environmental Impact Report (DEIR)

1. Page 4.13-1 to 3. Population and Employment

The DEIR states that the City of Merced has a 1993 population of 59,800 and has experienced a growth rate of 4 to 5 percent in the past twenty years. The DEIR indicates that the population will double to 122,893 by the year 2005. It is our opinion that the growth rate would suggest a total that would be slightly less than that shown.

13-2

The employment in Merced is expected to increase from 45,130 jobs in 1990 to 87,661 jobs by 2005, excluding that generated from Castle Air Force Base and the proposed U.C. Campus at Lake Yosemite. We would suggest that a detailed discussion of the future employment plans for the City of Merced be included to support that projected increase.

13-3

2. Tables 4.10-8. Estimated Trip Generation of Bellevue Ranch and 4.10-13. Bellevue Ranch Daily Traffic on State Highways

The DEIR states that Bellevue Ranch will generate 18,370 daily trips by the year 2000, 36,506 daily trips by the year 2005 and 89,088 daily trips at full build-out in 2010. The AM peak is 5,812 trips and the PM peak 9,311 trips.

The DEIR also indicates that the project impacts on State highways, at full build-out in 2010, will be 8,000 average daily traffic (ADT) on State Route 99 north, 5,300 ADT on State Route 99 south, 900 ADT on State Route 59 south and 900 ADT on State Route 140 east.

The above information suggests that approximately 83% of project trips will occur during non-commute hours and only 17% will occur on State highways. One is left to assume that the majority of project travel will be to the center of the City of Merced at non-commute hours. We question that assumption, as we did with the employment and major services coming primarily from the City of Merced, and would like to see the DEIR discuss the industry increases within the City in greater detail.

13-4

3. Table 4.10-3. Levels of Service (LOS).

The discussion of the various levels of service on the major roadways in the City of Merced refers to the Florida Department of Transportation (DOT) Capacity Tables, when determining the maximum daily traffic volume. We suggest that a discussion of how the LOS is derived using the Florida DOT method be included. We also note that the table states that existing daily traffic volumes north of West 16th Street on State Routes 59 and 99 are 10,400 and 34,200, respectively. The 1992 version of the Traffic Volumes Book shows annual ADT at those two locations to be 13,600 and 39,500, respectively.

13-5

4. Pages 4.10-63 to 80. Specific Mitigation Measures

For the year 2010, the DEIR states that the roadway improvement required on State Route 59 (from Yosemite Avenue to about one-half mile north of Cardella Road) is the expansion of the existing two-lane highway to a six-lane divided expressway. The improvement is designed to handle the increase in ADT from 13,600 to the projected 38,600.

The DEIR also suggests that Yosemite Avenue be widened to a six-lane divided expressway, from San Jose Avenue to State Route 59, and extended beyond to intersect with Santa Fe Drive, then continue south paralleling the Cooper Avenue alignment and connect with State Route 99 with a new interchange. The latter action would require the elimination of the existing interchange of State Route 99 and 16th Street.

The mitigation of impacts to State Route 99 include the widening of the existing facility to six-lanes by the year 2010, from the City of Merced to at least the City of Atwater. The increase of ADT on State Route 99 could be as high as 120,000 by the year 2010 in the northerly direction, nearly reaching capacity. This scenario may require State Route 99 widening to eight-lanes north of Merced or seeking an alternative that will provide an acceptable LOS. The DEIR needs some justification for the statement made that infers that projected traffic will double on State Route 99 to the south of the City of Merced.

13-6

In concept, we can agree with the proposed mitigation to the State highways in the Atwater-Merced region. Indeed, this Department is actively working with local government and the regional association of governments to find future transportation facility alternatives to accommodate a population that may double by the year 2010.



Mr. Mark Goss  
November 10, 1993  
Page 3

5. Table 4.10-26. Project Contribution to Traffic to Determine Share of Mitigation for Impacted Roadway Segments

The DEIR states that Bellevue Ranch will add 17,700 to the total 44,100 ADT on State Route 59 north of Yosemite Avenue at full build-out in 2010, or 40% of the traffic. The intersections of State Route 59 at West Olive Avenue and at Cardella Road will experience an LOS of "F" and "D", respectively, with Bellevue Ranch contributing to the need for intersection improvements. Improvements on State Route 99 are discussed in Item 4 above, but the DEIR states (Tables 4.10-21 and 22) that Bellevue Ranch will not be adding any daily traffic to State Route 99, either north of "V" Street or south of Yosemite Parkway.

The discussion of impacts upon State Route 59, and the project's share of them, appears reasonable. The project impacts on the intersection of State Route 59 and West Olive Avenue, Yosemite Avenue, and Bellevue Road need to be identified with greater detail. 13-7

We disagree with the conclusion that the project will not add traffic to State Route 99. Although it will be designed using the "Village" concept, traffic impact analysis in the DEIR used the traditional subdivision development concept. We agree with that approach to the traffic analysis. However, we do not see any support in the DEIR for the entire employment and service needs of Bellevue Ranch being met within the City of Merced. Therefore, we assume that State Route 99 will be used by a portion of those living at Bellevue Ranch to commute to jobs or to major service centers outside the City of Merced.

Impact fees will need to be collected to mitigate the impacts that Bellevue Ranch will cause on State Routes 59 and 99, for both mainline improvements and intersection improvements needed, at full build-out of the project.

If you have any questions regarding this issue, please contact Dave Nelson of my staff at (209) 942-6171.

Sincerely,

MITCHELL W. BAKER II  
Chief, Transportation  
Planning Branch B

cc: Tom Humphries/MCAG  
John Hofman/City of Merced

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION  
**FACSIMILE COVER**  
 10-2A-0049 (REV. 11/92)

Attention: <i>John Hofmann</i>		FROM: DEPARTMENT OF TRANSPORTATION 1976 EAST CHARTER WAY STOCKTON, CA 95205	
UNIT/COMPANY <i>Planning Department</i>		NAME: <i>Dave Nelson</i> UNIT: <i>Planning</i>	
		DATE <i>11/18/93</i>	TOTAL PAGES (Including Cover Sheet)
		FAX#(include Area Code) <i>(209)948-</i>	ATSS FAX <i>423-</i>
DISTRICT/CITY <i>City of Merced</i>		PHONE#(6 Area Code) <i>(209)942-6171</i>	ATSS
PHONES(6 Area Code)	FAX#(6 Area Code) <i>(209)725-8775</i>	ORIGINAL DISPOSITION: <input type="checkbox"/> Destroy <input type="checkbox"/> Return <input type="checkbox"/> Call for Pickup	

COMMENT:  
*(209)384-5805*

*our comment letter for the "Bellevue Ranch"  
 DEIR.*

**LETTER 13 California Department of Transportation, Mitchell W. Baker II, Chief,  
Transportation Planning Branch B**

**RESPONSE TO COMMENT 13-1**

General concerns are noted. Please see specific responses below.

**RESPONSE TO COMMENT 13-2**

Comment noted. Table 4.13-1 on page 4.13-2 of the Draft EIR illustrates a range of population projection scenarios. Please note that the scenario referenced by the commentor which shows a year 2005 sphere of influence population of 122,893 includes a potential University of California campus, and is provided for comparison purposes. The Sphere of Influence population projection under the adopted MCAG scenario is 114,765. See also Response to Comments 15-2.

**RESPONSE TO COMMENT 13-3**

The Population, Housing, and Employment section of the Draft EIR contains a detailed discussion of future employment for Merced County. This level of analysis was conducted in order to illustrate more regional population and employment trends, and to include factors such as the Castle AFB reuse and the potential UC campus. For the purposes of traffic analysis, base land use assumptions were developed with the assistance of the City of Merced to predict trip generation within the "land use zones" in and around the City itself, based upon MCAG growth projections. Employment forecasts for the existing City boundaries are not applicable in this case, as they would not reflect anticipated annexations within the North Merced area. Please see Response to Comments 15-2 and 15-4.

**RESPONSE TO COMMENT 13-4**

Comment requests clarification of traffic trip generation and distribution assumptions for Bellevue Ranch. As indicated in the comment, the information in the DEIR suggests that 17% of the project traffic will use the State Highway system outside the City of Merced. However, the remaining 83% does not all remain in the City of Merced. A proportion of this traffic has origins and destinations in the City of Atwater, about 14% on average for future land use and 11% specifically for Bellevue Ranch. Therefore, only 72% of project traffic remains entirely within the City of Merced. We believe this is a reasonable internalization rate. Most of the Atwater destined traffic is assumed to use Santa Fe Road and does not appear in the SR 99 projections.

**RESPONSE TO COMMENT 13-5**

This comment concerns the traffic level-of-service identified in Table 4.10-3 of the Draft EIR. The Florida Department of Transportation (FDOT) Capacity Tables, prepared by authors of the 1985 Highway Capacity Manual, have been approved by Caltrans District 10. The tables define daily roadway service levels and are generally used to determine the number of mid-block lanes required on a facility. Intersection specific mitigation measures are determined using the Circular

212 Planning technique for intersection service levels. The daily roadway capacities are from the FDOT table titled "Generalized Daily Level of Service Maximum Volumes" which gives the maximum two-way volume for various categories of roads from local and collector streets to freeways. The roadway categories for arterials are divided into 7 sub-categories primarily depending on the number of traffic signals per mile the arterial contains. Capacity adjustment factors are provided to reflect divided or undivided roadways with or without left turn bays at intersections.

The authors of the FDOT capacity tables have based roadway capacity on a number of assumptions for traffic, roadway, and signal characteristics. Traffic characteristics include peak hour and directional factors. Roadway characteristics include HCM arterial classifications, design speeds, and saturation flow rates. Signal characteristics include number of signals per mile, arrival type, cycle length, and effective green time. These assumptions were reviewed and found to be, on average, applicable to Merced area roadways for planning purposes. Level of service reported in the EIR is derived from the maximum adjusted capacity (from the tables) which is given for each letter grade from LOS A to LOS E.

Because work on the EIR began prior to the publication of Caltrans 1992 traffic volumes, the existing daily traffic volumes reported in Table 4.10-3 are from the 1991 Caltrans Traffic Volumes Book for State Route 59. Existing traffic volumes for State Route 99 are derived from counts provided by Caltrans District 10 Traffic Forecasting and Analysis section.

An ADT of 39,000 was provided for the segment of SR 99 between the "V" and "R" Street interchanges. The ADT reported north of W. 16th Street was derived from the 39,000 count with addition and subtraction of daily ramp volumes at the "V" Street interchange. Upon review, we realize that the ADT reported in Table 4.10-3 represents traffic volumes north of "V" Street rather than north of W. 16th Street.

#### **RESPONSE TO COMMENT 13-6**

This comment concerns the specific Mitigation Measures on pages 4.10-63 through 4.10-80 of the Draft EIR.

Regarding the mitigation measure of connecting the Yosemite Bypass to State Route 99, it assumes a major reconstruction of the interchange system at W. 16th Street.

The statement that projected traffic on State Route 99 south of the City may double refers to the fact that accurate freeway projections were not available at the time we prepared the DEIR. The City of Merced is presently preparing its land use forecasts for the General Plan Update, but was only able to provide future land use for the area north of Bear Creek which represents about 50% to 60% of the total future growth by 2010. State route projections only reflect this growth in land use. If the remaining 40% to 50% of the growth occurs in the southern part of Merced it is not unreasonable to assume that traffic on SR 99 south of the City will be up to twice our projections.

## RESPONSE TO COMMENT 13-7

This comment concerns the project's contribution to traffic and to determine the share of mitigation as shown on Table 4.10-26.

The commentator incorrectly refers to the project's share on SR 59 north of Yosemite Avenue as 40% of the total traffic. The 40% share represents the project's share of traffic on the Yosemite Bypass west of SR 59 (see Table 4.10-26). Also note that the DEIR states that this percentage only reflects the project's share of "future" growth in traffic on the Yosemite Bypass. We were unable to determine the amount of existing traffic that would be diverted to the bypass if it were constructed. Certainly, much of the traffic using the proposed bypass would be diverted existing traffic and, in actuality, the project's share on this facility would be much less than reported.

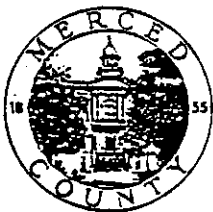
The commentator states that Tables 4.10-21 and 4.10-22 show that the project will not add any traffic to State Route 99 north of "V" Street and south of Yosemite Parkway. This statement is incorrect. The tables do show growth on SR 99 at both locations due to the project. We assume that the commentator is inadvertently referring to the second column in the tables showing the maximum capacity of the facility, which does not change between the two tables.

A small level of mitigation for the intersection of SR 59 with West Olive Avenue has been proposed in the DEIR. However, we feel that this intersection should be studied in detail as part of a study for the Yosemite Bypass. This is because the bypass will divert existing traffic from this intersection, but to an unknown extent at this time. The 2010 improvements for this intersection should be based on the traffic pattern changes caused by the bypass, and will require modelling techniques not available at the time the DEIR was prepared.

The intersections of SR 59 with Yosemite Avenue and Bellevue Road were not specified as study intersections by City staff and, therefore, were not analyzed in the DEIR. However, these intersections should be improved to operate at an acceptable service level at the time SR 59 and Bellevue Road are improved and Yosemite Avenue is extended west to SR 59.

The project will add traffic to SR 99, and a reasonable amount of employment and service needs are met outside of the City. Also, please see Response to Comment 13-4.





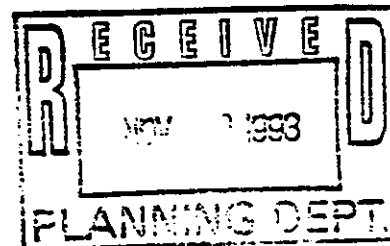
## PLANNING DEPARTMENT

2222 "M" STREET  
 TELEPHONE (209) 385-7654  
 FAX (209) 725-3535  
 MERCED, CALIFORNIA 95340-3729

ROBERT E. SMITH  
 Director  
 WILLIAM NICHOLSON  
 Assistant Director

November 10, 1993

Dave Daly, Assistant Planner  
 City of Merced  
 678 West 18th Street  
 Merced, Ca 95340



Re: Bellevue Ranch Draft Environmental Impact Report

Dear Mr. Daly,


Thank you for providing an opportunity for the County of Merced to comment on the Draft Environmental Impact Report for the Bellevue Ranch development. We have two areas of concern as discussed below.

The EIR indicates that the entire Bellevue Ranch development area is currently identified on the General Plan map of both County and the City of Merced as Specific Urban Development Plan (SUDP) "Urban Expansion Area" (Pages 3.0-8 and 4.1-2). It should be noted that the area northwest of the development (west of R Street extended) is outside the SUDP and therefore not recognized as a future growth area under the adopted City or County General Plans. 14

Based on the content of Chapter 3 and 4.1 of the EIR "Project Description and Objectives", it appears that some other document pertaining to the development of this project (a Bellevue Ranch Master Development Plan) is being considered by the City of Merced at this time. Figure 3.5-1 of the EIR presents a "Conceptual Land Use Plan". Is this the "Master Development Plan" or is some other policy document with text and maps being considered such as an "Area Plan" or "Specific Plan"? Page 4.1-10 also references a "Site Utilization Plan (Development Plan)"; is this under zoning or General Plan 14 authority? These questions concern how and when the development standards for this development will be addressed. The County may be asked to coordinate with the City concerning development that may occur within or adjacent to the SUDP. It will be important for the County to understand what policies and requirements are formally being adopted by the City through this General Plan Amendment.

Please feel free to contact me if you have any questions.

Sincerely,

  
 Mohammad Khorsand  
 Planner II

MK/ah

**LETTER 14 Merced County Planning Department, Mohammad Khorsand, Planner II**

**RESPONSE TO COMMENT 14-1**

This comment concerns the boundary lines for the County and City Specific Urban Development Plan (SUDP). Although the entire Bellevue Ranch site is contained within the preferred alternative land use plan identified in the *Merced Village Concept Planning* document, commentator correctly identified approximately eighty-five acres west of "R" Street that is currently outside the City and County SUDP.

The Draft EIR is intended to serve as the CEQA compliance for all LAFCO actions related to the Bellevue Ranch project, consistent with the requirements of the Cortese-Knox Act. As such, the annexation of the project area to the City of Merced would include a simultaneous SUDP amendment (similar to a Sphere of Influence Amendment) for this corner of the property.

In response to this comment, the following text modification shall be made to pages 3.0-8, after the first sentence under the subheading "Related Project Actions", and on page 4.1-2, after the first sentence under the subheading "City of Merced General Plan."

*Approximately eighty-five acres in the northwest corner of the Bellevue Ranch Project are outside the City and County SUDP. This property is to be developed during the final phases of the project, with an approximate 15-year planning horizon. This acreage will require the modification of the current SUDP boundaries, which will be a concurrent action associated with the property's annexation to the City of Merced.*

**RESPONSE TO COMMENT 14-2**

The Master Development Plan referenced by the commentator is the Project under evaluation by this EIR. The Master Development Plan, prepared by the project applicant, is a stand-alone document describing the land uses, development details, and objectives of the Project. Figure 3.5-1 of the Draft EIR, the Conceptual Land Use Plan, is a reproduction of the land use plan depicted in the Master Development Plan document. The Master Development Plan has been submitted to the City of Merced as part of a Planned Development (PD) application.

The existing PD ordinance within the City of Merced is the regulatory tool being used to process the requested changes to land use and entitlements, as described on pages 4.1-10 and 4.1-11 of the Draft EIR. The City's PD ordinance includes descriptive language such as the "Site Utilization Plan", which is equivalent to the "land use plan" for the project.

As noted in the Draft EIR, the PD represents a request to prezone the site to enable the implementation of the land use designations proposed by the Bellevue Ranch Master Plan and to facilitate annexation into the incorporated City limits. The PD zone has been requested by the applicant within the City of Merced Zoning Code to set forth a zoning district which will accommodate the levels of flexibility necessary for the proposed project.



**RESPONSE TO COMMENT 14-1**

This comment concerns the boundary lines for the County and City Specific Urban Development Plan (SUDP). Although the entire Bellevue Ranch site is contained within the preferred alternative land use plan identified in the *Merced Village Concept Planning* document, commentator correctly identified approximately eighty-five acres west of "R" Street that is currently outside the City and County SUDP.

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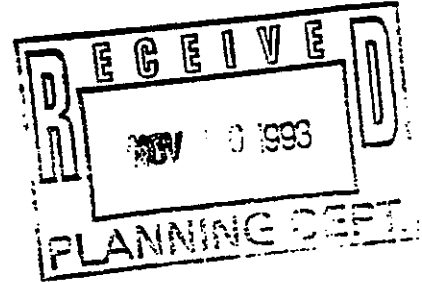
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Local Agency Formation Commission  
2222 "M" Street  
Merced, CA 95340  
Phone (209)385-7654  
FAX (209)725-3535

November 10, 1993



Dave Daly  
Assistant Planner  
City of Merced  
678 W. 18th Street  
Merced, CA 95340

Re: Bellevue Ranch Master Development Plan Draft Environmental Impact Report Comments

Dear Mr. Daly,

Upon review of the Draft Environmental Impact Report for the Bellevue Ranch annexation to the City of Merced, LAFCO staff had several concerns associated with the proposal's compliance with Cortese/Knox Reorganization Act policies. The following is a summary of those concerns:

- 1. On page 2.0-6 of the Summary of Environmental Impacts and on page 4.1-17, a mitigation measure is proposed stating that the applicant must demonstrate to the City that all LAFCO guidelines are met prior to conducting annexation proceedings. While the developer must demonstrate this to the City, the City must in turn clearly confirm to Merced County LAFCO that all guidelines and policies have been addressed adequately. For example, in the Plan for Services, the City must demonstrate to LAFCO how all necessary services will be developed and adequately provided to the territory for all proposed development phases. 15-1
- 2. The first annexation factor noted on page 4.1-11, taken from the Cortese/Knox Act (Section 56841) will be an important issue for LAFCO review given the large size of the proposed annexation. This factor deals with the proposed population in both existing and proposed city limits and the amount of vacant acreage that is already available to accommodate development in the City over the next ten years. 15-2

On page 4.10-14-17 of the Draft Environmental Impact Report, "Future Development Levels" in North Merced are discussed. Based on Tables 4.10-4 and 5, the Bellevue Ranch project and other identified vacant lands in North Merced will accommodate the following:

5,472 dwelling units by the year 2000

4,258 dwelling units by the year 2005  
4,701 dwelling units by the year 2010

For comparison, the City's recently adopted "General Plan Statistical Information Appendices" (June 93) contains a summary of recent growth and projections. Appendix 35 looked at two growth rates of 4% and 5% respectively and separated anticipated growth areas north and south of Bear Creek. The North Merced projections are slightly lower than the growth in units presented in the Draft Environmental Impact Report between the year 2000 and 2010 under the 4% projection. Under the 5% projection, the Bellevue Ranch and other North Merced growth would be absorbed. However, the projections far exceed the recent historical trends experienced by the City. Appendix 36 shows that only 1,065 dwelling units were constructed in North Merced between 1988 and 1992. Recognizing that various housing demand cycles will be experienced over the 15 year projected buildout of the Bellevue Ranch project, what is the basis for the Draft Environmental Impact Report projections and City projections which are more than four times the recent rate? (It should be noted that in the earlier five-year growth period (1982 - 1987) only 1,000 units were constructed in North Merced according to the City's 1988 General Plan Appendices.)

3. In regards to the projects compatibility with adjacent land uses discussed on page 4.1-13 it is stated that the majority of lands adjacent to the Bellevue Ranch project are within the City's SUDP boundary and are anticipated for development in both the City and County General Plans. However, while that is the case for adjacent lands south of Bellevue Road, it does not hold true for much of the adjacent lands to the north and west of the project site north of Bellevue Road. It would appear that the project would effect these adjacent agricultural lands which are not recognized for urban development within either the County's General Plan or the City's adopted General Plan boundaries. Therefore, LAFCO staff recommends that a "Right-to-Farm" Ordinance be adopted and utilized by the City as partial protection for those properties adjacent to agricultural operations. This would be a second mitigation measure to reduce potential urban-agricultural impacts (4.2.2). Such a mitigation measure would be appropriate until or unless the City amends their General Plan to redesignate the adjacent agricultural lands for urban uses along with conducting parallel environmental review. Such an amendment would typically be forwarded to LAFCO as part of a request to the City's Sphere of Influence which does not encompass adjacent lands north of Bellevue Road.

4. The sixth Cortese/Knox Act Factor indicated on page 4.1-12 discourages against the creation of corridors of unincorporated territory or other similar matters associated with the annexation boundaries. The LAFCO Commission has previously expressed concerns with the areas excluded from the project territory located directly north of Bellevue Road. Will the property ownership map identified in Figure 3.3-1 represent the annexation boundary? If so, it would appear that a corridor of incorporated territory will be created. Staff recommends that the property owners on either side of this corridor be approached regarding the possible inclusion of their property into the annexation boundary in order to create a more logical and appropriate municipal boundary given that the remainder of the territory is much wider from east to west. Appropriate

15-3

15-4

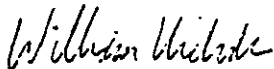
adjustments to the EIR may be necessary as a result. If the areas are not to be included in the annexation request, the EIR should state how the boundary conforms with this factor of the Cortese/Knox Act.

5. While the large majority of the project site is currently located within both the existing City SUDP and Sphere of Influence boundaries it should be noted that a small portion of the territory is not located in either one. This area is located at the northwest corner of the project site, north of Bellevue Road and east of the old Yosemite Valley Railroad line.

Given the fact that this area is not within the existing sphere boundary, a sphere of influence revision must be approved by LAFCO prior to considering the annexation of the territory. Will the City request a Sphere of Influence amendment for this area exclusively or is a more comprehensive sphere boundary revision planned based upon the North Merced Village Concept Plan? In either case, detailed information should be provided to LAFCO in order to justify such a revision.

Thank you for the opportunity to comment on the Draft Environmental Impact Report for this project. LAFCO staff looks forward to working with the City on this proposal in the future. Should you have any questions, please feel free to contact me.

Sincerely,



William Nicholson  
Assistant Executive Officer

WN/MH/ah

15-5



**LETTER 15 LAFCO of Merced County, William Nicholson, Assistant Executive Officer**

**RESPONSE TO COMMENT 15-1**

Comment noted. Although the Draft EIR requires the applicant to demonstrate to the City that all LAFCO guidelines are met (MM 4.1.4 on page 4.1-17), it is acknowledged that the City of Merced will be responsible to demonstrate to the Merced County LAFCO that all guidelines have been adequately addressed. In this regard, the EIR for the Bellevue Ranch project, along with the related supporting documentation prepared by the project applicant (as required by the City), are intended to provide the City with sufficient information for all LAFCo actions consistent with Government Code Section 56000 and County of Merced LAFCo requirements for the project. As such, the EIR, Master Plan and other required documentation will serve as the basis for annexations and amendments to the SUDP to be provided to LAFCo upon application submittal.

**RESPONSE TO COMMENT 15-2**

This comment references Section 4.10, Traffic and Circulation (pages 4.10-14 to 17) with regard to the projected growth for North Merced, and seeks clarification regarding these projections. The projections and analysis contained in Section 4.10 are intended to assess traffic impacts and corresponding mitigation measures for the project to ensure adequate circulation for both new and existing residents. For clarification purposes, Section 4.13, Population, Employment and Housing contains a detailed discussion of growth factors associated with the Bellevue Ranch project in relation to the anticipated regional growth.

In order to adequately respond to this comment, the following will describe the evaluation prepared for the Traffic and Circulation Section (4.10) as well as the more detailed growth projection analysis contained in the Population, Employment and Housing Section (4.13).

As noted on Page 4.10-14 of the Draft EIR, City staff identified the projected dwelling unit growth for the North Merced area (both with and without the Bellevue Ranch project) for the period noted as the planning horizons (years 2000, 2005 and 2010). In identifying these horizon year growth projections, City staff prepared a study exhibit which identified potential and probable development (by land use) within the North Merced area which are anticipated to develop during the planning horizon(s). The study exhibit, which was prepared with the assistance of MCAG staff, utilized existing development applications as well as acreage/density calculations for land uses in North Merced. Correspondingly, projected growth within the Bellevue Ranch project was delineated based upon the Phasing Plan (Figure 3.6-1) supplied by the project applicant after Page 3.0-7 of the Draft EIR.

For Section 4.10 of the Draft EIR, the combined projected growth provided by the City and the project applicant serves as the basis for the cumulative growth scenario utilized throughout the document, and consistent with the California Environmental Quality Act (CEQA) Section 15130. As the comments point out, the growth for the area is anticipated to reach 14,440 dwelling units by the end of the horizon year of 2010 and including the Bellevue Ranch as well as other

approved, planned and anticipated projects known at the time the Draft EIR was under preparation (August, 1992 to May 1993).

Upon developing these growth projections, the traffic analysis for the project (contained in Section 4.10) identified the location of the future base land uses (by horizon year(s) as provided by City staff) and applied projected growth for the area by Traffic Analysis Zones (TAZ). The TAZ, as discussed on Pages 4.10-19 to 27, illustrates the estimated trip generation by land use and disaggregates future growth from the Bellevue Ranch. This type of analysis was conducted due to the large area under study and to differentiate impacts associated with the project from other projects in the North Merced area to ensure that adequate circulation improvements are identified and planned.

With regard to Section 4.13, the projections for population and housing growth are based upon information provided by the MCAG Population and Employment Forecasts for Merced County (1990-2010), the City of Merced Housing Element and the City of Merced Planning Department staff. This Section specifically focussed on growth within the County, City of Merced Sphere of Influence/SUDP and the Planning Area (Merced Villages Plan). While the Draft EIR acknowledges that the City has experienced a 4 to 5 percent growth rate over the past 20 years, "the City expects to double in population by the year 2005".

For summary purposes, Section 4.13 identified several factors which can be considered as having reasonable bearing on the growth rate in the Merced region. These factors include the reuse of Castle Air Base and the potential location of a new University of California campus at Yosemite Lake. Complete details regarding Section 4.13 are contained in the Draft EIR for the Bellevue Ranch, and are incorporated by reference.

In discharging the duties as lead agency, the City made a reasonable attempt at forecasting growth as related to the Bellevue Ranch and the surrounding region. While several aspects of regional growth are in a period of uncertainty (Castle Air Base reuse and the new U.C. campus site), the City exercised reasonable judgement in developing the projections for circulation improvements and overall growth consistent with Section 15144 of CEQA.

### **RESPONSE TO COMMENT 15-3**

This comment questions the finding that lands to the north of Bellevue Road and adjacent lands to the west of the project site are within the City and County SUDP. While assuming that these lands are not planned for development, this comment expresses additional concern about the potential impacts between urban development and the continuation of agricultural on adjacent lands.

With the exception of approximately eighty-five acres west of "R" Street, the entire Bellevue Ranch site is within the City and County SUDP, including the lands north of Bellevue Road. Although lands to the west and north of the project site are not currently included within the City and County SUDP, as illustrated on Figure 3.3-2 of the Draft EIR, these lands are all part of the 8,000 acre "Village Concept Land Use Plan" and are anticipated to be included into SUDP of the



City and County, and eventually annexed into the City. The errata for the Draft EIR will modify the reference to that portion of the Bellevue Ranch which is currently outside of the SUDP.

In response to the potential impacts between urban and agricultural uses, the City of Merced has expressed a statement of focussed urbanization through the Merced 2030 Plan and the Merced Villages Concept Plan. The 2030 Plan identified that lands to the north of the existing City limits are of lesser agricultural viability than lands to the south and west. In this context, the City (as an expression of policy) has indicated that growth in Merced should occur to the north as a method of preserving viable agricultural lands to the west and south.

Correspondingly, the Merced Villages Concept Plan further established the northerly growth parameters of the City, and refined the type and character of anticipated urbanization for an 8,000 acre area. As part of the 8,000 acre Planning Area, the Bellevue Ranch is the first project to implement the anticipated development program in this portion of North Merced.

With respect to the suggestion that the City adopt a "Right-To-Farm" ordinance, this comment is acknowledged. For references purposes, Section 4.2 of the Draft EIR contains a detailed evaluation of the conversion of agricultural lands to urban uses. While recognizing that development of the Bellevue Ranch will be adjacent to predominately low value agriculture, fallow lands and grazing; implementation of Mitigation Measure 4.2.1 (Page 4.2-12) of the Draft EIR indicates that an interim agricultural buffer is to established and maintained until the project applicant has demonstrated that adjacent agricultural uses have ceased. Although the City can consider a Right-To-Farm ordinance, the use of an interim buffer is an acceptable means to the City to reduce this impact to a less-than-significant level.

#### **RESPONSE TO COMMENT 15-4**

This comment concerns the creation of an unincorporated corridor north of Bellevue Road.

Figure 3.3-1 of the Draft EIR identifies the property ownership of the Bellevue Ranch project. As this comment indicates, an unincorporated corridor of land may be created north of Bellevue Road should the entire Bellevue Ranch property request annexation without consideration to adjacent properties.

As noted on page 4.1-7 of the Draft EIR, the Bellevue Ranch site and this unincorporated corridor represent a portion of the 8,000 acre Village Concept Land Use Plan (as illustrated on Figure 3.3-2 of the Draft EIR). In this regard, all lands adjacent to the project site are anticipated to be annexed to the City in order to achieve the goals set forth in the Villages Concept Plan.

With respect to the use of this EIR to evaluate the annexation of those lands adjacent to the Bellevue Ranch site, the Draft EIR is intended to facilitate the annexation of the project site only. While this EIR may be used as a reference document, the suggestion to coordinate with adjacent property owners is acknowledged. At such time as a request for annexation is submitted, either an appropriate boundary adjustment or adequate CEQA documentation for the adjacent properties is anticipated to be forwarded to LAFCo to assist with making the appropriate compliance findings.

## RESPONSE TO COMMENT 15-5

Comment acknowledged. At this time, and consistent with the growth program set forth through the Merced 2030 Plan and the Merced Villages Concept Plan, all lands adjacent to the Bellevue Ranch are expected to be annexed into the City. Although the precise timing to adjust the Sphere of Influence/SUDP for the small portion of the Bellevue Ranch site noted previously is anticipated to be conducted prior to annexation, City staff and the project applicant reserve the right to process the annexation in a phased manner. However, all annexation requests and amendments to the Sphere of Influence/SUDP will be submitted consistent with the guidelines established by the Cortese/Knox Act and the County of Merced LAFCO.

# FLANAGAN, MASON, ROBBINS, GNASS & CORMAN

ATTORNEYS AT LAW  
A PROFESSIONAL CORPORATION

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(209) 383-9386

November 10, 1993

Steve Nord, City Attorney  
CITY OF MERCED  
678 West 18th Street  
Merced, CA 95340

Re: Bellevue Ranch

Dear Mr. Nord:

My review of the EIR is that the City is over zealous on the traffic issue and the City is attempting to shift the cost of traffic problems in north Merced on the above Project.

In reviewing the EIR and specifically the impacts the above Project will have on public facilities, it is difficult to comment when the impact is not referenced in the City's General Plan.

16-1

Very truly yours,

FLANAGAN, MASON, ROBBINS,  
GNASS & CORMAN

*William E. Gnass*  
WILLIAM E. GNASS

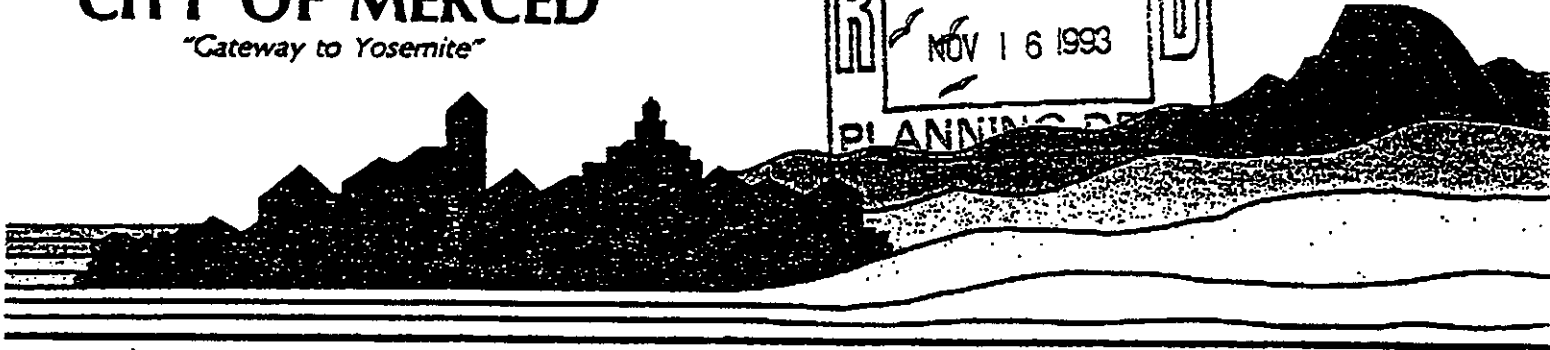
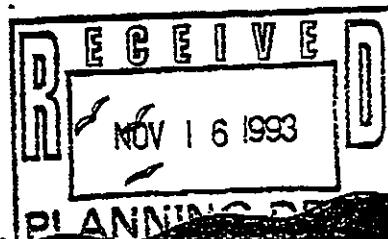
WEG/cm  
bellevue.ltr

cc: Mr. Glenn Matsuhara

RECEIVED  
NOV 12 1993  
CITY ATTORNEY'S OFFICE

# CITY OF MERCED

"Gateway to Yosemite"



November 15, 1993

William E. Gnass  
Flanagan, Mason, Robbins, Gnass & Corman  
Attorneys at Law  
P. O. Box 2067  
Merced, CA 95344-0067

Re: Bellevue Ranch

Dear Mr. Gnass:

I have received your letter of November 10, 1993 voicing your concern over the Bellevue Ranch EIR. I am not certain why you sent the letter to me or what I am supposed to do with it. However, I am forwarding it on to Planning and presumably they will include your comments as part of the EIR review.

Very, truly yours,

A handwritten signature in dark ink, appearing to read "Steven F. Nord".

Steven F. Nord  
City Attorney

SFN:mw

cc: Planning Department

**LETTER 16 Flanagan, Mason, Robbins, Gnass & Corman, William E. Gnass**

**RESPONSE TO COMMENT 16-1**

Comment noted.



AN ADDRESS TO THE MERCED PLANNING SESSION

PLANNING DEPT.

My name is Michael Boykin, I am a high school science teacher. I live at 115 E. 20th in Merced. My remarks concerning the development of the Belleview Ranch fall into two categories: sacrificing agricultural land to urban development and the possible social effects of linear urban growth.

Since the gold rush our Great Valley has served as a potent provider of food and fiber. This role has expanded from serving the local area to become a major force in the world. Indeed, agriculture is California's most important industry from both the economic standpoint and its benefit to mankind. It is a fundamental given that as population grows, more food must be produced to meet growing demand.

After the arab oil embargo of 1973 there was a great outcry over the dangers of reliance upon foreign oil. The strategic integrity of our nation could be threatened by the manipulation of this vital commodity. Let me ask you: which is more vital, oil or food? Which could you live longer without?

What are the consequences of sacrificing our rich agricultural lands for more streets, houses, and shopping centers? Our farmers are the best in the world, producing the clean, safe foods that we demand. The use of agricultural chemicals and their residues are strictly controlled here. Can this be said of foriegn countries? If we make ourselves dependant upon foreign food supplies can we control the way our food is grown? If we voluntarily abandon farm land here

17-1

our need for food doesn't cease. We are responsible for land use in our own area. We can only act locally to stop the rapid loss of farm land.

I am concerned with the linear pattern of growth Merced is presently pursuing. As homes in the upper price range are built in a narrow corridor to the north, our community is increasingly polarized: geographic, economic and social ↑ polarization. As new investment is made toward Lake Yosemite, urban blight spreads through our once graceful downtown residence districts.

What are the long term social effects of polarization? Forty years ago an identical scenario was played out sixty miles to our south. Our G St. was Fresno's Blackstone Ave. Fresno spent money and effort creating our nations first shopping mall. Even as this revolutionary downtown redevelopment was garnering awards and accolades from across the country, Fresno turned its back on this masterpeice and focused on a northward march of development that doomed downtown. The city's priorities ignored the needs of the older parts of town.

What is Fresno now? A city that has abandoned its heritage, sacrificed its soul on the altar of consumerism to become what? A town spreading endlessly over former prime farm land. A town notable for crime and fear of crime, hazardous air quality advisories, genuine traffic jams, gang warfare, a dangerous decayed downtown, and asphalt induced higher temperatures, where open space is an empty parking lot.

As a city concentrates its attentions and efforts on linear



growth, feelings of disenfranchisement grow among those left behind. In Merced we already see a rise in problems associated with urban areas as we grow. Must our future look like Fresno today?

What of our heritage? Our human culture here, our character, our values, are the result of the rural nature of the land. Compare those values with the bright, but empty commercialism that Fresno sold out for. Is development worth it? For every short term job created by development, jobs are lost in agriculture and our land changes forever.



Michael Boykin



**LETTER 17 Michael Boykin, citizen**

**RESPONSE TO COMMENT 17-1**

Comment addresses the conversion of agricultural land to urban uses. Please see Response to Oral Comment 2-3.

**RESPONSE TO COMMENT 17-2**

Comments are noted.

