

**Espinosa, Kim**

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**From:** Anna M. Garcia [agarcia@gvhc.org]  
**Sent:** Tuesday, March 03, 2009 8:09 AM  
**To:** Espinosa, Kim  
**Subject:** Hello Kim Espinosa

I am emailing you to ask for an extension on the comment period for the EIR for the Wal Mart Distribution center. It is unfair for those who speak foreign languages and I do believe that translating the important part of the EIR should be done. After all it is people with language barriers who have to live near this "project" and to be fair in a nation that stands for land of the free for all.

18-1

Thank you,

Anna M Sanchez Garcia  
Community Liaison  
Merced/Mariposa County Asthma Coalition  
Golden Valley Health Center  
737 W. Childs Ave  
Merced, CA 95341  
209-385-5490 (Work)  
209-675-0237 (Cell)  
209-384-3966 (Fax)  
[agarcia@gvhc.org](mailto:agarcia@gvhc.org)

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3/3/2009

**Letter  
18  
Response**

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Merced / Mariposa County Asthma Coalition  
Golden Valley Health Center  
Anna M Sanchez Garcia  
March 3, 2009

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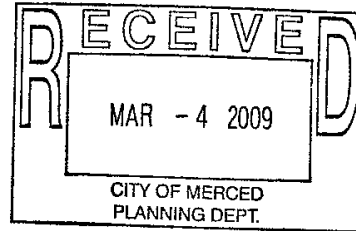
- 18-1            The commenter raises issues associated with availability of the CEQA documents in languages other than English and requests an extension of the public review period. This issue is addressed in Master Response 2: Language Barrier and Public Review Period.

## NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364  
 SACRAMENTO, CA 95814  
 (916) 653-4082  
 (916) 657-5390 - Fax



March 2, 2009



Kim Espinosa  
 City of Merced  
 678 West 18<sup>th</sup> Street  
 Merced, CA 95340

RE: SCH# 2006071029 Wal-Mart Distribution Center; Merced County.

Dear Ms. Espinosa:

The Native American Heritage Commission has reviewed the Notice of Completion (NOC) regarding the above referenced project. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA guidelines 15064(b)). To adequately comply with this provision and mitigate project-related impacts on archaeological resources, the Commission recommends the following actions be required:

- ✓ Contact the appropriate Information Center for a record search to determine:
  - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ Contact the Native American Heritage Commission for:
  - A Sacred Lands File Check. **Sacred Lands File check completed, no sites indicated**
  - A list of appropriate Native American Contacts for consultation concerning the project site and to assist in the mitigation measures. **Native American Contacts List attached**
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
  - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

19-1

Sincerely,

*Katy Sanchez*

Katy Sanchez  
 Program Analyst  
 (916) 653-4040

CC: State Clearinghouse

**Native American Contact**  
Merced County  
March 2, 2009

Southern Sierra Miwuk Nation  
Jay Johnson, Spiritual Leader  
5235 Allred Road  
Mariposa, CA 95338  
209-966-6038

Miwok  
Pauite  
Northern Valley Yokut

Southern Sierra Miwuk Nation  
Les James, Spiritual Leader  
PO Box 1200  
Mariposa, CA 95338  
209-966-3690

Miwok  
Pauite  
Northern Valley Yokut

North Valley Yokuts Tribe  
Katherine Erolinda Perez  
PO Box 717  
Linden, CA 95236  
(209) 887-3415

Ohlone/Costanoan  
Northern Valley Yokuts  
Bay Miwok

Amah Mutsun Tribal Band  
Edward Ketchum  
35867 Yosemite Ave  
Davis, CA 95616  
aerieways@aol.com

Ohlone/Costanoan  
Northern Valley Yokuts

Southern Sierra Miwuk Nation  
Anthony Brochini, Chairperson  
P.O. Box 1200  
Mariposa, CA 95338  
tony\_brochini@nps.gov  
209-379-1120  
209-628-0085 cell

Miwok  
Pauite  
Northern Valley Yokut

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH# 2006071029 Wal-Mart Distribution Center; Merced County.

SOUTHERN SIERRA MIWUK NATION  
JAY JOHNSON, SPIRITUAL LEADER  
5235 ALLRED ROAD  
MARIPOSA CA 95338

SOUTHERN SIERRA MIWUK NATION  
LES JAMES, SPIRITUAL LEADER  
P O BOX 1200  
MARIPOSA CA 95338

NORTH VALLEY YOKUTS TRIBE  
KATHERING EROLINDA PEREZ  
P O BOX 717  
LINDEN CA 95236

AMAH MUTSUN TRIBAL BAND  
EDWARD KETCHUM  
35867 YOSEMITE AVE  
DAVIS CA 95616

SOUTHERN SIERRA MIWUK NATION  
ANTHONY BROCHINI, CHAIRPERSON  
P O BOX 1200  
MARIPOSA CA 95338

Mailed Wal-Mart Draft EIR on CD  
3-4-2009 by T. Lucas



See 3-2-2009 correspondence from the  
Native American Heritage Commission  
Station of California (scanned)

19-1

The commenter states that the Native American Heritage Commission has reviewed the Notice of Completion for the Wal-Mart Distribution Center project, and recommends that several actions be performed to comply with CEQA Guidelines Section 15064(b). The project's potential impacts to cultural resources were evaluated consistent with the requirements of CEQA in Section 4.4, "Cultural Resources," of the DEIR. As described in paragraph 5 on page 4.4-3 of the DEIR, a record search was conducted by the Central California Information Center in 2004, and did not identify any cultural resources within or near the project area. In addition, mitigation measure 4.4-1 (see page 4.4-5 of the DEIR) addresses as-yet undiscovered archeological resources, and mitigation measure 4.4-2 on page 4.4-5 of the DEIR addresses discovery of Native American human remains. The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided.

**Espinosa, Kim**

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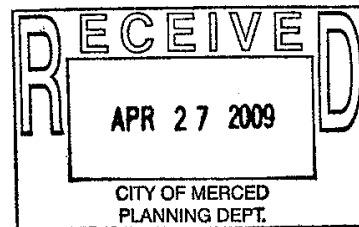
**From:** Maureen McCorry [sanjoaquinetal@sbcglobal.net]  
**Sent:** Monday, April 27, 2009 4:47 PM  
**To:** Espinosa, Kim  
**Cc:** mccorrymk@gmail.com  
**Subject:** Draft Environmental Impact Report for the proposed Wal-Mart Distribution Center (SCH#2006071029)

Dear Ms. Espinosa,

Please refer to the attached document for comments on the Draft Environmental Impact Report for the proposed Wal-Mart Distribution Center.

Please contact us immediately if you experience any difficulty in downloading the attachment. We would appreciate it if you could send an email confirming receipt of the email and the attached document.

Sincerely,  
Maureen McCorry, Director  
San Joaquin Et Al  
P.O. Box 722  
Merced, CA 95341  
(415) 816-8872

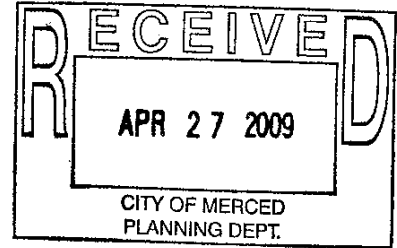


4/27/2009

Maureen McCorry, Director  
San Joaquin Et Al  
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Merced, CA 95341  
Sanjoaquinetal@sbcglobal.net  
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April 27, 2009

Ms. Kim Espinosa, Planning Manager  
City of Merced Planning Department  
678 West 18th Street  
Merced, CA 95340  
Facsimile: (209) 725-8775  
E-mail: [espinosak@cityofmerced.org](mailto:espinosak@cityofmerced.org)



**Re: Comments regarding the Draft Environmental Impact Report (DEIR) for the Wal-Mart Regional Distribution Center, Merced, California (SCH No. 2006071029)**

**Via: E-mail 4.27.09**

Dear Ms. Espinosa,

San Joaquin et al is commenting on behalf of members of the public and other community organizations of standing.

We object to the proposed Wal-Mart Regional Distribution Center in Merced, California. We disagree with the environmental checklist and oppose the accompanying mitigation measures as set forth in this DEIR. The deferral, and in many cases, outright dismissal of mitigation measures is improper and unacceptable. We demand that the DEIR be withdrawn, and a new DEIR be issued that legally analyzes alternatives and is re-circulated in order to incorporate all environmental documents for adjacent projects upon which this project is reliant. In addition, we ask that this process be deferred until the release of the long awaited and overdue General Plans for the City and County of Merced, the University of California Long Range Development Plan, and final documents for other neighboring unincorporated communities are made public.

20-1

20-2

**Alternatives analysis:**

20-3



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Viable alternatives were not properly examined in this document. Rather than legally analyze comparable sites outside the proposed project, the DEIR narrowly construes the alternatives to a no project, a redesigned, or reduced project on the same site (with the exception of the Thornton/West Dickerson Ferry Road industrial zone). The DEIR fails to meaningfully assess how the sites listed in Table 5. 1 were rejected. Politics, proximity to residential communities, truck traffic impacts – including safety – were evidently reason enough to prevent a distribution center from being built elsewhere. Yet many of the reasons outlined in Table 5-1 are not at all relevant to the California Environmental Quality Act (CEQA) and have no place in a DEIR. For instance, why is it that political considerations were given more weight than the proposed Merced site, even in locations that already possess the required infrastructure? Why does residential impacts – including safety – rise to the level of impediment in Patterson, but not in Merced – where children in three local schools will be impacted? Other viable alternatives are completely ignored. The current economic crisis has left large industrial distribution sites vacant at Castle, and in Madera, Ceres, Stockton, and Tracy, yet these alternatives were not even considered, let alone properly analyzed in the DEIR under CEQA.

20-3  
Cont'd

A dry storage distribution center makes little sense in the heart of an agricultural economy in the San Joaquin Valley. Project proponents did not analyze a cold storage distribution center.

We disagree with the conclusions that a “No Project” alternative on the proposed site will lead to identical or very similar impacts as a regional Walmart Distribution Center. This assertion relies on a whole series of faulty assumptions.

20-4

**Tiering/Piecemealing :**

This document is reliant on environmental documents which have not been made available to the public as part of this environmental review process. For example, the proposed WDC is reliant on the build-out of Campus Parkway. Relying on other project mitigation is unacceptable. In addition, the current economic crisis calls into question the availability of funding allocated for the Campus Parkway.

20-5

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A Notice of Preparation (NOP) was filed for the Merced Gateway Park East Commercial and Residential development (April 1, 2008) – but there is no indication as to how this project will interface with the WDC, the Lyons Annexation (Negative Declaration, April 20, 1998), and the City of Merced’s recent approval to abandon 1.37 acres to Lyons Investments (as approved by the Merced City Planning Commission on January 7, 2008 and the Merced City Council on January 20, 2008).

20-5  
Cont'd

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## Infrastructure/Utilities:

### *Storm-water:*

The plans for addressing storm-water drainage are inadequate. This is an area that is prone to flooding without the proposed WDC, the Campus Parkway, and other developments which will compete for water drainage.

We are unable to fully evaluate the impacts of storm-water drainage as this project is reliant on land use approvals and environmental documents on adjacent properties which were not circulated with this DEIR. These impacts can't be understood without access to all environmental documents.

How does the abandonment of the storm-water detention basin improve (referenced above), detract or impact this project?

In the best of worlds, detention ponds are problematic regarding public health and safety.

The ability of the detention ponds to hold excess water is questionable at best. Documents created for the City of Merced for the WDC in July, 2005 discuss some of the challenges drainage will pose for this site – using a 10 year storm, 24 hour storm analysis (some of these conclusions have been integrated in this DEIR). This document noted that Merced Irrigation District (MID) would have to pump water from the drainage ponds in order to accommodate excess water. However, as was noted in this document, the ponds could not be drained using *the maximum* discharge rate of 2200 gpm, within a 48 hour period for a 10 year storm. In addition, the challenges that are identified in this document, the DEIR, MID comments, and drainage issues on adjacent, entitled projects all point to the inadequacy of the current plan to address a reoccurring flood problem.

The challenge to capturing storm-water run-off is compounded by the hazardous waste associated to a fully functioning distribution center. What type of water will be

20-6

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entering the canals and groundwater when flood waters are not captured by the detention ponds? Moreover, the propensity to flood in this region is magnified as more agricultural land in this region is converted to impervious surfaces. The current drainage plans are already stretched; it is more than reasonable to surmise that with full build-out of the WDC, the Campus Parkway, and the industrial and commercial projects immediately adjacent to this project will be unable to absorb storm-water run-off effectively. Because the cumulative impacts of these projects are effectively ignored, the environmental documents associated to these adjacent developments have not been analyzed and therefore, the public has no way to fully understand drainage and flooding issues as well as impacts to groundwater and water quality.

20-6  
Cont'd

We can expect these impacts to be significant, but they cannot be understood in the current document. On page 2-34 of the Executive Summary, the proposal relies on a 100 year flood zone standard. Yet, the DEIR defers new state and federal flood management law as referenced in the Executive Summary (4.6-6). Deferral of state and federal law is unacceptable.

*Sewer Capacity:*

The current sewer system is at capacity. The City of Merced has published a Draft Sewer Master Plan (January, 2007). How does this proposal impact this plan?

In what ways does the WDC proposal enhance or detract from plans for a regional sewer system that could serve both the city of Merced and neighboring and financially strapped unincorporated service districts. Moreover, the impacts to our municipal sewer facility is stretched by residential subdivisions and commercial developments the city has entitled or approved through guidance plans, but have not yet come online (the University of California Community Plan and Yosemite Lakes are just two that come to mind). How are the City of Merced's current commitments to both residential and commercial use impacted by this project? The lack of sewer capacity would be reason enough to delay any further approvals until the new General Plan and accompanying master plans are published.

20-7

*Transportation:*

20-8

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The assumptions underlying the traffic analysis are woefully inadequate. The DEIR narrowly frames truck traffic impacts. For example, the truck traffic impacts to Yosemite Parkway, along with a variety of country roads that will be impacted are ignored. In addition, this project will very significantly impact Childs Avenue, Gerard, Kibby, and Tower Roads. These county roads are well beyond disrepair. The traffic discussion is limited and wholly dependent on the build-out of the Campus Parkway. At the time of this writing, Campus Parkway is limited to the interchange and a very short distance forcing WDC related traffic on two land roads in a county that has been committed to building expressways rather than shoring up its deteriorating and much used county road system. Who will bear the burden of cost associated to improving the roads/parkway that will service this project?

20-8  
Cont'd

In addition, there is no analysis in the DEIR on the impacts associated to the empty storage containers that are left on site once they are loaded or unloaded. The growth inducing impacts of increased truck traffic from the port of entry (Oakland) through Highway 99 to the proposed WDC are also ignored in this document.

20-9  
20-10

We demand that all outside carriers servicing the WDC be held to 2010 California emissions standards.

20-11

*Parking/Staging:*

Another immediate impact that this DEIR ignores is the fact that outside carriers will not have the same accessibility to parking as Walmart trucks on the WDC site. Outside carriers are not allowed to stay on the premises while they wait to be loaded or unloaded. Outside carriers have a narrow window, from 1 – 3 hours, for loading/unloading their trucks. They will need to remain in the vicinity of the proposed WDC during that time frame. Where will they park?

20-12

**General Plan Consistency:**

*City of Merced:* WDC is reliant on an outdated General Plan. It makes little sense to consider this project in advance of the City of Merced's updated general plan.

20-13

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Moreover, there is no analysis as to how this project relates to the South Merced Specific Plan. The Master Plans associated to the updated General Plan should provide the guidance for a project of this scope and magnitude.

20-14

*County of Merced:* Merced County is in the process of updating its general plan. The proposed WDC will have impacts on circulation, cumulative impacts to county lands adjacent to the project – including farmland conversion, water quality, traffic, and air impacts. We disagree that the potential for growth and the impacts on farmland conversion are relevant only to the City of Merced. Moreover, most of the adjacent land that will be impacted by the project is on county land.

20-15

*The University of California:* The University of California is in the process of finalizing its Long Range Development Plan (LRDP). However, there are significant incongruities between the UC LRDP and the County of Merced’s University Community Plan. Mitigation included for the UC includes a comprehensive conservation strategy that encompasses Eastern Merced County and is ignored in this DEIR.

20-16

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## **Agriculture:**

This project relies on an approximately 20 year old planning document. There is no mitigation proposed for this project. As the Executive Summary states on page 2.-53 in reference to "Cumulative Agricultural Land Impact": "... The project would result in a loss of approximately 158.2 acres of Prime Farmland, 57.87 acres of Farmland of Statewide Importance, and 12.61 acres of Unique Farmland, *which is considered to be a cumulatively considerable contribution to the cumulative impact when considered along the past farmland conversions identified above and planned future development proposed in the City of Merced...*"

We disagree with the conclusion in this document that a "statement of overriding consideration" is a substitute for meaningful mitigation – especially for a project of this magnitude and a project proponent with substantial resources.

Furthermore, we disagree with the conclusion that the impacts to adjacent lands is not the responsibility of this project or the City of Merced. Farmland in this region – let alone the entire county -- has not been mitigated. We wholeheartedly disagree with the reasoning and conclusions drawn in the Executive Summary at 4.1-1: "...mitigation that would eliminate the loss of agricultural land to urban development is not possible. Therefore, because no mitigation is available to reduce this impact would remain significant and unavoidable. This conclusion is consistent with the conclusion of the EIR prepared for the Merced Vision 2015 General Plan..."

20-17

While this project relies on an antiquated General Plan, an updated General Plan is waiting in the wings.

These conclusions and reliance on an antiquated General Plan ignores growing community support for protecting agricultural lands, especially in the aftermath of the plethora of partially built and thoroughly abandoned subdivisions that have left over the traditional city limits to create urban sprawl in the heart of our precious natural resources and farmland. The unnecessary sprawl created by a real estate boom gone

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bust and has created real impacts to agricultural lands as noted by the lead agency on page 2-53 of the Executive Summary.

The disconnect in the DEIR (acknowledging the rapid conversion of farmland, yet choosing to avoid mitigation for this loss) underscores the importance of deferring consideration of this project until a new general plan is adopted that includes an enforceable mitigation policy for agricultural lands.

20-17  
Cont'd

Mitigation should be developed and agreed to in advance of the project approval and should require in-kind mitigation as opposed to in-lieu fees.

**Biological Resources:**

Biological impacts are dismissed as insignificant based on the unsupported conclusion that agricultural and current land uses in this region do not support significant wildlife resources. These conclusions were reached without ground sleuthing or site visits. We disagree with this conclusion and request documentation that supports the conclusions in the DEIR. Deferring mitigation for biological resources is improper and illegal.

20-18

As noted above, this region is in fact adjacent to the University of California's Conservation Strategy for Eastern Merced County which is not at all analyzed in this DEIR.

**Cumulative Impacts:**

The discussion associated to cumulative impacts is too narrowly drawn. Conclusions drawn regarding Population and Housing (ES, 2-54) serves as a case in point. The potential for farmland conversion is determined to be "less than significant," effectively ignoring the growth inducing and cumulative impacts associated to this project in combination with other projects as outlined above (4-11.1).

20-19

We find the "cumulative impacts" analysis woefully inadequate. No impacts are associated to the project and therefore, no mitigation is required. Merced has already become the victim of another major developer, the University of California. We have



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been through the long on promises (in this case: jobs), short on action road before (in this case mitigation for the very real impacts the proposed WDC will bring to our community). Merced cannot afford another big developer who is unwilling to foot the bill on road/traffic impacts, sewer impacts, water impacts, and resource impacts -- Mercedians deserve better.

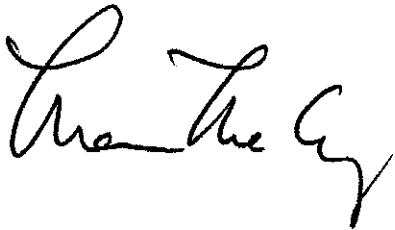
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Cont'd

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We once again state that relevant documents/projects, upon which this document is reliant, were not circulated with this DEIR, and therefore we demand re-circulation of the DEIR as stated above. Finally, we request that any changes to the proposed project will require a re-circulation of the EIR.

Thank you in advance for your thoughtful consideration of our concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Maureen McCorry". The signature is fluid and cursive, with the first name being the most prominent.

Maureen McCorry, Director  
San Joaquin Et Al  
P.O. Box 722  
Merced, CA 95341

cc: Interested parties

- 20-1 The commenter states objection to the proposed project and disagreement with the environmental checklist and mitigation measures recommended in the DEIR. The commenter states deferral and dismissal of mitigation measures is “improper and unacceptable.” The commenter requests the DEIR be revised to legally analyze alternatives and incorporate all environmental documents for adjacent projects and that it be recirculated.
- Related to the “environmental checklist” used in the DEIR, the thresholds established in the DEIR were taken directly from the CEQA Guidelines (Appendix G) along with any additional thresholds deemed relevant to the proposed project. Related to mitigation measures recommended in the DEIR, the mitigation measures provided comply fully with the requirements of CEQA Guidelines Section 15126.4 which outlines the requirements for mitigation measures. Because the commenter does not provide any specific details on what part of the “environmental checklist” or what mitigation measures are disagreed upon, no further response can be provided.
- Related to deferral and dismissal of mitigation measures, it is unclear what specific mitigation measure(s) the commenter refers to. Therefore, no additional response can be provided.
- Related to analysis of project alternatives, the DEIR adequately analyzes alternatives to the proposed project in Chapter 5, “Alternatives to the Proposed Project.” The commenter does not provide specifics of how the analysis of project alternatives may be “legally” deficient; therefore, no further response can be provided. See also Master Response 12: Alternatives.
- Related to incorporating all environmental documents for adjacent projects, the intent of the DEIR is to analyze environmental impacts of the proposed project. CEQA does not require the DEIR to incorporate environmental documents for adjacent projects. In addition, the commenter does not identify what, if any, relevant information would be obtained from these environmental documents. No further response can be provided.
- 20-2 The commenter requests the DEIR be deferred until the updated General Plans for the City and County of Merced, University California Long Range Development Plan, and documents for other neighboring communities are completed. CEQA does not require deferring the public release of a DEIR until other documents are completed. The DEIR adequately establishes an appropriate environmental setting in accordance with CEQA Guidelines Section 15125(a) which constitutes “the baseline physical conditions by which a lead agency determines whether an impact is significant.” The environmental setting is further described in CEQA Guidelines as “a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published ...” (Section 15125(a)). Section 15125(e) further emphasizes the existing conditions as being “the time the notice of preparation is published.” The DEIR fully meets the requirements of CEQA in establishing an appropriate environmental setting, baseline, and timing for which to analyze environmental impacts of the proposed project.
- 20-3 The commenter states viable alternatives to the proposed project were not properly examined in the DEIR. The commenter states the DEIR does not assess how sites listed in Table 5-1 were rejected. The commenter states reasons for rejection provided in Table 5-1 are not relevant to CEQA and do not belong in the DEIR. The commenter states other viable alternatives were ignored including existing, vacant industrial distribution sites located in other communities. Please see Master Response 12: Alternatives, which addresses these issues.

Additionally, the commenter states a dry storage distribution center does not belong in an agricultural economy of the San Joaquin Valley. The commenter states “project proponents” did not analyze a cold storage distribution center. Related to the DEIR not analyzing a “cold storage distribution center,” the project description in the DEIR identifies that the project purpose is for “storage and distribution of non-grocery goods to Wal-Mart retail stores located throughout the region” (see Section 3.1, “Project Description”). It is unclear where the commenter identified the project as a “cold storage” distribution center; however, the project is fully and adequately described in the DEIR (see Chapter 3, “Project Description”). No further response can be provided.

20-4 The commenter raises issues with the No Project Alternative identified in the DEIR. Please refer to Master Response 12: Alternatives, which addresses this issue.

20-5 The comment suggests that the City is piecemealing the environmental analysis of the Wal-Mart distribution center by not analyzing it in combination with other nearby, related projects. The City adopted a Mitigated Negative Declaration (MND) in 1998 in connection with its annexation of 484 acres, known as the “Lyons Annexation.” The MND incorporated by reference the City of Merced Vision 2015 General Plan EIR and also included its own mitigation measures applicable to future projects within the annexed territory. A portion of the proposed Wal-Mart Distribution Center project would be located within Lyons Annexation territory and therefore the mitigation measures adopted as part of the Lyons Annexation will apply to the proposed project. The Wal-Mart Distribution Center DEIR includes references to the Lyons Annexation MND and the Vision 2015 General Plan. For example, mitigation fees for traffic impacts, adopted as part of the Lyons Annexation and applicable to the proposed Wal-Mart Distribution Center project, are described in the Traffic and Transportation chapter on p. 4.11-17. The Mitigation Monitoring Plan (MMP) for the Lyon’s Annexation Project is a publicly available document. The MMP identifies all of the mitigation measures required for any development occurring within the annexation area, including the proposed project. In addition, to increase clarity, the Draft EIR text has been revised to describe the relationship of the proposed project to the Lyon’s Annexation and to make reference to the previously adopted MMP. However, it should be noted that many of the mitigation measures in the Draft EIR add considerably to the mitigation measures in the Lyon’s Annexation MND, providing increased effectiveness and greater impact reduction. The mitigation measures identified in the Merced Wal-Mart Distribution Center DEIR do not eliminate the need to comply with the previous mitigation measures, but in instances where the DEIR increases the effectiveness of the previous mitigation, or updates the previous mitigation, the compliance with the mitigation measures in the DEIR should be considered compliance with the previous mitigation measures included in the Lyon’s Annexation MND. Please refer to Response to Comment 16-24 for additional information regarding the Lyon’s Annexation mitigation measures.

20-6 The commenter indicates that the plans for addressing stormwater drainage are inadequate, and that detention ponds are problematic regarding public health and safety. The comment suggests that the Draft EIR has informational deficiencies with respect to the stormwater system. See Master Response 7: Detention Basins and Drainage, which addresses comments pertaining to stormwater volume. See Master Response 8: Runoff Water Quality, which addresses comments pertaining to stormwater quality.

The commenter also indicates that state and federal flood management law is deferred. State and federal flood management law is not deferred. Comment 20-6 refers to SB 5, which sets timelines for “adequate progress” in protection from the 200-year flood (per Water Code Section 65865.5[a][3]). This is explained in Impact 4.6-7 of the DEIR.

- 20-7 The commenter states that the current sewer system is at capacity and asks how the January 2007 Draft Sewer Master Plan will impact the proposed project. The commenter asks how the proposed project will enhance or detract from plans for a regional sewer system. The commenter states that the municipal sewer facility is already “stretched” by entitled and approved projects that have not yet been built out. The commenter then asks how the City’s municipal sewer facility’s current commitments to residential and commercial use will be impacted by the proposed project. The commenter states that the lack of sewer capacity would be reason enough to delay project approvals until the new General Plan and master plans are published.
- Regarding the project’s potential effect on plans for a regional sewer system, the commenter does not state details of such a plan and no known plans for a regional sewer system are currently underway. The project’s impact on sewer capacity was fully analyzed in Section 4.12, “Utilities and Public Services,” Impact 4.12-2, page 4.12-16 and 4.12-17 of the DEIR. As discussed in Impact 4.12-2, the existing WWTP capacity would be adequate to serve wastewater flows generated by the proposed project and the wastewater generated by the project, in combination with the average 7.8 mgd wastewater flows currently being treated at the Merced WWTP, would not exceed the plant’s permitted capacity. Furthermore, the WWTP is currently being expanded to 12 mgd for near term treatment and then to 16 mgd and eventually 20 mgd. This expansion would address the City’s future sewer capacity needs. The project impact would be less than significant.
- In response to the commenter’s desire for delay of project approval until new City Planning documents (General Plan, master plans) are published, please refer to Response to Comment 20-2. This comment does not raise any issues about the adequacy of environmental analysis in the DEIR. Therefore, no further response is necessary.
- 20-8 This comment describes various traffic-related issues including truck traffic, road maintenance, and roadway cost. Issues related to truck traffic are addressed in Master Response 6: Trucks and the Transportation Analysis. Regarding wear and tear on roads and road maintenance, please see Response to Comment 182B-1, which addresses this issue. Regarding cost associated with roadway improvements, CEQA requires that EIRs evaluate environmental impacts. Fiscal or economic impacts, by themselves, do not constitute environmental impacts; therefore, the DEIR does not address costs associated with roadway improvements. Please also refer to Responses to Comments 96B-5 and 182B-1.
- 20-9 The comment raises issues with the DEIR’s traffic analysis with respect to empty storage containers. Goods that are brought to the Distribution Center come from various sources. It would be speculative to estimate how the proposed distribution center would potentially affect the Port of Oakland or any other port. Traffic dissipates as it moves further from the source, and the number of available route choices increases. Therefore, this location was considered outside the study area and too far way to accurately forecast project-generated traffic volumes. Please also see Master Response 6: Trucks and Transportation Analysis, which addresses this issue.
- 20-10 The commenter states that the growth inducing impacts from increased truck traffic from the Port of Oakland to the proposed distribution center are ignored in the DEIR. Please refer to Master Response 6 regarding truck trips and analysis. Assumptions regarding Campus Parkway and the timing of the extension of the roadway in the Background Conditions (between Mission Avenue and Childs Avenue) and Cumulative Conditions (north of Childs Avenue) were based on the City of Merced’s General Plan and Capital Improvement Program.
- 20-11 The comment demands “that all outside carriers servicing the [project] be held to 2010 emission standards.” The comment is not fully understood, but it is assumed that the commenter suggests

that all the trucks that make trips to and from the project be performed in vehicles that meet model year 2010 emission standards. The comment does not raise issues with the adequacy of the DEIR. The comment is noted. Please refer to response to comment 191-1 regarding the emissions performance required of Wal-Mart –operated trucks by Mitigation Measure 4.2-2c.

20-12 The commenter states that outside carriers will not have the same accessibility to parking as Wal-Mart trucks on the proposed project site. Outside carriers were considered in the DEIR’s analysis and addressed in Mitigation Measure 4.11-2a.

20-13 The commenter states the project is relies on an outdated General Plan and the proposed project should not be considered until the City’s General Plan update is complete. Please refer to Response to Comment 20-2.

20-14 The commenter states the DEIR does not analyze the project’s relationship to the South Merced Specific Plan. The commenter states the master plans associated with the updated General Plan should provide guidance for the proposed project. Related to the South Merced Specific Plan, the project site is not located in the South Merced Specific Plan area. Therefore, the South Merced Specific Plan would not provide any relevant guidance to the proposed project. Related to master plans associated with the updated General Plan, please refer to Response to Comment 20-2.

20-15 The commenter states Merced County is in the process of updating their General Plan and states the project would have impacts on county lands adjacent to the project site. The commenter states disagreement that the project’s potential for growth and impacts on farmland conversion are relevant only to the City of Merced.

The commenter does not identify specific impacts that could occur on county lands with implementation of the proposed project other than circulation, cumulative, farmland conversion, water quality, traffic, and air quality. The commenter is incorrect. Analysis of impacts conducted in the DEIR includes areas outside the City of Merced relevant to the environmental issue. For example, the intersection of Kibby Road and Yosemite Parkway is analyzed for traffic impacts (see Section 4.11, “Traffic and Circulation”) and cumulative loss of farmland in the region, including Merced County, is analyzed (see Chapter 6, “Cumulative and Growth-Inducing Impacts”). The DEIR fully analyzes environmental impacts associated with implementation of the proposed project including areas outside the City of Merced where relevant. The commenter does not provide substantial evidence of where the DEIR does not adequately analyze an environmental impact outside the city limits. No further response can be provided.

20-16 The commenter states the University of California is in the process of finalizing their Lang Range Development Plan and identifies a farmland conservation strategy that should be identified in the DEIR. Please refer to Response to Comment 20-2 and Master Response 5: Agricultural Resources which addresses the issue related to conversion of important farmland.

20-17 The commenter states the DEIR analysis relies on antiquated General Plan and restates conclusions made in the DEIR related to loss of important farmland. The commenter states disagreement with the DEIR not providing mitigation for the loss of important farmland and relies on a Statement of Overriding Considerations. The commenter states disagreement with conclusions in the DIER that mitigation is not available to eliminate the loss of agricultural land. The commenter states the DEIR ignores community support for protecting agricultural land lost to urban sprawl. The commenter states the DEIR should be deferred until the updated general plan is adopted.

Related to the General Plan update and its relation to the DEIR, please refer to Response to Comment 20-2. Related to mitigation for the loss of important farmland, please refer to Master

Response 5: Agricultural Resources, which addresses the issue related to conversion of important farmland.

20-18

The commenter makes brief references to the impact conclusions regarding wildlife use, deferral of mitigation, and the University of California’s Conservation Strategy for Eastern Merced County. The commenter states that the conclusions were reached “without ground sleuthing or site visits.”

On page 4.3-1 of the DEIR, it is noted that an EDAW biologist conducted a reconnaissance-level field survey of the project site on June 26, 2006. The one-day survey was adequate to evaluate potential biological impacts due to the fact that the project site is almost entirely comprised of agricultural habitats that support relatively limited wildlife diversity. The conclusions for both impacts are supported by factual information collected during the field surveys and through review of the sources of information presented on page 4.3-1 of the DEIR.

Potential effects on special-status wildlife are discussed on page 4.3-10 of the DEIR. Potential effects on wildlife movement are discussed on Page 4.3-12. The sentence in the comment regarding the deferral of mitigation is non-specific and therefore it is not possible to determine what mitigation measure(s) the commenter might be referring to.

The sentence regarding the University of California’s Conservation Strategy for Eastern Merced County does not describe how the project could conflict with the strategy or otherwise specifically questions the adequacy of the DEIR. Assuming that the conservation strategy the commenter is referring to is for the UC Merced Project (ICF Jones & Stokes 2008), it should be noted that the project footprint is located two miles northeast of the limits of the City of Merced; the proposed Wal-Mart Distribution Center is located in the southeast area of the City of Merced.

20-19

The commenter states that the cumulative impacts discussion is too narrowly drawn. The project’s cumulative and growth inducing impacts were evaluated consistent with the requirements of CEQA in Chapter 6, “Cumulative and Growth-Inducing Impacts” of the DEIR. The state CEQA Guidelines state that the cumulative impacts discussion does not need to provide as much detail as is provided in the analysis of project-only impacts, and should be guided by the standards of practicality and reasonableness (Guidelines Section 15130[b]). Cumulative population and housing impacts are considered less than significant because the project is consistent with existing local land use policies and regulations, and would not result in a cumulatively considerable incremental contribution (see page 6-11 of the DEIR). The commenter states that the cumulative farmland impact is less than significant. As described on page 6-4 of the DEIR, cumulative agricultural land impacts are considered significant. The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided. Please also see Master Response 4: Cumulative Impact Analysis regarding the scope of the cumulative impacts analysis.

The commenter states that the cumulative impact analysis is inadequate. As described above, the project’s cumulative impacts were evaluated consistent with CEQA requirements. In addition, as described on pages 6-4 through 6-33 of the DEIR, significant, less-than-significant environmental impacts are identified for the various environmental issue areas (i.e., agricultural land, air quality, biological resources, etc.). Regarding social and economic impacts of the proposed project, please refer to response to comments 29-18 and 241-4. The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided.

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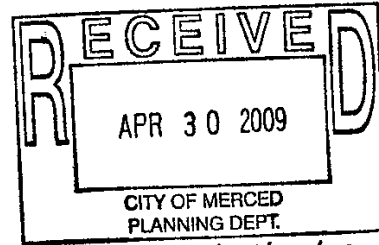




**San Joaquin Valley**  
AIR POLLUTION CONTROL DISTRICT

April 27, 2009

Kim Espinosa  
City of Merced  
Planning Division  
678 West 18<sup>th</sup> Street  
Merced, CA 95340



*Postmarked 4/29/09 ns  
Fax received 4/27/09 @ 14:30 TL*

**Subject: Comments on Proposed Project**

**Project: Draft Environmental Impact Report (EIR) #06-01 (SCH #2006071029) for the Wal-Mart Distribution Center**

**District Reference No: 20060762**

Dear Ms. Espinosa:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Draft Environmental Impact Report for the Merced Wal-Mart Distribution Center located at the northwest corner of Gerard Avenue and Tower Road. The proposed project would include construction of a regional distribution center consisting of approximately 1.1 million square feet, operating 24 hours per day, and employing approximately 1,200 employees. The District offers the following comments:

**District Comments**

- 1) The project will have a significant adverse impact on air quality. 21-1
- 2) Mitigation Measure 4.2-1b: Construction Emissions – The Draft EIR concludes that construction emissions will have a significant impact on air quality but with mitigation, the construction exhaust impacts can be reduced. In order to conclude that the construction exhaust emissions would be less than significant, mitigation measures reducing construction exhaust emissions must be fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines §15126.4, subd.(a)(2)). Feasible mitigation of construction exhaust 21-2

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emission includes use of construction equipment powered by engines meeting, at a minimum, Tier II emission standards, as set forth in § 2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 Code of Federal Regulations. The District recommends incorporating, as a condition of project approval, a requirement that off-road construction equipment used on site achieve fleet average emissions equal to or less than the Tier II emissions standard of 4.8 NOx g/hp-hr. This can be achieved through any combination of uncontrolled engines and engines complying with Tier II and above engine standards.

21-2  
Cont'd

3) Mitigation Measure 4.2-1c and 2e: Implement an Emissions Reduction Agreement to Reduce Construction & Operational Emissions- The Draft EIR concludes that the applicant will fund and implement an Emissions Reduction Agreement to mitigate the projects NOx and ROG impact on air quality to below the Districts threshold. The District supports the use of emission reduction agreements as feasible mitigation of a project related cumulative impacts on air quality. However, it should be noted that emission reduction agreements do not result in on-site reductions and thus do not mitigate potential risk to near-by receptors to exposure of toxic air contaminants. The District recommends that demonstration of having successfully entered into an emission reduction agreement with the District, before the issuance of the first building permit, be made a condition of project approval.

21-3

4) The Draft EIR correctly states that the District has not adopted a threshold of significance for PM10 and concludes that PM10 emissions would have a significant impact on air quality. Although the District's Governing Board has not adopted a threshold of significance for PM10, the District recommends that lead agencies use an applied threshold of 15 tons per year (TPY). The District recommends that mitigation of PM10 emissions below the 15 TPY applied threshold be included into the Emissions Reduction Agreement.

21-4

5) Indirect Source Review (ISR)- The project is subject to District Rule 9510 (Indirect Source Review). District Rule 9510 is intended to mitigate a project's impact on air quality through project design elements or by payment of applicable off-site mitigation fees. Any applicant subject to District Rule 9510 is required to submit an Air Impact Assessment (AIA) application to the District no later than receiving final discretionary approval, and to pay any applicable off-site mitigation fees before issuance of the first building permit. The District recommends demonstration of compliance with District Rule 9510 before issuance of the first building permit for each phase of the project be made a condition of the project's approval. The District recommends demonstration of compliance with District Rule 9510 before issuance of the first building permit for each phase of the project be made a condition of the project's approval.

21-5

6) The proposed project may require District permits. Prior to the start of construction the project proponent should contact the District's Small Business Assistance Office at (559) 230-5888 to determine if an Authority to Construct (ATC) is required.

21-6

7) The proposed project may be subject to the following District rules: Regulation VIII, (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).

21-7

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

8) ENSR Corporation performed a health risk assessment to determine the risk from diesel particulate emissions from truck travel on the site; truck idling at the gate, scale, and parking area; and operation of two stationary internal combustion engines; and emissions from the cafeteria. The San Joaquin Valley Unified Air Pollution Control District reviewed ENSR's health risk assessment. Specific comments on ENSR's health risk assessment based upon the District's review are given below:

21-8

A. The analysis is based upon a 5-minute limit on idling at any one location. The Air Toxic Control Measure contains a number of exemptions. Therefore, this limitation should be included as an enforceable measure in the land use permit. Otherwise, a default period of 15-minutes must be used in the analysis.

B. The HRA is based upon the use of truck engines that meet Tier 2/3 emission standards. This commitment must be included in the land use permit, or the assumption that the engines in this fleet will be the same as that for Merced County should be used in the analysis.

21-9

C. The HRA specifies that there will be no cold storage on-site other than that used for the employees' cafeteria. This requirement should be incorporated as a condition in the land use permit.

21-10

D. The analysis used hour-of-the-day adjustments to the emissions of diesel particulate matter from the trucks. To use this approach, appropriate limitations (e.g., number of trucks during daytime hours and number of trucks during nighttime hours) should be included in the land use permit and will be included in the Authority to Construct.

21-11

E. All conditions in the land use permit, such as those above, that are required to ensure the integrity of the HRA should be included in the Authority to Construct for the stationary engines.

21-12

- F. Travel distances were incorrectly calculated by multiplying the number of volume sources in a line source by the length of the side. The correct approach would be to calculate distances based upon the nodes in the line source. The effect of this error is to underestimate the travel distances (and the resulting travel emissions) by a factor of 2. 21-13
- G. The applicant used EMFAC2007 to calculate emissions for indirect source review. The emission factors from the EMFAC2007 run should have been used for the risk modeling. The emission factor for haul trucks should have been 1.448 g/mi instead of 0.670 g/mi. Similarly, the emission factor for idling haul trucks should be 2.08 g/hr instead of 2.37 g/hr. 21-14
- H. No emissions from the transportation refrigeration units (TRUs) on the trucks supplying food to the cafeteria were included in the analysis. 21-15
- I. A limited number of receptors were modeled. Additional receptors should be included in the analysis. For example, single receptors at the center of industrial facilities were modeled for the two industrial facilities north of the proposed site. For those two areas, receptors should have been placed 25 meters beyond the project boundary and with a spacing of 25 meters. Similarly, receptors for agricultural workers in adjacent fields were not modeled. Additional receptors should have been modeled for the residential development and the school west of the project site. Also, the receptors for other schools and sensitive receptors should have been placed at the location on the boundary that is closest to the proposed project. 21-16
- J. The District does not use the adjustments for student carcinogenic risk unless the student lives somewhere other than within the zone of impact but attends a school within the zone of impact. 21-17
- K. The applicant has not specified the number of hours that the two generators will operate for maintenance and testing. The emission calculations for these two generators should conform to the limits that will be applicable based on the Air Toxics Control Measure for stationary internal combustion engines. 21-18
- L. The Industrial Source Complex Short-Term (ISCST3) model in the Hot Spots Analysis and Reporting Program (HARP) was used to model emissions from the cafeteria. Use of ISCST3 is not one of the U.S. Environmental Protection Agency's (EPA's) preferred model. To use it in lieu of the preferred model (i.e., AERMOD), a model evaluation must be performed to demonstrate its superiority to the preferred model. 21-19
- M. In HARP, a deposition rate of 0.05 m/s was used. This value is appropriate for uncontrolled sources. Normally, the District uses a deposition rate of 0.02 m/s for controlled sources. 21-20

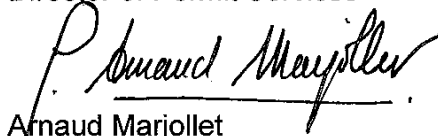
- N) Based upon the District's review, the maximum residential cancer risk could be well over 10 in a million because of comments in F, G, and H. The issues raised above should be addressed with a revision to the health risk assessment. The revised health risk assessment must be based upon the District's default assumptions for idling time, etc. unless a firm commitment is made to incorporate the mitigation measures identified in comments A through D in the land use permit and any air quality permit issued for the stationary internal combustion engines.

21-21

District staff is available to meet with you and/or the applicant to further discuss the regulatory requirements that are associated with this project. If you have any questions or require further information, please call Mark Montelongo at (559) 230-5905 and provide the reference number at the top of this letter.

Sincerely,

David Warner  
Director of Permit Services



Arnaud Marjollet  
Permit Services Manager

DW: mm

- 21-1 Commenter states that the project will have a significance adverse impact on air quality. Significant impacts to air quality were identified in Impact 4.2-1 (Generation of Short-Term Construction-Related Emissions of Criteria Air Pollutants and Precursors) and Impact 4.2-2 (Generation of Long-Term Operation-Related (Regional) Emissions of Criteria Air Pollutants and Precursor Emissions). These impacts would be reduced to a less-than-significant level with the implementation of mitigation. Significant and unavoidable impacts to air quality were identified in Impact 4.2-6 (Generation of Emissions of Greenhouse Gases).
- 21-2 Commenter states that feasible mitigation for reducing construction-related diesel exhaust emissions includes the use of construction equipment powered by engines meeting, at a minimum Tier II emission standards as set forth in §2423 of title 13 of the California Code of Regulations and Part 89 of title 40 of the Code of Federal Regulations. The DEIR has been revised to add this measure to the list of Required Measures to Reduce Construction-Related Diesel Equipment Exhaust Emission under Mitigation Measure 4.2-1b. Please see Section 4.4 of this FEIR, “Revisions and Corrections to the DEIR Air Quality Section 4.2” for the specific text changes.
- 21-3 Commenter supports the use of an Emissions Reduction Agreement in Mitigation measure 4.2-1c to reduce construction emissions. The commenter suggests that the EIR disclose that the emissions reduction agreement would not result in on-site reductions and thus not reduce the potential risk to near-by receptors from exposure to toxic air contaminants. However, Impact 4.2-1 concerns only construction-related emissions of criteria air pollutants and precursors, as suggested by its title, and Exposure of Sensitive Receptors to Emissions of Toxic Air Contaminants is discussed in Impact 4.2-4.
- Regarding Mitigation Measure 4.2-1c and Mitigation Measure 4.2-2e, the commenter also suggests that demonstration of having successfully entered into an emission reduction agreement with the SJVAPCD be achieved before issuance of the first building permit. Mitigation Measure 4.2-1c and Mitigation Measure 4.2-2e have been revised to reflect this recommendation. Please see Section 4.4, “Revisions and Corrections to the DEIR Air Quality Section 4.2” for the specific DEIR text changes. Also refer to response to comment 235-1 for discussion about the ISR program.
- 21-4 Commenter states that, although SJVAPCD’s Governing Board has not adopted a threshold of significance for PM<sub>10</sub>, SJVAPCD recommends that lead agencies use an applied threshold of 15 TPY. Commenter also suggests that mitigation of PM<sub>10</sub> emissions below the 15 TPY applied threshold be included into the Emissions Reduction Agreement. The DEIR has been revised to add a bullet to the list of thresholds of significance in Section 4.2.3 of the Air Quality section. Please see Section 4.4 of this FEIR, “Revisions and Corrections to the DEIR Air Quality Section 4.2,” for the specific DEIR text changes.
- SJVAPCD’s applied threshold of significance has also been added to Table 4.2-6 and is discussed in the analysis of construction-generated emissions under Impact 4.2-1.
- In addition, SJVAPCD’s applied threshold of significance has been added to Table 4.2-7 and is discussed in the analysis of operational emissions under Impact 4.2-2. Text changes have also been made to the language of Mitigation Measure 4.2-2e, which now requires that the Applicant’s

emissions reduction agreement with SJVAPCD to also reduce net PM<sub>10</sub> emissions to less than 15 TPY. These changes are reflected in Section 4.2.

21-5 Commenter supports the use of an Emissions Reduction Agreement in Mitigation measure 4.2-1c to reduce construction emissions. The commenter suggests that the EIR disclose that the emissions reduction agreement would not result in on-site reductions and thus not reduce the potential risk to near-by receptors from exposure to toxic air contaminants. However, Impact 4.2-1 concerns only construction-related emissions of criteria air pollutants and precursors, as suggested by its title, and Exposure of Sensitive Receptors to Emissions of Toxic Air Contaminants is discussed in Impact 4.2-4.

Regarding Mitigation Measure 4.2-1c and Mitigation Measure 4.2-2e, the commenter also suggests that demonstration of having successfully entered into an emission reduction agreement with the SJVAPCD be achieved before issuance of the first building permit. The DEIR has been revised to add this requirement to the end of Mitigation Measure 4.2-1c and 4.2-2e. Please see Section 4.4 of this FEIR, "Revisions and Corrections to the DEIR Air Quality Section 4.2," for the specific DEIR text changes. Also refer to response to comment 235-1 for discussion about the ISR program.

21-6 Commenter states that the project may require permits from SJVAPCD prior to the start of project construction. This is noted under the heading, Stationary-Source Emissions, in the discussion of Impact 4.2-2, Generation of Long-Term Operation-Related (Regional) Emissions of Criteria Air Pollutants and Precursor Emissions.

21-7 Commenter states that the project may be subject to the following SJVAPCD rules: Regulation VIII (Fugitive PM<sub>10</sub> Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations), and Rule 4002 (National Emission Standards for Hazardous Air Pollutants). All of these rules are listed under the Rules and Regulations heading of Section 4.2.2.

21-8 The SJVAPCD provided specific comments regarding the methodology and assumptions used to prepare the HRA that evaluated potential health risk impacts associated with on-site truck travel; tuck idling, yard truck movement; operation of the cafeteria charbroiler; transportation refrigeration units (TRUs) that deliver food to the cafeteria; emergency backup diesel generator; and diesel-powered fire pump.

As a supporting CEQA analysis, the HRA evaluated the proposed project's long-term operation emissions of TACs pursuant to the environmental impact review requirements of CEQA. The HRA is not intended to fully support any permit applications the proposed project may need from SJVAPCD. As stated in the discussion of long-term operational emissions under Impact 4.2-4 of the DEIR (and in Section 2.1 of the HRA in Appendix C to the DEIR), the HRA was conducted according to SJVAPCD's Guidance for Air Dispersion Modeling (August 2006), Appendix A (Appendix A), Section 2.0 CEQA Health Risk Assessments (available at [http://www.valleyair.org/busind/pto/tox\\_resources/modeling%20guidance%20w\\_o%20pic.pdf](http://www.valleyair.org/busind/pto/tox_resources/modeling%20guidance%20w_o%20pic.pdf)). This guidance was the most current SJVAPCD guidance document for preparing HRAs pursuant to CEQA and, at the time of writing this response, no formal updates to this guidance have been provided by SJVAPCD. The HRA was also prepared according to guidance received through correspondence with SJVAPCD staff, as cited on page 17 of the HRA, which is included as Appendix C of the DEIR.

Nonetheless, in some cases the SJVAPCD provided comments on this HRA that directly conflict with their own guidance document. Further, in other cases it's clear that the SJVAPCD intends to

use the basis of the analysis as criteria for limiting proposed and future site activities by including conditions in the land use permit issued by the City of Merced for the proposed project. We address these inconsistencies and limitations in our detailed responses to parts A-N of SJVAPCD's comment, as shown below.

The SJVAPCD notes that the HRA assumed that individual trucks would not idle at any one on-site location for more than 5 minutes and, therefore, this limitation should be included as an enforceable measure in the land use permit issued by the City for the project. There were two bases for making this assumption in the HRA. First, as stated on page 4.2-14 of the DEIR, ARB has developed an air toxic control measure (ACTM) that limits stationary idling by diesel-fueled commercial trucks to 5 minutes (13 CCR Chapter 10 Section 2485). Second, observations made during a site visit to the existing Wal-Mart distribution facility in Apple Valley, CA indicate that trucks do not idle on site for periods greater than 5 minutes. Truck turn off their engines when they arrive at the gate to check in. They then pull their trailers to an assigned parking location and decouple the trailer. The trailer is later picked up by an on-site "yard truck" and pulled to a loading dock to be unloaded. Thus, because the 5-minute idling restriction is required by law and there is no reason to think that truck activity would be exempt from this requirement, the assumption that trucks would not idle for more than 5 minutes at any single location is reasonable and there is no reason to include an idling limitation as an enforceable measure in the land use permit.

21-9 The SJVAPCD notes that "the HRA is based on the use of truck engines that meet [federal] Tier 2/3 emission standards." To clarify, the detailed emissions calculations in Appendix A of the HRA show that it was assumed that only the yard trucks would meet the federal Tier 2/3 emission standards. Yard trucks refer to those trucks that would be operated within the facility to move containers back and forth from stalls to docks. As stated in section 3.1.1.1 of the HRA, "the most probable yard truck that will be operated at the Merced DC is the Ottawa Commando 30, a non-road truck (not registered by the Department of transportation for use on roads) commonly used for container movement. These trucks will be equipped with engines that have EPA and ARB certification for meeting federal Tier 2/3 emission standards for particulate matter." This assumption is considered to be reasonable because this is the same model of yard truck that is currently used at the Wal-Mart distribution facility in Apple Valley, CA. Furthermore, any new yard truck that might be purchased for the project would meet Tier 2/3 emission standards. The comment provides no reasoning as to why this assumption is unreasonable.

The commenter also states that a condition of the land use permit shall require that the yard trucks must meet federal Tier 2/3 emission standards. However, because the assumptions about yard truck emissions used in the HRA are considered reasonable and because the impact conclusion supported by the HRA is less-than-significant without mitigation, no mitigation regarding yard trucks is required. Such a condition would only need to be included as a condition of the permit if it were mitigation that was necessary to reduce a significant impact to a less-than-significant level.

21-10 The SJVAPCD suggests that the land use permit include a condition that no cold storage facility shall be included in the distribution center. It is assumed that the commenter's concern is that an on-site refrigerated storage unit would potentially generated additional emissions of TACs. Chapter 3, Project Description, however, states that the distribution facility "would not handle perishable goods, such as fruit, vegetables, dairy products, bakery goods, and meat" on page 3-12. This text directly implies that the project would not include a cold storage facility. If at some point in the future the applicant sought to add a cold storage facility to the project site then that action would be subject to CEQA and permitting requirements of SJVAPCD.



- 21-11 The SJVAPCD discusses the hour-of-day adjustments used in the HRA for the emissions of diesel PM from trucks. Section 3.2.3 of the HRA explains that “variable emission correction factors were used in the air dispersion modeling analysis to represent the proportionally higher activity level during and between peak daytime hours compared to late evening hour and early morning hours when activity is lower. Hour of day (HROFDY) emission rate scalar instructions were used in the AERMOD dispersion analysis to adjust hourly emissions based on routine daily activity level. The emission factors were developed based on traffic count data obtained from the Wal-Mart DC located in Apple Valley, which has an operating schedule and activity level similar to what is expected at the Wal-Mart Merced DC.” The commenter suggests that appropriate limitations regarding the number of trucks on-site during daytime hours and nighttime hours should be included as a condition in the land use permit and Authority to Construct permit for the project. However, the commenter does not provide reasons that these hour-of-day adjustments should not be used. Because the assumptions about levels of daytime and nighttime truck activity are reasonable and because the impact conclusion supported by the HRA is less-than-significant, no mitigation regarding TAC emissions from on-site truck activity was required.
- 21-12 The SJVAPCD states that “all conditions in the land use permit, such as those above, that are required to ensure the integrity of the HRA should be included in the Authority to Construct [permit attained from SJVAPCD] for the stationary engines.” However, the comment does not discuss any of the specific assumptions regarding the on-site stationary sources of TAC emissions, including the fire pump and the emergency diesel backup generator (mobile-source emissions such as truck travel and idling are not subject to permitting).
- 21-13 The SJVAPCD purports that the distances for on-site truck travel were underestimated by a factor of 2. Truck travel distances were estimated by multiplying the volume side length by the number of sources to simulate the “shortest truck route from road entrance to destination,” as suggested by guidance in Appendix A of SJVAPCD’s most recent version of its publication titled Guidance for Air Dispersion Modeling (August 2006). The route for truck travel in the truck yard was located along the outside perimeter of the yard, which is approximately twice the distance to the nearest trailer stalls (and nearer the fence line and off-site sensitive receptors). By estimating length based on volume size, the shortest truck route was simulated while locating the truck route closest to modeled off-site receptors. By locating the route near the perimeter of the project site, the results of the HRA are considered to be conservative because the sources were located closer to off-site receptors than expected.
- 21-14 The SJVAPCD states that the emission factor used for on-site travel of haul trucks should have been 1.448 grams per mile instead of 0.670 grams per mile and that the emission factor used for idling of haul trucks should have been 2.08 grams per hour instead of 2.37 grams per hour. The emission factors used in the HRA for haul truck travel and idling are consistent with the emission factors recommended in Section 2.3.2, Truck Travel and Idling, of SJVAPCD’s Guidance for Air Dispersion Modeling (August 2006), Appendix A. Furthermore, the commenter does not provide reasons why the emission factors that were used in the HRA are potentially insufficient.
- 21-15 The SJVAPCD states the HRA did not account for TACs associated with the trucks that would supply food to the employee cafeteria and have on-board TRUs. The HRA accurately states that “the cafeteria will receive two deliveries per week from TRUs that will be unloaded thru a walk door near the cafeteria.” The level of TAC emissions and associated health risk associated with the TRUs from these deliveries to the cafeteria are considered nominal. The deliveries occur only 2 times per week and the TRUs are parked near the cafeteria door which is located far from the project site boundary and, therefore, any off-site receptors.

21-16 The SJVAPCD states additional receptors should be included in the analysis, including receptors 25 meters inside the property line of the two nearby industrial facilities, receptors in adjacent fields to represent agricultural workers, and receptors at the residential development and the school west of the project site. The commenter also states that the receptors for other schools and sensitive receptors should have been placed at the location on the boundary that is closest to the proposed project. The applicant does not, however, provide reason as to why the receptor location used in the HRA are insufficient or how placing receptors in other locations would be more appropriate, more accurately estimate health risk, or influence the conclusion of Impact 4.2-4.

The receptor locations used in the HRA to evaluate residential and worker exposures were placed at the building or lot location nearest to the facility to ensure maximum impacts were estimated in the health risk analysis. For example, the receptor locations used to evaluate the two industrial facilities north of the proposed site were located on the building corner closest to the facility (not including parking lot). Because the release heights of on-site truck travel were relatively low (i.e., 6 feet), in accordance to the guidance provided in Section 2.3.2 of SJVAPCD's Guidance for Air Dispersion Modeling, receptors closest to the facility would be exposed to the greatest ground level concentrations.

21-17 The commenter states that SJVAPCD "does not use the adjustments for student carcinogenic risk unless the student lives somewhere other than within the zone of impact but attends a school within the zone of impact." However, the commenter does not provide reasoning as to why the HRA might be insufficient in some way.

Four schools (three existing and one future) were evaluated in the HRA, using both a 9-year exposure period for children and a 40-year exposure period for workers (i.e., teachers and staff). In all cases the maximum estimated risk levels for 9-year child exposure, (0.18 in one million, and the 40-year worker exposure, (1.3 in one million, were less than the CEQA significance threshold of 10 in one million. Individuals located at these receptors should not be evaluated for residential exposures. Therefore, the City is confident that school receptors were fully evaluated for any potential health risk exposure from the proposed project.

21-18 The SJVAPCD states that the HRA has not specified the number of hours that the two generators would be operated for maintenance and testing. On the contrary, the calculations for Stationary Emergency Engines in Appendix A of the HRA indicate that the annual operation time for both the fire pump and emergency generator would be 52 hours per year.

The commenter also states that "the emission calculations for these two generators should conform to the limits that will be applicable based on the ATCM for stationary internal combustion engines." The ATCM restricts maintenance and testing to no more than 50 hours per year, so the emissions estimates for the two generators are overestimated by 2 hours per year. The commenter does not discuss how or why this would affect the results of the HRA or the significance conclusion of Impact 4.2-4. It is acknowledged, however, that the overestimation of emissions from the two generators results in a nominal overestimation of health risk.

21-19 The SJVAPCD states that HRA relied on the Industrial Source Complex Short-Term (ISCST3) model in the Hot Spots Analysis and Reporting Program (HARP) and use of ISCST3 is not EPA's preferred model, AERMOD. In fact, the HRA did evaluate risk using AERMOD for all diesel PM emission sources. Of the 7.3-in-one-million cancer risk estimated, 99.9% of the risk was from diesel PM emissions, which used ground-level concentrations estimated with AERMOD. The HARP model was used for emissions of Polycyclic aromatic hydrocarbons (PAH) and naphthalene from the cafeteria. The HARP model uses ISCST3 because it was the dispersion model promulgated by EPA at the time the HARP model was developed and released

for public use. HARP is the ARB regulatory model accepted by the State of California for performing HRAs in California and pursuant to CEQA. For evaluating impacts from the cafeteria, using AERMOD in conjunction with HARP would have no appreciable effect on the results of the HRA.

Moreover, the Notice of Preparation (NOP) of the EIR for the proposed project was released on July 7, 2006; AERMOD was not approved by EPA as a replacement to ISCST3 until December 9, 2006 (40 CFR Part 51 Appendix W [November 2005]). The NOP is typically the milestone that establishes when information is valid in EIRs. For instance, CCR Section 15125 establishes the existing setting as the environmental conditions at the time of the NOP. *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61 generally established that the cumulative project list should consist of projects proposed at the time the NOP was released. Because the modeling used as the recommended model at the time the environmental analysis was commenced (defined as the NOP), and because it is a reasonable method for determining health risk, the programs used to conduct air dispersion modeling and estimate health risk used in the HRA are considered accepted for the purpose of this CEQA analysis.

21-20 The SJVAPCD states that the HRA uses a deposition rate of 0.05 meters per second, which is appropriate for uncontrolled sources, but SJVAPCD “normally uses a deposition rate of 0.02 meters per second for controlled sources.” It is assumed that the commenter thinks a deposition rate of 0.05 meters per second is unacceptable to use for controlled sources. However, the commenter does not discuss how the analysis would be affected.

Nonetheless, because the emission sources analyzed in the HRA from the project are not characterized as “controlled” (e.g., the way fine particles are controlled using a baghouse or similar control device), a deposition rate of 0.05 meters per second is acceptable. Moreover, using a higher deposition rate is more conservative (i.e., more health-protective) for cases of multi-pathway pollutants because the pollutant mass striking the ground and available for uptake is increased. Since diesel PM is not a multi-pathway pollutant, any change in the deposition rate would have little if any effect.

21-21 The SJVAPCD states that “the maximum residential cancer risk could be well over 10 in a million because of comments F, G, and H.” However, the commenter does not explain how the results of the HRA would be affected by the concerns raised in its comments. In addition, please refer to the responses to parts 21-8 through 21-20 above.

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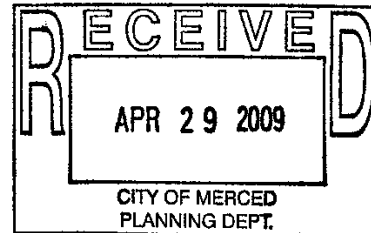
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April 27, 2009

Our File Number: 15CM-130732

**VIA E-MAIL AND U.S. MAIL**

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



*Postmarked 4/27/09 via  
Email came in 4/23/09 DVE*

**Re: Comments on the Draft Environmental Impact Report Prepared for  
the Proposed Wal-Mart Regional Distribution Center (State  
Clearinghouse Number 2006071029)**

Dear Ms. Espinosa:

On behalf of Wal-Mart Stores, Inc. ("Wal-Mart"), we are submitting the following comments on the Draft Environmental Impact Report ("Draft EIR") prepared for the proposed Wal-Mart Regional Distribution Center ("Project") in Merced, California ("City").

The Draft EIR analyzed an approximately 1.1 million square foot regional distribution center located on 230 acres in the southeast area of the City of Merced. The Project is industrial in nature and does not contain any retail commercial components. It would employ approximately 1,200 employees upon full operation in an area permitted for industrial uses with good access to major highways and transportation links. (Upon first opening, the Project will employ approximately 900 employees – 600 full-time and 300 part-time.)

We request reconsideration of certain of the proposed mitigations, as detailed in the following:

1. Air Quality

- a. *Mitigation Measures 4.2-1(a)-(e) – Comply with SJVAPCD's Indirect Source Review Rule (Rule 9510); Implement Measures to Reduce Construction-Related Diesel Equipment Exhaust Emissions; Implement an Emissions Reduction Agreement with SJVAPCD to Reduce Construction Emissions of ROG and NOX; Comply with SJVAPCD's Regulation VIII-Fugitive Dust Prohibitions and Implement All Applicable Control Measures; Implement SJVAPCD-Recommended Enhanced and Additional Dust Control Measures.*

By law, the Project will be required to comply with the San Joaquin Valley Air Pollution Control District's ("SJVAPC") Indirect Source Review ("ISR") Rule (Rule 9510) and Regulation VIII. General mitigation requirements under the ISR Rule for construction equipment emissions and operational emissions are as follows:

6.0 General Mitigation Requirements

6.1 Construction Equipment Emissions

6.1.1 The exhaust emissions for construction equipment greater than fifty (50) horsepower used or associated with the development project shall be reduced by the following amounts from the statewide average as estimated by the ARB:

6.1.1.1 20% of the total NOx emissions, and

6.1.1.2 45% of the total PM10 exhaust emissions.

6.1.2 An applicant may reduce construction emissions on-site by using less polluting construction equipment, which can be achieved by utilizing add-on controls, cleaner fuels, or newer lower emitting equipment.

6.2 Operational Emissions

6.2.1 NOx Emissions

Applicants shall reduce 33.3% of the project's operational baseline NOx emissions over a period of ten years as quantified in the approved AIA as specified in Section 5.6.

6.2.2 PM10 Emissions.

Applicants shall reduce of 50% of the project's operational baseline PM10 emissions over a period of ten years as quantified in the approved AIA as specified in Section 5.6.

6.3 The requirements listed in Sections 6.1 and 6.2 above can be met through any combination of on-site emission reduction measures or off-site fees.

22-1

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First, the Draft EIR includes no nexus between the mitigation required and the air quality impact identified. Pursuant to the California Environmental Quality Act ("CEQA"), mitigation measures are required to comply with all applicable constitutional requirements. (CEQA Guidelines sec. 15126.4(a)(4).) Specifically, there must be an "essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987)." (CEQA Guidelines sec. 15126.4(a)(4)(A)) "Where the mitigation measure is an *ad hoc* exaction, it must be 'roughly proportional' to the impacts of the project. *Ehrlich v. City of Culver City* (1996) 12 Cal. 4<sup>th</sup> 854." (CEQA Guidelines sec. 15125.4(a)(4)(B).) Accordingly, all mitigation required must relate to the impacts caused by a project. Here, the proposed mitigation measures fail to meet this nexus standard.

In addition, the mitigation measures impose additional requirements beyond established programs and/or regulations, resulting in the measures being excessive and unnecessary. For example, Mitigation Measure 4.2-1(c) requires the Applicant to enter into an emission reduction agreement with the SJVAPC, which is an agreement whereby an applicant can volunteer to mitigate beyond Rule 9510 and fully offset project emissions. The Draft EIR makes this a mandatory, not voluntary requirement.

22-1  
Cont'd

Also, Mitigation Measure 4.2-1(a) requires the submittal and approval of various applications by the SJVAPCD prior to applying for final discretionary approval with the City of Merced. However, the requirement pursuant to the ISR Rule is "[a]ny applicant subject to this rule shall submit an Air Impact Assessment (AIA) application no later than applying for a final discretionary approval with the public." There is no requirement that the application be approved prior to applying for a final discretionary approval. The measure therefore goes beyond what is required by the ISR Rule, but provides no justification for deviating from the established procedural requirement.

Further, Mitigation Measure 4.2-1(b) regarding "Construction-Related Diesel Equipment Exhaust Emissions," bans construction on forecasted Spare the Air Days and prohibits staging areas for heavy-duty construction equipment within 1,000 feet of the Project boundary. The ISR Rule general mitigation requirements already specifically address and mitigate impacts from construction equipment emissions, including impacts from diesel emissions. The Draft EIR includes no discussion or analysis of how these requirements in Mitigation Measure 4.2-1(b) would reduce the Project's air quality impacts, nor a justification why the mitigation measure must go above and beyond the ISR Rule requirements that already apply.

22-2

In some cases, the mitigation measures are also infeasible. For example, Mitigation Measure 4.2-1(b) provides for the replacement of fossil/fueled equipment with electrically driven equipment. At this time, such equipment does not exist; therefore,

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implementation of this measure is not technologically possible. Consequently, this measure is infeasible.

Some of measures are infeasible because they are more appropriate for a retail use located in a developed commercial area than a large industrial use located on 230 acres of land within an industrial area, such as is the case here. Requiring such measures is not feasible for an industrial use of this type and size, and no evidence is presented showing that they are feasible for the Project.

22-2  
Cont'd

"CEQA does not require analysis of every imaginable...mitigation measure; its concern is with feasible means of reducing environmental effects..." *Concerned Citizens of South Central Los Angeles v. Los Angeles Unified School District* (2d Dist. 1994)24 Cal. App. 4<sup>th</sup> 826, 841. Here, because the proposed mitigation measures have no nexus to the impact, go beyond established procedures, are excessive and unnecessary, and no substantial evidence exists to conclude the measures are feasible, the mitigation measures should be removed.

22-3

b. *Mitigation Measure 4.2-2(b) – Develop and Implement an Employee Trip Reduction Program to Reduce Operational Emissions.*

The Project is estimated to have approximately 1,200 employees upon full operation (900 upon first opening, as previously noted), 1,050 who would work at the facility and an additional 150 employees as drivers. Mitigation Measure 4.2-2(b) requires the development and implementation of an employee trip reduction program to reduce operational emissions.

Wal-Mart already has a developed Rideshare Program designed to help improve air quality. The Rideshare Program encourages Associates to consider alternate commute methods, such as carpooling, biking, walking, and taking the bus to work. Wal-Mart's Senior Rideshare Coordinator (an existing position) would create a Rideshare Program tailored specifically to the facility, and train designated On-Site Rideshare Coordinators on program implementation and documentation. At the facility, Wal-Mart would provide a general introduction to the Rideshare Program during orientation for new hires. New hires would view Wal-Mart's Rideshare DVD, which outlines benefits of ridesharing to work: saving money, saving time, exercise, etc. Also, the Rideshare Coordinator would provide detail about the Rideshare Program incentives for their site.

22-4

Wal-Mart's efforts to promote its Rideshare Program go beyond orientation for new hires. Among the tools Wal-Mart has found effective promoting participation in the Rideshare Program are contests, educational materials, and Rideshare marketing materials promoting alternate commute methods. Further, a Rideshare bulletin board would be maintained at the facility with program information, transit information, local bike routes, etc.



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Wal-Mart will continue to use its best efforts to encourage employees to carpool or use alternative transportation methods through implementation of a Rideshare Program at the facility. However, Wal-Mart cannot guarantee that within three (3) years of the Project opening, there will be a 25% reduction in single occupancy vehicle trips by employees. One initial concern with the proposed measure is that it is unclear how this reduction would be calculated or monitored. More importantly, achieving this 25% reduction would require Wal-Mart to mandate some employees to use these types of measures if not enough employees volunteer. Wal-Mart simply cannot mandate how employees travel to work. Thus, we recommend revising the Mitigation Measure to require that Wal-Mart implement its Rideshare Program at the Project, but not require a set percentage reduction in trips. If anything, a percentage reduction should be a goal, not a mandate.

22-4  
Cont'd

c. *Mitigation Measure 4.2-2(c) – Implement Recommended Mitigation Measures to Reduce Operational Emissions.*

This mitigation measure includes specific measures to reduce operational emissions. These measures could conflict with the requirements imposed as part of the required emissions reduction agreement with the SJVAPCD.

In addition, there is no nexus between the impact and some of the measures. For example, one of the measures included is the construction of Class II Bike lanes or the payment of the Project's "fair share" of funding for these lanes. First, there is no nexus between the Project and the construction of these bike lanes. The Draft EIR does not analyze, evaluate or conclude that the construction of these bike lanes will reduce any air quality impacts associated with the Project. Further, the City of Merced does not have an established Bicycle Fee Program. Therefore, the Project cannot be required to pay any "bicycle fee" as part of its building permit fees and any such a requirement is arbitrary and capricious, and completely without merit. It appears that the motivation for the bicycle lanes may be, as stated in the mitigation measure, to "qualif[y] the City of Merced to receive state funding for bicycle projects[,]" but this is not a Project-related impact that requires mitigation.

22-5

Moreover, some of the proposals are simply infeasible. This measure requires only the use of electric-powered landscape maintenance equipment to care for the landscaped areas. Given the size of the Project site (230 acres), the ability to use electric-powered landscape maintenance equipment is infeasible. At some points, the distance between the landscape area and the building or electrical outlet would be greater than 250 feet and in many cases over 500 feet.

d. *Mitigation Measure 4.2-2(d) – Implement Additional Operational On-Site Emission Reduction Measures.*

Under Mitigation Measure 4.2-2(d), the Applicant is required to submit a written report demonstrating the infeasibility of additional operational on-site emission reduction measures. Approval of this report is required before final discretionary approval of the Project. As discussed above, this is contrary to the procedure established by the ISR Rule. As certification of the EIR and approval of the Project entitlement will be the final discretionary approval, we believe this reference is a mistake and instead should reference an administrative or non-discretionary action such as the issuance of building permits.

22-6

e. *Mitigation Measure 4.2-6(d)- Implement Additional Operational On-Site Emission Reduction Measures.*

Mitigation Measure 4.2-6(d) mandates the installation of solar panels throughout the Project site on all available areas, such as the roof, buffer areas, parking lot, covered parking areas, walkways and outdoor areas. As discussed in detail below, this Project will demand significantly less energy than comparable facilities. Also, Wal-Mart is investigating ways to meet the facilities' remaining energy demand with renewable energy sources. As such, this mitigation is excessive and unnecessary.

With regard to using solar on site, significant barriers exist to using solar power at this time in this location. These barriers include material/production costs, the net efficiency of technology, and a lack of storage capacity to fully utilize the solar energy.

22-7

Wal-Mart is investigating the feasibility of using solar power at its facilities via its solar power pilot program. Until such technology proves efficient, however, it should not be required.

Finally, the Applicant cannot legally be required to purchase electricity from a specific local provider, as is required under this mitigation measure. Such a mandate violates the Applicant's constitutional and statutory rights. In any event, mandating the selection of a specific provider lacks a nexus to a specific impact as it is unclear how using a specific provider would mitigate a potential impact.

For these reasons, this mitigation measure should be modified to *recommend*, rather than *require* the above measures, or should be removed entirely.

2. Biological Resources

a. *Mitigation Measure 4.3-2 – Implement Measures to Minimize Potential Project Effects on Swainson's Hawk and Burrowing Owl.*

22-8

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The Project would result in the loss of approximately 150 acres of suitable foraging habitat for Swainson's hawk and could result in destruction or disturbance of burrowing owl burrows. The Project will be required to consult with the California Department of Fish and Game ("CDFG") and comply with any applicable guidelines, survey requirements, regulations and mitigation. Mitigation Measure 4.3-2, however, is very detailed and sets forth specific requirements for the Project that could conflict with the requirements of CDFG.

As a result, the measures infringe upon the jurisdiction of CDFG. This usurping of CDFG's power results in the City imposing measures outside its area of expertise. The end result could be that CDFG cannot impose one of its mitigation measures because it conflicts with what the City has required. Allowing the expert regulatory agency to determine the applicable mitigation would be more appropriate.

Therefore, to avoid a potential conflict and still adequately mitigate the potential impact without improperly deferring mitigation, we recommend replacing the language in this mitigation measure with the following mitigation language:

**"Pre-Construction Survey** - No more than 15 days prior to any site-disturbing activities, including grading or woody vegetation and tree removal, the applicant will retain a qualified wildlife biologist to conduct a nesting bird survey to determine if nests are active or occupied onsite. The surveys shall be conducted a minimum of three separate days during the 15 days prior to disturbance. Any active nests observed onsite will be avoided until after the nestlings have fledged and left the nest. If avoidance is not feasible, then a biological monitor will be present if construction activities occur during the nesting season. Construction activity within the vicinity of the active nests may only be conducted at the discretion of the biological monitor. If construction activity will likely result in nest failure, the applicant will consult with CDFG and/or USFWS to determine what mitigation or permitting is required. An MBTA Special Purpose Permit will be required if occupied nests will be impacted.

**Burrowing Owl** - If occupied burrowing owl burrows are found during above mentioned required pre-construction survey, a buffer shall be established around the burrows in accordance with the requirements established by the CDFG. Passive relocation shall not occur during the breeding season unless a qualified biologist, approved by CDFG, verifies that the young have fledged the nest.

22-8  
Cont'd

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**Swainson's Hawk** - Loss of Swainson's hawk foraging habitat shall developed in consultation with CDFG.

22-8  
Cont'd

3. Geology, Minerals, Soils and Paleontological Resources

- a. *Mitigation Measure 4.5-1 – Implement Construction Personnel Training and Recover Paleontological Resources if Encountered.*

Paleontological resources could be present in the sediments underlying the Project site and this mitigation measure is intended to minimize any potentially adverse impacts to those resources. This includes informing construction personnel of the possibility of encountering fossil and the proper notification procedures if fossils are encountered. The second bullet explains the mitigation if a fossil is encountered. The language is as follows:

If paleontological resources are discovered during earth-moving activities, the construction crew shall immediately cease work in the vicinity of the find and shall notify the City Planning Department. The project applicant shall retain a qualified paleontologist to evaluate the resources and prepare a proposed mitigation plan in accordance with SVP guidelines (1995)...Recommendations determined by the lead agency to be necessary and feasible shall be implemented before construction activities can resume at the site where the paleontological resources were discovered.

(Emphasis added.)

Based on this language, it is unclear whether construction must stop only in the vicinity of the find or over the entire site if a paleontological resource is found. Because continuing construction at other areas of the site, away from the vicinity of the find, will not impact the paleontological resource, we recommend the following modification to the mitigation measure:

...Recommendations determined by the lead agency to be necessary and feasible shall be implemented before construction activities can resume in the vicinity of the find ~~at the site~~ where the paleontological resources were discovered.

This change protects the paleontological resource, and minimizes the potential adverse impact while allowing construction away from the resource to continue in the event of a paleontological find.

22-9

- b. *Mitigation Measure 4.5-3(a) – Prepare a Final Geotechnical Design Report and Implement All Applicable Recommendations.*

Please note, for clarification purposes, that the final geotechnical engineering report has been prepared and all applicable recommendations will be incorporated into the Project as required. Therefore, this mitigation is not necessary and, as a result, should be removed.

22-10

4. Hydrology and Water Quality

- a. *Mitigation Measure 4.6-1(b) – Establish a Maintenance Entity for BMPs.*

The Project evaluated by the Draft EIR is a single-user Project. Wal-Mart will be the sole tenant, owner and occupier of the property and Project site. Further, all construction disturbances will be located on Wal-Mart's property and Wal-Mart will be required to operate, maintain and replace stormwater best management practices ("BMPs") as set forth under its stormwater permit.

22-11

Community Facility Districts (CFD) and other maintenance entities are typically formed where multiple owners, tenants or operators will be responsible for various community or stormwater improvements. Here, because there is only one user/owner, formation of a CFD or maintenance district is not necessary. Therefore, this mitigation measure is not necessary and, as a result, should be removed.

- b. *Mitigation Measure 4.6-7 – Comply with SB 5 Criteria Establishing 200-Year Urban Flood Protection.*

Senate Bill 5 required the Department of Water Resources to prepare a map of various floodplains, including the 200-year floodplain. It also requires the Central Valley Flood Protection Board to prepare a Central Valley Flood Protection Plan ("Plan") no later than July 1, 2012. This plan must describe the performance, design, risk and funding of various area flood protection facilities. Once the plan is adopted, cities have twenty-four (24) months to amend their general plans to incorporate the provisions and requirements of the Plan. Nothing in the Plan or SB 5 requires existing or proposed development to comply with future unknown flood protection requirements.

22-12

The mitigation proposed essentially requires the Project to comply with a Plan and standards that have yet to be developed and do not exist. The Project can only be required to comply with existing flood control measures adopted at the time of construction and building permit issuance.

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It is also important to note that the impact to be mitigated is speculative given the Plan is not anticipated to be adopted until at least 2012 and not implemented locally until 2014. Therefore, there is no way of knowing whether the Project will have impacts under those standards at this time. The Project may only be required to mitigate for known impacts, not speculative unknown impacts based on an analysis and Plan that have yet to be developed.

22-12  
Cont'd

5. Noise

a. *Mitigation Measure 4.8-1 – Regulate Construction before Approval of Implementation Plans*

This mitigation addresses short term noise impacts. As indicated above, the Project is the construction of a distribution center. It is a single project and does not include approval of various implementation plans or subsequent projects. As a result, the Mitigation Measure should be revised as follows:

22-13

**"4.8-1: ~~Short-Term Construction Noise Regulate Construction before Approval of Implementation Plans.~~ Prior to approval of Implementation Plans and subsequent projects, ~~t~~The City shall require the applicant to regulate short-term construction noise as follows:..."**

b. *Mitigation Measure 4.8-3 – Implement Measures to Reduce Exposure to Traffic Noise from Project.*

The Draft EIR does not establish a nexus between the traffic noise impact and reduction of that noise by the installation of a sound barrier. No analysis has been conducted to establish that construction of a sound barrier will reduce traffic noise impacts to a less than significant level. Requiring a site-specific noise study for a sound barrier is deferred mitigation as it is unclear if the sound barrier will effectively mitigate the impact.

22-14

Finally, the mitigation repeatedly mentions the term "aesthetically pleasing." This is an arbitrary standard that varies person by person, and which could result in a barrier that is not consistent with the City's Design Review Guidelines.

For these reasons, the mitigation measure should be removed.

6. Traffic and Transportation

- a. *Mitigation Measure 4.11-2(a) – Accommodate All Delivery Truck Parking On-Site.*

The Draft EIR lists "traffic problems" from delivery trucks arriving prior to a scheduled pick-up or delivery time. (Draft EIR, pg. 4.11-29). The "traffic problems" mentioned are not adequately analyzed, however. The only discussion is that these truck drivers may "park along local streets in the vicinity or travel on local streets until access to the distribution center is available." The impact of these activities has not been quantified or discussed qualitatively in any further detail. Therefore, the Draft EIR has not provided any nexus between the alleged impact and the need for a mitigation that requires an on-site waiting area. As such, this mitigation measure should be removed.

22-15

On a side note, the Draft EIR states in this section that these traffic problems "could create also noise and air quality problems." (Draft EIR, pg. 4.11-29). Any noise or air quality problems from delivery trucks presumable have already been addressed in those sections.

- b. *Mitigation Measure 4.11-2(b) subsec. c – Manage Truck Traffic on Local Streets.*

This mitigation measure requires the development and implementation of a truck route plan. All tractor trailers approaching and departing from the Project already will be required to use Surface Transportation Assistance Act of 1982 (STAA) approved Truck Routes, however. These STAA Routes are appropriate roadways for use by tractor trailers accessing the Project. This mitigation lists several non-STAA roadways and roadways near residential areas, which would not be appropriate. Given trucks will already need to abide by STAA, this measure should be revised or deleted.

22-16

7. Utilities and Public Services

- a. *Mitigation Measures 4.12-4 – Incorporate Energy Efficiency Features into Project Designs.*

Wal-Mart is committed to reducing the energy demand footprint of its facilities. Wal-Mart's approach to reducing emissions is holistic and looks at the whole project-from design to construction, to landscaping, to operations. Wal-Mart's company-wide strategy to reduce the energy demand footprint of its facilities includes implementing energy reduction, reclamation/reuse, and efficiency features. By implementing this strategy Wal-Mart facilities exceed California's Title 24 requirements. This approach of first reducing the facilities' energy footprint is consistent with recommendations made by recognized leaders in the energy efficiency and renewable energy arenas.

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Leaders in the energy efficiency and renewable energy arenas also recognize that any solutions to environmental problems (such as global warming) must be founded in sound business judgment and must prove to be economically feasible. Only then can these solutions be successful in the market-place. This philosophy is the mission statement for the Energy Efficiency Center at the University of California at Davis, where Wal-Mart occupies a Board Chair and Steering Committee Chair, as well as the California Energy Commission, California Public Utilities Commission, and California leading businesses, organizations, and academia. The United States Department of Energy also has adopted this philosophy as the founding premise for the Retail Energy Alliance, which is a Department of Energy sponsored national organization of leading retailers focused on energy efficiency solutions that meet business needs. Wal-Mart sits on the Steering Committee of that organization as well.

Wal-Mart is not only committed to working with experts on policies and approaches to reduce energy consumption and increase the use of renewable resources, but it also applies those practices in its facilities. Unfortunately, the mitigation proposed includes several energy efficiency features that are infeasible or not appropriate for the Project. As technology is constantly changing, requiring specific measures potentially prevents the incorporation of the best energy efficient measures available at the time the Project is constructed. Wal-Mart therefore proposes the following mitigation language to ensure the Project contains the most up-to-date energy efficient measures available at the time of construction:

"The Project shall employ the energy efficient measures proven effective, at the time of Plan Check submittal, in the building design and construction. However, the measures used shall, at a minimum, be as energy efficient as those proven energy efficient measures, or comparable measures, listed below:

Energy efficient HVAC units: "Super" high efficiency packaged HVAC units exceeding the industry standard EER.

Central Energy Management: An energy management system that is monitored from the Home Office in Bentonville, Arkansas.

Light Sensors: Occupancy sensors that detect activity in a room or rack aisle and automatically turn off the lights when the space is unoccupied.

Interior Lighting Program: Lighting that utilizes T-8 fluorescent lamps and electronic ballasts, unless

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Cont'd



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more efficient lighting is available, and "low-mercury" lamps.

Poured Concrete: Up to 25% fly ash in the exterior concrete mixes; up to 40 % of the mix can be a combination of fly ash and ground granulated blast furnace slag.

Recycling: (A) Steel recycling: Include a substantial amount of recycled steel in construction. (B) Recycled Plastic: All of the plastic baseboards, and many of the plastic shelving, should be manufactured from recycled material.

Non-PVC Roofs: Use non-PVC roofing.

Water Conservation Landscaping Features: Landscaping plan must include at least three of the following water conservation features: low-precipitation systems, programmable irrigation controllers with automatic rain shut off sensors, matched precipitation rate nozzles that maximize the uniformity of the water distribution characteristics of the irrigation system, conservative sprinkler spacings that minimize overspray onto paved surfaces, or hydrozones that keep plants with similar water needs in the same irrigation zone.

Recycle Construction Debris: Implement a construction debris recycling program.

By incorporating measures like those listed above in the proposed mitigation measure, Wal-Mart will reduce the energy demand of the facility, thereby reducing the facility's energy demand footprint. The proposed features will result in a project that well exceeds California's Title 24 requirements and reduces greenhouse gas consumption.

## 8. Visual Resources

### a. *Mitigation Measure 4.13-2 – Prepare and Submit a Landscaping Plan.*

The Draft EIR analyzes the visual impacts of the Project using a computer generated photo simulation of the proposed Project. This photo simulation, however, does not

22-17  
Cont'd

22-18

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include any landscaping that may be planted. (Draft EIR, pg. 4.13-7). While the development of the Project will alter the visual character of the site, the impact of the Project cannot be fully analyzed without an adequate representation of the site, which will include landscaping and required street trees. Thus, there is no nexus between the alleged impact identified and the mitigation required.

Further, the tree planting requirements under this mitigation reflect requirements typically imposed on a commercial use, such as a retail store located on a small parcel in a largely developed commercial area, with the building located closer to the property boundaries and therefore being highly visible from adjacent streets/properties. Because of the nature and siting of such a use, imposing mitigations requiring significant landscaping makes sense and is feasible. When the nature of a project is an industrial use located within a 230 acre site and far removed from the property boundaries, though, as is the case here, implementing such measures typically is infeasible, not to mention unwarranted. The requirements set forth in the mitigation should be revised to reflect this situation.

22-18  
Cont'd

b. *Mitigation Measures 4.13-3 – Prepare and Submit a Lighting Plan.*

The mitigation requires the submittal of a lighting plan to mitigate any potential impacts of **light spillage offsite**. It includes a requirement that "no illumination source (including light bulb and reflector) shall be visible beyond the property line."

The Project will include pole-mounted metal halide lamps located approximately 45 feet above the ground surface. At this height, it is infeasible that the bulb or reflector would not be visible off-site. However, there is no nexus in any event for requiring this mitigation because the mitigation would address offsite visibility, not offsite **spillage**. Requiring that the bulb and reflector not be visible off-site is irrelevant to whether light spills to adjacent uses. As there is no nexus between the mitigation and the impact, this requirement should be removed.

22-19

\* \* \* \* \*

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Thank you for consideration of our comments on the mitigations proposed in the Draft EIR. If you have any question or would like to discuss these comments in more detail please call me at 415-774-2993.

Very truly yours,



Judy V. Davidoff

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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cc: Colby Tanner, Wal-Mart Stores, Inc.

Jim D. Emerson, Jacobs Carter Burgess

22-1

Commenter states that there is no nexus between the air quality mitigation required by the EIR and the air quality impacts identified in the analysis and that all mitigation required must relate to the impacts caused by the project.

Though compliance with SJVAPCD Rule 9510, the ISR Program, is not mandated by CEQA, but rather the rule itself, SJVAPCD has requested that it also be included as a mitigation measure because it directly addresses the construction- and operational-emissions of CAPs and precursors. It is also practical to include compliance with Rule 9510 as mitigation measure so that it will be included as a condition of approval if the City decides to approve the project.

Commenter also argues that many of the air quality mitigation measures impose additional requirements beyond established programs and/or regulations. The purpose of CEQA is indeed to identify all mitigation that will reduce significant impacts and is feasible. Both SJVAPCD's ISR Program and emissions reduction agreements are established programs that have been used effectively to reduce air quality impact in the SJVAB.

Commenter also states that the ISR Rule does not include a requirement that the AIA application be approved by SJVAPCD prior to applying for a final discretionary approval by the City of Merced. Mitigation Measure 4.2-1a and Mitigation Measure 4.2-2a of the DEIR have been appropriately revised. Please see Section 4.4 of this FEIR, "Revisions and Corrections to the DEIR Air Quality Section 4.2," for the specific DEIR text changes.

22-2

The comment concerns Mitigation Measure 4.2-1b, which prohibits construction activity of forecasted Spare the Air Days. Commenter states that the DEIR includes no discussion of how this measure would reduce the project's impact to air quality. The DEIR has been revised to add to the explanation of the effectiveness of Mitigation Measure 4.2-1a through Mitigation Measure 4.2-1e. Please see Section 4.4 of this FEIR, "Revisions and Corrections to the DEIR Air Quality Section 4.2," for the specific DEIR text changes.

The comment concerns the measure in Mitigation Measure 4.2-1b that staging areas for heavy-duty construction equipment be located on site and not be within 1,000 feet of the project boundary. This may be physically infeasible given the dimensions of the project site and the size of the proposed building. Therefore, this measure has been changed in Section 4.4, "Revisions and Corrections to the DEIR Air Quality Section 4.2," of this FEIR.

The commenter also states that the requirement in Mitigation Measure 4.2-1b to "replace/substitute fossil-fueled (e.g., diesel) equipment with electrically driven equivalents" is infeasible. This particular measure is listed under the "Additional Operational Emission Reduction Measures" of Mitigation Measure 4.2-1b rather than the "Required Measures to Reduce Construction-Related Diesel Equipment Exhaust Emission" and, therefore, is only required if feasible. With regard to the list of "Additional Operational Emission Reduction Measures" the DEIR states that "measures implemented to achieve the ISR reduction goals... may include, but are not limited to the additional measures listed below."

The commenter also states that some measures are infeasible because they are more appropriate for a retail use located in a developed commercial area than a large industrial use located on 230 acres of land within an industrial area. However, commenter does not specify which particular

mitigation measure. All mitigation measures prepared to reduce the projects impacts to air quality were formulated with an understanding of the project description.

22-3 The commenter states that there is no nexus between the air quality mitigation measures and the impacts to air quality identified in the DEIR. Please refer to the response to Comment 22-1.

22-4 In regards to Mitigation Measure 4.2-2b, the commenter states that Wal-Mart has already developed a Rideshare Program and that Wal-Mart's Senior Rideshare Coordinating would create a Rideshare Program tailored specifically to the proposed project. However, the project description does not ensure that an Employee Transportation Coordinator or similar position of dedicated responsibility will be included as part of the proposed project; therefore, this requirement is included as a mitigation measure. Wal-Mart also states that it cannot guarantee that at least 25% of employee commute trips occur by some other transportation mode than a single occupancy vehicle (SOV) within 3 years of the opening of the distribution center because Wal-Mart cannot mandate that its employees commute by transit, biking, or in carpools. This is correct. Pursuant to California Health and Safety Code Section 40717.9, no city, air district, city, or congestion management agency can *require* an employer to implement an employee trip reduction program. However, the City can require feasible mitigation measures, including design features and program incentives, that strive to reduce the total number of employee commute trips. The text of Mitigation Measure 4.2-2b has been altered so that a performance standard (i.e., a 25% reduction in SOV employee commute trips) is no longer required. Instead, the text listed required and optional measures to incentivizing employees to commute in ways other than by SOVs. Please see Section 4.4, "Revisions and Corrections to the DEIR Air Quality Section 4.2," of Chapter 4.

The commenter also states that the measure is unclear about how the 25% reduction standard would be measured. Mitigation Measure 4.2-2b now states that the required measures to reduce employee commute trips and associated mobile-source emissions shall be implemented within one year of opening the distribution center. As described above, the text has been revised and Mitigation Measure 4.2-2b is no longer based on a performance standard. Please see Section 4.4, "Revisions and Corrections to the DEIR Air Quality Section 4.2," of Chapter 4.

22-5 The commenter states the measures required by Mitigation Measure 4.2-2c could conflict with the requirements imposed as part of the emissions reduction agreement with SJVAPCD, which is required by Mitigation Measure 4.2-2e. However, the comment does not provide any detail regarding why such a conflict could occur. In fact the text in Mitigation Measure 4.2-2c recognizes compliance with the ISR rule required by Mitigation Measure 4.2-2a and the employee trip reduction goals required by Mitigation Measure 4.2-2b.

The commenter also states that there is no nexus between some of the measures in Mitigation Measure 4.2-2c and the generation of long-term operation-related emissions of criteria air pollutants and precursor emissions. The commenter specifically states that there is no nexus between the construction of bike lanes and operational emissions. Table 4.2-7 shows that a substantial amount of operational emissions is generated by employee commute trips (mobile sources). Therefore, any improvement to the site's accessibility by bicycle would reduce commute trips by motor vehicles and associated mobile-source emissions.

The commenter also states that the City of Merced does not have an established Bicycle Fee Program. This is why the measure states that "the City shall determine the Applicant's fair share monetary contribution to the development of these bicycle lanes and the Applicant shall pay its fair share at the same time building permit fees are due to the City."

The commenter also states that it appears that the motivation for the bicycle lanes may be, as stated in the mitigation measure to “qualif[y] the City of Merced to receive state funding for bicycle projects[.]’.” The commenter’s has taken this statement out of context. The full sentence of this measure states that “Building bicycle lanes at these locations is consistent with the City of Merced Bicycle Plan, which was adopted on October 20, 2008 and meets requirements of the California Bicycle Transportation Act (1994) and qualifies the City of Merced to receive state funding for bicycle projects.” The purpose of this sentence is to show that the measure is consistent with the City of Merced’s goals, because it has an established City of Merced Bicycle Plan, and that the measure is feasible because funding may be available from the state because the City of Merced Bicycle Plan meets requirements of the California Bicycle Transportation Act.

The commenter also states that the measure requiring that only electric-powered landscape maintenance equipment be used to care for landscaped areas is infeasible. The commenter’s reason is that the distance between some of the landscape areas and the building or electrical outlet would be greater than 250 feet and in many cases over 500 feet. However, the measure does not restrict the use of cordless electric-powered landscape maintenance equipment or restrict the installation of more electrical outlets on the project site. Lastly, the quantity of landscaped area that will need regular maintenance is not anticipated to be large because substantial portions of the parking lot will consist of the warehouse building, employee parking surfaces, the paved truck yard, and detention basins. As stated on page 4.12-5 of the DEIR, water-efficient landscaping will be implemented into the project design. This includes the provision that the amount of turf area would be limited to 30% of the total landscaped area and that 90% of the plants in non-turf areas are well-suited to the climate of the region, drought tolerant, and require minimal water once established in the landscape. Therefore, intense maintenance of the landscaped areas is not expected. Nonetheless, the City recognizes that it may be infeasible to perform some maintenance activities that occur less frequently (e.g., tree pruning) with electric-powered equipment. In response to this comment, Mitigation Measure 4.2-2c has been revised. Please see Section 4.4 of this FEIR, “Revisions and Corrections to the DEIR Air Quality Section 4.2,” for the specific DEIR text changes.

22-6 The comment concerns Mitigation Measure 4.2-2d, which requires the applicant to implement additional operational on-site reduction measures (in addition to those required by Mitigation Measures 4.2-2a, 4.2-2b, and 4.2-2c), if feasible. If, however, any of the additional measures are infeasible, the Applicant shall submit a written report to the City demonstrating such infeasibility, and that approval of this report shall be received by the Applicant prior to receiving final discretionary approval of the project from the City. The commenter states that the timing of this procedure is contrary to the procedure established by the ISR Rule. In order to make the timing consistent with the ISR requirements stated in Mitigation Measure 4.2-2a, text changes as shown in Section 4.2 have been made to Mitigation Measure 4.2-2d such that the approval of the infeasibility report must be received by the Applicant prior to the issuance of a building permit by the City of Merced Planning & Permitting.

22-7 The comment argues that Mitigation Measure 4.2-6d, which mandates the installation of solar panels throughout the project site, is excessive and unnecessary because the “project would demand significantly less energy than comparable facilities” and “Wal-Mart is investigating ways to meet the facilities’ remaining energy demand with renewable energy sources.” The commenter provides no evidence to support the claim that the proposed project would demand less electricity than comparable facilities. As shown in Table 4.2-10 under Impact 4.2-6 of the DEIR, the largest sector of GHG emissions generated by the project would be those GHG emissions associated with the project’s on-site consumption of electricity (i.e., 5,363 metric tons per year). The estimation of GHG emissions associated with electricity consumption was based on data provided by Wal-Mart for the existing Wal-Mart distribution center in Apple Valley. The analysis under Impact

4.2-6 concludes that the project's GHG emissions would be a considerable net increase in GHG emissions (i.e., significant) and that this increase could conflict with the state's AB 32 goals, which require reductions in statewide GHG emission levels. Feasible mitigation was the identified to reduce the project's generation of GHG emissions and particular focus was given to the project's largest sector of GHG emission, electricity consumption.

The comment also states that significant barriers exist to using solar power "at this time in this location" including material/production costs, the net efficiency of technology and the lack of storage capacity to fully utilize the solar energy. However, the comment does not provide any details about why using solar panels would be cost-prohibitive. Also, Mitigation Measure 4.2-6d does not include any performance standards regarding electricity storage capacity. Nonetheless, the first bulleted measure under Mitigation Measure 4.2-6d has been revised to provide additional clarity and allow for more flexibility regarding the types of on-site alternative energy sources that can be installed on the project site. Please see Section 4.4 of this FEIR, "Revisions and Corrections to the DEIR Air Quality Section 4.2," for the specific DEIR text changes.

In addition, the commenter states that applicant cannot legally be required to purchase electricity from a specific local provider, as is required under the second bullet of Mitigation Measure 4.2-6d, and that such a requirement "violates the Applicant's constitutional and statutory rights" and that the measure lacks a nexus to a specific impact. For this reason as well as the fact that GHG standards for electricity production will be directly regulated by AB 32, this requirement has been removed from Mitigation Measure 4.2-6d.

- 22-8 The commenter states that that Mitigation Measure 4.3-2 is very detailed and sets forth requirements for the project that could conflict with requirements of the California Department of Fish and Game. Please refer to Master Response 10, which addresses this comment and other comments regarding impacts and mitigation for Swainson's hawk and burrowing owl.
- 22-9 The commenter indicates that Mitigation Measure 4.5-1 is vague and requests clarity regarding whether, in the case of a find, activities across the entire site must cease or just in the vicinity of the find (a statement used earlier in the measure). As indicated by the commenter the mitigation states "Recommendations determined by the lead agency to be necessary and feasible shall be implemented before construction activities can resume *at the site where the paleontological resources were discovered.*" (Emphasis added.) The mitigation clearly indicates that, in case of a potential paleontological find, work in the vicinity of the find shall cease and, once recommendations are implemented, work at the site of the find (not implying the entire project site) can resume.
- 22-10 The commenter indicates that the applicant has already complied with draft Mitigation Measure 4.5-3(a), which requires preparation of a Final Geotechnical Design Report and implementation of all applicable recommendations, and the commenter recommends removal of the mitigation measure. However, the City is not currently in receipt of this document and has not reviewed the document and recommendations for adequacy; therefore, the mitigation measure remains appropriate. If the project is approved, and once the City has received and reviewed the report (part of the building permit process), the City may sign off on the mitigation measure if the report meets the City's standards.
- 22-11 The commenter suggests that because the applicant will be the sole owner and operator of the proposed project, a CFD is not required, hence Mitigation Measure 4.6-1b calling for a maintenance entity is not necessary. However, the mitigation measure is flexible and allows for establishment of a "maintenance district [...] or other maintenance entity acceptable to the City of Merced and the MID;" The mitigation measure does not preclude the possibility of the applicant

identifying its own maintenance entity, as long as the entity is acceptable to the City of Merced and the MID. No changes to the DEIR are necessary.

- 22-12 The commenter suggests that Mitigation Measure 4.6-6 regarding Senate Bill 5 mitigation is speculative. The comment is noted. Per the Mitigation Measure, if the proposed project construction and building permit issuance occurs prior to enactment of the SB 5 criteria, the mitigation measure requirements would not be in effect. Because SB 5 is now law and the proposed project is within the 200-year floodplain as defined by SB 5, the Draft EIR is required to analyze impacts associated with SB 5.
- 22-13 The comment states that the heading of Mitigation Measure 4.8-1 should be revised. In response to this comment the heading of Mitigation Measure 4.8-1 has been changed. Please see the specific text changes to the DEIR in Section 4 of this FEIR, “Revisions and Corrections to the Draft EIR.”
- 22-14 The comment states that the noise reductions attributable to the sound barriers required by Mitigation Measure 4.8-3 are not disclosed and that by requiring an acoustical analysis be completed at a later date the mitigation defers the impact. The comment also states that the term “aesthetically pleasing” is subjective. Mitigation does not typically include engineering plans of required measures as such measures may require specific expertise and project specific elements. In this case the requirement of an acoustical analysis for determining how mitigation should be executed is an acceptable and typical approach to environmental noise analysis. In response to this comment, changes have been made to Mitigation Measure 4.8-3 in order to specify performance standards and rectify any ambiguity. Please see the specific text changes to the DEIR in Section 4 of this FEIR, “Revisions and Corrections to the Draft EIR.”
- 22-15 The commenter indicates that traffic problems associated with delivery trucks arriving prior to a scheduled pick-up or delivery time are not adequately characterized and analyzed in the DEIR (and thus may not occur), and that mitigation measure 4.11-2(a) should be removed. Because there are scheduled pickup and delivery times, there exists the potential for trucks to wait in a designated area. Mitigation Measure 4.11-2a was created to reduce the potential for trucks having to wait on local streets. There is no quantitative analysis of the number of trucks this may potentially affect, as the timing of arrivals of these trucks cannot be predicted. However, the described situation was observed at the Wal-Mart Distribution Center in Apple Valley, CA. Based on these observations, and the potential for the impact to occur, the mitigation measure remains appropriate. No changes to the DEIR are necessary.
- 22-16 The commenter notes that mitigation measure 4.11-2(b) lists several non-STAA roadways and roadways near residential areas, and suggests that this measure be revised or deleted. The designated truck routes for Wal-Mart Distribution Center trucks, whether STAA routes or other routes approved by the City of Merced, would be defined as per Mitigation Measure 4-11-2b (a, b and c). If the routes under Mitigation Measure 4-11-2b (c) are not deemed appropriate by the City of Merced, then they wouldn’t be included in the traffic safety assurance plan noted in Mitigation Measure 4-11-2b (a). The mitigation measure remains appropriate and no changes to the DEIR are necessary.
- 22-17 The commenter recommends that Mitigation Measure 4.12-4 be modified to be consistent with language provided in the comment. However, it should be noted that most of the measures included in the recommended revision are already identified in the sustainability plan requirements on page 3-15 of the DEIR. The energy efficiency measures identified in Mitigation Measure 4.12-4 are above and beyond those identified in the DEIR’s Project Description and



would further reduce the project's energy consumption as recommended within CEQA Appendix F. No changes are required to the DEIR.

22-18

The commenter notes that the photosimulations do not include any landscaping that may be planted, and states that the project cannot be fully analyzed without a depiction of site landscaping and trees. The comment suggests, therefore, that the visual impact may be overstated without the assumption of landscaping. As described on page 4.13-7 of the DEIR, Impact 4.13-2 would be a potentially significant impact, based on the threshold of significance, because the project would alter the visual character of the proposed site itself and significantly impact the visual character of the surrounding area. As illustrated by Exhibits 4.13-8 through 4.13-11 (see pages 4.13-8 to 4.13-12), project development would result in a noticeable alteration of the appearance of the site. Specifically, as described in the third paragraph on page 4.13-13, site grading associated with the proposed project would remove existing crops and orchard trees from the site, and buildings up to 40 feet in height and storage tanks would be constructed. Therefore, implementation of the proposed project would alter the existing character of the project site by replacing undeveloped orchards and agricultural fields with industrial development (i.e., buildings, storage tanks, tractor trailers, and pavement), resulting in a potentially significant impact. Based on the information contained in the DEIR, sufficient information is available to adequately analyze Impact 4.13-2.

CEQA requires that for each significant impact identified in the EIR, the EIR must discuss feasible measures to avoid or substantially reduce the project's significant environmental effect (CEQA Guidelines Section 15126.4[a]). Implementation of mitigation measure 4.13-2 would soften and obscure the buildings (as noted in paragraph three on page 4.13-13), reducing potentially significant impacts to less-than-significant levels.

The commenter correctly notes that the photosimulations do not include any landscaping that may be planted. As stated in the first paragraph on page 4.13-13, the photosimulations do not include landscaping because no landscaping plan was available at the time the DEIR was prepared.

The commenter asserts that the tree planting requirements contained in mitigation measure 4.13-2 reflect requirements for a small commercial site in a developed commercial area, with a building located close to the boundary of the property. Also, the commenter states that implementation of mitigation measure 4.13-2 would be infeasible and unwarranted because the project is an industrial use located on a 230-acre site, far removed from the property boundaries. As previously discussed in this response, mitigation measure 4.13-2 is warranted because CEQA requires that for each significant impact identified in the EIR, the EIR must discuss feasible measures to avoid or substantially reduce the project's significant environmental effect, and this mitigation measure would soften and obscure the buildings, reducing potentially significant impacts to less-than-significant levels. Regarding the statement that implementation of this mitigation measure would be infeasible, the commenter does not provide a justification for this statement or provide any additional details. Mitigation measure 4.13-2 involves the preparation and submittal of a landscaping plan to the satisfaction of the City. Because the commenter does not provide any details or offer a reason why the mitigation measure would be infeasible, no further response can be provided. See also the response to comment 5-5, Visual Resources.

22-19

The commenter refers to a portion of mitigation measure 4.13-2, and states that it is infeasible that the bulb and reflector would not be visible off-site. In addition, the commenter states that there is no nexus between the mitigation and the impact, and the requirement should be removed.

The analysis of project lighting impacts is provided on page 4.13-14 of the DEIR (see Impact 4.13-3). As described therein, the project would result in potentially significant light and glare

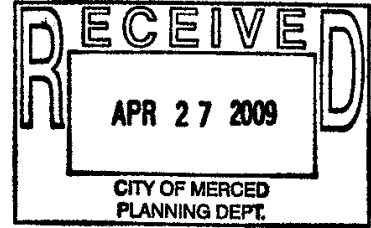
impacts, and mitigation measure 4.13-3 is recommended to reduce these impacts to less-than-significant levels. In particular, the first paragraph on page 4.13-14 states that the project would result in a very noticeable increase in illumination on and from the site that would be readily visible from all of the public streets abutting the site and from vantage points beyond. In addition, as described on paragraph 4 on that page, there is potential for light spillage impacts on adjoining properties, and light spillage could result in glare impacts on persons at vantage points beyond the site boundary. As stated in paragraph five on page 4.13-14, light shields, lighting design, and lighting fixture orientation are commonly used to reduce light spillage.

CEQA requires that for each significant impact identified in the EIR, the EIR must discuss feasible measures to avoid or substantially reduce the project's significant environmental effect (CEQA Guidelines Section 15126.4[a]). Implementation of mitigation measure 4.13-3 would reduce the increase in illumination on and from the site, as well as reduce light spillage impacts on adjoining properties, reducing potentially significant impacts to less-than-significant levels. The mitigation measure would address light spillage through preparation of a lighting plan that incorporates lighting design and placement, as well as lighting orientation.

Mitigation measure 4.13-3 includes a lighting performance standard, specifying that no illumination source shall be visible beyond the property line. In addition, the measure states (see last paragraph on page 4.13-14 of the DEIR) that "the exception to this performance standard is at driveway intersections with public streets." Therefore, mitigation measure 4.14-3 acknowledges that illumination sources could be visible beyond the property line. See also the response to comment 5-5, Visual Resources.

**Espinosa, Kim**

**From:** CALFMAN1@aol.com  
**Sent:** Monday, April 27, 2009 5:59 PM  
**To:** Espinosa, Kim  
**Cc:** CALFMAN1@aol.com  
**Subject:** DEIR Wal-Mart Comments



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**Cressey, CA 95312**

*Received at 6:00 p.m.  
FAX not received*

April 27, 2009

Kim Espinosa, Planning Manager  
City of Merced  
Planning Department  
678 W. 18<sup>th</sup> Street  
Merced, CA 95340  
[espinosak@cityofmerced.org](mailto:espinosak@cityofmerced.org)  
Fax 209-725-8775

Dear Ms. Espinosa;

Sent Via both email and fax

Valley Land Alliance is a grass roots nonprofit organization dedicated to Educate and Build Alliances to protect our uniquely productive California Central Valley Farmland. Valley Land Alliance submits the following comments in response to the Draft EIR on the proposed Wal-Mart.

- Mitigation; We request land loss in Agriculture to any development a 4 to 1 mitigation. | 23-1
- Runoff and Erosion: We have concerns about the water run off from the proposed facility. This could have substantial adverse effects upon the quality of water running off into streams, and will cause substantial, unmitigated pollution. | 23-2
- Traffic: We have concerns of the impact to traffic on Hwy 99 in both directions North and South, and the impact on back streets and how this will impede the shipment of agricultural products and interfere with farm and harvesting equipment. This is especially disconcerting during peak harvest times. We understand from studies from other Wal-Mart distribution centers that back roads are impacted by both trucks parking on the side of the road idling, and by using back roads to avoid traffic. | 23-3
- Air Quality: Air quality is under extreme scrutiny in the Central Valley and the Agricultural community is under intense pressure to comply with ever-increasing regulations. The ag community has been under tremendous attack as one of the major sources of air pollution and we are concerned that the swell in truck traffic from this project will add more pressure to the agricultural supported county. Meaning the Ag community will be taking blame for any increase in air pollution. We would like to see all trucks that are idling for a period of more than 5 minutes required to park under a filter system that eliminates air pollution. | 23-4

4/28/2009

Schools; In the light that this distribution center is so close to several schools we would request that the Wal-Mart distribution center be required to move these school to a location that would not disrupt the day to day actives of the parents and children who attend these schools. We believe that a healthy community is schools whose air and traffic are not compromise by truck traffic.

23-5

Sustainability: We would request that all power from the distribution center be from alternate sources such as solar and wind power. We would also request that the roofing be a source of this alternate energy.

23-6

Community Giving; Since we believe that this distribution center will be allowing the creations of 30 plus more Wal-Marts and that Wal-Marts are normally the reason for the loss of our locally owned and operated stores in towns, and we believe that these are also part of the reason that our downtowns die and cause a shift of buying to box stores. We would request that this distribution center be required as a mitigation to contribute back 1% of their earnings to the community in such ways as educating the public of the importance of eating healthy, local foods. Contribute to our downtown arts and local theaters.

23-7

Local Agriculture; As this distribution center will have a major effect on all our lives that live here in Merced and close to Merced. We would ask that Wal-Mart be required to source their produce from local markets to help support the local farmers that would be impacted from this distribution center.

23-8

Sincerely,

Rochelle Koch  
On behalf of Valley Land Alliance  
[Calfman1@aol.com](mailto:Calfman1@aol.com)

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

4/28/2009

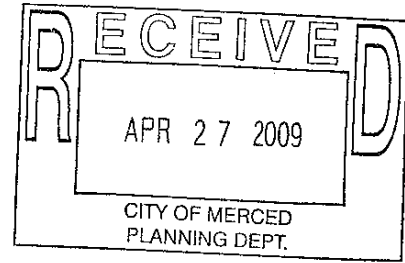
- 23-1 The commenter requests mitigation for loss of farmland at a 4 to 1 ratio. Please refer to Master Response 5: Agricultural Resources, which addresses the issue related to conversion of important farmland.
- 23-2 The comment expresses general concern regarding runoff and erosion from the proposed facility to nearby streams. Section 4.6 “Hydrology and Water Quality” presents analyses of pre- and post-development conditions and Mitigation Measure 4.6-2 addresses stormwater runoff and erosion from the proposed project.
- 23-3 The commenter is concerned about traffic on Highway 99 and back streets, and how this traffic would impede the shipment of agricultural products and interfere with farm equipment. The issue of trucks parking on the side of the road and idling was considered in the DEIR’s analysis and addressed in Mitigation Measure 4.11-2a. Also refer to the Master Response 6: Trucks and the Transportation Analysis for more information on truck traffic analysis for routing assumptions.
- 23-4 The commenter expresses concern that “the Agricultural community is under intense pressure to comply with ever-increasing [air quality] regulations.” The DEIR is not required to address this issue. The commenter suggests that all trucks idling for more than 5 minutes be required to park under a filter system that eliminates air pollution. On-site truck emissions of CAPs are discussed in Impact 4.2-2 of the DEIR. Mitigation Measures 4.2-2a and Mitigation Measures 4.2-2c would reduce on-site truck emissions and reduce Impact 4.2-2 to a less-than-significant level. On-site truck emissions of toxic air contaminants are discussed in Impact 4.2-4 of the DEIR and this impact was determined to be less than significant.
- 23-5 The commenter expresses concern about the project’s proximity to schools and the effect of truck-generated traffic and emissions. Please refer to Section 4.11, Traffic and Transportation, for analysis of traffic impacts, including the effects to schools in the study area. Please refer to response to comment 16-8 which discusses how the schools were included in the HRA performed for the project. The potential for exposure to off-site receptors, including nearby schools, is analyzed in Impact 4.2-4, Exposure of Sensitive Receptors to Emissions of Toxic Air Contaminants.
- 23-6 The commenter requests that all power for the distribution center be supplied by alternative energy sources such as solar or wind power and “that the roofing be a source of this alternative energy roofing.” Please refer to Mitigation Measure 4.2-2e and Mitigation Measure 4.2-6d.
- 23-7 The commenter suggests that the proposed project will result in 30 or more new Wal-Mart stores, causing significant urban decay to existing downtowns, and further recommends that Wal-Mart should subsequently donate 1% of the Distribution Center’s earnings to the community. Please refer to Master Response 1: Growth Inducement and Expansion for more information regarding the potential for the Distribution Center to “spawn” retail stores and the extreme speculation involved with assessing the potential environmental impacts, such as urban decay. Furthermore, it should be noted that the City would require Wal-Mart to pay approximately \$4.2 million (based on 2009 fee levels) in impact fees for public facilities (See Response to Comment 16-5).

23-8

The commenter requests Wal-Mart source their produce from local markets to assist local farmers. The comment does not raise any issues related to the adequacy of environmental analysis conducted in the DEIR. No further response is necessary.

April 23, 2009

Kim Espinosa  
Planning Department  
City of Merced  
678 W. 18<sup>th</sup> St.  
Merced, CA 95340



Re: Merced Wal-Mart Distribution Center Project

Ms. Espinosa,

I wish to voice my disapproval with the construction of the Wal-Mart Distribution Center. I have noted that the Draft EIR regarding the project, among other things, states that the addition of more concrete, pavement, and buildings could have many effects ranging from water pollution to increased flooding. In particular, the Draft EIR notes that the addition of so many acres of impervious surface will increase stormwater runoffs and volumes which will lead to flooding. The area in and around the site has been historically undeveloped agricultural land which was better for stormwater absorption. To convert it into impervious land would disrupt drainage patterns, which the area is not equipped for and which will lead to increased flooding.

24-1

Why would we want to by human means increase the risk of such flooding. The City should not approve the project and should allow for drainage and absorption patters to remain the same unless they want citizens being upset over excessive flooding.

Sincerely,

  
Signature

Dannique N. Aalbu  
Print Name

1067 W. Yosemite Ave #8  
Address

Merced, CA 95348

(916) 832-9170  
Phone

**Letter  
24  
Response**

Dannique N. Aalbu  
April 23, 2009

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24-1

The commenter expresses general concerns regarding water pollution and increased flooding due to increased impervious surfaces. Section 4.6 “Hydrology and Water Quality” presents analyses of pre- and post-development conditions and Mitigation Measure 4.6-2 addresses both volume and quality of stormwater runoff from proposed impervious surfaces.



**Espinosa, Kim**

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**From:** Darlene Acree [dacree@transcountytitle.com]  
**Sent:** Tuesday, March 31, 2009 10:36 AM  
**To:** Espinosa, Kim  
**Subject:** Wal-Mart Distribution Center

Kim,

As a resident of Merced and the owner of a home off Childs Avenue near the location of the proposed Wal-Mart Distribution Center, I am writing in support of the facility. As I look around our small town and see all the empty buildings and places of business that have closed their doors in the past several years, I wonder why people wouldn't welcome the new business and employment for our city. I think the pros definately outway the cons in my opinion.

Thank you for your time,

25-1

Darlene Acree  
Jr. Escrow Officer/  
Certified Escrow Technician  
TransCounty Title Co.  
635 W. 19th Street  
Merced, CA 95340  
Phone: (209) 383-4660 ext. 12  
Fax: (209) 381-2726  
[dacree@transcountytitle.com](mailto:dacree@transcountytitle.com)



Please don't print this e-mail unless you really need to.

3/31/2009

**Letter  
25  
Response**

TransCounty Title Co.  
Darlene Acree  
March 31, 2009

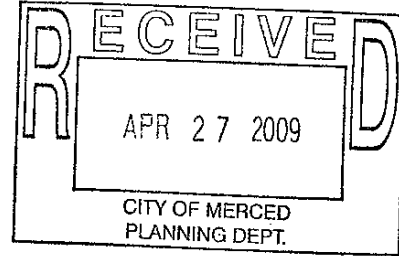
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25-1

The comment speaks to the merits of the project and raises no environmental issues. The comment is noted.

3/19/09

Kim Espinosa, Planning Manager  
City of Merced Planning Division  
678 W 18<sup>th</sup> St.  
Merced, CA 55340



Ms. Espinosa:

I am reading the DEIR on the distribution center, particularly page 4.2-5. I feel there is a false sense of security in your analysis of particulate matter 2.5 (PM2.5). You state that PM2.5 has reduced between 1975 and 2005. While this is encouraging news, I suggest you think about some of the sources you mention which cause PM2.5 emissions, specifically "fugitive dust" from vehicles traveling on paved and unpaved roads.

26-1

The point I want to make and raise is that by adding hundreds of tractor trailer trucks exiting and entering Highway 99 and driving through our neighborhoods and schools will result in a lot more PM2.5 in the air around Merced. I really don't want to see this happen because I'm worried about the health of my family.

I don't think it's a smart idea to add to the poor air quality in Merced.

Thank you.

A handwritten signature in black ink, appearing to read "Candice Adam Medefind".

Signature

Candice Adam Medefind

Print Name

2381 Lakeside Drive

Address

Merced, Calif. 95340

City, State Zip

(209) 723-1872

Phone Number

26-1

The commenter is concerned about the addition of  $PM_{2.5}$  emissions to the project area. Specifically, the commenter notes concerns about fugitive emissions from vehicle travel on paved and unpaved roads. Please see impacts 4.2-1 and 4.2-2 of the DEIR, which analyze the incremental increase in  $PM_{2.5}$  (which is a subset of  $PM_{10}$ ) emissions associated with the proposed project. Both of these impacts were found to be significant. With implementation of mitigation measures 4.2-1a-e and 4.2-2a-e, these impacts from  $PM_{10}$  and  $PM_{2.5}$  would be reduced to a less-than-significant level.

**Espinosa, Kim**

---

**From:** Allen's [c@17am.com]  
**Sent:** Thursday, April 23, 2009 7:33 PM  
**To:** Espinosa, Kim  
**Subject:** Wal mart

**We are against the building of the Wal-Mart distribution center. We have seen the terrible effects of what other centers have done in other cities.**

27A-1

**Margaret Allen**

4/24/2009

**Espinosa, Kim**

---

**From:** Allen's [c@17am.com]  
**Sent:** Thursday, April 23, 2009 7:30 PM  
**To:** Espinosa, Kim  
**Subject:** Walmart

**We are against the building of the Wal-Mart distribution center. We have seen the terrible effects of what other centers have done in other cities.**

27B-1

**Brent Allen**

4/24/2009

**Letter  
27A-B  
Response**

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Margaret Allen  
➤ 27A–April 23, 2009  
Brent Allen  
➤ 27B–April 23, 2009

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- 27A-1      The comment recommends against approval of the project and raises no environmental issues.  
The comment is noted.
- 27B-1      The comment recommends against approval of the project and raises no environmental issues.  
The comment is noted.

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**Espinosa, Kim**

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**From:** Allen's [c@17am.com]  
**Sent:** Sunday, April 26, 2009 12:58 PM  
**To:** Espinosa, Kim  
**Subject:** No Wal MArt

**Kim, This is nothing personal against you. This letter is to any who support this Distribution Center in the location which it is planned. If anything happens to my kids because of the traffic of the trucks, I as well as many of my friends and neighbors will take action against city council and city planning people who knowing support this giant city of filth AKA the Wal Mart distribution center. This family has supported the schools here in every way possible the last 20 years. For Merced to do something like this to us is ludicrous. There is plenty of land in this region to put this distribution center elsewhere. There is no reason it has to be so close to our residential area and schools. Move it or lose it. If this is passed we are not going to lie down about it. It will be an embarrassing civil war here in Merced if it goes through. Shopping in grocery stores, restaurants at public functions etc. Anyone who has supported this that has a government vote will be constantly reminded in an embarrassing manner forever if walmart is placed this close to us. MOVE THE SITE if you must have it, unless every supporter wants to move in next to us in our neighborhood and experience the hell for themselves. Turning a blind eye to a fellow Merced resident will not fly this time.**

28-1

**Margaret Allen  
Brent Allen  
Lisa Allen**

**2636 Ballantyne  
Merced**

4/27/2009

**Letter  
28  
Response**

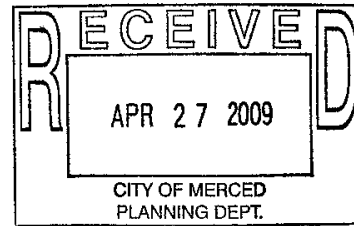
Margaret Allen, Brent Allen, Lisa Allen  
April 26, 2009

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28-1

The comment primarily addresses the merits of the project and recommends against approval. However, the comment does allude to consideration of alternative sites. Section 5 of the DEIR titled “Alternatives to the Proposed Project” discusses three alternative sites. See also Master Response 12: Alternatives. The comment does not raise issues with the adequacy of the DEIR.

To:  
Kim Espinoza  
Planning Manager  
City of Merced



These are my concerns regarding the proposed Wal-Mart Distribution Center in Merced. None of them have been adequately addressed in the Draft Environmental Impact Report. This project is not right for our community.

- pollution from trucks causes global warming (254.4 tons of NOx which causes ozone) | 29-1
- noise in the form of loudspeakers to call the trucks to off-load and the noise of off-loading | 29-2
- light from stadium lighting at the site | 29-3
- dust created from off-loading | 29-4
- polluting the rain water run-off | 29-5
- plummeting home values | 29-6
- trucks idling at the site for 2 to 24 hours while waiting their turn to off-load. | 29-7
- idling trucks run their air conditioner in the summer and their heaters in the winter | 29-8
- big box stores shut down small businesses and create unemployment | 29-9
- there is no guarantee that the jobs generated by this project will go to Merced residents or benefit Merced in any way. | 29-10
- Urban Decay is not addressed in the document | 29-11
- the proposed site is subject to high water flow. | 29-12
- The EIR is supposed to address how the project will change the existing environment. It doesn't do that. | 29-13
- The proposed capacity will not only be adequate to serve existing stores as it says in the DEIR, it is big enough to serve several times the amount of stores which exist at this time. | 29-14
- The purpose of CEQA is to address both Qualitative and Quantitative. Both are not considered in the DEIR. | 29-15
- Our Air Quality will be severely compromised if this project goes forth but the DEIR suggests that adding pollution is not significant. | 29-16
- This project will require a huge impervious surface. Rain water will be polluted by oil, grease, dust and other particulate matter and will flow off site and onto the land. The proposed detention ponds will not clean the water adequately before it heads to the waterways and ultimately the ocean. | 29-17
- The ponds will supposedly be filled by gravity feed but this concept doesn't make sense as the water level in the ponds are higher than the surface requiring evacuation. | 29-18
- The houses built in the surrounding neighborhoods will suffer from urban decay. Owners will not be able to sell their homes and property values will decline because of the proposed Distribution Center. Many surrounding homes will become vacant and will become magnets for vandalism, graffiti, drugs and prostitution. Foreclosure rates will skyrocket. This should have been addressed in the DEIR. | 29-19
- The proposed Distribution Center will bring products to proposed Wal-Mart Super Centers. Each Super Center closes 2-3 smaller stores. These Super Centers are proposed for other towns in our county. We are potentially causing unemployment in our own county. | 29-20

- Most of the jobs generated by this project will not go to local citizens but to workers from other communities who will commute. This will not benefit Merced financially. At the very least, we should require that Wal-Mart hire 80% of the workforce from the county of Merced. 29-19
- There are many hidden costs to the city of Merced such as police, traffic control, noise abatement and health costs created by poor air quality. 29-20
- Weaver, Pioneer and Golden Valley are too close to the proposed site. A third elementary school that has been proposed for this area will not be able to be built.
- Student athletes will have no choice but to breath the air. Their health will be affected. 29-21
- 25% of people within a two mile radius will have health issues as a consequence of the exhaust from the truck traffic.
- The road was built for UC Merced. Is it right, is it fair, is it appropriate to turn it into a road for the proposed Wal-Mart Distribution Center? 29-22

The City Council is directly responsible for the foreclosure rate in this community by allowing unrestricted building in our town. We are fourth in the Nation. Now most of the City Council wants to build this Distribution Center with total disregard for the deficiencies in the Draft Environmental Report.

CEQA authorizes agencies to disapprove projects because of negative environmental impacts. This project should NOT be approved. 29-23

We have UC Merced, a wonderful asset to our community. Merced deserves green growth. So does our planet.

Annette Allsup  
 974 Wyoming Dr  
 Merced, CA 95340  
 209-723-5152

29-1

The commenter suggests that the issue of global warming caused by pollution from trucks has not been adequately addressed but does not specify why. Impact 4.2-6 of the DEIR focuses on the generation of GHG emissions by the proposed project and their contribution to global climate change. The DEIR includes an estimate of GHG emissions generated by the project during construction and operation. The various operational sectors for which the quantification was done include natural gas use onsite, landscaping emissions, architectural coatings, electricity consumption, outbound delivery truck trips, inbound receivable truck trips, and onsite truck activity. The emissions category that the commenter argues about – trucks – are included in the impact analysis. The analysis is in accordance with OPR’s Technical Advisory on CEQA and Climate Change which states that “Lead agencies should make a good-faith effort, based on available information, to calculate, model, or estimate the amount of CO<sub>2</sub> and other GHG emissions from a project, including the emissions associated with vehicular traffic, energy consumption, water usage and construction activities”. Given the recent enactment of AB 32 (2006) and SB 97 (2007), there is no adopted methodology quantification of CO<sub>2</sub> emissions from development projects. The applicant and their consultants, using their professional expertise and judgment, have therefore done their best to devise their own methodology, which is intentionally conservative because of the newness of the science at issue. The analysis in Section 4.2 of the DEIR represents a sophisticated, good faith attempt to quantify and disclose emissions using the information that is available.

The commenter also states “pollution from trucks causes global warming (254.4 tons of NO<sub>x</sub> which causes ozone.” Page 4.2-3 of the DEIR explains that “Ozone is not directly emitted into the air, but is formed through complex chemical reactions between precursor emissions of ROG and NO<sub>x</sub> in the presence of sunlight.” Ozone is not a prominent GHG gas, however. As explained on page 4.2-11 of the DEIR, “Prominent [greenhouse gases] contributing to the Greenhouse Effect are carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), ozone, nitrous oxide, hydrofluorocarbons, chlorofluorocarbons, and sulfur hexafluoride.” Ground-level ozone is not considered a prominent GHG, in part, because of its diurnal nature and because it does not persist atmosphere for more than a 24-hour period.

29-2

The comment states that loudspeakers announcements in the truck yard are not addressed in the EIR. As stated in Impact 4.8-2 “Stationary- and Area-Source Noise”, the loudest noise sources emanating from operations of a distribution center of similar size, design, and operations would be from yard truck horns and back-up alarms. Loud speaker announcements were not identified as a significant noise source during field measurements at a similar, existing Wal-Mart distribution facility in Apple Valley, CA, as stated on page 4.8-22:

All loading and unloading of truck trailers would occur at the loading docks along the north sides of the warehouse building, which is more than 3,000 feet from the nearest off-site noise-sensitive receptor. Even if such activity produced a noise level equivalent to that of the air horn of yard truck, which is the loudest noise level observed at the Apple Valley facility at 88 dBA, this noise level would attenuate to 52.5 dBA across a distance of 3,000 feet, not including additional attenuation provided by the building itself.

Furthermore, the loudest on-site noise sources associated with facility operations are listed in Table 4.8-10, Summary of Stationary and Area Noise Sources.

- 29-3 The commenter lists a concern about light from stadium lighting at the site. It should first be noted that the proposed project does not include stadium lighting, but rather pole-mounted lighting typical of parking lots. The project's lighting impacts were evaluated consistent with the requirements of CEQA in Section 4.13, "Visual Resources," of the DEIR. As described therein, the project would result in potentially significant light and glare impacts, and mitigation is recommended to reduce these impacts to less-than-significant levels (see page 4.13-14). Please also see response to comment 12-22 for additional discussion. The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided.
- 29-4 The commenter argues that the issue of dust created from offloading of trucks was not addressed adequately in the DEIR. Based on observations at the Wal-Mart distribution center in Apply Valley this activity would not anticipated to result in emissions of fugitive dust and; therefore, was not discussed in the DEIR. In general, dust from offloading operations at distribution centers is not an issue or a source that air districts recommend including in the air quality analysis.
- 29-5 The commenter expresses general concerns regarding stormwater runoff. Section 4.6 "Hydrology and Water Quality" presents analyses of pre- and post-development conditions and Mitigation Measure 4.6-2 addresses both volume and quality of stormwater runoff from proposed impervious surfaces.
- 29-6 The commenter indicates that the DEIR does not address the potential for decrease in home values as a result of the warehouse distribution center and its impact for urban decay. The commenter explains that owners will not be able to sell their homes and affected neighborhoods will become magnets for vandalism, graffiti, and prostitution, with foreclosures skyrocketing. The project's affect on property value, by itself, is not considered an environmental impact and is therefore not required to be analyzed under CEQA. Please refer to Master Response 11: Economics and Urban Decay, which addresses this issue.
- 29-7 The commenter suggests that trucks would idle at the site for 2-24 hours while waiting their turn to offload. As stated on Page 4.2-15 of the DEIR, ARB has developed an ATCM that limits stationary idling by diesel-fueled commercial trucks to 5 minutes (13 CCR Chapter 10 Section 2485). The analysis in the DEIR assumes that trucks at the project site would comply with this ATCM, which is a state law, and would not be allowed to idle for more than 5 minutes as the commenter suggests.
- 29-8 The commenter indicates that the DEIR does not address issues associated with the economic effects of "big box" stores on small businesses and the resulting unemployment. The proposed project is a distribution center, not a retail center; therefore, the project would not result in direct economic effects on small business, especially given the high rate of unemployment in the region. Furthermore, economic effects are not required for analysis under CEQA. If the commenter is implying impacts associated with urban decay, please see Master Response 11: Economics and Urban Decay. Please also refer to Master Response 1: Growth Inducement and Expansion for a discussion of the project's potential to "spawn" retail stores throughout the region and the ability to assess impacts resulting from such expansion.
- 29-9 The comment raises questions related to in-migration of employees and raises no environmental issues. The comment is noted. See Response to Comment 92-4 for more detailed information.
- 29-10 The commenter indicates that urban decay is not addressed in the DEIR. Please refer to Master Response 11: Economics and Urban Decay, which addresses this issue.

- 29-11 The comment indicates that “the proposed site is subject to high water flow.” Section 4.6 “Hydrology and Water Quality” presents analyses of pre- and post-development conditions and Mitigation Measure 4.6-2 addresses both volume and quality of stormwater runoff from proposed impervious surfaces.
- 29-12 The commenter states that the EIR does not address how the project will change the existing environment. The project’s environmental impacts were evaluated consistent with the requirements of CEQA throughout the DEIR. Please refer to Chapter 4, “Environmental Setting, Thresholds of Significance, Environmental Impacts, and Mitigation Measures,” of the DEIR for a description of the existing environmental setting and discussion of the environmental impacts associated with the proposed project. As described in the first paragraph on page 4-1 of the DEIR, Chapter 4 of the DEIR contains a discussion of existing conditions, thresholds above which an impact of constructing and operating the proposed Merced Wal-Mart Regional Distribution Center is considered significant, environmental impacts, mitigation measures, and levels of significance after mitigation. Specifically, please refer to Sections 4.1 through 4.13 of the DEIR. The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided.
- 29-13 The commenter indicates that the proposed project would be large enough to serve an area far beyond the 49 stores identified in the DEIR. Please see Master Response 1: Growth Inducement and Expansion for a more detailed discussion on the potential for expansion of service.
- 29-14 The commenter addresses the purpose of CEQA and the lack of both qualitative and quantitative analyses in the DEIR. The project’s environmental impacts were evaluated consistent with the requirements of CEQA. As stated on page 1-1 of the DEIR, the City of Merced is the lead agency under the California Environmental Quality Act (CEQA) and has determined that an Environmental Impact Report (EIR) is required for the proposed Wal-Mart Distribution Center project (State Clearinghouse No. 2006071029). In addition, the EIR has been prepared in conformance with CEQA (California Public Resources Code [PRC] Section 21000 et seq.); CEQA Guidelines (California Code of Regulations [CCR], Title 14, Section 15000 et seq.); and the rules, regulations, and procedures for implementation of CEQA, as adopted by the City of Merced. Please also refer to response to comment 29-12 for additional information.
- In fact, the DEIR includes both quantitative and qualitative analyses, depending upon the environmental topic. For example, air and noise impacts include quantitative, while the Visual Resources analyses is qualitative. Because the commenter states some general criticisms of the DEIR without providing any specificity, no further response is necessary as no issues related to the specific environmental impacts of the project were raised.
- 29-15 The commenter states that “air quality will be severely compromised if this project goes forth but the DEIR suggest that adding pollution is not significant.” The commenter suggests that the impact conclusions in the air quality analysis discussed in Section 4.2 are incorrect but fails to provide reasoning for this statement.
- 29-16 The commenter expresses general concerns regarding impervious surface increases and contaminated runoff and detention pond inadequacy. Gravity filled ponds are higher than the land to be drained. See Master Response 7: Detention Basins and Drainage which addresses comments pertaining to stormwater volume. See Master Response 8: Runoff Water Quality which addresses comments pertaining to stormwater quality.
- 29-17 The commenter indicates that urban decay is not addressed in the DEIR. Please refer to Master Response 11: Economics and Urban Decay, which addresses this issue.

- 29-18 The commenter states that the proposed distribution center will bring products to proposed Wal-Mart Super Centers, asserts that each Super Center closes two to three stores, and that the proposed project would potentially cause unemployment in the county. The commenter does not substantiate these claims and does not offer any evidence showing how the project would result in a physical change in the environment. Potential unemployment and related social and economic effects are not physical effects. Effects analyzed under CEQA must be related to a physical change in the environment (CEQA Guidelines Section 15358[b]). The commenter does not offer any evidence on how the project would result in significant physical change in the environment; therefore, no further response can be provided. Furthermore, as explained under “Master Response 1: Growth Inducement and Expansion”, environmental effects resulting from the proposed Distribution Center’s potential for “spawning” additional retail stores cannot even be grossly speculated. Please see Master Response 1 for additional information.
- 29-19 The commenter asserts that most of the jobs generated by the project will go to workers from other communities who will commute, and states that Wal-Mart should hire 80% of the workforce from Merced County. The commenter does not substantiate this claim, and does not offer any evidence on how the project would result in a physical change in the environment. In addition, potential employment and related social and economic effects are not physical effects. Please see response to comment 29-18 for additional information. As a point of reference, approximately 71.7 percent of the estimated 24,664 primary jobs in the City of Merced in 2006 also lived within Merced County.<sup>2</sup> (U.S. Census Bureau 2009) Thus, if workers at the Wal-Mart distribution center follow existing commuting patterns of City of Merced workers, then approximately 72 percent would also live in Merced County.
- 29-20 The comment lists several “hidden costs” to the City resulting from the project including police, traffic control, noise abatement, and health costs (from poor air quality). CEQA does not require the DEIR to analyze financial impacts; however, these individual issues, as they relate to environmental effects (as opposed to financial impacts) are analyzed in the Draft EIR for the proposed project. As discussed throughout the DEIR, the applicant shall pay its fair share of the costs associated with increased demand for public services, as appropriate, through the City’s Public Facilities Impact Fees Ordinance. The comment does not raise issues regarding the adequacy of the Draft EIR.
- 29-21 The commenter states that the Weaver, Pioneer, and Golden Valley schools are located too close to the site and that a third elementary school that has been proposed for this area will not be able to be built. The commenter also states that the health of student athletes would be affected.
- Please refer to the response to comment 17-12, which discusses how the relative locations of these school was analyzed in the traffic analysis, and response to comment 16-8 which discusses how the schools were included in the HRA performed for the project.
- The commenter also states that “25% of people within a two mile radius [of the project] will have health issues as a consequence of the exhaust from truck traffic.” However, the comment does not provide evidence for this claim. Please refer to the response to comment 12-23 that discusses the results of the HRA, which analyzed the potential health risk from on-site TAC sources including truck activity. Please refer to the response to comment 92-3 which discusses the potential for increase health risk generated by off-site truck travel.

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<sup>2</sup> Estimates of workers residency is estimated using U.S. Census’s Longitudinal Employer-Household Dynamics (LEHD) tool, which combines economic census place of work data with place of residence data. The data derived from LEHD originates from payroll tax (Unemployment Insurance) payment record from each state.



- 29-22 The commenter raises some concerns about the proposed project related to a road that was built for UC Merced. These concerns are not related to the specific environmental impacts of the project. The project's traffic impacts were evaluated consistent with the requirements of CEQA in Section 4.11, "Traffic and Transportation," of the DEIR. As described therein, the project would result in potentially significant traffic impacts, and mitigation is proposed to reduce these impacts to less-than-significant levels (see pages 4.11-26 to 4.11-32). The commenter does not provide any specific disagreements with the analysis provided in the DEIR; therefore, no further response can be provided.
- 29-23 The comment indicates that CEQA authorizes agencies to deny projects because of adverse environmental effects and urges the decision makers to deny the project. The commenter is correct that a lead agency may deny a project based on adverse environmental effects. Alternatively, the lead agency may approve projects that have significant environmental impacts if a determination is made that the benefits, or advantages, of the proposed project would outweigh the potential negative environmental impacts; this is called a statement of overriding considerations. This comment does not raise issues related to the adequacy of the Draft EIR.

*This page intentionally blank.*

**Espinosa, Kim**

---

**From:** aalorro@sbcglobal.net  
**Sent:** Sunday, April 26, 2009 6:56 PM  
**To:** Espinosa, Kim  
**Subject:** Water Runoff

Dear Ms. Espinosa:

I am not satisfied that the DEIR adequately addresses the problem of water runoff. The proposed WalMart Distribution Center would be built on what was previously agricultural land. When it rains, the soil naturally absorbs moisture; any excess, hopefully, is just rainwater, which may cause minor flooding but which will eventually flow into rivers or canals.

If this project is built, pavement replaces dirt. Rainwater will run-off, instead of being absorbed, and it will carry with it all the foreign elements present on pavement, e.g. oil, grease, and other chemicals. Detention ponds are supposedly adequate to handle this problem, but what happens if your measurements are incorrect and your ponds are not large enough or high enough or strong enough to retain the run-off? What happens to all the contaminants that will then be released into the community?

I realize that your General Plan designates this area as Industrial, but this does not mean that you MUST build a massive industrial project at this site. A good, community-based Plan changes as the community it serves changes. There are neighborhoods and schools that would be adversely affected if tainted water were to run-off into public spaces. Don't wait until disaster strikes: prevent it now by not approving this project.

Sincerely,

Audrey L Alorro  
3312 Denver Way  
Merced CA 95348  
209/722-3264  
[aalorro@sbcglobal.net](mailto:aalorro@sbcglobal.net)

30A-1

30A-2

4/27/2009

**Espinosa, Kim**

---

**From:** aalorro@sbcglobal.net  
**Sent:** Sunday, April 26, 2009 6:29 PM  
**To:** Espinosa, Kim  
**Subject:** WalMart Water Concerns

Dear Ms. Espinosa:

I have serious concerns about the amount of water the proposed WalMart Distribution Center will use. The DEIR findings are based on an Urban Water Management Plan (UWMP) finalized in 2005 and EDAW's 2006 Water Supply Assessment (WSA). As anyone who keeps up with current events knows, the status of our water resources in the State of California has changed drastically just in the last few years. Many cities have enacted emergency water conservation plans and the delivery of water to farmers has been cut severely, forcing many farmers to refrain from planting their fields. The impact on agriculture should be of major concern to you, since we are still primarily an agricultural community.

The DEIR's conclusions of current and projected water consumption needs to be re-assessed in light of current information. In fact, this project should not be allowed to move forward until the State of California has definitively resolved it's water shortage issues. We are not isolated from the rest of the state; to claim that our "groundwater is a consistent source, so no replacement plan is needed" (pg. 4.12-2) is disingenuous and simplistic. If water is needed elsewhere in our State, it will affect our source as well.

Sincerely,

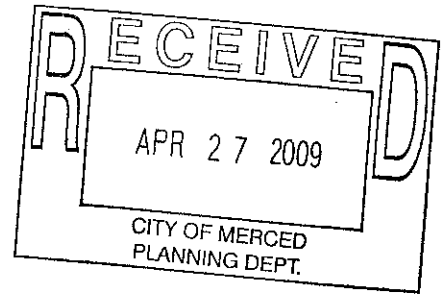
Audrey L. Alorro  
3312 Denver Way  
Merced CA 95340  
209/722-3264  
[aalorro@sbcglobal.net](mailto:aalorro@sbcglobal.net)

30B-1

4/27/2009

April 19, 2009

Ms. Kim Espinosa  
Merced Planning Department  
678 W. 18<sup>th</sup> St.  
Merced, CA 95340



Dear Ms. Espinosa,

Developing on prime agriculture land is not responsible growth. The soil type that is at this site needs to be protected and used for agricultural needs not commercial/industrial development. Not only does this affect the agricultural community but it's bad precedent for farmland in general. If this land is developed, then what does it say to other developers and farmland owners? Owners of farmland will want to sell their property to developers and in result, put prime agriculture land at risk. Wal-Mart can build in other areas, we don't get to pick where prime farmland is located.

30C-1

Thank you,

Audrey Alous  
Signature

Audrey Alous  
Print Name

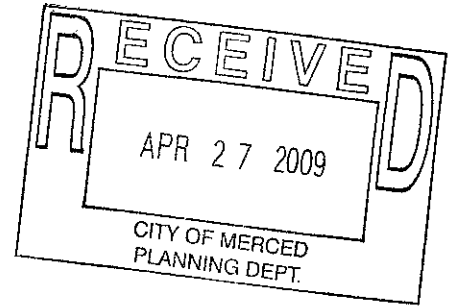
3312 Denver Way  
Address

Merced CA 95348

- PH 722-3264  
Phone

April 12, 2009

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



RE: Wal-Mart Distribution Center DEIR

Dear Kim Espinosa,

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

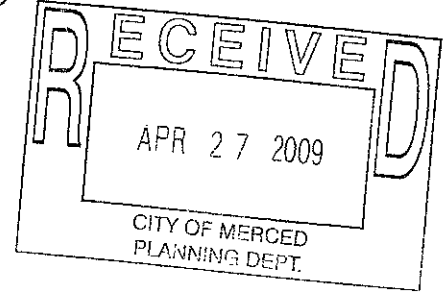
30D-1

Regards,

*Audrey Alorro*  
*Audrey Alorro*  
*3312 Denver Way*  
*Merced CA 95348*  
*Ph 722-3269*

April 7, 2009

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



Dear Ms. Espinosa,

I am writing mostly to express my opposition to the proposed Wal-Mart Distribution Center in Merced. The center itself will have terrible ramifications on the health of our community, particularly with the frequent truck and employee traffic that will be generated. Is the health of our community, and particularly our children, worth risking just for some property tax revenues?

30E-1

The Draft Environmental Impact Report for the proposed distribution center is detailed except when it comes to discussing financial costs. For instance, under section 4.93 Environmental Impacts, under Impact Analysis 4.9-1, there is the mentioning of "public water and wastewater infrastructure," "utility infrastructure," and "existing infrastructure." The report mentions the addressing of all these infrastructures, but no discussion on the financing of the infrastructure costs. What percentage of the infrastructure costs related to the Wal-Mart Distribution Center are for the taxpayers compared to Wal-Mart's share?

30E-2

The taxpayers should not have to share any burden of infrastructure costs related to this development. Wal-Mart should pay for the entirety of their proposal if it is to be built at all. There should be no tax incremental financing or cost sharing with the city or county.

Thank you,

*Audrey Alorro*  
Audrey Alorro  
3312 Denver Way  
Merced CA 95348  
Ph 722-3264

**Letter  
30A-E  
Response**

Audrey L. Alorro  
➤ 30A–April 26, 2009    ➤ 30D–April 12, 2009  
➤ 30B–April 26, 2009    ➤ 30E–April 7, 2009  
➤ 30C–April 19, 2009

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- 30A-1      The commenter expresses general concern regarding impervious surface and contaminated runoff, and that detention ponds might be sized or constructed inadequately to handle runoff. Section 4.6 “Hydrology and Water Quality” presents analyses of pre- and post-development conditions and Mitigation Measure 4.6-2 addresses both volume and quality of stormwater runoff from proposed impervious surfaces. The final design specifications would be required to demonstrate to the City and MID that runoff generated as a result of the project would be properly contained and conveyed. Because no specific issues with the DEIR’s analysis were provided by the commenter, no further response can be given.
- 30A-2      The commenter states neighborhoods and schools would be adversely affected if tainted water were to run-off from the project site. The DEIR fully analyzes the potential for water quality degradation from project-related construction activities and project-related contaminants (see Impacts 4.6-1 and 4.6-2, “Hydrology and Water Quality”). In addition, the DEIR recommends mitigation measures that would reduce significant impacts to a less-than-significant level (see Mitigation Measures 4.6-1a, 4.6-1b, and 4.6-2; Hydrology and Water Quality”). Because the commenter does not provide specifics of how the proposed project would create or generate “tainted water,” no further response can be provided.
- 30B-1      The commenter expresses concerns regarding the amount of water the project would use and the insufficiency of the Water Supply Assessment (WSA). As described in Impact 4.12-1, the WSA was prepared for the proposed project in full compliance with required law (e.g., Water Code Section 10912), and the projected water demand associated with industrial land use for the project site was accounted for in the most recently adopted Urban Water Management Plan. The comment requires no changes to the DEIR text.
- 30C-1      The commenter states soils on the project site need to be protected for agricultural needs. The commenter states implementation of the proposed project would result in other farmland owners wanting to sell their property to developers. Please refer to Master Response 5: Agricultural Resources, which addresses the issue related to conversion of important farmland.
- 30D-1      The commenter suggests that the DEIR should include exact estimates of the construction equipment expected to be used at the site. As discussed on Page 4.2-29 of the DEIR, “Detailed information about the number and types of construction equipment needed, maximum daily acreage disturbed, number of workers, and hours of operation is not currently known at this time [of the analysis].” These details are decided by the contractor who wins the bid to build the project. On the same page the DEIR also states that estimates for construction equipment were based on SJVAPCD’s Recommended Construction Fleet spreadsheet. SJVAPCD’s spreadsheet provides estimates for the amount of maximum daily acreage disturbed and number and type of construction equipment that would be used on a project based on its total acreage and type (e.g., commercial, residential). SJVAPCD formulated this methodology to provide an accurate set of assumptions about the input parameters of a construction project while erring on the conservative side so as not to underestimate construction-generated emissions. Thus, the construction equipment fleet estimates, and consequently construction equipment emissions are conservative. This analysis was conducted in accordance with common practices.

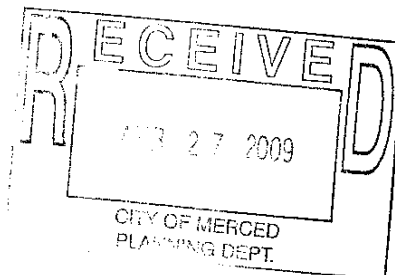


- 30E-1 The comment does not raise issues with the adequacy of the DEIR. The comment is noted. Impacts to public health and safety are discussed in Section 4.10, Public Health and Hazards. Impacts to air quality impacts are discussed in Section 4.2, Air Quality, and also refer to Master Response 12. Impacts to traffic are discussed in Section 4.11, Traffic.
- 30E-2 The comment indicates that the Draft EIR lacks detail related to financial costs, especially with respect to infrastructure; the commenter requests information related to the proportion of these costs that Wal-Mart would pay versus taxpayers. CEQA does not require lead agencies to evaluate economic or financial impacts. The Draft EIR appropriately focuses on environmental effects, as required by CEQA. This comment is noted and will be provided to the decision makers.

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April 4, 2009

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



Ms. Espinosa:

In section 4.2-3 of the distribution center's DEIR, you state "generally, low wind speeds or stagnant air coupled with warm temperatures and clear skies provide the optimum conditions for [ozone] formation. As a result, summer is generally the peak ozone season."

I don't know where you live Ms. Espinosa, but summers a long here in Merced and we have plenty of clear skies. Sounds like an ideal location to make ozone.

So, will Wal-Mart limit its truck trips during the summer months to help reduce the amount of ozone that is created?

31A-1

Thank you.

*Angel G. Alvarez*

Signature

Angel G. Alvarez

Print Name

66 S. FORT Ave

Address

Merced, CA, 95341

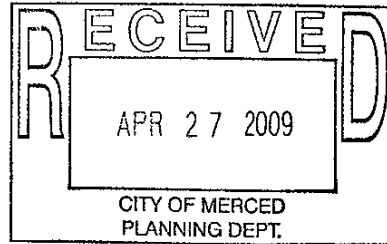
City, State Zip

(209) 726-343

Phone Number

4.14.09

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



Dear Ms. Espinosa:

As stated on page 4.2-1 of the Wal-Mart Distribution Center's draft environmental impact report, the San Joaquin Valley Air Basin is comprised of numerous counties, all of which are quite large. Will the City make sure the counties of Fresno, Kings, Madera, San Joaquin, Stanislaus and Tulare counties have a chance to weigh in? What happens if they object to the project because of air quality problems?

31B-1

Thanks.

*Angel G. Alvarez*  
Signature

Angel G. Alvarez  
Print Name

66 S. FORK AVE.  
Address

Merced, CA, 95341  
City, State Zip

(209) 726-3436  
Phone Number

**Letter  
31A-B  
Response**

Angel G. Alvarez  
➤ 31A–April 4, 2009  
➤ 31B–April 14, 2009

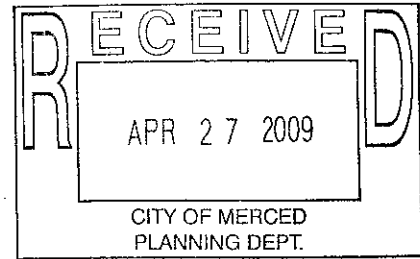
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- 31A-1 The commenter asks whether Wal-Mart would “limit its truck trips during the summer months to help reduce the amount of ozone that is created.” Please refer to Impact 4.2-2 for analysis of operational emissions of CAPs and precursors, including ozone precursors generated by truck trips associated with the proposed project. These emissions would be mitigated to a less-than-significant level by Mitigation Measures 4.2-2a through 4.2-2e. Therefore, no additional mitigation measures are necessary to reduce this impact. Please also refer to response to comment 126D-1.
- 31B-1 The comment asks whether the other counties comprising the San Joaquin Valley Air Basin were consulted regarding the proposed project and what the result would be if these counties object to the project due to air quality concerns. The San Joaquin Valley Air Pollution Control District received notice of the DEIR and provided comments at Letter 21. The notice of preparation, notice of availability, and DEIR were circulated per the requirements of CEQA. Merced County received notice of all available CEQA documents; however, the other counties in the air basin did not receive notice because neither CEQA, nor the San Joaquin Valley Air Pollution Control District, requires notice to all counties in an affected air basin. This comment does not raise issues related to the adequacy of the DEIR.

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April 3, 2009

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

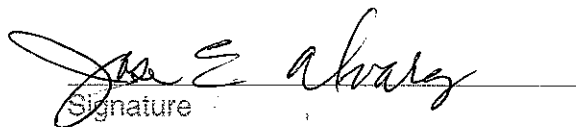


Ms. Espinosa:

There are certain things that are taken for granted in this age of consumerism and rampant development. My concern is that wildlife will be taken for granted. If this Distribution Center Project is approved, however, I fear that the local wildlife will be taken for granted and such approval decision will be without taking them into consideration. For years the site on which Wal-Mart wants to construct on has been agricultural in nature. From orchards to fields, this land has been a breeding ground and environment for various wildlife. This project should not be approved. I do not want the area where I sometimes pull over and enjoy nature be replaced with another set of buildings and another concrete mess.

32-1

Thank you,

  
Signature

Joe Alvarez  
Print Name

890 Marian Ct  
Address

Merced, Ca.  
Address

723-7125  
Phone

**Letter  
32  
Response**

Joe Alvarez  
April 3, 2009

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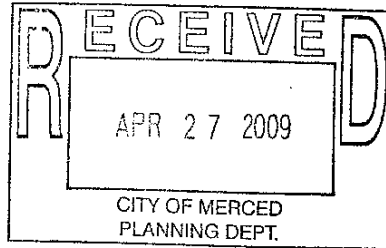
32-1

The commenter makes a generally statement about the potential harm of wildlife resulting from implementation of the proposed project but does not disagree with the conclusions in the DEIR or otherwise question the adequacy of the document. The DEIR addresses impacts to wildlife under Section 4.3 "Biological Resources." The comment is noted.



April 10, 2009

Kim Espinosa  
Project Manager  
Merced Planning Division  
678 W. 18<sup>th</sup> Street  
Merced, CA 95340



Ms. Espinosa:

I took a look at the Wal-Mart distribution center's draft environmental impact report. One thing that struck me (and concerns me) is Table 4.2-1 in the Air Quality section. Area wide sources count for 85% of PM 2.5 in the county? That's pretty alarming to me, especially because I see so many of my neighbors outdoors walking or running, probably unaware of this dangerous air pollution in the air.

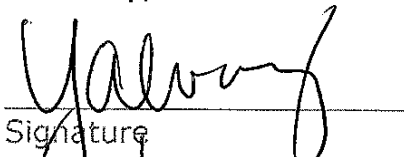
33-1

I suggest to Wal-Mart that they reduce the size of this distribution center, which will decrease the number of trucks driving through Southeast Merced. If Wal-Mart wants to be responsible for increasing PM 2.5, they should at least try to reduce the impacts.

33-2

Here's an even better idea. Don't build it!

Sincerely,

  
Signature

Janet Alvarez  
Print Name

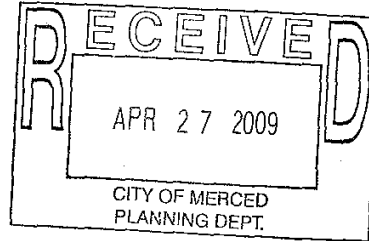
66 S. Fork Ave.  
Address

Merced, CA. 95341  
City, State Zip

(209) 726-3436  
Phone Number

- 33-1 The commenter is alarmed that area-wide sources account for approximately 85% of the County's PM<sub>2.5</sub> emissions. The commenter suggests reducing the size of the proposed project to reduce the project's associated contribution to PM<sub>2.5</sub> emissions. Because impacts 4.2-1 and 4.2-2 would be reduced to less-than-significant levels with mitigation required by Mitigation Measures 4.2-1a-e and 4.2-2a-e, it would not be necessary to reduce the size of the project to avoid a significant impact to air quality associated with PM<sub>2.5</sub> emissions.
- 33-2 The commenter recommends reducing the size of the distribution center to reduce impacts related to particulate matter emissions. Section 5 of the DEIR evaluates impacts of a "Reduced Site Plan and Operations" Alternative relative to the proposed project. This alternative is a 25% reduction in size and operation of the distribution center. Please see Section 5 "Alternatives to the Proposed Project" for a discussion of this alternative (page 5-17) and Master Response 12: Alternatives. The commenter does not raise issues related to the adequacy of the DEIR.

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



Ms. Espinosa,

The final environmental impact report should address policing graffiti prevention on the wall barrier, at the cost of the applicant. In fact, I suggest the applicant should have to pay for property value estimates both before and after the barrier wall is built, compensating the property owners the difference should the values decrease after the wall is built. Part of the current housing crisis is banks unwillingness to make loans to homeowners and homeowners unable to sell homes they cannot afford to keep.

34-1

Please address this issue in more detail in the EIR.

Sincerely,

*Jacqueline Alvez-Munoz*  
*457 Hy drangle*  
*CA. Merced CA. 95340*

*Jacqueline Alvez-Munoz*  
*(per parcel system)*

**Letter  
34  
Response**

Jacqueline Alvarez-Munoz  
Undated

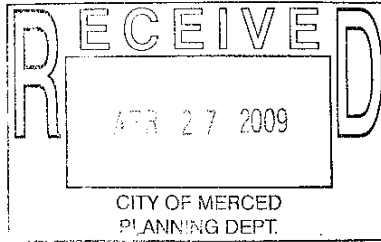
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34-1

The commenter raises issues regarding potential vandalism of the sound walls identified as mitigation in the Draft EIR and suggests that compensation for property value loss be provided by the applicant to the owners of the property upon which the wall would be built. This issue is addressed in Responses to Comments 84-1 through 84-3. Please refer to these Responses for more information.

March 22, 2009

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



Ms. Espinosa,

Who will be responsible for enforcing the control measures listed on page 4.2-32-33 in the Merced Wal-Mart Distribution Center DEIR? Will it be the South District Police Station? Will Wal-Mart pay for an additional Police Officer and car? Since this distribution center isn't bringing in any tax revenue, will the City be responsible for funding extra enforcement measures?

| 35-1

| 35-2

Regards,

*Mark Andrade*  
*2689 Snow Goose Dr.*  
*Los Banos, CA 93635*

35-1 The commenter asks who would be “responsible for enforcing the control measures listed on page 4.2-32-33” of the DEIR. In order to provide additional clarity, the language of Mitigation Measure 4.2-1b (Implement Measures to Reduce Construction-Related Diesel Equipment Exhaust Emissions) has been revised. The change has also been added to Mitigation Measure 4.2-1c. Please see Section 4.4 of this FEIR, “Revisions and Corrections to the DEIR Air Quality Section 4.2,” for specific DEIR text changes.

35-2 The commenter asks if Wal-Mart will pay for an additional police officer and car. The commenter asks if the City will be responsible for funding extra enforcement measures since the proposed project would not provide tax revenue for the City.

The DEIR fully analyzed increased demand for police protection facilities, systems, equipment, and services under ‘Utilities and Public Services’, Impact 4.12-8, on page 4.12-21. The large majority of employees would be hired from the local population base. Therefore, no construction or expansion of police facilities would be necessary to maintain the existing levels of service. The applicant will also pay its fair share of the costs associated with increased demand for police facilities and services, as appropriate, through the City’s Public Facilities Impact Fees Ordinance (approximately \$4.2 million based on 2009 fee levels; see Response to Comment 16-5). Furthermore, on-site security measures are incorporated into the project design plan and described in Impact 4.12-8 and Section 3, ‘Project Information’, of the DEIR. For these reasons, impacts to police services were considered less than significant. Therefore, purchase of an additional police officer and car for the project would not be required. It should also be noted that mitigation enforcement would not typically involve the police department, but is generally handled through the City’s building and planning departments.

**Espinosa, Kim**

---

**From:** aalorro@sbcglobal.net  
**Sent:** Sunday, April 26, 2009 7:16 PM  
**To:** Espinosa, Kim  
**Subject:** Traffic Congestion

Dear Ms. Espinosa:

I have concerns about the increase in traffic that the WalMart DC might bring that I don't feel are covered by the DEIR.

Lately, I have had to drive my wife to her doctor's appointments in Fresno. It's been a while since I've driven to Fresno and was alarmed by the amount of diesel traffic. There are lines of trucks, one after the other, in the right hand lane, and sometimes in the left lane, holding up speedier traffic. I can't believe you are considering allowing WalMart to add 900 truck trips per day - 450 in and 450 out - to a road that is already overcrowded. I am not convinced that there won't be more than that number over time. 450 is just the beginning - what kind of increase can we expect in or 10 years?

36-1

I also heard that, although WalMart says their trucks will be greener, they also hire a lot of independent truckers who can't afford the thousands of dollars to upgrade their trucks. How and who will regulate these other truckers? I don't believe I read it in the DEIR.

36-2

Sincerely,

Michael Dwayne Armstrong  
3312 Denver Way  
Merced CA 95348  
Cell ph 209/489-1798  
E-mail [aalorro@sbcglobal.net](mailto:aalorro@sbcglobal.net)

**Letter  
36  
Response**

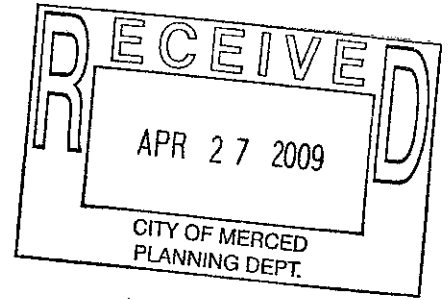
Michael Dwayne Armstrong  
April 26, 2009

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- 36-1 The commenter expresses concerns about the impact of diesel truck traffic on area roadways. Table 4.11-12 in the DEIR provides a summary of the expected number of trucks upon full operation of the facility. The comment does not raise issues with the adequacy of the DEIR.
- 36-2 Please refer to the second paragraph of response to comment 9-2.



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



Ms. Espinosa:

Mi familia está muy preocupada sobre el proyecto del centro de distribución de Wal-Mart que puede ser construido cerca de nuestra vecindad. Fuimos enojados de oír que la ciudad no hizo caso de los deseos de algunos residentes que pidieron que el EIR sera escrito en Español.

Muchas de las personas en esta vecindad sólo hablan en Español, y sin la ciudad ayudando traducir este documento muy grande, realmente no sabemos como este proyecto nos afectara.

Hoy en América todas las clases de gobiernos deberían ver que vivimos en una sociedad de diferentes culturas y idiomas. Reservando el poder de comprender lo que pasa en el Gobierno Municipal a algunas personas – pero no todas las personas – no es lo que América es supuesta significar. El estudio debería ser hecho disponible en Español - por favor incluya mis comentarios parte de este registro público sobre este proyecto.

JAVIER ARREDONDO  
Nombre  
2499 E. GERARD AV. #17  
Direccion  
MERCED, CA 95341  
City of Merced, Calif. Postal  
JAVIER ARREDONDO  
Title

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

Juan F. Olmos

Juan Olmos

Maintenance Worker III

Title

5-5-09

Date

**English Transcription:**

LETTER 5 (Corresponds with LETTER #37A)

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

Ms Espinosa:

My family it's very worried about the Wal-Mart distribution center project that could be built close to our neighborhood. We are upset of listening that the city did nothing with the wishes of some residents that ask the EIR to be written in Spanish.

Many of the persons in this neighborhood only speak Spanish, and without the city trying to help translating this big document, we do not really know how this project will affect us.

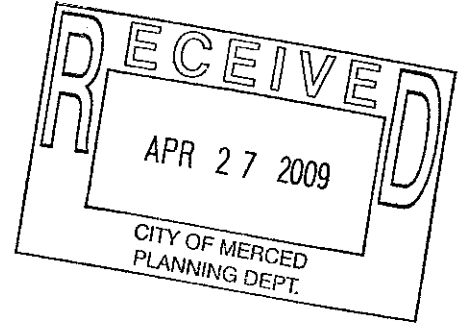
Today in America all the kinds of governments should see that we live in a society of different cultures and languages. Reserving the power to comprehend what is happening in the Municipal Government to some persons – but not all persons- it is not what America is supposed to mean. The study should be made available in Spanish – please include my comments in the public registry about this project.

Javier Arredondo  
2499 E Gerard Ave #17  
Merced CA 95341

37A-1

10 de Abril de 2009

Señorita Kim Espinosa  
Directora de Planificación, Ciudad de Merced  
678 W. 18<sup>th</sup> Street  
Merced, CA 95340



Estimada Señorita Espinosa:

Por qué no Merced hace copias del DEIR del centro de distribución de Wal-Mart en otras idiomas y no solamente en Inglés? Parece a mí que un asunto de este tamaño que todos en la comunidad hablan de debía estar disponible para residentes que Inglés no es su primero idioma. Deje a cada uno participar en el proceso, leer el reporte y haga sus propias comentarios sobre este proyecto.

Gracias,

JAVIER ARREDONDO  
Nombre  
2499 E. GERARD, AVE #17  
Dirección  
MERCED, CA 95341  
Ciudad, Estado, Código postal  
JAVIER ARREDONDO  
Firma

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

Juan F Olmos  
Juan Olmos

Maintenance Worker III  
Title

5-5-09  
Date

**English Transcription:**

LETTER 6 (*Corresponds with LETTER #37B*)

Miss Kim Espinosa  
Planning Director, City of Merced  
678 West 18<sup>th</sup> Street  
Merced, Ca 95340

April 10, 2009

Dear Miss Espinosa:

Why Merced does not make copies of the Wal-Mart distribution center DEIR in other languages and not only English? Seems to me that a subject of this size that everybody in the community its talking about should be available for residents that English its not their first language. Let everyone participate in the process, read the report and make your own comments about the project.

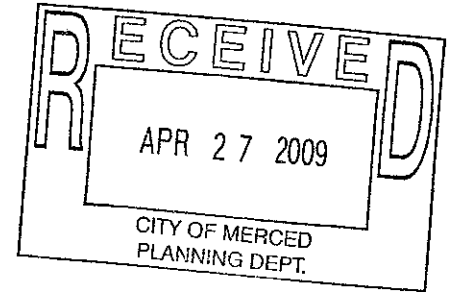
37B-1

Thanks,

Javier Arredondo  
2499 E. Gerard Ave #17  
Merced CA 95341

23 de Marzo de 2009

Señora Kim Espinoza  
Ciudad de Merced  
Departamento de Planificación  
678 West 18<sup>th</sup> Street  
Merced, CA 95340



Señora Espinoza,

Yo urgo que tu y la ciudad hagan desponible el DEIR del centro de distribución de Wal-Mart en otras idiomas que Inglés. Hay mucha gente en nuestra ciudad que ley otras idiomas que Inglés y si usted no hace los documentos públicos en otros idiomas, usted no esta permitetendo todos tomar parte en este proceso. Estoy orgulloso de esta ciudad y no quiero ver Merced abandonar a residentes en la oscuridad. Esto solamente no parece como algo justo de hacer.

Gracias,

J. JAVIER ARREDONDO  
Proprietario

JAVIER ARREDONDO  
Proprietario

2499 E. GERARD, AVE. # 17

MERCED, CA 95341

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

Juan T. Olmos  
Juan Olmos

Maintenance Worker III  
Title

5-5-09  
Date

**English Transcription:**

LETTER 7 (*Corresponds with LETTER #37C*)

Misses Kim Espinoza  
City of Merced  
Planning Department  
678 West 18<sup>th</sup> Street  
Merced, Ca 95340

March 23, 2009

Misses Espinoza,

I urgently ask you and the city make the Wal-Mart distribution center DEIR available in other languages besides English. There is many people in our city that reads other languages besides English and if you do not make the documents public in other languages, you are not permitting everybody to take part on this process. I'm proud of this city and I do not want to see Merced abandon its residents in the dark. This does not look like something fair to do.

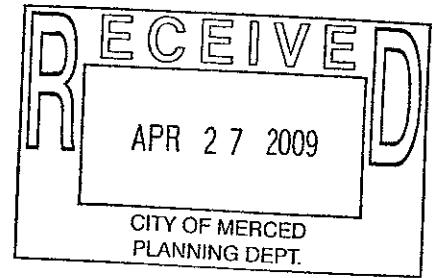
37C-1

Thanks,

J. Javier Arredondo  
2499 E. Gerard Ave #17  
Merced CA 95341

14 de Abril de 2009

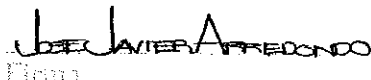
Ms. Kim Espinoza  
Ciudad de Merced Departamento de Planificación  
678 W. 18<sup>th</sup> Street  
Merced, CA 95340



Estoy decepcionado por la falta de alcance a la comunidad de Latinos que habla Español. Yo no estuve consciente que había aún reporte sobre los impactos ambientales del centro de distribución hasta que recibe un envío por correo en Inglés y Español anunciando que el reporte fue liberado. El correo fue enviado por un grupo en la ciudad. Estoy agradecido que ellos fueron amables para notificarme. Es triste que la ciudad no pudo informarnos.

Pero me molesta que el reporte está sólo disponible en Inglés. Por qué no trataría usted hacer esta información más accesible a la gente que no habla Inglés? Es vergonzoso. Espero que usted pensará de esto la próxima vez que usted tiene información importante para compartir con la comunidad.

Sinceramente,

  
Name  
JAVIER ARREDONDO  
Address  
2499 E. GERARD, AVE. #17  
City  
MERCED, CA. 95341  
City of Merced

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

Juan F Olmos  
Juan Olmos

Maintenance Center III  
Title

5-5-09  
Date

**English Transcription:**

LETTER 8 (*Corresponds with LETTER #37D*)

April 14 2009

Ms. Kim Espinoza  
City of Merced Planning Department  
678 W. 18<sup>th</sup> St  
Merced, CA 95340

I am disappointed by the lack of reach to the Latino Community that speaks Spanish. I was not aware that there was a report on the environmental impact of the distribution center until I received mail in English and Spanish announcing the report. The mail was sent by a group in the city. I am thankful that they were kind enough to let me know. It's sad that the city could not inform us.

But it upsets me that the report its only available in English. Why would not you make this information more accessible to the people who do not speak English? It's embarrassing. I hope that you will think this next time that you have important information to share with the community.

Sincerely,

Jose Javier Arredondo  
Javier Arredondo  
2499 E. Gerard Ave # 17  
Merced CA 95341

37D-1



**Letter  
37A-D  
Response**

Javier Arredondo  
➤ 37A–Undated      ➤ 37B–April 10, 2009  
➤ 37C–March 23, 2009    ➤ 37D–April 14, 2009

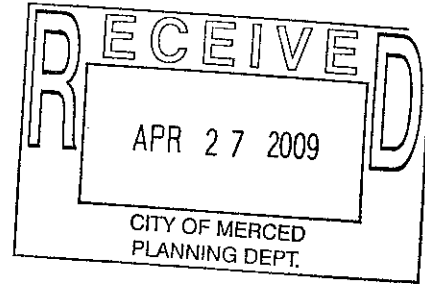
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- 37A-1      This comment addresses issues related to language barrier and translation of CEQA documents. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.
- 37B-1      This comment addresses issues related to language barrier and translation of CEQA documents. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.
- 37C-1      This comment addresses issues related to language barrier and translation of CEQA documents. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.
- 37D-1      This comment addresses issues related to language barrier and translation of CEQA documents. Please refer to Master Response 2: Language Barrier and Public Review Period, which addresses these issues.

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March 25, 2009

Kim Espinosa  
Dept. of Planning  
City of Merced  
678 W. 18<sup>th</sup> St.  
Merced, CA 95340



Dear Ms. Espinosa,

I am concerned that the approval of the Wal-Mart Distribution Center Project will lead to consequences, which have not been thought through. The creation of a 230 acre concrete slab will be a hindrance to proper stormwater runoff.

Has the City questioned whether making a site which was for a long time agricultural land completely into concrete and building will increase storm water runoff and leading to flooding for the roads around the site not to mention the various irrigation canals? Unless the City can honestly say with certainty that this may not happen, this Project should not be approved.

38-1

Sincerely,

Randy Ashlock  
Signature

Randy Ashlock  
Print Name

1505 Buller St  
Address  
Atwater Ca 95301

209 357 0554  
Phone

**Letter  
38  
Response**

Randy Ashlock  
March 25, 2009

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38-1

The commenter raises general concerns regarding stormwater runoff to irrigation canals. Section 4.6 “Hydrology and Water Quality” presents analyses of pre- and post-development conditions and Mitigation Measure 4.6-2 addresses both volume and quality of stormwater runoff from proposed impervious surfaces.

**Espinosa, Kim**

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**From:** Lori Atkins [calgal101@sbcglobal.net]  
**Sent:** Friday, February 27, 2009 12:20 PM  
**To:** Espinosa, Kim  
**Subject:** Wal-Mart Center

Dear Planning Dept; I traveled through Merced for 20 years prior to moving to Gustine. We admired the beauty of the Sierra Mountains that we could clearly see as we drove from Merced to Yosemite. During the years we noticed that we could not see the Sierra as often and eventually not at all. We have lived in Gustine for 12 years. When we first moved here in 1997, we could not breathe the polluted air, we could not drive in our car with the windows down. Anywhere we drove in Merced County resulted in allergies, poor breathing, and smelly air. For the first 3 years all we talked about was moving from Merced County to a place where we could breath and our children would not be around horrible pollution.

This all changed a few years ago. I am so proud to say that the Valley Air has gotten so much better, I can drive around with my windows open. I can sit outside my home without suffering. My children no longer have allergies. Why has this happened? Because the Federal Government has required a clean up!

39-1

I know we need to create jobs in the area. I don't think we should create jobs at the expense of our health. Especially when we can create jobs that don't. Merced County needs to attract clean jobs. We can attract employers here with cheap land and tax incentives. We don't have to take Wal-Mart just because its an easy fix. Easy for our short term means disaster for our long term. Let's be picky about what we create for our future. Let's be bold and step out of the mold. Let's find ways to create jobs without creating pollution and here's to "seeing" the Sierra again!

Respectfully Submitted,  
Lori Atkins and family  
1231 Southport Gustine 95322  
209-854-6033

2/27/2009

**Letter  
39  
Response**

Lori Atkins and Family  
February 27, 2009

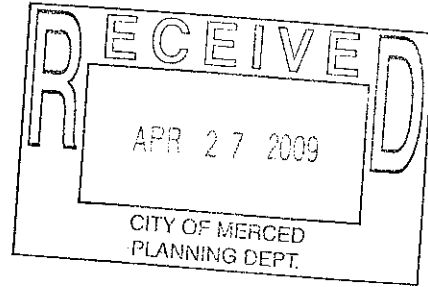
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39-1

The commenter notes that air quality in the Merced area has improved in recent years as a result of the adoption of federal standards and regulations. The commenter suggests that approval of the proposed Wal-Mart distribution center will cause a degradation in air quality and should not be approved.

April 16, 2009

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



Dear Kim,

I believe the city has vastly underestimated how many trips per day a distribution center gets. First off, Wal-mart won't tell you how many stores they will service with this distribution center so how do we know how many trucks.

40-1

Merced is in the middle of the State. How do we know Wal-mart won't close their distribution centers in other parts of the state and service all of their stores from the one center?

40-2

Before the city approves this plan, we need to set a limit on exactly how many trucks can visit this center every day. I read the traffic plan – Wal-mart is saying 240 truck trips a day, but that seems very low.

40-3

Thank you.

*Dylan Bagwell*  
Signature

Dylan Bagwell  
Print Name

474 Hydrangea Ct.  
Merced, CA 94341  
Address

722-1374  
Phone

- 40-1 The commenter states that the City has vastly underestimated the number of vehicle trips per day associated with the proposed project. The number of stores serviced at a distribution center is limited by the number of service bays at the proposed facility. The assumptions regarding the number of trucks at the proposed distribution center is discussed on page 4.11-20 and 4.11-22 of the DEIR. No further response or analysis is warranted.
- 40-2 The commenter suggests that Wal-Mart may close their distribution centers in other parts of the state and service all their stores from one center. Please see Master Response 1: Growth Inducement and Expansion, which addresses this issue. The Draft EIR is only required to analyze the project description that has been identified and is unable to predict decisions that may be made by Wal-Mart, including decisions regarding other distribution centers.