

# 1 INTRODUCTION

## 1.1 PURPOSE OF THE EIR

The City of Merced (City) 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). This 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.

The principal CEQA Guidelines sections governing content of this EIR are Sections 15120 through 15132 (Contents of Environmental Impact Reports) and Section 15161 (Project EIR). As provided in Section 15121(a) of the CEQA Guidelines, this EIR is intended to serve as an informational document that will:

...inform public agency decision-makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project.

Section 15378 of the CEQA Guidelines defines a “project” as the whole of an action, which has the potential to result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. The term “project” refers to the activity that is being considered for approval and that may be subject to several discretionary approvals by governmental agencies.

If a lead agency proposes to approve a proposed project, one or more of the following findings must be made for each significant environmental effect identified through the DEIR process, pursuant to Section 15091 of the CEQA Guidelines:

- ▶ Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR (FEIR).
- ▶ Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- ▶ Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

In addition, Section 15093 of the CEQA Guidelines requires that the decision makers, when considering whether to approve a project, balance the benefits of the project against any unavoidable environmental effects that would result from the implementation of the project. If the benefits of a project outweigh the unavoidable adverse effects, the environmental effects may be considered acceptable by the decision makers and they would be required to issue a statement of overriding considerations, explaining why they are approving the project in spite of its significant impacts.

In accordance with state law, the EIR is subject to a public review and comment period, beginning with the circulation of the document to all responsible, trustees, or other interested federal, state, and local agencies. The availability of the EIR and the specified review period is noticed in the manner prescribed by law to afford the public knowledge of the review process and access to the environmental document. During this review period, written comments can be submitted to the lead agency by the reviewers with respect to the environmental aspects

of the project. This review and comment period allows the public and interested agencies the opportunity to participate in the environmental review process.

Following the review period, comments received will be evaluated and a written response will be prepared. These comments and responses are incorporated into the FEIR, along with a list of all persons, organizations, and agencies commenting on the DEIR. The City will then consider whether to certify that the FEIR has been completed in compliance with CEQA. The EIR must be certified before the City can consider project approval. Along with the necessary findings, the City will adopt a mitigation monitoring and reporting program if it decides to approve the project. This program is required by law to ensure that mitigation measures deemed necessary and feasible by the lead agency are implemented. Adoption of a mitigation monitoring and reporting program is independent of the EIR certification process.

## 1.2 SCOPE AND METHODOLOGY

Pursuant to Section 15143 of the State CEQA Guidelines, a lead agency may limit the EIR's discussion of environmental effects to specific issues where significant effects on the environment may occur. The City of Merced used a variety of information to determine which issue areas would result in potentially significant or significant effects on the environment. This information included field surveys of the project site, review of project characteristics, comments from public and agency consultation, and comments received on the notice of preparation (NOP). A NOP was circulated to public agencies and the public on July 7, 2006, for a 30-day review period. Two public scoping meetings were held on July 27, 2006, at 2:30 p.m. (primarily for public agencies) and at 6:00 p.m. (Primarily for the general public) in the Merced City Council Chambers. Comments received on the NOP and from the public scoping meeting are included in Appendix A.

To assist the City in determining the scope of analysis for the EIR, the NOP with a preliminary project description was sent to the State Clearinghouse and to various responsible and trustee agencies. A copy of the NOP is contained in Appendix A of this document, along with a list of responsible and trustee agencies to which these documents were sent. Several organizations/agencies submitted to the City responses to the NOP before the close of the review period, which was August 11, 2006. These responses are also contained in Appendix A.

This DEIR analyzes the potential effects of site preparation, construction, and operation of the project, including direct effects of the project, as well as reasonably foreseeable indirect effects and cumulative and growth-inducing effects. The EIR is full in scope, meaning it covers the majority of all potential environmental issues. The only environmental issues that will not be addressed are listed below.

### 1.2.1 ENVIRONMENTAL ISSUES NOT ADDRESSED

**Landslides.** The Geology and Soils section of CEQA Guidelines Appendix G provides for a discussion of landslides. However, since the site is virtually flat, there is no potential for the occurrence of landslides; therefore, this environmental topic was not addressed in this EIR.

**Seiche, Tsunami, and Mudflow.** Seiches and tsunamis are large waves that occur on bodies of water. Since there are no bodies of water on or near the project site that could potentially affect the site, these issues were not addressed in this EIR. Also, as noted above, since there are no hillsides on or near the site that could result in mudflows. Accordingly, these environmental topics are not addressed in this EIR.

**Urban Decay.** The potential for urban decay is a topic that is sometimes included in environmental impact reports, particularly for large retail projects. In a situation such as the subject project, there could be concern over the potential impact a large retail supplier could have on existing businesses in the community if it were to improve the functioning of existing retail outlets or facilitate the development of new retail establishments. Big-box, or warehouse, retail facilities are sometimes suspected of having a negative financial impact on existing, smaller retail establishments. An analysis of potential for urban decay does not, however, address direct impacts

on the financial health of these existing retail competitors. Rather, it would assess the potential impact of businesses leaving the community, because of an inability to financially compete, resulting in vacant buildings. In other words, the financial impact on local business is not an environmental issue that can be addressed in an environmental impact report. However, if enough local retail businesses were forced to close as a result of a new project, this could lead to vacant buildings. Vacant buildings can have a variety of environmental impacts on a community and would be considered a form of urban decay which is an environmental impact.

As noted in Chapter 3, “Project Description”, the proposed project is not a retail facility; rather, it is a regional warehouse that would supply retail facilities within a large radius of the project site. As described by the project proponent, this project is designed primarily to fill an existing gap in Wal-Mart’s distribution system that supplies its retail facilities, and would make existing distribution activities more efficient. However, it is possible that the project could support the operation of new Wal-Mart retail stores. Depending on where any new retail facilities are built, it is possible that such construction could contribute to urban decay in a nearby community.

The City of Merced has determined that the proposed project does not have the potential to create urban decay in existing developed areas beyond the project site. This determination is based on the fact that the proposed project would not be a retail outlet for goods and would not supply groceries to Wal-Mart retail outlets. The distribution center would not compete for a client base that could result in adverse affects to other businesses in the region. Similarly, it is too speculative to attempt to analyze whether or not the proposed distribution center would cause urban decay anywhere beyond Merced. Therefore, an analysis of the potential environmental impacts associated with urban decay is not included in the EIR. EDAW and the City believe that the factual situations for such analysis, such as if and where new Wal-Mart stores would go in, and whether those facilities would possibly foster urban decay, are unknown and unknowable, and thus the potential impact is too speculative to analyze in this EIR.

### **1.3 LEAD, RESPONSIBLE, AND TRUSTEE AGENCIES**

The City of Merced is the lead agency with primary authority for approval of the project. Additional agencies (listed below) with potential permit or approval authority over the project, or elements thereof, will have the opportunity to review this document during the public review period, and will use this information in consideration and issuance of any permits required for the project.

Public agencies with known or potential permits, other approvals, or jurisdiction by law over resources on the site include, but may not be limited to:

#### **1.3.1 LEAD AGENCY**

- ▶ City of Merced – In order for the City to approve the project it would need to take the following actions: CEQA determination; site plan approval; General Plan amendment to address the Kibby Road right-of-way abandonment; and abandonment of Kibby Road. Subsequent to these actions, the City would be responsible for the issuance of building permits.

#### **1.3.2 STATE RESPONSIBLE AGENCIES**

- ▶ Central Valley Regional Water Quality Control Board (National Pollutant Discharge Elimination System permit)
- ▶ State Water Resources Control Board (Section 401 of the Clean Water Act)

## **STATE TRUSTEE AGENCIES**

- ▶ California Department of Fish and Game (Streambed Alteration Agreement, California Endangered Species Act permit)

## **LOCAL RESPONSIBLE AGENCIES**

- ▶ San Joaquin Valley Air Pollution Control District (authority to construct and permit to operate)

### **1.3.3 FEDERAL AGENCIES**

The following federal agencies may consider using this EIR for environmental information in connection with potential permits for resources under their jurisdiction.

- ▶ U.S. Fish and Wildlife Service (federal Endangered Species Act permit)

Addition information about the potential role of state and federal agencies in development of the site is contained in Chapter 4 of this EIR.

## **1.4 PUBLIC REVIEW PROCESS**

Consistent with the requirements of CEQA, a good faith effort has been made during the preparation of this DEIR to contact affected agencies, organizations, and individuals who may have an interest in the project. As described above, this effort included the circulation of the NOP on July 7, 2006, for a 30-day review period. Two public scoping meetings were held on July 27, 2006, at 2:30 p.m. (primarily for public agencies) and at 6:00 p.m. (Primarily for the general public) in the Merced City Council Chambers.

In addition, early consultation with relevant agencies, organizations, and individuals assisted in the preparation of this DEIR. The City of Merced has filed a notice of completion with the Governor's Office of Planning and Research, State Clearinghouse, indicating that this DEIR has been completed and is available for review and comment by the public. The State CEQA Guidelines (Section 15205(d)) requires circulation of a DEIR for a minimum of 45 days; this DEIR is being circulated for a 60-day public review period, during which time written comments will be received by the City of Merced at the following address:

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)

Copies of the DEIR can be found at the following addresses:

Merced City Clerk  
678 West 18th Street  
Merced, CA 95340

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

Merced County Library—Main Branch  
2100 O Street  
Merced, CA 95340  
Phone: (209) 385-7643

## 1.5 TERMINOLOGY USED IN THE EIR

This DEIR includes the following terminology to denote the significance of environmental impacts of the project:

**Less-than-significant Impact:** A less-than-significant impact is one that would not result in a substantial and adverse change in the environment. This impact level does not require mitigation.

**Significant Impact:** CEQA Section 21068 defines a significant impact as one that causes “a substantial, or potentially substantial, adverse change in any of the physical conditions in the area affected by the project.” Feasible mitigation measures or alternatives to the project must be considered to reduce the magnitude of significant impacts to less-than-significant levels.

**Potentially Significant Impact:** A potentially significant impact is one that, if it were to occur, would be considered a significant impact as described above; however, the occurrence of the impact cannot be definitely determined. For CEQA purposes, a potentially significant impact is treated as if it were a significant impact and would require mitigation, if feasible.

**Significant and Unavoidable Impact:** A significant and unavoidable impact is one that would result in a substantial adverse effect on the environment that cannot be feasibly mitigated to a less-than-significant level. A project with significant unavoidable impacts can still be approved, but the City would be required to prepare a statement of overriding considerations, pursuant to State CEQA Guidelines Section 15093, explaining the social, economic, or other benefits of the project that outweigh the significant environmental impacts.

**Thresholds of Significance:** A criterion to define at what level an impact would be considered significant. A criterion is defined based on examples found in CEQA or the State CEQA Guidelines, scientific and factual data relative to the lead agency jurisdiction, views of the public in affected areas, the policy/regulatory environment of affected jurisdictions, and other factors.

## 1.6 EIR ORGANIZATION

This DEIR is organized into sections, as identified and briefly described below. These sections are further divided into sections (e.g., Section 4.1, “Agriculture”).

**Chapter 1, Introduction.** Chapter 1 describes the purpose and organization of the DEIR, context, and terminology used in the DEIR.

**Chapter 2, Executive Summary.** This chapter summarizes the project description, alternatives to the project, significant environmental impacts that would result from the project, and mitigation measures proposed to reduce or eliminate those impacts.

**Chapter 3, Project Description.** Chapter 3 describes the project location, background, proposed actions by the applicants, lead agency, trustee and responsible agency actions, project characteristics, and project objectives. This section also describes the project construction and regulatory requirements.

**Chapter 4, Existing Conditions, Thresholds of Significance, Environmental Impacts, and Mitigation Measures.** For each environmental issue area, this section describes the existing environmental setting, discusses the environmental impacts associated with the proposed project, and identifies mitigation for the impacts.

**Chapter 5, Alternatives to the Project.** This chapter describes alternatives to the project at a level consistent with CEQA requirements; State CEQA Guidelines Section 15126.6(d). This chapter presents descriptions of alternatives to the project that could reduce the project’s environmental impacts while meeting most of the project’s objectives. An analysis is provided comparing the impacts of the alternative to the impacts of the project, but the level of detail is less than for the project. This chapter also describes alternatives previously considered and rejected.

**Chapter 6, Cumulative Impacts and Other CEQA Mandated Sections.** This chapter contains a discussion of cumulative impacts that would result from the proposed project in combination with reasonably foreseeable projects in the project area. The potential for the project to foster economic or population growth, or remove obstacles to growth are evaluated in Chapter 6. Project and cumulative impacts that cannot be mitigated to a less-than-significant level are also documented in this chapter.

**Chapter 7, Report Preparation.** This chapter identifies the DEIR authors and consultants who provided analysis in support of the DEIR’s conclusions.

**Chapter 8, References.** This chapter sets forth a comprehensive listing of all sources of information used in the preparation of the DEIR, including agencies or individuals consulted during preparation of the DEIR.

**Appendices.** Appendices contain various technical reports, letters, and official publications that are summarized or otherwise used for preparation of the DEIR.

## **1.7 AREAS OF CONTROVERSY/ISSUES TO BE RESOLVED**

Several parties submitted responses to the NOP of the project EIR. The NOP responses are included in Appendix A. Each comment is addressed in the EIR. Several agencies identified issues and information that would need to be included in the DEIR. Pursuant to Section 15123(b)(2)(3) of the CEQA Guidelines, the following comments were considered by the City during preparation of this EIR.

### **Air Quality**

- ▶ Concern about the effects of air quality on schools and nearby residences.
- ▶ Concern that the traffic would negatively affect air quality.
- ▶ Concern about truck exhaust

### **Traffic – General**

- ▶ Concern about trucks driving through residential areas.
- ▶ Concern about where trucks would park or wait.
- ▶ Concern about damage to roads and other cars caused by increased truck traffic.

### **Traffic – Congestion**

- ▶ Concern about traffic congestion on Highway 99.
- ▶ Concern about traffic on Campus Parkway.
- ▶ Concern about the impact of traffic on City roads.
- ▶ Concern over increased truck traffic causing congestion and unsafe conditions at the Martin Luther King, Yosemite/Mariposa, and Child’s exits on Highway 99.

## **Traffic – Safety**

- ▶ Concern about traffic and safety for neighborhoods nearby.
- ▶ Consider planning for safety near railroad crossings.
- ▶ Concern about traffic and safety in winter fog.
- ▶ Concern about safety for students traveling to/from school.

## **Land Use**

- ▶ Concern of project proximity to residential areas and schools.

## **Population and Housing**

- ▶ Concern about project attracting crime.

## **Noise**

- ▶ Concern about noise from “trailer drops.”

## **Hydrology and Water Quality**

- ▶ Concern about water quality because of the fuel storage and truck wash.
- ▶ Concern over stormwater system failing and pollution running into the nearby neighborhoods.
- ▶ Concern over underground storage tanks and affect on water quality in the event of leakage.

## **Hazards and Hazardous Materials**

- ▶ Concern about hazardous materials.

## **Public Services and Facilities**

- ▶ Concern that the limitations Senate Bill 50 places on statutory development fees would cause a deficit between what Wal-Mart pays and the actual costs to the community.

## **Other**

General concern has been expressed by a number of residents over the project in general. People have regularly attended meetings and hearings with the City, and have submitted correspondence and articles expressing their concerns. The project itself is a source of controversy.

## **1.8 CONTACT PERSON**

Comments on the DEIR should be addressed to Ms. Kim Espinosa, Planning Manager, City of Merced Planning Department, 678 West 18th Street, Merced, CA 95340.

## **1.9 SOURCE REFERENCES**

A complete listing of source references is found in Chapter 8 of this report.