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1.0 INTRODUCTION

The Final EIR, as required pursuant to State CEQA Guidelines Sections 15089 and 15132, must include the Draft EIR or a revision thereof, comments and recommendations received on the Draft EIR, a list of persons, organizations and public agencies commenting on the Draft EIR and the responses of the Lead Agency to significant environmental points raised in the review and consultation process. A reporting or mitigation monitoring program (MMP) must also be prepared and approved to ensure compliance during project implementation (Public Resources Code Section 21081.6, State CEQA Guidelines Section 15097).

RELATIONSHIP TO THE DRAFT EIR

The Draft EIR has been revised and published herein to reflect corrections and responses to comments raised (see Section 3.0, herein). Together with the MMP (see Section 5.0, herein) and the Findings (see Section 4.0, herein) these documents constitute the environmental disclosure record that will serve as the basis for approval of the proposed project.

CORRECTIONS, ERRATA AND CHANGES FROM DRAFT TO FINAL EIR

Corrections, errata, and changes from the Draft to Final EIR represent additional information or corrections that do not change the project impacts and/or mitigation measures such that new or more severe environmental impacts result from the project. Such items are sometimes added as a result of comments received from responsible agencies, changes in the existing conditions at the site, revised public policies since the Draft EIR was written, and minor corrections or clarifications.

The following summary will present the location and types of additions, and changes or corrections made within each section of the Final EIR since the Draft EIR was published.

Section I – Summary

No changes have been made to this section except to Section I-2, EIR/Issues Matrix, which will be revised to be consistent with Section III, including any changes identified to mitigation measures in Section III, below.

Section II – Environmental Effects Found Not Significant

No changes made to this section.

Section III – Potentially Significant Environmental Effects

Page III-2-26 of the Draft EIR: MM Air 5, 7, 8, 9, and 11 will be modified per SCAQMD comments, as shown below:

> **MM Air 5:** During all construction activities, construction contractors shall sweep on and off site streets (recommend water sweepers with reclaimed water) if ~~silt~~ visible soil is

carried over to adjacent public thoroughfares, as determined by the City Engineer to reduce the amount of particulate matter on public streets.

MM Air 7: During grading and all site disturbances activities, ~~at the discretion of the City's Planning Director,~~ construction contractors shall suspend all grading operations during first and second stage smog alerts to reduce fugitive dust and combustion related emissions.

MM Air 8: During grading and all site disturbances activities, ~~at the discretion of the City's Planning Director,~~ construction contractors shall suspend all grading operations when wind speeds (including instantaneous gusts) exceed 25 miles per hour to reduce fugitive dust.

MM Air 9: During all construction activities, the construction contractors shall maintain construction equipment engines by keeping them tuned according to manufacturers' specifications.

MM Air 11: During construction, all contractors will be advised to prohibit all vehicles from idling in excess of ~~ten~~five minutes, both on-site and off-site.

Additional mitigation measures will be added to Section III-2 of the Draft EIR per SCAQMD comments as shown below:

MM Air 13: Contractors shall use high-pressure-low-volume (HPLV) paint applicators with a minimum transfer efficiency of at least 50% or other application techniques with equivalent or higher transfer efficiency, where feasible.

MM Air 14: Use architectural coatings with a VOC content lower than required under Rule 1113, where feasible.

MM Air 15: Construct/build with materials that do not require painting, where feasible.

MM Air 16: Use pre-painted construction materials, where feasible.

MM Air 17: The contractor shall provide truck drivers with materials showing where sensitive receptors, such as schools, are located, and when congestion can be expected so that the drivers can avoid these routes and/or times of day.

MM Air 18: Require construction equipment that meet or exceed Tier 2 standards; use emulsified diesel fuels; and equip construction equipment with oxidation catalysts, particulate traps, or other verified/certified retrofit technologies, etc., where feasible.

The first sentence of MM Haz 1 on page III-6-6, and MM Haz 2 on page III-6-7 of the Draft EIR will be modified, as shown below:

MM Haz 1: To the extent not previously prepared and to properly assess and address potential hazardous materials, including pesticide residues, within the specific plan area, . . .

MM Haz 2: Much of the site located south of Eucalyptus Avenue has been covered by undocumented fill and used as a dump site by the local community. To address possible contamination and remove appropriately all previously identified and unidentified types of hazardous waste on site, clearing and grading activities in this area shall be monitored by a Registered Environmental Assessor (REA), or other professional personnel approved by the City, and any known items of concern and those not previously identified which are uncovered can be removed or remediated per the appropriate regulations (see MM Haz 3 and 4, below).

One additional sentence shall be added to MM Haz 3 on page III-6-7 of the Draft EIR, as shown below:

MM Haz 3: If, while performing any excavation as part of project construction, material that is believed to be hazardous waste is discovered, . . . pursuant to applicable provisions of California law under the oversight of the San Bernardino County Fire Department's Hazardous Materials Division Site Remediation/Local Oversight Program. Fill material imported from other areas shall be tested prior to placement on-site to assess that it is suitable to be used as fill, including testing for unsafe levels of hazardous materials.

Minor edits have been made to the Hydrology section of the Draft EIR (III-7) to reflect the San Bernardino County Stormwater Program Model Water Quality Management Plan Guidance, June 2005. Pages III-7-1, III-7-14, and Tables III-7-D and F of the Draft EIR have been modified as shown in Section 3.0, herein.

PUBLIC REVIEW SUMMARY

The EIR process typically consists of three parts—the Notice of Preparation, Draft EIR, and Final EIR. The Notice of Preparation (NOP) for the proposed project was circulated in June 2005. The NOP was distributed directly to more than 250 public agencies and interested parties. A notice advising the availability of the NOP was posted with the San Bernardino County Clerk of the Board on July 28, 2005 and the State Clearinghouse on June 10, 2005. Copies of both the NOP and NOP distribution list, and comments received on the NOP are presented in Appendix A of the Draft EIR Technical Appendices (bound under separate cover).

The City of Ontario circulated a draft environmental impact report (EIR) for the Esperanza Specific Plan from August 11 through September 26, 2006. Notices of Availability of the Draft EIR were distributed directly to more than 238 responsible agencies, trustee agencies, other interested parties, and local libraries. The Draft EIR was distributed on CD to all responsible and trustee agencies. Documents were distributed via U.S. Certified Mail and/or Overnight Express on August 10, 2006.

The required distribution to the State Clearinghouse was completed by overnight service on August 11, 2006. The standard response letter confirming completion of the Clearinghouse review period is included in Section 2.0 of this Final EIR. The official Clearinghouse review period began August 11, 2006 and ended September 25, 2006.

General public notice of availability of the draft EIR was given by publication in the *San Bernardino Sun* and *The Press Enterprise (8/11/06)*, and the *Inland Valley Daily Bulletin (8/11/06*). Copies of the published notice are presented in Section 6.0, herein. As required by

Public Resources Code Section 21092.3, a copy of the public notice was posted with the San Bernardino Clerk of the Board on August 11, 2006. Copies of the Draft EIR distribution list and all required notices are included in Section 6.0 of this Final EIR.

As provided in the public notice and in accordance with CEQA Section 21091(d), the City of Ontario accepted written comments through September 26, 2006. Six letters were received during the comment period from: California Department of Toxic Substance Control, California Department of Conservation, California Native American Heritage Commission, Regional Water Quality Control Board, Riverside County Flood Control and Water Conservation District (indicating no comments), and City of Chino. Subsequent to the close of the public review period, one additional comment letter was received from the South Coast Air Quality Management District. All letters are included in Section 2.0 of this Final EIR and discussed in the Responses to Comments. In accordance with the provisions of Public Resources Code Section 21092.5, the City of Ontario has provided a written proposed response to each commenting public agency no less than 10 days prior to the proposed certification date.

LIST OF PERSONS, ORGANIZATIONS AND PUBLIC AGENCIES THAT COMMENTED ON DRAFT EIR

Federal Agencies

None

State Agencies

Department of Toxic Substance Control
Department of Conservation
Native American Heritage Commission
Regional Water Quality Control Board, Region 8

Regional Agencies

South Coast Air Quality Management District

Local Agencies

City of Chino
Riverside County Flood Control and Water Conservation District

2.0 RESPONSE TO COMMENTS

Pursuant to State CEQA Guidelines Section 15088, the responses to comments presented in this section address specific, relevant comments on environmental issues raised in the submitted comment letters. For clarification, copies of the original letters, including all attachments, are presented at the end of this section.

RESPONSE TO COMMENTS

STATE AGENCIES

Response to State of California
Department of Toxic Substance Control
Dated August 17, 2006

Comment #1:

After reviewing the EIR, it appears that the majority of DTSC's comments have been addressed. DTSC has provided a few additional comments as follows:

1) The project construction may require soil excavation and soil filling in certain areas. Appropriate sampling is required prior to disposal of the excavated soil. If the soil is contaminated, properly dispose of it rather than placing it in another location. Land Disposal Restrictions (LDRs) may be applicable to these soils. Also, if the project proposes to import soil to backfill the areas excavated, proper sampling should be conducted to make sure that the imported soil is free of contamination.

Response to Comment #1:

The County notes that DTSC's prior comments received during the Notice of Preparation (NOP) were addressed.

Land Disposal Restrictions are identified and regulated in California Title 22, Chapter 18. As defined in Article 1, Section 66268.1(b), this chapter applies to "persons who generate or transport hazardous waste and owners and operators of hazardous waste treatment storage and disposal facilities." The types of waste addressed in these Land Disposal Restrictions do not include agriculturally-generated wastes, household waste, or other substances likely to be found on site.

Mitigation measures **MM Haz 1** through **4** of the Draft EIR for the Esperanza Specific Plan, page III-6-6, require Phase I site assessments for all property within the site which has not previously been surveyed prior to soil disturbance, monitoring by a professional during excavation of previously identified areas of the site where contamination is likely, and proper disposal of all types of found contaminated materials and/or soils. Should any hazardous waste situations be discovered during that assessment and its required soil sampling, appropriate disposal is required. The mitigation measures do not mention off-site fill material, however. **MM Haz 3** shall be modified as follows, to address imported soils:

> **MM Haz 3:** If, while performing any excavation as part of project construction, material that is believed to be hazardous waste is discovered, as defined in Section 25117 of the California Health & Safety Code, the developer shall contact the City of Ontario Fire Department and the County of San Bernardino Fire Department Hazardous Materials Division. Excavation . . . under the oversight of the San Bernardino County Fire Department's Hazardous materials Division Site Remediation/Local Oversight Program. Fill material imported from other areas shall be tested prior to placement on-site to assess

that it is suitable to be used as fill, including testing for unsafe levels of hazardous materials.

No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #2:

2) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5).

Response to Comment #2:

As determined in the Hazards section of the Draft EIR, page III-6-5, the development of said project consists of the construction of single-family homes, parks, an elementary school, and commercial facilities. These uses do not present significant potential hazards to the public or the environment regarding the generation of hazardous wastes. Thus, no new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #3:

3) Since project site has been used for agricultural activities since the 1950s and for dairy activities since approximately 1967, it is likely that onsite soils may contain pesticide, herbicides and agricultural chemical residue. It is necessary to conduct a proper investigation and remedial actions to adequately characterize the site prior to construction of the project.

Response to Comment #3:

As discussed on page III-6-2 of the Draft EIR, "Pesticides may have been used by past and current farmers within the specific plan area to control insects and other pests in both field crops and as a part of regular dairy operations (i.e., fly control). Herbicides and/or fertilizers may have been used in the crop production areas. The highest concentrations of pesticides/herbicides are detected in shallow soils. The Phase I report does not consider pesticide residue as a "recognized environmental condition," as defined by the American Society of Testing and Materials. The presence of recognized environmental conditions at a site may warrant additional research, site investigation, and/or action. The Phase I report states that potential pesticide and/or herbicide residues are "not considered to represent a significant environmental risk with respect to the

property," therefore, "further investigation is not warranted and potential impacts are considered less than significant." However, to assure that pesticide residues are taken into account and properly remedied if they exceed regulatory-applied action limits, MM Haz 1 will be clarified as shown below.

> **MM Haz 1:** To the extent not previously prepared and to properly assess and address potential hazardous materials, including pesticide residues, within the specific plan area, a Phase I Environmental Site Assessment (ESA) shall be performed by a registered environmental assessor (REA) prior to the approval of . . .

No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #4:

4) The inorganic hazardous materials identified should be properly disposed of. These items include: the diesel fuel tank, old paint cans (emptied and their contents spilled on the ground), diesel pump, gas pump and piping, a 55-gallon grease drum and a 55-gallon drum marked "corrosive."

Response to Comment #4:

This issue was addressed in the Draft EIR through implementation of **MM Haz 2.** For clarification, the following addition shall be made to the mitigation measure:

> **MM Haz 2:** Much of the site located south of Eucalyptus Avenue has been covered by undocumented fill and used as a dump site by the local community. To address possible contamination and appropriately remove all previously identified and unidentified types of hazardous waste on site, clearing and grading activities in this area shall be monitored by a Registered Environmental Assessor (REA), or other professional personnel approved by the City, and any known items of concern and those not previously identified which are uncovered can be removed or remediated per the appropriate regulations (see **MM Haz 3** and **4**, below).

No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Response to State of California
Native American Heritage Commission
Dated August 28, 2006

Comment #1:

Thank you for the opportunity to comment on the above-referenced document. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR per CEQA guidelines § 15064.5(b)(c). In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the area of project effect (APE), and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

√ Contact the appropriate California Historic Resources Information Center (CHRIS). The record search will determine:

- If a part or the entire APE) has been previously surveyed for cultural resources.
- If any known cultural resources have already been recorded in 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.

Response to Comment #1:

As stated on page III-4-6 of the Draft EIR for Esperanza Specific Plan, "A records search from the Archaeological Information Center (AIC) of the San Bernardino County Museum was requested and provided for the Esperanza Specific Plan (formerly Legacy) site. The search indicated that a total of nine (9) cultural resources surveys had been conducted in the past within the vicinity of the project site. None of the surveys identified found prehistoric archaeological resources, nor did the surveys identify properties listed or eligible for the National Register. The search indicated the possible presence of approximately five historic structures and one pending historic archaeological site as indicated on topographic maps and aerial photographs from various years dating from 1892 through 1932. It was determined by the AIC that the likelihood of finding prehistoric archaeological resources was moderate but that the likelihood of finding historic archaeological and historic resources was high." The information provided by the AIC is found in Appendix E of the Draft EIR.

No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #2:

√ 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 measurers 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.

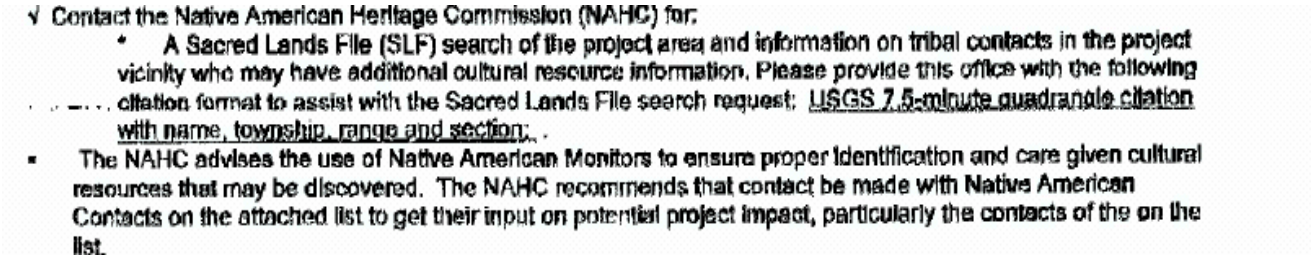
Response to State of California
Native American Heritage Commission
Dated August 28, 2006

Response to Comment #2:

A Phase 1 Archaeological resource survey conducted by L&L and no previously recorded sites, no new sites, and no isolated artifacts were observed within the project area, as discussed on page III-4-9 of the Draft EIR. Nearly the entire modern ground surface within the area south of Eucalyptus Avenue is heavily disturbed, while the northern portion is almost entirely tilled or under active dairy use. There is no evidence that historic or prehistoric cultural deposits exist on-site. The Archaeological report was submitted to the City Planning Department and is included in Appendix E of the Draft EIR.

No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #3:



√ Contact the Native American Heritage Commission (NAHC) for:

- A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity who may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section;
- The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American Contacts on the attached list to get their input on potential project impact, particularly the contacts of the on the list.

Response to Comment #3:

As stated in the Draft EIR on page III-4-9, the California Native American Heritage Commission (NAHC) was contacted and responded in a letter dated August 11, 2005 regarding the Ontario Esperanza Plan. The NAHC did not identify the existence of or the probable likelihood of, Native American human remains or of other items associated with Native American burials within the project site. Tribal contacts identified by the NAHC which have responded to the City of Ontario's inquiries in the past (San Manuel Band of Mission Indians and Soboba Band of Luiseno Indians) were also contacted and noticed of the availability of the Draft EIR. No comments or information have been received to date from either tribe regarding the Esperanza Specific Plan project. Because impacts to archaeological resources were determined through research and field survey to likely be less than significant, monitoring was not required.

No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Response to State of California
Native American Heritage Commission
Dated August 28, 2006

Comment #4:

√ 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 or unmarked cemeteries in their mitigation plans.

- CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the Initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.

√ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the CEQA Guidelines mandate procedures to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

√ Lead agencies should consider avoidance, as defined in § 15370 of the CEQA Guidelines, when significant cultural resources are discovered during the course of project planning.

Response to Comment #4:

Mitigation measures **MM Cul 1** and **2**, page III-4-10 of the Draft EIR, address previously undiscovered archaeological resources and human remains, respectively, and require adherence to the code sections referenced above. No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Response to State of California
Department of Conservation
Dated September 21, 2006

Comment #1:

The petition proposes to cancel the contract on 40 prime agricultural acres for high-density development as indicated in the proposed Esperanza (Ontario Legacy) Specific Plan. The Esperanza SP is within the City of Ontario's 8,200-acre New Model Colony; an area annexed by the City in 1998. The Esperanza SP proposes 914 single-family residences, 496 multi-family residences, an elementary school site, two mini-parks, a pocket park and a neighborhood park on 223 acres. The proposed 40-acre cancellation site is located at the northwest corner of Milliken and Eucalyptus Avenues in Ontario.

Response to Comment #1:

The comment correctly describes the project and its location.

Comment #2:

Cancellation Findings:

Government Code Section 51282 states that tentative approval for cancellation may be granted only if the local government makes one of the following findings: 1) cancellation is **consistent** with purposes of the Williamson Act or 2) cancellation is in the **public interest**. The Department has reviewed the petition and information provided and offers the following comments.

Response to Comment #2:

The comment correctly notes the requirements of the Government Code related to cancellation findings.

Comment #3:

Cancellation is Consistent with the Purposes of the Williamson Act:

For the cancellation to be consistent with purposes of the Williamson Act, the Ontario City Council (Council) must make all of the following five findings: 1) a notice of nonrenewal has been served, 2) removal of adjacent land from agricultural use is unlikely, 3) the alternative use is consistent with the City's General Plan, 4)

discontiguous patterns of urban development will not result, and 5) that there is no proximate noncontracted land which is available and suitable for the use proposed on the contracted land or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

The Department concurs that the first and third consistency findings can be met. The San Bernardino County Recorder has recorded notices of nonrenewal for the subject contracts, as required by finding one. The third finding can also be met since the he alternative uses proposed are consistent with uses designated in the City's New Model Colony General Plan Amendment and the proposed Park Place SP.

All of the subject-contracted properties are adjacent to lands with existing agricultural uses. In addition, some of these adjacent lands are subject to active Williamson Act contracts. In support of the second consistency finding relating to the removal of adjacent lands from agricultural use, the petitions state "existing adjacent land uses are not dependent upon the subject property". While this may be true, the City is advised that in Government Code section 51220.5 the Legislature found that agricultural operations are often impaired by uses that increase the density of the permanent or temporary human population of an agricultural area. Subdivision, especially one that results in residential development, increases landowner expectations for non-agricultural use of their lands, and results in greater potential for land use conflicts between urban uses and agricultural operations on adjacent agricultural land, often leading to the removal of the adjacent land from agricultural use.

The City's New Model Colony General Plan Amendment and Park Place SP recognize that adjacent agricultural lands are actually in transition from agricultural to urban use. Therefore, the City should initiate nonrenewal now on all active Williamson Act contracts within the New Model Colony Area to accommodate the city's growth projections and to ensure consistency with its plan

Based on the information provided, the Department is unable to conclusively determine that discontiguous patterns of urban development will not occur or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land. The site is not currently adjacent to existing urban development and contiguity appears to be based upon speculative future development.

> Actual contiguity to exiting urban development, either at the time of cancellation or soon thereafter, must be the standard, because any appreciable delay between construction of the alternative use and achievement of contiguity results in the very evil the contiguity requirement was intended to abolish, i.e., premature and
>
> disorderly patterns of suburban development. (Honey Springs v. Board of Supervisors(1984), 157, Cal. App.3d 1122)

The Department recommends that any additional information regarding the intent and ability of the intervening landowners to develop their land be added to the record. Such information in the record will help assure that this cancellation would meet the requirements of statute and avoid future challenges.

Response to State of California
Department of Conservation
Dated September 21, 2006

Response to Comment #3:

The City has concluded that the cancellations contemplated by the project are consistent with the purposes of the Williamson Act. As the comment notes, to reach that conclusion, the City must adopt five specific findings:

> (1) That the cancellation is for land on which a notice of nonrenewal has been served pursuant to Section 51245.
>
> (2) That cancellation is not likely to result in the removal of adjacent lands from agricultural use.
>
> (3) That cancellation is for an alternative use which is consistent with the applicable provisions of the city or county general plan.
>
> (4) That cancellation will not result in discontiguous patterns of urban development.
>
> (5) That there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

(Gov. Code, § 51282(b).) In tentatively approving the cancellations, the City will make each of those findings.

The comment agrees that sufficient information supports the first and third findings.

With regard to the second finding, that the cancellation will not result in the removal of adjacent land from agricultural use, the comment notes that section 51220.5 of the Government Code includes a finding of the Legislature that agricultural operations are often impaired by increased population density in agricultural areas. The cancellation petition notes that adjacent contracted land does not depend on the parcels proposed for cancellation. Moreover, the policy decision to transition uses in the area from agriculture to urban was made when the City adopted the General Plan Amendment for the New Model Colony (GPA for the NMC). The environmental consequences of that decision were analyzed in the Environmental Impact Report certified in conjunction with the GPA for the NMC. Thus, the City's prior planning decision, and not the cancellation of the contracts associated with this project, would be the cause of any influence on the decision to remove land from agricultural use. Additionally, to ease the transition from agricultural to urban uses, and to minimize conflicts between the two uses, the City has adopted

an Agricultural Overlay District. The potential of the project to cause such conflicts was addressed, and mitigated, in the DEIR. (DEIR, at pp. III-1-13 to III-1-14.)

Regarding the fourth finding, that the cancellation will not result in discontiguous patterns of development, the DEIR explained that the project site is immediately north of existing development in the County of Riverside. (DEIR, at p. III-1-10.) Further, Specific Plans are being developed in areas immediately north of the project site within the NMC, and immediately south of developed portions of the City. Those areas include the Parkside Specific Plan (approved), Grand Park Specific Plan (application pending), Subarea 18 Specific Plan (application pending), West Haven Specific Plan (application pending), and Countryside Specific Plan (approved). Because all lands within the NMC between the Project site and existing urban areas will be urbanized in the near future, cancellation of the Williamson Act contracts associated with the Project would not result in leap-frog development. (*Honey Springs Homeowners Assoc., Inc. v. Board of Supervisors* (1984) 157 Cal.App.3d 1122, 1145 (contiguity requirement in Williamson Act "may be satisfied by showing the owners of intervening parcels have the current ability and intent to develop their land within a reasonable time").) Finally, development within the NMC will occur in a phased manner, as provided in Policy 1.18 of the GPA for the NMC, thereby preventing discontiguous development.

Finally, as to the fifth finding, that there is no proximate non-contracted land which is both available and suitable for the proposed use or that the proposed use will provide more contiguous patterns of development than the development of non-contracted land, as explained above, the City is considering Specific Plans in a phased manner, ensuring that development within the NMC is contiguous. Moreover, as explained in greater detail in each cancellation petition, proximate non-contracted land is either also slated for development, or would not provide for more contiguous development.

Therefore, since evidence supports each of the required five findings discussed above, cancellation would be consistent with the purposes of the Williamson Act. Because these comments do not alter the analysis of agricultural impacts in the DEIR, no revision of the DEIR is required.

Comment #4:

Cancellation is in the Public Interest:

For the cancellation to be in the public interest, the Council must make findings with respect to all of the following: (1) other public concerns substantially outweigh the objectives of the Williamson Act and (2) that there is no proximate noncontracted land which is available and suitable for the use proposed on the contracted land or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land. Our comments have already addressed the second finding required under public interest finding above.

The Supreme Court of the State of California held that "any decision to cancel land preservation contracts must analyze the interest of the public as a whole in the value of land for open space and agricultural use" (Sierra Club v. City of Hayward (1981), 28 Cal. 3d 840, 856).

Response to Comment #4:

The comment reiterates the findings required if an agency concludes that cancellation is in the public interest, as provided in Government Code section 51282(c). As explained above, the City finds that the cancellations would be consistent with the purposes of the Williamson Act, as provided in section 51282(b), and as explained in greater detail above.

Comment #5:

Nonrenewal:

As a general rule, land can be withdrawn from Williamson Act contract through the nine-year nonrenewal process. The Supreme Court has opined that cancellation is reserved for extraordinary situations (Sierra Club v. City of Hayward (1981), 28 Cal.3d 840).

Response to Comment #5:

The comment characterizes the non-renewal and cancellation processes under the Williamson Act. The City notes that the Legislature has provided for cancellation of Williamson Act Contracts on the grounds stated in Government Code section 51282. As described above, the City has determined that the proposed cancellation is consistent with the purposes of the Williamson Act, as provided in section 51282(a)(1).

Response to State of California
Regional Water Quality Control Board, Region 8
Dated August 11, 2006

Comment #1:

1) The Hydrology/Water Quality Section (Section III) of the draft EIR contains a discussion comparing water quality impacts of the proposed project versus the former dairy operations. This discussion is not meaningful in evaluating the impacts of the proposed project. Both land uses may result in violations of water quality standards and the impact must be mitigated. If anything, the discussion simply points out the remarkable water quality impacts that were not addressed by past land-use decision makers and that the Regional Board and others have struggled mightily to cope with for over 30-years and will continue to deal with for the foreseeable future.

Response to Comment #1:

The discussion regarding degradation of groundwater quality associated with the historic agriculture uses, including dairying, is included in the draft EIR to provide a context for the analysis of water quality impacts associated with the proposed project as required by the California Environmental Quality Act (CEQA). Section 15125 of the CEQA Guidelines requires EIRs to provide a description of the physical environmental conditions (or setting) in the project area as those conditions exist at the time the notice of preparation (NOP) is published. The existing conditions (or environmental setting) provide the baseline physical conditions the lead agency, in this case the City of Ontario (City), uses in determining whether or not an impact is significant.

The discussion also provides a qualitative comparison of the impacts associated with the existing conditions versus the conditions that will result from implementation of the project, that is the replacement of agricultural operations with urban development for which storm water pollution prevention plans (SWPPPs) and water quality management plans (WQMPs) are required to ensure compliance with applicable water quality standards. As an informational document to be used by the City in determining whether or not to approve the project, it is appropriate for an EIR to identify environmental impacts, both adverse and beneficial, resulting from a project. This information is also relevant to the discussion of the No Project Alternative. No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #2:

2) Section III discusses the City's contemplation of regional treatment facilities. While the City's pursuit of regional solutions is aplauded, the discussion is extraordinarily noncommittal. The draft EIR represents an opportunity for the City to more solidly formulate its plans for such a facility. The effort seems to fall flat. While Regional Board staff can express strong support for regional solutions, it is the City's responsibility to implement them. In order to move forward with a regional solution in a meaningful way, Regional Board staff recommends that the City, in the Specific Plan EIR: a. Identify in the EIR one or more areas where a regional facility will be sited. In the vicinity of the Mill Creek Avenue storm drain outfall would be a logical choice. b. Identify alternatives for funding the construction, operations, and maintenance of the facility. Will a special assessment district be developed? c. Discuss how storm water runoff will be treated in the interim until the ultimate regional facility is constructed. Will robust temporary facilities be developed? Will the ultimate regional facility be constructed in phases?

Response to Comment #2:

The purpose of the draft EIR is to analyze the impacts and identify appropriate mitigation for the specific project being analyzed, and the regional treatment facility is not needed to mitigate impacts resulting from the proposed project, since adherence to the provisions of the MS4 permit provides adequate and appropriate treatment of storm water discharges. As discussed on page III-7-14 of the Draft EIR, the text below, which has been modified slightly in response to comments from the City of Chino, addresses the potential water quality issues associated with the development of the project.

> "Non-point source pollution that is associated with residential urban land use (attached, detached, and streets) may be expected to increase following development of the project site and surrounding areas. Pollutants such as oil and grease, bacteria and viruses, heavy metals, oxygen demanding substances, organic compounds, trash and debris, sediment, fertilizers (nutrients), and pesticides can be expected to be present in surface water runoff once project development occurs. According to San Bernardino County Stormwater Program Model Water Quality Management Plan Guidance, June 2005 (SBWQMP Guidance), since Mill Creek (in Prado Basin area) and the Santa Ana River, Reach 2 are listed in the Clean Water Act Section 303(d) as an impaired water bodies with respect to bacteria and pathogens, and Mill Creek also listed with respect to nutrients, the possible discharge of these pollutants by residential development shall require an offset (e.g., no net loading) to ensure no further degradation of the impaired water body."

In the Esperanza Specific Plan Draft EIR, mitigation measure MM Hydro 2 (which includes Tables III-7-F and G) requires the BMPs which will best address the pollutants of concern. As discussed above, the pollutants of concern which must be eliminated from site run-off so that no net loading of the impaired water bodies occurs are bacteria/pathogens and nutrients. According to the SBWQMP Guidance document, the Treatment Control BMPs with "high" effectiveness in treating both nutrients and bacteria/viruses are Infiltration Basins (which includes both basins and trenches). These are listed as highly effective for treating these targeted constituents in Table III-7-G of the Draft EIR, as well. To further assure that these highly effective treatment methods are used within the Esperanza project, the following footnote will be added to Table III-7-F:

> "Infiltration trenches and/or basins shall be incorporated in all areas described in Table III-7-F, where bacteria and nutrients can be expected, to achieve the required offset."

Page II-7-6 of the Draft EIR discusses in general the City's plans for a regional basin approach to water quality treatment. The City is currently evaluating the construction of a regional storm water runoff treatment facility for the sub-watershed area within which the Project Site is located. However, as the size and location of the regional treatment facility are unknown at this time, it would be speculative for the EIR to include a detailed discussion of this potential facility.

At present, the City is presuming that the facility would be located in close proximity to Mill Creek Channel out-fall area and will serve the eastern portion of the NMC, as described below. However, other treatment facilities could be developed in the western portion of the NMC and designed for expansion as development occurs. It is important to note adherence to the provisions of the MS4 permit mitigates impacts related to storm water discharges to the extent feasible, and that implementation of a regional treatment facility is not necessary to protect the beneficial uses of surface and groundwater's in the project area. The current status of plans for the implementation of a regional treatment facility is summarized below:

1) Preliminary plans proposed for the regional treatment wetlands identify areas extending from the outfall of the Mill Creek Channel to the southwest. Estimates place the size of the treatment wetlands at approximately 200 acres to serve the eastern portion of the NMC (approximately 4,000 acres). Monies for construction of the facility have been identified in the City's Development Impact Fee (DIF) schedule. Additionally, the City recently received a $5 million State grant to aide in the construction of the facility. Construction of the facility will be done by the developers, who will receive credit against there DIF. Maintenance of the facility will be the responsibility of the City and will be included in the maintenance Community Facilities District (CFD) planned for the area.

2) The Engineering Department now has a standard condition of approval requiring formation of the CFD.

No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #3:

3) Alternately, the EIR relies on the later development of Water Quality Management Plans to mitigate water quality impacts from the proposed project. The underlying treatment standard is "maximum extent practicable". This standard is necessarily ambiguous but is far too ambiguous to indirectly or directly reference to represent mitigation that is sufficiently specific to satisfy the requirements of CEQA. Consequently, the mitigation is inadequate. Where numeric effluent criteria drive the selection of the treatment technology, it is acceptable to defer; not so for storm water discharges. Storm water treatment facilities must compete for space with other project elements and their early consideration is important to assure that they truly represent the best available technology and the best conventional technology. Deferring in the manner proposed in the EIR may also result in many facilities that drain into one another, diluting the effectiveness of each subsequent facility. Many facilities increases their operations and maintenance costs over one or several centralized facilities. The City's failure to develop centralized facilities that may treat pollutants to a higher degree (particularly on a mass-loading
basis) when the opportunity is presented, does not appear to meet the MEP standard. Regional Board staff requests that structural storm water treatment facilities be shown on an appropriate site exhibit and identified using terminology found in the WQMP. Please do not use generic terms such as "water quality basin". Please also identify the funding source and entity responsible for operations and maintenance of the treatment facility.

Response to Comment #3:

Congress, the Environmental Protection Agency, and the State Water Resources Control Board have determined that water quality impacts due to storm water discharges can be addressed through the implementation of best management practices. The WQMP establishes a performance standard for the project and as such does not constitute deferred mitigation. As discussed in the Response to Comment 2 above, adherence to the provisions of the MS4 permit provides adequate and appropriate treatment of storm water discharges to the extent feasible, thus implementation of a regional treatment facility is not necessary to protect the beneficial uses of surface waters in the project area.

With respect to the concern about storm water treatment facilities competing for space and the importance of their early consideration, there are approved infrastructure master plans for the NMC, which take these facilities into consideration. The individual specific plans for each of the NMC Subarea must be consistent with the NMC master plans.

A variety of funding sources will be used for the treatment facility including, but not necessarily limited to, grant funds, community facilities districts and homeowners associations.

Comment #4:

4) For similar reasons above, hydraulic conditions of concern should also be specifically mitigated in the EIR and not deferred to the later development of WQMPs. The draft EIR should also be amended to note that Mill Creek is not improved and is known to be experiencing significant physical degradation. The proposed project may contribute to the further degradation of Mill Creek. Storm water retention/detention facilities should be shown on an appropriate site plan similar to treatment facilities.

Response to Comment #4:

Following the preparation of the NMC Final EIR, the City, in cooperation with the San Bernardino County Flood Control District prepared the New Model Colony Master Plan of Drainage (NMC-MPD) to guide the development of storm drain systems to serve the entire NMC. To evaluate the potential impacts of implementing the Master Plan of Drainage, the City prepared an Initial Study/Mitigated Negative Declaration for water, wastewater, and drainage infrastructure plans (Infrastructure Plans IS/MND). The Infrastructure Plans IS/MND stated that with the implementation of mitigation measures identified in the NMC Final EIR, and the implementation of the NMC-MPD, flooding impacts within the NMC would be below the level of significance. The draft EIR tiers from the analysis in the IS/MND, and that analysis is incorporated by reference. No further analysis of this issue is required in the EIR.

Response to State of California
Regional Water Quality Control Board, Region 8
Dated August 11, 2006

Comment #5:

Regional Board staff requests that the amended draft EIR be recirculated in order to allow us the opportunity to assure that the above issues have been adequately addressed. If you have any questions, please feel free to contact me. --Adam

Response to Comment #5:

According to Section 15088.5 of the CEQA Guidelines, a lead agency is required to recirculate an EIR when "significant new information is added" after the EIR is circulated and before it is certified. Information, as used in this section, refers to changes in the project or environmental setting, additional data or other information. New information added to an EIR is not considered "significant" unless the EIR is changed in such a manner that the public was deprived of a meaningful opportunity to comment upon a substantial adverse environmental effect or a feasible way to mitigate or avoid such an effect. Recirculation of an EIR is also necessary if the draft EIR was so "fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." Further, the information added in these responses to comments merely augments and clarifies the information already in the EIR. Therefore, recirculation of the draft EIR is not required.

RESPONSE TO COMMENTS

REGIONAL AGENCIES

Response to South Coast Air Quality Management District
Dated September 27, 2006

Comment #1:

1. It is not clear from the Draft EIR or the URBEMIS output file whether or not the lead agency accounted for emissions from removing one foot of topsoil from the dairy site. If not, it is recommended the lead agency calculate the fugitive dust, construction equipment, and haul truck emissions and add them to total daily site grading emissions.

Response to Comment #1:

Page III-2-11 of the Draft EIR identifies the assumptions used in the air quality analysis including that "1 foot of topsoil from the dairy will be removed and hauled away." The next assumption on that page clarifies that for the purposes of the study, the project will be built in three phases. The dairy from which the topsoil is to be removed is located in Phase 3. The URBEMIS model run for Phase 3 indicates this assumption, whereas the URBEMIS runs for Phases 1 and 2 do not include this assumption. No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #2:

2. In the URBEMIS2002 computer model output sheets for construction, the lead agency has switched on the following mitigation measures during Phase 2 Building Construction but did not include those measures with the measures adopted in Section I – EIR Issues Matrix on pages I-3-1 to I-3-5 or under Mitigation Measures on page 27 of the Air Quality Impact Analysis:

   - Apply soil stabilizers to inactive areas
   - Replace ground cover in disturbed areas quickly

   Until the lead agency formally adopts these measures and includes them in the list of adopted mitigation measures, the lead agency should not take credit for those emission reductions in the URBEMIS2002 modeling and revise the estimated maximum peak daily construction emissions in the Final EIR.

Response to Comment #2:

As stated on page III-2-9 of the Draft EIR, SCAQMD Rule 403 applies to this project as a regulation which must be adhered to by the project. The measures listed above are required by this regulation, therefore, they do not need to be listed as specific mitigation measures and the analysis approach in URBEMIS is correct. No new environmental issues have been raised by this

comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #3:

3. In addition to the short-term (construction) mitigation measures proposed in Section I – EIR Issues Matrix on pages I-3-1 to I-3-4, the SCAQMD recommends that the lead agency consider modifying the following mitigation measures and consider additional mitigation measures to further reduce construction carbon monoxide (CO), oxides of nitrogen (NOx), and volatile organic compounds (VOC) air quality impacts from the project, if applicable and feasible:

   Recommended Changes:

   - MM Air 7: During the grading and all site disturbances activities, ~~at the discretion of the City's Planning Director,~~ construction contractors shall suspend all grading operations during first and second stage smog alerts to reduce fugitive dust and combustion related emissions.
   - MM Air 8: During the grading and all site disturbances activities, ~~at the discretion of the City's Planning Director,~~ construction contractors shall suspend all grading operations when wind speeds (including instantaneous gusts) exceed 25 miles per hour to reduce fugitive dust.
   - MM Air 9: During all construction activities, the construction contractors shall maintain construction equipment engines by keeping them tuned according to manufacturers' specifications.
   - MM Air 11: During construction, all contractors will be advised to prohibit all vehicles from idling in excess of ~~ten~~ five minutes, both on-site and off-site.
   - MM Air 5: During all construction activities, construction contractors shall sweep on and off site streets (recommend water sweepers with reclaimed water) if ~~silt~~ visible soil is carried over to adjacent public thoroughfares, as determined by the City Engineer to reduce the amount of particulate matter on public streets.

Response to Comment #3a:

Upon review of the recommended changes to the wording of mitigation measures MM Air 5, 7, 8, 9, and 11, the City agrees to make the edits, as suggested by AQMD. No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #3b:

Recommended Additions:

- Contractors shall use high-pressure-low-volume (HPLV) paint applicators with a minimum transfer efficiency of at least 50% or other application techniques with equivalent or higher transfer efficiency.
- Use architectural coatings with a VOC content lower than required under Rule 1113.
- Construct/build with materials that do not require painting
- Use pre-painted construction materials.
- Provide temporary traffic controls such as a flag person, during all phases of construction to maintain smooth traffic flow.
- Reroute construction trucks away from congested streets or sensitive receptor areas.
- Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site.
- Require construction equipment that meet or exceed Tier 2 standards; use emulsified diesel fuels; and equip construction equipment with oxidation catalysts, particulate traps, or other verified/certified retrofit technologies, etc.

Response to Comment #3b:

The City has reviewed the additional mitigation measures suggested by AQMD and will add some of them to the Final EIR, as edited by the City and shown below, to further reduce construction-related emissions. The fifth bulleted item above is a standard City condition of approval so no mitigation measure is required. The seventh bulleted item above, related to dedicated turn lanes for movement of construction trucks, is not feasible due to the width and configuration of some streets in the area. No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

MM Air 13: Contractors shall use high-pressure-low-volume (HPLV) paint applicators with a minimum transfer efficiency of at least 50% or other application techniques with equivalent or higher transfer efficiency, where feasible.

MM Air 14: Use architectural coatings with a VOC content lower than required under Rule 1113, where feasible.

MM Air 15: Construct/build with materials that do not require painting, where feasible.

MM Air 16: Use pre-painted construction materials, where feasible.

MM Air 17: The contractor shall provide truck drivers with materials showing where sensitive receptors, such as schools, are located, and when congestion can be expected so that the drivers can avoid these routes and/or times of day.

MM Air 18: Require construction equipment that meet or exceed Tier 2 standards; use emulsified diesel fuels; and equip construction equipment with oxidation catalysts, particulate traps, or other verified/certified retrofit technologies, etc., where feasible.

MM Air ~~13~~ 19: Local transit agencies . . .

Comment #4:

4. Should the lead agency, after final review (see comments #1 and #2), determine that the short-term (construction) air quality impacts from the proposed project are estimated to exceed established daily significance thresholds for particulate matter (PM10) fugitive dust, the SCAQMD recommends that the lead agency consider adding additional mitigation measures to further reduce construction air quality impacts from the project, if applicable and feasible:

   - Appoint a construction relations officer to act as a community liaison concerning on-site construction activity including resolution of issues related to PM10 generation.
   - All trucks hauling dirt, sand, soil, or other loose materials are to be covered;
   - Apply water three times daily, or non-toxic soil stabilizers according to manufacturers' specifications, to all unpaved parking or staging areas or unpaved road surfaces; and
   - Pave road and road shoulders.

Response to Comment #4:

After reviewing all comments on the Project, the City of Ontario did not find that short-term air quality emissions needed to be revised, therefore additional mitigation measures, as listed above in the comment, are not necessary. No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

RESPONSE TO COMMENTS

LOCAL AGENCIES

Response to
City of Chino
Dated September 27, 2006

Transportation Related Comments

Comment #1:

The Esperanza Specific Plan envisions a 736-student elementary school, (765) single-family detached residential dwelling units, and (645) residential condominium/townhouse dwelling units on (223) acres. The project is to be constructed in a single phase with a build-out year of 2015.

With that understanding, the following comments result from the review of the TIA and Draft Environmental Impact Report (EIR):

- It is acknowledged that the TIA used modeling forecasts for year 2015, the build-out year. However, Appendix C of the Congestion Management Program (CMP) provides the guidelines for which a traffic impact analysis report must follow when CMP thresholds are exceeded. Those peak hour thresholds are exceeded by the project. The current CMP Horizon Analysis Year is 2030. Was this study prepared following CMP guidelines and criteria?

Response to Comment #1:

A Congestion Management Plan (CMP) level traffic analysis was not required for this project, nor is it required for any proposed project within the NMC which is consistent with the General Plan and Development Impact Fee (DIF) analysis. San Bernardino Association of Governments (SANBAG) does not require the City of Ontario to perform CMP level studies for individual projects because a CMP level analysis was performed for the entire NMC when the DIF was established. (Ontario Sphere of Influence CMP – TIA, November 2000.) The purpose of the Traffic Study prepared for the Esperanza Specific Plan was to determine whether proposed intersections will perform at the appropriate Level of Service as required in the City's General Plan. Traffic impacts associated with the entire NMC, on the other hand, were addressed in the GPA for the NMC EIR and the NMC CMP. No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #2:

- Cumulative area projects are shown in Exhibit 3-1. Although they are not specifically referenced in the traffic study as being included in the analysis, Section III of the Draft EIR does indicate their inclusion. Section III of the Draft EIR also states in part..."at the time the project is operational, it is not known which of the off-site regional improvements will be constructed. Therefore, there is a possibility that project-generated traffic will result in temporary cumulatively significant impacts to traffic in the project vicinity." This could result in burdening other roadways and intersections with unintended consequences. How will this condition to be mitigated?

Response to Comment #2:

The City does not know precisely when projects in the NMC will be built, but several projects are in the approval process now. Mitigation of temporary impacts is not feasible because the best mitigation of the impact are the measures identified in the EIR. The Draft EIR acknowledges that a temporary significant impact could occur, and that the impact will be subject to a Statement of Overriding Considerations.

Comment #3:

- TIA Exhibits 4-4 and 4-5 indicate Intersection 9 (map number) as Archibald Avenue and Eucalyptus Avenue, while the intersection diagram is labeled Archibald Avenue and Merrill Avenue.

Response to Comment #3:

Existing Merrill Avenue is located south of, and parallel to, Eucalyptus Avenue. As described within the City of Ontario General Plan Amendment for the New Model Colony Circulation Element, Merrill Avenue will follow its existing alignment east of Euclid Avenue then curve to the north to become the new alignment of Merrill Avenue (existing Eucalyptus right-of-way). The new Merrill Avenue will remain in the former Eucalyptus Avenue alignment all the way to Milliken Avenue. Existing Eucalyptus Avenue east of Euclid Avenue will curve southward and terminate into the New Merrill Avenue at the "t" intersection located west of Ontario Avenue. Thus, the road name is currently Eucalyptus, but in the future will become Merrill. Intersection 9 on Figures 4-4 and 4-5 of the TIA occurs in the future Merrill Avenue area and is considered correct. This information does not constitute significant new information or change the level of significance of potential impacts identified in the Draft EIR.

Comment #4:

- TIA Exhibits 4-4 and 4-5 similarly indicate Intersection 10 as Sumner/Haven Avenue and Eucalyptus Avenue, while the intersection diagram is labeled Sumner/Haven Avenue and Merrill Avenue. Also, intersection 7 is labeled Schaefer and Edison. These streets are parallel. Verify that the turning movements are correct for the correct intersections.

Response to Comment #4:

See Response to Comment #3, above.

Comment #5:

- The TIA does not identify any CMP-designated intersections. The City of Chino was not consulted for scoping of the project. Please contact City of Chino Transportation Department to identify any additional intersections to be studied.

Response to Comment #5:

See Response to Comment # 1 with respect to CMP level analysis.

The City of Chino did not comment in response to the Notice of Preparation (NOP) for this EIR (Appendix A of the Draft EIR), therefore, the City of Ontario was not aware of any intersections of concern to the City of Chino at the time the traffic study was prepared. Since no information is provided as to the potential intersections of concern to the City of Chino in this comment, an analysis of the potential environmental impacts cannot be made. No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #6:

- It would have been helpful if the TIA had stated those intersections impacted by the 80-vehicle peak hour project total guideline for analysis. What was the methodology used to determine intersections to be studied?

Response to Comment #6:

See Responses to Comments #1 and #5. In light of the Responses to Comments #1 and #5, the intersections were chosen through discussions between the City of Ontario traffic engineering staff and the traffic engineers from Webb Associates. The traffic analysis prepared for the EIR

studied the potential for the Project to increase traffic in various directions, and concluded additional intersection study was not warranted. This methodology was approved in *Napa Citizens for Honest Government v. Board of Supervisors* (2001) 91 Cal.App.4th 342, 369 ("[t]hat the effects will be felt outside of the project area, however, is one of the factors that determines the amount of detail required in any discussion"). The City need not undertake additional studies if the EIR provides a sufficient level of analysis. (*Association of Irritated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1397; see also State CEQA Guidelines, § 15204, subd. (a).) Moreover, the City appropriately relies on its traffic consultant's judgment regarding the selection of intersections to study in the traffic analysis. (*National Parks & Conservation Ass'n v. County of Riverside* (1999) 71 Cal.App.4th 1341, 1362 ("an expert can make a judgment on existing evidence, without further study, that a particular condition will have no significant impact").) No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #7:

- **The TIA identifies those mitigation improvements (Exhibit 5-5) at off-site locations; however, there is no indication that sufficient right-of-way exists or can be implemented as a practical matter. If these measures cannot be implemented, how will mitigation measures occur?**

Response to Comment #7:

With the exception of the improvements indicated for Intersections 17, 18 and 19 shown on the TIA Figure 5-5 (Limonite/Hamner Aves. and Limonite/I-15 interchange), all off-site improvements shown are within the jurisdiction of the City of Ontario. They are also all required to be built in conjunction with projects recently approved or in review by the City of Ontario. These projects are shown on TIA Figure 3-1. Therefore, right-of-way acquisition issues will not impede implementation of the improvements.

According to Webb Associates traffic engineers, within Riverside County, the right-of-way to accommodate the ultimate improvements at Intersections 17, 18, and 19 shown in Figure 5-5 of the TIA has already been required by the County of recently built, approved, and in-review projects which are adjacent to these intersections. No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #8:

- **It would also be helpful if off-site improvements can be programmed with incremental development construction.**

Response to
City of Chino
Dated September 27, 2006

Response to Comment #8:

Please see response to Comment #2, above. The City of Ontario requires that improvements associated with approved specific plans be phased as the plans are built out. Street and intersection improvements will not remain until the last phase of any development. No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #9:

- Cumulative projects did not include major developments in Chino such as the Preserve Specific Plan and College Park, and industrial sites, just east of Euclid Avenue. Have these projects been added to background traffic data?

Response to Comment #9:

As discussed on page IV-1-10 of the Draft EIR, "The GPA for the NMC Final EIR evaluated cumulative traffic impacts for the year 2015 with and without the development of the entire GPA for the NMC. The cumulative impacts analysis uses year 2015 because it was the year used in the GPA for the NMC EIR. Additionally, the GPA for the NMC EIR used 2015 because that is the build-out year for the City's Land Use Element and San Bernardino County's Comprehensive Transportation Plan. That analysis is included in section 5.7.3 of the GPA for the NMC Final EIR and is incorporated by reference. In summary, the study area was within a 5-mile radius of the NMC and included all the City of Ontario, portions of the cities of Upland, Rancho Cucamonga, Fontana, Montclair, Chino, Chino Hills, and Norco, and portions of the counties of Riverside and San Bernardino." The model used to evaluate the traffic impacts for this project was developed by Meyer Mohaddas Associates and includes all updates to land uses that the regional model used by SANBAG included in 2005, when the TIA was prepared and the NOP was circulated. No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Comment #10:

- Was any pass-by trip reduction taken, and if so, at what rate?

Response to Comment #10:

Pass-by trip reduction is a methodology used to address trips associated with commercial development. The proposed project does not include any commercial land uses, therefore, no pass-by trip reduction was taken. No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Response to
City of Chino
Dated September 27, 2006

Hydrology/Water Quality Related Comments

Comment #11:

- Certain construction BMPs (e.g. stabilized construction entrances) and post-construction BMPs (e.g. detention basins) require routine maintenance in order to continue adequate function. The Hydrology/Water Quality section of the EIR should indicate that responsible parties (e.g. contractors, Homeowner Associations, City Ontario) who would conduct routine maintenance on BMPs in order to continue mitigating any hydrology or water quality impacts into perpetuity.

Response to Comment #11:

Operational BMPs which require maintenance may include: by homeowners, the City, or a homeowner's association. To assure that maintenance of all BMPs is addressed, the underlined text shall be added to **MM Hydro 2** of the Draft EIR:

MM Hydro 2: In order to ensure the development within the Subarea 25 Esperanza Specific Plan will not cause or contribute to violations of any water quality standard or waste discharge requirements, and to assure no substantial degradation of water quality occurs, the project will complete a Water Quality Management Plan (WQMP) pursuant to the MS4 permit (Order No. 2002-0012) under which the City of Ontario is a permitee. The City adopted storm water management code Section 6-6.101 *et seq*. to implement the provisions of the permit. The project shall incorporate Site Design BMPs and Source Control BMPs, and potentially Treatment Control BMPs. The following table (III-7-F) provides guidelines and possible BMPs that may be incorporated into the project design (on construction drawings) and/or project specifications. Prior to acceptance of the WQMP, the City shall assure that maintenance responsibilities of BMPs approved for the project are identified and enforceable. Table III-7-G correlates each BMP to the pollutants of concern which it removes/reduces and/or meets the design objectives for the BMP.

No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Response to
City of Chino
Dated September 27, 2006

Comment #12:

- Table III-7-D, Page III-7-5 (Pollutants of Concern Summary Table) is not consistent with the Model WQMP Guidance Manual (rev. 6/1/05). Expected pollutants of concern for a residential development should include Nutrients, Sediment, Oil & Grease, and Oxygen Demanding Substances
- Section III, Page III-7-1 (Second paragraph) includes the following statement: *"For the purposes of potential impacts to hydrology and water quality, no difference exists between the use of the 10-acre school site for a school or for houses...".* According to the Model WQMP Guidance Manual (rev. 6/1/05), schools are classified under a separate project category (industrial/commercial development) than residential, which only lists trash & oil and grease as expected pollutants of concern. Therefore, schools are expected to have less potential to impact water quality.

Response to Comment #12:

Information and comments noted. Table III-7-D of the Draft EIR will be updated to reflect the most recent Model WQMP Guidance document (which reflects the latest Clean Water Act 303(d) listings).

Paragraph 2 on page III-7-1 and paragraph 2 on page III-7-14 of the Draft EIR will be modified, as shown below, to reflect the updated information:

"The following discussion will focus on . . . For the purposes of potential impacts to hydrology and water quality, San Bernardino County Stormwater Program Model Water Quality Management Plan Guidance, June 2005, was referenced and ~~no difference exists between~~ the use of the 10-acre school site for a school would not produce as many pollutants of concern as ~~or~~ for a similar acreage of houses, so ~~this issue is not~~ possible houses on the proposed school site are addressed in the following analyses."

"Non-point source pollution that is associated with residential urban land use (attached, detached, and streets) may be expected to increase following development of the project site and surrounding areas. Pollutants such as oil and grease, bacteria and viruses, heavy metals, oxygen demanding substances, organic compounds, trash and debris, sediment, fertilizers (nutrients), and pesticides can be expected to be present in surface water runoff once project development occurs. According to San Bernardino County Stormwater Program Model Water Quality Management Plan Guidance, June 2005 (SBWQMP Guidance), since Mill Creek (in Prado Basin area) and the Santa Ana River, Reach 2 are listed in the Clean Water Act Section 303(d) as an impaired water bodies with respect to bacteria and pathogens, and Mill Creek also listed with respect to nutrients, the possible discharge of these pollutants by residential development shall

require an offset (e.g., no net loading) to ensure no further degradation of the impaired water body. Without appropriate post-construction BMPs and/or mitigation measures incorporated into the development projects within the Specific Plan, significant adverse impacts to water quality standards and a general degradation of water quality may be expected to occur."

In the Esperanza Specific Plan Draft EIR, mitigation measure MM Hydro 2 (which includes Tables III-7-F and G) requires the BMPs which will best address the pollutants of concern. As discussed above, the pollutants of concern which must be eliminated from site run-off so that no net loading of the impaired water bodies occurs are bacteria/pathogens and nutrients. According to the SBWQMP Guidance document, the Treatment Control BMPs with "high" effectiveness in treating both nutrients and bacteria/viruses are Infiltration Basins (which includes both basins and trenches). These are listed as highly effective for treating these targeted constituents in Table III-7-G of the Draft EIR, as well. To further assure that these highly effective treatment methods are used within the Esperanza project, the following footnote will be added to Table III-7-F:

> "Infiltration trenches and/or basins shall be incorporated in all areas described in Table III-7-F, where bacteria and nutrients can be expected, to achieve the required offset."

No new environmental issues have been raised by this comment which would change the significance determination of the DEIR. No further analysis is warranted.

Response to
Riverside County Flood Control and Water Conservation District
Dated August 30, 2006

Comment #1:

This letter is written in response to the Notice of Availability of a Draft Environmental Impact Report for the Esperanza Specific Plan Project. The proposed Project would consist of the development of approximately 914 single family residences, 496 multi-family residences, 10-acre school site, two 1-acre mini parks, one 2-acre pocket park and one 5-acre neighborhood park. The proposed project is generally located south of Edison Avenue, east of Mill Creek (Cleveland) Avenue, west of Hamner/Miliken Avenue, and north of County Line in the city of Ontario, San Bernardino County.

Please be advised that the project is located outside of the Riverside County Flood Control and Water Conservation District's jurisdictional boundary, therefore, we do not have any comments.

Response to Comment #1:

The comment correctly describes the Esperanza Specific Plan project. Comment noted that the commenter has no comment at this time.

4.0 CITY COUNCIL ACTION, FINDINGS, NOTICE OF DETERMINATION

FINAL ENVIRONMENTAL IMPACT REPORT
FOR

Esperanza Specific Plan

City of Ontario, San Bernardino County, California

(State Clearinghouse Number 2002061047)

Lead Agency:	City of Ontario 303 East B Street Ontario, CA 91764
Contact Person:	Cathy Wahlstrom, Principal Planner (909) 395-2282
Prepared for the City by:	Albert A. Webb Associates 3788 McCray Street Riverside, CA 92506-2927 Phone: (951) 686-1070 Fax: (951) 786-0594
Contact Person:	Cathy Perring, Principal Planner (951) 686-1070

December 2006

- MM Air 5: During all construction activities, construction contractors shall sweep on and off site streets (recommend water sweepers with reclaimed water) if ~~silt~~ visible soil is carried over to adjacent public thoroughfares, as determined by the City Engineer to reduce the amount of particulate matter on public streets.

Recommended Additions:

- Contractors shall use high-pressure-low-volume (HPLV) paint applicators with a minimum transfer efficiency of at least 50% or other application techniques with equivalent or higher transfer efficiency.
- Use architectural coatings with a VOC content lower than required under Rule 1113.
- Construct/build with materials that do not require painting
- Use pre-painted construction materials.
- Provide temporary traffic controls such as a flag person, during all phases of construction to maintain smooth traffic flow.
- Reroute construction trucks away from congested streets or sensitive receptor areas.
- Provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site.
- Require construction equipment that meet or exceed Tier 2 standards; use emulsified diesel fuels; and equip construction equipment with oxidation catalysts, particulate traps, or other verified/certified retrofit technologies, etc.

4. Should the lead agency, after final review (see comments #1 and #2), determine that the short-term (construction) air quality impacts from the proposed project are estimated to exceed established daily significance thresholds for particulate matter (PM10) fugitive dust, the SCAQMD recommends that the lead agency consider adding additional mitigation measures to further reduce construction air quality impacts from the project, if applicable and feasible:

   - Appoint a construction relations officer to act as a community liaison concerning on-site construction activity including resolution of issues related to PM10 generation.
   - All trucks hauling dirt, sand, soil, or other loose materials are to be covered;
   - Apply water three times daily, or non-toxic soil stabilizers according to manufacturers' specifications, to all unpaved parking or staging areas or unpaved road surfaces; and
   - Pave road and road shoulders.

Mr. Richard C. Ayala
Senior Planner

September 27, 2006

Air Quality Impact Analysis

1. It is not clear from the Draft EIR or the URBEMIS output file whether or not the lead agency accounted for emissions from removing one foot of topsoil from the dairy site. If not, it is recommended the lead agency calculate the fugitive dust, construction equipment, and haul truck emissions and add them to total daily site grading emissions.

2. In the URBEMIS2002 computer model output sheets for construction, the lead agency has switched on the following mitigation measures during Phase 2 Building Construction but did not include those measures with the measures adopted in Section I – EIR Issues Matrix on pages I-3-1 to I-3-5 or under Mitigation Measures on page 27 of the Air Quality Impact Analysis:

   - Apply soil stabilizers to inactive areas
   - Replace ground cover in disturbed areas quickly

   Until the lead agency formally adopts these measures and includes them in the list of adopted mitigation measures, the lead agency should not take credit for those emission reductions in the URBEMIS2002 modeling and revise the estimated maximum peak daily construction emissions in the Final EIR.

Mitigation Measures - Construction

3. In addition to the short-term (construction) mitigation measures proposed in Section I – EIR Issues Matrix on pages I-3-1 to I-3-4, the SCAQMD recommends that the lead agency consider modifying the following mitigation measures and consider additional mitigation measures to further reduce construction carbon monoxide (CO), oxides of nitrogen (NOx), and volatile organic compounds (VOC) air quality impacts from the project, if applicable and feasible:

   Recommended Changes:

   - MM Air 7: During the grading and all site disturbances activities, ~~at the discretion of the City's Planning Director,~~ construction contractors shall suspend all grading operations during first and second stage smog alerts to reduce fugitive dust and combustion related emissions.
   - MM Air 8: During the grading and all site disturbances activities, ~~at the discretion of the City's Planning Director,~~ construction contractors shall suspend all grading operations when wind speeds (including instantaneous gusts) exceed 25 miles per hour to reduce fugitive dust.
   - MM Air 9: During all construction activities, the construction contractors shall maintain construction equipment engines by keeping them tuned according to manufacturers' specifications.
   - MM Air 11: During construction, all contractors will be advised to prohibit all vehicles from idling in excess of ~~ten~~ five minutes, both on-site and off-site.

South Coast
Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 · www.aqmd.gov

FAXED: September 27, 2006

September 27, 2006

Mr. Richard C. Ayala, Senior Planner
City of Ontario, Planning Department
303 East "B" Street
Ontario, CA 91764

Draft Environmental Impact Report (Draft EIR) for the Proposed Esperanza Specific Plan Project

The South Coast Air Quality Management District (SCAQMD) appreciates the opportunity to comment on the above-mentioned document. The SCAQMD would also like to thank the lead agency for the additional time to submit comments. The following comments are meant as guidance for the Lead Agency and should be incorporated into the Final Environmental Impact Report.

Pursuant to Public Resources Code Section 21092.5, please provide the SCAQMD with written responses to all comments contained herein prior to the adoption of the Final Environmental Impact Report. The SCAQMD staff would be happy to work with the Lead Agency to address these issues and any other questions that may arise. Please contact Gordon Mize, Air Quality Specialist – CEQA Section, at (909) 396-3302, if you have any questions regarding these comments.

Sincerely,

Steve Smith

Steve Smith, Ph.D.
Program Supervisor, CEQ Section
Planning, Rule Development & Area Sources

Attachment

SS:GM

SBC060811-01
Control Number

City of Ontario			
Post-it® Fax Note 7671		Date 9/27/06	# of pages ▶ 3
To Mr. Richard C. Ayala		From Gordon Mize	
Co./Dept. Planning		Co. SCAQMD - CEQA	
Phone # 909-395-2421		Phone # 909-396-3302	
Fax # 909-395-2420		Fax # 909-396-3324	