

LETTER 27 - YOSEMITE AREA AUDUBON, DECEMBER 21, 2005

YOSEMITE AREA AUDUBON

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The following are the comments of the Yosemite Area Chapter of the National Audubon Society on the Draft Environmental Impact Report for the Mariposa County 2005 General Plan Update.

OVERVIEW

The proposed General Plan Update (the Project) does not reflect the desires of Mariposa residents, who have clearly stated a desire to avoid rural sprawl development patterns. The Plan projects growth in population over the 1990 figure to about 260% by 2025. This is about five times the projection for Mariposa County by the State Department of Finance (DOF), which predicts a 50% population growth over the same period and an overall state population growth of 60% for the period. This proposed explosive development threatens the rural characteristics that the citizens desire to retain.

Although the planners have indicated that comments should be confined to the Draft Environmental Impact Report (DEIR), this is difficult because the document describes primarily the proposed Project. In our view, the DEIR is inadequate, because it does not include an alternative that would result in the population growth predicted by the DOF estimates. Thus, the public has no opportunity to review and comment on such an alternative, regardless of the fact that it would fall "within the range" from the "Existing Conditions (Alternative 2)" to the "Project (Alternative 3)".

SPECIFIC COMMENTS

NOTE: Material quoted from the DEIR is shown in Red or Italicized or both.

In the introduction, the DEIR states:

In accordance with the CEQA Guidelines, an EIR on a program action such as the adoption and implementation of a local general plan contains a less detailed assessment of impacts than would be provided by an EIR on a specific development project. CEQA Guidelines (Section 15146(b)) states that an EIR on the adoption or amendment of a general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow. The EIR for the proposed Mariposa County 2005 General Plan provides the level of analysis necessary to comply with this provision of the CEQA Guidelines. As individual activities under the General Plan update are subsequently proposed, additional environmental documentation will be undertaken at the project-specific level through a project EIR.

supplemental EIR or negative declaration as appropriate for the specifics of the proposed individual actions. (Emphasis added.)

COMMENT: In bypassing the “detailed assessment of impacts,” as mentioned in the above quote, the DEIR provides no assurance that a “negative declaration” for a future activity will include analysis to demonstrate that impacts – which are considered “less than significant” in the DEIR – will continue to be below the significant threshold level. There is also no assurance that future projects will be analyzed for their “cumulative effects” with respect to individual impacts. This convenient avoidance of “detailed assessments,” essentially excludes the public from the future decision-making process, by leaving the decision of appropriateness of analysis to the Planning Department

Under “Impacts” in the introduction, the DEIR states:

The impact analysis assumes that the proposed General Plan policies would be implemented by the County.

COMMENT: There is no evidence provided to support this assumption. The Board of Supervisor’s historic absence of concern for environmental protection measures makes this assumption extremely tenuous.

The DEIR further states:

A Mitigation Monitoring Program (MMP) will be prepared as part of the Final EIR.

COMMENT: This should be done before the EIR is finalized. The public has no opportunity to comment on the adequacy of the MMPs (protocols, significance levels, thresholds, etc) or the proposed corrective measures to be taken when an Impact’s threshold of concern is exceeded.

2.1.1.1 MARIPOSA TOWN PLANNING AREA SPECIFIC PLAN

The Specific Plan EIR offers mitigation measures that reduce those ignificant impacts to a less than significant level. However, four significant unavoidable impacts are identified with short term and full implementation of the Specific Plan. (Emphasis added.)

- *Increase in Traffic Safety Hazards at Highway 140/Smith Road and Highway 49/Smith Road*
- *Increase in Traffic and Safety Hazards on Smith Road*
- *Increase in Traffic, Pedestrian Activity, and Safety Hazards Along Smith Road*
- *Inadequate Water Supply for Residential Development*

COMMENT: The term “Increase” is qualitative and provides no information on the degree or severity of the impact. What is the current “Safety Hazard” at these intersections (accidents per year and severity of those accidents)? How is this expected to increase as a function of increased population in the TPA specific

area? Is this increase a result of buildout of the Mariposa TPA alone, or does it include contributions from the remainder of the proposed Plan under buildout conditions?

Is the water supply inadequate for the Mariposa TPA as defined by the current boundaries, or does it imply that the boundaries will be as defined in the proposed Plan? Is this an "unavoidable impact" under all alternatives as well as those evaluated in the DEIR, or only for the "Project" alternative? What is the degree of inadequacy as a function of buildout level in the TPA for each alternative?

2.1.1.2 COULTERVILLE TOWN PLANNING AREA SPECIFIC PLAN

The Coulterville Town Planning Area Specific Plan EIR was certified by Mariposa County Board of Supervisors in 1980 in accordance with CEQA. This EIR identifies significant impacts to flood hazards, septic tank and disposal facility limitations, erosion, historic character, and underground water quality resulting from the development allowed in the Specific Plan and offers mitigation measures that reduce those significant impacts to a less than significant level. However, two significant unavoidable impacts are identified with full implementation of the Specific Plan. (Emphasis added.)

- *Impacts to Maxwell Creek*
- *Impacts to the Small Town Atmosphere*

COMMENT: Are the "Impacts to Maxwell Creek" to water quality, riparian habitat or both? Would restricting development to less than "full implementation of the Specific Plan" reduce these impacts? Is allowing development that results in these impact in compliance with the "Clean Water Act?"

Does "Small Town Atmosphere" refer to "air quality" or "ambience?" If the former, is there compliance with the "Clean Air Act?"

2.1.1.3 FISH CAMP TOWN PLANNING AREA SPECIFIC PLAN

. . . However, one significant unavoidable impact is identified with full implementation of the Specific Plan. (Emphasis added.)

- *Impacts to Big Creek*

COMMENT: Are the "Impacts to Big Creek" to water quality, riparian habitat or both? Would restricting development to less than "full implementation of the Specific Plan" reduce these impacts? Is allowing development -- that results in these impacts -- in compliance with the Clean Water Act?

2.2 MARIPOSA COUNTY 2005 GENERAL PLAN BUILD-OUT

Table 2-2 Feasible Building Density Percentages

Class A (parcels over 10 acres and over \$15,000 in existing improvements). . . . However, as slope increases, road access and septic capabilities are adversely impacted; therefore, building densities that reflect the effects of slope is appropriate. (Emphasis added.)

Class B1 (parcels under 10 acres with under \$15,000 in existing improvements). A building density of 90 percent of the total acres in this class is used for the established methodology regardless of slope. This figure is appropriate because development is a right, no discretionary permit is required for full residential development of parcels of this size. (Emphasis added.)

COMMENT: What justifies the 90% "Feasible Onsite Density" regardless of slope? Are the effects of slope on "road access and septic capabilities" less adversely affected when the parcels are "under 10 acres with under \$15,000 in existing improvements?" What is the functional relationship between septic capability and slope?

After the densities were determined, the total dwelling unit count was calculated. Within the designated planning areas, 1,445 dwelling units are projected, while outside of planning areas countywide, 7,476 dwelling units are projected. This equates to a net increase of 8,921 dwelling units. The County then applied the dwelling unit net increase to the Mariposa County 2000 U.S. Census average persons per household size (2.37) and then added that number to the existing population total to calculate population build-out for the lower population projection. A 30 percent increase was assigned to obtain the higher population projection. (Emphasis added.)

COMMENT: The projected 7,476 dwelling units outside the planning areas includes units on the 90% feasibility of the 4,500 acres in the B1 category. The total residential "buildable" acres -- outside the planning areas -- are said to be 37,000. However, if the B1 lands are in fact only 50% buildable, the number is reduced to $50 \times 4,500 / 90 = 2,500$ acres for a total of 35,000 acres. 37,000 acres provided 7,476 dwelling units, therefore 35,000 acres will result in $35 \times 7,476 / 37 = 7,072$ dwelling units.

Furthermore, the General Plan states in §8.11.05.1.1 Findings:

The County is statutorily required (Refer California Government Code section 65983) to plan to accommodate 1,620 dwelling units between January 1, 2002 and June 30, 2008--averaging 216 dwelling units per year according to the housing allocation prepared by HCD.

Extending this projection to the year 2025 (the life of the Plan), yields a "statutory requirement" for accommodating 5,292 dwelling units. This is well below the 8,921 dwelling units anticipated in the DEIR. Additionally, 1,445 of the "statutorily required" units may be expected to be accommodated within the planning areas. Why is there this compulsion to accommodate this number of units (7,476) outside the planning areas?

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Use of the 2000 U.S. Census average occupancy of 2.37 persons per dwelling unit, assumes that all dwelling units will be occupied. This ignores the fact that many of the current dwelling units are not occupied by county residents (vacation homes). It is realistic to expect that a similar fraction of the future dwelling units will also be vacation homes, not permanent residences. Thus the use of the 2.37 figure can lead to an exaggerated population projection.

No explanation is provided for the assignment of the "30% increase" from 39,000 to 51,000. What is the rationale for this figure?

Table 2-4 Summary of Build-Out Mariposa County 2005 General Plan

| General Plan | Dwelling Units | Population | Employment |
|------------------------------------|----------------|-----------------|------------|
| Existing Total | 8,991 | 17,603 | 4,890 |
| Net Increase | 8,921 | 21,143 - 33,197 | 9,460 |
| Build-out Total | 17,912 | 39,000 - 51,000 | 14,250 |
| Persons Per Household ³ | 2.37 | | |

| 2010 | 2020 | 2030 | 2040 | 2050 |
|--------|--------|--------|--------|--------|
| 18,608 | 20,607 | 22,435 | 23,979 | 25,456 |

These DOF estimates project a growth rate for Mariposa County at or below 10 percent per decade. This estimate of growth mirrors the conditions that have occurred between 2000 and 2005 where on an annual basis Mariposa County averaged a 1 percent growth rate, which is less than other rural counties such as Calaveras (1.8 percent), El Dorado (1.7 percent), and Tuolumne (2.9 percent) or surrounding counties such as Fresno (2.0 percent), Madera (3.0 percent), and Merced (2.6 percent). Since the 2000 Census was released, the DOF reports that Mariposa's population has increased by 861 persons, estimating a January 1, 2005 population of 17,991. On a statewide comparison, Mariposa County is projected to have a slower growth scenario than California, which has a projected annual growth rate of 1.5 percent. (Emphasis added.)

COMMENT: Why are comparisons made with other rural county's population growth rates? Attention is called to the statement in §1.5 of the Draft General Plan:

Mariposa County residents have witnessed the impact of rural sprawl in surrounding counties, and as a result, have clearly stated a desire to avoid this type of development pattern. The 2005 General Plan intends to ensure that rural sprawl is not repeated in Mariposa County. (Emphasis added.)

The "sprawl" that is occurring -- in the cited other rural counties -- is exactly what Mariposa residents have "clearly stated a desire to avoid." If "the 2005 General Plan intends to ensure that rural sprawl is not repeated in Mariposa County," why

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then does the "Project" precisely accommodate a sprawling "type of development pattern?"

There is no obligation for Mariposa County to equal or exceed the population growth rate of the state or the growth rates of other rural counties. From 1990 to 2000, Mariposa County population increased from 14,139 to 16,939 or 19.8% -- an average annual growth of almost 2%. For the same period, California's population increased only 13.6% (1.36% per year), which indicates that the Mariposa growth rate was 45% larger than the state's. From 2000 to 2010, the state population growth rate is projected to be 14.3% (1.43% per year), while the DOF projection for Mariposa County (from 16,939 to 20,607) amounts to a 21.6% (2.16% per year) increase. What motivates the intent to so grossly exceed the DOF's state and county projections?

Figure 1, illustrates the percentage population growth rates for Mariposa County as compared to the predicted percentage growth rates according to the proposed General Plan Update -- for buildout to 51,000 (red), for buildout to 39,000 (pink), and the State's Department of Finance predictions (green). Notice that for the period 1990 to 2005, the county growth rates closely followed the DOF predictions.

Figure 2 shows similar data in graphical form. Here, the projected percentage increases for the State of California are added (purple). Notice that by 2030, the Mariposa County rate is predicted by the DOF to increase at a lesser rate than the state. The projected growth rates -- under any of the General Plan Update alternatives -- far exceeds the growth rate of the state and the DOF projection. All of the GPU projections are prescriptions for "Rural sprawl."

POPULATION PROJECTIONS
 MARIPOSA GP V. CALIFORNIA DOF

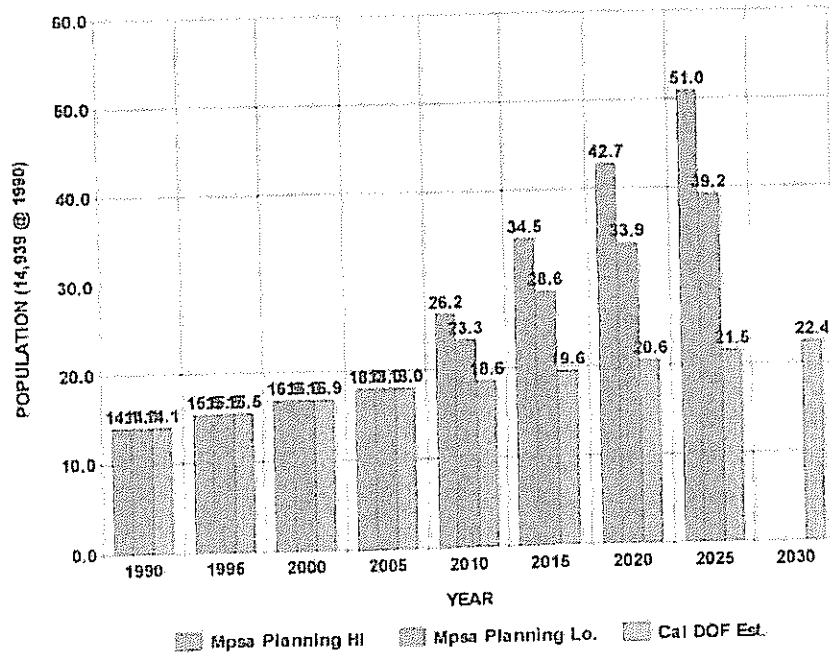


Figure 1

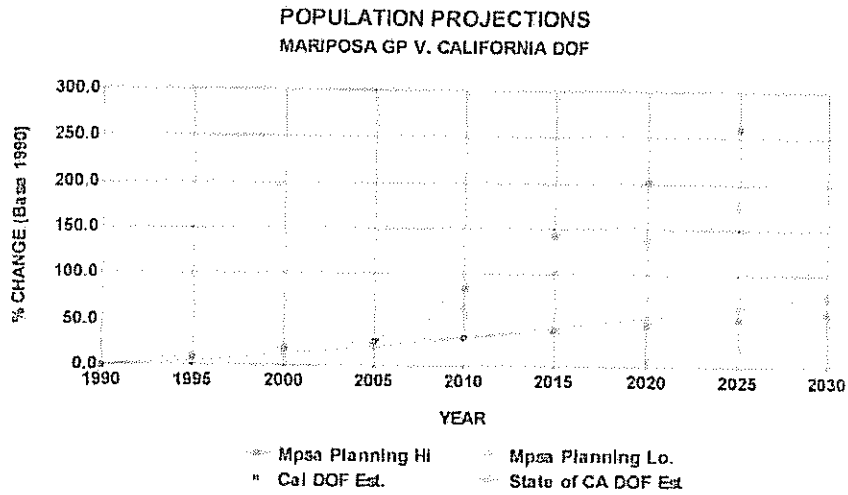


Figure 2

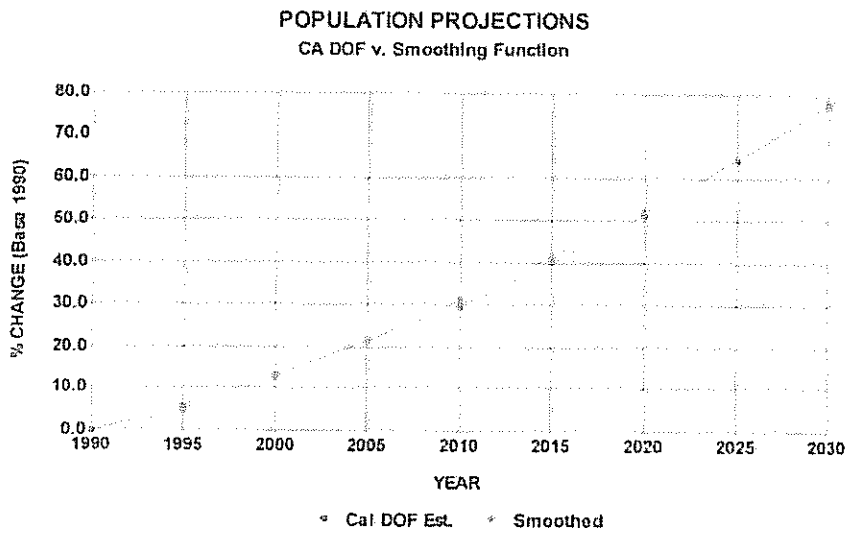


Figure 3

Figure 3 illustrates the overall state growth rate as predicted by the DOF (red) and as shown by a continuous mathematical function (green). The differences between the DOF predictions and the continuous function are less than 1.4 percentage points over the range.

At the "DEIR Hearing" on October 1, 2000, the representative from Parsons stated that the DEIR covered the range of alternatives as required by CEQA. Implicit is the concept that the document provides an adequate disclosure of environmental consequences for any alternative whose consequences lie within the range of the alternatives described in the DEIR. From this viewpoint, the DEIR is an "adequate" disclosure document. However, the alternatives described in detail present the following options: "Existing Conditions" (zero population growth -- environmentally superior alternative), "Enhanced Alternative 3" (explosive growth rate -- about 2.6 times that of the state, but environmentally superior to the alternatives other than the absurd "Existing Conditions"), "Project Alternative" (block-buster growth rate -- about 3.5 times the state growth rate, environmentally inferior to the "Enhanced Alternative 3"), "No Project" (nuclear option with severe adverse environmental impacts) -- about 5.4 times the state growth rate, grossly inferior to the previous alternatives), "Suburbanization" (thermonuclear growth rate) -- about 6.8 times the state growth rate -- the culmination of a wish-list for those expecting to aggrandize themselves at the expense of massive "rural sprawl."

The DEIR provides data on the DOF estimates for growth, which have been reasonably accurate over the last 15 years, but makes no attempt to describe an alternative whose policies, goals, implementation measures, and mitigation measures would result in a population growth rate comparable to the DOF predictions. Inasmuch as the DEIR quotes the expected growth predicted by the DOF, the failure to include a description of an alternative that results in DOF predicted growth makes the DEIR inadequate, since the public has no opportunity to comment on such an alternative and decision-makers do not have the potential for selecting this environmentally superior alternative.

The General Plan states in §8 11.05.1.1 Findings:

The County is statutorily required (Refer California Government Code section 65983) to plan to accommodate 1,620 dwelling units between January 1, 2002 and June 30, 2006—averaging 216 dwelling units per year according to the housing allocation prepared by HCD. One quarter of these dwelling units should be affordable to very low-income households, 15 percent to low-income households, 20 percent to moderate-income households, and 40 percent to above moderate-income households. This does not require the County to construct the units, but the County needs to ensure there are no barriers to preclude the units' development and occupancy. (Emphasis added.)

COMMENT: The state must have a formula that generates a numerical statutory requirement for every county. It is not clear how the figure for Mariposa County (1,620 units over a 7.5 year period) was calculated. The 216 units per year amount to a growth rate of 3.022% per year relative to the 1990 population (16,939). That implies that the population in 2025 will be 81% greater than the 1990 population.

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$$100*(216 \text{ units})*(2.37 \text{ persons/unit})/16,939 \text{ persons} = 3.022$$
$$100*(1.03022^{20} - 1) = 81.4\%$$

Given this "statutory requirement," it is difficult to comprehend how the State Department of Finance (DOF) was able to project only a 52.2% increase over the period from 1990 to 2025. Are DEIR reviewers to believe that the DOF is unaware of the "statutory requirements?"

Furthermore, the DEIR is supposed to provide decision-makers with possible alternatives. Based on the "statutory requirements," the Board of Supervisors could not legally adopt Alternative 2 (Existing Conditions). Why is this even presented as an alternative in the DEIR?

Regardless of how many units per year are constructed, the County should not issue more than 40% of the permits for "above moderate-income households." To do so represents a de facto "barrier" – by the County -- to the construction of the appropriate fraction of "very low-income, low-income, and moderate-income households." The Plan should require that the County adopt a policy that will accomplish the appropriate ratios of households, permitting no construction of more than 40% of "above-moderate-income" until the appropriate fractions of "very-low-income, low-income, and moderate-income" have been met.

Although the DEIR presents the impacts for a "Range of Alternatives," that "Range" is between the unrealistic "Existing Conditions" and the explosive, block-buster, nuclear option, and thermonuclear option. It is not unreasonable for the public to demand that the impacts be analyzed for an alternative whose growth rate will correspond to that predicted by the DOF for both Mariposa County and the State as a whole. The Mariposa County resident's "clearly stated desire to avoid that type of [sprawling] development" should be sufficient incentive for the Board of Supervisors to insist that such an alternative be developed.

2.3 AREAS OF CONTROVERSY

The areas of controversy identified during development of the General Plan include:

- a. *requirements for new subdivisions to be approved only if located on a fully-improved road, has an approved area for on-site sewage disposal systems, and has an approved water supply. Parcels to be served by wells also require a disclaimer as part of the sales documents;*
- b. *environmental protection policies regarded by some as being overly aggressive;*
- c. *policies that may require private property improvements/actions in excess of state-required minimums; and*
- d. *lack of environmental focus and the appearance of lack of environmental protection measures.*

- COMMENT: a. What are the arguments that make the requirements of item "a" controversial or unreasonable? These requirements appear to be environmentally positive. Therefore, arguments against implementation of the requirements must be environmentally adverse. Do these arguments reflect the desires of Mariposa residents, or of those who wish to advance their private agendas?
- b. What are the arguments that attempt to justify less aggressive environmental protection policies?
- c. Why should Mariposa residents not demand actions that protect the rural characteristics more than state required minimums? Will adhering to only state required minimums diminish the general quality of life in the County? Which items of quality -- that Mariposa residents have expressed a clear desire to maintain at the present quality level -- will be sacrificed? How severely will these items be diminished in quality (quantitatively)?
- d. The General Plan is a political document. As usual in politics, perceptions are more important than reality. The "appearance of lack of environmental protection measures" is fostered by the historic absence of performance by the county in enforcement of measures to protect the environment. In the past, the Board of Supervisors has "appeared" to favor those who wish for diminished environmental protection over those who desire increased protection measures.

2.4 SUMMARY OF ALTERNATIVES

The State CEQA Guidelines (Section 15126) require that an EIR describe and evaluate alternatives to the project or to the location of the project, which could eliminate significant adverse impacts of the project or reduce them to a level of insignificance. In addition to the proposed General Plan, the following alternatives are evaluated in the CEQA Considerations Section of this EIR (see Section 5.6). (Emphasis added.)

COMMENT: After stating the above, the DEIR then devotes two sentences each to Alternatives 1 (Existing Conditions) and 2 (No Project). The "summary" for "Enhanced Alternative 3" is more detailed -- finally explaining that "Alternative 3 converts the discretionary Proposed Project General Plan policies into mandatory policies resulting in enhanced environmental protection." After a two sentence discussion of Alternative 4 (Suburbanization), the summary provides the following rationale for the (Environmentally Superior Alternative." The statement above acknowledges that the Proposed General Plan is not the Environmentally Superior Alternative.

- *Environmentally Superior Alternative.* CEQA requires that an environmentally superior alternative to the Proposed Project be identified. In general, the environmentally superior alternative as defined by CEQA is supposed to minimize adverse impacts that could result from the project. The alternatives discussed above may be considered environmentally superior in some respects, but generally involve other trade-offs. Of the alternatives considered, the existing conditions alternative does not create any new impacts. Therefore, it is environmentally superior to a project that

proposes to change existing conditions. However, in accordance with the CEQA Guidelines, if the environmentally superior alternative is the "No Project" alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives that meets the project objectives; this would be the General Plan Enhanced Alternative (Alternative 3) (Emphasis added.)

COMMENT: This is confusing. The "Existing Conditions" alternative is not the "No Project Alternative." Therefore, since it is environmentally superior to the other alternatives, the CEQA requirement is satisfied by identification of Alternative 2 as the "Superior Alternative." What analysis leads to the conclusion that Alternative 3 is environmentally superior to Alternative 2? CEQA does not insist that the "Environmentally Superior" alternative be the "adopted" alternative, only that the "Environmentally Superior" be identified in the disclosure document. In fact, the proposed "Project" is not "Enhanced Alternative 3," which the document identifies as "Environmentally Superior." Thus the DEIR primarily analyzes an alternative that is environmentally inferior.

2.5.1 SIGNIFICANT UNAVOIDABLE IMPACTS

The following impacts have been identified as significant and unavoidable. Although mitigation measures are recommended where feasible to help reduce impacts, the following impacts cannot be reduced to a less than significant level.

COMMENT: The DEIR then identifies five "Significant Unavoidable Impacts" to:

- 2.5.1.1 LAND USE Impact LU-6,
- 2.5.1.2 TRAFFIC AND TRANSPORTATION Impact TT-1 and Impact TT-2,
- 2.5.1.3 PUBLIC SERVICES AND UTILITIES Impact PS-2, and
- 2.5.1.4 AIR QUALITY Impact AQ-2.

All these are consequences of "Build-out of the proposed General Plan." Although the impact of four of these allegedly could be "reduced" by incorporation of identified mitigation measures, the reduction would not be to a level of "Less Than Significant." What is not explored in the DEIR is the degree of significance – for each of these impacts -- that would accompany build-out to the population predicted by the DOF. Would these impacts still be unavoidable under such an alternative? Explain why and to what degree as compared to Alternative 3.

2.5.2 SIGNIFICANT IMPACTS

The following impacts have been identified as being significant; however, these impacts can be mitigated to a less-than-significant level with implementation of the recommended mitigation measures.

COMMENT: In addition to the above five impacts, the DEIR identifies 21 "significant impacts" that will result from "Build-out of the proposed General Plan." For each of these 21 impacts the DEIR suggests a mitigation measure that "should be added"

to the proposed plan which would reduce the impact to "Less Than Significant." For example, under 2.5.2.8 VISUAL RESOURCES Impact VR-1, the DEIR states:

Other Mitigation Measures

Proposed Mitigation Measure VR-1 should be added to the Conservation and Open Space Element of the General Plan. Mitigation Measure VR-1 would require the development of interim guidelines for non-single family development within County highway corridors to preserve scenic resources. When it is deemed appropriate by the County Board of Supervisors, the guidelines will be developed into a scenic views plan for the preservation of visual quality along the County's highways. The plan will identify what and how resources, views, and programs will be preserved, while protecting the rights of property owners. Implementation of proposed Mitigation Measure VR-1 would serve to reduce the impact to a less than significant level (Emphasis added.)

When an impact is significant and the mitigation measure is feasible, that measure must be adopted. Postponing development of the guidelines to some future date at the whim of the Board of Supervisors, is unacceptable. The inclusion of the 25 mitigation measures as "should be adopted" items in the DEIR, implies that the measures are feasible.

The purpose of an Environmental Impact Report (EIR) is to disclose to the public the consequences of the proposed action that the EIR pertains to. By stating the impacts to the 26 items above – as well as the 32 "Less Than Significant" impacts. The Draft EIR for the currently proposed General Plan, does precisely that. However, the DEIR does not provide analysis -- of the levels of significance -- for all those impacts, that would be a consequence of build-out to the population numbers predicted by the DOF.

The DEIR identifies 57 Impacts of which about 26 are found to be "significant" – 5 "unavoidable" – and 31 are "less than significant." The DEIR does not define the degree of significance or the thresholds that are used to determine "less than significant." It also fails to explore an alternative that would change almost all "significant" Impacts to "less than significant," and reduce the "less than significant" to an even lesser degree.

2.5.3.5 BIOLOGICAL RESOURCES

Impact BR-7. *Build-out of the proposed General Plan would not conflict with any habitat conservation plans.*

Plan Policies that Serve as Mitigation

Draft General Plan Implementation Measure 11-4a(1) states the Mariposa County Planning Department would review the preparation of a Mariposa County Environmental Conservation Program during the intermediate-term planning period. This Program would include development standards, conservation programs, and mitigation measures for impacts on sensitive biological resources. The draft General Plan would not conflict with the provisions in the Mariposa County Environmental Conservation Program because the Program would be developed and subsequently reviewed by the County after the adoption of the General Plan. This would result in a less than significant impact. (Emphasis added.)

COMMENT: Here again the DEIR uses the conditional “would” instead of the imperative “will.” The timing for preparation of the Conservation Program is not defined, and there is no assurance that the program will be adopted by the County. Nor is there assurance that the public will have an opportunity to review and comment on the adequacy of the proposed Program. The County’s abundant wildlife contributes extensively to the rural characteristics that residents desire to retain. Infringement on habitat always has a negative impact on the species occupying that habitat.

Why is the proposed review of a *preparation of a Mariposa County Environmental Conservation Program* confined to “sensitive species?” This assumes that Mariposa residents are not concerned with the welfare of species other than those classified as “sensitive.” This assumption is not supported by analysis. Remember the public outcry at the destruction of the beaver colony on Mariposa Creek – not a “sensitive” species.

The DEIR includes no baseline information on wildlife habitat requirements, the county areas that are needed for the various species occupying or utilizing such habitat and evades the need to disclose this information by stating it is not available. This is incorrect. There is a great deal of information available in the California Department of Fish and Game database on California Wildlife Habitat Relationships (CWHHR) and in the 1996 SNEP Report to Congress on the Status of the Sierra Nevada. Data on plant species is also available from the California Native Plant Society and at the Ceres website. The reluctance to include this information in the EIR reflects the Planner’s lack of concern for the expressed desires of the county citizens to protect the County’s natural environment.

Impact HW-3. *Build-out of the proposed General Plan could reduce groundwater quantity by taking more water, particularly from crystalline rocks, than is recharged. This is considered to be a less than significant impact as proposed plan policies would minimize impact potential.*

Plan Policies that Serve as Mitigation

Draft General Plan Policy 1 1-2c provides for the preservation of existing or potential sources of a sustainable water supply through maintaining low intensities of development in order to protect the capacity of watersheds. This Policy would designate watershed areas of surface water systems where such systems and their proposed watershed area serve or are capable of serving as a potable water source. Policy 8-5a requires that all new projects have access to basic water and wastewater infrastructure including potable water supply meeting health department requirements and access to an approved source for wastewater treatment and disposal. These policies would result in impacts that are less than significant.

COMMENT: Many current residents have suffered decreased supplies from their groundwater wells as a result of upslope developments. Requiring that “*all new projects have access to basic water*” does not insure that the utilization of this water -- by the new development -- will not negatively impact the water supply of downslope residents. Furthermore, “*protect[ing] the capacity of watersheds*” does not insure recharging of the fractured rock groundwater sources.

The statement "*These policies would result in impacts that are less than significant.*" is subjective and qualitative. What is the level of significance? How is an objective and quantitative determination of significance made?

Can the County incur responsibility for the loss of a resident's water supply, that results from granting a permit for an upslope subdivision? The County should adopt a policy that requires the use of tracer tests to identify communication between proposed groundwater wells and existing residential supply wells. This policy should be spelled out in the General Plan.

A recent publication "*Emissions pathways, climate change, and impacts on California*" -- published online before print August 16, 2004 -- in the Proceedings of the National Academy of Sciences, describes the decreases in Sierra Nevada snowpack that are anticipated as a consequence of global warming. The snowpack provides about 60 percent of the domestic, industrial, and agricultural water used in California. The snowpack also helps replenish the fractured rock groundwater supply. How does the "Project" take into account this potential for future diminution of the water supply?

Impact HW-5. Build-out of the proposed General Plan could result in placing housing within flood hazard areas. This is considered to be a less than significant impact as proposed plan policies would minimize impact potential.

Plan Policies that Serve as Mitigation

Draft General Plan Implementation Measure 16-4a and b(1) provides for adoption of a County Flood Protection Ordinance. Other policies that mitigate flood hazards include Policy 16-4a, 15-4b, and 16-5a, which provide for additional flood protection actions. A flood plain encompasses the 100-year flood hazard area. Policy 16-6a states retention of a flood plain within project design will be done in such a way as to ensure that no net change in flow occurs upstream or downstream. With no net change in upstream or downstream flow, development within a 100-year flood hazard area would not impede or redirect flood flows or expose people or structures to a significant risk; implementation of these policies would result in impacts that are less than significant.

COMMENT: Flood plains are considered riparian areas. "*The riparian areas are the most altered and impaired ecosystems of the Sierra Nevada.*" Critical finding of the 1996 Sierra Nevada Ecosystem Project (SNEP).

How will development within the 100 year flood plain avoid "*redirect[ing] flood flows?*" Development within the flood plain will also affect the biological functions of these ecosystems.

With the effects of global warming affecting the climate, there is a potential for a flood plain to be larger than what is now defined as the 100-year area. There could be unanticipated, larger flood conditions that could damage structures. Are we unable to learn anything from Katrina, Rita, and Wilma?

When will the County Flood Protection Ordinance be adopted? Will the public have an opportunity to comment on the proposed Ordinance, or will the first and second readings

be "waived" as is the customary practice of the Board of Supervisors? What assurance will the public have that the Ordinance truly provides the needed protection?

There should be no development allowed in the 100-year flood plain other than water related activities. The absence of such development contributes to the rural characteristics that Mariposa residents desire to preserve

Impact HW-6. *Build-out of the proposed General Plan could result in the exposure of people and structures to flooding hazards from dam or levee failures, or inundation by seiche or mudflow. This is considered to be a less than significant impact as proposed plan policies would minimize impact potential.*

Plan Policies that Serve as Mitigation

There are numerous dams in Mariposa County that are subject to state review and approval. Draft General Plan Policy 16-4c and Implementation Measure 16-4c(1) would control development in dam inundation areas and would amend the County Zoning Ordinance to include a dam inundation overlay district. Policies 16-7a and 16-7b provide for the reduction of risk of injury or property damage from landslides and rockfalls and for avoiding development in high-risk geologic areas, and Policy 16-12a provides for updating of the County's Emergency Management Plan. Implementation of these policies would result in impacts that are less than significant. (Emphasis added.)

COMMENT: The use of the conditional "would" provides no assurance that implementation will occur.

2.5.2.7 PUBLIC HEALTH AND SAFETY

Impact PHS-4. *Build-out of the proposed General Plan may expose people or structures to death or injury from wildland fire. This is considered a significant impact.*

Other Mitigation Measures

Proposed Mitigation Measure PHS-4 should be added to the Safety Element of the General Plan. Mitigation Measure PHS-4 would require the preparation and implementation of a countywide Wildfire Hazard Safety Plan, which would include standards for fire prevention, fuel management, and fire suppression. Implementation of proposed Mitigation Measure PHS-4 would serve to reduce the impact to a less than significant level. (Emphasis added.)

The conditionals "should" and "would" provide no assurance that such a "Wildfire Hazard Safety Plan" will be prepared and implemented in the foreseeable future. The General Plan can incorporate the provisions -- for protection of communities from wildland fire -- that are embodied in the Sierra Nevada Forest Plan Amendment of 2000.

2.5.3.8 AIR QUALITY

COMMENT: The various discussions of Impacts speak to: odors, greenhouse gases, and toxics. No mention is made of particulate matter. In rural area housing, people expect to have fireplaces or wood-burning stoves. At the proposed buildout, the emissions of smoke from these new residences could have a significant effect. Mariposa is already considered a non-attainment area for particulate pollution. The DEIR's failure to address this potential source of pollution is a portion of the document's inadequacy.

2.5.3.10 NOISE

Impact NO-1. *Build-out of the proposed General Plan will result in the generation of noise, perhaps exposing the public to high noise levels. This is considered to be a less than significant impact as proposed plan policies would minimize impact potential.*

COMMENT: Neither the DEIR nor the General Plan Update includes an analysis of the current noise levels for the various areas of the County. Especially, in the areas other than the TPAs, residents have an expectation of lower noise levels than would be acceptable in urban areas. Without such an analysis, the impacts of the proposed buildout cannot be estimated. Thus the County residents have no opportunity to comment on this potential impact. This is a significant defect in the DEIR.

COMMUNITY AREAS

The proposed community area boundaries need to be restored to the boundaries that existed before the previous Planning Director's grandiose plans to suburbanize the county. Particularly inappropriate is the expansion of the Mariposa TPA by about 19 square miles, extending from the fairgrounds to Mount Bullion.

The rationale expressed for this expansion is to permit Saxon Creek water to be extended to the airport in order to accommodate lite industry. There is presently adequate land -- within the Mariposa TPA -- to accommodate lite industry and there have not been applications to utilize this opportunity. Also -- based on communications with MID management personnel -- expansion of Saxon Creek water beyond the current boundaries of the MPUD is wishful thinking.

The concept that the airport must be expanded -- to provide service by commercial jets -- is totally at odds with the preservation of the "rural character" of Mariposa County. The expansion of the TPA boundary is exactly the sprawling development pattern that Mariposa residents have "clearly stated" a desire to avoid and that the GPU states it intends to avoid.

ENERGY

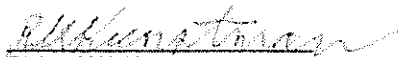
COMMENT: The DEIR addresses the problem of declining energy resources only cursorily in the context of Air Quality and “encouraging” energy conservation. There is no assurance that the “encouragee” will respond positively to the conservation blandishments. A more aggressive posture is needed. The County should require all new permitted residences and commercial buildings to be constructed with solar collection equipment.

CONCLUDING REMARKS

The preceding comments only address a portion of the Policies, Mitigation Measures, and Implementation statements. In general, too many of these are left to future development, with no defined timelines or assurances that they will be adopted. The use of “Should” rather than “Shall” makes the development of a Mitigation Measure or adoption of a Policy optional. Furthermore – because of a lack of quantitative support information -- there is no assurance that a Mitigation Measure will indeed mitigate the expected impact. Additionally, the postponement of development of such Policies, Mitigation Measures, and Implementations to some uncertain future time, denies the public its opportunity to review and critique the feature. These items should be quantitatively described and suggested ordinances should be adopted before a General Plan -- that relies for its enforcement on these items and ordinances -- is adopted.

The deplorable paucity of wildlife protective measures – in the DEIR – reflects a contempt for the general public’s concerns for protection of the County’s wild populations. The proposal to reduce minimum parcel sizes from 160 acres to 40 acres (and the accompanying increases in road densities) will lead to fragmentation of habitat. When this proposal is applied to inholdings on the national forests, and BLM lands there is an additional concern for exposure of privately-owned structures to the effects of wildland fire (including an increased likelihood for ignition sources). Although the federal agencies have no legal obligation to provide protection to private property during a wildfire event, the reality is that resources will be diverted from protection of the forest itself, to protection of these private structures. Both to avoid wildlife habitat fragmentation and to reduce the wildfire hazard, the minimum parcel size of 160 acres must be retained.

Respectfully,



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