

# Los Banos Bypass



**Final  
Environmental Impact Statement/  
Environmental Impact Report  
and Section 4(f) Evaluation**

**Volume II - Comments and Responses**

State Route 152 in Merced County beginning near Volta Road west of Los Banos, bypassing Los Banos, and ending near the Santa Fe Grade Road

10-MER-152-KP 25.8/39.9 (PM 16.0/24.8)

10-419100

**June 2007**





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## **Introduction to Response to Comments**

Volume II addresses the comments received on the Draft Environmental Impact Statement/Environmental Impact Report for the Los Banos Bypass Project. The Draft Environmental Impact Statement/Environmental Impact Report was distributed for public review and comment between March 8, 2005 and May 6, 2005. A Public Hearing was held on April 7, 2005 to further solicit public comment on the document. This appendix presents all the written comments received on the Draft Environmental Impact Statement/Environmental Impact Report and responses to those comments.

Most of the comments received on the Draft Environmental Impact Statement/Environmental Impact Report fell into the following categories:

- ◆ Alternative Alignments
- ◆ Farmland Conversion
- ◆ Growth Inducement
- ◆ Wildlife and Wetland Impacts and Mitigation

### **Project Overview**

The purpose of this project is to:

- ◆ Relieve congestion in the Los Banos community by reducing the amount of interregional, recreational, and commuter traffic that travels through the center of Los Banos.
- ◆ Improve the route continuity of State Route 152 within Merced County.
- ◆ Improve safe operation of State Route 152.

Three build alternatives (1M, 2M, and 3M) and a No-Build Alternative were studied and considered for the project. Alternatives 1M and 2M are located south of Los Banos and Alternative 3M is located north of Los Banos. Interchanges for each alternative would begin west of Los Banos, include an interchange at State Route 165, and end with an interchange just west of Santa Fe Grade Road.

A full range of environmental studies was conducted to analyze potential environmental impacts of each alternative.

### **Volume II Organization**

Volume II is organized according to the parties commenting on the Draft Environmental Impact Statement/Environmental Impact Report as follows:

- ◆ Section 1.0 Federal Agencies

- ◆ Section 2.0 State Agencies
- ◆ Section 3.0 Local and Regional Agencies
- ◆ Section 4.0 Organizations
- ◆ Section 5.0 Individuals
- ◆ Section 6.0 Petition
- ◆ Section 7.0 Comment Cards from Public Hearing
- ◆ Section 8.0 Map and/or Information Only Requests
- ◆ Section 9.0 Transcript from Public Hearing
- ◆ Section 10.0 Additional Materials

Responses are provided immediately following the comment from each party, except for comment cards and the transcript from the public hearing. Those comments follow the copies of comment cards and transcript, with responses to each individual listed separately. Additional materials sent with comment letters by the California Department of Fish and Game and the Grassland Water District/Grassland Resource Conservation District are located at the back of Volume II in Section 10.0.

Several approaches have been used to respond to comments. Some comments were statements of information or opinion; these comments have been acknowledged for the public record. Other comments asked for additional information or for clarification of information in the Draft Environmental Impact Statement/Environmental Impact Report. Where appropriate, the responses to these comments are provided in this appendix. Where the response is presented in the text of the Final Environmental Impact Statement/Environmental Impact Report, reference is made to the text section in response to the comment. Some comments received during the public review period addressed similar issues. Where the response to one comment is identical or very similar to the response to another comment, reference may be made to the other response. Individual responses are provided for all letters received from interested agencies, organizations, businesses, and the public.

## **SECTION 1.0 FEDERAL AGENCIES**





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

May 6, 2005

Maiser Khaled, Director  
Project Development and Environmental  
Federal Highway Administration  
650 Capitol Mall, Suite 4-100  
Sacramento, CA 95814

Subject: Draft Environmental Impact Statement/Environmental Impact Report for the State  
Route 152 Los Banos Bypass, Merced County, California (CEQ #050089)

Dear Mr. Khaled:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) and Section 309 of the Clean Air Act. Our detailed comments are enclosed.

Through our review, EPA has identified specific concerns that include: (1) impacts to waters of the U.S.; (2) scope of action; (3) growth inducement; (4) cumulative impacts; and (5) air quality. In particular, we are concerned about potential direct and indirect impacts to the Gadwall Wildlife Area and associated wetlands. While the Los Banos Bypass will divert interregional traffic around Los Banos, the Bypass alone is not expected to solve congestion problems in central Los Banos on the existing State Route (SR) 152. We also are concerned about the potential for growth inducement impacts due to new freeway access at SR 165. For these reasons, we have rated the Draft Environmental Impact Statement (DEIS) as Environmental Concerns-Insufficient Information (EC-2). Please see the enclosed Summary of EPA Rating Definitions.

The DEIS includes two build alternatives that run south of SR 152 (Alternatives 1M and 2M) and one build alternative that runs north of SR 152 (Alternative 3M). Of these alternatives, it appears that Alternative 3M would have the fewest direct and indirect impacts to environmental resources, and would be the "Least Environmentally Damaging Practicable Alternative" (40 CFR Part 230.10 (a)). Therefore, EPA recommends that the Federal Highway Administration select Alternative 3M as the preferred alternative for this project.

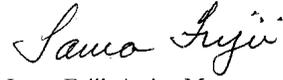
We appreciate the opportunity to review this DEIS. When the Final EIS is released for public review, please send two copies to the address above (mail code: CED-2). If you have any questions, please contact me or Nancy Levin, the lead reviewer for this project. Nancy can be reached at 415-972-3848 or levin.nancy@epa.gov.

*Printed on Recycled Paper*

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Sincerely,



Laura Fujii, Acting Manager  
Environmental Review Office

Enclosures:  
Summary of EPA Rating Definitions  
EPA's Detailed Comments

cc:  
Vickie Traxler, Caltrans District 10  
Sacramento District Regulatory Office, U.S. Army Corps of Engineers  
Sacramento Office, U.S. Fish and Wildlife Service

EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE  
STATE ROUTE 152 LOS BANOS BYPASS PROJECT, MAY 6, 2005

Waters of the U.S

Least Environmentally Damaging Practicable Alternative (LEDPA)

Pursuant to the Clean Water Act (CWA) Section 404(b)(1) Guidelines, a Section 404 permit can only be granted for the “Least Environmentally Damaging Practicable Alternative” (LEDPA). Based on the information in the Draft Environmental Impact Statement (DEIS), it appears that Alternative 3M is the LEDPA.

Alternatives 1M and 2M include a retaining wall (2,900 feet long) and frontage roads that will adversely affect up to 2.9 acres of wetlands (Figure 3-11). In addition, the retaining wall and frontage roads could modify the hydrologic regime, lead to erosion of banks, and increase sedimentation in the wetland. Construction and long-term maintenance activities could have additional impacts to the wetland, such as polluted runoff and introduction of non-native species. Alternative 3M does not include a retaining wall and has no permanent impacts to waters of the U.S. It appears to have the fewest direct and indirect impacts to aquatic resources.

The Gadwall Wildlife Area (GWA), a 1,500 acre state-owned refuge, contains valuable biological resources, including: wetlands, riparian corridors, shrublands, and grasslands that provide habitat for various species of birds, mammals, reptiles, amphibians, and fish. It is part of a regional network of federal and state wildlife refuges, including the 7,000 acre Northern Grasslands Wildlife Area. The GWA is located in the Pacific Flyway for migrating birds. Alternatives 1M and 2M would convert up to 59 acres of the GWA to freeway use, and could have adverse noise impacts to wildlife. Alternative 3M would not require acquisition of the GWA property.

The three build alternatives appear to have relatively comparable impacts to other sensitive environmental resources. Alternative 3M has greater impacts to farmland and associated special species habitat than Alternatives 1M and 2M due to its greater length. However, it appears that Alternative 3M is the LEDPA because it is the only build alternative that avoids permanent impacts to wetlands and the Gadwall Wildlife Area. EPA recommends that the Federal Highway Administration (FHWA) select Alternative 3M as the preferred alternative.

Recommendation:

Select Alternative 3M as the preferred alternative for this project, thereby avoiding permanent impacts to wetlands and 59 acres of impacts to the Gadwall Wildlife Area.

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Indirect Impacts

The DEIS states that project construction may cause indirect impacts to waters of the U.S. along each of the alternatives, however it does not account for these impacts in Table S.1 Summary of Potential Impacts from Alternatives.

The DEIS states that no additional indirect impacts will result from the project “if environmentally friendly structures are incorporated into the project description.” However, the DEIS does not describe the types of structures that will be used, nor does it commit to their use. Further, even environmentally friendly structures can have short and long term indirect effects, such as modification of hydrology, changes in sediment transport, impact to wildlife movement through an area, and changes in habitat type (e.g. plant assemblage) as a result of changes in hydrology.

The DEIS states that the project could adversely affect the hydrology of the water delivery system for the wetlands in the Gadwall Wildlife Area, but does not quantify or estimate these impacts. It states that planning and coordination will be required to maintain water delivery to the Gadwall Wildlife Area but does not discuss how or with what agencies this will be implemented.

Recommendations:

The Final EIS (FEIS) should include a quantitative assessment of the indirect impacts of the project before mitigation in Table S.1 Summary of Potential Impacts from Alternatives. Specifically include indirect impacts to the Gadwall Wildlife Area and the associated wetlands. Other indirect impacts include changes in hydrology, habitat type and wildlife movement.

The FEIS should discuss the specific features of “environmentally-friendly” structures listed in DEIS (e.g. large culvert, spans, retaining walls) that will avoid and minimize impacts to hydrology and allow for wildlife movement. If a retaining wall is required, it should be designed to ensure the smallest possible footprint. The FEIS should demonstrate how these measures will mitigate potential indirect impacts, including a discussion of implementation success rates. FHWA should commit to the use of these structures in the FEIS and Record of Decision (ROD), and include commitments for monitoring and maintenance.

The FEIS should describe the type of planning and coordination that will be used to maintain water supplies and drainage to the Gadwall Wildlife Area.

The FEIS and ROD should include a commitment to specific avoidance and mitigation measures for indirect impacts to wetlands, including changes in the hydrologic regime, erosion, sedimentation, pollution and introduction of non-native species.

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Bridge structures

The construction of the bridges over Los Banos Creek, San Luis Canal, and Main Canal could result in at least 0.5 acres of temporary impacts to waters of the U.S. and riparian vegetation. It could also result in indirect impacts, such as altering the creek bed, bank, channel and hydrology.

Recommendations:

Design the structures so that the hydrology of the creek and canals would not be altered

Avoid or minimize impacts during construction by spanning the waters, locating construction activities and staging areas out of waters, and minimizing footprint in the creek. Include measures in the FEIS to avoid and minimize impacts from construction activities to the creek bed, bank, channel and hydrology.

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Scope of Action

One of the major project needs identified in the DEIS is to relieve congestion in central Los Banos (Section 1.2.1). Currently, SR 152 operates at Level of Service (LOS) F in the center of Los Banos (p.8). Travel demand is expected to increase two to threefold by 2033. Although the proposed Bypass will divert much interregional traffic around central Los Banos, some interregional traffic must continue to use the existing 152/SR 165 intersection in central Los Banos to travel between SR 152 and SR 165.

Even after the proposed Bypass goes into operation, central Los Banos is expected to experience congestion and poor levels of service (p.7). Table 3.20 shows that the central Los Banos intersections will experience Level of Service (LOS) F conditions in 2013 and will remain LOS F through 2033 (design year) both with and without the Bypass. The DEIS does not specify the extent to which the proposed Bypass will meet the project need of relieving congestion in central Los Banos. It does not discuss additional actions that will be needed to address the congestion problem in central Los Banos that will exist even when the Bypass is in operation.

Recommendations:

Describe in quantitative terms the amount of congestion reduction expected in central Los Banos as a result of the Bypass.

Describe the other actions that will be necessary to relieve congestion in central Los Banos. Specifically, discuss the extent to which the planned Roadway Rehabilitation project for State Route 165 and the Access Management Study along existing SR 152 and SR 165 will relieve congestion in central Los Banos.

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Growth Inducement

The DEIS states that the project is not expected to induce growth to areas that have not already been planned for growth. It states that the bypass can act as a barrier to growth, and references the 1999 Los Banos General Plan policies that discourage – though do not prohibit – development beyond Urban Limit lines (Appendix H). However, the proposed Bypass will create new freeway access to farmland and undeveloped areas at and beyond the Urban Limit lines (Community Impact Assessment p. 2-57). New freeway access in growing areas such as Los Banos can increase the location, rate, and pattern of growth on the outskirts of the city.<sup>1</sup> In the absence of specific protections, General Plan policies are not necessarily sufficient to constrain growth to areas within the bypass. Induced growth, particularly at new interchanges, can have adverse impacts to farmland and environmental resources, and should be analyzed in the FEIS.

Recommendations:

Describe how the project, particularly with new freeway access at SR 165, could affect the rate, location and pattern of growth in the area.

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Analyze and disclose the potential impacts of this growth on resources of concern, including farmland, threatened and endangered species and their habitat, and waters of the U.S.

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Explain how and when specific protections will be implemented to prevent growth-inducement impacts to resources outside the Bypass. Discuss the role and status of conservation plans in providing protection to resources that may be otherwise affected by growth-inducing impacts of the project.

14

Provide avoidance, minimization, and mitigation measures for any growth-inducing impacts.

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Cumulative Impacts

We commend FHWA for including a discussion of the “Urban Growth Method” model of cumulative impacts as well as the “Traditional Method.” We suggest that the FEIS include or reference the Merced County Association of Governments (MCAG) maps or data showing the Environmentally Sensitive Areas of Merced County.

We commend FHWA for designating cumulative impacts study areas (CISA) for each resource addressed (Section 4.2.1.1). We suggest that the wildlife habitat CISA, which is based on a uniform distance from the alignment, should also reflect wildlife corridors or wildlife

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<sup>1</sup>National Cooperative Highway Research Program Report 466: Desk Reference for Estimating the Indirect Effects of Proposed Transportation Projects, 2002.

movement areas. The Cumulative Impacts section (pp 203-211) of the DEIS addresses cumulative impacts to farmland, Garter Snake habitat, and foraging habitat for a variety of species. It is not clear why the cumulative impacts to jurisdictional waters of the U.S., including wetlands, are not addressed. The DEIS lists farmland and habitat loss associated with local development projects (Table 4.1), but does not disclose potential environmental impacts from other Caltrans transportation projects (Section 4.2.1.2-3).

Recommendations:

Analyze and disclose cumulative impacts for each resource as appropriate, including jurisdictional waters of the U.S. Identify cumulative impacts to wildlife corridors, as appropriate.

Include the environmental impacts of other Caltrans transportation projects (Section 4.2.1.2) in the cumulative impacts analysis.

Include or reference the MCAG Environmentally Sensitive Areas maps or data for Merced County.

Air Quality

The project is located in the San Joaquin Valley Air Basin, which is designated non-attainment under the Clean Air Act for particulate matter less than 10 microns in diameter (PM 10), PM 2.5, and Ozone. This project may have air quality impacts during construction from diesel equipment and earth movement. Diesel emissions are a source of PM 2.5. Given the well known and adverse health effects for PM 2.5 and diesel exhaust exposure, EPA urges project proponents to reduce diesel construction emissions to the greatest extent possible. The FEIS should include a fugitive dust control plan.

Recommendations:

Disclose any projected exceedences of federal air quality standards, even if temporary;

Specify the duration and concentration of air emissions by pollutant and location for each phase of project construction;

Identify sensitive receptors in the project area, such as children, elderly, infirm, and athletes, and minimize impacts to these populations;

Include mitigation measures that detail how diesel emissions will be minimized for each phase of project construction. For example, require contractors to keep the equipment fine-tuned or use alternative fueled vehicles; and

Include a fugitive dust control plan.

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## SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

### ENVIRONMENTAL IMPACT OF THE ACTION

#### *"LO" (Lack of Objections)*

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

#### *"EC" (Environmental Concerns)*

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

#### *"EO" (Environmental Objections)*

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

#### *"EU" (Environmentally Unsatisfactory)*

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

### ADEQUACY OF THE IMPACT STATEMENT

#### *Category 1" (Adequate)*

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

#### *"Category 2" (Insufficient Information)*

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

#### *"Category 3" (Inadequate)*

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

## U.S. ENVIRONMENTAL PROTECTION AGENCY

1. Rating of Environmental Concerns-Insufficient Information for the Draft Environmental Impact Statement/Environmental Impact Report is so noted.
2. It is noted that Alternative 3M is the Preferred Alternative because it would have the fewest direct and indirect impacts to environmental resources.
3. Alternative 3M is the Preferred Alternative. This alternative would avoid direct or indirect impacts to the Gadwall Wildlife Area and all wetlands. Please see Section 2.2.8 of the Final Environmental Impact Statement/Environmental Impact Report.
4. The draft environmental document contained statements such as “potential for indirect and adverse effects to the Gadwall Unit” because the document analyzed three build alternatives with varying degrees of impacts. However, the Preferred Alternative, Alternative 3M, has no direct or indirect impacts to the Gadwall Wildlife Area as discussed in the letter. The existing State Route 152 runs adjacent to the north end of the Gadwall Wildlife Area. Alternative 3M would move the roadway away from the Gadwall Wildlife Area slightly.

There would be no changes made to existing hydrology. Structures would be designed to maintain water flow of the canals. Alternative 3M would avoid the Gadwall Wildlife Area.

The Biological Study Area (see the Natural Environmental Study) covered the area within an 8-kilometer (5-mile) radius of each of the proposed alternatives, including the potential impact area. Environmental studies included agency consultation through a variety of formal and informal methods and efforts were made to fully identify, address, and resolve project-related issues through early and continuing coordination with agencies and the public. Chapter 6 identifies these efforts, including coordination with the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, the California Department of Fish and Game, and the Grassland Water District. In general, while mitigation is proposed in the draft environmental document, specific mitigation actions for state or federally protected species and sensitive habitats are determined during formal consultation with U.S. Fish and Wildlife Service, and in consultation with other regulatory agencies (e.g., Army Corps of Engineers, California Department of Fish and Game, California Regional Water Quality Control Board, etc.) as appropriate. These specific mitigation actions are discussed in the final environmental document (Section 3.19.4).

Summary Table S.1 is only a brief summary of anticipated impacts from the project and did not include potential indirect impacts. Section 3.16.3 identified only one

potential indirect effect for Alternatives 1M and 2M. This would be a possible change in hydrology if it were necessary to relocate an irrigation/drainage canal on the east end of the project. Alternative 3M avoids relocating the canal.

5. For any of the studied alternatives, current design plans call for a bridge that spans Los Banos Creek without structural supports in the creek bed (see Sections 3.5.2 and 3.16.3). This type of design would maintain the flow of the creek and allow for wildlife to cross under the bridge along the creek. The Arroyo Canal (located east of the Santa Fe Canal) and San Luis Canal would both be spanned by structures that would maintain the flow of the canals and allow for movement of species. The Santa Fe Canal is currently contained within a pipe or small box culvert under the existing State Route 152. The project would extend the type of structure that currently exists. Main Canal would be crossed with a bridge structure that would span the canal and maintenance roads.

No migration corridors for San Joaquin kit fox or other species were identified for the Los Banos area in the Final Environmental Impact Report for Merced County's 2004 Regional Transportation Plan. The U.S. Fish and Wildlife Service furnished guidance and cooperated with Merced County to identify habitat corridors and linkages throughout Merced County for the transportation plan. The U.S. Fish and Wildlife Service determined for the project that the giant garter snake has the potential to inhabit portions of the canals and irrigation ditches associated with the project area (see Section 3.19). Approximately 6.6 hectares (16.2 acres) of suitable habitat were found within Los Banos Creek and the three canals associated with the project. Alternatives 1M and 2M would have affected approximately 0.9 to 1.3 hectares (2.3 to 3.1 acres) of the habitat; however, Alternative 3M would remove only 0.1 hectare (0.2 acre) of habitat and this small loss would be mitigated. In addition, the project does not directly or indirectly impact the Grassland Ecological Area to the north and east of the project area where state and federal refuges and protected wetlands are located. Monitoring and history of success would not be needed because there would be no impacts, or, in the case of the giant garter snake, a very small impact.

The Central California Irrigation District and the San Luis Water District would be involved in making decisions for the irrigation canal structures (see Section 3.5). Alternative 3M would avoid use of a retaining wall and impacts to wetlands.

6. The Preferred Alternative 3M avoids the Gadwall Wildlife Area. The Los Banos Bypass Project would also not alter water supplies and drainage to the Gadwall Wildlife Area. The main water supply for the Gadwall Wildlife Area is the Gadwall Canal and it would be unaffected by the project. The San Luis and Santa Fe canals

(see response #5 above) and the Mud Slough Canal system also supply water to different portions of the Gadwall Wildlife Area at various times of the year. The project would maintain cross drainage in the area. Highway run-off would be directed into the interior basins of the proposed interchange within the state right-of-way. Thus Alternative 3M would not have any drainage impacts to the Gadwall Wildlife Area or to the Santa Fe Canal. Highway run-off east of Santa Fe Canal is proposed to stay within the roadside ditches inside the state right-of-way. If one of the southern alternatives had been recommended as the preferred alternative, further consultation with the California Department of Fish and Game, U.S. Fish and Wildlife Service, and the U.S. Corps of Engineers would have quantified direct and indirect biological impacts and appropriate mitigation.

7. Commitment to specific avoidance and mitigation measures for indirect impacts to wetlands are not required because there would be no impacts to wetlands from the Preferred Alternative 3M.
8. Please see response #5 above.
9. A Section 1602, Streambed Alteration Agreement from the California Department of Fish and Game would be required for the project. During the permitting phase, Caltrans biologists would propose site specific or onsite mitigation for the impact to the bed, bank, and channel of Los Banos Creek and submit it to the California Department of Fish and Game for approval. Current design plans call for a bridge that spans the Los Banos Creek without structural supports in the creek bed to reduce impacts to the creek bed, channel, and hydrology.
10. The average daily traffic for State Route 152 is projected to be approximately 53,000 vehicles (average for segments shown on Table 1.2 in environmental document) by 2033 if the bypass is not built. The Traffic Study estimated that State Route 152 within Los Banos may average approximately 45,000 in average daily traffic by 2033 if Alternative 3M is built, a difference of about 8,000 vehicles less per day. The Level of Service F is anticipated in 2033 whether the bypass is built or not; however, congestion would be worse without the bypass. Delays along the roadway segments were estimated by comparing free-flow travel speed with calculated travel speeds under congested conditions (see Section 3.6.3). Assuming a delay cost to motorists for \$0.14 per minute for automobiles and \$0.46 per minute for a truck, the project would result in a delay savings of approximately \$83 million over a 20-year period. Section 3.6.3 presents Tables 3.22 and 3.23 that show the estimated number of accidents with and without the bypass. Based on cost of accident statistics, the No-Build Alternative may result in accident costs of approximately \$435 million over 20

years. It is anticipated that the bypass would reduce accidents by approximately 30 percent for a savings of about \$130 million over 20 years. While the bypass would allow through traffic to avoid passing through central Los Banos, city growth will continue to add vehicles to the roadway. The City population is projected to double by 2030.

11. The planned roadway rehabilitation project for State Route 165 is not anticipated to relieve congestion for central Los Banos. The purpose is to bring the roadway and bridges up to current standards and good working order. The purpose of the Access Management Plan was to identify areas of State Routes 152 and 165, which due to development pressure, are in need of an increased level of access control to preserve capacity and functional integrity. Six prioritized segments were identified. Operation improvements for State Routes 152 and 165 within Los Banos to facilitate movement of local and interregional traffic through the city were evaluated. The plan suggested non-capacity increasing improvements for the existing corridors. Recommendations included raised medians for segments of State Routes 152 and 165, 11 traffic signals (five for State Route 152 and six for State Route 165), and use of right in/right out access at eight locations (five for State Route 152 and three for State Route 165). Current projects in progress or completed include installation of a signal at the intersections of H & I Street with State Route 152 and installation of flashing signals on State Route 165 at the intersection of Scripps Drive and Overland Avenue.
12. Environmental studies did not support the assumption that the project would induce growth. The analysis in the Draft Environmental Impact Statement/Environmental Impact Report is supported by three different growth-inducement methodologies: a quantitative land use model, a quantitative time travel mode, and a traditional checklist approach. The results from each methodology were consistent. An expert panel of local land use planners also validated the results.

While existing surface roads are located in the vicinity of the bypass, the bypass will be a controlled access facility. There would be no access to and from the bypass from local roads, only access from the three interchanges. Frontage roads are planned for the east and west interchanges to provide access to private properties that would otherwise become land locked. The frontage road on the east would allow the California Department of Fish and Game to continue movement of equipment along the Santa Fe Grade Road between their properties. No frontage roads are planned at the State Route 152/165 interchange, thus avoiding additional access.

The City of Los Banos has held a long-standing General Plan policy of using roads and canals as boundaries for urban growth and buffers between developed areas and

sensitive ecological resources. The City of Los Banos is currently updating the General Plan for the City. One of the planning principles guiding development of the draft General Plan update concept is compact growth with strong urban “edges” that would protect adjacent agricultural land, particularly on the north and east sides of the city. Furthermore, the plan concept also recognizes the Grassland Ecological Area (located north and east of the city) as an important resource that needs protection from urban development. The draft General Plan update would continue to keep the area between the San Luis Canal and the Santa Fe Canal as an agricultural buffer (where development is not allowed) and proposes to create an agricultural buffer north of the State Route 152/165 interchange up to Henry Miller Road and west to Los Banos Creek. Caltrans would support the creation and maintenance of the agricultural buffer, through easements and/or deed restrictions on the north side of the bypass from the eastern interchange to the Los Banos Creek. Alternative 3M is part of the draft General Plan update. Major growth is being directed south and west while using the proposed freeway itself as a limit line (no growth allowed north or east of that line).

The comment references the National Cooperative Highway Research Program Report 466 and states “new freeway access in growing areas such as Los Banos can increase the location, rate, and pattern of growth on the outskirts of the city.” In Los Banos, however, market forces, development trends, and future land use plans are directing growth to the southwest. It is not anticipated that the bypass project would “increase the location, rate, and pattern of growth” near a State Route 152/165 interchange except for limited commercial development as described in Section 3.4.1.3. Any commercial development would be on the city side of the bypass in an area already committed to urban land use. Other factors that influence growth at rural intersections include frontage roads, traffic volume on the intersecting road, and the availability of water, sewer, and other infrastructure, according to the National Cooperative Highway Research Program Report 466 issued by the National Research Council. While there is a greater potential for intensive development in the presence of frontage roads, no frontage roads are planned for this interchange. The area that would be served by the State Route 152/165 interchange is already served by State Route 165 and a local road, Henry Miller Road, that lies slightly north of the planned interchange area. Because no additional frontage roads are planned for this area, the bypass would not provide additional access. Typically, higher traffic volumes correspond to a higher probability of development. Traffic volumes on State Route 165, the intersecting road, are relatively low in the area where the interchange would be located, as are levels north of the interchange area. On State Route 165, traffic

levels are only about one-half of State Route 152 levels at a midpoint between existing State Route 152 and Henry Miller Road. North of the interchange area, traffic levels are about one-fourth of those within the city. Infrastructure within the area of the bypass is currently limited. While residences in the area do have power services, they rely on septic tanks and well water. The bypass would be primarily located in an area where city water and sewer are not located and/or planned. Local roads are few and widely spaced. The bypass would only connect to State Route 165 in this area. No frontage roads are planned and local road access would remain unchanged.

In addition, the National Cooperative Highway Research Program Report 466 stated that city general plans could be considered effective land use planning control. The report also stated that the “First Circuit has noted that an environmental impact would be ‘too speculative’ for inclusion in an EIS if it can not be described at the time the EIS is drafted with sufficient specificity to make its consideration useful to a reasonable decision.” There are currently no development plans for the area north of the interchange, an area the City plans to include in the updated General Plan as an agricultural buffer where no development would be allowed. In the California Department of Fish and Game comment letter (May 6, 2005) for this project, that agency declared, “Growth to the north and east of Los Banos is basically limited by existing wetlands areas including the State wildlife areas and the Grassland Resource Conservation District. Generally, growth north of Henry Miller Road and east of State Route 165 will be limited, or non-existent, due to these protected areas.”

13. Overall, growth inducement is not anticipated (see Section 3.2). The growth-inducing potential for the project was evaluated using information from the Final Environmental Impact Report for Merced County’s 2004 Regional Transportation Plan that included the Los Banos Bypass. This report used a transportation model to 1) estimate facility-specific roadway traffic volumes and 2) study travel time savings. Also used were the Merced County Association of Governments’ countywide urban growth model, UPlan, and a Caltrans Growth-Inducement Checklist completed with assistance from the Los Banos Planning Department. Coordination and information sources for the urban growth model included representatives of the Merced County Association of Governments, Caltrans, the Federal Highway Administration, and the Environmental Protection Agency. In addition, “representatives from the public, the U.S. Fish and Wildlife Service, the U.S. National Marine Fisheries Service, the California Department of Fish and Game, and the U.S. Army Corps of Engineers provided guidance on ways to improve planning, protect resources, evaluate cumulative impacts, integrate public input, and streamline the approval of future

transportation projects” (Chapter 3, Final Environmental Impact Report for Merced County’s 2004 Regional Transportation Plan).

Using general plans from Merced County and cities within the county, the UPlan model predicted where growth would occur. The predictions for five Regional Transportation Plan scenarios, which included the bypass project, were analyzed and acreage was calculated for each potentially affected resource as compared to anticipated growth without the Regional Transportation Plan. The study identified 176,796 hectares (436,868 acres) of habitat corridors (connectivity) within Merced County.

No habitat corridors are found within or adjacent to the Los Banos Bypass Project area and thus no habitat corridor acres would be affected by Alternative 3M of the project. Approximately 4,549 hectares (11,240 acres) of wetlands are found within Merced County. Again, Alternative 3M would not affect wetlands. The UPlan urban growth model also demonstrated that cumulatively, fewer acres of farmland would be converted by planned growth versus unplanned growth.

Conservation easements and biological mitigation would be used to help further protect sensitive areas from development or change of use from agriculture. Please also see response #12 above. Please see Sections 3.3.4 and 3.19.4 (under San Joaquin Kit Fox) that discuss how buffers and easements would be used.

14. Please see response #12 above. It is not expected that the project would have growth-inducing impacts to the area outside of the bypass. Caltrans met with representatives from U.S. Fish and Wildlife Service, California Department of Fish and Game, and the Los Banos Planning Department to discuss areas that would provide a buffer between urban development and sensitive areas east of the city. Please see Sections 3.3.4 and 3.19.4 (under San Joaquin Kit Fox) that describe how biological and farmland mitigation would target these areas.
15. Please see response #13 above.
16. The resources that warranted a cumulative impact analysis were farmland and foraging habitat for special-status species (Section 4.1). Jurisdictional Waters of the U.S. identified within the project area were Los Banos Creek and the wetlands as identified in Sections 3.16. Alternatives 1M and 2M would have affected Wetland 2; however, there were no other (past, present, or future) known projects in the area that would have also contributed to an impact on this resource. Any of the alternatives would have a temporary impact to the Los Banos Creek (see response #5 about design), but there were no other (past, present, or future) known projects in the area

that would have also contributed to an impact on this resource. Thus it was not warranted to include jurisdictional Waters of the U.S. in the cumulative impact analysis.

There were no identified wildlife corridors present within the project study area, only foraging habitat. With guidance and cooperation from the U.S Fish and Wildlife Service, Merced County Association of Governments identified habitat corridors and linkages for the Final Environmental Impact Report for Merced County's 2004 Regional Transportation Plan. Natural north-south animal migration corridors were found along the east and west portions of Merced County and coordination also identified proposed east-west habitat linkages that would connect suitable habitat on the east and west side of the county. None were located in or near the bypass study area.

17. Caltrans transportation projects listed in Section 4.2.1.2 are identified as repair and rehabilitation type projects. These projects provide operational improvements for traffic flow. The types of projects listed do not produce a measurable change in travel demand or travel pattern, nor do they stimulate local or interregional land development. Individually and cumulatively, these types of projects do not have a major environmental effect due to minimal or no economic, social, or environmental impacts. Thus, it was determined that it was not warranted to include these Caltrans projects in the cumulative impacts analysis. In addition, all of the projects in the Merced County Regional Transportation Plan, including the Los Banos Bypass and other Caltrans projects, were included in a cumulative impact analysis. Results from the Plan's cumulative impact analysis at this level showed a net positive impact on farmland, vernal pools, habitat connectivity, and essentially the same impact on wetlands as compared to the No-Action Alternative (Chapter 16, The Final Environmental Impact Report for Merced County's 2004 Regional Transportation Plan).
18. The Final Environmental Impact Report for Merced County's 2004 Regional Transportation Plan has been referenced in Section 3.19.2 concerning information and mapping for habitat corridors and linkages.
19. Section 3.13.3 noted that the project would not create a new violation or worsen an existing violation of federal or state standards for carbon monoxide and PM<sub>10</sub>. Section 3.13.4 includes general information on temporary air quality impacts from construction and mitigation measures. All contractors would be required to comply with Caltrans special provisions, including implementation of a fugitive dust control plan, per the San Joaquin Valley Unified Air Pollution Control District's

requirements. In addition, contractors are required to comply with the San Joaquin Valley Unified Air Pollution Control District's rules, ordinances, and regulations, as well as other local, state, and federal regulations.

20. Potential temporary exceedances of federal air quality standards during construction are addressed by the federal, state, and local rules, regulations, ordinances, and construction contract provisions detailed in response #19 above.
21. Caltrans recognizes that there may be a number of sensitive receptors associated with Preferred Alternative 3M, such as children, elderly residents, infirm individuals, and athletes, similar to the California population at large. Please see the mitigation outlined in response #19 above and Section 3.13.4 of the Final Environmental Impact Statement/Environmental Impact Report. Because the project area is primarily located in a rural area, there are no schools or hospitals within the vicinity of the planned bypass. The planned roadway would cross the northwest corner of the Merced Community College that is currently under construction; however, the main part of the campus will be located in the southeast portion of the property.
22. Currently, there are no laws or regulations that would permit the Federal Highway Administration to mandate alternative fuels or require fine-tuning of diesel fueled vehicles. However, there are federal and state laws, regulations, and rules that have been enacted that would reduce diesel emissions substantially by 2012 (anticipated project start of construction). Construction mitigation measures for fugitive dust control and vehicular emissions controls have been added to Section 3.13.4 of the Final Environmental Impact Statement/Environmental Impact Report.
23. The San Joaquin Valley Air Pollution Control District requires a fugitive dust control plan for construction projects (over two hectares or five acres) built in the San Joaquin Valley. A fugitive dust control plan cannot be prepared until final design is completed and it must address all current federal, state, and local laws that apply at the time. A fugitive dust control plan is not included in the Final Environmental Impact Statement/Environmental Impact Report for this reason.





United States Department of the Interior



FISH AND WILDLIFE SERVICE
San Luis National Wildlife Refuge Complex
Post Office Box 2176
Los Banos, California 93635

03 May 2005

Ms. Kimely Sawtell
San Joaquin Valley Environmental Analysis Branch
2015 East Shields Avenue, Suite 100
Fresno, CA 93726

Re: EIS/EIR and Section 4(f) Evaluation – State Route 152 in Merced County beginning near Volta Road west of Los Banos, bypassing Los Banos, and ending near the Santa Fe Grade Road 10-MER-152-KP 25.8/39.9

Dear Ms. Sawtell:

Thank you for this opportunity to review and consider the alternatives described in the subject EIS/EIR ("Los Banos Bypass"). I find the EIS/EIR to be thorough and well-written; however, I believe that stronger consideration must be given to the potential impacts – particularly long-term -- to wetlands and wildlife. As described in the EIS/EIR, "Section 4(f) of the Department of Transportation Act of 1966, codified in federal law at 49 USC §303, declares 'it is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl, and historic sites'. Section 4(f) specifies '[t]he Secretary [of Transportation] may approve a transportation program or project...requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge or site) only if ---

- 1) there is no prudent and feasible alternative to using that land; and
2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use. "'

The EIS/EIR states in Section 3.2.3 Impacts, "The relationship between the proposed project and growth in the Los Banos area is expected to be one of accommodating planned growth, rather than growth inducement...The proposed project was not found to be growth inducing". Putting in a major road is going to induce growth – whether it's called "growth inducing" or "accommodating planned growth", they are both growth. Though the project's main purpose may not be growth inducing, it is likely to cause growth by easing transportation problems. And, in fact, building will likely take place in areas where it wouldn't have taken place without the Bypass – and that, by definition, is growth inducement. In addition, it will influence the direction in which growth occurs. It is less likely that urban growth will be bounded by the project (as suggested in this Section), than cause it to be clustered around the project – in particular, to fan out from the interchanges; in other words, the project will be growth-directing. Thus, I believe further consideration must be given to those impacts as this project and its associated developments has the potential to severely impact the internationally recognized natural resources of the area.

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The direct impacts to wetlands of all three alternatives of the Los Banos Bypass project are small (less than three acres). However, this is in consideration of the immediate short-term impacts only. The long-term impacts are likely to be much more profound, due to the “growth-directing” and “growth-inducing” influences of the project. The growth will follow the footprint of the Bypass.

4

All three alternatives bisect the U. S. Fish and Wildlife Service’s Grasslands Wildlife Management Area; which is, in turn, a part of the area considered the “Grasslands Ecological Area”. This 180,000-acre area consists of diverse natural habitats, and is recognized for its importance to a variety of wetland species. The Grasslands includes seasonally flooded wetlands, semi-permanent marsh, woody riparian habitat, wet meadows, vernal pools, native uplands, grasslands, and native brush land. Hundreds of thousands of shorebirds migrate through the area; it was officially recognized in 1991 by the Western Hemisphere Shorebird Reserve Network as one of only 15 internationally significant shorebird habitats. In addition, it was recognized in 1999 by the American Bird Conservancy as a *Globally Important Bird Area*. It was recently approved as a *Wetland of International Importance* under the Ramsar Convention due to its importance to a variety of wildlife, including several rare and endangered species, its critical role as wintering habitat for Pacific Flyway waterfowl, and its status as the largest remaining block of wetlands in what was once a vast Central Valley ecosystem. This designation is given to special wetland areas worldwide; the Grasslands Ecological Area is one of four such sites in California, 22 in the U. S., and approximately 1,400 worldwide.

5

The Grasslands is a critical area for Pacific Flyway waterfowl populations, providing wintering habitat for 20 percent of the total population. Waterfowl populations average a half-million, with peak waterfowl numbers at one million. The area also supports one of the largest waterfowl hunting programs in the nation. Approximately a quarter-million shorebirds migrate through the area in the spring. Several federally listed or proposed threatened and endangered species are known to occur either seasonally or year-round. These refuges contain one of the largest remaining vernal pool complexes, and are home to many rare species associated with this disappearing habitat. San Joaquin kit fox, Aleutian Canada geese, Swainson’s hawks, and tri-colored blackbirds are also very dependent upon the area. Less than five percent of the original four million acres of Central Valley wetlands remain, and the Grasslands is the largest contiguous block in existence.

6

From the perspective of this office, we are most concerned with impacts to the wetlands and wildlife habitat of the “North Grasslands” and the “South Grasslands”; presuming that the northern route of the Bypass would affect the south edge of the North Grasslands and the southern routes would affect the north edge of the South Grasslands (see enclosed map). Those areas include wildlife habitat protected within wildlife management areas administered by the California Department of Fish and Game, private lands protected by U. S. Fish and Wildlife Service conservation easements, and private lands without any conservation easement protection. Most lands within the targeted FWS easement acquisition boundary in the South Grasslands have already been protected with FWS conservation easements. However, the same is not true of the lands at the south end of the North Grasslands. There are several tracts of land encompassing several thousand acres between Volta Wildlife Management Area and Los Banos Wildlife Area that are within the FWS conservation easement acquisition boundary, but which do not yet have conservation easements protecting them from development. We feel that the northern route would threaten these areas with development, and/or would drive up property values which would in turn diminish the Service’s opportunities for acquiring conservation easements to protect the area’s natural resources. This area is a critical buffer for the North Grasslands, located within the narrow waist of the “hourglass” formed where the North Grasslands and South Grasslands join; and serves as a vital – if small – corridor linking the North and South Grasslands. Fragmentation of the Grasslands Ecological Area will result in diminished diversity of its natural resources. The southern Bypass alignments follow an approximate 3-1/2-mile route across this corridor, as does the existing Highway 152 alignment; the northern Bypass alignment, however, follows an approximate 6-1/2-mile route immediately adjacent to and through this corridor. Please refer to the study completed in 2001, entitled *Grassland Ecological*

7

*Area, Merced County, Land Use and Economics Study:* “As reported in the 1995 Land Planning Guidance Study, many studies of conservation biology have shown that many wildlife refuges lose a number of their key species over time if they are not large enough or are not protected from outside effects by a large enough buffer... In particular, if growth of Los Banos toward the east were to fragment and isolate the North from the South Grasslands, this could have a profound effect on the movement of waterfowl between different parts of the refuges that now utilize on a daily basis...”

8

An associated consideration in the selection of an alternative is the crops lost to the highway and surrounding development. Along the northern alignment, there is more of what is considered “wildlife-friendly agriculture” – crops that provide a benefit to wildlife, such as pasture and small grains. Alternatively, crops such as cotton, tomatoes, and orchards – more common south of Los Banos (southern alignment) – provide little or no wildlife benefits. Impacts to the wildlife of the Grasslands are more severe from the northern alternative.

9

Alternatively -- though the southern alignments of the Los Banos Bypass project directly impact the Gadwall Unit of the wildlife management area administered by the CDFG with the alignment footprint consuming approximately 60 acres of CDFG property -- it would likely encourage development to occur west of the South Grasslands easement acquisition boundary. The loss of acreage on the Gadwall Unit can easily be mitigated in a manner that would benefit both CDFG as well as the private wetland owners of the South Grasslands. That acreage has not yet been restored to wetland habitat, as planned. Both the Gadwall Unit and the Mud Slough Unit are already negatively impacted by the existing presence of Highway 152 -- as opposed to the negative effects in putting in a large roadway in an area where presently one does not exist. Other lands in the vicinity of the Mud Slough Unit and Gadwall Unit could be purchased and transferred to CDFG with a restoration and management endowment. These lands would provide a buffer to development and minimize the impacts of the Bypass. In addition, parcels further south could either be purchased and transferred to CDFG, or conservation easements acquired and transferred to either CDFG or FWS. It is my understanding that there are willing sellers in this vicinity; therefore, CalTrans is more likely to be successful in affording protection to these sensitive areas.

10

CalTrans may want to consider acquiring either agricultural or conservation easements on the lands surrounding the wildlife habitat, to further buffer these sensitive areas. In fact, the FWS is currently acquiring easements on agricultural lands that have “wildlife-friendly agriculture”. Many important and sensitive species use these croplands, such as white-faced ibis, long-billed curlews, and Swainson’s hawks. Perhaps a mile-wide band of agricultural easements buffering the wildlife habitat could be considered. In addition, CalTrans should consider increasing their weed management activities adjacent to these sensitive habitat areas. The land management agencies expend considerable resources battling invasive weeds (especially yellow starthistle, other thistle species, and perennial pepperweed). Unfortunately, roads and highways often contribute to the problem by being conduits for weed spread.

11

In summation, the northern alignment of the Los Banos Bypass project has more severe *long-term* impacts that, consequently, are more significant and more important to avoid for the protection and health of the entire Grasslands Ecological Area. In addition, the northern alignment also has an additional mile of pavement -- with its sphere of negative environmental influence -- and bisects many dairies and wildlife-compatible farming operations; as well as the proposed college campus. The southern alignments have impacts, when viewed superficially; but these impacts can be more easily mitigated -- to the benefit of the habitat and landowners in the South Grasslands.

12

In recognition of the rich and critically important natural resources of the Grasslands, the conservation agencies have focused more attention and funding on this area than most areas of the State. There are two U. S. Fish and Wildlife Service national wildlife refuges encompassing approximately 35,000 acres, a U. S. Fish and Wildlife Service conservation easement program that encompasses 70,000 acres on 170 separate private properties, six units of the California Department of Fish and Game wildlife areas

13

encompassing approximately 25,000 acres, a California Department of Parks and Recreation state park, and an extremely active Natural Resources Conservation Service's Wetland Reserve Program. This area has garnered numerous habitat restoration and enhancement grants totaling millions of dollars, and is one of the most active areas for conservation group involvement. The protection of the dynamic natural resources of the Grasslands Ecological Area will best be served by this Bypass project employing one of the southern alternatives.

Thank you, again, for this opportunity to comment on this critical issue for our community. Our ability to perpetuate and protect these significant natural resources recognized by the state, nation, and international groups is dependent on the decisions we make now! Please do not hesitate to call (209/826-3508) if you have any questions.

Sincerely,

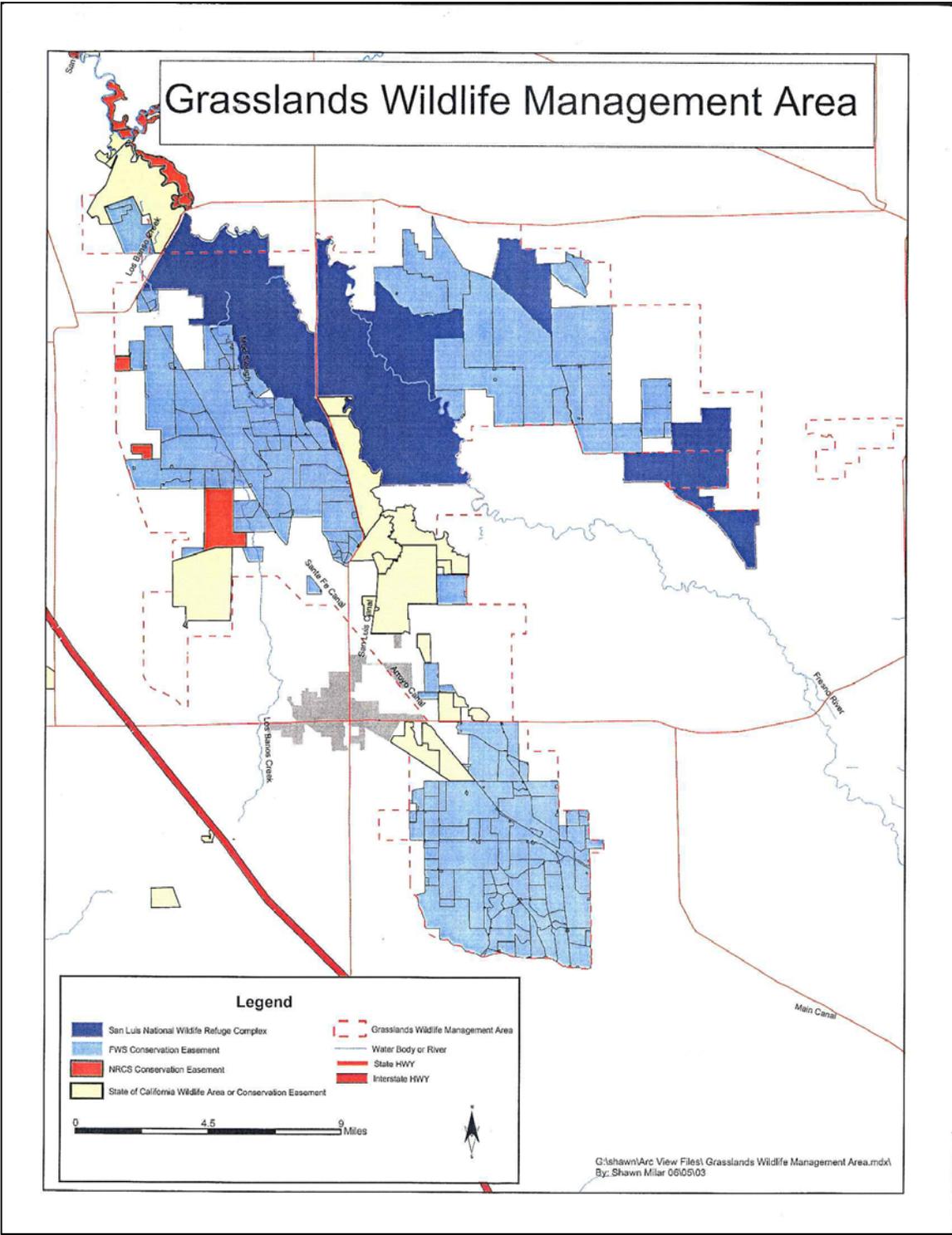


Kim Forrest  
Refuge Manager

Enclosure

Cc: Dan Walsworth, Refuge Supervisor; FWS  
John Beam, Wildlife Management Supervisor; CDFG  
Don Marciochi, Manager; GWD  
Bob Shaffer, Joint Venture Coordinator; CVJV  
Dave Widell, Director of Conservation Policy; DU





## **U.S. FISH AND WILDLIFE SERVICE**

1. General Response to Comments – Many of the comments made by resource agencies have been based on the assumption that urban growth would be directed north and east into the sensitive Grassland Ecological Area if Alternative 3M were to be constructed. The growth studies reported in the Draft Environmental Impact Statement/Environmental Impact Report, however, found no such evidence of that and do not support that assumption. Therefore, the resource agencies are making comments about growth patterns not supported by evidence, and they are finding fault with the Draft Environmental Impact Statement/Environmental Impact Report for not addressing the impacts of that assumed growth. Most of these comments have to do with indirect or cumulative impacts.

The analysis in the Draft Environmental Impact Statement/Environmental Impact Report is supported by three different growth-inducement methodologies: a quantitative land use model, a quantitative travel-time model, and a traditional checklist approach. The results from each methodology were consistent. The results were also validated by an expert panel of local land use planners.

The growth scenarios assumed in resource agency comments are not consistent with the findings of the three growth studies and the expert panel. The resource agency position is based almost entirely upon speculation. Much is made of a Draft Environmental Impact Statement/Environmental Impact Report statement that a gas station might be considered by the City of Los Banos at the interchange of Alternative 3M with State Route 165. The potential commercial property in question lies in an area distinctly south of the long-established buffer area between urban uses and the sensitive ecological resources to the north. Essentially, this is a land use planning issue, not an issue of growth inducement with accompanying indirect or cumulative impacts on the Grassland Ecological Area.

The City of Los Banos has held a long-standing General Plan policy of using roads and canals as boundaries for urban growth and buffers between developed areas and sensitive ecological resources. The City of Los Banos is currently updating the General Plan for the City. One of the planning principles guiding development of the draft General Plan update concept is compact growth with strong urban “edges” that would protect adjacent agricultural lands, particularly on the north and east sides of the city. Furthermore, the plan concept also recognizes the Grassland Ecological Area as an important resource that needs protection from urban development. The draft General Plan update would continue to keep the area between the San Luis Canal and the Santa Fe Canal as an agricultural buffer and proposes to create an agricultural

buffer north of the State Route 152/165 interchange up to Henry Miller Road and west to Los Banos Creek. Caltrans would support the creation and maintenance of the agricultural buffer or greenbelt, through easements and/or deed restrictions on the north side of the bypass from the eastern interchange to Los Banos Creek. Alternative 3M is part of the draft General Plan update that would direct major growth south and west while using the proposed freeway itself as a limit line (no growth allowed north or east of that line).

Based on the information from the Draft Environmental Impact Statement/Environmental Impact Report briefly summarized above, Caltrans and the Federal Highway Administration find the resource agency call for supplemental studies of indirect and cumulative impacts caused by induced growth into the Grassland Ecological Area to be without merit. The assumed impacts – described in great detail in resource agency comments – are too speculative to be considered, considering that the evidence from the collaborative growth-inducement studies indicates that no such impacts would occur.

2. Following review of the Draft Environmental Impact Statement/Environmental Impact Report, Alternative 3M was selected as the Preferred Alternative. Alternative 3M does not impact wetlands, cultural resources, or any Section 4(f) resources. Alternatives 1M and 2M would impact approximately 1.2 hectares (2.9 acres) of wetland and approximately 24 hectares (59 acres) of the Gadwall Wildlife Area, a Section 4(f) resource. Alternatives 1M and 2M would also have greater noise impacts and displace a larger number of residences than Alternative 3M.
3. Analysis in the environmental document did not indicate that the project would be growth inducing or would cause sprawl growth. Please refer to response #1.

Within California, cities, counties, and Local Agency Formation Commissions primarily control local development and growth. The local land use planning agencies have incorporated conservation values in their decisions, plans, policies, and goals. Local Agency Formation Commissions are independent commissions created by the State to promote the wise use of land resources while providing for the present and future needs of a community. Annexations to city limits and changes to a city's *Sphere of Influence* must be reviewed and approved by the Commission. Four main goals guide the Merced Local Agency Formation Commission in making land use decisions. The goals are as follows:

- ◆ The promotion of development patterns that are planned, well-ordered, and efficient

- ◆ The efficient and effective delivery of governmental services
- ◆ The need to provide for urban development in balance with the conservation of open space and prime agricultural lands
- ◆ The incorporation of urban land use patterns that maximize the opportunity for local jurisdictions to provide their fair share of regional housing needs for all income levels.

Comments submitted by the Local Agency Formation Commission for the project stated that Alternative 3M is located within the current Los Banos *Sphere of Influence* boundary. The Local Agency Formation Commission considered any alternative outside of this boundary to be growth inducing and thus supported Alternative 3M.

In Fall 2005, the City of Los Banos began updating the General Plan and planning boundaries. One of the planning principles that guides development of the updated General Plan concept is to “Foster a compact, rather than a scattered development pattern, with strong urban ‘edges’ that will protect agricultural lands.” Growth would be encouraged to the west and south of the city, away from sensitive areas on the north and east.

The draft Preferred Plan planning area would maintain the existing eastern boundary. It would extend south to Copa de Ora Avenue and to just west of Volta Road. On the north, the planning area would follow the edge of the bypass from the State Route 152/165 interchange to the Los Banos Creek. From the creek westward it would extend up to Henry Miller Road. Thus the freeway would define the northern edge of city growth to the Los Banos Creek. The proposed planning area includes approximately 8,674 hectares (21,434 acres) of land both inside and outside the city. This planning area excludes approximately 796 hectares (1,967 acres) that were previously included in the 1999 General Plan Area of Interest, primarily prime farmland located north and south of the city. The planning area was “defined with the intention of focusing future growth on land contiguous to the City and preventing scattered development on adjacent farmlands. Being included within the Planning Area does not necessarily mean that the City is considering annexation” (Los Banos General Plan Update Map Atlas, Dyett & Bhatia, November 2005).

The current Los Banos General Plan commits the area east of the San Luis Canal to remain in Agricultural, Environmental Reserve, and Public Facilities (page OCR-35). The General Plan update would continue this commitment and propose creation of an agricultural buffer north of the State Route 152/165 interchange to Henry Miller Road and up to the Los Banos Creek. This continues and reinforces the existing policy of discouraging growth beyond one-half mile south of Henry Miller Road. City Planning

does not expect it to be practical to extend the line further north due to wetlands and refuges located north of Henry Miller Road. Retaining areas north and east of the city in agricultural use and using the bypass as a strong urban edge would reinforce an agricultural buffer that would both prevent further conversion of farmland in those areas and protect sensitive areas further to the north and east within the Grassland Ecological Area. Constraints to development east of the Santa Fe Canal include the City's water treatment plant, Mud Slough Wildlife Area, Gadwall Wildlife Area, and wetland habitat already under protection. Residential and commercial growth in Los Banos is anticipated primarily to the southwest. A business opportunity area is proposed for the west side of Los Banos north and south of the existing State Route 152. Growth is being directed by many considerations, including protection of wetlands and other ecologically sensitive areas.

Further evidence of the City's commitment to conservation values is provided below in the City response to the *Grassland Water District Land Planning Guidance Study* (1995) as summarized below. The *Grassland Water District Land Planning Guidance Study* included specific changes (pages 7-8) suggested for the Los Banos General Plan to protect the Grassland Ecological Area and prevent potential isolation between the North and South Grasslands by development. Several of these changes have occurred over the years, with action taken either by the City in its planning or by Caltrans as the bypass project has been studied. These actions show an effort to protect the Grassland Ecological Area. Suggested changes from that study (in italics) and the current status are listed below:

*A – The area proposed to be zoned I industrial between San Luis Canal and Santa Fe Grade should be rezoned to be agriculture. This would have the effect of protecting giant garter snake habitat in the Santa Fe canal, and buffering the lands east of the Santa Fe Grade from the nearest urban uses in Los Banos.* The area was rezoned in 2003.

*B – A 200 to 300-foot additional buffer strip of agriculture should be provided on the west side of the San Luis Canal, within the area proposed to be zoned LD. The area immediately adjacent to the canal should be planned with impenetrable hedgerow vegetation (e.g. blackberries) to reduce human and domestic animal access to the canal habitat and the giant garter snake.* The Los Banos General Plan, Program OCR 7.3-F, discusses residential development west of the San Luis Canal, providing a permanent buffer of at least 15 meters (50 feet) or greater to separate the canal from any urban residential use.

C – *There is ample land south of the Highway 152 bypass and west of the corridor area that could be rezoned I to compensate for the loss of the I acreage east of the San Luis Canal, without any loss of I zoned area. This would have the effect of leaving a resource neutral use between the San Luis and Santa Fe Canals.* This appears to describe the current location for the City’s planned industrial park.

D – *Freeway 152 bypass in the east part of Los Banos should be moved 200 feet to the west to move this away from the San Luis Canal to reduce impacts to the giant garter snake.* It is not clear if it was meant to move the bypass west of the San Luis Canal or make an adjustment to the alignment as it was in 1995. However, due to the canals, local development, and design requirements, Alternative 3M could only be located on the east side of the San Luis Canal where currently planned. Between the canals, most of the facility would be located 61 to 91 meters (200 to 300 feet) or more from either canal. This is the buffer suggested by the study for the giant garter snake.

E – *To reduce road impacts to the giant garter snake and kit fox, the proposed freeway interchange at the Pioneer Road extension should either be eliminated or redesigned to serve only the area west of the Highway 152 bypass.* Alternative 3M would avoid an interchange in this area.

F – *All development east of the Santa Fe Grade should be eliminated to protect the contiguity of the north and south Grasslands. The area should be designated for permanent resource-beneficial open space.* The City has no plans to extend the Urban Limit Line to the east. Located east of the Santa Fe Canal are the Los Banos wastewater treatment plant, the Mud Slough Wildlife Area, the Gadwall Wildlife Area, and parcels with wetlands already under protection. Additional constraints include the lack of availability of water, sewer, and other infrastructure in this area.

G – *No new roads should be built or improved adjacent to the Santa Fe Grade or other canals to protect habitat for giant garter snake. The proposed major roadway along this canal should be eliminated.* The City has no plans for changes along the Santa Fe Canal. Alternative 3M would be located between the San Luis Canal and the Santa Fe Canal. Between the canals, most of the facility would be located 61 to 91 meters (200 to 300 feet) or more from either canal, except where the bypass would span the San Luis Canal. The *Land Planning Guidance Study* suggested this distance as a buffer for the protection of giant garter snakes. The structure that would span the San Luis Canal would maintain the flow of the canal and allow for movement of special-status species, as requested during consultation with the U.S. Fish and Wildlife Service.

I – *To reduce road impacts to the kit fox and preserve the resource neutrality of this zone, the proposed major roadway would be an eastward extension of Pioneer Road into the Ag zoned area is growth-inducing, and should be eliminated.* The City plans to extend Pioneer Road, but only to Ward Road. This connection would accommodate existing and recent development. It would also be used to reduce traffic on State Route 152. San Joaquin kit fox are not found in this area.

J – *The College site currently designated south of Highway 152 and the proposed bypass should be moved outside the sensitive corridor area east of Los Banos. One option that could be explored is a land swap that could be negotiated with the California Department of Fish and Game.* This is a reference to the parcel owned by the community college that is now nearly surrounded by the Gadwall Wildlife Area. The college is under construction on the west side of the city. Alternative 3M also avoids use of this area.

K – *The stormwater flow from the City of Los Banos which is discharged into the San Luis Canal must be treated or pre-treated by source control to prevent heavy metals, oil and grease from entering the canal.* The City conforms to the statewide discharge guidelines in accordance to population requirements. The City is currently operating under a Notice of Intent while the Storm Water Management Program is under review by the State Water Resource Control Board.

The City's response to suggested changes in the Grassland Water District document indicates a willingness to preserve these sensitive areas rather than allow "sprawl development" east of the San Luis Canal.

The East Los Banos Area Plan (September 2000) also indicates the City's commitment to providing protection to sensitive areas east and north of the City. This document states that the area between the San Luis Canal and the Santa Fe Canal is not intended for development in order to provide a buffer for regional wetlands to the east. The San Luis Canal is described as a barrier to intensive urban development and as providing a foundation for a buffer. Development west of San Luis Canal would only take place when adequate infrastructure is available. One requirement would be that "sewer line size will be held to a minimum so as not to create an incentive for development east of the San Luis Canal." This would be done by reducing the size of sewer lines as they approach the eastern edge of the developing area. Additionally, because development may take place near areas of current agricultural production, Merced County's "right to farm" provisions would apply.

Both the current General Plan for the City of Los Banos and the General Plan update concepts indicate the City's commitment to conservation values and its desire for

compact growth. City General Plans can be considered effective land use planning control. The U.S. First Circuit Court of Appeals has noted that an environmental impact would be “too speculative” to be included in an environmental impact statement if it cannot be described with sufficient specificity to make consideration useful to a reasonable decision when the document is drafted. At this point, growth north of Henry Miller Road and east of the San Luis Canal would be considered too speculative to be included in the Draft Environmental Impact Statement/ Environmental Impact Report for the Los Banos Bypass.

4. Alternative 3M would avoid direct and indirect impacts to wetlands. Please see response #3 above concerning local growth issues.
5. Existing State Routes 152 and 165 already bisect the Grasslands Wildlife Management Area (also referred to as the Grassland Ecological Area). The Grassland Ecological Area’s nearly 73,000 hectares (180,000 acres) extend from near the Stanislaus County line northwest of Los Banos southward to near the Fresno County line, stretching across the entire county. Alternatives 1M and 2M would have impacted approximately 24.2 hectares (60 acres) of the Gadwall Wildlife Area, part of the Grassland Ecological Area. Alternative 3M would not encroach into the Grassland Ecological Area boundaries and does not change how State Route 152 bisects the management area. The project would move the freeway outside of the center of the city while traveling west and south of the management area boundary.
6. The importance of the Grasslands Wildlife Management Area and the resources therein are noted.
7. It is noted that while the lands bordering the South Grasslands are under conservation easements that help protect the grasslands, the same is not true for the North Grasslands. The current Los Banos General Plan restricts development between the San Luis and the Santa Fe canals, thus providing a buffer to development between the east side of Los Banos and the narrow waist where the North and South Grasslands are joined (see response #3 above). Furthermore, the California Department of Fish and Game comment letter (comment #10) noted that future growth “north and east of Los Banos is basically limited by existing wetland areas and the Grassland Resource Conservation District.”

Meetings were held with the U.S. Fish and Wildlife Service, California Department of Fish and Game, Los Banos Planning Department, and Grassland Water District representatives to discuss mitigation options and determine areas that would be most beneficial to all parties to protect. Resource agencies advised Caltrans that they would

prefer biological mitigation for the Los Banos Bypass Project to occur near the project rather than at offsite mitigation banks located away from the project area. Resource agencies have identified buffer areas that are considered critical for protection of the Grassland Ecological Area. The buffer areas primarily include land bounded by the San Luis Canal and the Santa Fe Canal north of existing State Route 152, the area north of the State Route 152/165 interchange area, and other areas identified during consultation. The U.S. Fish and Wildlife Service (Sacramento Office) also identified the Volta area, located northwest of Los Banos, for mitigation of impacts to giant garter snake habitat. Please see Section 3.19.4 of the Final Environmental Impact Statement/Environmental Impact Report for mitigation ratios determined through Section 7 Consultation with the U.S. Fish and Wildlife Service. Most of the land in the buffer areas is currently used for agriculture. Biological mitigation would be strategically located, whenever possible, to reinforce these buffer areas identified between the City of Los Banos and the Grassland Ecological Area. Purchase of conservation easements for biological mitigation requires willing sellers. Land for mitigation would be located at site(s) agreed to by the Federal Highway Administration, resource agencies, and Caltrans. In addition, right-of-way would be acquired for the bypass within identified buffer areas. When parcels are acquired for the bypass, excess land will remain in some cases. Caltrans would, with respect to targeted buffer areas, negotiate parcel exchanges with or sell excess parcels to neighboring farms to reconfigure split farmland parcels so that the parcels could continue to be farmed. Any time Caltrans resells or reconfigures land in the targeted areas, deed restrictions limiting future use to agriculture would be included to keep land in agricultural use in perpetuity.

The City of Los Banos is currently updating the General Plan for the City (see Sections 3.1.1 and 3.2.3). One of the planning principles guiding development of the draft General Plan update concept is to “Foster a compact, rather than a scattered development pattern, with strong urban ‘edges’ that will protect adjacent agricultural lands.” Furthermore, the plan concept also recognizes the Grassland Ecological Area as an important resource that needs protection from urban development. The draft General Plan update would continue to keep the inter-canal area as an agricultural buffer and proposes to create an agricultural buffer north of the State Route 152/165 interchange up to Henry Miller Road. Thus Alternative 3M would not threaten these areas with development. Caltrans would support the creation and maintenance of the agricultural buffer, through easements and/or deed restrictions on the north side of the bypass from the eastern interchange to the Los Banos Creek. These actions by the City of Los Banos and Caltrans would provide a buffer from development to the

southern edge of the North Grasslands and the narrow waist of the “hourglass” between the North and South Grasslands.

8. Please see responses #3 and #7 above.
9. Comment noted. Please see Section 3.19.4 of the Final Environmental Impact Statement/Environmental Impact Report for information on mitigation for loss of foraging habitat on agricultural land as determined in consultation with the U.S. Fish and Wildlife Service.
10. The Gadwall Wildlife Area was determined to be a Section 4(f) resource (see comment #2 of letter). Alternative 3M would avoid the use of nearly 24.2 hectares (60 acres) of the facility, thus protecting it from encroachment by a transportation project. Alternatives were developed for the Los Banos Bypass Project in 1993 and refined in 1998. At the time, there was no conflict with lands subject to Section 4(f) for the Department of Transportation Act. However, over time, land was purchased for the development and expansion of the Gadwall Wildlife Area. By the time environmental studies began for the project, Alternatives 1M and 2M crossed a portion of the Gadwall Wildlife Area and would have resulted in use of a portion of the refuge land. Meetings were held with California Department of Fish and Game personnel and a letter was received from the agency. However, it was determined by the Federal Highway Administration that this coordination did not meet the requirements for allowing the use of any portion of the Gadwall Wildlife Area for the project under Section 4(f). Additionally, avoidance of the Gadwall Wildlife Area would allow the California Department of Fish and Game to move forward with wetland restoration within the area, as planned.

The U.S. Environmental Protection Agency (see comment letter) has stated that Alternative 3M would be the “Least Environmentally Damaging Practicable Alternative” (40 Code of Federal Regulation Part 230.10(a)). The Agency thus recommended that the Federal Highway Administration select Alternative 3M as the Preferred Alternative for this project.

11. Please see response #7 above. Please see Section 3.20 of the environmental document concerning invasive species. Also see General Response #1.
12. It has not been shown that there would be more severe long-term impacts due to a northern alignment of the bypass. Please see the Environmental Protection Agency comment letter and responses.

Any of the alternatives would affect dairies and farming operations. The southern alternatives would have affected both wetlands and the Gadwall Wildlife Area (a part of the Grassland Ecological Area). Alternative 3M would avoid both.

The Los Banos Campus Master Plan Draft Environmental Impact Report (January 2004) acknowledged the conflict between the bypass and campus projects. It also stated that the northwest portion of the campus (where the bypass would cross) may not be built unless additional funds are obtained. Caltrans has continued coordination with the Merced Community College district. On June 21, 2005, the Board of Trustees of the Merced Community College District passed Resolution Number 05-127 that endorsed the completion of the state Route 152 Bypass and also supported approval of a Project Study Report for the proposed intersection for the campus. The resolution stated that it “commits the District’s cooperative participation in the planning and implementation of the State Route 152 Bypass project in Los Banos.”

13. Comment noted.

CD 1211



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Western-Pacific Region  
Airports Division  
San Francisco Airports District Office

831 Mitten Road, Suite 210  
Burlingame, CA 94010-1300

March 16, 2005

Ms. Vickie Traxler  
Environmental Branch Chief  
State of California Department of Transportation  
2015 East Shields Avenue, Suite A-100  
Fresno, CA 93726-5428

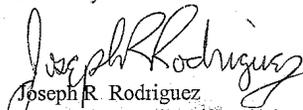
RE: Notice of Availability of Draft Environmental Document for the Los  
Banos Bypass Project, State Route 152, 10-MER-152-KP 25 8/39.9  
(PM 16.0/24.8)

Dear Ms. Traxler:

Thank you for notifying our office of the proposed environmental review for the proposed Los Banos bypass highway project for post mile 16.0 to 24.8. We have reviewed the project description for impacts to programs under the authority of the Federal Aviation Administration (FAA) Airport Improvement Program (AIP). The proposed alternatives for the bypass do not have a direct impact to our program for the existing Los Banos Municipal Airport.

The Federal Aviation Administration (FAA) has not made a final determination to close and/or relocate the Los Banos Municipal Airport. We note that the draft document has several graphics that depict a new airport location. We recommend that your office review the City of Los Banos land use plans for intermediate and long-term planning period development to confirm local commitments to fund a new airport. The FAA has received no planning documents from the City that satisfy our requirements to fund development of a new airport at the location depicted in the draft environmental document.

Sincerely,

  
Joseph R. Rodriguez  
Supervisor, Environmental Planning and Compliance Section

CC: Sandy Hesnard, Caltrans, Aviation Environmental Planner  
Richard Dalgren, Los Banos Airport Manager

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## **FEDERAL AVIATION ADMINISTRATION**

1. Comment noted.
2. Caltrans received a Notice of Preparation and Initial Study Environmental Assessment Checklist (September 2002) from the City of Los Banos for a proposed project that would relocate the Los Banos Airport. It is Caltrans' understanding that plans are still preliminary. The Draft Environmental Impact Statement/Environmental Impact Report included graphics depicting the potential location of the airport if relocated (according to documents received from the City) so that the public and agencies would be informed as to future potential constraints that were known and considered.

As of June 2006, the City of Los Banos is still interested in relocating the airport in the future, but is not going forward at this time. The preferred site for the airport shown in the Draft Environmental Impact Statement/Environmental Impact Report now is unlikely due to other potential development in the area.



## **SECTION 2.0 STATE AGENCIES**





State of California - The Resources Agency  
**DEPARTMENT OF FISH AND GAME**  
<http://www.dfg.ca.gov>

ARNOLD SCHWARZENEGGER, Governor

San Joaquin Valley and Southern Sierra Region  
1234 East Shaw Avenue  
Fresno, California 93710  
(559) 243-4014



May 6, 2005

Ms. Vickie Traxler, Chief  
San Joaquin Valley Analysis Branch  
California Department of Transportation  
2015 East Shields, Suite 100  
Fresno, California 93726

Dear Ms. Traxler:

Comments Regarding Draft Environmental Impact Statement/Environmental Impact Report and Section 4 (f) Evaluation for the State Route 152 Los Banos Bypass  
SCH# 20001071135

We have reviewed the Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) and Section 4 (f) Evaluation for State Route (SR) 152 Los Banos Bypass (Project). The Project is located on State Route 152 in Merced County from Post Mile 16.0, west of the City of Los Banos to Post Mile 25.0, east of the city. California Department of Transportation (Caltrans) proposes to build a 4-lane freeway bypassing Los Banos. Three build alternatives are being studied. Alternatives 1M and 2M are routed south of Los Banos and Alternative 3M is routed north of the city. The proposed alternatives are summarized as follows.

Alternative 1M proceeds from the western interchange (SR 152 PM 16.0) and follows a southeast direction, crosses Pioneer and Ortigalita roads, turn eastward and parallels Copa De Ora Avenue on the north, turn northeast across Ward Road, and run along the eastern side of the San Luis Canal before rejoining the current SR 152 farther east (SR 152 PM 24.8).

Alternative 2M is similar to Alternative 1M on both the west and east ends with interchanges at the same locations. Alternative 2M runs parallel to and north of Copa de Ora Avenue and is north of Alternative 1M.

Alternative 3M proceeds northeast from the western interchange and crosses Badger Flat Road. The alignment would then proceed south of Henry Miller Road and dip southeast and run between the San Luis and Santa Fe canals. An interchange is proposed near the Santa Fe Grade Road where the bypass would connect with the existing SR 152.

The Department of Fish and Game (Department) has conferred with Caltrans personnel many times regarding this Project. A formal comment letter was sent on

*Conserving California's Wildlife Since 1870*

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Ms. Vickie Traxler, Chief  
May 6, 2005  
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December 24, 2001, discussing the Department's concerns. All Alternatives will have impacts to biological resources and also to lands owned by the Department.

Our specific comments are as follows.

**Direct Impacts:** If constructed, either Alternative 1M or Alternative 2M will directly impact Department property. Appropriate mitigation for direct impacts to Department land would be required. Water rights, water supply, water drainage and access to Department land have been discussed with Caltrans in previous correspondence and would need to be mitigated once specific impacts are known.

If not properly contained, surface water runoff in the Project area could cause impacts to aquatic and wildlife resources. Groundwater table during the rainy season is near or in some locations at the ground level. Currently the center divider of SR 152 floods and stays flooded after winter rains begin. All runoff from this highway and the new bypass highway must be controlled, so that contaminants (petroleum, pesticides, hazardous spills, etc.) from road surfaces are not allowed to enter canals, drains, or waterways used to flood wetlands in the area.

Wildlife restoration plans are currently being developed for a portion of the Gadwall Unit of the North Grasslands Wildlife Area. Construction of a southern bypass alternative will affect this restoration effort. The Department's restoration of these areas will create and enhance wetlands and will generate moderate amounts of excess spoils, which the Department will be required to relocate. The possibility of using this spoil material in the construction of the Los Banos Bypass should be considered and could provide mutually beneficial opportunities, both environmental and fiscal. Construction of a southern alternative could be completed in conjunction with the Department's restoration of the Gadwall Unit and might also be considered as partial mitigation for Project impacts. This possibility is not discussed in the Project's EIS/EIR and should be. The Department has concerns regarding the identification of borrow sites independent of Project construction. We feel that the borrow site, transportation of fill material and environmental impacts caused by these activities should be discussed and disclosed in the Project's EIS/EIR. Construction of a southern alternative, linked with Department wetland restoration in the Los Banos area should be fully evaluated before any Alternative is decided.

**Indirect Impacts:** Each Alternative could have serious indirect effects on nearby wildlife habitats. Because more environmental resources exist to the north of Los Banos, the Department feels Alternative 3M would cause far greater overall adverse impacts than a southern Alternative. Alternative 3M does minimize direct environmental effects but may cause severe environmental damage when evaluated over time. These long-term, indirect impacts to the area's wetlands are not fully discussed or analyzed in the EIS/EIR for this Project.

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 May 6, 2005  
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The area generally north and east of Los Banos is collectively called the Grasslands Ecological Area (GEA). It is the largest ( approximately 180,000 acres) remaining wetland in the San Joaquin Valley consisting of diverse natural areas including wetland, marsh, riparian, vernal pool, upland and grassland habitats. It supports hundreds of wetland species, including several threatened or endangered species and provides resting and breeding habitat for migrating shore birds and Pacific Flyway waterfowl. Indirect and long-term effects on this important ecological area are not sufficiently analyzed in the Project's EIS/EIR. More review of the following subjects need to be completed before any Alternative is decided.

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**Growth Inducing Impacts:** Alternative 3M will most likely result in urban development occurring in the direction of the bypass. These growth-inducing impacts to wildlife could far exceed the actual impacts associated with construction. Growth to the north of Los Banos will adversely affect more wildlife habitat than growth to the south of the city because more resources are found north of the city.

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**Loss of Agricultural Lands:** Agricultural lands north of Los Banos generally support crops friendly to wildlife. Pasture and small grain crops along the northern Alternative provide benefits to raptors, migratory waterfowl, shore birds, egrets, herons, and small and medium-sized mammals. The State threatened Swainson's hawk is strongly associated with alfalfa fields and losses of this crop could adversely affect their population in the area. Conversely, cotton and orchard crops predominate along the southern Alternatives and are much less beneficial to wildlife. Loss of these crops to urban development would have less adverse affect to wildlife.

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**Protection/Creation of an Environmental Buffer:** Presently, most property along the northern alignment has no legal environment protection. Development in this area will increase land values and decrease wildlife and conservation agencies' ability to purchase or conserve land necessary to buffer existing wetlands. Lack of an adequate buffer area for the GEA will decrease the size of prime habitats and adversely affect existing wildlife. Conversely, some property along the southern alignment has existing environmental protection. The Department's Gadwall Unit would be directly affected by a southern Alternative but these direct, short term effects could be easily mitigated. Also, the wetland edge that exists on the southern Alternatives is substantially less than the wetland edge that exists on the northern Alternative. Therefore, fewer impacts to large blocks of wetlands would be expected if a southern Alternative was constructed.

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**Future Growth:** Growth to the north and east of Los Banos is basically limited by existing wetlands areas including the State wildlife areas and the Grassland Resource Conservation District. Generally growth north of Henry Miller Road and east of SR 165 will be limited, or non-existent, due to these existing protected areas. The areas south and west of the city do have some existing wildlife habitat but substantially

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less than to the north and east. Therefore, it seems intuitive that urban development of Los Banos will occur to the south and west. Construction of the northern Alternative would then seem counter productive and inefficient, while construction of a southern bypass would fulfill long-term growth transportation problems.

**Fragmentation:** Wetlands and associated linkages are present on Los Banos Creek and on some canals within the footprint of all Alternatives. Wetlands are also present adjacent to the existing highway on the eastern portion of the Project area. These wetlands, canals, and linkages provide migratory and incidental pathways for a variety of wildlife species and need to be maintained. Fragmentation of these wildlife corridors, because of Project construction, must be avoided. To protect the viability of these linkages, careful consideration of impacts need to be considered. Relocation of these wildlife corridors and linkages may provide more efficient use by wildlife and better protect the long-term viability of their use. Impacts, avoidance, and/or mitigation for these areas are not analyzed sufficiently in the EIS/EIR and need to be addressed.

In conclusion, the Department feels that although Alternative 3M avoids most direct adverse environmental effects, its long term, indirect effects could severely damage the existing wetland ecosystem in the Los Banos area. These long term effects are not adequately analyzed in the EIS/EIR and proposed mitigation for these effects not adequately discussed. Appropriate mitigation would include preservation of extensive tracts of agricultural lands through conservation easement or other means. Other mitigation measure would also necessary. Direct, short term adverse effects caused by Alternatives 1M or 2M can be easily mitigated. Alternatives 1M and 2M cause significantly less long term adverse effects on the existing resources. Possible coordinated efforts between Caltrans and the Department should be analyzed to determine if construction of a southern Alternative, linked with Department wetland restoration in the Los Banos area would be more environmentally, financially, and logistically effective.

If you have any question regarding these comments, please contact Mr. Clarence J. Mayott, Environmental Scientist, at the address or telephone number (extension 225) provided on this letterhead.

Sincerely,

  
W. E. Loudermilk  
Regional Manager

cc: See Page Five

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Ms. Vickie Traxler, Chief  
May 6, 2005  
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cc: Mr. John Beam  
Department of Fish and Game

Mr. Greg Gerstenberg  
Department of Fish and Game

Ms. Kim Forrest  
Refuge Manager  
San Luis National Wildlife  
Refuge Complex  
Post Office Box 2176  
Los Banos, California 93635

## **CALIFORNIA DEPARTMENT OF FISH AND GAME – MAY 6, 2005**

1. General Response to Comments – Many of the comments made by resource agencies have been based on the assumption that urban growth would be directed north and east into the sensitive Grassland Ecological Area if alternative 3M were to be constructed. The growth studies reported in the Draft Environmental Impact Statement/Environmental Impact Report, however, found no such evidence of that and do not support that assumption. Therefore, the resource agencies are making comments about growth patterns not supported by evidence, and they are finding fault with the Draft Environmental Impact Statement/Environmental Impact Report for not addressing the impacts of that assumed growth. Most of these comments have to do with indirect or cumulative impacts.

The analysis in the Draft Environmental Impact Statement/Environmental Impact Report is supported by three different growth-inducement methodologies: a quantitative land use model, a quantitative travel-time model, and a traditional checklist approach. The results from each methodology were consistent. The results were also validated by an expert panel of local land use planners.

The growth scenarios assumed in resource agency comments are not consistent with the findings of the three growth studies and the expert panel. The resource agency position is based almost entirely upon speculations. Much is made of a Draft Environmental Impact Statement/Environmental Impact Report statement that a gas station might be considered by the City of Los Banos at the interchange of Alternative 3M with State Route 165. The potential commercial property in question lies in an area distinctly south of the long-established buffer area between urban uses and the sensitive ecological resources to the north. Essentially, this is a land use planning issue, not an issue of growth inducement with accompanying indirect or cumulative impacts on the Grassland Ecological Area.

The City of Los Banos has held a long-standing General Plan policy of using roads and canals as boundaries for urban growth and buffers between developed areas and sensitive ecological resources. The City of Los Banos is currently updating the General Plan for the City. One of the planning principles guiding development of the draft General Plan update concept is compact growth with strong urban “edges” that would protect adjacent agricultural lands, particularly on the north and east sides of the city. Furthermore, the plan concept also recognizes the Grassland Ecological Area as an important resource that needs protection from urban development. The draft General Plan update would continue to keep the area between the San Luis Canal and the Santa Fe Canal as an agricultural buffer and proposes to create an agricultural

buffer north of the State Route 152/165 interchange up to Henry Miller Road and west to Los Banos Creek. Caltrans would support the creation and maintenance of the agricultural buffer or greenbelt, through easements and/or deed restrictions on the north side of the bypass from the eastern interchange to the Los Banos Creek. Alternative 3M is part of the draft General Plan update that would direct major growth south and west while using the proposed freeway itself as a limit line (no growth allowed north or east of that line).

Based on the information from the Draft Environmental Impact Statement/ Environmental Impact Report briefly summarized above, Caltrans and the Federal Highway Administration find the resource agency call for supplemental studies of indirect and cumulative impacts caused by induced growth into the Grassland Ecological Area to be without merit. The assumed impacts – described in great detail in resource agency comments – are too speculative to be considered, considering that the evidence from the collaborative growth-inducement studies indicates that no such impacts would occur.

2. Alternative 3M has been selected as the Preferred Alternative. Direct impact to Department of Fish and Game property would be avoided.
3. The project would include retention basins adjacent to the roadway and at the three interchanges. Cross culverts would also be constructed to provide storm water containment for the freeway. Studies determined there would be minimal effects or no impact on water quality. See Section 3.10.3.
4. The bypass project would require approximately 5.3 million cubic meters (6.9 million cubic yards) of fill for construction. Typically, sources for fill must be permitted and meet California Surface Mining and Reclamation Act requirements.

Potential opportunities for a southern bypass and wildlife restoration were informally discussed with Fish and Game staff; however, until a Preferred Alternative was recommended, specific planning would have been speculative and premature. The Gadwall Wildlife Area was determined to be a Section 4(f) resource. Alternative 3M would avoid the use of nearly 24.2 hectares (60 acres) of the facility, thus protecting it from encroachment by a transportation project. Alternatives were developed for the Los Banos Bypass Project in 1993 and refined in 1998. At the time, there was no conflict with lands subject to Section 4(f) for the Department of Transportation Act. However, over time, land was purchased for the development and expansion of the Gadwall Wildlife Area. By the time environmental studies began for the project, Alternatives 1M and 2M crossed a portion of the Gadwall Wildlife Area and would have resulted in use of a portion of the refuge land. Informal meetings were held with

California Department of Fish and Game personnel and a letter was received from the agency. However, it was determined by the Federal Highway Administration that this coordination did not meet the requirements for allowing the use of any portion of the Gadwall Wildlife Area for the project under Section 4(f) of the Department of Transportation Act of 1966. Alternative 3M has been selected as the Preferred Alternative.

5. No indirect effects on nearby wildlife habitats are expected from construction of Alternative 3M to the north. This alternative is located outside of the Grassland Ecological Area, a nearly 73,000-hectare (180,000-acre) area stretching from near the Stanislaus County line northwest of Los Banos southward to near the Fresno County line. Alternative 3M does not support development into sensitive areas (see response #1, General Response). There would be no change to existing hydrology within or outside of the project area. Nor have wildlife migration corridors been identified in that area. Any of the build alternatives would have a direct impact to farmland, foraging habitat on farmland (for San Joaquin kit fox, greater sandhill crane, and Swainson's hawk), and from noise. While farmland and the associated foraging habitat located on farmland would be lost, appropriate mitigation would reduce the effect (see Section 3.19.4).

Alternative 3M was selected as the Preferred Alternative because it would avoid impacts to wetlands, cultural resources, and a Section 4(f) resource, the Gadwall Wildlife Area, a part of the Grassland Ecological Area. The existing State Route 152 runs adjacent to the north end of the Gadwall Wildlife Area. Alternative 3M would move the roadway away from the Gadwall Wildlife Area slightly. There would be no changes made to existing hydrology and no impacts to wetlands. Structures would be designed to maintain water flow of the canals and the Los Banos Creek. The Biological Study Area covered the area within an 8-kilometer (5-mile) radius of each of the proposed alternatives, including the potential impact area. Environmental studies included agency consultation through a variety of formal and informal methods and efforts were made to fully identify, address, and resolve project-related issues through early and continuing coordination with agencies and the public. Chapter 6 identifies these efforts including coordination with U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, the California Department of Fish and Game, and the Grassland Water District.

Meetings have been held with U.S. Fish and Wildlife Service, California Department of Fish and Game, Los Banos Planning Department, and Grassland Water District representatives to discuss mitigation options and determine areas that would be most

beneficial to all parties to protect. Resource agencies advised Caltrans that they would prefer biological mitigation for the Los Banos Bypass Project to occur near the project rather than at offsite mitigation banks located away from the project area. Resource agencies have identified buffer areas that are considered critical for protection of the Grassland Ecological Area. The buffer areas primarily include land bounded by the San Luis Canal and the Santa Fe Canal north of existing State Route 152, and the area north of the State Route 152/165 interchange area. The U.S. Fish and Wildlife Service (Sacramento Office) also identified the Volta area, located northwest of Los Banos, for mitigation of impacts to giant garter snake habitat. Please see Section 3.19.4 of the Final Environmental Impact Statement/Environmental Impact Report for mitigation ratios determined through Section 7 Consultation with the U.S. Fish and Wildlife Service. Most of the land in the buffer areas is currently used for agriculture. Biological mitigation would be strategically located, whenever possible, to reinforce these buffer areas identified between the City of Los Banos and the Grassland Ecological Area. Purchase of conservation easements for biological mitigation requires willing sellers. Land for mitigation would be located at site(s) agreed to by the Federal Highway Administration, resource agencies, and Caltrans. In addition, right-of-way would be acquired for the bypass within identified buffer areas. When parcels are acquired for the bypass, excess land will remain in some cases. Caltrans would, with respect to targeted buffer areas, negotiate parcel exchanges with or sell excess parcels to neighboring farms to reconfigure split farmland parcels so that the parcels could continue to be farmed. Any time Caltrans resells or reconfigures land in the targeted areas, deed restrictions limiting future use to agriculture would be included to keep land in agricultural use in perpetuity.

Limited and/or no city growth north and east of the city would help avoid potential indirect impacts. The California Department of Fish and Game comment letter (May 6, 2005; page 3, Future Growth) notes that growth potential is limited north and east of Los Banos: “Growth to the north and east of Los Banos is basically limited by existing wetlands areas including the State wildlife areas and the Grassland Resource Conservation District. Generally, growth north of Henry Miller Road and east of State Route 165 will be limited, or non-existent, due to these existing protected areas. The areas south and west of the city do have some existing protected areas. The areas south and west of the city do have some existing wildlife habitat but substantially less than to the north and east. Therefore, it seems intuitive that urban development of Los Banos will occur to the south and west.”

The City of Los Banos is currently updating the General Plan for the City. See Section 3.2.3. One of the planning principles guiding development of the draft General Plan update concept is compact growth with strong urban “edges” that would protect adjacent agricultural lands, particularly to the north and east sides of the city. Furthermore, the plan concept also recognizes the Grassland Ecological Area as an important resource that needs protection from urban development. The draft General Plan update would continue to protect the inter-canal area as an agricultural buffer and proposes to create an agricultural buffer north of the State Route 152/165 interchange up to Henry Miller Road and west to the Los Banos Creek. Thus Alternative 3M would not threaten these areas with development. Caltrans would support the creation and maintenance of the agricultural buffer, through easements and/or deed restrictions on the north side of the bypass from the eastern interchange to Los Banos Creek. These actions by the City of Los Banos and Caltrans would provide a buffer from development to the southern edge of the North Grasslands and the narrow waist of the “hourglass” between the North and South Grasslands, thus avoiding indirect impacts to those areas.

6. No indirect or long-term impacts have been identified. Please see response #5 above. It is unlikely that Alternative 3M would result in growth-inducing impacts to wildlife and wildlife habitat to the north. Responses to comments 7 through 11 discuss the reasons why growth-inducing impacts are not anticipated. Also see General Response #1.
7. It is unlikely that Alternative 3M will result in growth-inducing impacts to wildlife and wildlife habitat to the north. Please refer to General Response #1.

Within California, local development and growth is primarily controlled by cities, counties, and Local Agency Formation Commissions. The local land use planning agencies have incorporated conservation values in their decisions, plans, policies, and goals. Local Agency Formation Commissions are independent commissions created by the State to promote the wise use of land resources while providing for the present and future needs of a community. Annexations to city limits and changes to a city’s *Sphere of Influence* must be reviewed and approved by the Commission. Four main goals guide the Merced Local Agency Formation Commission in making land use decisions. The goals are as follows:

- ◆ The promotion of development patterns that are planned, well-ordered, and efficient
- ◆ The efficient and effective delivery of governmental services

- ◆ The need to provide for urban development in balance with the conservation of open space and prime agricultural lands
- ◆ The incorporation of urban land use patterns that maximize the opportunity for local jurisdictions to provide their fair share of regional housing needs for all income levels.

Comments submitted by the Local Agency Formation Commission for the project stated that Alternative 3M is located within the current Los Banos *Sphere of Influence* boundary. The Local Agency Formation Commission considered any alternative outside of this boundary to be growth inducing and thus supported Alternative 3M.

In Fall 2005, the City of Los Banos began updating the General Plan and planning boundaries. One of the planning principles that is guiding development of the updated General Plan concept is to “Foster a compact, rather than a scattered development pattern, with strong urban ‘edges’ that will protect agricultural lands.” Growth would be encouraged to the west and south of the city, away from sensitive areas on the north and east.

The draft Preferred Plan planning area would maintain the existing eastern boundary. It would extend south to Copa de Ora Avenue and to just west of Volta Road. On the north, the planning area would follow the edge of the bypass from the State Route 152/165 interchange to Los Banos Creek. From the creek westward it would extend up to Henry Miller Road. Thus the freeway would define the northern edge of city growth to Los Banos Creek. The proposed planning area includes approximately 8,674 hectares (21,434 acres) of land both inside and outside the city. This planning area excludes approximately 796 hectares (1,967 acres) that were previously included in the 1999 General Plan Area of Interest, primarily prime farmland located north and south of the city. The planning area was “defined with the intention of focusing future growth on land contiguous to the City and preventing scattered development on adjacent farmlands. Being included within the Planning Area does not necessarily mean that the City is considering annexation” (Los Banos General Plan Update Map Atlas, Dyett & Bhatia, November 2005).

The current Los Banos General Plan commits the area east of the San Luis Canal to remain in Agricultural, Environmental Reserve, and Public Facilities (page OCR-35). The General Plan update would continue this commitment and propose creation of an agricultural buffer north of the State Route 152/165 interchange to Henry Miller Road and up to Los Banos Creek. This continues and reinforces the existing policy of discouraging growth beyond one-half mile south of Henry Miller Road. City Planning does not expect it to be practical to extend the line further north due to wetlands and

refuges located north of Henry Miller Road. Retaining areas north and east of the city in agricultural use and using the bypass as a strong urban edge would reinforce an agricultural buffer that would both prevent further conversion of farmland in those areas and protect sensitive areas further to the north and east within the Grassland Ecological Area. Constraints to development east of the Santa Fe Canal include the City's water treatment plant, Mud Slough Wildlife Area, Gadwall Wildlife Area, and wetland habitat already under protection. Residential and commercial growth in Los Banos is anticipated primarily to the southwest. A business opportunity area is proposed for the west side of Los Banos north and south of the existing State Route 152. Growth is being directed by many considerations, including protection of wetlands and other ecologically sensitive areas.

Further evidence of the City's commitment to conservation values is provided below in the City response to the *Grassland Water District Land Planning Guidance Study* (1995) as summarized below. The *Grassland Water District Land Planning Guidance Study* included specific changes (pages 7-8) suggested for the Los Banos General Plan to protect the Grassland Ecological Area and prevent potential isolation between the North and South Grasslands by development. Several of these changes have occurred over the years, with action taken either by the City in its planning or by Caltrans as the bypass project has been studied. These actions show an effort to protect the Grassland Ecological Area. Suggested changes from that study (in italics) and the current status are listed below:

*A – The area proposed to be zoned I industrial between San Luis Canal and Santa Fe Grade should be rezoned to be agriculture. This would have the effect of protecting giant garter snake habitat in the Santa Fe canal, and buffering the lands east of the Santa Fe Grade from the nearest urban uses in Los Banos.* The area was rezoned in 2003.

*B – A 200 to 300-foot additional buffer strip of agriculture should be provided on the west side of the San Luis Canal, within the area proposed to be zoned LD. The area immediately adjacent to the canal should be planned with impenetrable hedgerow vegetation (e.g. blackberries) to reduce human and domestic animal access to the canal habitat and the giant garter snake.* The Los Banos General Plan, Program OCR 7.3-F, discusses residential development west of the San Luis Canal, providing a permanent buffer of at least 15 meters (50 feet) or greater to separate the canal from any urban residential use.

*C – There is ample land south of the Highway 152 bypass and west of the corridor area that could be rezoned I to compensate for the loss of the I acreage east of the*

*San Luis Canal, without any loss of I zoned area. This would have the effect of leaving a resource neutral use between the San Luis and Santa Fe Canals. This appears to describe the current location for the City's planned industrial park.*

*D – Freeway 152 bypass in the east part of Los Banos should be moved 200 feet to the west to move this away from the San Luis Canal to reduce impacts to the giant garter snake. It is not clear if it was meant to move the bypass west of the San Luis Canal or make an adjustment to the alignment as it was in 1995. However, due to the canals, local development, and design requirements, Alternative 3M could only be located on the east side of the San Luis Canal where currently planned. Between the canals, most of the facility would be located 61 to 91 meters (200 to 300 feet) or more from either canal. This is the buffer suggested by the study for the giant garter snake.*

*E – To reduce road impacts to the giant garter snake and kit fox, the proposed freeway interchange at the Pioneer Road extension should either be eliminated or redesigned to serve only the area west of the Highway 152 bypass. Alternative 3M would avoid an interchange in this area.*

*F – All development east of the Santa Fe Grade should be eliminated to protect the contiguity of the north and south Grasslands. The area should be designated for permanent resource-beneficial open space. The City has no plans to extend the Urban Limit Line to the east. Located east of the Santa Fe Canal are the Los Banos wastewater treatment plant, the Mud Slough Wildlife Area, the Gadwall Wildlife Area, and parcels with wetlands already under protection. Additional constraints include the lack of availability of water, sewer, and other infrastructure in this area.*

*G – No new roads should be built or improved adjacent to the Santa Fe Grade or other canals to protect habitat for giant garter snake. The proposed major roadway along this canal should be eliminated. The City has no plans for changes along the Santa Fe Canal. Alternative 3M would be located between the San Luis Canal and the Santa Fe Canal. Between the canals, most of the facility would be located 61 to 91 meters (200 to 300 feet) or more from either canal, except where the bypass would span the San Luis Canal. The *Land Planning Guidance Study* suggested this distance as a buffer for the protection of giant garter snakes. The structure that would span the San Luis Canal would maintain the flow of the canal and allow for movement of special-status species, as requested during consultation with the U.S. Fish and Wildlife Service.*

*I – To reduce road impacts to the kit fox and preserve the resource neutrality of this zone, the proposed major roadway would be an eastward extension of Pioneer Road into the Ag zoned area is growth-inducing, and should be eliminated. The City plans*

to extend Pioneer Road, but only to Ward Road. This connection would accommodate existing and recent development. It would also be used to reduce traffic on State Route 152. San Joaquin kit fox are not found in this area.

*J – The College site currently designated south of Highway 152 and the proposed bypass should be moved outside the sensitive corridor area east of Los Banos. One option that could be explored is a land swap that could be negotiated with the California Department of Fish and Game. This is a reference to the parcel owned by the community college that is now nearly surrounded by the Gadwall Wildlife Area. The college is under construction on the west side of the city. Alternative 3M also avoids use of this area.*

*K – The stormwater flow from the City of Los Banos which is discharged into the San Luis Canal must be treated or pre-treated by source control to prevent heavy metals, oil and grease from entering the canal. The City conforms to the statewide discharge guidelines in accordance to population requirements. The City is currently operating under a Notice of Intent while the Storm Water Management Program is under review by the State Water Resource Control Board.*

The City's response to suggested changes in the Grassland Water District document indicates a willingness to preserve these sensitive areas rather than allow "sprawl development" east of the San Luis Canal.

The East Los Banos Area Plan (September 2000) also indicates the City's commitment to providing protection to sensitive areas east and north of the City. This document states that the area between the San Luis Canal and the Santa Fe Canal is not intended for development in order to provide a buffer for regional wetlands to the east. The San Luis Canal is described as a barrier to intensive urban development and as providing a foundation for a buffer. Development west of San Luis Canal would only take place when adequate infrastructure is available. One requirement would be that "sewer line size will be held to a minimum so as not to create an incentive for development east of the San Luis Canal." This would be done by reducing the size of sewer lines as they approach the eastern edge of the developing area. Additionally, because development may take place near areas of current agricultural production, Merced County's "right to farm" provisions would apply.

Both the current General Plan for the City of Los Banos and the General Plan update concepts indicate the City's commitment to conservation values and its desire for compact growth. City General Plans can be considered effective land use planning control. The U.S. First Circuit Court of Appeals has noted that an environmental impact would be "too speculative" to be included in an environmental impact

statement if it cannot be described with sufficient specificity to make consideration useful to a reasonable decision when the document is drafted. At this point, growth north of Henry Miller Road and east of the San Luis Canal would be considered too speculative to be included in the Draft Environmental Impact Statement/Environmental Impact Report for the Los Banos Bypass.

8. All build alternatives would result in loss of farmland as foraging habitat for San Joaquin kit fox, greater sandhill crane, and Swainson's hawk. After considering the constraints in the area (wetlands, historic properties, wildlife refuges, businesses, community impacts, etc.), it was determined that it would only be possible to build the bypass in areas that are now primarily farmland. Alternatives were developed in 1993 and further refined in 1998. Since that time the Gadwall Wildlife Area was enlarged. Under federal law, wildlife and waterfowl refuges are a resource to be avoided unless there is no prudent and feasible alternative to using the land. Alternative 3M avoids the Gadwall Wildlife Area. Please see Appendix C, Section 4(f) Evaluation for further details.

Caltrans has consulted with U.S. Fish and Wildlife Service for appropriate mitigation to compensate for the loss of foraging habitat for the San Joaquin kit fox, greater sandhill crane, and Swainson's hawk. Section 3.19.4 of the Final Environmental Impact Statement/Environmental Impact Report discusses this mitigation.

9. The bypass would be used by the City of Los Banos to form a northern edge for the city and an agricultural buffer is proposed north of the bypass, as discussed in response #7 above. Caltrans would support the creation and maintenance of the agricultural buffer, through easements and/or deed restrictions on the north side of the bypass from the eastern interchange to the Los Banos Creek. Without the creation of a strong urban edge north of Los Banos (through the General Plan update and construction of the bypass), development could continue to move northward.

Either of the southern alternatives would have directly affected wetlands as well as the Gadwall Wildlife Area (part of the Grassland Ecological Area), while Alternative 3M affects neither. The wetland edge on the north is located to the east of the Santa Fe Canal and north of Henry Miller Road. This edge is away from the bypass corridor.

10. Los Banos City Planning Department has also indicated that growth north of Henry Miller Road and east of State Route 165 will be limited due to existing protected areas. Please see response #7 above. The project purpose includes providing route continuity for interregional traffic. The project purpose does not include providing access to urban development that will occur to the south and west of the city. The

bypass would be a controlled access facility with access permitted only at the three interchanges. The City of Los Banos supports Alternative 3M.

11. Alternative 3M would not affect wetlands and would avoid building a retaining wall adjacent to the existing highway on the north edge of the Gadwall Wildlife Area. Alternatives 1M and 2M would directly impact wetlands on the north edge of the Gadwall Wildlife Area and require building a retaining wall to reduce those impacts.

Current design plans call for a bridge that spans the Los Banos Creek without structural supports in the creek bed (see Section 3.16.3). This type of design would allow wildlife to cross under the bridge along the creek and would maintain flow. The Arroyo Canal (located east of the Santa Fe Canal) and San Luis Canal would both be spanned by structures that would maintain the flow of the canals and allow for movement of species. These structures would also provide better connectivity for the giant garter snake. The Santa Fe Canal is currently contained within a pipe or small box culvert under the existing State Route 152. The project would extend the type of structure that currently exists. Main Canal would be crossed with a bridge structure that would span the canal and maintenance roads.

With guidance and cooperation from the U.S. Fish and Wildlife Service, the Merced County Association of Governments identified migration corridors and habitat linkages within the county. There were no identified migration corridors or habitat linkages within the project area for the Los Banos Bypass. Please see the Final Environmental Impact Report for Merced County's 2004 Regional Transportation Plan for additional information and mapping. The wetland study was done according to Army Corps guidelines.



State of California - The Resources Agency  
**DEPARTMENT OF FISH AND GAME**  
<http://www.dfg.ca.gov>

**ARNOLD SCHWARZENEGGER, Governor**



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June 29, 2005

Ms. Vickie Traxler, Chief  
San Joaquin Valley Analysis Branch  
California Department of Transportation  
2015 East Shields, Suite 100  
Fresno, California 93726

Dear Ms. Traxler:

**Supplemental Comments on the Los Banos Bypass Draft Environmental Impact Report (EIR)/Environmental Impact Statement (EIS)**

This Supplemental Comment letter is in response to the California Department of Transportation's (Caltrans) Draft Environmental Impact Statement/Report (DEIS/R) and Section 4 (f) Evaluation of the State Route 152 Los Banos Bypass (Project). The California Department of Fish and Game (Department) has formally responded (Attachments 1 and 2) to both the Notice of Preparation (NOP) and during the public review period of the DEIS/R and has had many technical group discussions with Caltrans regarding this Project. This supplemental letter is to reiterate our concerns and to make clear the Department's resolve to adequately protect the significant and valuable wildlife and wetland resources in the Los Banos area.

1

The Department feels strongly that Caltrans has not adequately evaluated the indirect, cumulative and growth inducing impacts to the sensitive resources near the City of Los Banos. Because of this incomplete disclosure, Caltrans has not assessed the impacts thoroughly and cannot properly assess mitigation requirements necessary to bring environmental impacts to "less than significant" levels. As a result, the Department recommends that Caltrans revise and supplement its California Environmental Quality Act (CEQA) process for this Project. The Project Development Team should carefully weigh their selection and recommendation to Caltrans Management in deference to a proper evaluation of these issues.

2

Generally, wildlife habitat north, east, and south of the City of Los Banos possibly affected by the Project includes significant upland habitat and wetlands collectively called the Grassland Ecological Area (GEA). This GEA is comprised of substantial State, Federal, and private wildlife areas, recreational areas, and parks. It is approximately 180,000 acres of contiguous and mosaics of wildlife habitat representing approximately 1/3 of the fresh water wetlands in California. The typical total annual value of habitat maintenance and land acquisitions in the GEA is estimated at \$16.4 million and the value of expenditures related to recreation in the GEA is approximately \$11.4 million per year. It is estimated that the GEA generates a total of \$41 million per year to the local economy and accounts for 800 jobs. In Merced County habitat management and wildlife-associated recreation contribute \$53.4 million

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*Conserving California's Wildlife Since 1870*

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to the county's economy (*Land Use and Economics Study Grassland Ecological Area Merced, County, California. Grassland Water District July, 2001*). These facts are demonstrative of the considerable ecological and monetary value of the wildlife areas, which could be jeopardized by inadequate evaluation and mitigation of the Project's long-term indirect and cumulative impacts. Land areas surrounding these habitat lands now support agricultural uses which are generally compatible with habitat uses. Growing communities (housing) and the infrastructure to support human population growth (roads, drainage, sewage, power, etc) is expanding into these agricultural areas and encroaching closer to wetlands. The Department's steadfast opinion is that Caltrans needs to more thoroughly complete their responsibility in the CEQA process regarding this Project prior to selecting an alternative, finalizing an EIR, and proceeding to the next phase of design, permitting, or funding applications. Proceeding prematurely will stimulate further challenge.

3

**Growth-Inducing Impacts:** Section 3.2 of the DEIS/R concludes that the Project will have no growth-inducing impacts and therefore that no mitigation is necessary. These conclusions were reached by analyzing the Caltrans Growth Inducement Checklist with information provided from the Merced County Association of Governments (MCAG) urban growth model. The DEIS/R concludes that the Project accommodates rather than promotes growth. However, the DEIS/R also acknowledges that changes in the distribution of growth would be planned in relation to the final location of the freeway. The DEIS/R states that adjustments to the general plan could be considered to allow roadside related commercial zoning at key intersections such as the junction of State Routes (SR) 152 and 165. The Department has seen similar language regarding other projects and feels that it confirms that Caltrans' Project both promotes and accommodates growth, and hence is in fact inducing impacts. The Project will influence a change in city/county zoning, the routes that highway travelers choose to drive and where they choose to live and do business. This is in fact a growth inducing Project. Even though few interchanges are included in the Project design thus far, surface roads near these Project interchanges exist and would likely be focused areas of growth. For example, growth induced at the intersection of SR 165 and SR 152, or SR 165 and Henry Miller Road (e.g. commercial uses), places more intensive infrastructure, vehicle use and disturbance (noise, light, maintenance etc.) at the interface of key wetlands.

4

Page 200 of the DEIR/S states that the bypass could act as a defined limit to growth, and therefore the indirect and long-term impacts to agricultural land would be minimal. The document infers there may be an impact associated with growth, yet offers no assurances to back up this concept. Commitments should be made by Caltrans to protect agricultural land (and wetland buffers) in the Project area in perpetuity through acquisition of agricultural easements or other means to avoid/mitigate the indirect and cumulative impacts anticipated. Current or future zoning ordinances and projection of growth patterns do not secure any meaningful protection for agricultural or wetland resources in the area over the long term of the Project. This is important since many of the agricultural lands in the area are utilized by wildlife, or serve as buffers to wetlands adjacent to these lands. Failure to secure agricultural resources (direct use and as wetland buffers) for the long term, represents an impact to wildlife resources not well evaluated in the DEIR/S.

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The population of Los Banos has increased from approximately 13,500 in 1990 to over 32,000 today. Merced County's population increased by 2.6 percent last year and continued growth is expected (California Department of Finance). This high countywide growth rate, coupled with the Project's possible influence of growth in the Los Banos area could have a significant adverse effect on both nearby, and western Merced County wildlife resources and should be better analyzed in the DEIS/R. The Department has previously expressed concern to MCAG regarding their analytical methods regarding anticipated growth. We acknowledge that these methods are among the tools in determining indirect and cumulative impacts but have clarified that these methods have limitations. We recommend that Caltrans clarify the growth projection methods used in the analysis, acknowledge the broader range of outcomes, and consider in more detail the potential for growth inducing and cumulative impacts of this Project. The Department's opinion is that the DEIS/R does not adequately discuss nor mitigate growth inducing impacts on the area and on the wildlife resources in western Merced County.

6

**Cumulative Impacts:** Chapter 4 of the DEIS/R discusses cumulative impacts. Analysis of cumulative impacts focuses on farmland and habitat for special-status species and was completed using the MCAG urban growth model developed by the University of California, Davis with supporting databases maintained by the MCAG. The Department commented on this model during its development and the subsequent Merced County 20 Year Regional Transportation Plan. Comment letters written at that time (Attachments 3 and 4) state the Department's concern that "analysis of cumulative impacts is not detailed or comprehensive enough to meet the requirements of CEQA for subsequent tiered documents". Since this model was one method used to determine cumulative impacts for this Project, the Department reiterates our concerns with the adequacy of the cumulative impacts assessment in the DEIR. The DEIS/R states that for the purpose of this cumulative impact analysis, the urban growth model focused on farmland because the lost farmland also serves as potential loss habitat for wildlife. We generally concur with this statement, but that approach alone does not go far enough in disclosing the potential loss of habitat. The loss of farmland is not the only measurement of cumulative impacts on wildlife habitat. Did the model consider loss or impairment of wildlife movement corridors, change of agricultural land use from wildlife friendly practices to wildlife unfriendly land use, impacts to wetlands adjacent to farmland, human population growth and the synergistic effect of these factors on the nearby wetland resources as well as the GEA in western Merced County?

7

There are jurisdictional wetlands (Wetland 1) described in Table 3.39 and its corresponding map within ½ mile of the proposed intersection of SR 165 and the northern alternative. These wetlands were avoided in Alternative 3M by moving the original northern alternative slightly south. The DEIS/R states that zoning could be changed to allow roadside related commercial zoning at this location. It seems likely that this change in land usage may be directly caused by the Project and would result in direct and indirect impacts to these wetlands.

8

The Department feels that Caltrans' determination regarding cumulative impacts is not adequate and needs clarification. We accept that the estimated amount (acres) of disturbed

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land for the roadway is accurate but request better analysis regarding synergistic environmental effects. Analysis of Project effects on wildlife pathways and movement corridors is needed to adequately evaluate Project impacts and develop mitigation measures.

9

The DEIS/R also analyzed cumulative impacts using more traditional method but again focused on farmland loss as a primary measure of cumulative impacts. The DEIS/R states that the presence of many wildlife refuges in the Project area provide additional protection of habitat for the local area. It is most likely there will not be growth into existing designated wildlife areas and refuges. However, the analysis did not adequately consider that presently some buffer between urban and wildlife areas exists and that a decrease of that buffer area or the land uses and growth there may adversely effect the productivity of these protected wildlife areas. Biological systems are complex and although direct effects from project construction are relatively easy to determine; indirect effects need more sophisticated analysis which the Department feels is lacking in the DEIS/R.

10

The DEIS/R states that an ad hoc advisory committee of local planners from Merced County reviewed these results and found them to be reasonable and consistent with their experiences. We feel that Caltrans did not fully review these results with the Department or the other environmental agencies that have jurisdiction over the Project. The Department had several meetings with Caltrans staff during Project development, but discussions mainly centered on mitigation for direct impacts. Project alternatives were revised several times after these discussions and the Department was under the impression that Caltrans would assure that the final alternative would not potentially have significant long-term effects on existing wildlife habitat. Cumulative environmental impacts are difficult to determine in all cases but the Department feels that the DEIS/R needs additional input from the wildlife agencies before proper analysis can be completed.

11

SR 165 is a north/south connection to SR152 in Merced County. The northern alternative in the DEIS/R would integrate this north/south traffic into the project and hence have further indirect and cumulative impacts. SR 165 provides a direct route from SR152 to Interstate 5 to the south and connects with SR 140 and SR 99 to the north. The alignment of SR 165 slices diagonally through the GEA for a considerable distance. As the population increases in Merced and Stanislaus counties, it is likely that increased traffic load and road maintenance and improvements to SR165 and SR140 would need to occur as the choice of this route is stimulated by this Project. Thus, the Project could cause indirect and cumulative adverse impacts to the GEA and other wildlife habitat in a greater portion of western Merced County. Several improvement projects to SR 165 are already planned to accommodate traffic increases which will be facilitated at least in part by the selection of the Northern alternative in the DEIS/R/S. Caltrans is also planning an access management study along the existing SR152 (Pacheco Boulevard) and the SR165 corridor through Los Banos. These impacts need to be evaluated and disclosed in the indirect and cumulative impact portions of this DEIR/S.

12

The DEIR/S fails to evaluate reasonable and foreseeable cumulative impacts in a regional context; the DEIR/S only evaluates impacts that would occur in or immediately adjacent

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to the Project footprint. However, impacts from a project of this size and scope should be more regional in nature. There are several additional developments and projects planned to the west and south of the Project area that will affect special status resources such as San Joaquin kit fox and Swainson's hawk. These impacts should be discussed in the DEIR/S and evaluated cumulatively. These include: 1) the area east of Hwy 33 and between the Delta-Mendota Canal and California Aqueduct (Monte Dorado), has residential units currently under construction; 2) The Wathen-Castanos/Arnaudo Brothers/ River East Development planned for Santa Nella (HCP noticed in the Federal Register); 3) the County of Merced is currently preparing an EIR for the Villages of Laguna San Luis (NOP dated 1-14-05); 4) the California State Parks and US Bureau of Reclamation have release the DEIR/DEIS for the San Luis Reservoir State Recreation Area (SRA) Resource Management Plan/Preliminary General Plan, which includes campground and facility expansion; 5) the California High Speed Rail Authority identifies a potential service route along State Route (SR) 152; 6) Caltrans has already identified the need for widening of SR33 to up to 6 lanes in the Santa Nella Area; and 7) the Fox Hills Development off of Volta Road that is currently under construction. Major rail improvements are part of the High Speed Rail discussions, and it seems likely that the final location of the Project would influence the location of these railroad routes which could cause impacts to wildlife habitats in the Los Banos area. Indirect and cumulative impacts like these should be analyzed and discussed in this DEIS/R.

13

The location of the offsite borrow site which would provide material for the project is not identified in the DEIR/S, and on Page 23, it states that an "environmental clearance" for the borrow site location would be the contractor's responsibility. We believe that all of the impacts associated with the Project need to be identified and disclosed rather than deferring those considerations to others at a later date. Depending upon where the material is excavated, this aspect of the project could represent additional and significant impacts to agricultural land and/or wildlife habitat for which mitigation would be required. We believe this is the responsibility of Caltrans, not the project contractor.

14

**Indirect Impacts:** San Joaquin kit fox are less likely to successfully cross wider, busier highways. The project appears to increase the likelihood of vehicle strikes and direct mortality. Because development in the Los Banos area tends to serve Bay Area commuters, commuting hours tend to extend well into the dark morning and evening hours, when kit fox are active.

15

The DEIR/S should also assess impacts associated with increased visitor use in the San Luis Reservoir SRA (which include Los Banos Reservoir), such as the potential increase in vehicle-related wildlife (including kit fox) strikes and mortalities, as well as, other impacts of increased visitor use and traffic such as possible increases in vandalism and wildfire.

Any additional high volume roads near the wetlands resources in and around the Project area could disturb wildlife through increased noise, increased daily traffic, exposure to deleterious spills and chemical constituents from combustion engines, and increased lighting, which can also disrupt the navigation of birds during daily and seasonal flights. These issues are especially pertinent with the proposed project, since the eastern edge of all Project

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alternatives is located in a critical area of the Pacific flyway. In addition, any Project related increase in residential development could result in conflicts with wildlife-oriented uses. Conflicts often arise between uninformed new residents interfacing more closely to wetlands and the continued management of the adjacent wildlife habitat. For example, the Merced County Mosquito Abatement District has noted an increase in complaints from new developments adjacent to wetland and wildlife areas. Conflicts often arise between lawful hunting activities and new neighbors as well. New residences associated with induced growth would preclude hunting in these areas since it is unlawful to hunt within 150 yards of structures. These direct, indirect, and cumulative impacts have not been adequately addressed in the DEIR/S, and therefore appropriate mitigation has not been identified.

16

The western edge of the proposed bypass (for all alternatives) nearly merges with the area identified as a critical "pinch point" for the north-south connectivity of San Joaquin kit fox. With the development planned for Santa Nella in conjunction with the additional barrier to kit fox movement that could result from implementation of the Project, north south movements of kit fox and other terrestrial wildlife could be severely hampered in the entire western Merced County region. While the wetland habitat that predominates in the Los Banos area is not ideal for kit fox, they are known to occur in the area and they and other wildlife must have opportunities for safe movement through the area. For this reason, the Department feels that it is critical that undercrossings, rather than overcrossings, are favored for county road intersections with the bypass. In addition, these undercrossings should have very wide road shoulders that allow for wildlife movement independent of the active road surface. These areas should also have regularly spaced rest areas and escape dens installed for the benefit of San Joaquin kit fox.

17

**Mitigation:** Since the Department feels that the Project was inadequate in evaluating long-term environmental impacts, we feel that mitigation may be improperly evaluated at this time. The long-term protection of the important wildlife resources in the Los Banos area requires three main elements; 1) adequate supply of clean air and water; 2) adequate buffer areas and connectivity; and 3) adequate understanding of the value of existing resources. Independent of which Project alternative is ultimately selected, mitigation for indirect and cumulative impacts should concentrate on these concepts. Specific mitigation actions should be developed in coordination with the appropriate local and resource agencies following more thorough revisions of the DEIR/S. Conservation easements, land purchase, and enhancement of appropriate lands to create an adequate buffer to protect existing wildlife habitat in perpetuity, along with an aggressive public education program, would be appropriate mitigation for Project long-term effects. Both wildlife agencies and private conservation groups have existing or planned programs focused on these endeavors and should be contacted to determine if possible joint efforts would yield better benefits to wildlife than that which would result from independent actions.

18

On page 179 of the DEIR/S, the mitigation ratio to offset impacts to wetlands is stated to be 3:1. However, in order for the Department to determine whether or not the proposed mitigation is adequate, the mechanism and location of mitigation must be identified and disclosed. This is also true for the mitigation proposed for giant garter snake, Swainson's hawk,

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San Joaquin kit fox, and burrowing owl. In several places in the DEIR/S, it is stated that mitigation for impacts to San Joaquin kit fox and Swainson's hawk may occur with the same land. However, the Department should be consulted to determine whether or not this is appropriate. An alternative approach which assumes the mitigation cannot be accomplished on the same land is needed. This will then define the higher end mitigation habitat needed. Appropriate foraging habitat mitigation for Swainson's Hawks should be near (< 5 miles) active nesting sites, and no further than 10 miles from these sites.

19

The Project does not disclose how much "agricultural land" to be impacted by the project is currently in irrigated agriculture and that which is currently vernal pool grassland. Since there are special status vernal pool invertebrates such as longhorn fairy shrimp (400 feet north of Alternative 3M alignment) and vernal pool tadpole shrimp (256 feet E of Alternative 3M alignment) in the project area, the potential project related impacts to this habitat type should be disclosed. Impacts to vernal pool landscapes should be mitigated by protection in perpetuity of similar habitat.

20

On page 290 of the DEIR/S in Appendix G, it states that large oaks or eucalyptus trees could be removed as part of this project. This loss of potential Swainson's hawk nesting habitat was not discussed in the portion of the DEIR/S on Threatened and Endangered species, and it did not disclose if these were known Swainson's hawk nest trees. Project mitigation should include planting of new appropriate replacement trees well advance such that the replacement trees can serve as nest sites in a timely manner.

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Page 196 of the DEIR/S states that if active San Joaquin kit fox dens are identified on site, that environmental fencing will be installed "if practical." This is not adequate; if an active den is identified within the project area; immediate consultation with the Department is warranted and additional avoidance measures will be required.

22

**Incidental Take:** A giant garter snake was observed only 1176 feet away from the area to be impacted by Alternative 3M, and all of the potential alternatives will impact wetlands likely to be inhabited by this state-listed species. On page 193 of the DEIR/S, one of the identified avoidance measures for this species is to conduct construction during the active period, when the "likelihood for direct mortality is lessened." This language indicates that there is potential for take under the California Endangered Species Act (CESA) definition. If take occurs to any State-listed species without Caltrans also having Incidental Take authority from the Department, construction on the project would have to be halted, consultation with the Department would have to be initiated, and appropriate enforcement actions would be evaluated. From the information provided in the DEIR/S, the Department believes there is a substantial and foreseeable risk that the proposed project would result in take of state-listed species, especially the giant garter snake. Any take that occurs would need prior authorization in the form of a Department-issued incidental take permit under Fish and Game Code Section 2081, or alternatively, the Department would need to find that the Fish and Wildlife Service's permit was consistent with CESA, which under Fish and Game Code section 2080.1 would exempt the permitted activities from CESA's permitting requirement. To issue either a take permit or a

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consistency determination under CESA, the Department must find that the Project's impacts on any state-listed species that are subject to take have been minimized and fully mitigated. Thus far this has not occurred.

The Department must use the DEIR/S to support its issuance of an Incidental Take Permit and any necessary Stream Alteration Agreements required by the Project. As such, the Department is also a Responsible Agency pursuant to CEQA. The Department is providing these comments in furtherance of these statutory responsibilities, as well as its common law duty as Trustee for the public's fish and wildlife.

**Other Comments:** Alternative 3M is identified as the environmental alternative scenario. However, implementation of this alternative would impact more farmland and more habitat loss for San Joaquin kit fox, Swainson's hawk, greater sandhill crane, and burrowing owl. These impacts need to be assessed in conjunction with the potential wetland impacts posed by each alternative.

Any impacts to State listed species, including those listed by both the United States Fish and Wildlife Service and the Department, should also be reported to the Department.

**State Policy on Conservation:** Fish and Game Code, Section 2055, entitled "Conservation Efforts," states: "The Legislature further finds and declares that it is the policy of this state that all state agencies, boards and commissions shall seek to conserve endangered species and threatened species, and shall utilize their authority in furtherance of this chapter." Pursuant to this Section, the Department believes it is highly appropriate for Caltrans, through its actions associated with planning, development, and operation of the proposed Project in this critical fish and wildlife resource area, to assume an active and positive role in conservation of the many threatened and endangered species and rare natural communities found in western Merced County. We have several ideas in this regard that may help Caltrans and others proceed with the many projects in the area which benefit the public and fish and wildlife resources.

In addition, CEQA Statute Sec. 21000(g) states: It is the intent of the Legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.

In light of the above responsibilities of Caltrans as a State Agency, and in response to the Department's comments, the Department urges Caltrans to reconsider its analysis of growth-inducing, indirect, and cumulative impacts before selecting a preferred alternative, and proceeding with the next phase of the CEQA process. The extensive and valuable wildlife resources of western Merced County are in jeopardy of being permanently impacted due to the many reasons stated above.

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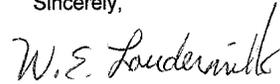
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If you have any questions regarding our comments on the proposed Project, please contact Ms. Julie Vance of my staff at (559) 243-4014, extension 222. We look forward to assisting you in further refinements of the DEIR/S and properly mitigating the impacts of the Project in a timely manner.

Sincerely,



W. E. Loudermilk  
Regional Manager

Attachments (4)

cc: See Page Ten

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cc: Mr. Jesse Brown  
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369 West 18<sup>th</sup> Street  
Merced, California 95340

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Grassland Water District  
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Mr. Pepper Snyder  
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Mr. Dave Widell  
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Mr. Jerry O'Banion  
Merced County Board of Supervisors  
Supervisor, District 5  
2222 M Street  
Merced, California 95340

Mr. Michael S. Amabile, Mayor  
520 J Street  
Los Banos, California 93635

Mr. John Beam  
Department of Fish and Game

Mr. Greg Gerstenberg  
Department of Fish and Game

Ms. Kim Forrest  
Refuge Manager  
San Luis National Wildlife  
Refuge Complex  
Post Office Box 2176  
Los Banos, California 93635

**CALIFORNIA DEPARTMENT OF FISH AND GAME – JUNE 29, 2005**

1. Comment noted.
2. Please see General Response to Comments #1 following the California Department of Fish and Game comment letter dated May 6, 2005.
3. The value of the Grassland Ecological Area is noted. Alternative 3M would not have direct or indirect effects on the Grassland Ecological Area. Alternatives 1M and 2M would have both direct and indirect effects on the Grassland Ecological Area, primarily at the Gadwall Wildlife Area. In addition, growth is largely moving south and west in Los Banos, not north and east towards the bypass location and the sensitive grassland resources. The City of Los Banos has had successful policies in place for years in the current General Plan to use facilities such as canals and freeways as urban edges that contain growth. The Los Banos General Plan update (see Section 3.2.3) that is now taking place would actually use the proposed project as an urban edge to protect the very resources that are the source of concern in the comment letter.
4. Please see response #12 for the Environmental Protection Agency comment letter for discussion of land use in the State Route 152/165 area.

While existing surface roads are located in the vicinity of the bypass, the bypass will be a controlled access facility. There would be no access to and from the bypass from local roads, only access from the three interchanges. Frontage roads are planned for the east and west interchanges to provide access to private properties that would otherwise become landlocked. The frontage road on the east would also allow the California Department of Fish and Game to continue movement of equipment along the Santa Fe Grade Road between their properties. No frontage roads are planned at the State Route 152/165 interchange, thus avoiding additional access.

5. Please see response #4 above. Meetings have been held with U.S. Fish and Wildlife Service, California Department of Fish and Game, and Los Banos Planning Department representatives to discuss mitigation options and determine areas that would be most beneficial to all parties to protect. Comment letters from the Grassland Water District/Grassland Resource Conservation District have also indicated areas they feel should be protected. Please see Sections 3.3.4 and 3.19.4 of the Final Environmental Impact Statement/Environmental Impact Report for a description of mitigation concepts worked out in cooperation with U.S. Fish and Wildlife Service, California Department of Fish and Game, and Grassland Water District regarding buffers.

The City of Los Banos has demonstrated that protection of sensitive areas east of Los Banos is important through protections discussed in the General Plan. *The Grassland Water District Land Planning Guidance Study* (1995) recommended specific changes to the Los Banos General Plan and most of these were incorporated into the current General Plan (see response #7 for the California Department of Fish and Game comment letter of May 6, 2005). The City is in the process of updating the General Plan. Planning principles guiding development of the draft General Plan update concept is compact growth with strong urban “edges” that would protect adjacent agricultural land, particularly to the north and east sides of the city, and recognition that the Grassland Ecological Area is an important resource that needs protection from urban development. The draft General Plan update would continue to keep the area between San Luis Canal and Santa Fe Canal as an agricultural buffer and proposes to create an agricultural buffer north of the State Route 152/165 interchange up to Henry Miller Road on the north and west to the Los Banos Creek. This demonstrates that the City of Los Banos recognizes the value of sensitive ecological resources in the region and is willing to help protect them.

6. California Department of Finance population projections for Merced County and Los Banos are the official projections prepared by the State.

The California Department of Fish and Game comment letter (May 6, 2005) stated (page 3) that “Growth to the north and east of Los Banos is basically limited by existing wetland areas including the State wildlife areas and the Grassland Resource Conservation District. Generally, growth north of Henry Miller Road and east of State Route 165 will be limited, or non-existent, due to these existing protected areas.” The City of Los Banos is focusing future growth primarily to the west and south of the current boundaries (please see response #4 above). City General Plans can be considered effective land use planning control.

The U.S. First Circuit Court of Appeals has noted that an environmental impact would be “too speculative” to be included in an environmental impact statement if it cannot be described with sufficient specificity to make consideration useful to a reasonable decision when the document is drafted. At this point, growth is not planned north of Henry Miller Road and east of the San Luis Canal, and thus would be considered too speculative to be included in the Draft Environmental Impact Statement/Environmental Impact Report for the Los Banos Bypass.

The results of three growth studies (a quantitative land use model, a quantitative travel-time model, and a traditional checklist approach) and other pertinent

information is reported in the General Response #1 to the California Department of Fish and Game letter dated May 6, 2005.

For this reason the bypass was not considered to be growth inducing in these areas and such development was not included as a cumulative impact.

7. Please see General Response #1 following the California Department of Fish and Game comment letter dated May 6, 2005. Speculative environmental impacts need not be included (see response #6 above).

Under the California Environmental Quality Act, cumulative impacts to environmental resources are included “when the project’s incremental effect is cumulatively considerable” (Sections 15065 and 15130). The only resources that warranted a cumulative impact analysis were farmland and habitat (foraging) for San Joaquin kit fox, greater sandhill crane, and Swainson’s hawk (see Chapter 4). The Final Environmental Impact Report for Merced County’s 2004 Regional Transportation Plan, prepared with guidance and cooperation from the U.S. Fish and Wildlife Service, identified habitat corridors and linkages for Merced County (see page 7-3 and Figure 7-4). No corridors for San Joaquin kit fox or other species were shown for the Los Banos area. Alternative 1M and 2M would have had an impact (less than 1.2 hectares or 2.9 acres) to wetlands located on the north edge of the Gadwall Wildlife Area, a part of the Grassland Ecological Area. Alternative 3M avoids this impact.

Local growth is discussed in response #7 to the first California Department of Fish and Game comment letter (May 6, 2005). Creation of an agricultural buffer north of the State Route 152/165 interchange up to Henry Miller Road and west to Los Banos Creek would protect farmland north of Los Banos. Please see response #5 for information on the Los Banos General Plan update and agricultural buffer. Please see Chapter 4 of the Final Environmental Impact Statement/Environmental Impact Report for the Cumulative Impact analysis.

8. Wetland 1 is located on two parcels currently zoned for agriculture. Ethnic Radio of Los Banos, Inc. also uses at least one parcel for radio towers and associated equipment. At the time the draft environmental document was circulated, there was no indication from the City that zoning would change for the area north of the interchange. Potential development may occur south of the bypass, but the parcels under consideration for commercial use do not have any wetlands. The draft Los Banos General Plan update proposes to create an agricultural buffer located north of the State Route 152/165 interchange up to Henry Miller Road and west to Los Banos Creek, thus maintaining the land usage. Please see Section 3.2.3 for the draft General

Plan update concept for this area. In addition, Caltrans would support the creation and maintenance of the agricultural buffer, through easements and/or deed restrictions on the north side of the bypass from the eastern interchange to Los Banos Creek.

Alternative 3M avoids all wetlands unlike Alternatives 1M and 2M that would directly and indirectly affect wetlands.

9. No wildlife pathways and/or movement corridors were identified within the project study area or the five-mile radius used for the biological studies. Please see response #7 above.

Under both the California Environmental Quality Act and the National Environmental Policy Act, cumulative effects must consider past, present, and probable future projects and changes (reasonably foreseeable), including those projects outside of the control of Caltrans. A change that is speculative or unlikely to occur is not reasonably foreseeable.

The Caltrans projects in the general Los Banos area, other than the bypass, listed in the document (Section 4.2.1.2) are identified as primarily repair and rehabilitation type projects that provide operational improvements for traffic flow. The types of projects listed do not produce a measurable change in travel demand or travel pattern, nor do they stimulate land development. These projects may be included in cumulative impacts when successive projects of the same type in the same place, over time have substantial impacts. However, this is not the case for the types of projects in the area.

It was determined that the Los Banos Area of Interest, particularly the Urban Limit Line, would be the most appropriate limit to use for determining cumulative impacts in the area, mainly because this is the area of farmland/foraging habitat that would be directly affected. Guidance for considering cumulative effects under the National Environmental Policy Act indicated that in determining how far into the future to analyze cumulative effects, the time frame of the project should be considered. Freeways are typically built for 20 years. Because the Urban Limit Line of the current General Plan (1999) represents the limits to which the city is anticipated to grow over the next 20 years, it was expected that farmland beyond the Urban Limit Line would most likely not be changed over the 20-year span.

The local development projects listed in the draft environmental document are those projects that had been constructed, the city had approved, or for which a Notice of Preparation had been circulated. The Los Banos General Plan was also used to determine the boundary of planned city growth for the future. To include projects that are unknown at this time would be speculative and such projects did not need to be

included in the cumulative impact analysis. Recent changes to the City's Urban Limit Line were not known or anticipated until after the draft environmental document was circulated. Information on the City of Los Banos draft General Plan update is discussed in General Response #1 of the May 6, 2005 comment letter from the California Department of Fish and Game. The planning area for the city is proposed to use the bypass as a city edge north of the city and to extend future growth primarily west of Los Banos, away from sensitive areas included in the Grassland Ecological Area.

10. The area between the San Luis Canal and the Santa Fe Canal provides an important buffer between urban land use and wildlife areas. The Los Banos General Plan states that this area will remain in agricultural use to provide a buffer (see Program OCR 7.3-C and 7.3-D). Also see response #6 to the California Department of Fish and Game comment letter (May 6, 2005). Because the City plans to use the bypass as a northern edge for the city from the Los Banos Creek to the east side of Los Banos and focusing most future growth to the south and west of the current limits, reduction of the current buffer areas is unlikely.

Because the bypass would be located at least 91 meters (300 feet) from each of the canals throughout most of the area between the San Luis Canal and the Santa Fe Canal, the buffer suggested by the *Grassland Water District Land Planning Guidance Study* (1995) would be maintained.

11. The results of growth studies were reviewed with and validated by local land use planners because of their expertise in land use planning that addresses future growth. The Department of Fish and Game does not have this expertise. Caltrans respects the California Department of Fish and Game's views on the importance of protecting resources and has worked cooperatively on refining mitigation concepts. Please see also response #7 above.

Revisions to project alternatives during environmental studies were minor and within the study corridors for the project. These minor adjustments made it possible to avoid some wetlands and all cultural resources.

12. State Route 165 is already integrated with existing State Route 152 within Los Banos. The Average Daily Traffic for State Route 165 from Henry Miller Road to State Route 140 (the section of State Route 165 that passes through the Grassland Ecological Area) was 5,100 vehicles in 1999, but was 4,700 vehicles in 2004, an approximately 8 percent reduction in vehicles using this roadway. The Annual Average Daily Traffic for this route increased to 4,800 vehicles in 2005. While it was estimated that traffic would reach 9,300 vehicles for this section of State Route 165

by 2009, traffic does not seem to be increasing at the rate anticipated in the vicinity of the Grassland Ecological Area. The bypass project would include widening of State Route 165 to accommodate the interchange location for the two state routes in that location.

The Access Management Study for the existing State Routes 152 and 165 made access management strategy recommendations within Los Banos only. These included raised medians, traffic signals, and right in/right out access. The recommendations would not affect the Grassland Ecological Area.

Other anticipated projects for State Route 165 include Wolfsen Road Rehabilitation located from Henry Miller Road to State Route 140 (environmental studies are nearly completed) and State Route 165 from Interstate 5 to Henry Miller Road Rehabilitation (project not yet programmed). Neither project would include widening of State Route 165 itself, but would primarily include rehabilitation of the roadway, and bridge widening and/or replacement as needed to meet current standards, for example, standard lane and shoulder widths for the bridges. The purpose of these projects is roadway and bridge preservation, and not to accommodate traffic increases. These projects are independent of the bypass project.

A State Route 165 widening project was listed in the Merced County Regional Transportation Plan (2004) from Pioneer Road to Henry Miller Road, an area primarily within the city. A Project Study Report has not yet been completed for this project, and thus it cannot be programmed for funding, according to the Merced County Association of Governments. Currently, the Merced County Association of Governments does not know when a Project Study Report would be done or when the project would be funded. This project would also be outside of the Grassland Ecological Area and would affect an existing roadway.

13. Resources to be considered for cumulative impact analysis were first identified. The cumulative impact analysis should focus only on those resources substantially affected by the project, and resources currently in poor or declining health or at risk even if project impacts are less than substantial. Only farmland and foraging habitat for San Joaquin kit fox, greater sandhill crane, and Swainson's hawk were identified as resources that warranted such analysis (see response to comment #9). The biological study area for the Natural Environmental Study area covered an area within an 8-kilometer (5-mile) radius for each of the proposed alternatives, including the potential impact area. No migration corridors were identified in the area, only foraging habitat in the farmland. The study area for the Community Impact Study included both the City's *Sphere of Influence* and the Area of Interest. The Area of

Interest is an area that extends well beyond the potential land needs of the City over the next 20 years. Thus areas beyond those immediately adjacent to the project footprint were included.

Additional developments and projects planned west and south of the project area that are listed in the comment letter are approximately five miles or more west of Los Banos, except for the Fox Hills Development (also to the west). The *Area of Interest* for the City of Los Banos was a more appropriate limit for cumulative impacts for the bypass project as it is primarily the farmland surrounding the city that would be affected by the bypass and any developments within the *Area of Interest*.

Developments further to the west of Los Banos are market-driven, and are not dependent upon or influenced by a future bypass. The potential widening of State Route 33 in the Santa Nella area would be dependent on traffic needs at that location. A bypass around Los Banos would not serve the San Luis Reservoir State Recreation Area campgrounds and facility expansion that are located approximately 10 miles west of Los Banos.

The potential service route in the Los Banos area identified by the California High Speed Rail Authority was only one of several being considered. The Program Final Environmental Impact Report/Environmental Impact Statement for the proposed High Speed Rail has been completed. A broad corridor for an east/west corridor was identified between State Route 152 and Pacheco Pass on the south and Interstate 580 and Altamont Pass on the north. It was also determined that a station option at Los Banos would not be pursued (Summary, Final Program Environmental Impact Report/Environmental Impact Statement for the Proposed California High-Speed Train System, 2005, California High-Speed Rail Authority)

Analysis of cumulative impacts to farmland and foraging habitat for special-status species at the regional scale is reported in Chapter 4 of the Draft Environmental Impact Statement/Environmental Impact Report.

14. Location of offsite borrow sites are typically determined by the project contractor. Sources for fill must be permitted and meet the California Surface Mining and Reclamation Act requirements. Project contractors are required to use sources that meet these requirements. The Biological Opinion from the U.S. Fish and Wildlife Service includes standard provisions that address offsite borrow sites.
15. The Final Environmental Impact Report for Merced County's 2004 Regional Transportation Plan, prepared with guidance and cooperation from the U.S. Fish and Wildlife Service, identified habitat corridors and linkages for Merced County (see page 7-3 and Figure 7-4). No corridors for San Joaquin kit fox or other species were

shown for the Los Banos area. The San Luis Reservoir State Recreation Area lies approximately 16.1 kilometers (10 miles) west of the bypass project and would continue to be served by the existing State Route 152. It is not anticipated that the bypass would cause increased traffic to that area because the bypass will serve as a way for interregional traffic to pass through the Los Banos area without going through the center of a city with stop signals and congestion. The bypass would not provide additional access to the San Luis Reservoir State Recreation Area.

16. Alternative 3M avoids wetland resources and is located approximately one-half mile from protected wetland resources identified within the Grassland Ecological Area, except for those associated with the Gadwall Wildlife Area. The existing State Route 152 is adjacent to both the Gadwall Wildlife Area and the Mud Slough Wildlife Area. The eastern edge of the project would pass between the San Luis Canal and the Santa Fe Canal, an area that is planned to remain in agricultural use (Los Banos General Plan), thus providing a buffer to more sensitive areas further east. Please see response #7 to the first California Department of Fish and Game comment letter (May 6, 2005).

In addition, the bypass is identified in the City of Los Banos draft General Plan update as an urban edge that would protect buffer areas between the city and the Grassland Ecological Area (see response #5). This aspect of the general plan update is being coordinated with resource agencies. Retaining areas north and east of the city in agricultural use and using the bypass as a strong urban edge would preserve an agricultural buffer that would both prevent further conversion of farmland in those areas and protect sensitive areas further to the north and east within the Grassland Ecological Area.

17. It has not been shown that San Joaquin kit fox corridors exist within the project area. Please see responses #7 and #15 above. In a rural situation, local streets typically go over the freeway. It is also more economical to have the local streets go over a freeway. Only one structure is required rather than two structures and less imported material would be required. To elevate the bypass over these two local roads would add an estimated \$5.9 million to the project cost. However, due to the number of homes and structures located along North Johnson Road, Caltrans has determined that it would be beneficial to place the bypass over North Johnson Road rather than place the local road over the bypass. Relocation and disruption to local residents would be reduced.

18. The Biological Study Area (see the Natural Environmental Study) covered the area within an 8-kilometer (5-mile) radius of each of the proposed alternatives, including

the potential impact area. Environmental studies included agency consultation through a variety of formal and informal methods and efforts were made to fully identify, address, and resolve project-related issues through early and continuing coordination with agencies and the public. Chapter 6 identifies these efforts including coordination with U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, the California Department of Fish and Game, and the Grassland Water District. Mitigation concepts were proposed in the draft environmental document. However, specific mitigation actions for state or federally protected species and sensitive habitats are determined during formal consultation with U.S. Fish and Wildlife Service, and in consultation with other regulatory agencies (e.g., Army Corps of Engineers, California Department of Fish and Game, California Regional Water Quality Control Board, etc.), as appropriate. These specific mitigation actions are discussed in the Final Environmental Impact Statement/Environmental Impact Report (see Section 3.19.4).

19. Please see response #18 above.
20. Section 3.3 described farmland use in the Los Banos area, including types of farms and that the land is considered to be Prime Farmland and Farmland of Statewide Importance. No vernal pool grasslands would be affected by the project. No longhorn fairy shrimp or vernal pool tadpole shrimp were found within the survey area. The sightings of these listed species outside the study area were located in seasonal pools and not vernal pool grasslands. No drainage patterns associated with vernal pools would be altered by the project.
21. Section 3.7.2 describes the project area as “relatively flat with an occasional tree, such as oak or eucalyptus.” Trees are few and scattered, primarily located near homes. There is a riparian corridor located along Los Banos Creek. Appendix G, Summary of Mitigation, showed that mitigation would be determined only if it was found necessary to remove trees. Caltrans policy requires highway planting with native plants (revegetation) as mitigation for native vegetation damaged or removed due to a roadway construction project.

There were nine documented sightings in the California Natural Diversity Database for Swainson’s hawk nests recorded within an 8-kilometer (5-mile) radius of the potential impact area (Section 3.19.2). Whether any nests would be affected by Alternative 3M is not clear; however, pre-construction surveys would be conducted in all areas within 0.8 kilometer (one-half mile) of the project impact area to determine the locations of nests. As outlined in Section 3.19.3, it was determined that no

Swainson's hawk mortality is expected to result from project construction and mitigation would be done.

22. Appropriate mitigation has been determined for San Joaquin kit fox through consultation (see Final Environmental Impact Statement/Environmental Impact Report, Section 3.19.4). San Joaquin kit fox provisions would be incorporated into the construction contract, including those regarding Environmentally Sensitive Area fencing and consultation with U.S. Fish and Wildlife Service and California Department of Fish and Game if a San Joaquin kit fox den is discovered (see Appendix G).
23. Alternative 3M would not impact wetlands. Please see response #16 above. Proposed mitigation (see Section 3.19.4) is standard mitigation based on information received from Biological Opinions received from the U.S. Fish and Wildlife Service for other projects. This language does not indicate that there is a substantial potential for take, only how Caltrans would seek to avoid, minimize, and/or mitigate impacts to special-status species, as requested. Furthermore, Alternative 3M would impact an estimated 0.1 hectare (0.2 acre) of 6.6 hectares (16.2 acres) of giant garter snake habitat, or approximately one percent of the giant garter snake habitat within the project area, a minimal amount. Standard minimization and mitigation would take place in consultation with all appropriate agencies.
24. No Swainson's hawk mortality is expected to result from project construction activities (see section 3.19.3). Nor is it anticipated that the project would take nesting trees. Mitigation for lost foraging habitat would occur through the acquired land needed to mitigate for the San Joaquin kit fox. The Biological Opinion from U.S. Fish and Wildlife Service would cover the incidental take, if any, of special-status species that are both state and federally listed. Please see Appendix G, Mitigation and Minimization Summary, of the Final Environmental Impact Statement/Environmental Impact Report.

The Section 1602 Streambed Alteration Agreement would be applied for during the Plans, Specifications, and Estimate phase of the project. Information presenting the final environmental document would supplement the application package for the agreement.

25. Comment noted. Alternative 3M would avoid impacts to wetlands and the use of nearly 24.2 hectares (60 acres) of the Gadwall Wildlife Area, thus protecting it from encroachment by a transportation project. Alternatives were developed for the Los Banos Bypass Project in 1993 and refined in 1998. At the time, there was no conflict with lands subject to Section 4(f) for the Department of Transportation Act. However,

over time land was purchased for the development and expansion of the Gadwall Wildlife Area. By the time environmental studies began for the project, Alternatives 1M and 2M crossed a portion of the Gadwall Wildlife Area and would have resulted in use of a portion of the refuge land. Meetings were held with California Department of Fish and Game personnel and a letter was received from the agency. However, it was determined by the Federal Highway Administration that this coordination did not meet the requirements for allowing the use of any portion of the Gadwall Wildlife Area for the project under Section 4(f). Because Alternative 3M provided an avoidance alternative to using Section 4(f) property, it was required to select Alternative 3M as the Preferred Alternative.

26. Information about state and federally listed special-status species (Sections 3.18 and 3.19), natural communities (Section 3.15), wetlands (3.16), and the potential impacts from the project is found in the Draft Environmental Impact Statement/ Environmental Impact Report. Chapter 6 of the document discusses all consultation and coordination between Caltrans and the California Department of Fish and Game, the U.S. Fish and Wildlife Service, and other appropriate agencies during the environmental review process.

In addition, at the beginning of Sections 3.15 to 3.20 of the environmental document, under the Regulatory Setting, state and federal laws pertaining to the protection of plants and animal species and natural communities (including wetlands) are briefly discussed. Caltrans abides by these laws, as well as the requirements of the California Environmental Quality Act and the National Environmental Protection Act.

Throughout the environmental review process for the Los Banos Bypass Project, Caltrans carefully and thoroughly analyzed the potential impacts that the project could have on the public, fish and wildlife resources, and other environmental issues. Caltrans also coordinated with resource agencies, Merced County, and the City of Los Banos in an active and positive role to conserve biological resources and prevent environmental damage. Through thoughtful analysis, planning, and coordination, Caltrans can contribute to a satisfying environment for all California citizens and still meet their transportation needs.

27. Please see General Response to Comments #1 following California Department of Fish and Game comment letter dated May 6, 2005.

STATE OF CALIFORNIA, RESOURCES AGENCY

ARNOLD SCHWARZENEGGER

GOVERNOR



## DEPARTMENT OF CONSERVATION

DIVISION OF LAND RESOURCE PROTECTION

801 K STREET • MS 18-01 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 324-0850 • FAX 916 / 327-3430 • TDD 916 / 324-2555 • WEB SITE conservation.ca.gov

TO: Project Coordinator  
Resources Agency

Caltrans  
Attn: Vickie Traxler  
San Joaquin Analysis Branch  
2015 East Shields, Suite 100  
Fresno, CA 93726

FROM: Dennis J. O'Bryant, Acting Assistant Director  
**Department of Conservation, Division of Land Resource Protection**

DATE: May 6, 2005

SUBJECT: LOS BANOS BYPASS ENVIRONMENTAL IMPACT  
STATEMENT/ENVIRONMENTAL IMPACT REPORT (EIS/EIR) AND  
SECTION 4(f) EVALUATION SCH #2001071135

The Department of Conservation's Division of Land Resource Protection (Division) monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. The Division has reviewed the above EIS/EIR and offers the following comments with respect to the project's potential impacts on agricultural land.

The proposed project is construction of a four-lane freeway bypass for State Route 152 circumventing the City of Los Banos in Merced County. The EIS/EIR evaluates three build alternatives and a no-build alternative. The EIS/EIR acknowledges the impacts of the proposed build alternatives on loss of farmland and notes that some of the areas included in the alternative routes include areas under Williamson Act contracts

#### Loss of Farmland and Mitigation Measures

The EIS/EIR notes that agricultural land in the Los Banos area consists of Prime Farmland and Farmland of Statewide Importance and that the project could result in conversion of 214 to 280 acres of farmland. The EIS/EIR, however, notes that

*The Department of Conservation's mission is to protect Californians and their environment by:*

*Protecting lives and property from earthquakes and landslides; Ensuring safe mining and oil and gas drilling;*

*Conserving California's farmland; and Saving energy and resources through recycling.*

1

conversion of farmland could be not avoided due to the rural nature of the Los Banos area.

Project Coordinator and Vickie Traxler  
May 6, 2005  
Page 2

Mitigation measures proposed by Caltrans include provision of over crossings and under crossings at local roads to provide farmland access; and negotiating parcel exchanges with neighboring farmers to reconfigure split farmland parcels for resale. The EIS/EIR notes that there are no known conservation easement programs in Merced County for farmland mitigation.

2

The Division recommends that Caltrans contact the newly formed Central Valley Farmland Trust (Bill Martin (916) 687-3178) regarding the potential for utilizing agricultural conservation easements as partial mitigation for the loss of farmland in Merced County.

Williamson Act Lands

The EIS/EIR notes that nine parcels within the study area are under Williamson Act contract. The EIS/EIR also notes that cancellation of a Williamson Act contract on a parcel of 100 acres or more is deemed to be of statewide, regional or area-wide significance. The EIS/EIR should also provide information on state policy to avoid location of public improvements in areas of agricultural preserves (Government Code Section 51290) whenever feasible.

3

The EIS/EIR notes that only portions of parcels acquired for the proposed project would be taken out of Williamson Act contract and would not cause cancellation of the contract. It should also be noted that public acquisition of lands under Williamson Act contract require that specific findings be made and that the Department of Conservation be noticed at the time contracted lands are being considered for acquisition (see Government Code Sections 51291-51292 attached).

4

Thank you for the opportunity to comment on the EIS/EIR. If you have questions on our comments, or require technical assistance or information on agricultural land conservation, please contact the Division at 801 K Street, MS 18-01, Sacramento, California 95814; or, telephone (916) 324-0850.

Attachment

cc: Los Banos RCD  
745 W. J Street  
Los Banos, CA 93635

### **ACQUISITION NOTIFICATION PROVISIONS OF THE WILLIAMSON ACT**

Notification provisions of the Williamson Act (Government Code Section 51291) require an agency to notify the Director of the Department of Conservation of the possible acquisition of Williamson Act contracted land for a public improvement. Such notification must occur when it **appears** that land enrolled in a Williamson Act contract may be required for a public use, is **acquired**, the original public improvement for the acquisition is **changed**, or the land acquired is **not used** for the public improvement. The local governing body responsible for the administration of the agricultural preserve must also be notified.

#### **NOTIFICATION (Government Code Section 51291 (b))**

The following information must be included in the notification correspondence.

1. The total number of acres of Williamson Act contracted land to be acquired and whether the land is considered prime agricultural land according to Government Code Section 51201.
2. The purpose for the acquisition and why the land was identified for acquisition. (If available, include documentation of eminent domain proceedings or a property appraisal and written offer in lieu of eminent domain per GC §§7267.1 and 7267.2 to void the contract per GC §51295; include a chronology of steps taken or planned to effect acquisition by eminent domain or in lieu of eminent domain.)
3. A description of where the parcel(s) is located.
4. Characteristics of adjacent land (urban development, Williamson Act, noncontract agricultural, etc.)
5. A vicinity map and a location map (may be the same as #8).
6. A copy of the contract(s) covering the land.
7. CEQA documents for the project.
8. **The findings required under GC §51292, documentation to support the findings and an explanation of the preliminary consideration of §51292.** (Include a map of the proposed site and an area of surrounding land identified by characteristics and large enough to help clarify that no other, noncontract land is reasonably feasible for the public improvement.)

#### **ACQUISITION (Government Code Section 51291 (c))**

The following information must be included in the notification when land within an agricultural preserve has been **acquired**. The notice must be forwarded to the Director within **10 working days** of the acquisition of the land. The notice must also include the following:

1. A general explanation of the decision to acquire the land, and why noncontracted land is not available for the public improvement.
2. Findings made pursuant to Government Code Section 51292, as amended.
3. If the information is different from that provided in the previous notice sent upon consideration of the land, a general description of the land, and a copy of the contract covering the land shall be included in the notice.

#### **SIGNIFICANT CHANGE IN PUBLIC IMPROVEMENT (Government Code Section 51291 (d))**

Once notice is given as required, if the public agency proposed any significant change in the public improvement, the Director must be notified of the **changes** before the project is completed.

#### **LAND ACQUIRED IS NOT USED FOR PUBLIC IMPROVEMENT (Government Code Section 51295)**

If the acquiring public agency does not use the land for the stated public improvement and plans to return it to private ownership, **before** returning the land to private ownership the Director must be notified of the action. **Additional requirements apply.** The mailing address for the Director is: **Debbie Sareeram, Interim Director, Department of Conservation, 801 K Street, MS 18-01, Sacramento, CA 95814.**

**CALIFORNIA DEPARTMENT OF CONSERVATION**

1. Comment noted.
2. Information about the Central Valley Farmland Trust has been noted and Bill Martin has been contacted for further information. Conservation easements for biological habitat in conjunction with mitigation of San Joaquin kit fox, greater sandhill crane, and Swainson's hawk foraging habitat loss has targeted farmland areas. Please see Section 3.3.4 of the Final Environmental Impact Statement/ Environmental Impact Report for information on how biological mitigation would involve conservation easements on farmland.
3. Language has been added to Section 3.3.1, Regulatory Setting, to provide information on state policy in regards to avoiding location of public improvements in areas of agriculture preserves whenever feasible. For this project, it was not feasible to avoid six Williamson Act parcels.
4. Comment noted.

STATE OF CALIFORNIA  
PUBLIC UTILITIES COMMISSION  
320 WEST 4<sup>TH</sup> STREET, SUITE 500  
LOS ANGELES, CA 90013

ARNOLD SCHWARZENEGGER, Governor



May 16, 2005

File No. SCH 2001071135

Ms. Vickie Traxler, Environmental Branch Chief  
Caltrans-San Joaquin Valley EAB  
2015 East Shields Avenue, Suite A-100  
Fresno, CA 93726-5428

Subject: 10-419100 (PM 16 0/24.8) Los Banos Bypass

Dear Ms. Traxler:

As the state agency responsible for rail safety within California, we recommend that the proposed alternative 3M realignment project planned across the California Northern Railroad Company's rail line in Los Banos be planned with the rail corridor safety in mind.

Safety considerations may include, but are not limited to, the following items:

- Grade separation of the crossings along major thoroughfares
- Fencing to limit the access of pedestrians onto the railroad right-of-way
- Improvements to warning devices at existing at-grade highway-rail crossings
- Improvements to traffic signaling at intersections adjacent to crossings
- Improvements to roadway geometry and lane striping near crossings
- Increased enforcement of traffic laws at crossings
- A safety awareness program on rail related hazards

The above-mentioned safety improvements should be considered when approval is sought for the realignment project. Working with Commission staff early in the conceptual design phase will help improve the safety to motorists and pedestrians in the Winton area.

If you have any questions in this matter, please contact me at (213) 576-7078 / [rxm@cpuc.ca.gov](mailto:rxm@cpuc.ca.gov).

Sincerely,

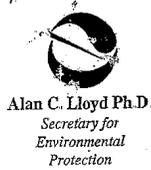
Rosa Muñoz, PE  
Utilities Engineer  
Rail Crossings Engineering Section  
Consumer Protection & Safety Division

cc: California Northern Railroad Company

1

## **PUBLIC UTILITIES COMMISSION**

1. A grade separation is proposed for the railroad crossing. During the Plans, Specifications, and Estimate Phase for the project, Caltrans Headquarters Structures Office and the District Liaison will contact the Public Utilities Commission and the railroad company for review and approval of the proposed design prior to final design of the structure. The safety concerns listed will be investigated and, if applicable, will be included in the project.



## California Regional Water Quality Control Board Central Valley Region

Robert Schneider, Chair



Arnold Schwarzenegger  
Governor

Fresno Branch Office  
1685 E. Street, Fresno, California 93706  
Phone (559) 445-5116 • FAX (559) 445-5910  
<http://www.waterboards.ca.gov/centralvalley>

22 April 2005

Kimely Sawtell  
Department of Transportation  
San Joaquin Valley Environmental Analysis Branch  
2015 East Shields Avenue, Suite 100  
Fresno, CA 93726

### **DRAFT ENVIRONMENTAL IMPACT STATEMENT / REPORT, LOS BANOS BYPASS, SCH# 2001071135, MERCED COUNTY**

Your request for comments on the Draft Environmental Impact Statement / Report for the Los Banos Bypass project was received on 9 March 2005. The proposed project is to construct a four-lane freeway to bypass the City of Los Banos on State Route 152. The new bypass would be on a new alignment north or south of the existing State Route 152 beginning near Volta Road and ending near Santa Fe Grade Road.

Regional Board staff provided comments on the State Route 152 Bypass Notice of Preparation. Based on the information provided in this Draft Environmental Impact Statement / Report, we have no additional comments.

Thank you for the opportunity to comment on this Draft Environmental Impact Statement / Report. If you have any questions regarding our comments, please call me at (559) 445-6046.

LISA GYMER  
Environmental Scientist

cc: State Clearinghouse, Sacramento

C:\eeqa\losbanosbypass.doc

*California Environmental Protection Agency*



1

**Form A  
Notice of Completion & Environmental Document Transmittal**

SCH# 2001071135

Mail to: State Clearinghouse, P.O. Box 3044, Rm 222, Sacramento, CA 95812-3044 916/443-0613

Project Title: 10-419100 (PM 16 0/24.8) Los Banos Bypass  
 Lead Agency: California Department of Transportation Contact Person: Yvonne Traylor  
 Street Address: 2015 E. Shields, Suite 100 Phone: (530) 243-8284  
 City: Fresno Zip: 93726 County: Fresno

Project Location:  
 County: Merced City/Nearest Community: Los Banos Total Acres: approx. 1087  
 Cross Street: \_\_\_\_\_ Section: \_\_\_\_\_ Twp: \_\_\_\_\_ Range: \_\_\_\_\_ Base: \_\_\_\_\_  
 Assessor's Parcel No. \_\_\_\_\_  
 Within 2 Miles: State Hwy # 152 Waterways: various canals  
 Airports: Los Banos Municipal Airport, Railways: Union Pacific RR Schools: Planned Merced Community Colleges

Document Type  
 CEQA:  NOP  Supplement/Subsequent EIR  NEPA:  NOI  OTHER:  Joint Document  
 Early Cons (Prior SCH No.)  EA  Final Document  
 Neg Deo  Other: \_\_\_\_\_  Draft EIS  Other: \_\_\_\_\_  
 Draft EIR  FONSI

Local Action Type:  
 General Plan Update  Specific Plan  Rezone  
 General Plan Amendment  Master Plan  Prerzone  
 General Plan Element  Planned Unit Development  Use Permit  
 Community Plan  Site Plan  Land Division (Subdivision, etc.)

Development Type:  
 Residential: Units \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_  
 Office: Sqft \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_  
 Commercial: Sqft \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_  
 Industrial: Sqft \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_  
 Educational: \_\_\_\_\_  
 Recreational: \_\_\_\_\_  
 Water Facilities: Type \_\_\_\_\_ AGD \_\_\_\_\_  
 Transportation: Type Bypass on new alignment  
 Mining: Mineral \_\_\_\_\_  
 Power: Type \_\_\_\_\_ Watts \_\_\_\_\_  
 Waste Treatment: Type \_\_\_\_\_  
 Hazardous Waste: Type \_\_\_\_\_  
 Other: \_\_\_\_\_

Funding (approx): Federal \$ Unknown State \$ Unknown Total \$ Approx. \$245 million

Project Issues Discussed in Document:  
 Aesthetics/Visual  Flood Plain/Flooding  Schools/Universities  Water Quality  
 Agricultural Land  Forest Land/Fire Hazard  Septic Systems  Water Supply/Groundwater  
 Air Quality  Geologic/Seismic  Sewer Capacity  Wetland/Riparian  
 Archeological/Historical  Minerals  Soil Erosion/Compaction/Grading  Wildlife  
 Coastal Zone  Noise  Solid Waste  Growth Inducing  
 Drainage/Absorption  Population/Housing Balance  Toxic/Hazardous  Landuse  
 Economics/Jobs  Public Services/Facilities  Traffic/Circulation  Cumulative Effects  
 Fiscal  Recreation/Parks  Vegetation  Other: Section 4(f)

Present Land Use/Zoning/General Plan Use:  
 Primarily agriculture  
 Project Description:  
 Construct a new 4-lane bypass on new alignment around the City of Los Banos. Three build alternatives, one north and two south are under consideration.

State Clearinghouse Contact: (916) 445-0613  
 State Review Began: 3-7 2005  
 SCH COMPLIANCE 5-6 2005  
Per kad

Please note State Clearinghouse Number (SCH#) on all Comments  
01071135  
 SCH#: \_\_\_\_\_  
 Please forward late comments directly to the Lead Agency  
 AQMD/AECPD 18  
 (Resources: 3, 12)

Project Sent to the following State Agencies

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Resources</li> <li><input type="checkbox"/> Boating &amp; Waterways</li> <li><input type="checkbox"/> Coastal Comm</li> <li><input type="checkbox"/> Colorado Rvr Bd</li> <li><input checked="" type="checkbox"/> Conservation</li> <li><input checked="" type="checkbox"/> Fish &amp; Game # <u>4</u></li> <li><input type="checkbox"/> Delta Protection Comm</li> <li><input type="checkbox"/> Forestry &amp; Fire Prot</li> <li><input type="checkbox"/> Historic Preservation</li> <li><input checked="" type="checkbox"/> Parks &amp; Rec</li> <li><input type="checkbox"/> Reclamation Board</li> <li><input type="checkbox"/> Bay Cons &amp; Dev Comm</li> <li><input checked="" type="checkbox"/> DWR</li> <li><input type="checkbox"/> OES (Emergency Svcs)</li> <li><input type="checkbox"/> Bus Transp Hous</li> <li><input checked="" type="checkbox"/> Aeronautics</li> <li><input checked="" type="checkbox"/> CHP</li> <li><input checked="" type="checkbox"/> Caltrans # <u>10</u></li> <li><input type="checkbox"/> Trans Planning</li> <li><input type="checkbox"/> Housing &amp; Com Dev</li> <li><input type="checkbox"/> Food &amp; Agriculture</li> <li><input type="checkbox"/> Health Services</li> </ul> | <ul style="list-style-type: none"> <li>State/Consumer Svcs</li> <li>General Services</li> <li>Cal EPA</li> <li>ARB - Airport Projects</li> <li>ARB - Transportation Projects</li> <li>ARB - Major Industrial Projects</li> <li>Integrated Waste Mgmt Bd</li> <li>SWRCB: Clean Wtr Prog</li> <li>SWRCB: Wtr Quality</li> <li>SWRCB: Wtr Rights</li> <li><input checked="" type="checkbox"/> Reg WQCB # <u>SE</u></li> <li>Toxic Sub Ctrl-CTC</li> <li>Yth/Adult Corrections</li> <li>Corrections</li> <li>Independent Comm</li> <li>Energy Commission</li> <li>NAEIC</li> <li><input checked="" type="checkbox"/> Public Utilities Comm</li> <li><input checked="" type="checkbox"/> Santa Monica Mtns</li> <li>State Lands Comm</li> <li>Tahoe Rgl Plan Agency</li> <li>Other: _____</li> </ul> |
|--|---|

**RECEIVED**  
 MAR 09 2005  
 FW/005-CVR  
 FRESNO, CALIF.

**RECEIVED**  
 MAR - 7 2005  
 Application  
 Redevelopment  
 STATE CLEARINGHOUSE

07-17-2001 09:49 FROM:STKN PROJECT MGT

2899426194

TO:84258220

P.002/003



iston H. Helton  
Secretary for  
Environmental  
Protection

# California Regional Water Quality Control Board Central Valley Region

Robert Schneider, Chair



Gray Davis  
Governor

Fresno Branch Office

Internet Address: <http://www.swrcb.ca.gov/~rwqcb5>  
3614 East Ashland Avenue Fresno, California 93726  
Phone (559) 445-5116 • FAX (559) 445-5910

13 August 2001

Peter Jemcigrbe  
Department of Transportation, District 10  
1976 East Charter Way  
Stockton, CA 95205

## NOTICE OF PREPARATION, LOS BANOS BYPASS, SCH# 2001071135, MERCED COUNTY

We received your request for comments on the notice of preparation for the Los Banos Bypass project on 30 July 2001. The project will include the construction of a new 4-lane expressway bypassing the City of Los Banos on State Route 152.

The final CEQA environmental document (Environmental Impact Report, Negative Declaration, or Mitigated Negative Declaration) needs to include a description of all solid and/or liquid waste that might be generated by the proposed project and how it will be handled, treated, and disposed of. The CEQA environmental document also needs to consider how storm water drainage may be affected by the proposed project.

If construction associated with the project will disturb more than five acres, compliance with the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for Discharges of Storm Water Associated With Construction Activity will be required. Before construction begins, the proponent must submit a Notice of Intent to comply with the permit to the State Water Resources Control Board and a Storm Water Pollution Prevention Plan must be prepared.

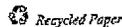
If the project will involve the discharge of dredged or fill material into navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the US Army Corps of Engineers. If a Section 404 permit is required by the Corps, the Board will review the permit application to ensure that discharge will not violate water quality standards. For more information, contact the Sacramento District of the Corps of Engineers at (916) 557-5250.

2

3

4

California Environmental Protection Agency



The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov/rwqcb5>

DDTD10 AUG16'01 13:05

CT-17-2001 09:49 FROM:STKN PROJECT MGT 2099426194 TO:84250220 P.003/003

Peter Jemerigbe

- 2 -

13 August 2001

Thank you for the opportunity to comment on this notice of preparation. If you have any questions regarding our comments, please call Lisa Gynor at (559) 445-6076.



DOUGLAS K. PATTESON  
Senior Engineer  
RCE No. 55985

cc: State Clearinghouse, Sacramento

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**

1. Comment noted.
2. No waste products would be generated by the project. Anticipated storm water runoff volumes are shown on Table 3.27, Anticipated Paved Acreage and Storm Water Volumes. The project would include retention basins adjacent to the roadway and at the three interchanges. Cross culverts would also be constructed to provide storm water containment for the freeway. Studies determined there would be either no impacts or very small impacts to water quality. See Section 3.10.3.
3. Please see Section 3.10.4, Avoidance, Minimization, and/or Mitigation Measures.
4. Please see Section 3.10.4, Avoidance, Minimization, and/or Mitigation Measures.

STANDING COMMITTEES

AGRICULTURE  
CHAIR  
GOVERNMENTAL ORGANIZATION  
VICE CHAIR  
BANKING FINANCE & INSURANCE  
EDUCATION  
VETERANS AFFAIRS

# California State Senate

SENATOR  
**JEFF DENHAM**  
TWELFTH SENATE DISTRICT

RULES COMMITTEE APPOINTMENTS  
CALIFORNIA EMERGENCY COUNCIL  
NATIONAL CONFERENCE OF  
STATE LEGISLATURES  
COUNCIL OF STATE GOVERNMENTS - WEST

SENATOR DENHAM@SEN.CA.GOV  
WWW.SEN.CA.GOV/DENHAM



May 17, 2005

Vickie Traxler, Environmental Senior Planner  
San Joaquin Valley Analysis Branch  
Caltrans District 6  
2015 E Shields, Suite 100  
Fresno, CA 93726

Subject: Los Banos Bypass Draft EIS/EIR

Dear Ms. Traxler:

I am writing to you to express my support for Alternative 3M, also known as the "Northern Route", of the Los Banos Bypass. The project is a high priority for the region and has been for many years. It will relieve congestion, improve through traffic, and serve planned growth in an area expected to continue to grow rapidly.

With my endorsement of the northern bypass alternative, I am joining with the Los Banos City Council, Dos Palos City Council, the Merced County Board of Supervisors, and the Merced County Association of Governments Governing Board to support this project and encourage its progress toward construction as the earliest possible date.

Sincerely,

Jeff Denham  
Senator, 12<sup>th</sup> District

REPRESENTING MADERA MERCED MONTEREY SAN BENITO AND STANISLAUS COUNTIES

STATE CAPITOL ROOM 3076  
SACRAMENTO CA 95814  
(916) 445-1392  
(916) 445-0773 FAX

1231 8TH STREET, #175  
MODESTO, CA 95354  
(209) 577-6592  
(209) 577-4963 FAX

369 MAIN STREET, #208  
SALINAS, CA 93901  
(831) 769-8040  
(831) 769-8086 FAX

1640 N STREET, #210  
MERCED, CA 95340  
(209) 726-5495  
(209) 726-5498 FAX

**JEFF DENHAM, CALIFORNIA STATE SENATE**

Support for Alternative 3M noted.

STATE CAPITOL  
P.O. BOX 942649  
SACRAMENTO, CA 94249-0017  
(916) 319-2017  
FAX: (916) 319-2117

DISTRICT OFFICES  
31 E. CHANNEL STREET #306  
STOCKTON, CA 95202  
(209) 948-7479  
FAX: (209) 465-5058  
806 W. 18TH STREET  
MERCED, CA 95340  
(209) 726-5465  
FAX (209) 726-5469

Assembly  
California Legislature



BARBARA S. MATTHEWS  
ASSEMBLYMEMBER SEVENTEENTH DISTRICT

COMMITTEES:  
AGRICULTURE, Chair  
SELECT COMMITTEE ON THE  
"DEVELOPMENT OF A 10TH  
UNIVERSITY OF CALIFORNIA"  
MERCED CAMPUS, Chair  
WATER, PARKS, AND WILDLIFE  
HIGHER EDUCATION  
VETERANS AFFAIRS  
ARTS, ENTERTAINMENT, SPORTS,  
TOURISM AND INTERNET MEDIA

May 23, 2005

Vickie Traxler  
San Joaquin Valley Analysis Branch  
2015 E. Shields, Suite 100  
Fresno, CA 93726.

Subject: Los Banos Bypass Draft EIS/EIR

Dear Ms. Traxler:

I am writing to you to express my support for Alternative 3M, also known as the "Northern Route", of the Los Banos Bypass. The project is a high priority for the region and has been for many years. It will relieve congestion, improve through traffic, and serve planned growth in an area expected to continue to grow rapidly.

With my endorsement of the northern bypass alternative, I am joining with the Los Banos City Council, Dos Palos City Council, the Merced County Board of Supervisors, and the Merced County Association of Governments Governing Board to support this project and encourage its progress toward construction as the earliest possible date.

Sincerely,

Barbara S. Matthews  
Assemblymember, District 17

cc: Jesse Brown, Merced County Association of Governments  
Supervisor Jerry O'Bannion  
Mayor Mike Amabile



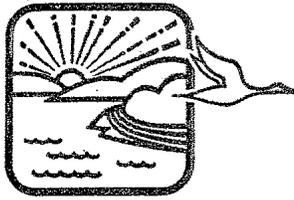
Printed on Recycled Paper

**BARBARA S. MATTHEWS, CALIFORNIA STATE ASSEMBLY**

Support for Alternative 3M noted.

## **SECTION 3.0 LOCAL AND REGIONAL AGENCIES**





**City of  
Los Banos**

April 26, 2005

**CalTrans**  
Vickie Traxler  
San Joaquin Valley Analysis Branch  
2015 E. Shields # 100  
Fresno, CA 93726

To the CalTrans San Joaquin Valley Analysis Branch:

On behalf of the City of Los Banos Planning Staff, I respectfully submit the following response to the Draft Environmental Impact Statement/Environmental Impact Report and Section 4(f) Evaluation for the Los Banos Bypass (publication date February 2005).

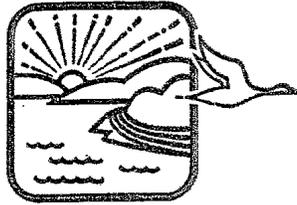
CalTrans ("the Agency") has proposed the addition of a freeway route through Los Banos north or south of the SR 152/ Highway 165 intersection at the center of the city. The Agency's stated purpose is to 1) reduce congestion on SR 152, 2) improve route continuity, and 3) increase driving safety (page V).

Los Banos is a commuter town (33% of residents working in Silicon Valley alone) because housing far less affordable in coastal communities (Steinberg, J., *The Fresno Bee*, 7/29/2001 and *Los Angeles Times*, 01/07/2001). Los Banos has become increasingly suburbanized in recent years though its main arterial, HWY 152 (Pacheco Boulevard), has not been altered to accommodate the changing traffic patterns. The combination of growth without accommodation has resulted in congestion, high accident rates compared to the state averages, and a high volume of big rig traffic through a suburban area.

It is important to note that increasing freeway capacity is often correlated with increased traffic volumes. A University of Southern California study of traffic relief and highway expansion found that within four years after a 10% increase in freeway capacity was built a 7% increase in traffic was experienced (as reported by *The Daily Bulletin*, Nov. 13, 2004). Further, Los Banos' population growth (and traffic) is fueled by the vast imbalance between jobs and housing in the Bay Area/Silicon Valley. Thus building the

1

520 J STREET — LOS BANOS, CALIFORNIA 93635  
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## City of Los Banos

bypass could temporarily alleviate congestion, and the rate at which the bypass reaches capacity rests upon the rate at which population grows in the direct area. The EIR reports a projected increase of 6,000 residents between February 2005 and 2010 for the city of Los Banos. Also, should any of the proposed bypass routes be built, homeowners and builders will likely put up resistance with concerns about additional noise and traffic near their established homes or developments

The EIR reports that accident rates at 18 Los Banos intersections are at twice the state-wide average of comparable intersections. (Table 1.5, pg 17) Notably, there is no discussion accident cause at these 18 intersections (ie, tractor-trailer driver error, high speed, red light running, etc.) and thus the connection between building a bypass and improving safety is tenuous. It should also be noted that CalTrans recognizes that basic improvements to Pacheco Boulevard itself (raising the median on SR152 from Badger Flat Road to HWY 165, installing signal lights at SR 152/A St, H St., Ortigalita Road, and San Luis St.) as well as a right-in, right-out access only on SR 152 at California Ave, Center Avenue, I St., and 13<sup>th</sup> St. would increase safety (List 1.3.2, page 19).

The Agency's proposed designs for the bypass reflect their recognition that freeway building can "induce" or encourage growth considerably and create patchwork development in regional landscapes. The Agency's proposed building solutions (routes 1M, 2M, and 3M) each address the need for more driving lanes, thus potentially alleviating congestion. A serious concern is that the route ultimately selected and built would be located so close to near-term city growth (i.e., within the sphere of influence) that within a short time (15 years or so) the bypass would present the same problem as the SR 152/ SR165 intersection does today as a highway tightly flanked by development.

Of the three designs, this reviewer believes that 3M is most favorable. Alternative 3M situates the bypass approximately 1 mile south of Henry Miller Road, which can roughly constitute the region's southern boundary of preserved wetlands. Alternative 3M also requires the fewest number of homes removed (14 single-family, 3 mobile) or impacted by noise (4 homes), the fewest number of people relocated (54 people), and importantly because 3M is situated near the border of preserved wetlands, it is foreseeable that a 3M bypass would not become surrounded by development as city growth progresses. Thus, route 3M appears to be a long-term solution in contrast to 1M and 2M.

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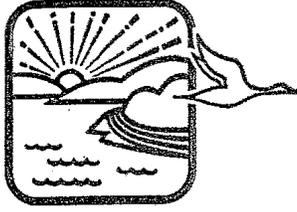
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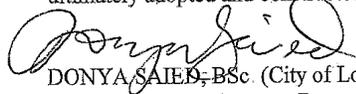
6



## City of Los Banos

It should be noted that home values in Los Banos will increase continually into the foreseeable future, thus houses which must be purchased and removed to allow for construction may increase project cost the longer it is delayed.

In summary, the reviewer would endorse a 3M bypass route should the freeway be ultimately adopted and constructed.

  
 DONYA SAIEY, BSc. (City of Los Banos)  
 Planning and Development Department  
 520 J Street  
 Los Banos, CA 93635

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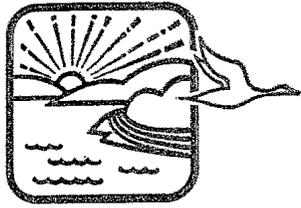
### REFERENCED ARTICLES:

“In the farm town of Los Banos, fully a third of the residents rise before dawn for a bumper-to-bumper commute to the Silicon Valley - nearly 100 miles - because living closer would cost so much more.” - Los Angeles Times, January 7, 2001

“Like a tidal wave from the Pacific, a surge of people looking for houses is flowing from the San Francisco Bay Area all the way to Madera. Builders say many customers fit the so-called equity refugee profile. People sell their homes in the still-inflated markets in the Bay Area and live in retirement off the difference between their sales and the cost of building in Madera. There is also a secondary wave. Bay Area employees who can't afford Silicon Valley homes commute from Los Banos...” - FRESNO BEE, July 29, 2001  
 By Jim Steinberg

“Some research suggests congestion relief from the freeway projects will not last long, and the roads will clog again from a phenomena known as induced traffic. ‘If you build it, it will either slowly fill or quickly fill depending on the demand that's out there,’ said Matt Barth, director of the Center for Environmental Research and Technology at UC Riverside. USC researchers, meanwhile, discovered that a road capacity increase of 10 percent generated 2 percent more traffic immediately and 9 percent within four years in metropolitan regions. Rural areas saw about 7 percent more traffic in the same time period, the study showed.” - Daily Bulletin, November 13, 2004  
 By Scott Vanhorne

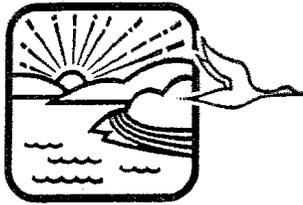
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## City of Los Banos

“In the Central Valley alone, population is expected to grow by 10 million people in the coming decade.....The current lack of coordination between transportation and land use is perhaps best illustrated by the case of the commute between Silicon Valley and the Central Valley. The vast imbalance between jobs and housing in Silicon Valley (nine new jobs for every one new housing unit)” --Surface Transportation Policy Project Beyond Gridlock: Meeting California’s Transportation Needs in the Twenty-First Century  
By James Corless with Sharon Sprowls, May 2000

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**City of  
Los Banos**

I HEREBY CERTIFY THAT THE FOREGOING IS A FULL, CORRECT AND TRUE COPY OF RESOLUTION NO. 4603 AS ADOPTED BY THE CITY COUNCIL OF THE CITY OF LOS BANOS, A MUNICIPAL CORPORATION OF THE COUNTY OF MERCED, STATE OF CALIFORNIA, AT A REGULAR MEETING HELD ON APRIL 20, 2005 AND I FURTHER CERTIFY THAT SAID RESOLUTION HAS NEVER BEEN RESCINDED OR MODIFIED.

*Lucille L. Mallonee*

LUCILLE L. MALLONEE  
CITY CLERK

DATED: April 25, 2005

520 J STREET — LOS BANOS, CALIFORNIA 93635  
TELEPHONE (209) 827-7000 — FAX (209) 827-7006 — TDD (209) 827-7010

RESOLUTION NO. 4603

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS APPROVING A PREFERRED ALTERNATIVE ROUTE FOR THE LOS BANOS 152 BYPASS (ALTERNATE 3M – A NORTHERN ROUTE FREEWAY, SOUTH OF HENRY MILLER ROAD)**

**WHEREAS**, Caltrans has presented the three (3) route alternatives of the Los Banos Route 152 Bypass studied and determined by the Inter-agency group responsible for this project, the Product Development Team, consisting of the City, the County, MCAG, Caltrans, the Federal Highways Administration, the US Army Corp of Engineers, US Fish and Wildlife and California Fish and Game; and

**WHEREAS**, the three (3) route alternatives are Alternative 1M, a southern route freeway, approximately 1,723 feet north of Copa de Ora Avenue; Alternative 2M, a southern route freeway, approximately 3,697 feet north of Copa de Ora Avenue and north of Alternative 1M; and Alternative 3M, a northern route freeway, south of Henry Miller Road; and

**WHEREAS**, Caltrans requests that the City Council state their "Preferred Alternative" route through the approval of a confirming Resolution; and

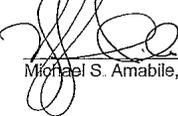
**WHEREAS**, following the City's approval of a confirming Resolution, Caltrans will be seeking a confirming Resolution from Merced County and Merced County Association of Governments, all of which shall be the basis for the decision-making at the Caltrans Product Development Team Meeting scheduled for May 24, 2005, where a final decision shall be made concerning the "Preferred Alternative" route.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Los Banos does hereby chose Alternative 3M as the City of Los Banos' "Preferred Alternative" route for the Los Banos 152 Bypass and that such position shall be presented at the Caltrans Product Development Team Meeting scheduled for May 24, 2005.

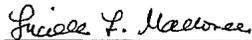
The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 20<sup>th</sup> day of April 2005, by Council Member McAdam, who moved its adoption, which motion was duly seconded by Council Member Jones, and the Resolution was adopted by the following vote:

AYES: Council Members Balatti, Jones, McAdam, Smith, Mayor Amabile  
NOES: None  
ABSTAIN: None  
ABSENT: None

APPROVED:

  
\_\_\_\_\_  
Michael S. Amabile, Mayor

ATTEST:

  
\_\_\_\_\_  
Lucille L. Mallonee, City Clerk

## CITY OF LOS BANOS

1. Comment noted.
2. Comment noted.
3. Accidents at intersections account for approximately 29 percent of the accidents along State Route 152 between kilometer posts 25.8 and 39.9 (post miles 16.0 and 24.8), the study limits for the bypass project. Of these, approximately 50 percent are due to failure to yield, 12 percent to improper turns, and nearly 8 percent to speeding. Nearly eight percent of the total accidents involved a tractor/trailer. It is unknown how many of these vehicles were from local traffic and how many were from pass through traffic.

Please see Section 3.6, Traffic and Transportation, for a discussion of projected accidents with and without the project and associated costs.

4. Comment noted.
5. Alternative 3M has been selected as the Preferred Alternative. Distance from the existing urban development should avoid encroachment by near-term city growth. It is noted that the City of Los Banos supports Alternative 3M because of concerns about Alternative 1M and 2M being so close to near-term growth. It is also noted that scenarios from the City's General Plan update use Alternative 3M as the outer edge of the urban growth to the north. Alternative 3M would work in tandem with future land use planning and conservation goals. The City's growth planning could be used to avoid patchwork and/or induced growth north of the City's current boundary. In Los Banos, market forces, development trends, local agency policies, and future land use plans are directing growth primarily southwest of the city. Other factors that may influence growth include frontage roads, traffic volume on the intersecting road, and the availability of water, sewer, and other infrastructure. No frontage roads are planned for the interchange of State Routes 152/165 and only one frontage road is planned on the east, primarily for equipment access for the California Department of Fish and Game. Traffic volume on State Route 165 (the intersecting road) near the planned interchange is low as compared to State Route 152 in the city. Public water and sewer lines are limited in much of the Alternative 3M alignment and local roads are few and widely spaced.
6. The positive effect of Alternative 3M (as opposed to Alternatives 1M and 2M) on land use planning and protection of wetlands is noted.
7. Support for Alternative 3M is noted.

8. Passage of Resolution No. 4603 to approve Alternative 3M as the Preferred Alternative is noted.



## Merced County Association of Governments

369 W. 18th Street • Merced, CA 95340 • Phone (209)723-3153 • FAX (209)723-0322

May 3, 2005

Vickie Traxler  
San Joaquin Valley Analysis Branch  
2015 E. Shields, Suite 100  
Fresno, CA 93726

Subject: Los Banos Bypass Draft EIS/EIR

Dear Ms. Traxler:

I am writing to you to express the support of the Merced County Association of Governments' Governing Board for Alternative 3M of the Los Banos Bypass, also known as the "Northern Route". The project is a high priority for the region and has been for many years. It will relieve congestion, improve through traffic, and serve planned growth in an area expected to continue to grow rapidly.

The Los Banos Bypass Draft Environmental Impact Statement/Report is available for public review, and Caltrans has asked each local jurisdiction to provide public comments on their preferred alternative prior to the end of the public comment period, which is May 6 2005. At the April 20, 2005 meeting the Los Banos City Council voted unanimously in support of Alternative 3M. At the MCAG Governing Board meeting on April 28, the Board unanimously concurred with the Los Banos City Council's preferred alignment.

Sincerely,

Jesse Brown  
Executive Director.

---

The service-oriented Association of Governments of Atwater, Livingston, Gustine,  
Los Banos, Dos Palos, Merced and Merced County, California

**MERCED COUNTY ASSOCIATION OF GOVERNMENTS**

Support of Alternative 3M is noted.



*Local Agency Formation Commission*  
2222 M Street  
Merced, CA 95340  
Phone (209) 385-7671 Fax (209) 726-1710  
Website: [www.co.merced.ca.us/lafco](http://www.co.merced.ca.us/lafco)

March 23, 2005

Caltrans  
Attn: Kimely Sawtell  
San Joaquin Valley Analysis Branch  
2015 Shields, Suite 100  
Fresno, CA 93726

RE: Environmental Impact Statement/EIR – Administrative Draft  
State Route 152 Bypassing Los Banos

Dear Ms. Sawtell:

I am in receipt of the EIS/EIR draft for the Highway 152 Bypass proposal, which includes three alternative locations for the proposed bypass road around Los Banos. Alternatives 2M and 3M are proposed to be located primarily within the Los Banos Sphere of Influence, while Alternative 1M would be located south of the present Sphere boundary. All three alternatives commence west of Volta Road on the west side of Los Banos and east of Santa Fe Grade Road on the east side of town.

The City of Los Banos recently modified their Sphere of Influence to include new areas to the north and south of the city; the Sphere boundary represents the ultimate growth area that the City foresees growth occurring. Placement of any of the bypass alternatives outside of the current Sphere boundary could be growth-inducing, and thus could cause the City to expand its boundaries to accommodate that growth. Any such expansion would require review and approval by LAFCO.

If you have any questions regarding this matter, I can be reached at the above number.

Sincerely,

A handwritten signature in black ink that reads "John LeVan".

John LeVan  
LAFCO Planner

X:\LAFCO\CORRES\Highway 152 Bypass EIR Letter.doc

MAY-02-2005 07:24 FROM:STKN PROJECT MGT

2099487666

TO: 915592438215

P. 002/002



*Local Agency Formation Commission*  
2222 M Street  
Merced, CA 95340  
Phone (209) 385-7671 Fax (209) 726-1710  
Website: [www.co.merced.ca.us/lafco](http://www.co.merced.ca.us/lafco)

April 28, 2005

Merced County Association of Governments  
369 West 18<sup>th</sup> Street  
Merced, CA 95340

Subject: Los Banos Bypass Draft EIS/EIR

I am writing to you to express the support of the Merced Local Agency Formation Commission (LAFCO) for Alternative 3M of the Los Banos Bypass, also known as the "Northern Route". The project is a high priority for the region and has been for many years. It will relieve congestion, improve through traffic, and serve planned growth in an area expected to continue to grow rapidly.

The Los Banos Bypass Draft Environmental Impact Statement/Report is available for public review, and Caltrans has asked each local jurisdiction to provide public comments on their preferred alternative prior to the end of the public comment period, which is May 6, 2005. At the April 20, 2005 meeting, the Los Banos City Council voted unanimously in support of Alternative 3M. We concur with the Los Banos City Council's preferred alignment.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Amabile".

Mike Amabile  
LAFCO Chairman

MA:v

## **LOCAL AGENCY FORMATION COMMISSION**

### **Comment Letter March 23, 2005**

Alternative 3M, the Preferred Alternative, is planned to be located within and adjacent to the Los Banos *Sphere of Influence* where practical. The City of Los Banos views Alternative 3M itself as the northern edge of urban growth in the General Plan update scenario under consideration.

### **Comment Letter April 28, 2005**

Support of Alternative 3M is noted.

MERCED COMMUNITY COLLEGE DISTRICT  
3600 M Street, Merced, California 95348-2898  
Telephone: 209/384-6000 • Fax: 209/384-6043



Benjamin T. Duran, Ed D  
Superintendent/President  
**BOARD OF TRUSTEES**  
Les McCabe, Board President  
Eugene J. Vierra, Vice President  
Robert Haden, Clerk  
Jinet Troost  
Lewis S. Braxton  
Eva de Long  
Jim Glidden

May 3, 2005

Ram Narayan Gupta  
Department of Transportation  
P.O. Box 2048 (1976 E. Charter Way)  
Stockton, CA 95201

RE: 10-MER-152-KP 17.9/18.2  
EA: 10-OM66OK  
SR 152/Merced College Entrance  
Intersection

Dear Mr. Gupta:

As you are aware, the college has been in discussions with Caltrans regarding the development of a college campus fronting SR 152 for almost four years. During the course of those discussions we have talked about the ability of the college to access the property you reference in your EIR dated February 2005 as the "Proposed College Site." In addition, your EIR states, in part:

"The three build alternatives would begin west of the proposed community college site. If northern Alternative 3M were chosen for construction, right-of-way would be required from the Northwest portion of the campus. Most buildings are planned for the south area of campus and would be built as part of Phase I of the community college project. The 2040 Master Plan map designates the area to be acquired for the bypass as a 4.0-hectare (10-acre) outdoor teaching area. Full build-out of the Master Plan has not been funded and is conceptual and subject to change."

"Caltrans met with Merced Community College District officials, City of Los Banos staff, and Stonecreek Properties, Inc., in April, May, June, October and December of 2002 and March and May of 2004. The meetings discussed the access for the community college in relation with the proposed bypass project and focused on finding solutions to potential access and traffic issues. In August 2004, Merced College provided intersection design for Caltrans review. As a result, a Project Study Report will be developed for the State Route 152/Merced College Entrance Intersection project with controlled right-in/right-out access."

1

To correct the record, please understand that this is not our proposed site. This is the actual site of the new Merced Community College District Los Banos Campus. We will start to construct the facility in a matter of days. My concern regarding EIR for the Los Banos Bypass involves information that is included in the report that was never shared with the college in the four years of discussions.

2

Figure 2-4 Alternative 3M can be used to illustrate the reason for the District's concern. It shows a path directly through the center part of the college site. This is far more than the "clip of the northern portion" that was expressed to us in meetings with you and exhibited in Caltrans 2002 submittal to the college and in the college's 2004 EIR report (which Caltrans failed to take exception with). It also far exceeds the expressed 10 acres in your own EIR report.

3

Figure 3-2 Farmland Parcels and Williamson Act Contract Parcels in Project Area, shows the route of the bypass as going through a significant portion of the campus and exiting at the Northeast corner of the college site. This again, is far more than the "clip the northwest portion" that was expressed to us in meetings. This again far exceeds the expressed 10 acres in your own EIR report.

4

We have also reviewed Figure 2-9 Original and Modified Alternatives. We were never made aware of the extreme encroachment on the college site being suggested in your revised northern route alternative.

5

Again, in 2002-03 we modified the college site to accommodate the bypass. Our original site extended further west. You told us that it was possible a bypass would be put in and encroach on that western portion of our original site. We reconfigured our property to extend north rather than west and you agreed that the north bypass alternative would then only impact the Northwest corner of the college's revised site plans.

6

Please understand that the execution of your plan essentially ruins our project. The people of the greater Los Banos area approved a bond to tax themselves to establish this new college. The District would not have selected a site that would eventually be split in half by an expressway bypass. This would not be fair to those that are supporting the district with their various efforts (including their tax dollars).

7

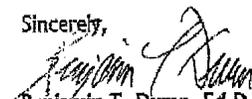
Which mapped route is accurate? (See map progression attached.)

8

Mr. Gupta, we request that Caltrans return to its original position in which we have based months and years of planning. Specifically, that the bypass would clip the northwest corner of the site we reconfigured at your request. Lacking this resolution, you will need to explain the mitigation that must be done to address the negative impact to the District by Alternative 3M.

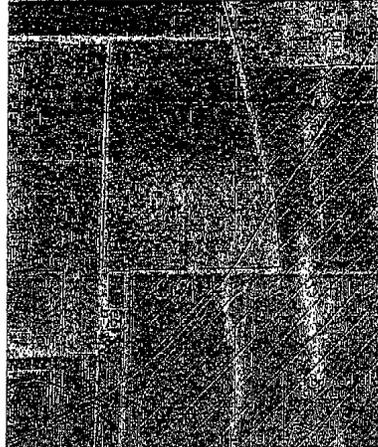
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Sincerely,



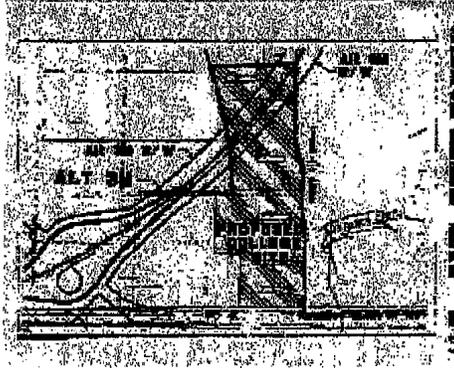
Benjamin T. Duran, Ed.D.  
Superintendent/President

BTD:dm

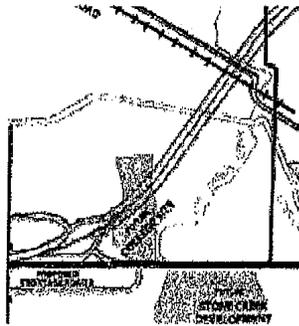


**A Mapped Progression of the North Route**  
(a systematic encroachment on our college site)

Caltrans' document 2002 (college to realign North and experience only minor clip at north corner)



College's EIR (clip grows based on "diag revision from Caltrans)



CalTrans' EIR (clip grows to dissection of new campus)

## MERCED COMMUNITY COLLEGE DISTRICT

1. Comment noted.
2. It is noted that the community college site is an actual site, and not a proposed site. Changes have been made to Sections 3.1.1, 3.3.2, 3.4.1.2, 3.4.1.3, 6.2, and 6.3 to reflect the current information about the community college.
3. Figure 2-4, Alternative 3M, was in error. Refer to Section 2.2.1 for the corrected Figure 2-4. Correct mapping was furnished to Merced Community College as part of Caltrans' comments on the Los Banos Campus Master Plan Draft Environmental Impact Report (January 2004). That document acknowledges the conflict between the two projects and stated that the northwest portion of the campus may not be built unless additional funds are obtained. Since that time, construction has begun on the Los Banos Campus. Caltrans has continued coordination with the Merced Community College District both for the Los Banos Bypass Project and the State Route 152/Community College Entrance Intersection Project. On June 21, 2005, the Board of Trustees of the Merced Community College District passed Resolution Number 05-127 that endorsed the completion of the State Route 152 Bypass and also supported approval of a Project Study Report for the proposed intersection for the campus. The resolution stated that it "commits the District's cooperative participation in the planning and implementation of the State Route 152 Bypass project in Los Banos."

During the final design phase for the project, opportunities may exist to reduce impacts to Merced Community College District property. There may also be opportunities for the District to acquire excess adjacent lands once the bypass is constructed.

4. Figure 3.2, Farmland Parcels and Williamson Act Contract Parcels in Project Area, is similar to other mapping shown in the draft environmental document for the bypass project. It is also similar to Figure IV.H-1 in the Los Banos Campus Master Plan Draft Environmental Impact Report for the Community College. A northern alternative has crossed the general area of what is now the Community College property since alternatives were developed in 1993 for the Project Study Report. The Draft Major Investment Study for the bypass completed in 1998 by Merced County Association of Governments further refined the alternatives. Merced Junior College District was listed as being represented for the study. See Sections 2.1 and 2.3 for information on alternative development.
5. Please see responses #3 and #4 above.

6. Comment noted.
7. Comment noted. The bypass project will have less impact to Community College property than as shown on the faulty map, Figure 2-4, which has been corrected in the final environmental document. Also see Chapter 1 for project history and Chapter 2 for Alternative Development.
8. Map reproduction quality in the comment letter makes it difficult to compare maps. Figure 2-4, Alternative 3M, in the Draft Environmental Impact Statement/ Environmental Impact Report for the Los Banos Bypass was in error. Revised mapping was furnished to Merced Community College District as part of Caltrans' comments on the Los Banos Campus Master Plan Draft Environmental Impact Report (January 2004).
9. Please see response #4 above. Alternative 3M is planned for its original position that would clip the northwest corner of the site, as shown in the Los Banos Campus Master Plan Draft Environmental Impact Report and the Final Environmental Impact Statement/Environmental Impact Report for the Los Banos Bypass.

ADAMS BROADWELL JOSEPH & CARDOZO

DANIEL L. CARDOZO  
RICHARD T. DRURY  
THOMAS A. ENSLOW  
TANYA A. GULESSERIAN  
MARC D. JOSEPH  
OSHA R. MESERVE  
SUMA PEESAPATI

FELLOW  
KEVIN S. GOLDEN

OF COUNSEL  
THOMAS R. ADAMS  
ANN BROADWELL

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SO SAN FRANCISCO OFFICE  
651 GATEWAY BLVD. SUITE 900  
SO SAN FRANCISCO CA 94080  
TEL: (650) 589-1660  
FAX: (650) 589-5062

May 5, 2005

Ms. Vicki Traxler  
Caltrans  
San Joaquin Valley Analysis Branch  
2015 E. Shields, Suite 100  
Fresno, CA 93726

Re: Los Banos Bypass Draft EIS/EIR Comments of Grassland Water District / Grassland Resource Conservation District

Dear Ms. Traxler:

I am writing on behalf of the Grassland Water District and the Grassland Resource Conservation District (collectively "GWD" or the "Districts") to comment on the Draft Environmental Impact Statement / Environmental Impact Report ("DEIS/R") for the proposed Los Banos Bypass ("Bypass" or "the Project"), pursuant to the California Environmental Quality Act<sup>1</sup> ("CEQA") and the National Environmental Policy Act<sup>2</sup> ("NEPA"). The combined area of the Districts contains approximately 60,000 acres of privately owned wetlands located north, east and south of the City of Los Banos in Merced County. The Districts are charged under state law and federal contract with the responsibility to manage water resources and carry out conservation programs in order to preserve and protect this resource, primarily as habitat for waterfowl from around the globe and other local wildlife species. Land stewardship in the Districts mostly comprises privately owned and managed waterfowl hunting clubs that receive water from GWD.

<sup>1</sup> Pub. Resources Code, §§ 21000 *et seq.*

<sup>2</sup> 42 U.S.C. § 4321 *et seq.*

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Ms. Traxler  
May 5, 2005  
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The GWD and Grassland Resource Conservation District together with the adjacent federal wildlife refuges, state wildlife areas and state park make up the Grassland Ecological Area (“GEA”).<sup>3</sup> The GEA boundary is a non-jurisdictional boundary designated by the U.S. Fish & Wildlife Service in order to identify an area for priority purchase of public easements for wetland preservation and enhancement.<sup>4</sup> The GEA includes federal wildlife refuges, a state park, state wildlife management areas and the largest block of privately managed wetlands in the state.

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GWD has management authority over resources affected by the project and requests that Caltrans carefully consider its concerns.<sup>5</sup> GWD has spent many years monitoring and actively participates in land use development decisions with the potential to affect the resources within the GEA. This Project is one of the most significant GWD has reviewed because of the wide-ranging environmental consequences associated with relocating a highway into a predominantly rural setting, in some places within one mile or less of protected wetland habitat. All of the proposed routes affect resources within the jurisdiction of the GWD and would create significant impacts both during construction and after Project completion in sensitive and biologically significant resource areas. GWD is particularly concerned about the impacts that growth and loss of farmland that any Bypass route would have on the GEA.

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GWD generally supports the City of Los Banos’ efforts to address traffic congestion in the downtown section of Highway 152 by rerouting the highway around the City. Moreover, GWD recognizes the efforts expended, by both Caltrans and the affected local entities, to select potential routes for the Bypass and to analyze the environmental effects associated with those routes. GWD is further cognizant that the City, County and the Merced Council of Governments have already made recommendations to Caltrans regarding their preferred routes.

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<sup>3</sup> Exhibit 1 and Exhibit 2 show the boundary of the GEA and the federal, state and privately owned lands within the GEA.

<sup>4</sup> Exhibit 3, *Grasslands Water District, 2001 Land Use and Economics Study: Grasslands Ecological Area* (July 2001) (“*2001 Land Use and Economics Study*”), at p. 2. The *2001 Land Use and Economics Study* was funded jointly by GWD, the Packard Foundation and the Great Valley Center.

<sup>5</sup> See CEQA Guidelines, § 15086, subd. (a)(3).

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In reviewing the DEIS/R, however, GWD has found that the document does not describe the resources of the GEA or explain how the proposed Project will impact those resources. A thorough assessment of the Project's environmental impacts is limited by the lack of attention to the ecological values of the area where the Bypass would be built. In addition, the document does not include a detailed project description and lacks supporting analysis for many of its impact conclusions.

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In particular, GWD disagrees with the conclusions in the DEIS/R that the Project would not be growth inducing, and that cumulatively, more farmland conversion would occur without the Project. Moreover, GWD believes that detailed mitigation is needed to address the direct construction and operational impacts, the growth inducing effects, and the cumulative farmland conversion effects of the project on the natural resources in the Project vicinity.

GWD recommends that Caltrans revise and recirculate a more complete environmental analysis of the Project. Until Caltrans completes additional analysis, GWD is unable to recommend a preferred Bypass route. GWD would welcome the opportunity to have further input into the Bypass planning process to ensure that the biological and ecological wealth of the GEA is recognized and protected.

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**I. THE DEIS/R SHOULD INCLUDE MORE INFORMATION ABOUT THE GRASSLAND ECOLOGICAL AREA**

**A. Importance of Setting Description**

An accurate description of the environmental setting of the Project is critical because it establishes the baseline physical conditions against which a lead agency can determine whether an impact is significant.<sup>6</sup> Under CEQA and NEPA, an EIR must include a description of the physical environmental conditions in the vicinity of the project from both a local and regional

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<sup>6</sup> Tit. 14 Cal Code Regs., div 6, ch. 3 ("CEQA Guidelines"), § 15125, subd. (a). 1124-392d

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perspective.<sup>7</sup> Despite the fact that the proposed Bypass would bisect and impact the GEA, the DEIS/EIR makes only a few references to the GEA and lacks detail regarding the habitat and wildlife within the GEA. The environmental setting in the DEIS/R thus should be expanded to include additional information about the GEA, including a map that shows the location of the Bypass routes in relation to the GEA.<sup>8</sup> Supplemental information about the GEA is included below for the consideration of Caltrans.

C. Description of the Grasslands Ecological Area

Encompassing approximately 180,000 acres, the GEA is the largest wetland complex in California and contains the largest block of contiguous wetlands remaining in the Central Valley.<sup>9</sup> This region is considered a critical component of the Central Valley wintering habitat for waterfowl and was recently approved as a *Wetland of International Importance* under the Ramsar Convention due to its international ecological importance. The GEA is one of only four such sites in California. The Merced County General Plan also acknowledges that the GEA provides highly valuable wildlife and vegetation habitats.

The GEA preserves a variety of habitats important to the maintenance of biodiversity on a local, regional, national and international scale. An estimated thirty percent (30%) of the Central Valley migratory population of waterfowl use this area for winter foraging.<sup>10</sup> The GEA is a major wintering ground for migratory waterfowl and shorebirds of the Pacific Flyway and the Western Hemisphere Shorebird Reserve Network has designated the GEA as one of only 22 international shorebird reserves in the world.<sup>11</sup> Over one million waterfowl are regularly found in the GEA during the winter

<sup>7</sup> *Id.*; 40 C.F.R. § 1502.15.

<sup>8</sup> See *San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1994) 27 Cal App.4th 713, 729.

<sup>9</sup> Exhibit 3, *2001 Land Use and Economics Study*, at p. 2.

<sup>10</sup> U.S. Bureau of Reclamation, *Final NEPA EA, Refuge Water Supply Long-Term Water Supply Agreements* (January 2002)

<sup>11</sup> Exhibit 4, Fredrickson, Leigh H. and Laubhan, Murray K., *Land Use Impacts and Habitat Preservation in the Grasslands of Western Merced County, CA* (February 1995), at p. 3  
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months.<sup>12</sup> The GEA also provides habitat for more than 550 species of plants and animals, including 47 plant and animal species that are endangered, threatened or candidate species under state or federal law.<sup>13</sup>

Not only is the GEA a unique, diminishing resource in the Central Valley and the State of California, but these wetlands are also critical to the survival of migratory waterfowl, shorebirds, and other wildlife. Further loss and degradation of this largest remnant wetland habitat in the Central Valley will not only have a negative impact on local resident wildlife and plant communities, but would also have a negative impact on migratory species that move across the North American continent and among continents during their annual cycle. Protection of this unique ecosystem is essential to the preservation and maintenance of the productivity of this important natural heritage.

C. Significant Public and Private Investments in the GEA Should be Protected

A variety of private and public investments and partnerships led to the protection of lands within the GEA. The GEA includes federal wildlife refuges, a state park, state wildlife management areas and the largest block of privately managed wetlands in the state. These privately managed wetlands contain a large and growing portfolio of federal, state and private conservation easements. Through 1998, conservation easements had been acquired on over 64,000 acres at a total cost of over \$28 million.<sup>14</sup> This public and private investment in the ecological resources of the GEA should be recognized and protected.

The DEIS/R disregards the substantial state, federal and public conservation investments that have been made to conserve the critically important waterfowl habitat of the GEA. Nowhere does the DEIR/S acknowledge, much less analyze, the Project's inconsistency with the conservation easements and state and federal wildlife areas in the GEA,

<sup>12</sup> Exhibit 3, *2001 Land Use and Economics Study*, at p. 2.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at pp. 11-12.

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which the Project bisects and/or impacts. The failure to examine the impact that the Project would have on the continued protection of these areas threatens to undermine tens of millions of dollars in public expenditures. To the extent that the Project's impacts diminish those investments, additional mitigation should be required.

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D. GEA Provides Flood Control and Economic Benefits

In addition to providing critical biological habitat, the GEA wetlands also provide a wide range of other benefits to the area, including flood control and educational and recreational opportunities. This concentration of wetlands and wildlife is a unique feature of the area, attracting hunters and other recreational visitors who make significant contributions to the economy of the area. The GEA receives over 300,000 user visits per year for hunting, fishing and non-consumptive wildlife recreation.<sup>15</sup>

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Damage to habitat would also likely lead to adverse economic impacts within Merced County. In addition to providing high biological value, the Grassland wetlands provide substantial direct economic contributions to the local and regional economies. Recreational and other activities related to habitat values within the GEA contribute \$41 million per year to the Merced County economy, and account for approximately 800 jobs.<sup>16</sup> Agricultural lands within the GEA also account for approximately five percent (5%) of Merced County's \$1.45 billion agricultural economy.<sup>17</sup>

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The productive economy of the wetlands is threatened by population growth and urban encroachment. The *2001 Land Use and Economics Study* evaluated the impacts of a compact growth scenario, characterized by development within existing cities, and a "sprawl" scenario, characterized by low density residential development in rural areas and facilitated by subdivisions of agricultural land. According to the study, sprawl development has a significant cumulative adverse effect on the cost to local government of providing services and on revenue and employment in the

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<sup>15</sup> *Id.* at p. 14

<sup>16</sup> *Id.* at p. 21.

<sup>17</sup> *Id.* at p. 15.

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GEA.<sup>18</sup> In addition, if non-compatible urban development encroaches on the wetlands so as to reduce its utilization by wildlife, then recreational usage could be expected to decline, and public and private funds for habitat management may be more difficult to obtain.<sup>19</sup>

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The DEIS/R should study the Project's potential impact on the continued economic viability of the economic and other contributions of the GEA and how this impact may affect the continued private/public partnerships that have preserved the GEA wetlands thus far.

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**II. THE PROJECT DESCRIPTION LACKS THE DETAIL NEEDED FOR AN ADEQUATE ANALYSIS OF THE PROJECT'S IMPACTS**

An accurate and stable project description is the sine qua non of an informative, legally adequate EIR. A legally sufficient project description must contain a "general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities."<sup>20</sup> While an EIR need not contain design-level description of the project, it must contain sufficient specific information about the project to allow an evaluation and review of its environmental impacts. Without an accurate description on which to base an EIR's analysis, CEQA's objective of furthering public disclosure and informed environmental decision-making would be impossible and consideration of mitigation measures and alternatives would be rendered useless.

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The DEIS/R provides an incomplete project description that omits critical details of the Project, including but not limited to, significant construction activities, and engineering and operational aspects of the project. The DEIS/R does not include detailed mapping of the proposed Bypass routes in relation to the surrounding areas or detailed artistic renderings of how the Project will look when completed. As a result of the DEIS/R's failure to discuss or to identify key project components, potentially

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<sup>18</sup> *Id.*, at pp. 25-30.

<sup>19</sup> *Id.* at p. 27.

<sup>20</sup> CEQA Guidelines, § 15124, subd. (c).

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significant environmental impacts are not adequately described, analyzed or addressed.

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The crossings planned for Los Banos Creek and other watercourses, including two GWD delivery canals, are key project features that the DEIR/S fails to adequately describe. These crossings would occur just a few miles from the sensitive habitat of the GEA. The DEIS/R acknowledges that sensitive wildlife species may occur in these waterways. (See, e.g., DEIS/R, at p. 191.) Construction of these crossings could pose serious impacts to water quality, riparian habitat and wildlife movement. Yet, the DEIR/S fails to describe how species living in these waterways will be affected by the Project once constructed.

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Another example is the lack of detailed description of construction activities. The duration of noisy and invasive construction activities through and adjacent to the GEA may severely disrupt biological species, habitat, water quality and air quality. Without a complete and clear description of construction details for the Bypass in these areas, impacts to the GEA from the construction of this project cannot be meaningfully analyzed.

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If these and all other key project features are not thoroughly described, related impacts cannot be analyzed. These and other omissions in the description of the Project should be corrected and the potential for impacts (or mitigation) of these related projects and features disclosed and analyzed.

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### III. THE GROWTH ANALYSIS IN THE DEIS/R IS INADEQUATE

When preparing an EIR, the lead agency must identify, discuss and analyze the growth inducing impacts of a proposed project. A project must be analyzed to determine if it will facilitate and encourage population growth, economic growth or changes in land use and development patterns. An EIR must "[d]iscuss the ways in which the proposed project could foster economic growth or population growth, or the construction of additional housing either directly or indirectly, in the surrounding community."<sup>21</sup> Similarly, NEPA requires that agencies consider the indirect effects of a proposed action, such

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<sup>21</sup> CEQA Guidelines, § 15126.2, subd (d)  
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as growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate.<sup>22</sup>

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The DEIS/R must examine not just the possibility that a project may induce growth, but it must also examine what the impact of this induced growth may be on the environment.<sup>23</sup> The lead agency must never assume that growth in an area is necessarily beneficial or of little significance environmentally, but must make its judgment in this regard only after open-minded analysis.<sup>24</sup> To the extent that a project's growth inducing effects lead either directly or indirectly to adverse environmental effects, mitigation for those impacts must be provided.<sup>25</sup>

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A. DEIS/R Approach to Growth is Overly Simplistic

The DEIS/R does not portray an accurate picture of future growth related to the Bypass. The analysis is overly general and does not include any details of the various routes or the land uses near those routes. The DEIS/R erroneously assumes that all routes studied have the same potential to induce growth and focuses only on the increment by which various routes would reduce commute times.

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The discussion of growth inducing impacts in the DEIS/R is further deficient because it also fails to identify and analyze the *impacts* that this growth may have on the GEA. The DEIS/R instead identifies the affected environment as existing residential development within the vicinity of Los Banos, without any reference to the GEA. (DEIS/R, at p. 67.)

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The sole method for determining the Project's growth inducing potential in the DEIS/R was to evaluate the likelihood of the expected reductions in travel time to and from various locations to induce growth. (DEIS/R at p. 69.) Specific growth impacts related to each route are not examined. Because travel times were reduced by under 15 minutes, the

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<sup>22</sup> See 40 C.F.R., § 1508.8.  
<sup>23</sup> CEQA Guidelines § 15126.2, subd. (d).  
<sup>24</sup> *Id.*  
<sup>25</sup> See CEQA Guidelines, § 15126.4  
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DEIS/R concluded that the Project was not growth inducing. (DEIS/R at p. 70.) The DEIS/R refers to an ad hoc advisory committee that reviewed and agreed with the study results. (DEIS/R at p. 70.) GWD requests additional information regarding the peer review process undertaken and the participants in the ad hoc advisory review.

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With regard to cumulative impacts due to farmland conversion (which is integrally related to growth), the DEIS/R again oversimplifies its analysis. The DEIS/R concludes that cumulative impact on farmland is positive because the Bypass is included in the Regional Transportation Plan. (DEIS/R, at p. 210.) The DEIS/R does not include any analysis to explain why a direct loss of from 217 to 279 hectares of farmland, likely to be followed by further encroachment of urban uses into currently farmed areas, would lead to farmland protection. The required facts and analysis to support the conclusions in the DEIS/R are missing.<sup>26</sup>

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It does not appear that the routes were selected with direct reference to the City of Los Banos' Urban Limit Line ("ULL"). Normally, the ULL would demarcate the planned boundary of future growth within the City's sphere of influence. The northern alignment is north of the current ULL and, according to the DEIS/R is considered by City planners "to be too far north to serve as an urban-rural boundary." (DEIS/R at p. 68.) In general, the District would prefer a route completely within the ULL.

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GWD disagrees with the conclusion in the DEIS/R that the Project is not growth inducing. In the District's view, while reductions in trip time are certainly a factor, much more information needs to be examined to determine the growth inducing effects of the Project. GWD also disagrees with the conclusion in the DEIS/R that the cumulative impact of the Project on farmland is positive.

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B. Growth Threatens the Wildlife Values the District Protects

One of the foremost concerns of the Districts is growth in the Grasslands area. Private lands susceptible to growth pressures are

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<sup>26</sup> See *Citizens of Goleta Valley v Board of Supervisors* (1990) 52 Cal 3d 553, 568. 1124-392d

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interspersed throughout the GEA. According to the 1995 Grassland Water District Land Planning Guidance Study (“Land Planning Study”), cumulative impacts that fragment the continuity of the GEA are more of a threat than direct habitat destruction.<sup>27</sup>

The *Land Planning Guidance Study* examined the proposed two-mile buffer zone around the GEA and identified “zones of conflict” where the impacts of urbanization on the GEA would likely occur.<sup>28</sup> A zone of conflict has been identified around Los Banos because the City sphere includes a portion of the two-mile GEA band. The study also identified growth in unincorporated areas as impacting the two-mile GEA band. According to the study, in the long term, it is essential that this band contain only resource beneficial or resource neutral uses to protect the integrity of the interior of the refuge complex as a whole.<sup>29</sup>

The proposed Project would be placed directly within the zone of conflict where the impacts of growth would negatively affect the GEA. As urbanization progresses, fragmentation of agriculture and open space increases, the value of agricultural habitats for wildlife declines, transportation corridors expand, threats to eliminate recreational hunting increase, air and water pollution increase, and local hydrology is modified. Thus, disruption and degradation of the functions, values and economic benefits of the Grassland ecosystem would be imminent.

Impacts of urban encroachment on the wetlands complex of the GEA have been documented in numerous studies including the 1995 Land Planning and Guidance Study and the supporting 1994 study by Reed F. Noss, “Translating Conservation Principles to Landscape Design for the Grassland Water District.” These studies have shown that impacts of urban development adjacent to the GEA may include: (1) fragmentation of the North Grasslands from the South Grasslands; (2) a reduction in habitat value of the entire interior of the wetlands complex; (3) chemical disruption

<sup>27</sup> See Exhibit 5, Thomas Reid Associates, *Grassland Water District Land Planning Guidance Study* (1995) (“*Land Planning Guidance Study*”), at p. 1

<sup>28</sup> Exhibit 5, *2001 Land Planning Guidance Study*, at p. 13; Exhibit 6, Grassland GEA Buffer Zones & Zones of Conflict Map.

<sup>29</sup> Exhibit 3, *2001 Land Use and Economics Study*, at p. 15

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including the introduction of fertilizers and toxic chemicals in drainage water; (4) introduction of non-native species of both plants and animals; (5) noise disruption; (6) visual disruption caused by removal of trees and shrubs around the wetlands; (7) interruption of water deliveries for wildlife uses; and (8) the competition for the water supply that supports the wetland habitat.<sup>30</sup> The DEIR/S, however, fails to include any discussion of these potential impacts.

Land uses within the area to the east of Los Banos particularly concern the Districts. The area east of San Luis Canal and south of existing Highway 152 is designated as an environmental reserve in the Los Banos General Plan. This area serves as the link between the northern and southern habitat areas within the GEA.<sup>31</sup> Because of its linkage value, the *Land Planning Guidance Study* identified the urban expansion of Los Banos to the east as the most immediate, critical threat to habitat integrity.<sup>32</sup> The study recommended “all uses within the one to two mile buffer zone be *resource neutral* or *resource beneficial*, and that no *resource negative* uses be permitted.”<sup>33</sup>

The northern route would place an approximate 6-1/2-mile route immediately adjacent to and through the narrow waist of the “hourglass” formed where the North Grasslands and South Grasslands join.<sup>34</sup> The southern Bypass alignments would follow an approximate 3-1/2-mile route across this corridor, as does the existing Highway 152 alignment. Any of the routes proposed by Caltrans would be resource negative, possibly lead to growth, and conflict with GWD’s efforts to preserve the linkage between these areas.

<sup>30</sup> Exhibit 5, Appendix A (Noss, R.F., *Translating Conservation Principles to Landscape Design for the Grassland Water District* (1994)) at pp. 45-51.

<sup>31</sup> Exhibit 5, *Land Planning Guidance Study*, at p. 1; see also *id.* at p. 23 (showing flight path movements through this area) and *id.* at p. 55 (recommending that “the tenuous linkage between the north and the south units should not be further fragmented”)

<sup>32</sup> Exhibit 5, *Land Planning Guidance Study*, at p. 1.

<sup>33</sup> Exhibit 5, *Land Planning Guidance Study*, at p. 15.

<sup>34</sup> See Exhibit 2, Map of GEA and Public Lands.

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Growth around all of the new proposed intersections, regardless of route, can be expected. A recent study confirmed the hypothesis that that the introduction of transportation facilities redirects growth.<sup>35</sup> This study found empirical support for the hypothesis that “road improvements and the resulting swifter travel speeds spur real-estate construction along a corridor.”<sup>36</sup> Problems associated with roads, moreover, “stem from the unborne externalities from the *use* of roads, new and old alike. They also stem from the absence of thoughtful and integrated land-use planning and growth management around new interchanges and along new corridors.”<sup>37</sup> A lack of integrated land use planning around these intersections could prove devastating to the nearby GEA resources.

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The potential for the Project to induce growth in the Volta area, to the northeast of Los Banos, concerns GWD because of Volta’s proximity to wetland areas managed by the Districts and to the Volta Wildlife Management Area. For planning purposes, Volta is designated by the County as a Specific Urban Development Plan (“SUDP”), thus making a variety of development activities possible. The County, however, includes a policy to consider reclassifying Volta as an Agricultural Service Center to promote development that supports agricultural areas.<sup>38</sup> Volta is a candidate for this redesignation due to its population level, location, use, and lack of public services.<sup>39</sup> GWD has supported redesignation of Volta to ASC and urges Caltrans to carefully consider the potential for any proposed route to facilitate growth in Volta that is incompatible with surrounding ecologically sensitive areas. Though it appears that no such interchange is planned now, GWD would particularly oppose the eventual construction of an interchange to connect the Bypass to the Santa Fe Grade.

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The development that could be expected around any Bypass route will have negative impacts in the GEA. Wherever intersections are located, in particular, development of service stations and other commercial uses can be

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<sup>35</sup> See Exhibit 7, Cevero, Robert, *Road Expansion, Urban Growth, and Induced Travel A Path Analysis* (2001) (“*Road Expansion*”), at p. ii

<sup>36</sup> Exhibit 7, *Road Expansion*, at p. 18.

<sup>37</sup> Exhibit 7, *Road Expansion*, at p. 25.

<sup>38</sup> Merced County General Plan, p. I-53.

<sup>39</sup> Merced County General Plan, pp. VII-27 to 28.

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expected. These uses will further impact the fragile resources within the GEA.

C. Recommended Approach to Analyzing Growth

While some growth would occur with or without the Project, Caltrans must analyze the growth inducing impacts of the Project. That analysis should be specific to a proposed route and the land through which it will pass. This would include consideration of the GEA and a one to two mile buffer around the GEA.

A starting point for growth analysis is to examine the existing, proposed and possible future land uses around the proposed intersections for the Bypass routes.<sup>40</sup> The intersection of the Bypass with Highway 165/Mercy Springs Road should be a focal point of growth analysis because the widening of Highway 165 is now on the Merced Council of Government's list of planned road improvements. The likelihood and extent of growth expected to occur around those intersections should be analyzed.

If it is determined that growth is likely, the physical environmental effects emanating from that growth should be examined. For instance, how will the influx of businesses, homes and vehicles affect the area where growth is expected? Direct and indirect environmental impacts should be considered. Growth would generate light, noise, water quality, air quality and visual changes in addition to consuming farmland, much of which serves as habitat for aquatic and other species that rely on the GEA for habitat. Growth could also drive up the cost of government purchases of priority conservation easements within the GEA.

A map showing the projects included in the cumulative growth analysis of the Urban Growth Model would assist the reader in understanding how the growth trends in the vicinity of the project could interact with the

<sup>40</sup> The DEIS/R acknowledges that if the northern alignment is selected, "adjustments to the general plan could be considered to allow roadside-related commercial zoning at key intersections" (DEIS/R, at p 68.) This acknowledgment belies the point that growth will occur directly around the Bypass, especially at intersections.

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proposed Bypass routes. From the information provided in the DEIS/R, it is not clear how the information from the Urban Growth Model relates to the projects in Table 4.1 on page 206 of the DEIS/R. A map of the GEA should also be included, showing the projects listed in Table 4.1 and, if possible, the growth assumed in the Urban Growth Model. Caltrans should also review and reference the studies provided with this letter to determine how growth related to the Bypass will impact the GEA.

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Wherever the Bypass is located, development will occur along the selected route. This development will have significant growth impacts on the surrounding areas, including the GEA. Caltrans should look carefully at the existing planned and future land uses proposed around the entire length of the Bypass routes. Mitigation must be provided for the physical environmental impacts that will occur as a result of this growth, including, but not limited to: disruption of wildlife from light and glare and noise; air and water quality degradation; and introduction of domestic animals into wildlife areas.<sup>41</sup>

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D. Caltrans Must Mitigate Growth inducing Impacts

1. Duty to Mitigate Growth inducing Impacts Under CEQA

Growth inducing effects must be identified along with other significant environmental effects.<sup>42</sup> Once an EIR identifies a significant effect, the EIR must propose and describe mitigation measures that will minimize the significant environmental effects that the EIR has identified.<sup>43</sup> Mitigation measures must be feasible and enforceable.<sup>44</sup> "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."<sup>45</sup> "[A]n adequate EIR must respond to specific suggestions for mitigating a significant environmental impact unless the suggested mitigation is facially infeasible. [Citations.] While the response need not be

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<sup>41</sup> See CEQA Guidelines, § 15126.4.

<sup>42</sup> CEQA Guidelines, § 15126.2, subd (d)

<sup>43</sup> Pub. Resources Code, § 21100, subd (b)(3); CEQA Guidelines, § 15126, subd. (e).

<sup>44</sup> CEQA Guidelines, § 15126.4, subds (a)(1) & (a)(2)

<sup>45</sup> Pub Resources Code, § 21061.1.

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exhaustive, it should evince good faith and a reasoned analysis. [Citations.]”<sup>46</sup>  
Thus, if the mitigation measures suggested below are not adopted, Caltrans  
must explain why those mitigation measures are not feasible.<sup>47</sup>

Once Caltrans correctly identifies the growth inducing effects of the  
Project, additional mitigation will be necessary.<sup>48</sup>

2. Mitigation Strategies to Address Growth inducing Effects

GWD suggests that Caltrans include the following mitigation measures  
to mitigate the growth-related effects of the Project:

a. Protect Buffer Around the GEA

In order to preserve the GEA, fragmentation of the ecosystem must  
stop. Much work has already been done to evaluate the impacts of  
encroaching development and to identify methods for protecting the  
Grassland wetlands. The most important finding of these studies is that a  
land use buffer around the GEA is the most effective way to protect the  
resource.<sup>49</sup>

Agriculture and wetlands are compatible uses.<sup>50</sup> Protection of a two-  
mile band around the GEA core area with only compatible uses (agriculture  
and open space) inside the band would best protect wetland uses and their  
infrastructure. The conversion and fragmentation effects on farmland  
associated with construction of the Bypass affect the continued viability of

<sup>46</sup> *Los Angeles Unified School Dist. v City of Los Angeles* (1997) 58 Cal App 4th 1019, 1029.

<sup>47</sup> The DSEIR mistakenly refers to the “reasonableness” of mitigation measures regarding noise for instance (See DEIS/R, at pp. 215-216) This is not the standard under CEQA. (See CEQA Guidelines, § 15126.4, subd. (a)(1) (requiring presentation of “feasible” mitigation measures in an EIR).)

<sup>48</sup> The DEIS/R includes only six mitigation measures in the Mitigation and Minimization Summary, none of which contain any degree of detail. (DEIS/R, Appendix G.) All mitigation measures discussed in the DEIS/R should be included in a mitigation monitoring and reporting plan to ensure that they are implemented correctly. (See CEQA Guidelines, § 15097.)

<sup>49</sup> Exhibit 3, *2001 Land Use and Economics Study*, at p. 22 (showing that a two-mile buffer was substantially more effective than a one-mile buffer in protecting the core, or interior, of the refuge).

<sup>50</sup> Exhibit 5, *2001 Land Use and Economics Study*, at p. 30.

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the GEA Farmland along the northern Bypass route, in particular, currently provides habitat for species that also depend on the GEA.

To offset potential impacts of the Project on the GEA buffer caused by the conversion of farmland, mitigation at ratio of at least 1:1 should be required for conversion of farmland.<sup>51</sup> Mitigation properties should be strategically located within the identified two-mile buffer area of the GEA or on the exterior of the Bypass, thus discouraging growth outside of the ULL and beyond the Bypass.

b. Integrate Planning Efforts to Conserve Land Around the Selected Bypass Route

Prior to construction, Caltrans should draft a Growth Mitigation Plan to create a framework for addressing and planning for future development around the Bypass. At a minimum, the Plan should include:

- 1) A process by which Caltrans, the City, the County and other government entities with authority over the resources affected by the project (such as the California Department of Fish and Game (“CDFG”), U.S. Fish and Wildlife Service (“FWS”) and GWD) will cooperate to ensure that any development along the Bypass route is consistent with applicable land use planning documents, including those policies that discourage urban sprawl and protect farmland, and the GEA buffer concept.
- 2) Identification of measures, such as outright purchase and/or the purchase of conservation easements and changes in General Plan designations and/or zoning, that would implement the concept presented in the DEIS/R that the Bypass would serve as a demarcation between urban and rural uses. (See, e.g., DEIS/R, at p. 60.)

<sup>51</sup> The statement in the DEIS/R that “no known conservation easement programs exist in Merced County for farmland mitigation” overlooks the extensive easement program, much of which is in agricultural use, administered by state and federal wildlife agencies in the GEA. (See DEIS/R at p. 80.)

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- 3) A suggested plan for the orderly, planned development or protection of the areas around each intersection in the Bypass route.
- 4) A description of the type of development along the Bypass that would be compatible with City and County planning efforts to consolidate urban development and conserve sensitive resources in the vicinity of the Bypass.

The Plan should be submitted to the City, County, CDFG, FWS and GWD for review and approval.

- c. Design Property Easement Acquisition Process to Prevent Further Farmland Fragmentation

When obtaining the necessary property interests to construct the Bypass, Caltrans should make every effort to negotiate for the purchase of an easement where the Bypass will be constructed, rather than purchasing entire parcels in fee simple. When Caltrans must purchase an entire parcel and sever that parcel, the excess property should be resold with a conservation easement restricting uses to those compatible with the resource protection goals of the GEA.

#### **IV. THE DEIS/R FAILS TO DISCLOSE DIRECT IMPACTS OF THE BYPASS ON RESOURCES WITHIN THE GEA**

The addition of a 10-mile, four-lane highway near internationally important wetland resources will cause a variety of environmental effects. Direct construction and traffic impacts will cause noise, air quality, water quality impacts, as well as divide natural communities. Caltrans has overlooked the direct construction impacts on GEA resources and requests that Caltrans reexamine the potential for such effects and the feasibility of mitigation measures to reduce those impacts to less than significant levels. In particular, construction noise could interfere with wildlife activities in the vicinity of the Project.

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Once the Bypass is constructed, the Project will continue to have significant environmental impacts on resources of concern to the GEA. For instance, the Bypass will introduce noise and light and glare into some predominantly rural areas that currently provide wildlife habitat. Noise impacts are addressed only in relation to human receptors. (DEIS/R, at pp. 152-154.) The potential for light to disturb wildlife is not addressed at all in the DEIS/R. The DEIS/R should address the potential for noise and light and glare to impact wildlife in the Project vicinity and propose appropriate mitigation for those impacts.

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Once built, stormwater contaminated with road grease and debris could be discharged into waterways used by protected species. The DEIS/R addresses only stormwater impacts during construction and not during project implementation. (See DEIS/R, at pp. 132-133.) Additional filtration systems may be appropriate where highway runoff is diverted into waterways.

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The DEIS/R focuses on direct impacts to wetlands without addressing indirect effects of the Project on the wetland resources in the vicinity of the Project. (See DEIS/R, at pp. 168-176.) As explained earlier in this Comment, many wetland resources occur in the vicinity of the Project and should be considered as part of the wetlands analysis. The DEIS/R refers to the use of “environmentally friendly” structures to be incorporated into the project design to avoid indirect effects to wetlands. (See DEIS/R, at p. 175.) The DEIS/R should provide additional information as to what specific structures will be incorporated into the design to avoid additional impacts to wetlands.

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While the DEIS/R does address the Project’s effect on animals and special status species, there is no discussion of how the Project would affect avian species that migrate through the area. Because any of the alignments would be partially located in the critical connection between the North and South Grasslands, the Project’s potential to interfere with flight paths should be addressed.

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**V. CALTRANS SHOULD REVISE AND RECIRCULATE THE DEIS/R FOR PUBLIC REVIEW**

An EIR must be recirculated for public comment whenever “significant new information” is added after the public review period or where “substantial changes” are made to the draft EIR.<sup>52</sup> The Guidelines clarify that new information is significant if “the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project” including, for example, “a disclosure showing that . . . [a] new significant environmental impact would result from the project.”<sup>53</sup>

The comments presented above identify numerous issues that are not addressed in the DEIS/R. Indeed, the DEIS/R fails to properly acknowledge the existence of the GEA, or examine the potential impacts of the Project on this resource of international importance. The lack of information regarding the Project and its impacts precludes informed decision-making about the Project, including the ability to make a recommendation about the preferred Bypass route. Because of the “significant new information” that should be included in response to these comments, GWD and the public should be provided an opportunity to review and comment on a revised and recirculated DEIS/R.

**VI. CONCLUSION**

The District has serious concerns about any route that could be selected for the Los Banos Bypass. Extensive study and experience indicates that fragmentation and encroachment are the largest threats to the continued viability of the GEA. Our studies recommend the protection of a buffer area around the GEA to reduce fragmentation and encroachment. Any of the proposed routes would encroach within the needed buffer area around the GEA. The DEIS/R, however, provides little recognition of the ecological importance of the GEA or of the Project’s impact on the GEA.<sup>54</sup> The DEIS/R

<sup>52</sup> Pub. Resources Code, § 21092.1.

<sup>53</sup> CEQA Guidelines, § 15088.5

<sup>54</sup> GWD did take note of the discussion provided, according to Section 4(f) of the Department of 1124-392d

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should identify encroachment into the GEA buffer as an impact and propose mitigation to reduce related impacts to less than significant levels.

While the District applauds Caltrans' efforts to select potential routes with the least direct effects on wetlands, the District believes that additional attention should be given to indirect effects on wetlands and related resources, with particular focus on how any route would induce growth and fragment farmland. The studies attached to this Comment should facilitate that additional analysis. Additionally, the District requests that Caltrans implement the specific mitigation measures suggested in this letter in order to further lessen impacts on the natural resources in the Project vicinity. Once supplemental analysis is provided, GWD may be able to recommend a Bypass route. At this time, however, GWD believes the analysis in the DEIS/R is inadequate to make such a determination.

Please do not hesitate to contact me if you have any questions about the information contained in this letter.

Sincerely,



Osha R. Meserve

cc: City of Los Banos  
County of Merced  
US Fish and Wildlife Service  
California Department of Fish and Game  
Don Marciochi

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Transportation Act of 1966, in Appendix C of the DEIS/R. This analysis, however, does not discuss the privately held wetland resources within the GEA (See, e.g., DEIS/R, Figure C-1 (showing state and federal wildlife refuges only))

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Exhibits:

- Exhibit 1 Map of Federal, State and Privately Owned Lands in Grasslands Ecological Area
- Exhibit 2 Map of Grasslands Ecological Area and Public Lands
- Exhibit 3 Exhibit 3, Grasslands Water District, Land Use and Economics Study: Grasslands Ecological Area (July 2001)
- Exhibit 4 Fredrickson, Leigh H. and Laubhan, Murray K, Land Use Impacts and Habitat Preservation in the Grasslands of Western Merced County, CA (February 1995).
- Exhibit 5 Thomas Reid Associates, Grassland Water District Land Planning Guidance Study (1995)
- Exhibit 6 Cities and the Grasslands Ecological Area Zones of Conflict 2040
- Exhibit 7 Cervero, Robert, Road Expansion, Urban Growth, and Induced Travel: A Path Analysis (July 2001)

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## GRASSLAND WATER DISTRICT/GRASSLAND RESOURCE CONSERVATION DISTRICT – MAY 5, 2005

1. General Response to Comments – Many of the comments made by resource agencies have been based on the assumption that urban growth would be directed north and east into the sensitive Grassland Ecological Area if Alternative 3M were to be constructed. The growth studies reported in the Draft Environmental Impact Statement/Environmental Impact Report, however, found no such evidence of that and do not support that assumption. Therefore, the resource agencies are making comments about growth patterns not supported by evidence, and they are finding fault with the Draft Environmental Impact Statement/Environmental Impact Report for not addressing the impacts of that assumed growth. Most of these comments have to do with indirect or cumulative impacts.

The analysis in the Draft Environmental Impact Statement/Environmental Impact Report is supported by three different growth-inducement methodologies: a quantitative land use model, a quantitative time travel mode, and a traditional checklist approach. The results from each methodology were consistent. The results were also validated by an expert panel of local land use planners.

The growth scenarios assumed in resource agency comments are not consistent with the findings of the three growth studies and the expert panel. The resource agency position is based almost entirely upon speculation. Much is made of a Draft Environmental Impact Statement/Environmental Impact Report statement that a gas station might be considered by the City of Los Banos at the interchange of Alternative 3M with State Route 165. The potential commercial property in question lies in an area distinctly south of the long-established buffer area between urban uses and the sensitive ecological resources to the north. Essentially, this is a land use planning issue, not an issue of growth inducement with accompanying indirect or cumulative impacts on the Grassland Ecological Area.

The City of Los Banos has held a long-standing General Plan policy of using roads and canals as boundaries for urban growth and buffers between developed areas and sensitive ecological resources. The City of Los Banos is currently updating the General Plan for the City. One of the planning principles guiding development of the draft General Plan update concept is compact growth with strong urban “edges” that would protect adjacent agricultural lands, particularly on the north and east sides of the city. Furthermore, the plan concept also recognizes the Grassland Ecological Area as an important resource that needs protection from urban development. The draft General Plan update would continue to keep the area between the San Luis Canal and

the Santa Fe Canal as an agricultural buffer and proposes to create an agricultural buffer north of the State Route 152/165 interchange up to Henry Miller Road and west to the Los Banos Creek. Caltrans would support the creation and maintenance of the agricultural buffer or greenbelt, through easements and/or deed restrictions on the north side of the bypass from the eastern interchange to Los Banos Creek. Alternative 3M is part of the draft General Plan update that would direct major growth south and west while using the proposed freeway itself as a limit line (no growth allowed north or east of that line).

Based on the information from the Draft Environmental Impact Statement/Environmental Impact Report briefly summarized above, Caltrans and the Federal Highway Administration find the resource agency call for supplemental studies of indirect and cumulative impacts caused by induced growth into the Grassland Ecological Area to be without merit. The assumed impacts – described in great detail in resource agency comments – are too speculative to be considered, considering that the evidence from the collaborative growth-inducement studies indicates that no such impacts would occur.

2. Comment noted. The non-jurisdictional boundary designated as the Grassland Ecological Area lies north, east, and southeast of the alternatives studied for the bypass. The project alternatives do not cross into this area except where either southern alternative (Alternative 1M or 2M) would have crossed the Gadwall Wildlife Area.
3. All comments received during circulation of the Draft Environmental Impact Statement/Environmental Impact Report have been carefully considered and responses to all comments received are contained within the Final Environmental Impact Statement/Environmental Impact Report, Volume II.
4. Alternatives 1M and 2M would have crossed into the Gadwall Wildlife Area, a part of the Grassland Ecological Area, on the east end of the project. Alternative 3M does not cross into the boundary line and avoids use of the Gadwall Wildlife Area property and impacts to wetlands. Under federal law (Section 4(f) of the Department of Transportation Act), this was a primary reason Alternative 3M was recommended as the Preferred Alternative by the Environmental Protection Agency (see Environmental Protection Agency comment letter). See Appendix C of the environmental document for further details. Alternative 3M would not require any lands from within the Grassland Ecological Area and would avoid direct impacts to the Grassland Ecological Area by not crossing into any of the areas currently protected or planned for future protection by the U.S. Fish and Wildlife Service.

Canals serving the North and South Grassland areas and their locations were identified on mapping in the *Land Use Impacts and Habitat Preservation in the Grasslands of Western Merced County, California* (pages 8 and 9) (1995, Grassland Water District). The Main Canal, San Luis Canal, and Santa Fe Canal all cross the Los Banos area and the existing State Route 152. Avoidance of these canals and Los Banos Creek is not possible by the existing State Route 152 or by any alternative. Water flow for Los Banos Creek and area canals would be maintained. These canals and the creek are discussed in the draft environmental document.

Please see General Comment #1 concerning growth. Because farmland may be considered foraging habitat for some special-status species, mitigation and minimization for farmland loss within the project area was discussed in Sections 3.3.4, 3.19.3, and 3.19.4. Because Alternative 3M would not require any land from within the Grassland Ecological Area, the project would not affect farmland within that area.

5. Comment noted.
6. This summary of comments is discussed in further detail below.
7. Comment noted. See General Response #1. The National Environmental Quality Act and the California Environmental Quality Act do not require that commenting bodies or an individual take a position as to the Preferred Alternative.
8. Affected environment descriptions were included for each environmental issue discussed in the draft environmental document. Both the California Environmental Quality Act and the National Environmental Policy Act discourage lengthy descriptions of the affected environment. The California Environmental Quality Act Checklist found that the project may have a potentially significant impact on both noise and agricultural resources in the project vicinity. For biological issues the impact was determined to be less than significant with mitigation. Other issues were found to not be impacted or have less than significant impacts. Please refer to Section 3.3 for farmland issues, Section 3.14 for noise issues, and Sections 3.15 to 3.20 for biological issues. Under the National Environmental Policy Act, “Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced.” (40 Code of Federal Regulations Section 1502.15).

The environmental setting for the project used to establish the baseline physical condition included an area for biological study that met U.S. Fish and Wildlife Service protocol for this type of project. The biological study area included the actual

footprint of the proposed project, as well as an 8-kilometer (5-mile) radius of each of the proposed alternatives to accommodate potential project modifications and protocol level surveys. In addition, biological database investigations included the California Natural Diversity Database, California Native Plant Electronic Inventory, and the U.S. Fish and Wildlife Service Species List, all of which covered an even larger area. Thus, the environmental setting did cover portions of the Grassland Ecological Area.

While the Grassland Ecological Area is not specifically listed under the Parks and Recreation section of Section 3.1.1, state wildlife areas and federal wildlife refuges within 32 kilometers (20 miles) of Los Banos were included. It is also stated that these areas are used by various recreational tourists who often obtain gas, food, and lodging in Los Banos. In Section 3.4.1.3 it was stated that the project is not likely to affect businesses used by recreational tourists. No change is anticipated to the use of state, federal, or private recreational areas near Los Banos.

Existing State Routes 152 and 165 already bisect the Grassland Ecological Area. Appendix C discussed, in further detail, the state and federal lands in the vicinity and the impacts that Alternatives 1M or 2M would have on the Gadwall Wildlife Area. This is the only area within Grassland Ecological Area boundaries that would be affected by the project if one of the southern alternatives were selected. The affected area would have been approximately 24 hectares (60 acres) of the estimated 72,844 hectares (180,000 acres) encompassed by the Grassland Ecological Area. While the Grassland Ecological Area may be considered a rare or unique resource to the region, project biological resource impacts (which lie outside of the Grassland Ecological Area) were determined to be few with mitigation. Mitigation for project biological resources is discussed in Section 3.15.4 (Natural Communities), Section 3.16.4 (Jurisdictional Wetlands and other Waters of the United States), Section 3.17.4 (Plant Species), Section 3.18.4 (Animal Species), and Section 3.19.4 (Threatened and Endangered Species). Appendix C also included a map showing state and federally protected land and a more detailed map depicting potential impacts to the Gadwall Wildlife Area and wetlands for the three alternatives. Alternative 3M would not bisect or directly impact the Grassland Ecological Area.

9. Supplemental information noted on description of the Grassland Ecological Area.
10. Comment noted.
11. Existing State Route 152 bisects the Grassland Ecological Area east of Los Banos. The bypass project area lies outside the non-jurisdictional boundaries of the Grassland Ecological Area, with the one exception. A portion of the Gadwall Wildlife

Area would have been crossed by Alternative 1M or 2M on the south. Because of the Section 4(f) protection of the Gadwall Wildlife Area, Alternative 3M has been selected as the Preferred Alternative. This alternative avoids use of any lands within the Grassland Ecological Area and any impacts to wetlands. This would also avoid conflicts with the conservation easements that are in place or that may be developed in the future within the Grassland Ecological Area boundaries. It has not been shown that direct or indirect impacts would occur to this area. The area between San Luis Canal and the Santa Fe Canal is considered to be an important buffer for the Grassland Ecological Area. This area has protection from development through the Los Banos General Plan (1999) (see Goals, Objectives, Policies, Programs section of Open Space, Conservation and Recreation chapter). Acceptable land uses adjacent to agriculture in this area include physical barriers such as freeways. The City of Los Banos is using the Alternative 3M alignment as the edge of urban development in the draft General Plan update. This would reinforce the long-standing agricultural buffer area between the urban area and the Grassland Ecological Area. No impacts were anticipated to the economic importance of the Grassland Ecological Area because the project would not enhance nor impair the public's ability to access the recreation activities on the public and private lands of the Grassland Ecological Area. Therefore, additional mitigation is not required.

12. Benefits of the Grassland Ecological Area noted.
13. See response #8 and #11 above. The draft environmental document acknowledged use of refuge areas by hunters and recreational tourists (Section 3.1.1, Parks and Recreation) and determined that the bypass would not affect businesses used by these visitors (Section 3.4.1.3, Economics). The bypass would not enhance or cause a decline in the use of recreational areas surrounding Los Banos by rerouting interregional traffic away from the center of Los Banos.
14. Analysis in the environmental document did not indicate that the project would cause sprawl growth. Please refer to General Response #1.

In contradistinction to the points quoted from the *2001 Land Use and Economics Study*, the local land use planning agencies have incorporated conservation values in their decisions, plans, policies, and goals. Examples from the Local Agency Formation Commission and City of Los Banos are described below.

Within California, local development and growth is primarily controlled by cities, counties, and Local Agency Formation Commissions. Local Agency Formation Commissions are independent commissions created by the State to promote the wise use of land resources while providing for the present and future needs of a

community. Annexations to city limits and changes to a city's *Sphere of Influence* must be reviewed and approved by the Commission. Four main goals guide the Merced Local Agency Formation Commission in making land use decisions. The goals are as follows:

- ◆ The promotion of development patterns that are planned, well-ordered, and efficient
- ◆ The efficient and effective delivery of governmental services
- ◆ The need to provide for urban development in balance with the conservation of open space and prime agricultural lands
- ◆ The incorporation of urban land use patterns that maximize the opportunity for local jurisdictions to provide their fair share of regional housing needs for all income levels.

Comments submitted by the Local Agency Formation Commission for the project stated that Alternative 3M is located within the current Los Banos *Sphere of Influence* boundary. The Local Agency Formation Commission considered any alternative outside of this boundary to be growth inducing and thus supported Alternative 3M.

In Fall 2005, the City of Los Banos began updating the General Plan and planning boundaries. One of the planning principles that is guiding development of the updated General Plan concept is to “Foster a compact, rather than a scattered development pattern, with strong urban ‘edges’ that will protect agricultural lands.” Growth would be encouraged to the west and south of the city, away from sensitive areas on the north and east.

The draft Preferred Plan planning area would maintain the existing eastern boundary. It would extend south to Copa de Ora Avenue and to just west of Volta Road. On the north, the planning area would follow the edge of the bypass from the State Route 152/165 interchange to Los Banos Creek. From the creek westward it would extend up to Henry Miller Road. Thus the freeway would define the northern edge of city growth to Los Banos Creek. The proposed planning area includes approximately 8,674 hectares (21,434 acres) of land both inside and outside the city. This planning area excludes approximately 796 hectares (1,967 acres) that were previously included in the 1999 General Plan Area of Interest, primarily prime farmland located north and south of the city. The planning area was “defined with the intention of focusing future growth on land contiguous to the City and preventing scattered development on adjacent farmlands. Being included within the Planning Area does not necessarily

mean that the City is considering annexation” (Los Banos General Plan Update Map Atlas, Dyett & Bhatia, November 2005).

The current Los Banos General Plan commits the area east of the San Luis Canal to remain in Agricultural, Environmental Reserve, and Public Facilities (page OCR-35). The General Plan update would continue this commitment and propose creation of an agricultural buffer north of the State Route 152/165 interchange to Henry Miller Road and up to Los Banos Creek. This continues and reinforces the existing policy of discouraging growth beyond one-half mile south of Henry Miller Road. City Planning does not expect it to be practical to extend the line further north due to wetlands and refuges located north of Henry Miller Road. Retaining areas north and east of the city in agricultural use and using the bypass as a strong urban edge would reinforce an agricultural buffer that would both prevent further conversion of farmland in those areas and protect sensitive areas further to the north and east within the Grassland Ecological Area. Constraints to development east of the Santa Fe Canal include the City’s water treatment plant, Mud Slough Wildlife Area, Gadwall Wildlife Area, and wetland habitat already under protection. Residential and commercial growth in Los Banos is anticipated primarily to the southwest. A business opportunity area is proposed for the west side of Los Banos north and south of the existing State Route 152. Growth is being directed by many considerations, including protection of wetlands and other ecologically sensitive areas.

Further evidence of the City’s commitment to conservation values is provided below in the City response to the *Grassland Water District Land Planning Guidance Study* (1995) as summarized below. The *Grassland Water District Land Planning Guidance Study* included specific changes (pages 7-8) suggested for the Los Banos General Plan to protect the Grassland Ecological Area and prevent potential isolation between the North and South Grasslands by development. Several of these changes have occurred over the years, with action taken either by the City in its planning or by Caltrans as the bypass project has been studied. These actions show an effort to protect the Grassland Ecological Area. Suggested changes from that study (in italics) and the current status are listed below:

*A – The area proposed to be zoned I industrial between San Luis Canal and Santa Fe Grade should be rezoned to be agriculture. This would have the effect of protecting giant garter snake habitat in the Santa Fe canal, and buffering the lands east of the Santa Fe Grade from the nearest urban uses in Los Banos.* The area was rezoned in 2003.

B – *A 200 to 300-foot additional buffer strip of agriculture should be provided on the west side of the San Luis Canal, within the area proposed to be zoned LD. The area immediately adjacent to the canal should be planned with impenetrable hedgerow vegetation (e.g. blackberries) to reduce human and domestic animal access to the canal habitat and the giant garter snake.* The Los Banos General Plan, Program OCR 7.3-F, discusses residential development west of the San Luis Canal, providing a permanent buffer of at least 15 meters (50 feet) or greater to separate the canal from any urban residential use.

C – *There is ample land south of the Highway 152 bypass and west of the corridor area that could be rezoned I to compensate for the loss of the I acreage east of the San Luis Canal, without any loss of I zoned area. This would have the effect of leaving a resource neutral use between the San Luis and Santa Fe Canals.* This appears to describe the current location for the City’s planned industrial park.

D – *Freeway 152 bypass in the east part of Los Banos should be moved 200 feet to the west to move this away from the San Luis Canal to reduce impacts to the giant garter snake.* It is not clear if it was meant to move the bypass west of the San Luis Canal or make an adjustment to the alignment as it was in 1995. However, due to the canals, local development, and design requirements, Alternative 3M could only be located on the east side of the San Luis Canal where currently planned. Between the canals, most of the facility would be located 61 to 91 meters (200 to 300 feet) or more from either canal. This is the buffer suggested by the study for the giant garter snake.

E – *To reduce road impacts to the giant garter snake and kit fox, the proposed freeway interchange at the Pioneer Road extension should either be eliminated or redesigned to serve only the area west of the Highway 152 bypass.* Alternative 3M would avoid an interchange in this area.

F – *All development east of the Santa Fe Grade should be eliminated to protect the contiguity of the north and south Grasslands. The area should be designated for permanent resource-beneficial open space.* The City has no plans to extend the Urban Limit Line to the east. Located east of the Santa Fe Canal are the Los Banos wastewater treatment plant, the Mud Slough Wildlife Area, the Gadwall Wildlife Area, and parcels with wetlands already under protection. Additional constraints include the lack of availability of water, sewer, and other infrastructure in this area.

G – *No new roads should be built or improved adjacent to the Santa Fe Grade or other canals to protect habitat for giant garter snake. The proposed major roadway along this canal should be eliminated.* The City has no plans for changes along the Santa Fe Canal. Alternative 3M would be located between the San Luis Canal and the

Santa Fe Canal. Between the canals, most of the facility would be located 61 to 91 meters (200 to 300 feet) or more from either canal, except where the bypass would span the San Luis Canal. The *Land Planning Guidance Study* suggested this distance as a buffer for the protection of giant garter snakes. The structure that would span the San Luis Canal would maintain the flow of the canal and allow for movement of special-status species, as requested during consultation with the U.S. Fish and Wildlife Service.

I – *To reduce road impacts to the kit fox and preserve the resource neutrality of this zone, the proposed major roadway would be an eastward extension of Pioneer Road into the Ag zoned area is growth-inducing, and should be eliminated.* The City plans to extend Pioneer Road, but only to Ward Road. This connection would accommodate existing and recent development. It would also be used to reduce traffic on State Route 152. San Joaquin kit fox are not found in this area.

J – *The College site currently designated south of Highway 152 and the proposed bypass should be moved outside the sensitive corridor area east of Los Banos. One option that could be explored is a land swap that could be negotiated with the California Department of Fish and Game.* This is a reference to the parcel owned by the community college that is now nearly surrounded by the Gadwall Wildlife Area. The college is under construction on the west side of the city. Alternative 3M also avoids use of this area.

K – *The stormwater flow from the City of Los Banos which is discharged into the San Luis Canal must be treated or pre-treated by source control to prevent heavy metals, oil and grease from entering the canal.* The City conforms to the statewide discharge guidelines in accordance to population requirements. The City is currently operating under a Notice of Intent while the Storm Water Management Program is under review by the State Water Resource Control Board.

The City's response to suggested changes in the Grassland Water District document indicates a willingness to preserve these sensitive areas rather than allow "sprawl development" east of the San Luis Canal.

The East Los Banos Area Plan (September 2000) also indicates the City's commitment to provide protection to sensitive areas east and north of the City. This document states that the area between the San Luis Canal and the Santa Fe Canal is not intended for development in order to provide a buffer for regional wetlands to the east. The San Luis Canal is described as a barrier to intensive urban development and as providing a foundation for a buffer. Development west of San Luis Canal would only take place when adequate infrastructure is available. One requirement would be

that “sewer line size will be held to a minimum so as not to create an incentive for development east of the San Luis Canal.” This would be done by reducing the size of sewer lines as they approach the eastern edge of the developing area. Additionally, because development may take place near areas of current agricultural production, Merced County’s “right to farm” provisions would apply.

Both the current General Plan for the City of Los Banos and the General Plan update concepts indicate the City’s commitment to conservation values and its desire for compact growth. City General Plans can be considered effective land use planning control. The U.S. First Circuit Court of Appeals has noted that an environmental impact would be “too speculative” to be included in an environmental impact statement if it cannot be described with sufficient specificity to make consideration useful to a reasonable decision when the document is drafted. At this point, growth north of Henry Miller Road and east of the San Luis Canal would be considered too speculative to be included in the Draft Environmental Impact Statement/ Environmental Impact Report for the Los Banos Bypass.

15. See responses #8 and #11 above. It is not anticipated that the bypass project would affect the economic viability, private/public partnerships, or other contributions of the Grassland Ecological Area or the protected wetlands within that area.
16. Comment noted.
17. Section 2.2.1 included a description of the Build Alternatives including features that all would have in common. Cost for each alternative was shown on Table 2.1. Alternative specific descriptions (Sections 2.2.2, 2.2.3, and 2.2.4) included length, location of interchanges, overcrossing and undercrossing locations, cul-de-sacs, cost, etc. Section 2.3 also included other alternatives that were considered and withdrawn, as well as adjustments made to alternatives in 2003 to avoid wetlands and historically sensitive resources, showing that many environmental issues were considered throughout the process.

Specific construction activities and engineering details are determined during the final design phase, not during the draft environmental process. Operational aspects were discussed (route continuity, traffic, safety) in sections 1.2 and 3.6.

The document contained numerous maps of the project and anticipated environmental effects. Some of these maps (for example, Figure 3-1 and Figure C-3) included parcel lines for greater detail. All mapping within the environmental document includes major roads, canals, and local features (wildlife area, airport, college site, etc.) in order to show the relationship of the project to the surrounding area. Section 3.7 also

contained several photos depicting current and proposed views of the project. Large maps overlaid on aerials were available to the public at the public hearing. In August 2004, Caltrans staff met with representatives of the Grassland Water District to explain the project alternatives and anticipated impacts, and answer questions. Large maps of project alternatives that were used during the meeting were given to the District at that time.

18. Section 3.19.3 identified impacts to giant garter snake habitat. Alternative 3M would impact approximately one percent (0.1 hectare or 0.2 acre) of giant garter snake habitat within the potential impact area. Between the San Luis Canal and the Santa Fe Canal, the majority of the bypass facility would be located more than 300 feet from canals, a buffer suggested by the *Grassland Water District Land Planning Guidance Study* (1995). Current design plans call for a bridge that spans the Los Banos Creek without structural supports in the creek bed (see Section 3.16.3), a type of structure considered to be environmentally friendly. This type of design would allow wildlife to cross under the bridge along the creek. No impacts to water quality are expected (see Section 3.10.3). Preliminary design for canals plan for maintaining the flow of the canals using structures or reinforced concrete boxes. Following consultation with U.S. Fish and Wildlife Service, it was determined that the Arroyo Canal (located east of the Santa Fe Canal) and San Luis Canal would both be spanned by structures that would maintain the flow of the canals and allow for movement of species. The Santa Fe Canal is currently contained within a pipe or small box culvert under existing State Route 152. The project would extend the type of structure that currently exists. Main Canal would be crossed with a bridge structure that would span the canal and maintenance roads. The Central California Irrigation District and the San Luis Water District would be consulted about irrigation canal structures. Sections 3.19.3 and 3.19.4 addressed impacts and mitigation for impacts to special-status species. Impacts were found to be less than significant for California Environmental Quality Act purposes with mitigation for biological resources (see Appendix A, California Environmental Quality Act Checklist).

Section 3.10.4 explained that it was determined that no short- or long-term impacts would occur to water quality during construction. There would be no permanent impacts to Los Banos Creek, the only location of riparian habitat within the project area (see Section 3.16.3).

19. A detailed description of construction activities is not available at this stage of the project. The number of working days and other construction details would be determined during the final design stage. Section 3.14.4 includes provisions for noise

abatement during construction. Nighttime work is generally not anticipated, thus additional lighting during construction would not be needed. The exception for nighttime work may be when the east and west ends of the project are tied back into the existing roadway to reduce disruption to traffic.

The Swainson's hawk was the only species identified in the project impact area that may show behavioral fluctuations due to noise. Currently, there is no regulation that identifies noise decibel levels that would exceed a set threshold triggering the need for a take permit. The Grassland Ecological Area is located outside of the noise study area, thus further removed from anticipated construction noise.

Please see the Section 3.19.4 for information on mitigation for potential impacts. Please note that Alternative 3M does not go through the Grassland Ecological Area as would Alternative 1M or 2M. For Alternative 3M, impacts would only occur adjacent to the Grassland Ecological Area where the existing State Route 152 already adjoins the Grassland Ecological Area.

20. Comment noted.

21. Section 3.2.2 discusses local growth in the Los Banos area. The city's population increased by nearly 75 percent from 1990 to 2000. The current population of about 34,000 is anticipated to nearly double by 2030. Local growth is considered, by the city, to be market-driven and as a result, growth will continue whether the bypass is built or not. Also see General Response #1 and responses #11 and #14. One of the purposes of the project is to relieve congestion in the Los Banos community by reducing traffic within the city. The bypass would reroute interregional traffic away from the city center.

22. Please refer to General Response #1. In examining the potential for induced growth, reasonably foreseeable actions (those that are likely to occur or probable) rather than those that are merely possible are considered. Because of existing protection to areas east of the San Luis Canal (see responses #11 and #14 above), urban development within this area and growth-induced impacts on sensitive areas within the Grassland Ecological Area would be considered speculative and unlikely. Both the City of Los Banos General Plan and Merced County Year 2000 General Plan provide public plans and policies guiding land use decisions in the study area. The bypass project is consistent with those planning documents. Guidance from the Federal Highway Administration (Environmental Guidebook, 2003) directs that "the agency need not speculate about all conceivable impacts but it must evaluate the reasonably foreseeable effects of the proposed action."

23. Current and future growth in the Los Banos area is considered to be market-driven, and not related to the bypass. Please see General Response #1 and responses #14 and #34. Also see response #25 for growth-inducement analysis.

Sections 2.2.2 to 2.2.4 described the location of each alternative route and feature locations (for example: location of interchanges and types of crossing for local roads). Maps also showed the location of each route. Section 3.1.1 also described the project area, stating that the land is primarily zoned for agricultural use. The types of crops grown were listed, and the presence of dairies and associated pastures in this area noted. Section 3.3.2 further detailed the farmland use and included a map of farmland locations. Maps throughout the document showed that Alternatives 1M and 2M would affect the Grassland Wildlife Area, while alternative 3M would avoid it.

24. See General Response #1 and responses #11, #14, and #22.

25. The growth-inducing potential for the project was evaluated using several methods. Information was used from the Merced County Association of Governments' transportation model that was used to 1) estimate facility-specific roadway traffic volumes and 2) study travel time savings. The Merced County Association of Governments' county wide urban growth model, UPlan, was also used to evaluate other information related to growth-inducement potential. Both the transportation model and the UPlan were incorporated in the Final Environmental Report for Merced County's 2004 Regional Transportation Plan. Coordination and information sources for the urban growth model included representatives of the Merced County Association of Governments, Caltrans, the Federal Highway Administration, and the Environmental Protection Agency. In addition, "representatives from the public, the U.S. Fish and Wildlife Service, the U.S. National Marine Fisheries Service, the California Department of Fish and Game, and the U.S. Army Corps of Engineers provided guidance on ways to improve planning, protect resources, evaluate cumulative impacts, integrate public input, and streamline the approval of future transportation projects" (Chapter 3, Final Environmental Report for Merced County's 2004 Regional Transportation Plan). The ad-hoc advisory committee for the Regional Transportation Plan Environmental Impact Report consisted of local planners from the Cities of Merced, Atwater, and Los Banos, and from the County of Merced. They reviewed the results of the transportation model, UPlan urban growth model, and travel time savings study, and found the results to be reasonable and consistent with their experiences. In addition, public outreach to involve the public in each phase of the Regional Transportation Plan decision-making process included numerous public

outreach meetings held quarterly between January 2003 and May 2004 at various locations throughout Merced County.

In addition, a Caltrans Growth Inducement Checklist was completed with assistance from the Los Banos Planning Department (see Section 3.2.3). The checklist also concluded that the project would not be growth inducing.

26. In addition to a traditional evaluation of farmland impacts (Section 3.3.3), the Draft Environmental Impact Study/Environmental Impact Report reported countywide cumulative impacts to farmland based on the results of an urban growth model developed by the University of California, Davis, with results reported in the Final Environmental Report for Merced County's 2004 Regional Transportation Plan (see Section 4.2.2). The Uplan model was developed by the University of California, Davis, specifically to address the growth-inducing impacts of regional transportation projects in Merced County, including the Los Banos Bypass. Because growth and farmland conversion were anticipated due to the continued growth in the county, planned growth would result in fewer acres of farmland being converted to other uses than if growth was allowed to take place in an unplanned manner. The cumulative impact analysis in that document showed a positive net benefit in farmland conversion with implementation of projects in the Regional Transportation Plan, including the Los Banos Bypass Project. The reason for this reduction is that the transportation plan scenarios analyzed for the Regional Transportation Plan are designed to support the land use planning goals of the county and cities and to reduce land-use-related environmental impacts. Farmland conversion to urban use is anticipated within the Los Banos *Sphere of Influence* as the city continues to grow; however, this is growth that is planned. The City anticipates that the growth would occur whether the bypass is constructed or not. In addition, the farm community would benefit from planned transportation improvements in the project area.
27. According to comment letters from the Local Agency Formation Commission of Merced County (March 23 and April 28, 2005), Alternatives 2M and 3M are located primarily within the Los Banos *Sphere of Influence*, while Alternative 1M is outside the current *Sphere of Influence*. The Commission supports Alternative 3M. The Local Agency Formation Commission is an independent commission created by the State (Cortese/Knox/Hertzberg Act) to promote the wise use of land resources while providing for the present and future needs of a community. Policies and procedures include encouraging and providing for planned, well-ordered, efficient urban development patterns while discouraging urban sprawl and encouraging preservation of open space and prime agricultural land. The City of Los Banos is using the

Alternative 3M alignment as the edge of urban development in the draft General Plan update. This would reinforce the long-standing agricultural buffer area between the urban area and the Grassland Ecological Area. Please see responses #1, #14, and #22 above.

28. Please see Response #1, #14, #21, #22, #25, and #26 above.
29. Please see response #14 above. The *Grassland Water District Land Planning Guidance Study* (1995) defines resource neutral as “land uses that may or may not provide a direct benefit to the species of interest, but do not create adverse impacts to the species, and act to buffer the resources beneficial areas from the effects of urban uses. Resource neutral land uses are primarily cultivated agriculture.” It was recommended that land use between the Santa Fe Canal and the San Luis Canal be resource neutral. The Los Banos General Plan designated that agricultural land between the San Luis Canal and the Santa Fe Canal north of State Route 152 was not intended for urban development (page PA-7). In order to protect farmland, acceptable land uses adjacent to agriculture were listed and include physical barriers such as freeways (page OCR-2). The bypass and surrounding farmland between the two canals could be considered to be resource neutral by providing a barrier to development occurring west of the San Luis Canal. Also see response #44 below.
30. In the *Grassland Water District Land Use and Economics Study* (1995) provided with the comment letter, the Figure 1 map depicts the Grassland Ecological Area in relation to Merced County. The 180,000 acres extend from near the Stanislaus County line northwest of Los Banos southward to near the Fresno County line. It would not be possible to design any bypass alternative for State Route 152 that would not fall within the zone of conflict shown in the *Grassland Water District Land Planning Guidance Study*. The Grassland Ecological Area covers approximately 14 percent or nearly one-seventh of the county. According to Map 8 in the *Grassland Water District Land Planning Guidance Study*, the suggested Grassland Wildlife Management Area’s two-mile sphere would extend as far west as State Route 165 within Los Banos and even further west within the northern portion of the city. The one-mile sphere would also lie within the city limits in some areas. Portions of this area have been developed for some time. Any of the three build alternatives would have fallen within the one- to two-mile sphere. The eastern portion of the bypass would also lie within the city limits, but in an area zoned for agricultural use.

The *Grassland Water District Land Planning Guidance Study* also recommended specific changes to the Los Banos General Plan (see response #14 above) and the city has demonstrated a desire to protect the Grassland Ecological Area by responding to

those recommendations. The General Plan also protects the area east of the San Luis Canal from development to maintain a buffer area between urban development and sensitive areas.

Alternative 3M was selected as the Preferred Alternative because it would avoid impacts to the Gadwall Wildlife Area (a part of the Grassland Ecological Area) and to wetlands.

31. The Draft Environmental Impact Statement/Environmental Impact Report did not discuss potential impacts of urban encroachment on the wetlands complex of the Grassland Ecological Area because such development is not anticipated (see General Response #1). In regards to the bypass project:

- (1) and (2) The bypass would be located outside of the Grassland Ecological Area boundary within a primarily agricultural area with controlled access, thus avoiding fragmentation and reduction in habitat value to the interior wetlands complex. The area between San Luis Canal and Santa Fe Canal is zoned by the City to remain in agriculture in the Los Banos General Plan.
- (3) Storm water runoff would not be discharged into receiving waters; thus, potentially toxic chemicals would not enter drainage waters (see Section 3.10).
- (4) See Section 3.20 concerning Invasive Species.
- (5) Lands on which serenity and quiet are of extraordinary significance have a noise abatement criterion of 57 decibels and for recreation areas and parks the level is 67 decibels. Predicted noise levels for Alternative 3M (see Section 3.14) ranged from 47.8 to 58.9, with only one location exceeding the 57-decibel threshold. The difference between 57 and 58.9 decibels is so small that the human ear would not be able to perceive the difference. A 3-decibel change is the smallest change in noise levels that humans can detect. Because of this, no abatement measures were found to be either feasible or reasonable for receptors adjacent to Alternative 3M. The Grassland Ecological Area is located outside of the noise study area, thus further removed from anticipated noise increases.
- (6) There are few trees within the Alternative 3M alignment, and these are mainly located at Los Banos Creek and around homes. See Section 3.7 for potential visual impacts and mitigation.
- (7) and (8) Water flow would be maintained. The project does not compete with water supply and wetland habitat.

32. Alternative 3M, the Preferred Alternative, avoids the area east of San Luis Canal and south of existing State Route 152, the area of the Gadwall Wildlife Area. Alternatives 1M and 2M would have affected the wetlands and Gadwall Wildlife Area in this area.
33. Please see response #30 above. While Alternative 3M would place a longer section of the bypass east of the “hourglass,” it would be within a buffer area that is not intended for urban development by the City. Alternatives 1M and 2M would directly impact the Gadwall Wildlife Area (part of the Grassland Ecological Area), a Section 4(f) resource to be avoided under federal law, if possible. These alternatives also would impact wetlands that Alternative 3M avoids. Please see response #29 above concerning resource neutral and resource negative issues, and General Response #1 and response #14 for growth issues.
34. While the study quoted used projects located in or near “small to medium municipalities” as the data source, all but one of the projects was located in congested urban areas, such as the California Bay Area. State Route 152 is located in a primarily rural area except for where the roadway passes through the City of Los Banos. Other factors that influence growth at rural intersections is discussed in response #12 to the Environmental Protection Agency comment letter. Due to the predominately rural setting of western Merced County, the road system is not well developed. Thus State Route 152 carries the major portion of the east/west traffic traveling between the valley and the coast and severe congestion occurs when large amounts of traffic must slow to pass through a city with numerous stoplights and local traffic.
- Please see General Response #1 and response #14 above. It should also be noted that the City of Los Banos draft General Plan update reflects thoughtful and integrated land-use planning and growth management that maintain a long-standing practice of providing an agricultural buffer between the city and the Grassland Ecological Area.
35. The Volta area is accessed by Volta Road, Henry Miller Road, and Ingomar Grade Road. The freeway would cross over Ingomar Grade Road and the railroad, but the bypass would not affect or change any of the roads leading to Volta. Access to Volta would not be enhanced or reduced by the bypass and would not induce growth to the Volta area. The freeway will be a controlled access facility with only the three interchanges as described in the draft environmental document.
- An interchange to connect the Santa Fe Grade Road to the bypass would not be anticipated in the future due to interchange spacing requirements.
36. During environmental studies, the City indicated that commercial development should stay south of the bypass (see Section 3.4.1.3, Economics). The City’s draft

General Plan update reinforces this strategy by proposing to use the bypass as the city's northern edge to urban growth (up to Los Banos Creek) and by proposing an agricultural buffer north of the State Route 152/165 interchange. Thus the bypass would become a barrier between any commercial development that may occur near the intersection and the Grassland Ecological Area. See Sections 3.3.4 and 3.19.4 for mitigation strategies that would reinforce a buffer area for the Grassland Ecological Area. Also refer to General Response # 1 and response #14.

37. Section 3.1.3 of the Draft Environmental Impact Statement/Environmental Impact Report and response #8 above described the study area, which did include portions of the Grassland Ecological Area, primarily the Gadwall Wildlife Area. The analysis was specific to the three alternative alignments under consideration and the land through which those alignments would pass. This included portions of the Grassland Ecological Area buffer west of the Santa Fe Canal. Except for a part of the Gadwall Wildlife Area, Alternative 1M and 2M would not extend into the Grassland Ecological Area. Alternative 3M, the Preferred Alternative, would not extend into the Grassland Ecological Area at all.

See Section 3.1 for Land Use and Section 3.2 for Growth issues. Please see General Response #1 and response #14 concerning growth-inducing impacts.

38. On the east side of State Route 165, residential use and a public park are located nearly up to the point where the interchange would be built. On the west side of State Route 165, residential development is being built within the city limits. The draft General Plan update for the City of Los Banos proposes to use the bypass alignment as the northern planning edge from the State Route 152/165 interchange to Los Banos Creek and to create an agricultural buffer in this area up to Henry Miller Road. Retaining areas north and east of the city in agricultural use and using the bypass as a strong urban edge would both prevent further conversion of farmland in those areas and protect sensitive areas further to the north and east within the Grassland Ecological Area.

The State Route 165 widening project listed by Merced County Association of Governments in the Regional Transportation Plan (2004) would be located from Pioneer Road to Henry Miller Road, an area primarily within the city. A Project Study Report has not yet been completed for this project, and thus the proposed project cannot be programmed for funding, according to Merced County Association of Governments. At this time it is not known when the project would be funded. The Recommended Regional Improvement Project Priorities list includes those projects that would need regional discretionary funding to be constructed.

Currently the City is widening State Route 165 from approximately one-half mile north of B Street to just south of Dove Street. Widening would reduce congestion in that section.

Two State Route 165 rehabilitation projects are planned – one project is located north of Henry Miller Road (Wolfsen Road Rehabilitation project) and another project would include the section of State Route 165 from Interstate 5 to Henry Miller Road. Environmental studies were completed in March 2007 for first project. Construction is anticipated beginning March 2009 and ending October 2010. The second rehabilitation project has not yet been programmed. Neither project would include widening of State Route 165. The bypass project would include widening of State Route 165 to accommodate the interchange location for the two state routes.

39. Growth-inducing impacts associated with the project have not been demonstrated. See General Response #1 and responses #14, #21, #22, and #25 above.
40. The list of local development was repeated in Chapter 4 of the Draft Environmental Impact Statement/Environmental Impact Report and the reader was referred to map Figure 3-1 in Chapter 3 of the document. Table 4.1 was for use with the traditional method of analyzing cumulative impacts (Section 4.2.1). The Urban Growth Model (Section 4.2.2) is a second way to analyze cumulative impacts. Projects listed in Table 4.1 are all within the City and outside of the Grassland Ecological Area boundaries. State wildlife areas and federal wildlife refuges were shown on a map in Appendix C. Because it is not anticipated that the project would induce growth that would impact the Grassland Ecological Area (see response #14 above), there is no need to review and reference studies provided with the comment letter in the environmental document. Additional information sent is included in Section 10.0.
41. Growth-inducing impacts associated with the project have not been demonstrated. See General Response #1 and responses #14, #21, #22, and #25 above.

The bypass would be a controlled access facility with access to surrounding areas only at the three interchanges. Land use between the San Luis Canal and Santa Fe Canal will remain agricultural, according to the Los Banos General Plan, to act as a barrier between development and sensitive resources to the east (see Sections 3.2.2 and 3.2.3). Only local roads will access areas surrounding the northwest portion of the bypass and the bypass in that area would not improve access. The City would determine land use changes around the interchanges. In the draft General Plan update, the city is directing growth away from the sensitive ecological areas north and east of the city. The major directions proposed for growth is to the south and west. Current land use along the Alternative 3M corridor is primarily farmland. See Sections 3.18

and 3.19 for anticipated impacts and mitigation for wildlife. See Section 3.10 for Water Quality issues and Section 3.13 for Air Quality issues.

42. See General Response #1 and response #14. Even though mitigation for growth is not required, Caltrans has worked with the U.S. Fish and Wildlife Service, California Department of Fish and Game, Grassland Water District, and the City of Los Banos to create a project that would reinforce conservation values (see Sections 3.3.4 and 3.19.4).
43. Regarding noise, please see Section 3.14.4 and the Noise Impact Technical Report. The environmental document identified noise as a substantial impact, but noise abatement was not proposed. While studies found noise abatement feasible at some locations, none were considered to be reasonable. Cost/benefit analysis determined that because receptors were few and scattered, it was not reasonable to construct any barriers. No abatement measures were found to be either feasible or reasonable for receptors adjacent to Alternative 3M.
44. It has not been shown that the project would have a growth-induced impact to the Grassland Ecological Area (see General Statement #1). However, Caltrans has met with the U.S. Fish and Wildlife Service, California Department of Fish and Game, Los Banos City Planning, and the Grassland Water District prior to and following circulation of the draft environmental document for the project (see Chapter 6). U.S. Fish and Wildlife identified areas that are considered critical areas for the protection of the Grassland Ecological Area. These sensitive areas include north of the State Route 152/165 interchange, the area between the San Luis Canal and the Santa Fe Canal, and areas east of the Santa Fe Canal. Other agencies and the City have agreed that these were sensitive areas. See response #14 for protection of areas east of the San Luis Canal already provided by the City of Los Banos. Also see Sections 3.3.4 and 3.19.4 for information about mitigation strategies that would help reinforce a buffer area between urban development and the Grassland Ecological Area.
45. The City of Los Banos, County of Merced, and the Local Agency Formation Commission of Merced County determine land use planning policies. Drafting a Growth Mitigation Plan is outside the scope of Caltrans' authority. However, it should be noted that representatives of the California Department of Fish and Game, U.S. Fish and Wildlife Service, and Grassland Water District met with the Los Banos City Manager about the General Plan update and have been represented on the General Plan Advisory Committee. The draft General Plan update that has been developed would reinforce the long-standing buffer policies of the City.

46. Standard Caltrans policy provides several means of minimizing impacts on farming. Should non-farmable remnant parcels be created, these would first be offered to adjoining property owners, and would be offered for public sale only if all reasonable efforts to sell to adjoining property owners were unsuccessful. Deed restrictions would be included when excess farmland is resold in the buffer area adjacent to sensitive areas near the Grassland Ecological Area (see Section 3.3.4).

47. Under the California Environmental Quality Act (California Environmental Quality Act Guidelines, Article 20, 15358), direct impacts are those caused by the project and that occur at the same time and place. Effects analyzed under the California Environmental Quality Act must be related to a physical change. Alternative 3M would be located outside of the Grassland Ecological Area boundaries and avoid the Gadwall Wildlife Unit within the Grassland Ecological Area boundaries. No direct impacts would occur from construction.

There were no natural communities found that would be divided by the project. The majority of the land affected is farmland. Please see Section 3.19.4 of the environmental document for avoidance and minimization measures for special-status species.

48. Currently, there is no regulation that identifies noise decibel levels that would exceed a set threshold triggering the need for a take permit. The ambient noise estimates for the bypass are within the serene to quiet classification (see Table 3.32, Noise Abatement Criteria, in environmental document). Please see response #31 (5) above concerning noise and Section 3.14.3.

No streetlights are planned for the bypass except at the interchanges, as is standard Caltrans practice. Light issues would be similar to other sections of existing State Route 152 that run through rural areas. Lighting at the interchanges serves to illuminate areas of potential vehicle conflict and to delineate interchange features such as exit and entrance ramps. The bypass would be located outside of the Grassland Ecological Area boundaries.

49. By incorporation of proper and accepted engineering practices and implementation of a Storm Water Pollution Prevention Plan and the Statewide Storm Water Management Plan, the proposed project would not produce substantial impacts to water quality during construction or operation (see Section 3.10.3). After construction, storm water runoff from the roadway would not be discharged to receiving waters; thus short-term and long-term impacts to surface water are not expected. In addition, because storm water runoff would likely be of better quality

than groundwater underlying the project area, short-term and long-term impacts to groundwater are not expected.

50. Surveys for waters of the U.S. followed the criteria outlined in the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual. Alternatives 1M and 2M would have affected Wetland 2 located between the north end of Gadwall Wildlife Area (a part of the Grassland Ecological Area) and the existing State Route 152 and required a retaining wall. Alternative 3M avoids Wetland 2 and was adjusted to also avoid Wetland 1 identified north of Los Banos, resulting in no impacts to wetlands. No retaining wall is needed for Alternative 3M. Wetlands associated with the Grassland Ecological Area are generally located east of the Santa Fe Canal and north of Henry Miller Road, with the exception of Wetland 2 that was avoided.

Current design plans call for a bridge that spans Los Banos Creek without structural supports in the creek bed (see Section 3.16.3). This type of design would allow wildlife to cross under the bridge along the creek and flow would be maintained. Structures and/or reinforced concrete boxes would cross the Main Canal, the San Luis Canal, and the Santa Fe Canal, maintaining the flow of these canals. Following consultation with the U.S. Fish and Wildlife Service, it was determined that the Arroyo Canal (located east of the Santa Fe Canal) and the San Luis Canal would both be spanned by structures that would maintain the flow of the canals and allow for movement of species. The Santa Fe Canal is currently contained within a pipe or small box culvert under existing State Route 152. The project would extend the type of structure that currently exists. Main Canal would be crossed with a bridge structure that would span the canal and maintenance roads. The Central California Irrigation District and the San Luis Water District would be consulted on the irrigation canal structures (see Section 3.5). Alternative 3M would avoid use of a retaining wall and impacts to wetlands on the north edge of the Gadwall Wildlife Area (a part of the Grassland Ecological Area) that Alternatives 1M and 2M would have had.

51. State Route 152 currently crosses the connection between the North and South Grasslands. State Route 165 also runs through the northern portion. The bypass would replace a section of State Route 152 with a similar facility to the existing. Effects to flight paths would be unchanged. Alternatives 1M and 2M would have required a retaining wall that would have been approximately 10 to 19 feet high near the north edge of the Gadwall Wildlife Area and the flight path. During informal field meetings with California Department of Fish and Game staff (2003), concern was expressed about the effect of a retaining wall on the flight path. Alternative 3M avoids the need for a retaining wall.

52. Please refer to General Statement #1.

53. Comment noted.

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June 23, 2005

VIA FACSIMILE AND US MAIL

Ms. Vickie Traxler  
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Re: Supplemental Comments of Grassland Water District / Grassland  
Resource Conservation District on Los Banos Bypass Draft  
EIS/EIR

Dear Ms. Traxler:

I am writing on behalf of the Grassland Water District ("GWD"). GWD provided detailed comments on the Draft Environmental Impact Statement / Environmental Impact Report ("DEIS/R") for the proposed Los Banos Bypass ("Bypass" or "the Project"), pursuant to the California Environmental Quality Act<sup>1</sup> ("CEQA") and the National Environmental Policy Act<sup>2</sup> ("NEPA") on May 5, 2005. Because of developments in the intervening time period, GWD now provides these supplemental comments on the Project approval process and on the DEIS/R.<sup>3</sup>

<sup>1</sup> Pub. Resources Code, §§ 21000 et seq.

<sup>2</sup> 42 U.S.C. § 4321 et seq.

<sup>3</sup> While Caltrans may not be legally obligated to provide written responses to these supplemental comments, we believe that responses would contribute to an informed public decisionmaking process consistent with the objectives of CEQA and NEPA.

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A. Selection of a Preferred Alternative at This Stage Is Premature

GWD would like to thank Caltrans for inviting it to the upcoming Project Development Team (“PDT”) meeting on June 28, 2005.<sup>4</sup> GWD looks forward to participating in the meeting and hearing more about the Project and the environmental review process. GWD is very concerned, however, that Caltrans is proceeding prematurely to selection of a preferred alternative before completing its environmental analysis.

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According to the meeting agenda, the PDT will select a preferred alternative at the meeting. Once a preferred alternative is selected, that alternative will be forwarded to the District Director as the PDT’s choice. The District Director will then forward that information to the Federal Highways Administration. Additional environmental and engineering work will then be undertaken in furtherance of the route selected by the PDT. While GWD is sensitive to Caltrans’ need to move forward on project planning, commitment of resources toward a particular route at this time is unwarranted and contrary to the requirements of CEQA and NEPA.

First, responses to comments on the DEIS/R, however, have not been provided. In response to comments on an EIS, the agency may: (1) modify alternatives, including the proposed action; (2) develop and evaluate alternatives not previously given serious consideration; or (3) supplement, improve, or modify its analyses. (See 40 C.F.R., § 1503.4, subs. (a)(1)-(3).) Similarly, in response to comments on an EIR, the lead agency should “describe the disposition of significant environmental issues raised (e.g., revisions to the project to mitigate anticipated impacts or objections). (CEQA Guidelines, § 15088, subd. (c).) The selection of a preferred alternative at this time would render meaningless the exercise of responding to comments on the DEIS/R.

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<sup>4</sup> GWD notes, however, that under the Bagely-Keene State Open Act, all meetings held by state bodies must be open to the public. (See Gov. Code, § 11120, 11123.)

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Second, selection of a preferred alternative by the PDT commits resources toward a particular route prior to completion of the NEPA and CEQA review process. Because the environmental review process is not yet complete, it is inappropriate to commit resources toward any particular Bypass route. “Proper timing is one of NEPA’s central themes. An assessment must be ‘prepared early enough so that it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize or justify decisions already made.’” (*Save the Yaak Comm. v. Block* (1988) 840 F.2d 714, 718-719, quoting 40 C.F.R. § 1502.5 (1987) (awarding of contracts prior to preparation of environmental review precluded agency’s required “hard look” at the environmental consequences of road project); see also CEQA Guidelines, § 15004, subd. (b) (environmental review should be prepared as early as possible in planning process to enable environmental considerations to influence project design).) Commitment of significant resources toward any one route now undermines the current environmental process.

Third, commitment to a particular route at this time would not be supported by adequate facts and analysis.<sup>5</sup> NEPA analysis should be completed “before any irreversible and irretrievable commitment of resources.” (*Conner v. Burford* (9<sup>th</sup> Cir. 1988) 848 F.2d 1441, 1446.) Under CEQA, project “approval” means the decision by a public agency which commits the agency to a definite course of action . . . .” (CEQA Guidelines, § 15352, subd. (a).) As pointed out by several comment letters, the DEIS/R contains insufficient data upon which to base any conclusions. For instance, the United States Environmental Protection Agency (“EPA”) rated the DEIS/R as “Environmental Concerns-Insufficient Information.” This rating means that the EPA identified environmental impacts that should be avoided to fully protect the environment and there was insufficient information in the DEIS/R to fully assess those environmental impacts. According to the EPA, deficient areas included: indirect impacts to waters of the United States; growth inducement; cumulative impacts to waters of the United States and other resources; and direct air quality impacts. The United States Fish and

<sup>5</sup> The level of detail in the DEIS/R is more akin to a program EIR or EIS (see CEQA Guidelines, §15168) than the project-level review the document purports to provide.

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Wildlife Service (“FWS”) and California Department of Fish and Game (“DFG”) also expressed concerns about many of the same issues as the EPA.

Only by including the additional analysis requested by commentors regarding issues such as agricultural, biological and growth inducing impacts, can the DEIS/R provide an adequate platform on which to base a decision to pursue one of the routes proposed in the DEIS/R.

B. Feasible Mitigation is Available for Project’s Impacts to Agriculture

The DEIS/R concludes that the Bypass would result in direct conversion of from 226.9 to 279.6 hectares of farmland, depending on the route selected<sup>6</sup> (DEIS/R, Table 3.6.) In total, however, Caltrans intends to purchase from 365.9 to 439.7 hectares of land (DEIS/R, Table 3.6.) After construction, Caltrans would attempt to resell excess acreage back to adjacent property owners. (DEIS/R, at p. 75.) The project will also affect from 2 to 6 Williamson Act parcels, taking from 13.5 to 33.5 hectares of farmland out of Williamson Act contracts. (DEIS/R, at p. 77.) As a result, the DEIS/R identifies loss of farmland that would occur with any of the three routes as a significant environmental effect.

As a significant effect under CEQA, Caltrans is required to consider feasible mitigation and alternatives that would lessen or eliminate this significant impact. (See Pub. Resources Code, § 21002; CEQA Guidelines, §§ 15126.4, subd. (a), 15126.6, subd. (b).) Furthermore, under the rating system created pursuant to the Farmland Protection Policy Act (7 U.S.C., § 4201 et seq.), both Alternative 1M and Alternative 3M reached the threshold requiring consideration of alternatives that avoid or minimize farmland impacts. In response to these obligations, however, the DEIS/R summarily rejects all significant forms of mitigation or alternatives for this significant

<sup>6</sup> Most of this farmland is Prime Farmland or Farmland of State Importance. (See DEIS/R Table 3-7.)

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effect.<sup>7</sup> (DEIS/R, at pp. 79-80.) With regard to the most obvious and effective form of mitigation – protecting replacement farmland from future development with conservation easements – the DEIS/R states that “[n]o known conservation easement program exists in Merced County for farmland mitigation at this time.” (DEIS/R, at p. 80.)

Under CEQA and NEPA, mitigation may compensate for the impact by “replacing or providing substitute resources or environments.” (CEQA Guidelines, § 15370, subd. (e); 40 C.F.R., § 1508.20, subd. (e).) Moreover, CEQA requires that agencies ensure that the environmental effects of agricultural conversions are carefully considered in the environmental review process. (See, e.g., Pub. Resources Code, §21095, subd. (a).) Nothing in CEQA or NEPA indicates that a formal easement program must be adopted as pre-condition to mitigation.

Conservation easements would reduce development pressures created by the conversion of farmland to highway and related uses, and would preserve other farmland against the growth pressures created by the Project. Numerous statutory schemes underscore the importance of preserving agricultural lands and point to conservation easements as an appropriate method to mitigate impacts to agriculture. (See, e.g., California Land Conservation Act of 1965 (“Williamson Act”), Gov. Code 51200 et seq.; California Farmland Conservancy Program Act, Pub. Resources Code, § 10201 et seq.; Farmland Protection Policy Act, 7 U.S.C., § 4201, et seq.; see also Gov. Code, § 815 et seq. (encouraging preservation of agricultural land through conservation easements).) The alleged lack of a conservation easement program does not excuse Caltrans from mitigating this significant

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<sup>7</sup> The only tangible mitigation that Caltrans proposes to implement is providing overcrossings and/or undercrossings to maintain access and movement to remaining farmland. (DEIS/R, at p. 80.) Caltrans also “tries” to arrange for parcel exchanges with neighboring farmers to reconfigure split farmland parcels for resale so that the parcels may continue to be farmed. (DEIS/R, at p. 80.)

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environmental effect with at least 1:1 mitigation for directly converted farmland.<sup>8</sup>

Caltrans is also mistaken that there are no conservation easement programs in Merced County. The County has a history of requiring mitigation in the form of conservation easements (or like protection) of projects that convert farmland to other uses. For example, approval of the Hilmar subdivision in 2002 was conditioned on providing agricultural conservation easements for, or in-lieu fees to purchase, an equal number of acres of equivalent farmland converted from agricultural use as a result of the project. (See Merced County Planning and Community Development Department Staff Report and Recommendation, p. 9, condition 8 (December 18, 2002).) Mitigation in the form of conservation easements will also be required for conversion of agricultural lands exceeding 20 acres within the Delhi Community Plan area. (See Delhi Community Plan Draft EIR, p. 4.1-33, Implementation Measure OS 3.2a.)

Independent of actions by the County, several land trusts are also active in the Merced County area, including: The American Farmland Trust, Merced County Farmlands and Open Space Trust, and the newly-formed Central Valley Farmland Trust, among others. The Great Valley Center's Agricultural Transaction Program and California Department of Conservation's California Farmland Conservancy Program have also promoted and funded farmland easement programs in Merced County.

GWD believes that conservation easements are feasible mitigation for impacts to farmland caused by the Project. In any case, Caltrans must further investigate conservation easements before reaching a conclusion regarding feasibility of mitigation for this significant effect of the Project. (See Pub. Resources Code, § 21061.1.) Currently, the conclusion in the DEIS/R is not supported by substantial evidence. (See Pub. Resources Code, § 21168.5.)

<sup>8</sup> Mitigation could involve either a direct protection requirement imposed on Caltrans, or the imposition of an in lieu fee that would be used for purchase of conservation easements.

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Providing appropriate mitigation for the project's direct impacts to agriculture will assist in controlling the growth inducing effects of the Project. As explained in GWD's May 5, 2005 letter, mitigation properties should be strategically located within the identified two-mile buffer area of the Grassland Ecological Area or on the exterior of the Bypass, thus discouraging growth outside of Los Banos' Urban Limit Line and beyond the Bypass. (GWD Comment Letter, at p. 17.) A conservation easement program would also be an integral part of the Growth Mitigation Plan (suggested in our previous letter) whereby Caltrans would provide a framework for coordinated land use planning between the City of Los Banos and the County around the Bypass. Such coordination would ensure that the Project does not lead to uncontrolled growth that further threatens the Grassland Ecological Area and other important resources. (GWD Comment Letter, at pp. 17-18.)

\* \* \*

GWD appreciates the opportunity to communicate with Caltrans about the Bypass and we look forward to continuing a constructive dialogue regarding this Project. GWD representatives continue to be available to consult with Caltrans staff on the important farmland and natural resources affected by the proposed Bypass Project.

Very truly yours,



Osha R. Meserve

ORM:cnh

cc: Mayor Michael S. Amabile  
Steve Rath, City Manager  
Supervisor Jerry O'Banion  
Kim Forrest, USFWS  
Clarence Mayott, DFG  
Nancy Levin, USEPA  
Don Marciochi

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## **GRASSLAND WATER DISTRICT/GRASSLAND RESOURCE CONSERVATION DISTRICT – JUNE 23, 2005**

1. Comment noted.
2. Copies of comments received for the Los Banos Bypass Draft Environmental Impact Statement/Environmental Impact Report were furnished to Grassland Water District/Grassland Resource Conservation District and their representative, as well as others who requested copies. Copies of comments received and responses to those comments are included in the Final Environmental Impact Statement/Environmental Impact Report, as required. It has not been found that there is a need to modify alternatives, develop and evaluate new alternatives, or supplement, improve, or modify the analysis of the project in response to any comments received.
3. Recommendation of the Preferred Alternative and justification for its selection is a part of the Alternative Analysis section of the Final Environmental Impact Statement/Environmental Impact Report. Final selection approval would occur when the Federal Highway Administration issues the Record of Decision. The project has undergone several years of environmental surveys, studies, and analysis as required for a “hard look” at the environmental consequences. Environmental work also included coordination with a wide variety of resource agencies and interested parties, and included public participation in the process.
4. The U.S. Environmental Protection Agency requested minor clarification of issues in the final environmental document, but substantial new information and recirculation of the draft document was not requested (see the comment letter and response to the comments). The U.S. Environmental Protection Agency also determined Alternative 3M to be the Least Environmentally Damaging Practical Alternative and recommended its selection as the Preferred Alternative.

The Draft Environmental Impact Statement/Environmental Impact Report was prepared in accordance with approved U.S. Federal Highway Administration guidance. The draft document was also thoroughly reviewed by Caltrans Division of Environmental Analysis, Headquarters; Caltrans legal staff; and U.S. Federal Highway Administration staff, and was found to be complete for circulation to the public.

The Draft Environmental Impact Statement/Environmental Impact Report was prepared for a single specific project and focused primarily on changes in the environment that would result from the development of that specific project in the

Los Banos area. A program level Environmental Impact Statement/Environmental Impact Report, on the other hand, would focus on a series of actions that are related geographically or that are a logical part of a chain of actions. For example, the Environmental Impact Report prepared for the Merced County Regional Transportation Plan is considered to be a program level document because it discusses impacts from planned and potential transportation projects throughout the county.

5. Comment noted.
6. Prior to circulation of the Draft Environmental Impact Statement/Environmental Impact Report, Caltrans received incorrect information concerning the lack of conservation easement programs for Merced County.

Information about conservation easement programs provided by the Department of Conservation and the above comment letter is appreciated. The information provided was used to further investigate potential conservation easements for the bypass project. U.S. Fish and Wildlife staff provided mapping indicating the sensitive areas (within the identified two-mile buffer area) that should be considered for easements to provide protection for the Grassland Ecological Area. Coordination with the Los Banos Planning Department, U.S. Fish and Wildlife Service, California Department of Fish and Game, and other interested parties has taken place to consider ways in which sensitive agricultural areas may be protected (see Section 3.3.4).

7. Please see General Response #1 and response #14 to the May 5, 2005 comment letter for Grassland Water District/Grassland Resource Conservation District concerning growth inducement. Please see response #44 in the May 5, 2005 letter and response #6 above concerning protection of sensitive areas, including agricultural areas. The City of Los Banos and Merced County determine local planning for the Los Banos area. Participation in the suggested Growth Mitigation Plan is outside Caltrans' authority.

## **SECTION 4.0 ORGANIZATIONS**





## CENTRAL VALLEY JOINT VENTURE

### North American Waterfowl Management Plan

May 3, 2005

California Waterfowl  
Association

Defenders of Wildlife

Ducks Unlimited, Inc.

National Audubon  
Society

The Nature Conservancy

The Trust for Public Land

PRBO  
Conservation Science

Ms. Vickie Traxler  
California Department of Transportation  
San Joaquin Valley Environmental Analysis Branch  
2015 East Shields Avenue, Suite 100  
Fresno, CA 93726

#### Re: EIS/EIR of Proposed State Route 152 Bypass

Dear Ms. Traxler:

On behalf of the Central Valley Joint Venture (CVJV), I am submitting comments on the EIS/EIR for the State Route 152 Bypass Proposal near the Grassland Wetlands of Los Banos, California.

The CVJV is a public-private partnership of seven non-governmental conservation organizations and ten state and federal agencies. Based on the objectives of the North American Waterfowl Management Plan, our mission is to protect, restore, and enhance migratory bird habitat in the Central Valley watershed of California.

The Grassland Wetlands has been an area of high priority for the CVJV since its inception in 1988. To date, roughly 60,000 acres of public and private wetland habitat has been restored and enhanced within the region based on the objectives of the CVJV Implementation Plan. Moreover, nearly 70,000 acres of private wetland habitat is enrolled in the U.S. Fish and Wildlife wetland easement program. Collectively, this area provides habitat for twenty percent of the total wintering waterfowl population within the Pacific Flyway, with roughly one million waterfowl moving through the region annually. The habitats of the Grasslands are also home to a variety of wetland dependent migratory and resident species, including many which are listed as threatened or endangered. Of California's vestige wetlands, the Grasslands represents the largest contiguous block of freshwater marsh remaining in the state. It is designated as a Western Hemisphere Shorebird Reserve Network site and was recently recognized as a Wetland of International Significance under the Ramsar Convention.

The CVJV believes that the EIS/EIR alternatives do not adequately assess the cumulative impacts of the project to agriculture, wildlife or habitats within the region, nor sufficiently describes the level of mitigation that would be required to accommodate either a northern or southern bypass route. While the document describes projected net loss of wetland habitat for a northern and southern bypass scenario, it fails to address our greatest concern which is the growth inducing effects associated with bypass construction. While it may not be the intent of the lead agency to induce growth through project selection and construction, there is no doubt that the bypass will affect regional growth patterns and will accelerate the rate of open space/agricultural conversion. As local land use decisions and general plan revisions will continue to occur long after the project is constructed, growth inducement will naturally occur as a function of the access and transportation corridor values that will be made available to local government and private landowners. The EIR/EIS does not describe this potential effect and its associated impact to the agricultural lands that buffer the habitats of the Grasslands.

Without an adequate agricultural/open space buffer mitigation component, the CVJV believes that the draft EIR/EIS, in its current form, would result in irreparable harm to the Grasslands by directing growth toward large blocks of wetland habitats with no allowance for buffer land dedication between the urban and wetland edge. The development of an agricultural and open space easement program would help ameliorate this impact, particularly if established in partnership with the City of Los Banos and Merced County and incorporated into their respective general planning processes. Such an action would be consistent with the impacts to giant garter snake habitat along the Santa Fe and San Luis Canals that will likely result during project construction of either a northern or southern bypass alternative.

Due the aforementioned concerns, we suggest that additional analysis be conducted to assess the growth inducing and cumulative impacts of the project, particularly as it relates to long-term loss of agricultural lands adjacent to wetland habitats. We further feel it is necessary to specifically identify mitigation measures for loss or degradation of wildlife habitats associated with wetlands, grasslands and agricultural lands.

Thank you for consideration of our comments.

Sincerely,



Frederic A. Reid, Ph D.  
Chairman

cc: CVJV Board Members

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## **CENTRAL VALLEY JOINT VENTURE**

1. Many of the comments made by resource agencies have been based on the assumption that urban growth would be directed north and east into the sensitive Grassland Ecological Area if Alternative 3M were to be constructed. The growth studies reported in the Draft Environmental Impact Statement/Environmental Impact Report, however, found no such evidence of that and do not support that assumption. Therefore, the resource agencies are making comments about growth patterns not supported by evidence, and they are finding fault with the Draft Environmental Impact Statement/Environmental Impact Report for not addressing the impacts of that assumed growth. Most of these comments have to do with indirect or cumulative impacts.

The analysis in the Draft Environmental Impact Statement/Environmental Impact Report is supported by three different growth-inducement methodologies: a quantitative land use model, a quantitative travel-time model, and a traditional checklist approach. The results from each methodology were consistent. An expert panel of local land use planners also validated the results.

The growth scenarios assumed in resource agency comments are not consistent with the findings of the three growth studies and the expert panel. The resource agency position is based almost entirely upon speculation. Much is made of a Draft Environmental Impact Statement/Environmental Impact Report statement that a gas station might be considered by the City of Los Banos at the interchange of Alternative 3M with State Route 165. The potential commercial property in question lies in an area distinctly south of the long-established buffer area between urban uses and the sensitive ecological resources to the north. Essentially, this is a land use planning issue, not an issue of growth inducement with accompanying indirect or cumulative impacts on the Grassland Ecological Area.

The City of Los Banos has held a long-standing General Plan policy of using roads and canals as boundaries for urban growth and buffers between developed areas and sensitive ecological resources. The City of Los Banos is currently updating the General Plan for the City. One of the planning principles guiding development of the draft General Plan update concept is compact growth with strong urban “edges” that would protect adjacent agricultural lands, particularly on the north and east sides of the city. Furthermore, the plan concept also recognizes the Grassland Ecological Area as an important resource that needs protection from urban development. The draft General Plan update would

continue to keep the area between the San Luis Canal and the Santa Fe Canal as an agricultural buffer and proposes to create an agricultural buffer north of the State Route 152/165 interchange up to Henry Miller Road and west to Los Banos Creek. Caltrans would support the creation and maintenance of the agricultural buffer or greenbelt, through easements and/or deed restrictions on the north side of the bypass from the eastern interchange to Los Banos Creek. Alternative 3M is part of the draft General Plan update that would direct major growth south and west while using the proposed freeway itself as a limit line (no growth allowed north or east of that line).

Based on the information from the Draft Environmental Impact Statement/ Environmental Impact Report briefly summarized above, Caltrans and the Federal Highway Administration find the resource agency call for supplemental studies of indirect and cumulative impacts caused by induced growth into the Grassland Ecological Area to be without merit. The assumed impacts – described in great detail in resource agency comments – are too speculative to be considered, considering that the evidence from the collaborative growth-inducement studies indicates that no such impacts would occur.

2. The need for a buffer between urban development and the Grassland Ecological Area has been commented on by resource agencies and the Grassland Water District/Grassland Resource Conservation District. The Los Banos General Plan restricts development between the San Luis Canal and the Santa Fe Canal, thus providing a buffer to development between the east side of Los Banos and the narrow waist where the North and South Grasslands are joined. Furthermore, the letter from the California Department of Fish and Game of May 9, 2005 (comment #10) noted that future growth “north and east of Los Banos is basically limited by existing wetlands areas and the Grassland Resource Conservation District.” Generally, growth north of Henry Miller Road and east of State Route 165 will be limited, or non-existent, due to these existing protected areas.

Meetings were held with the U.S. Fish and Wildlife Service, California Department of Fish and Game, Los Banos Planning Department representatives, and a representative for the Grassland Water District to discuss mitigation options and determine areas that would be most beneficial to all parties to protect. Resource agencies have advised Caltrans that they would prefer mitigation to occur near the project, rather than at an offsite mitigation bank located away from the project area. Resource agencies have identified buffer areas that are considered critical for protection of the Grassland Ecological Area, an area where

state wildlife areas, federal wildlife refuges, and privately owned properties with wetlands are located north and east of Los Banos. The buffer areas primarily include land bounded by the San Luis Canal and the Santa Fe Canal north of existing State Route 152 and the area north of the State Route 152/165 interchange area. The U.S. Fish and Wildlife Service (Sacramento Office) also identified the Volta area, located northwest of Los Banos, for mitigation of impacts to giant garter snake habitat. Please see Section 3.19.4 of the Final Environmental Impact Statement/Environmental Impact Report for mitigation ratios determined through Section 7 Consultation with the U.S. Fish and Wildlife Service. Most land in the buffer areas is currently used for agriculture, except for the parcel owned by the Community College. Biological mitigation would be strategically located, whenever possible, to reinforce these buffer areas identified between the City of Los Banos and the Grassland Ecological Area. Purchase of conservation easements for biological mitigation requires willing sellers. Land for mitigation would be located at site(s) agreed to by the Federal Highway Administration, resource agencies, and Caltrans.

The City of Los Banos is currently updating the General Plan for the City (see Section 3.2.3). The City has identified the bypass as an edge to urban land uses to protect sensitive areas. The update would maintain the agricultural buffer on the east side of the City and propose to create an agricultural buffer north of the State Route 152/165 interchange to Henry Miller Road and west to Los Banos Creek. Caltrans would support the creation and maintenance of the agricultural buffer or a greenbelt through easements and/or deed restrictions on the north side of the bypass from the eastern interchange to Los Banos Creek on the northwest side of the city.

3. See response #1.



## **SECTION 5.0 INDIVIDUALS**



April 11, 2005

To all parties concerned:

Many arguments can be made about the Alternative 3M configuration nightmare, and more than can be written here. I will state one objection, which is an environmental concern. Being over a mile longer than the other alternatives, it will mean more pollution in an already over-polluted valley. Prevailing north and northwest winds will bring pollution through the city from diesel trucks and other vehicles, and runoff from the road will pollute the groundwater. The very argument that this will be a truck route under the guise of a bypass is the main reason Alternative 3M should not be the route taken due to air pollution and runoff from the vehicles.

Also, the possible hazardous materials spill from this traffic would mean a problem with the prevailing winds into the city and population evacuation problems.

Anyone can see that Alternative 3M is a more complex route. It will cut many land parcels into wasteland that will be left useless to the property owners and farmers.

In conclusion, it defies common logic, and is an environmental and economic disaster waiting to happen.

Sincerely,



Dominic J. Pugliese  
1208 Santa Lea Street  
Los Banos, CA 93635  
(209) 826-0707

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## **DOMINIC J. PUGLIESE**

1. The project was studied for both regional level conformity and project level conformity for air quality, as required (see Section 3.13). Most pollutants of concern are studied at the regional level because the effect is experienced over a wider area. Only carbon monoxide and particulate matter is studied at the project level. Carbon monoxide typically dissipates quickly and it was found that the project would not cause additional air quality concerns from carbon monoxide. Absent unusual circumstances or existing conditions (monitored) that are above or within 80 percent of the federal standard, a transportation facility is unlikely to cause a localized particulate matter problem. Carbon monoxide levels are within attainment and unclassified, meaning that there is no concern at this time for the region.

In addition, traffic on existing State Route 152 experiences long idling time, high emissions, stop signals in the city, and traffic congestion due to the number of cars traveling within Los Banos – local, regional, and interregional. Additional stop signals are planned within the city in the future as the city continues to grow. A free-flowing roadway for through traffic would eliminate the emissions caused by stop-and-go conditions.

2. Routing traffic around the population center would allow greater safety to the public by increasing the distance from vehicles carrying potentially hazardous cargoes. The risk of collision at the many intersections within Los Banos would also be reduced or avoided. The distance from the population center would also mean that dense smoke and vapors would be dissipated by wind more easily than they would be for a similar accident if it occurred within the City of Los Banos.
3. Standard Caltrans policy provides several means of minimizing impacts on farming and compensating farmers for any adverse impacts on farm operations that might be caused by the splitting or triangulation of farmland parcels. Caltrans would compensate affected property owners and farm operators as needed for costs of on-farm investments (such as irrigation systems, drainage ditches, and wells) that would be impaired by the project. Caltrans would also compensate farmers for any reorganization of the farm operation that may be necessitated as a result of parcels splitting or changes in access. Should non-farmable remnant parcels be created, these would first be offered to adjoining property owners, and would be offered for public sale only if all reasonable efforts at sale to adjoining property owners are unsuccessful.

In addition, Section 4(f) of the Department of Transportation Act of 1966 requires that projects can use “publicly owned land of a public park, recreation area, or

wildlife and waterfowl refuge of national, State, or local significance only if 1) there is no prudent and feasible alternative to using that land; and 2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.” Alternative 3M avoids use of the Gadwall Wildlife Area.

Please see Appendix C for the Section 4(f) Evaluation, including other options studied that would have avoided this resource.

Vickie Traxler  
San Joaquin Valley Analysis Branch  
2015 E. Shields, Suite 100  
Fresno, CA 93726  
(559) 243-8294

May 6, 2005

Re: State Highway 152 Bypass route Merced County, Los Banos

Dear Ms. Traxler,

This letter is in response to the request for public comments for State Route 152 Los Banos Bypass. I am a family member of Marilyn Properties Inc. that owns parcel 082-010-003, 073-220-003, 084-010-003.

We do not support the current 3M bypass route. The current conceptual design for the northern route does not provide the highest value to our property. We feel the conceptual design of the 3M route should be aligned closer to the Santa Fe Grade canal

As the environmental impact report accurately states the city will be allowing development of properties inside the bypass route at some point in the future. Our property currently resides adjacent to approved R-1 development. The highest value to our land would also be R-1 development therefore we request a change to the current alignment of 3M. We feel this could be attained without encroaching upon the Wetlands that currently reside an acceptable distance east of the Santa Fe Grade canal.

We do not feel our request is impractical based on future considerations that are currently being discussed related to the phase 2 and 3 Merced College development plan.

We also do not support the majority of the arguments that have been suggested for why the 3M alignment is the preferred choice of the Los Banos community. Some examples being:

- o *"A Highway will never be built through wetlands"* – This is simply not true and there are examples within California where land has been swapped to allow for transportation development.
- o *"Cost of property to the South will escalate beyond current forecast"* – We feel our property based on your preliminary estimate has already been grossly underestimated and will continue to rise in value. Based on 4% growth rates per year for the city the 1M or 2M land as proposed will never reach the current property values of our existing parcels.

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- *“1M and 2M alignments do not solve the F rating of 152 and 165 intersection”* – The environmental report already advises that no matter the alignment chosen this intersection will still be in jeopardy of a poor congestion rating (2033). Obviously an additional solution will be required to solve this intersection problem.

Thank you for the opportunity to share our comments we hope that all your diligence in the future will take into account the highest value of the land under consideration for this project. We are optimistic that a compromise solution can be obtained to ensure the best value for our property.

Kyle Dalton  
Marilyn Properties Inc.  
2341 El Camino Avenue  
Sacramento, Ca. 95821  
(562)-682-6847

cc: Paul L. Cass LL M

**KYLE DALTON, MARILYN PROPERTIES INC.**

1. Configuration of a freeway alternative is based on many factors, including standard design and geometrics. Other constraints (wetlands, public parks, canals), as well as necessary geometric design, determine the location of the alternatives. Therefore, changes to an alternative's design cannot be based on development value of a particular property.

If Alternative 3M was aligned closer to the Santa Fe Canal, the alignment would then encroach on the Mud Slough Wildlife Area to the east of the Santa Fe Canal. Federal law requires avoidance of such areas (see response #3 for D. Pugliese).

According to the Los Banos General Plan (page OCR-35), property located between the San Luis Canal and the Santa Fe Canal is designated to remain in Agriculture and/or Environmental Reserve due to sensitive habitat in the area for the giant garter snake, a designated sensitive species. In Fall 2005, the City of Los Banos began updating the General Plan and planning boundaries. The General Plan update would continue this commitment and propose creation of an agricultural buffer north of the State Route 152/165 interchange to Henry Miller Road and up to Los Banos Creek. This continues and reinforces the existing policy of discouraging growth beyond one-half mile south of Henry Miller Road. Retaining areas north and east of the city in agricultural use and using the bypass as a strong urban edge would reinforce an agricultural buffer that would both prevent further conversion of farmland in those areas and protect sensitive areas further to the north and east within the Grassland Ecological Area.

2. A northern alternative has crossed the general area of what is now the Merced Community College property since alternatives were developed in 1993 for the Project Study Report. The Draft Major Investment Study completed in 1998 further refined the alternatives. Merced Junior College District was listed as being represented for the study. The Los Banos Campus Master Plan Draft Environmental Impact Report (January 2004) acknowledged the conflict between the two projects and stated that the northwest portion of the campus may not be built unless additional funds are obtained. Since that time, construction has begun on the Los Banos Campus. Caltrans has continued coordination with the Merced Community College District both for the Los Banos Bypass Project and the State Route 152/Community College Entrance Intersection Project. On June 21, 2005, the Board of Trustees of the Merced Community College District passed Resolution Number 05-127 that endorsed the completion of the State Route 152 Bypass and also supported approval of a Project Study Report for the proposed intersection for the campus. The resolution

stated that it “commits the District’s cooperative participation in the planning and implementation of the State Route 152 Bypass project in Los Banos.”

3. The Executive Order for the Protection of Wetlands (Executive Order 11990) states that a federal agency, such as the Federal Highway Administration, cannot undertake or provide assistance for new construction located in wetlands unless it is found 1) that there is no practicable alternative to the construction, and 2) the project includes all practicable measures to minimize harm. Alternative 3M avoids the wetland located south of State Route 152 on the east end of the project area. Other state and federal laws also protect wetlands.
4. Anticipated right-of-way costs were shown on Table S.1 of the draft environmental document and anticipated project costs were discussed in Chapter 2. It was stated that there was a less than 10 percent cost difference between the alternatives. However, a discussion of “cost of property to the South will escalate beyond current forecast” was not a part of the draft environmental document for this project.
5. The bypass would improve the Level of Service for State Route 152 by routing pass through traffic around the city rather than through it. The Level of Service for the intersection of State Route 152 and 165 is anticipated to be F even when the bypass is completed due to increased population growth for the City of Los Banos (see Section 3.6).

May 6, 2005

Ms. Vickie Traxler  
Department of Transportation

RE: Highway 152 Bypass Around Los Banos, CA

Dear Ms. Traxler:

This letter is in opposition to the proposed 3M route (northern route) for Highway 152 around Los Banos, California.

We are a landowner that the northern route will dissect on the east side of the city. The proposed route will dissect our property, which would lower its economic value and could potentially impact our family negatively from a financial standpoint. We understand the importance of the bypass, but it should not be at the detriment of the local landowners. If the roadway were be on the eastside of our parcel it would allow us to continue to profitably farm this parcel in the future.

Additionally, the proposed northern route will have an negative impact on the proposed Merced College campus on the west side of Los Banos. This should be taken into serious consideration, as the campus needs the area to expand as necessary to handle the growing community.

Thank you in advance for you consideration of this matter. Please feel free to contact me at 209-826-0109 or cell 209-509-9293 to further discuss this matter.

Sincerely

Evaristo Vaz, Individually and as Trustee of the Vaz Living Trust

1

2

## **EVARISTO VAZ, VAZ LIVING TRUST**

1. Configuration of a freeway alternative is based on many factors, including standard design and geometrics. Other constraints (wetlands, public parks, canals), as well as necessary geometric design, determine the location of the alternatives. Therefore, changes to an alternative's design cannot be based on development value of a particular property.

If Alternative 3M was aligned closer to the Santa Fe Canal, the alignment would then encroach on the Mud Slough Wildlife Area to the east of the Santa Fe Canal. Federal law requires avoidance of such areas (see response #3 for D. Pugliese).

Standard Caltrans policy provides several means of minimizing impacts on farming and compensating farmers for any adverse impacts on farm operations that might be caused by the splitting or triangulation of farmland parcels. Caltrans would compensate affected property owners and farm operations as needed for costs of on-farm investments (such as irrigation systems, drainage ditches, and wells) that would be impaired by the project. Caltrans would also compensate farmers for any reorganization of the farm operation that may be necessitated as a result of parcels splitting or changes in access. Caltrans would negotiate parcel exchanges with or sell excess parcels to neighboring farms to reconfigure split farmland parcels so that the parcels could continue to be farmed, if practicable.

Appendix D of the environmental document also briefly outlines a summary of relocation benefits, including the Business and Farm Relocation Assistance Program.

2. A northern alternative has crossed the general area of what is now the Merced Community College property since alternatives were developed in 1993 for the Project Study Report. The Draft Major Investment Study completed in 1998 further refined the alternatives. Merced Junior College District was listed as being represented for the study. The Los Banos Master Plan Draft Environmental Impact Report for the Community College also identified Alternative 3M crossing the college property. That document acknowledged the conflict between the two projects and stated that the northwest portion of the campus may not be built unless additional funds are obtained. Caltrans has continued coordination with the Merced Community College District both for the Los Banos Bypass Project and the State Route 152/Community College Entrance Intersection Project. On June 21, 2005, the Board of Trustees of the Merced Community College District passed Resolution Number 05-127 that endorsed the completion of the State Route 152 Bypass and also

supported approval of a Project Study Report for the proposed intersection for the campus.

**GALEN R. YOUNG**  
936 Middle Road  
LOS BANOS, CA 93635

GALEN YOUNG  
19263 MIDDLE ROAD  
LOS BANOS, CA 93635

DATE 4-24-05

TO MS. KIMELY SANDTELL  
ASSOCIATE ENVIRONMENTAL PLANNER  
SAN JOAQUIN VALLEY ENVIRONMENTAL ANALYSIS  
DEPT. OF TRANSPORTATION  
2015 EAST SHIELDS AVE, SUITE A100  
FRESNO, CA 93726-5428

SUBJECT HWY 152 BYPASS,  
FIG. 3-9 POTENTIAL  
BRANCH HAZARDOUS WASTE SITES  
OF YOUR ENVIRONMENTAL IMPACT  
REPORT

GOOD MORNING MS. SANDTELL,  
> WHAT IS (ARE) THE POTENTIAL HAZARDOUS WASTES,  
AT THE PARCEL SHOWN IN DARK ORANGE, AT THE  
CORNER OF HOLLAND AVE AND MIDDLE RD.  
PLEASE ADVISE.

1

*Sincerely*

SIGNED Galen R. Young

PLEASE REPLY     NO REPLY NECESSARY

**GALEN R. YOUNG**

1. The potential hazardous waste site at the corner of Holland Avenue and Middle Road was identified on Table 3.29 of the draft environmental document as an historic-era farm (old farm). At that time, lead-based paint and asbestos may have been used because their hazards were not known (as per phone conversation April 27, 2005).

## **SECTION 6.0 PETITION**



*State Route 152 in Merced County  
Los Banos Highway 152 Bypass*

To all concerned parties:

Page 1 of 4

As part of the landowners, farmers, residents and citizens of the Alternative 3M area, we state the negative impacts to community and environmental resources, and economic potential should the Alternative 3M be selected.

Petitions, e-mail, telephone calls, letters and communication with the CALTRANS team at the recent open house have been submitted and are continuing to be submitted.

We summarize the potential impacts:

**\*Loss of Farmland**  
691 acres plus additional would be acquired due to access changes  
More acreage  
Impact 3 dairies  
(A. Table S.1)

1

**\*Loss of Habitat (for wildlife species)**  
Farmland is foraging habitat  
Four special status species  
San Joaquin Kit Fox (federally listed – endangered)  
Project construction likely to adversely affect this species (B. p.20)  
Permanent impact (B. p.39)

2

Swainson’s Hawk  
Burrowing Owl  
100 acres more habitat loss (p.40)  
525 acres involved  
Greater than 1M = 427 acres, 2M = 400 acres (A. p. 207)

**\*Relocations**  
17 residences  
4 businesses (greatest number for 3M)

3

**\*Railroad Involvement**  
Under-crossing  
Over-crossing  
Bridge structure  
Construction sediment loss – erosion (B.)

4

**\*Right of Way Acres**  
1,086 acres  
(More for 3M)

5

**\*Farm Tax Revenue Loss  
Greater for 3M**

6

**\*Hazardous Waste Site  
Underground Storage Tanks  
(oil and chromium contamination potential)  
(A. p.138)**

7

**\*Fill and Cut  
5.2 million cubic meters of fill  
(Greater for 3M)  
(A. p. 135)**

8

**\*Visual Quality  
Eucalyptus Trees  
Large Oaks  
Riparian Habitat at Los Banos Creek**

9

**\*Cost  
245 million dollars (2004 dollars)  
10.2 miles  
1M = 243 million, 9.4 mi.  
2M = 234 million, 9.1 mi.  
3M is over a mile longer than the other alternatives.**

10

**1M & 2M would be shorter to build and would result in less farmland conversion.**

11

**\*Mitigation  
3M would be 6 million dollars.  
This would be 3 x as much mitigation for farmland impacts north of 152 than to the south.  
(Table 2.1, A. p. 43)**

12

**\*Segmentation of Parcels and Loss of Access  
3M requires additional acquisitions if entire parcels are purchased rather than just the portions required due to the configuration.**

13

**\*Particulate Matter  
We are in a non-attainment area. The level is higher than the level allowed by state and federal standards. (p. 146)  
The greater length (10.2 mi. for 3M) would result in more particulates from the vehicles being dispersed by the north and northwest prevailing winds into the entire city. (B. Table 3.)**

14

Wind-blown dust during construction, and air-borne asbestos during demolition would be inhaled. (A. p. 149) (B. p.13)  
Construction would be ongoing for over three years of contributing to our non-attainment status for our air quality.

14

**Hazardous Materials Spill**  
The prevailing north, northwest winds would result in evacuation problems throughout the entire city.

15

**\*Water Quality**  
The greater length of 3M would result in more runoff from the thousands of daily vehicles to our groundwater. Surface water runoff during construction impact from oil, grease, heavy metals (exhaust, worn tires, brake linings, engine parts, etc.) (B. p.12, 13)

16

Consider the impacts to the entire City of Los Banos should the 3M be chosen. The greater cost, greater length, greater farmland conversion, greater habitat loss, more permanent and temporary acreage loss for the San Joaquin Kit Fox and greater air/water quality negative impacts show that the 3M Alternative will have a permanent and significant negative impact on our entire city. (A. p. 177, p. 192)

17

**Addendum:**

**Wetland 2**  
This wetland contained no special-status species (i.e. plants or animals protected either federally or by the state of California or both), yet was located within an area created or classified for conservation. (Northern Grasslands Wildlife Area, Gadwall Unit). (C. p. 35)

18

Alternative 3M contains special status species and the federally endangered S. J. Kit Fox with a great amount of acreage. See above pages.

19

**Wetland 3**  
This wetland is ranked low and has no special-status species, and was not located within an area classified or created for conservation. (C. p. 35)

20

Alternative 3M contains a riparian area in Los Banos Creek area. See above pages.

21

This proposed project is anticipated to temporarily impact (0.5 acres) of waters of the United States from the construction of a bridge, which will span Los Banos

21

Creek. Disturbance of the bed, bank, or channel would be caused by construction. (C. p. 36)

22

Mitigation measure for Wetlands is proposed in the form of compensation at a ratio of 3:1 for permanent loss of jurisdictional wetlands. In addition, they would be revegetated and monitored according to Section 1602 by CDGF, 404 of ACOE and 401 of CRWQCB. (C. p. 36)

23

If an irrigation canal located at the northeast interchange of Alternative 1M and 2M is relocated outside of the right of way, it would be an indirect impact. No other indirect impacts to the waters of the United States including wetland habitat are anticipated to result from the construction of the proposed project if environmentally friendly structures are incorporated. (C. p. 36)

24

Heartscale was identified with a population of 300 adjacent to the northern portion of Alternative 3M and 3 were at the 2M area. (C. p. 37)

25

According to the USFWS, the direct impact to the kit fox is the permanent and temporary loss of foraging and migration corridor habitat. Alternative 3M would have the most impact with 525 acres of permanent and 173 acres of temporary. (C. p. 39) See above paragraphs for more.

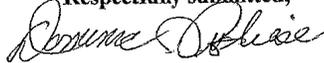
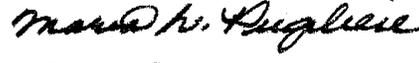
References:

A.  
Draft  
Environmental Impact Statement/  
Environmental Impact Report  
(Section 4f Evaluation)  
2005

B.  
Los Banos Bypass  
EA - 419100  
Technical Studies  
Air Quality Analysis  
Water Quality Assessment

C.  
Los Banos Project  
Natural Environment Study  
(10-MER-152-KP.36/38.62  
Merced County  
(PM 17.0/24.0  
419100  
July 2004

Respectfully submitted,

Maria S. Pugliese                      1208 Santa Lea Street  
Dominic J. Pugliese                    Los Banos, CA 93635                    209 826-0707

**PETITION TO SHOW NON-SUPPORT OF PROPOSED  
LOS BANOS 152 BYPASS ALTERNATIVE ROUTE 3M**

The residents of the Los Banos Creek region would like to state that there will be a negative impact to the location and development of vital community resources and economic potential should the 3M Route be chosen. We say "NO" to the Los Banos 152 3M Alternative Bypass Route.

NAME	ADDRESS	CITY	ZIP
JACK R GUI/AN	15741 BADGE FLAT RD	LOS BANOS	93635
RICHARD JIMENEZ	15763 BADGER FLAT RD	LOS BANOS	93635
John Tratte	21425 Engeman Blvd	Los Banos	93635
14600 Bridgway Flat Rd		LB	93635
Calla Whelan	14600 Bridgway Flat	Los Banos	93635
SHARON BRIZEE	14604 Badger Flat	LB	93635
GARY BRIZEE	14604 Badger Flat	LB	93635
MITA IZOCO	14378 Goodson Flat	LB	93635
Lebbie IZOCO	14378 Badger Flat	LB	93635
George Sheehar	14308 Broger Flat	LB	93635
Jay Sheehar	14308 Broger Fl	LB	93635
Tom Gemund	13811 Badger Flat	LB	93635
Christine Collins	13811 Badger Flat	LB	93635
Kayla Collins	13811 Badger Flat	LB	93635

Mail completed sheet to Caltrans: Attn: Kimely Sawell, 2015 E Shields, Ste. 100, Fresno, CA 93726-5428

**PETITION TO SHOW NON-SUPPORT OF PROPOSED  
LOS BANOS 152 BYPASS ALTERNATIVE ROUTE 3M**

The residents of the Los Banos Creek region would like to state that there will be a negative impact to the location and development of vital community resources and economic potential should the 3M Route be chosen. We say "NO" to the Los Banos 152 3M Alternative Bypass Route.

NAME	ADDRESS	CITY	ZIP
Paul Mueller	14220 Henry Miller	Los Banos	93635
Maria R Garcia	14743 Henry Miller	Los Banos	93635
<del>Theresa</del>	15208 W. Henry	Los Banos	93635
Gregg Capizzano	19208 W. Henry Miller	Los Banos CA	93635
Alexandra Enriquez	19208 W. Henry Miller	Los Banos CA	93635
Esteban Camacho	314 Mandeville Ave	Los Banos CA	93635
Anthony Ferrer	409 F ST	Los Banos CA	93635
Kristin Erratchu	21800 Ingomar Cir	Los Banos CA	93635
Albort Erratchu	21800 Ingomar Cir	Los Banos CA	93635
Raymond Prince Sr	15885 Padega Flat Rd	Los Banos	93635
Ray Prince Jr.	15885 Padega Flat Rd.	Los Banos	93635
Larry Bristow	13301 S. Hwy 33	Los Banos	93635
Flo Bristow	314 Pamela	Los Banos	93635
Calvin Bristow	314 Pamela	Los Banos	93635

Mail completed sheet to Caltrans: Attn: Kimely Sawell, 2015 E Shields, Ste. 100, Fresno, CA 93726-5428

**PETITION TO SHOW NON-SUPPORT OF PROPOSED  
LOS BANOS 152 BYPASS ALTERNATIVE ROUTE 3M**

The residents of the Los Banos Creek region would like to state that there will be a negative impact to the location and development of vital community resources and economic potential should the 3M Route be chosen. We say "NO" to the Los Banos 152 3M Alternative Bypass Route.

NAME	ADDRESS	CITY	ZIP
Keivid + Edna Sparks	13659 Badger Flat Rd	Los Banos, Ca.	93635
Ella Engstrom	13671 Badger Flat	" "	" "
Ken LaFerty	21820 Engower Ave	Los Banos CA	93635
Ryan P. Morgan	P.O. Box 512	Redo Bend, CA	93953
Javier Hernandez	22023 Ingomar	Los Banos	93635
Ana M. Hernandez	22023 Ingomar	Los Banos	93635
Walter Tambo	22617 Engower Ave	Los Banos	93635
Melvin Case	616 1/2 PACHECO	Los Banos	93635
David Lopez	81411 Emma road	Los Banos	93635
Joseph J. Waller	22577 W Victoria Blvd	Los Banos	93635
Patricia Waller	22577 W Victoria Blvd	Los Banos	93635
Sheryl L. Waller	22577 W Victoria Blvd	Los Banos	93635
Paul Palmer	22590 Engower Blvd	Los Banos	93635
Property Parcel #	22888 Engower Collier	Los Banos	93635

Mail completed sheet to Caltrans: Attn: Kinsey Saytel, 2015 E Shields, Ste. 100, Fresno, CA 93726-5428

**PETITION TO SHOW NON-SUPPORT OF  
LOS BANOS HWY. 152 BYPASS ALTERNATIVE 3M**

The farmers, landowners, residents and citizens  
of the northern Alternative 3M area  
state the negative impact to community and environmental resources  
and economic potential should the Alternative 3M be chosen.

NAME	ADDRESS	CITY	ZIP
Paul & Diana Stewart	20690 Henry Miller Rd.	Los Banos	93635
Anthony Forte	12144 S. Edison Rd	Los Banos	93635
JOSE MORAN	1682 SAC RAMON RD	LOS BANOS	93635
TERICY BUCK	13760 JOHNSON RD	LOS BANOS	93635
John Kitzler	13760 JOHNSON RD	Los Banos	93635
Mariano Vas	13763 Johnson rd	LOS BANOS	93635
James Springer	13711 de Johnson Rd	Los Banos Ca	93635
Arlynn Jackson	13518 Johnson Rd	Los Banos Ca	93635
Teodoro Paraguan	745 J St	Los Banos Ca	93635-4141
Theresa Cuevas	1037 Redwood dr	Los Banos Ca	93635
Tom Williams	224 GEORGE AVE	Los Banos CA	93635
Michelle Williams	13835N Dawson Rd	Los Banos CA	93635
Shirley Williams	656 MEXICALAK ST	Los Banos CA	93635
Marcel & Jill	13617 Johnson	Los Banos Ca	93635

Mail completed sheet to Caltrans: Attn: Kimely Sawell, 2015 E Shields, Ste. 100, Fresno, CA 93726-5428

PETITION TO SHOW NON-SUPPORT OF  
LOS BANOS HWY. 152 BYPASS ALTERNATIVE 3M

The farmers, landowners, residents and citizens  
of the northern Alternative 3M area  
state the negative impact to community and environmental resources  
and economic potential should the Alternative 3M be chosen.

NAME	ADDRESS	CITY	ZIP
Theresa Rodriguez	1208 Santa Lee St	Los Banos CA	93635
Debra Rodriguez	" " " "	" " "	" " "
John Lopez	512 Gumwood Ct	Los Banos CA	93635
Doreen Herrera	512 Gumwood Ct	Los Banos CA	93635
Alma Garcia	1128 Argentine Ave	Los Banos Ca	93635
Antonia Gutierrez	1128 Argentine Ave.	Los Banos Ca	93635
Quinn Houston	935 Delaware Ave	Los Banos	93635
Wanna Jones	511 W. Santa Venetia	LOS BANOS	93635
Melissa Avila	1052 Monterey Ave	Los Banos, CA	93635
Melinda Valencia	P.O. Box 2334 2233 California	Los Banos, Ca.	93635
Deann Pullen	510 Pioneer	Los Banos Ca.	93635
Jusana Avila	1052 Monroe Ave	Los Banos, CA	93635
Margaret Bohm	434 Oakwood Ct	Los Banos, CA	93635
Wanda Poma	881 Del Rio Dr	Los Banos, CA	93635

Mail completed sheet to Cartrans: Attn: Kimely Sawell, 2015 E Shields, Ste. 100, Fresno, CA 93726-5428  
 11511 N. Main Hwy. in Los Banos CA 93635



**PETITION TO SHOW NON-SUPPORT OF  
LOS BANOS HWY. 152 BYPASS ALTERNATIVE 3M**

The farmers, landowners, residents and citizens  
of the northern Alternative 3M area  
state the negative impact to community and environmental resources  
and economic potential should the Alternative 3M be chosen.

NAME	ADDRESS	CITY	ZIP
Dennis Taylor	1291 E Bonanza	Merced, CA	95340
Melanie Aldama	1291 1/2 Donna Dr.	Merced, CA	95340
Brian Anderson	12073 Nanters	Los Banos, CA	93631
Karen Felt	12073 Nanters	Los Banos, CA	93635
William Aldama	12141 S Wilson	Los Banos, CA	93635
William Aldama	1108 S Wilson	Shafter, CA	93635
William Felt	12312 S. Wilcox	Los Banos, CA	93635
Greg S. Bane	436 Santa Barbara St	Los Banos, CA	93635
Angela Hernandez	1537 Alberta Street	Los Banos, CA	93635

Mail completed sheet to Caltrans: Attn: Kinely Sawtell, 2015 E Shields, Ste. 100, Fresno, CA 93726-5428

**PETITION TO SHOW NON-SUPPORT OF  
LOS BANOS HWY. 152 BYPASS ALTERNATIVE 3M**

The farmers, landowners, residents and citizens  
of the northern Alternative 3M area  
state the negative impact to community and environmental resources  
and economic potential should the Alternative 3M be chosen.

NAME	ADDRESS	CITY	ZIP
Frank Calleson	1377 2nd Ave	Los Banos	93635
Steve Swallow	20047 Copr Ave	Los Banos	93635
David Swallow	1247 Mission Ave	Los Banos	93635
1st St Bypass	14461 Santa Lucia Ave	Los Banos	93635
Roger E. Dwyer	14461 Santa Lucia Ave	Los Banos, CA	93635
David Hunt	344 Line St	Los Banos, CA	93635
Antonia Garcia	41452 West I St	Los Banos	93635
Stephen Swank	14505 Santa Lucia	Los Banos	93635
KE Swank	1518 Paradise Lane	Los Banos	93635
Shelly Swank	14509 Santa Lucia	Los Banos	93635
1st Road	1209 Iowa Ave	Los Banos	93635
Paul Swank	14509 Santa Lucia	Los Banos	93635

Mail completed sheet to Caltrans: Attn: Kimely Sawtell, 2015 E Shields, Ste. 100, Fresno, CA 93726-5428



**PETITION TO SHOW NON-SUPPORT OF LOS BANOS HIGHWAY 152  
BYPASS ALTERNATIVE 3M**

1. After considering the constraints in the area (wetlands, historic properties, wildlife refuges, businesses, community impacts, etc.), it was determined that it would only be possible to build the bypass in areas that are now primarily farmland. Alternatives were developed in 1993 and further refined in 1998. Since that time the Gadwall Wildlife Area was enlarged. Under federal law, wildlife and waterfowl refuges are a resource to be avoided unless there is no prudent and feasible alternative to using the land. Alternative 3M avoids the Gadwall Wildlife Area. Please see Appendix C, Section 4(f) Evaluation for further details.
2. All build alternatives would result in loss of farmland as foraging habitat for San Joaquin kit fox, greater sandhill crane, and Swainson's hawk, although the acreage lost would be greater for Alternative 3M. Caltrans has consulted with U.S. Fish and Wildlife Service for appropriate mitigation to compensate for the loss. Also see comment #1 above. Section 3.19.4 of the Final Environmental Impact Statement/Environmental Impact Report discusses this mitigation.
3. Based on additional information received, the Draft Relocation Impact Study was updated. Alternative 3M would relocate the fewest number of residences (16), while Alternative 1M would affect 37 and Alternative 2M would affect 29. All alternatives would affect four businesses each, including one or more dairies each.
4. Only Alternative 3M would involve a railroad crossing. Any alternative would involve undercrossings, overcrossings, and bridge structures for local roads, canals, and Los Banos Creek. Erosion issues would be addressed by using Best Management Practices for the selected alternative. Please see Section 3.10.4 for the Environmental Impact Study/Environmental Impact Report.
5. Comment noted.
6. Taxable property value for Los Banos was approximately \$1.5 billion in 2003-2004. Loss of property tax due to the bypass is anticipated to be approximately \$143,000 (Alternative 1M) to approximately \$197,000 (Alternative 3M). The percentage of property tax lost from agricultural use parcels is a little greater for the northern alternative than for a southern alternative; however, the property tax lost overall for the City of Los Banos from the project is less than one thousandth of a percent of the total value of the property. Also see response #1 above.
7. The overcrossing (a local road built over the state route) planned for North Johnson Road has been changed to an undercrossing (a state route built over a

- local road) to reduce access impacts to the area. The area of a parcel where potential oil contamination is located (as reported in the draft environmental document) would now be avoided, thus reducing hazardous waste concerns at this location. A Preliminary Site Investigation at the former water treatment plant found that chromium and arsenic may occur naturally in the soil (Section 3.12.3).
8. Comment noted. Due to high groundwater within the project limits, the bypass would be constructed on fill to facilitate the construction of cross culverts and the retention basins/roadside storage ditches required for this project (Section 2.2.1).
  9. Section 3.7 of the Draft Environmental Impact Statement/Environmental Impact Report noted the presence of occasional trees within the project area, but did not find that visual quality would be affected even if a few trees were removed. It was also noted that all build alternatives would cross Los Banos Creek. Alternative 1M and 2M would also introduce an additional man-made feature, a retaining wall, to the landscape. Alternative 3M does not require a retaining wall.
  10. Comment noted. There is a less than 10 percent cost difference for the build alternatives. Alternatives 1M or 2M cost would include approximately \$4 million for a retaining wall on the east end of the project. Project costs have been updated for the alternatives and may be found in Sections 2.2.2, 2.2.3, and 2.2.4.
  11. Under federal law, wildlife and waterfowl refuges are a resource to be avoided unless there is no prudent and feasible alternative to using the land. Alternative 3M is considered to be a prudent and feasible alternative that avoids the Gadwall Wildlife Area. Please see Appendix C, Section 4(f) Evaluation for further details, including other options studied that would have avoided the Gadwall Wildlife Area, but were found to not be feasible (Section C.4).
  12. Mitigation costs listed in the Draft Environmental Impact Statement/Environmental Impact Report were based on mitigation proposed by the U.S. Fish and Wildlife Service at that time. The Service proposed mitigating land north of State Route 152 at 3:1 (three acres for every one acre acquired) rather than 1.1:1 as suggested south of State Route 152. Caltrans has proposed mitigation of 1.1:1 for Alternative 3M. Under this proposal, cost would be approximately \$1.6 million for special-status species mitigation. Alternatives 1M and 2M would also require wetland mitigation on the east end of the project. Alternative 3M avoids wetland impacts and mitigation. Please see Section 3.19.4 of the Final Environmental Impact Statement/Environmental Impact Report for mitigation ratios determined through Section 7 Consultation with the U.S. Fish and Wildlife Service.

13. Please see response #1 above. In some cases (but not all) it may be necessary to acquire entire parcels. Other parcels may be split in some way. Access would be maintained where possible. Caltrans would only purchase what land is needed for the road right-of-way, wherever possible.

Standard Caltrans policy provides several means of minimizing impacts on farming and compensating farmers for any adverse impacts on farm operations that might be caused by the splitting or triangulation of farmland parcels. Caltrans would compensate affected property owners and farm operators as needed for costs of on-farm investments (such as irrigation systems, drainage ditches, and wells) that would be impaired by the project. Caltrans would also compensate farmers for any reorganization of the farm operation that may be necessitated as a result of parcel splitting or changes in access. Should non-farmable remnant parcels be created, these would first be offered to adjoining property owners, and would be offered for public sale only if all reasonable efforts at sale to adjoining property owners are unsuccessful.

14. Because the project is located in a non-attainment area for particulate matter, the project was subject to hot spot analysis. No violations for PM<sub>10</sub> were found for the three study years of 2000-2002 used for the draft environmental document. Since circulation of that document, it was found that between 2002 and 2004, PM<sub>2.5</sub> exceeded the federal standard on just one day in 2002. It was also concluded that future emissions that may result from the project would be low enough that they would not introduce a particulate matter problem. Please see Section 3.13 for a full discussion of air quality.

In addition, traffic on existing State Route 152 experiences long idling time, high emissions, city traffic signals, and traffic congestion due to the number of cars traveling within Los Banos – local, regional, and interregional. Additional traffic signals are planned within the city in the future as the city continues to grow. Alternative 3M would provide a free-flowing roadway for through traffic, resulting in less idling time and lower emissions.

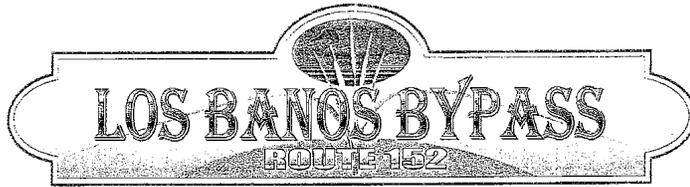
Caltrans Standard Specifications pertaining to dust control and dust palliative requirements are a required part of all construction contracts and should effectively reduce and control emission impacts during construction. The provisions of Caltrans Standard Specifications, Section 7-1/0F “Air Pollution Control” and Section 10 “Dust Control” require the contractor to comply with San Joaquin Valley Unified Air Pollution Control District’s rules, ordinances, and regulations. In the case of structure demolition (including asbestos removal), it is

- the responsibility of the construction contractor to comply with the rules and regulations of the Air Pollution Control District. (Please see Sections 3.13.3 and 3.13.4 of the Final Environmental Impact Statement/Environmental Impact Report and Section 12.0 of the Air Quality Analysis.)
15. Routing traffic around the population center would allow greater safety to the public by increasing the distance from vehicles carrying potentially hazardous cargoes. The risk of collision at the many intersections within Los Banos would also be reduced or avoided.
  16. The project would include retention basins adjacent to the roadway and at the three interchanges and cross culverts would also be constructed to provide storm water containment for the freeway. Studies determined that there would be either no impacts or less than substantial impacts to water quality (for both groundwater and surface water). See Section 3.10.3.
  17. While cost, length, farmland conversion, and habitat loss associated with farmland are somewhat greater for Alternative 3M, this alternative would avoid wetlands and the Gadwall Wildlife Area, as required by federal law (see response #1 above).
  18. Wetlands and “other waters” of the U.S. are protected under a number of laws and regulations, including the Clean Water Act and Executive Order for the Protection of Wetlands (Executive Order 11990), regardless of the location of the wetland or other waters of the U.S. Alternative 3M avoids Wetland #2. See Section 3.16.4.
  19. Please see response #2 above.
  20. Please see response #18 above.
  21. All build alternatives would cross the Los Banos Creek. Current design plans call for a bridge that spans the Los Banos Creek without structural supports in the creek bed (see Section 3.16.3). This type of design would allow wildlife to cross under the bridge along the creek and would maintain flow.
  22. Alternative 3M would avoid wetlands and mitigation would not be required.
  23. Alternative 3M would avoid relocation of the irrigation canal.
  24. Alternative 3M was adjusted to avoid property where heartscale was identified. Property would be designated as an Environmentally Sensitive Area. See Sections 3.17.3 and 3.17.4.
  25. See response #2 above.



## **SECTION 7.0 COMMENT CARDS FROM PUBLIC HEARING**





### COMMENT CARD

State Route 152 Los Banos Bypass  
April 7, 2005

NAME: MARY M. YOUNG  
ADDRESS: 19263 MIDDLE RD CITY: LOS BANOS, CA ZIP: 93635  
REPRESENTING: MYSELF

Please drop comments in the Comment Box or

Mail to: **Caltrans**  
**Attn: Kimely Sawtell**  
**2015 E. Shields, Suite 100**  
**Fresno, Ca 93726-5428**

~~WITH THE MAJORITY OF BUSINESSES REQUIRING TRUCKING TO THE NORTH, ALT. # 3M LOOKS BEST. THIS WILL AVOID TRUCKS GOING THROUGH TOWN TO GET TO AND FROM THE NEW HWY 152.~~

1

~~OUR HOME COMPLETED IN MID 2002 REPRESENTS OUR LIFE'S SAVINGS AND COUNTLESS HOURS OF LANDSCAPE AND TREE PLANTING WHICH WOULD BE DESTROYED BY ALT. # 1M. 1M OFFERS NO ACCESS IN OR OUT OF OUR PROPERTY AND THE SAME FOR SEVERAL NEIGHBORS. AS IT IS, WE CAN HEAR THE VEHICLES ON HWY 165 WHICH IS 50YDS AWAY. ALT. # 1M WOULD BE CLOSER WITH MUCH MORE TRAFFIC. THIS WOULD RUIN OUR RETIREMENT HOME.~~

2

How Did You Hear About This Meeting? newspaper  poster  word of mouth  other: \_\_\_\_\_

We would appreciate receiving comments by May 06, 2005





COMMENT CARD

State Route 152 Los Banos Bypass
April 7, 2005

NAME: GALEN R. YOUNG
ADDRESS: 19263 MIDDLE RD CITY: LOS BANOS, CA ZIP: 93635
REPRESENTING: MYSELF

Please drop comments in the Comment Box or

Mail to: Caltrans
Attn: Kimely Sawtell
2015 E. Shields, Suite 100
Fresno, Ca 93726-5428

IF ALT. 1M IS SELECTED, THERE IS NO ACCESS IN OR OUT FOR US AT PARCELS 88170019 AND 83170017, AS WELL AS NONE FOR ADJACENT PROPERTY OWNERS TO OUR NORTH AND NORTHEAST. IT BUSINESSES REQUIRING TRUCKING ARE MOSTLY TO THE NORTH MEANING THAT ALTERNATIVE 3M MEANS MUCH LESS TRAFFIC CONGESTION FROM TRUCKS GOING TO AND FROM THE NEW HWY 152 AND AVOIDING ROUTES THROUGH TOWN.

WE'D HATE TO BE UPROOTED AFTER BEING AT OUR LOCATION FOR LESS THAN 3 YEARS IN A NEW HOUSE REPRESENTING OUR LIFE'S SAVINGS. WORSE THAN UPROOTED COULD BE A MAJOR FREEWAY WITH ALL ITS NOISE JUST A COUPLE OF HUNDRED YARDS AWAY.

How Did You Hear About This Meeting? newspaper [X] poster [ ] word of mouth [ ] other: [ ]

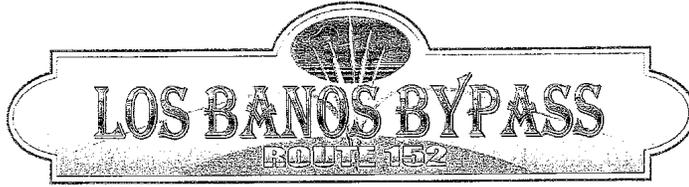
We would appreciate receiving comments by May 06, 2005



1

2

3



COMMENT CARD

State Route 152 Los Banos Bypass
April 7, 2005

NAME: JUDY YRIARTE
ADDRESS: 525 Page CITY: Los Banos ZIP: 93635
REPRESENTING: Home Ranch 17110 Pioneer Center L

Please drop comments in the Comment Box or

Mail to: Caltrans
Attn: Kimely Sawtell
2015 E. Shields, Suite 100
Fresno, Ca 93726-5428

As I have stated before at the Caltrans meetings, that the reason I don't agree with the by pass going on the South side by Pioneer and Center one. We already have I 5 and 152 so why do we have to put another busy road so close. Not fair. With all the new houses now we already have enough traffic. Let the other side have a little traffic for a change. Even if it last does a little more it will wash out over the future years as they now have less traffic by Honey Hill Rd

1

How Did You Hear About This Meeting? newspaper [ ] poster [ ] word of mouth [ ] other: mail

We would appreciate receiving comments by May 06, 2005





### COMMENT CARD

State Route 152 Los Banos Bypass  
April 7, 2005

NAME: LARRY M. JOHNSON, MERCED COLLEGE VICE-PRESIDENT  
ADDRESS: 3600 "M" CITY: MERCED ZIP: 95340  
REPRESENTING: Merced College

Please drop comments in the Comment Box or

Mail to: **Caltrans**  
**Attn: Kimely Sawtell**  
**2015 E. Shields, Suite 100**  
**Fresno, Ca 93726-5428**

*In 2002 the citizens of the LB area voted for a bond to build a college on property north of HV 152. Alternate 3 (north route) bisects our property and ~~basically~~ basically splits our project. The college's long term plan requires the use of the entire parcel of 120 acres. If Alternate 3 is selected the site no longer meets the requirement for a college site. The people of this area have waited for many years for a college and have supported it by taxing themselves. To lose the project and state money at this point would be a huge loss to the community.*

1

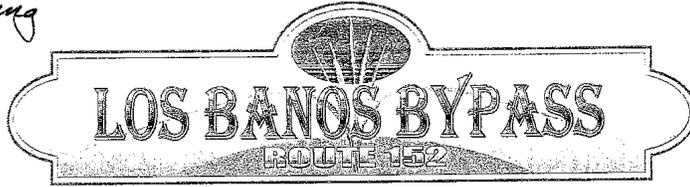
2

How Did You Hear About This Meeting? newspaper  poster  word of mouth  other: \_\_\_\_\_

We would appreciate receiving comments by May 06, 2005



*from Public Hearing*



### COMMENT CARD

State Route 152 Los Banos Bypass  
April 7, 2005

NAME: Terry Ruscoe  
ADDRESS: 790 E So Bear Creek CITY: Merced ZIP: 95340  
REPRESENTING: Merced College

Please drop comments in the Comment Box or

Mail to: **Caltrans**  
**Attn: Kimely Sawtell**  
**2015 E. Shields, Suite 100**  
**Fresno, Ca 93726-5428**

Route # 3 totally disables Merced College  
in its ability to build a functional college  
for the community of Los Banos. Route 3  
will prevent Merced College from fulfilling  
its promise to the taxpayers and voters  
of ~~the District~~ Los Banos in delivering  
this college as committed in 2002.

1

How Did You Hear About This Meeting? newspaper  poster  word of mouth  other: which was also upsetting.

We would appreciate receiving comments by May 06, 2005



U.S. Department of Transportation  
Federal Highway Administration



### COMMENT CARD

State Route 152 Los Banos Bypass

April 7, 2005

NAME: Nic Villanueva  
 ADDRESS: 3440 E Palco CITY: Los Banos ZIP: 93635  
 REPRESENTING: HOT OF CALIFORNIA

Please drop comments in the Comment Box or

Mail to: **Caltrans**  
**Attn: Kimely Sawtell**  
**2015 E. Shields, Suite 100**  
**Fresno, Ca 93726-5428**

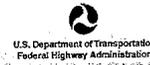
If Project Goes north east Junction  
OF 152 Will take 90% OF our  
Business. We are a large Business  
In Los Banos that cannot afford to  
Be Closed For any length of time  
Relocation would also be hardship  
Due to the effect it would have on  
our Business Due to Relocation. We will  
Require special consideration for Relocation.  
Requesting Site Map Sent to me  
at Above address

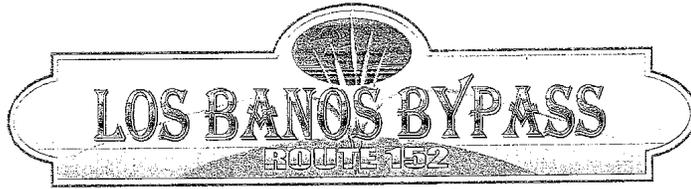
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How Did You Hear About This Meeting? newspaper  poster  word of mouth  other: \_\_\_\_\_

We would appreciate receiving comments by May 06, 2005





COMMENT CARD

State Route 152 Los Banos Bypass
April 7, 2005

NAME: Arnold Barcellos
ADDRESS: 17735 Ward Rd. CITY: Los Banos ZIP: 93635
REPRESENTING: SELF

Please drop comments in the Comment Box or

Mail to: Caltrans
Attn: Kimely Sawtell
2015 E. Shields, Suite 100
Fresno, Ca 93726-5428

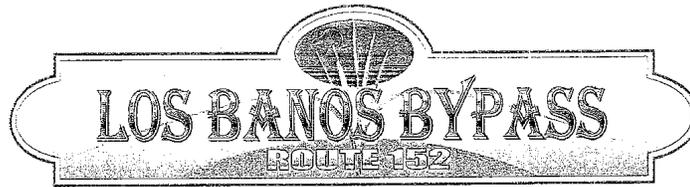
This Bypass should definitely go to
the "M3" Route when cost + environmental
impact is considered. Also this route would
take a lot less of some of the most
productive & valuable farm land in
the San Joaquin Valley

1

How Did You Hear About This Meeting? newspaper [ ] poster [ ] word of mouth [ ] other: [ ]

We would appreciate receiving comments by May 06, 2005





### COMMENT CARD

State Route 152 Los Banos Bypass

April 7, 2005

NAME: Paul M. Alderete  
ADDRESS: 921 Monte Vista Dr. CITY: Los Banos ZIP: 93635  
REPRESENTING: Self

Please drop comments in the Comment Box or

Mail to: **Caltrans**  
**Attn: Kimely Sawtell**  
**2015 E. Shields, Suite 100**  
**Fresno, Ca 93726-5428**

I prefer the Northern Rt.

1

How Did You Hear About This Meeting? newspaper  poster  word of mouth  other: \_\_\_\_\_

We would appreciate receiving comments by May 06, 2005



U.S. Department of Transportation  
Federal Highway Administration



### COMMENT CARD

State Route 152 Los Banos Bypass  
April 7, 2005

NAME: William & Leilani MikeSELL  
ADDRESS: 1334 EL CAJON LN CITY: Los Banos ZIP: 93635  
REPRESENTING: Selva

Please drop comments in the Comment Box or

Mail to: **Caltrans**  
**Attn: Kimely Sawtell**  
**2015 E. Shields, Suite 100**  
**Fresno, Ca 93726-5428**

Concerned of 3M: with wind PATTERNS Being to THE South &  
to THE EAST. New AMOUNT of TRAFFIC on THE Bypass con-  
tinually Pollution to THE City.

: THE DIFFERENCE IN AREA Displaced USING  
NORTHERN ROUTE IS CONSIDERABLY MORE.

WE WOULD LIKE A SECTION MAP OF THE 3M PROPOSAL FOR THE  
165 INTERCHANGE AREA.

ROUTES 1M & 2M ARE MUCH MORE DIRECT IN GETTING AROUND  
THE CITY

THERE ARE WAYS OF DEALING WITH THE WILDLIFE AREA ISSUES THAT  
WOULD BE AFFECTED AND THE COST STILL LOWER THAN USING  
THE NORTHERN ROUTE

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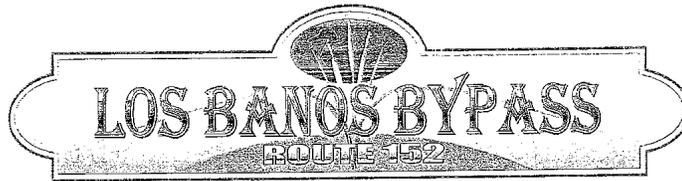
5

How Did You Hear About This Meeting? newspaper  poster  word of mouth  other: LETTER

We would appreciate receiving comments by May 06, 2005



U.S. Department of Transportation  
Federal Highway Administration



### COMMENT CARD

State Route 152 Los Banos Bypass  
April 7, 2005

NAME: Virginia F. King  
ADDRESS: P.O. 812141 CITY: Los Banos ZIP: 937835  
REPRESENTING: Self & others

Please drop comments in the Comment Box or

Mail to: **Caltrans**  
**Attn: Kimely Sawtell**  
**2015 E. Shields, Suite 100**  
**Fresno, Ca 93726-5428**

When balancing pros & cons I feel the best route to be M-3 because:

① Big trucks bringing product to the working areas near Badger, G, F, etc. don't have to go around Los Banos then go around again to return to the Bay area.

② The crops and farms bring in product money as well as taxes on money spent in town.

③ When looking at the cost of the project we must also take in to account the money lost if we eliminate farm lands

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How Did You Hear About This Meeting? newspaper  poster  word of mouth  other: letter

We would appreciate receiving comments by May 06, 2005



**Mary M. Young**

1. Comment noted.
2. Alternative 3M has now been selected as the Preferred Alternative, and thus your property would be avoided.

**Galen R. Young**

1. Alternative 3M has now been selected as the Preferred Alternative, and thus your property would be avoided.
2. Comment noted.
3. See response #1 above.

**Judy Yriarte**

1. The location of the bypass alternative selected was determined by numerous factors, including traffic levels.

**Larry M. Johnson, Merced Community College**

1. A northern alternative has crossed the general area of what is now the Community College property since bypass alternatives were developed in 1993 for the Project Study Report. The Draft Major Investment Study completed in 1998 further refined the alternatives. Merced Junior College District was listed as being represented for the study. (See Sections 2.1 and 2.3 for information on alternative development.) The Los Banos Master Plan Draft Environmental Impact Report (2004) for the Community College also showed Alternative 3M crossing the college property. That document acknowledges the conflict between the two projects and stated that the northwest portion of the campus may not be built unless additional funds are obtained.

During circulation of the Draft Environmental Impact Statement/Environmental Impact Report, Merced Community College District raised concerns of potential impacts to the community college parcel by Alternative 3M. It was determined that Figure 2-4 was incorrect in the area of the community college parcel. Construction of the community college has begun and completion is anticipated by Summer 2007. Caltrans has continued coordination with the Merced Community College District both for the Los Banos Bypass Project and the State Route 152/Community College Entrance Intersection Project. On June 21, 2005, the Board of Trustees of the Merced Community College District passed Resolution Number 05-127 that endorsed the completion of the State Route 152 Bypass and also supported approval of a Project Study Report for the proposed intersection for the campus.

During the final design phase of the project, opportunities may exist to reduce impacts to Merced Community College District property. There may also be opportunities for the District to acquire excess adjacent lands once the bypass is constructed.

2. Comment noted.

**Terry Rusco, Merced Community College**

1. Please see responses to Larry M. Johnson comment card above.

**Nic Villareal, Holt of California**

1. In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, Caltrans will provide relocation advisory assistance to any person, business, farm, or nonprofit organization displaced as a result of the acquisition of real property for public use. The Non-residential Relocation Assistance Program will provide assistance to businesses, farms, and nonprofit organizations in locating suitable replacement property and reimbursement for certain costs involved in relocation.
2. A site map was provided on April 11, 2004.

**Arnold Barcellos**

1. Comment noted.

**Paul M. Alderete**

1. Comment noted.

**William and Leilani Mikesell**

1. The project was studied for both regional level conformity and project level conformity for air quality, as required (see Section 3.13). Most pollutants of concern are studied at the regional level because the effect is experienced over a wider area. Only carbon monoxide and particulate matter is studied at the project level. Carbon monoxide typically dissipates quickly and it was found that the project would not cause additional air quality concerns from carbon monoxide. Absent unusual circumstances or existing conditions (monitored) that are above or within 80 percent of the federal standard, a transportation facility is unlikely to cause a localized particulate matter problem.

In addition, traffic on existing State Route 152 experiences long idling time, high emissions, signal lights within the city, and traffic congestion due to the number of cars traveling within Los Banos – local, regional, and interregional. Additional traffic signals are planned within the city in the future as the city continues to grow. A free-

flowing roadway for through traffic would eliminate emissions associated with stop-and-go traffic conditions.

2. After considering the constraints in the area (wetlands, historic properties, wildlife refuges, businesses, community impacts, etc.), it was determined that it would only be possible to build the bypass in areas that are now primarily farmland. Alternatives were developed in 1993 and further refined in 1998. Since that time the Gadwall Wildlife Area was enlarged. Under federal law, wildlife and waterfowl refuges are a resource to be avoided unless there is no prudent and feasible alternative to using the land. Alternative 3M avoids the Gadwall Wildlife Area. Please see Appendix C, Section 4(f) Evaluation, for further details.
3. A site map was provided on April 12, 2005.
4. Comment noted.
5. Comment noted.

**Virginia King**

1. Comment noted.
2. Comment noted.
3. Comment noted.



## **SECTION 8.0 MAP AND/OR INFORMATION ONLY REQUESTS**





COMMENT CARD

State Route 152 Los Banos Bypass
April 7, 2005

NAME: BERNARD PARADISO
ADDRESS: PO Box 1368 CITY: LOS BANOS CALIF ZIP: 93635
REPRESENTING: BERNARD PARADISO

Please drop comments in the Comment Box or

Mail to: Caltrans
Attn: Kimely Sawtell
2015 E. Shields, Suite 100
Fresno, Ca 93726-5428

PLEASE SEND ME COPY OF MAP
1M + 2M

PLEASE SEND ME COPY OF 3M

COPY OF ALL 3 ROUTES ON 1 MAP

How Did You Hear About This Meeting?
newspaper [checked] poster [ ] word of mouth [ ] other: [ ]

We would appreciate receiving comments by May 06, 2005



Map sent April 14, 2005.



### COMMENT CARD

State Route 152 Los Banos Bypass

April 7, 2005

NAME: Dominic J. Pugliese  
ADDRESS: 1208 Santa Lea St CITY: Los Banos ZIP: CA 93635  
REPRESENTING: (Self)

Please drop comments in the Comment Box or

Mail to: **Caltrans**  
**Attn: Kimely Sawtell**  
**2015 E. Shields, Suite 100**  
**Fresno, Ca 93726-5428**

81020013

82020034

The above are AP4 numbers.

Please send me the maps from the  
workshop that affect the above.

Thank you.

How Did You Hear About This Meeting? newspaper  poster  word of mouth  other: \_\_\_\_\_

We would appreciate receiving comments by May 06, 2005



Map sent April 14, 2005.



### COMMENT CARD

State Route 152 Los Banos Bypass  
April 7, 2005

NAME: Johnaton Jasso  
ADDRESS: 3440 E. Pacheco CITY: Los Banos ZIP: 93635  
REPRESENTING: Holt of California

Please drop comments in the Comment Box or

Mail to: **Caltrans**  
**Attn: Kimely Sawtell**  
**2015 E. Shields, Suite 100**  
**Fresno, Ca 93726-5428**

I request a larger scale site map of  
proposal 3M sent to above address

How Did You Hear About This Meeting? newspaper  poster  word of mouth  other: \_\_\_\_\_

We would appreciate receiving comments by May 06, 2005



Map sent April 14, 2005.



### COMMENT CARD

State Route 152 Los Banos Bypass  
April 7, 2005

NAME: Marlene Talbot  
ADDRESS: 545 Jeffrey Rd CITY: Los Banos, Ca. ZIP: 93635  
REPRESENTING: Machado Ranch 826-4822

Please drop comments in the Comment Box or

Mail to: **Caltrans**  
**Attn: Kimely Sawtell**  
**2015 E. Shields, Suite 100**  
**Fresno, Ca 93726-5428**

3M Route

Would like a map with details on the  
following parcels:

081-080-001 57 ac.

081-050-007 6 ac.

081 070-010 42 ac.

Distance in feet from the parcels/state property

How Did You Hear About This Meeting? newspaper  poster  word of mouth  other: \_\_\_\_\_

We would appreciate receiving comments by May 06, 2005



Map sent April 11, 2005.



**COMMENT CARD**

State Route 152 Los Banos Bypass  
April 7, 2005

NAME: Mike Smith  
ADDRESS: 708 Page Ave CITY: Los Banos ZIP: 93635  
REPRESENTING: City of Los Banos

Please drop comments in the Comment Box or  
Mail to: **Caltrans**

**Attn: Kimely Sawtell  
2015 E. Shields, Suite 100  
Fresno, Ca 93726-5428**

Please list all residences by name that  
will be affected by all three routes —  
\_\_\_\_\_  
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How Did You Hear About This Meeting? newspaper  poster  word of mouth  other: \_\_\_\_\_

We would appreciate receiving comments by May 06, 2005



Information was not available by date requested verbally.



## **SECTION 9.0 TRANSCRIPT FROM PUBLIC HEARING**



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PUBLIC HEARING

STATE ROUTE 152 LOS BANOS BYPASS PROJECT

MERCED COUNTY

RAM NARAYAN GUPTA, PROJECT MANAGER

Los Banos, California

Thursday, April 7, 2005; 4:00 p.m.

REPORTER'S TRANSCRIPT

--000--

Reported by: Christine Oljace, CSR No. 11245

**ASSOCIATED REPORTERS**  
Certified Shorthand Reporters  
728 West 19th Street  
Merced, California 95340  
(209) 384-0165

Public Hearing - 4-7-05

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7	Dr. Larry Johnson	6
8	Mark Brux	7
9	Virginia King	8
10	Maria and Dominic Pugliese	11
11	Nic Villareal	16
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Public Hearing - 4-7-05

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PUBLIC HEARING

STATE ROUTE 152 LOS BANOS BYPASS PROJECT

MERCED COUNTY

Los Banos, California

Thursday, April 7, 2005; 4:00 p.m.

The above-entitled public hearing was held  
on the 7th day of April, 2005, at 4:00 p.m.  
at Westside School, 659 K Street, Los Banos, California,  
before Christine Oljace, Certified Shorthand Reporter, in  
and for the State of California, Registered Professional  
Reporter.

Public Hearing - 4-7-05

1 MR. GUPTA: Hello, everybody. This is to  
2 announce the public hearing for the Los Banos bypass  
3 project is officially open now at 3:55 p.m. I am the  
4 project manager for this project.

5  
6  
7 Michael Amabile  
8 1521 South Sixth Street  
9 Los Banos, California 93635

10 MR. AMABILE: Well, the comments I want to make  
11 is that this is needed so desperately in this community  
12 that I would like to see it -- whatever route is  
13 selected, see it built as soon as possible.

14  
15  
16 Delores and Homer Fausset  
17 23626 West Highway 152  
18 Los Banos, California

19 MRS. FAUSSET: I guess what I was saying is  
20 irregardless -- I know Los Banos needs a bypass, but at  
21 our age -- but that -- again, at our age, it's sad  
22 because we will be completely uprooted and have to start  
23 over, and, you know, this was our dream when we bought  
24 the property in 1975 to retire and die, and 30 years  
25 later the dream is going to take a different way, so it

Public Hearing - 4-7-05

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1 looks like irregardless -- we don't have any choice  
2 or -- no. That is not fair to say. We don't have --  
3 some people say, well, I hope it goes north, some will  
4 say I hope it goes south. Irregardless of which way it  
5 goes, we are affected, so we wouldn't luck out, in other  
6 words, but, yeah, it's the only thing to say I am sad to  
7 think at my late age of life, my house, that we have to  
8 be uprooted and make a lot of big changes in our lives.  
9 But I am sure I am not the only one out there, and there  
10 will be many more after me will have the same decisions  
11 that have to be made actually.

12           So like I said, I know it needs to be done.  
13 It's sad that it has to be in our time frame, but  
14 somebody is going to get it in somebody's time frame, so  
15 why not us and we are no different than anyone else, I  
16 guess, but I do wish that we could just die and then let  
17 the world go on without -- what I am trying to do is I  
18 am trying to say I am feeling sorry for myself. I wish  
19 that we didn't have to make -- and I have already said  
20 it -- we didn't have to make such a big change in this  
21 late part of our life.

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Public Hearing - 4-7-05

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Terry Rusco

790 East South Bear Creek

Merced, California 95340

MR. RUSCO: Route No. 3 totally disables Merced College in its ability to build a functional college for the community of Los Banos. Route No. 3 will prevent Merced College from fulfilling its promise to the taxpayers and voters of Los Banos in delivering this college as committed in 2002.

Dr. Larry Johnson

3600 M Street

Merced, California, 95340

DR. JOHNSON: (Read by Terry Rusco) In 2002 the citizens of Los Banos area voted for a bond to build a college on property north of Highway 152. Alternative No. 3 north route dissects our property and basically kills the project. The college's long-term plan requires the use of the entire parcel of 120 acres. If Alternative 3 is selected, the site no longer meets the requirement for a college site. The people of this area have waited for many years for a college and have supported it by taxing themselves. To lose the project and state money at this point would be a huge loss to

1

1

1 the community.

2

3

4

Mark Brux

5

1805 De Anza Way

6

Los Banos, California 93635

7

MR. BRUX: Well, first of all, the no-build  
8 alternative is out of the question, and I think I have  
9 the city and CalTrans behind me in that. But  
10 regardless, it's -- given the future growth anticipated  
11 of Los Banos, however managed or mitigated or regulated,  
12 we are severely limited in how much we can widen the  
13 present Highway 152, if at all, because if you widen  
14 that at all, we are going to be bumping into homes and  
15 businesses and, you know, it's just much more cost  
16 effective in the long run to approve a bypass route  
17 around the greater city of Los Banos.

18 Because another reason we should approve one of  
19 the three routes is that the building of the bypass in  
20 and of itself will have little or no impact on many  
21 anticipated traffic demand through or around Los Banos  
22 because if people are going to want -- if people are  
23 going to need to take Highway 152 through the town of  
24 Los Banos, they are going to take it regardless of what  
25 form it's in, and so we might as well make that form as

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Public Hearing - 4-7-05

7

1 commodious to through traffic as possible since a great  
2 majority of the traffic that comes into Los Banos seeks  
3 only to pass through it, especially large trucks  
4 carrying cargos to -- from one destination to another,  
5 going east or west. So by being proactive in approving  
6 a route and building the bypass now, we will be on top  
7 of managing the inevitable traffic increase in a way  
8 that serves everyone best, the citizens of Los Banos as  
9 well as those who use Highway 152 in making such traffic  
10 optimally efficient.

11  
12  
13 Virginia King

14 P.O. Box 2141

15 Los Banos, California 93635

16 MS. KING: I was on the group that met like  
17 maybe three or four years ago. They had a lot of public  
18 meetings and I attended all of them and I had mounds of  
19 paperwork, which I can't find because we thought it was  
20 settled because we had been told it was settled and it  
21 got unsettled.

22 I feel that 3 is the one that is the most  
23 beneficial, we will say, to Los Banos because I feel  
24 that any route is going to interfere with someone's  
25 home. Any route is going to go into someone's property.

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1 Any route we take is going to cost money, and so the  
2 detrimental issues are all kind of the same, so I want  
3 to look at the positives, and I think the positive --  
4 one of the main positive issues that I think of is  
5 traffic, commercial traffic that is coming out of  
6 Los Angeles or San Jose and wants to go over to like  
7 Badger or the area off of I Street, G Street where there  
8 is already a large business area. Why would they want  
9 to go that way and out around Los Banos when they can  
10 come this way and come closer to it. They won't have to  
11 go through town at all if they are in that area already.

12 I think the land on that side where the  
13 dairy -- you know, there is so many dairies and there is  
14 cotton and there is alfalfa, and I feel that if you  
15 eliminate that income, that adds to the cost of the  
16 freeway, so on paper one might look less expensive but  
17 when you look at what we are losing, which would be the  
18 income that comes into Los Banos not only from the  
19 product but the people who work in the fields and work  
20 in the dairies and live on the dairies and spend their  
21 money here in town, that is tax money that we need for  
22 our schools and a lot of other issues we need our money  
23 for.

24 So I just feel that in weighing it out, the  
25 balancing of it, if you take negatives versus positives,

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1 that you end up with more positives if you take -- I  
2 believe they refer to it as northern. It's No. 3. That  
3 I know, but I am not sure what title they are giving it.  
4 They were using north and south and everything and that  
5 just throws me out of whack because I am left and right  
6 and forward and backward, but I know when I am shopping  
7 in town and can't get -- you can't get out of the Burger  
8 King in the middle of day. You can't get across if you  
9 are on 4th and you are just wanting to cross. If you  
10 are at the cemetery and you are wanting to come into  
11 town and do shopping, sometimes you sit through two or  
12 three lights and people don't think Los Banos is that  
13 big but if you ever ever sat through several lights at  
14 one time you know we are that big, and you have got to  
15 make a left and it's dangerous and either -- any  
16 overpass will eliminate some of that.

17 But I really look at the big trucks delivering  
18 metal and wood or whatever products are going to be used  
19 by the business area people delivering. Those trucks  
20 coming out of the Bay Area need to have access. I just  
21 feel that is more accessible. I guess that is it.

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    Maria and Dominic Pugliese

    MARIA PUGLIESE: We have reviewed the documents and after reviewing it, I am concerned about environmental issues and then Dominic can talk about what he is concerned about.

    I am concerned about a lot of particulates going into the air from all of the traffic if it goes to 3M, the northern route, which with the wind blowing into the city that is going to be significant pollution. I am concerned about the runoff from the highway traffic, the runoff that will affect our water supply. I am also concerned about the large amount of wildlife that will be effected because they also forage in the farmland. They forage, and so that will affect our wildlife. I am concerned about the fact that if we do go the northern route also, according to the documents, the city has said that they will not annex up to that point, and I am concerned about safety as far as fire services, police services and hazardous material spill. Also, if we did have a hazardous material spill, it would -- we would have to evacuate quite a bit more people because of the wind blowing into the city as opposed to the other routes.

    I am also concerned about more ag land being affected. There is going to be more fill and cut that

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1 will be required to build that bypass. There are also  
2 hazardous waste sites, according to Page 141, going that  
3 route.

4 Let's see what else I have here. Did you want  
5 to say something while I have --

6 DOMINIC PUGLIESE: Well, I am just concerned  
7 with the northern -- the design of the northern route  
8 because it affects more properties in the respect that  
9 it leaves a lot of little spaces, little properties that  
10 are -- you won't be able to do anything with them, and  
11 it's just going to be very disruptive, and I am just  
12 wondering what are they going to do with those little  
13 pieces that are left. Are they going to buy them? Are  
14 they going to design it where a person can do work with  
15 these things or, you know, what are they going to do  
16 with them?

17 And also it's a much longer route and I know  
18 they said that the cost isn't that much between the  
19 three alternatives, but in today's economy where  
20 everybody says the state is broke, the federal is broke  
21 and the county is broke and everybody is scavenging for  
22 funds, I think everything should be taken into  
23 consideration pricewise, lengthwise.

24 I believe the third alternative is a mile  
25 longer, maybe a little over a mile longer, and that

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1 means more pollution, more runoff from the water, more  
2 just about, you know, environmental -- just about even  
3 that one mile, if I -- I can't compute how much that  
4 would be, but, you know, in one mile it's going to be a  
5 lot more than the other routes. And then in the other  
6 routes, pollution will go towards the hills and  
7 mountains whereas this route everything will come into  
8 the city and developments that are in the city, the  
9 housing projects and so forth, so I think right now that  
10 is what I have to say, but I am -- I know if I went  
11 through that book, I could find a lot more.

12           MARIA PUGLIESE: Yeah. I took some notes. And  
13 loss of farmland would be 691 acres, 691 acres, and they  
14 need additional funding for access changes. They are  
15 going to displace a dairy and access to two other  
16 dairies. Loss of habitat for sensitive wildlife species  
17 because the farmland is foraging habitat. You are going  
18 to displace 17 residences. 3M has the greatest -- 3M is  
19 the alternative I am talking about. 3M has the greatest  
20 number of business relocations when we are trying to  
21 bring business into our city.

22           I wasn't sure about the cost that they are  
23 giving us, the 245 million. Dominic, we forgot to ask  
24 them about that --

25           DOMINIC PUGLIESE: No, I didn't. I didn't.

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1           MARIA PUGLIESE: -- if that includes land  
2 purchase or if it's just --

3           DOMINIC PUGLIESE: No. It does not include  
4 land purchase.

5           MARIA PUGLIESE: It's just the cost of it?

6           DOMINIC PUGLIESE: Because he was telling me,  
7 that land acquisition person, he won't even start the  
8 acquisition for about four years.

9           MARIA PUGLIESE: So that cost is just building.

10           Okay. The length is 1.1 miles longer. The  
11 right-of-way acreage is more. It's 125 right-of-way  
12 acreage more. Farmland, it's more farmland that will be  
13 used going the northern way. Ag businesses, you are  
14 going to displace three of them and one that is not ag.  
15 17 houses. You are going to lose revenue going the  
16 northern way. You are going to lose \$197,000. You are  
17 going to -- from farmland, residential business and farm  
18 taxes, you are going to -- actually, let me go back on  
19 that. You are going to -- if you compare the  
20 alternatives, you are going to lose \$54,000 more on  
21 taxes.

22           As far as habitat loss, I subtracted 525 acres  
23 from the 2M alternative, so 525 take away 400 acres. We  
24 are going to lose 125 more habitat loss of acres.

25           Hazardous sites, we have underground storage

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1 chromium contamination and oil containers.

2 As far as fill, you are going to need  
3 1.6 million more cubic yards of fill than if you go one  
4 of the other -- the 2M alternative, which is the shorter  
5 route on the south. As far as cubic yards of cut where  
6 they have to cut into the ground, you also have a lot  
7 more.

8 Other losses are habitat. They call it  
9 riparian habitat, which is animals that go around the  
10 Los Banos Creek. Also oaks and eucalyptus are going to  
11 be lost.

12 I think we have already talked about how 3M is  
13 the longest route, the most costly. There is going to  
14 be a stretch that has to be built over the railroad  
15 crossing, which is going to take 5.2 million cubic  
16 meters of fill.

17 So just as a summary, we do oppose the northern  
18 route, which is the 3M route for environmental reasons,  
19 for cost reasons, for safety, because of the way it's  
20 designed. Oh, loss of farmland and also loss of habitat  
21 for the animals. So that is -- I think I summarized it  
22 okay.

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Nic Villarreal

3440 East Pacheco Boulevard

Los Banos, California, 93635

MR. VILLARREAL: I am representing Holt of California. We are a Caterpillar dealer here in Los Banos. Either way the bypass goes, it's going to affect us because we are at the eastern end of the -- where they are both going to come -- merge into 152. The one that is going to affect us the most is if it goes north. If it goes north -- I was talking to Gordon earlier. He tells me that it's going to be a full buyout because it's going right through our property. We -- it's so important because we affect all of Merced County, Mariposa County, part of Santa Clara County going to Merced County, Stanislaus County, and our nearest store is Stockton, so anything from Stanislaus County south is handled by our division and anything up to Santa Clara and Mariposa County is totally handled by us. The local economy -- it would put a burden on them because if any of our customers have to go to take care of any Caterpillar equipment or needs, they would have to go all the way to Stockton or to Visalia, which is even further away.

Direct impact on us, if it goes north, we would need special consideration for relocation because we

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1 can't afford to be -- we can't afford to be closed for  
2 no time at all due to the needs from our local customers  
3 that need us daily, dairymen, farmers, highway trucks.

4 We need special consideration also if we  
5 relocate because the equipment that comes in and out of  
6 our facility is so heavy that we can't go down a normal  
7 highway and not expect the vehicles that come in and out  
8 to tear up the highways. Talking with Gordon, which is  
9 the buyout person for the State of California who is  
10 going to be working with us closely, he suggests that  
11 maybe if we have to relocate, we would find something in  
12 closer proximity to where we are at and maybe do some  
13 trading with the State to help us compensate for the  
14 move that we might have to make, and the way he sees it  
15 now, if it goes north, we are going to be completely  
16 bought out.

17 A big concern for us also is impact of our  
18 customers, I mean, because they depend on us daily and I  
19 can't stress that enough. Talking with Mike Amabile,  
20 the mayor, if we moved further out, he is concerned  
21 about us going into the county and taking those city  
22 dollars away from the city, which would impact the city  
23 a lot. There is ways that he can recoup that, but he  
24 doesn't want to have to do that. He would just as soon  
25 try to relocate us, if we need to be relocated, within

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1 the city limits.

2 Other than that, I don't know what else to tell  
3 you but we are a big benefit. We are one of the largest  
4 if not the largest business here in Los Banos, so -- but  
5 we kind of sit out in the country by ourselves so nobody  
6 notices us, but we just generate all the nice tax  
7 dollars that come back to the community and -- but we  
8 are growing and if it's in ten years from now, this  
9 project takes effect in ten years, we will probably be a  
10 third bigger than we are now, so the impact might be  
11 even greater in that length of time.

12 Okay. I am here representing Holt of  
13 California. The owner is Ken Monroe. He is in  
14 Stockton, but he asked me to come down today and get the  
15 details and I will be reporting back to him as soon as I  
16 get back to the office tomorrow.

17  
18 MR. GUPTA: Hello, folks. This is to announce  
19 the public hearing for Los Banos bypass is officially  
20 closed. Thank you for your time and patience.

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Ron Nunes

Nunes Brothers, Incorporated

22116 West Highway 152

Los Banos, California 93635.

MR. NUNES: The concerns that I've got are the bypass on both sides goes through our property, and my concerns are how we are going to get water to our property. We have issues with landlock, so we want to know how we are going to get access to the highways. We want to know how, being that the bypass splits our dairy facility -- not our dairy facility but our farm ground on our dairy facility in half, how we are going to get equipment from one side to the other if they are going to put some kind of underneath the pass or something for us to get our equipment to, plus we need to get irrigation water to the other side, plus we were landlocked on both sides, so those are just some of the issues that I have.

That will do it. That's good for now. I'll probably have some more later, but -- well, let's throw this on there, that we have two houses that are in the path of the bypasses and we want to know are they going to relocate houses or what basis of financial value, monetary value on the houses, where are they going to get that from.

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Chris Barreras  
1656 Hemlock Drive  
Los Banos, California

MR. BARRERAS: The bypass is needed. There is no argument on it. We can't accept no option. The question is -- I mean they are all appealing options. I live on one side where I prefer the bypass to the north rather than the south. I live on the south side, so -- but it appears the south side might be the best option overall, but my concern is the hazardous waste sites down in the south option. That could be a show stopper, so that is the only negative to the south option.

So that is all I have to say right now. I mean, I am going to be mailing in more comments, but I am going to try to have it to the north, the Option 3M, but option 1M could work if we could address the hazardous waste sites. That is all I can say.

(Whereupon at 8:11 p.m. the public hearing was adjourned.)

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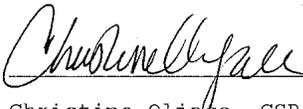
1 STATE OF CALIFORNIA, )  
 2 : Ss.  
 3 COUNTY OF MERCED )

4 I, Christine Oljace, do hereby certify:  
 5 That I am a licensed, Certified Shorthand  
 6 Reporter, duly qualified and certified as such by the  
 7 State of California;

8 That the foregoing was by me recorded  
 9 stenographically at the time and place first therein  
 10 mentioned; and the foregoing pages constitute a full,  
 11 true, complete and correct record.

12 That I am a disinterested person, not being in  
 13 any way interested in the outcome of said action, nor  
 14 connected with, nor related to any of the parties in said  
 15 action, or to their respective counsel, in any manner  
 16 whatsoever.

17 Dated this 13th day of April 2005.

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 19 \_\_\_\_\_  
 20 Christine Oljace, CSR NO. 11245

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**MICHAEL AMABILE, MAYOR, CITY OF LOS BANOS**

1. Comment noted.

**DELORES AND HOMER FAUSSET**

1. Caltrans acknowledges the difficulty for long-time residents who may be displaced by a large bypass project. Any persons to be displaced will be assigned to a relocations advisor, who will work closely with each displacee.

**TERRY RUSCO, MERCED COMMUNITY COLLEGE DISTRICT**

1. A northern alternative has crossed the general area of what is now the Community College property since bypass alternatives were developed in 1993 for the Project Study Report. The Draft Major Investment Study completed in 1998 further refined the alternatives. Merced Junior College District was listed as being represented for the study. (See Sections 2.1 and 2.3 for information on alternative development.) The Los Banos Master Plan Draft Environmental Impact Report for the Community College also showed Alternative 3M crossing the college property. That document acknowledges the conflict between the two projects and stated that the northwest portion of the campus may not be built unless additional funds are obtained.

During circulation of the Draft Environmental Impact Statement/Environmental Impact Report, Merced Community College District raised concerns of potential impacts to the community college parcel by Alternative 3M. It was determined that Figure 2-4 was incorrect in the area of the community college parcel. Construction of the community college has begun and completion is anticipated by Summer 2007. Caltrans has continued coordination with the Merced Community College District both for the Los Banos Bypass Project and the State Route 152/Community College Entrance Intersection Project. On June 21, 2005, the Board of Trustees of the Merced Community College District passed Resolution Number 05-127 that endorsed the completion of the State Route 152 Bypass and also supported approval of a Project Study Report for the proposed intersection for the campus.

During the final design phase of the project, opportunities may exist to reduce impacts to Merced Community College District property. There may also be opportunities for the District to acquire excess adjacent lands once the bypass is constructed.

**DR. LARRY JOHNSON, MERCED COMMUNITY COLLEGE DISTRICT**

1. Please see response to Terry Rusco above.

**MARK BRUX**

1. Comment noted.

**VIRGINIA KING**

1. Comment noted.
2. After considering the constraints in the area (wetlands, historic properties, biological resources, wildlife refuges, businesses, community impacts, etc.) it was determined that it would only be possible to build the bypass in areas that are primarily farmland. Taxable property value for Los Banos was approximately \$1.5 billion in 2003-2004. Loss of property tax due to the bypass is anticipated to be approximately \$143,000 (Alternative 1M) to approximately \$197,000 (Alternative 3M). The percentage of property tax lost from agricultural use parcels is a little greater for the northern alternative than for a southern alternative; however, the property tax lost overall for the City of Los Banos from the project is less than one thousandth of a percent of the total value of the property.
3. Comment noted.
4. Comment noted.

**MARIA AND DOMINIC PUGLIESE**

1. Because the project is located in a non-attainment area for particulate matter, the project was subject to hot spot analysis. No violations for PM<sub>10</sub> were found for the three study years of 2000-2002 used for the draft environmental document. Since circulation of that document, it was found that between 2002 and 2004, PM<sub>2.5</sub> exceeded the federal standard on just one day in 2002. It was also concluded that future emissions that may result from the project would be low enough that they would not introduce a particulate matter problem. Please see Section 3.13 for a full discussion of air quality.

In addition, traffic on existing State Route 152 experiences long idling time, high emissions, city traffic signals, and traffic congestion due to the number of cars traveling within Los Banos – local, regional, and interregional. Additional traffic signals are planned within the city in the future as the city continues to grow. A free-flowing roadway for through traffic would eliminate the emissions caused by stop-and-go conditions.

2. By incorporating proper and accepted engineering practices and implementation of a Storm Water Pollution Prevention Plan and the Statewide Storm Water Management Plan, the proposed project would not produce substantial impacts to water quality

during construction or its operation (see Section 3.10.3). After construction, storm water runoff from the roadway would not be discharged to receiving water; thus short-term and long-term impacts to surface water are not expected. In addition, because storm water runoff would likely be of better quality than groundwater underlying the project area, short-term and long-term impacts to groundwater are not expected.

3. After considering the constraints in the area (wetlands, historic properties, wildlife refuges, businesses, community impacts, etc.), it was determined that it would only be possible to build the bypass in areas that are now primarily farmland. Alternatives were developed in 1993 and further refined in 1998. Since that time the Gadwall Wildlife Area was enlarged. Under federal law, wildlife and waterfowl refuges are a resource to be avoided unless there is no prudent and feasible alternative to using the land. Alternative 3M avoids the Gadwall Wildlife Area. Please see Appendix C, Section 4(f) Evaluation, for further details.

All alternatives would result in loss of farmland as foraging habitat for San Joaquin kit fox, greater sandhill crane, and Swainson's hawk, although the acreage lost would be greater for Alternative 3M. Caltrans has consulted with the U.S. Fish and Wildlife Service for appropriate mitigation to compensate for the loss. Section 3.19.4 of the Final Environmental Impact Statement/Environmental Impact Report discusses this mitigation.

4. Local law enforcement and fire agencies see the bypass as beneficial to the community because of reduced traffic congestion within the city (see Section 3.5).
5. Routing traffic around the population center would allow greater safety to the public by increasing the distance from vehicles carrying potentially hazardous cargoes. The risk of collision at the many intersections within Los Banos would also be reduced or avoided.
6. Please see response #3 above.
7. Comment noted.
8. Comment noted.
9. Standard Caltrans policy provides several means of minimizing impacts on farming and compensating farmers for any adverse impacts on farm operations that might be caused by the splitting or triangulation of farmland parcels. Caltrans would compensate affected property owners and farm operators as needed for costs of on-farm investments (such as irrigation systems, drainage ditches, and wells) that would

be impaired by the project. Caltrans would also compensate farmers for any reorganization of the farm operation that may be necessitated as a result of parcel splitting or changes in access. Should non-farmable remnant parcels be created, these would first be offered to adjoining property owners, and would be offered for public sale only if all reasonable efforts at sale to adjoining property owners were unsuccessful.

10. Comment noted.
11. Please see responses #1 and #2 above.
12. Comment noted.
13. One or more dairies would be affected by any of the alternatives. Please see response #3 above.
14. Please see response #3 above.
15. Based on additional information received, the Draft Relocation Impact Study was updated. Alternative 3M would relocate the fewest number of residences (16), while Alternative 1M would affect 37 and Alternative 2M would affect 29. All alternatives would affect four businesses each, including one or more dairies.
16. Project costs have been updated. Estimated project cost (in 2006 dollars) for Alternative 3M is \$391 million. Of this amount, \$25 million was estimated for the right-of-way cost (in 2006 dollars).
17. Comment noted.
18. Please see response #15 above.
19. Taxable property value for Los Banos was approximately \$1.5 billion in 2003-2004. Loss of property tax due to the bypass is anticipated to be approximately \$143,000 (Alternative 1M) to approximately \$197,000 (Alternative 3M). The percentage of property tax lost from agricultural use parcels is a little greater for the northern alternative than for a southern alternative; however, the property tax lost overall for the City of Los Banos from the project is less than one thousandth of a percent of the total value of the property.
20. Please see responses #3 and #14 above.
21. Comment noted. Please refer to Section 3.12 for information on hazardous waste and materials.
22. Please see response #7 above.

23. Los Banos Creek is the only location where riparian habitat is located. Any alternative would have to cross this creek. There would be no permanent impacts to Los Banos Creek because current design plans call for a bridge that spans Los Banos Creek without structural supports in the creek bed (see Section 3.16.3). This type of design would allow wildlife to cross under the bridge along the creek.
24. Section 3.7 of the Draft Environmental Impact Statement/Environmental Impact Report noted the presence of occasional trees within the project area, but did not find that visual quality would be affected even if a few trees were removed.
25. Comment noted.

**NIC VILLAREAL**

1. In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, Caltrans will provide relocation advisory assistance to any person, business, farm, or nonprofit organization displaced as a result of the acquisition of real property for public use. The Non-residential Relocation Assistance Program will provide assistance to businesses, farms, and nonprofit organizations in locating suitable replacement property and reimbursement for certain costs involved in relocation.
2. Please see response #1 above.
3. Comment noted.
4. Comment noted.

**RON NUNES**

1. Caltrans acknowledges the difficulty for long-time residents and dairy owners who may be displaced by a bypass project.
2. Please see response #1 to Nic Villareal above.

**CHRIS BARRERAS**

1. Comment noted.

## **SECTION 10.0 ADDITIONAL MATERIAL**

