X. RESPONSE TO COMMENTS: 2008 DRAFT ENVIRONMENTAL IMPACT REPORT

The letters of comment for the 2008 Draft Environmental Impact Report (DEIR) are given in the order listed below, with the responses following the individual letters. Letters of comment are reproduced in total, and numerical annotation has been added as appropriate to delineate and reference the responses to those comments.

A. FEDERAL, STATE, AND LOCAL AGENCIES

Commenter and Address	Code	Letter Date	Page
Native American Heritage Commission 915 Capitol Mall, Room 364 Sacramento, CA 95814 Contact: Katy Sanchez, Program Analyst	NAHC	October 3, 2008	X.A.-3
County of San Luis Obispo **Department of Public Works** County Government Center, Room 207 San Luis Obispo, CA 93408 Contact: Glenn Marshall, Development Services Engineer	SLOPW	October 6, 2008 Rev. October 16, 2008	X.A.-7
State of California **State Water Resources Control Board** Division of Water Rights 1001 I Street, 14th Floor Sacramento, CA 95814 Contact: Matthew J. McCarthy, Chief Watershed 1	SWRCB	October 7, 2008	X.A.-10
State of California **Regional Water Quality Control Board [a]** Central Coast Region 895 Aerovista Place, Suite 101 San Luis Obispo, CA 93401 Contact: Roger W. Briggs, Executive Officer	RWQCB[a]	October 16, 2008	X.A.-12
State of California **Department of Water Resources** 1416 Ninth Street Sacramento, CA 94236 Contact: Mike Zumot, Acting Chief Division of Safety of Dams	DWR	October 29, 2008	X.A.-18
County of San Luis Obispo **Department of Public Works Utilities Division** County Government Center, Room 207 San Luis Obispo, CA 93408 Contact: Nola Engelskirger	SLOPWU	November 6, 2008	X.A.-21

Commenter and Address	Code	Letter Date	Page
State of California **Department of Transportation** 50 Higuera Street San Luis Obispo, CA 93401 Contact: James Kilmer	CALTRANS	November 7, 2008	X.A.-24
San Luis Obispo Council of Governments 1150 Osos Street, Suite 202 San Luis Obispo, CA 93401 Contact: James Worthley, Transportation Planner	SLOCOG	November 8, 2008	X.A.-28
City of Arroyo Grande **Community Development** 214 East Branch Street Arroyo Grande, CA 93421 Contact: Teresa McClish, AICP, Acting Community Development Director	AGCD	November 10, 2008	X.A.-33
State of California **Department of Fish and Game** Central Region 1234 East Shaw Avenue Fresno, CA 93710 Contact: William Loudermilk, Regional Manager	CDFG	November 18, 2008	X.A.-38
County of San Luis Obispo **Department of Agriculture/ Measurement Standards** 2156 Sierra Way, Suite A San Luis Obispo, CA 93401 Contact: Lynda Auchinachie, Agriculture Department	SLOAG	November 21, 2008	X.A.-52
United States Department of the Interior **Fish and Wildlife Service** 2493 Portola Road, Suite B Ventura, CA 93003	USFWS	December 1, 2008	X.A.-55
County of San Luis Obispo **Air Pollution Control District** 3433 Roberto Court San Luis Obispo, CA 93401	APCD	December 2, 2008	X.A.-63
State of California **Regional Water Quality Control Board [b]** Central Coast Region 895 Aerovista Place, Suite 101 San Luis Obispo, CA 93401 Contact: Roger W. Briggs, Executive Officer	RWQCB[b]	December 2, 2008	X.A.-69

STATE OF CALIFORNIA **Arnold Schwarzenegger, *Governor***

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

October 3, 2008

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S.L.O. CO. PLANNING DEPT.

Brian Pedrotti
County of San Luis Obispo
976 Osos Street, Room 300
San Luis Obispo, Ca 93408

RE: SCH#2005041094 Laetitia Agricultural Cluster Subdivision Tract Map and Conditional Use Permit: San Luis Obispo County.

Dear Mr. Pedrotti:

The Native American Heritage Commission (NAHC) has reviewed the Notice of Completion (NOC) referenced above. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA Guidelines 15064(b)). To comply with this provision the lead agency is required to assess whether the project will have an adverse impact on historical resources within the area of project effect (APE), and if so to mitigate that effect. To adequately assess and mitigate project-related impacts to archaeological resources, the NAHC recommends the following actions: **NAHC-1**

- ✓ Contact the appropriate regional archaeological Information Center for a record search. The record search will determine: **NAHC-2**
  - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey. **NAHC-3**
  - The final report containing site forms, site significance, and mitigation measurers should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for pubic disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ Contact the Native American Heritage Commission for:
  - A Sacred Lands File Check. **USGS 7.5 minute quadrangle name, township, range and section required.** **NAHC-4**
  - A list of appropriate Native American contacts for consultation concerning the project site and to assist in the mitigation measures. **Native American Contacts List attached.**
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities. **NAHC-5**
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
  - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,
Katy Sanchez
Katy Sanchez
Program Analyst

CC: State Clearinghouse

Native American Contacts
San Luis Obispo County
October 3, 2008

Santa Ynez Band of Mission Indians
Vincent Armenta, Chairperson
P.O. Box 517 Chumash
Santa Ynez , CA 93460
varmenta@santaynezchumash.org
(805) 688-7997
(805) 686-9578 Fax

San Luis Obispo County Chumash Council
Chief Mark Steven Vigil
1030 Ritchie Road Chumash
Grover Beach , CA 93433
cheifmvigil@fix.net
(805) 481-2461
(805) 474-4729 - Fax

Puilulaw Khus
2001 San Bernardo Creek Chumash
Morro Bay , CA 93442

Diane Napoleone and Associates
Diane Napoleone
6997 Vista del Rincon Chumash
La Conchita , CA 93001
dnaassociates@sbcglobal.net

Lei Lynn Odom
1339 24th Street Chumash
Oceano , CA 93445
(805) 489-5390

Salinan Tribe of Monterey, San Luis Obispo and San Benito Counties
John W. Burch, Traditional Chairperson
8315 Morro Rd, #202 Salinan
Atascadero , CA 93422
salinantribe@aol.com
805-460-9202
805 235-2730 Cell
805-460-9204

Judith Bomar Grindstaff
63161 Argyle Road Salinan
King City , CA 93930
(831) 385-3759-home

Santa Ynez Tribal Elders Council
Adelina Alva-Padilla, Chair Woman
P.O. Box 365 Chumash
Santa Ynez , CA 93460
elders@santaynezchumash.org
(805) 688-8446
(805) 693-1768 FAX

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

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

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH# 2005041094 Laetitia Agricultural Cluster Subdivision Tract Map and Conditional Use Permit; San Luis Obispo County.

Native American Contacts
San Luis Obispo County
October 3, 2008

Salinan-Chumash Nation Xielolixii 3901 Q Street, Suite 31B Bakersfield , CA 93301 xielolixii@yahoo.com 661-864-1295 408-966-8807 - cell	Salinan Chumash
Northern Chumash Tribal Council Fred Collins, Spokesperson 1177 Marsh Street, Suite 110 San Luis Obispo , CA 93401 (805) 801-0347 (Cell)	Chumash

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

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

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH# 2005041094 Laetitia Agricultural Cluster Subdivision Tract Map and Conditional Use Permit; San Luis Obispo County.

Responses to Native American Heritage Commission's Comments

Comment No.	Comment
NAHC-1	Comment noted. No changes to the EIR are necessary.
NAHC-2	The archaeological technical studies included a records search, which is documented in the confidential reports on file at the County of San Luis Obispo. No changes to the EIR are necessary.
NAHC-3	As noted in the EIR, Final EIR Section V.D. Archaeological Resources, Phase One surface surveys and an extended Phase One/Phase Two subsurface investigation was conducted for the site. The reports were submitted to the University of California Santa Barbara Information Center. No changes to the EIR are necessary.
NAHC-4	An archival records search was conducted as part of the technical studies. Native American representatives were onsite during subsurface testing. No changes to the EIR are necessary.
NAHC-5	Please refer to AR/mm-1 through AR/mm-11, which address the noted recommendations for mitigation. No changes to the EIR are necessary.

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PUBLIC WORKS
Paavo Ogren, Director
County Government Center, Room 207 • San Luis Obispo CA 93408 • (805) 781-5252
Fax (805) 781-1229 email address: pwd@co.slo.ca.us

MEMORANDUM

Date: October 6, 2008
Revised October 16, 2008

TO: Brian Pedrotti, Project Planner

FROM: Glenn Marshall, Development Services Engineer GDM

SUBJECT: **Public Works Response to the Laetitia Agricultural Cluster Subdivision Draft EIR**

Thank you for the opportunity to review the Subject report. The report has been reviewed by the Public Works Development Services and Transportation Divisions and this represents our consolidated response. **SLOPW-1**

1. Page II-11, TR/mm-11:
   a. Add "Caltrans" as a submittal agency for the subdivision improvement plans (work being proposed by condition is within the state right-of-way).
   b. Discusses gates controlled by opticom transmitters however page III-21 states a KNOX box would be installed. Correct inconsistencies. See also page II-19 MH/mm-2. **SLOPW-2**
2. Pages II-50 & 51, TR/mm-1:
   a. Remove second and fourth paragraphs "As these improvements…exceeds three million dollars." **SLOPW-3**
3. Page II-53, TR Impact 14, Residual Impact::
   a. Shouldn't TR Impact 14 be "Less than significant with mitigation"? **SLOPW-4**
4. Page II-29, WAT Impact 5: Add reference to the County's Storm Water Pollution Control and Discharge Ordinance. **SLOPW-5**
5. Page III-21: Modify last sentence of second paragraph to reflect above comment 1b. **SLOPW-6**
6. Page III-22: Minimum CalFire road width is 20-feet, not 18-feet. Revise third sentence as follows" "…way, including two ~~nine~~ **ten**-foot wide travel lanes and…" **SLOPW-7**
7. Page III-30: Modify last paragraph to be consistent with WAT Impact 4 and WAT/mm-9. There are existing capacity issues down steam of the project site in Los Berros Creek and Arroyo Grande Creek. Additionally, these creeks contain regulatory floodways and the project cannot increase the down stream flood elevations. Without reviewing a drainage report's calculations addressing the proposed improvements it is difficult to state whether detention or retention basins would be required. **SLOPW-8**
8. Page V-205: Check reference in last line of first paragraph "…intersection (refer to TR Impact ~~9~~ **10**.") **SLOPW-9**

Added comments as of October 16, 2008:

9. Page V-206, TR/mm1 & TR/mm-2: Please add language similar to: "Intersection widening, signalization and striping improvements shall be doe in accordance with plans on file with the County Public Works Department." **SLOPW-10**

10. Page V-215: It would be best to identify all trees that may be removed or impacted due to required onsite and offsite road improvements and sight distance issues. Analysis in the EIR will simplify the preparation and approval of the improvement plans. If these issues are not addressed then a separate environmental process may be required which may significantly hinder the improvement plan approval process. **SLOPW-11**

Please feel free to contact me at 781-1596 if I may be of further assistance.

V:_DEVSERV Referrals_Referral Responses\EIRs\Laetitia Winery\20081006 DEIR 20081002\20081010Laetitia FEIR Response.doc

Responses to County of San Luis Obispo Department of Public Works' Comments

Comment No.	Comment
SLOPW-1	Comment noted; Mitigation measure TR/mm-11 has been modified to include the California Department of Transportation (Caltrans) as requested.
SLOPW-2	Please refer to revised mitigation measure TR/mm-11 and HM/mm-2 in Chapter II Table II-1, Chapter VIII Table VIII-1, Final EIR Section V.N. Transportation and Circulation, and Final EIR Section V.G. Hazards and Hazardous Materials, which have been amended to address your comment and clarify the mitigation requirements.
SLOPW-3	Please refer to revised mitigation measures TR/mm-1 and TR/mm-2 in Chapter II Table II-1, Chapter VIII Table VIII-1, and Final EIR Section V.N. Transportation and Circulation, which have been amended to address your comment and clarify the mitigation requirements.
SLOPW-4	Please refer to TR Impact 14 in Chapter II Table II-1 for corrected text.
SLOPW-5	Please refer to revised mitigation measure WAT/mm-10, which incorporates reference to the County Storm Water Pollution Control and Drainage Ordinance, in Chapter II Table II-1, Chapter VIII Table VIII-1, and Section V.P. Water Resources.
SLOPW-6	As noted in Chapter III Project Description, the applicant originally proposed a crash gate or removable bollards at the secondary access road. Based on consultation with CAL FIRE, this method is not acceptable; therefore, alternative methods are recommended as mitigation measures to address CAL FIRE's identification of a potentially significant impact due to inadequate secondary access. The applicant's proposed Mitigated Project Alternative identifies a manned guard gate. A Knox Box would be installed as required by CAL FIRE. No changes to the EIR are necessary.
SLOPW-7	Please refer to Section III.D.3, which has been revised to reflect the updated road width standard.
SLOPW-8	Although retention of stormwater is not proposed by the applicant, compliance with the County Land Use Ordinance (Sections 22.10.155 and 22.52.110) will likely require construction of a basin to ensure runoff does not exceed the estimated pre-development rate (refer to mitigation measure WAT/mm-9).
SLOPW-9	Please refer to Final EIR Section V.N.6.b.2(a), which has been revised to correct the reference as noted.
SLOPW-10	Please refer to mitigation measures TR/mm-1 and TR/mm-2, which have been revised to include the recommended language, in Chapter II Table II-1, Chapter VIII Table VIII-1, and Section V.H. Transportation and Circulation.
SLOPW-11	Please refer to Final EIR Section V.N.6.h.2, which states that "Road improvements would require the removal and/or impact of approximately 94 coast live oak trees and 16 sycamores." No changes to the EIR are necessary.

State Water Resources Control Board

Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterrights.ca.gov

Linda S. Adams
Secretary for Environmental Protection

Arnold Schwarzenegger
Governor

OCT 0 7 2008

In Reply Refer to: MJM

County of San Luis Obispo
c/o Brian Pedrotti
976 Osos Street, Room 300
San Luis Obispo, CA 93408-1002

Dear Mr. Pedrotti:

LAETITIA AGRICULTUAL CLUSTER SUBDIVISION TRACT MAP AND CONDITIONAL USE PERMIT (SCH#2005041094) FOR POTENTIAL APPROPRIATIVE WATER PROJECT IN SAN LUIS OBISPO COUNTY

Staff of the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) has received information regarding the above proposed project. The above project is proposing the diversion of water that may be defined as an appropriation of water. Under California Water Code section 1200 et seq, diversion of surface water, including diversion from underground water supplies flowing in known and definite channels, to offstream storage for later consumptive use is an appropriation of water and requires a water right permit. **SWRCB-1**

It appears that some of the water supply wells for the proposed project will be extracting water from the underflow of Los Berros Creek. If this is not the case, please provide the Division with more information regarding the water supply for this project, including information that shows that none of the groundwater wells will be extracting water from a known and definite channel. **SWRCB-2**

If the proposed project will be diverting water as described above, an application may be required to be filed with the Division to appropriate water and obtain a water right permit. For information on how to obtain and file the necessary permit application forms, please visit the Division's website at http://www.waterrights.ca.gov or contact Division staff at 916-341-5300. Please provide a written response to the concerns listed above within sixty days of the date of this letter. **SWRCB-3**

Any diversion of water without a valid basis of right may be subject to administrative civil liability of up to $500 per day without further notice, pursuant to California Water Code section 1052, unless the diversion is covered by a valid basis of right. In addition, the State Water Board may issue a cease and desist order in response to an unauthorized diversion or threatened unauthorized diversion in accordance with California Water Code section 1831.

Sincerely,

Matthew J. McCarthy, Chief
Watershed Unit 1

cc: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044

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Responses to State of California State Water Resources Control Board's Comments

Comment No.	Comment
SWRCB-1	Comment noted. No changes to the EIR are necessary.
SWRCB-2	As described in Final Section V.P. Water Resources of the EIR, Wells 10, 11, 14, and 15 are proposed to serve the project. These wells are located within fractured bedrock. No domestic wells would extract water from the underflow of Los Berros Creek. Section V.P. provides additional information regarding these wells; please also refer to the *Review of Well Testing and Sustainable Yield Assessment* (Geosyntec 2011) located in Appendix H of the Final EIR.
SWRCB-3	As described in Section I Introduction, and Section V.P. Water Resources of the Final EIR, additional analysis of water resources was conducted to address agency and public concerns regarding water resources, and the project's potential effect on water resources. Due to this additional analysis, a response was not prepared and submitted to your agency within 60 days; however, the Water Resources section of the EIR was amended and recirculated for public review. While the project would not divert water from Los Berros Creek, the applicant is aware of the permitting authority of your agency. No changes to the EIR are necessary.

California Regional Water Quality Control Board
Central Coast Region

Linda Adams
Secretary for Environmental Protection

Arnold Schwarzenegger
Governor

Internet Address: http://www.swrcb.ca.gov/rwqcb3
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401
Phone (805) 549-3147 • FAX (805) 543-0397

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October 16, 2008

Mr. Brian Petrotti, Project Manager
San Luis Obispo County Planning & Building Dept.
976 Osos Street, Room 300
San Luis Obispo, CA 93408-2040

Mr. Petrotti:

DRAFT ENVIRONMENTAL IMPACT REPORT FOR LAETITIA SUBDIVISION, SAN LUIS OBISPO COUNTY (TRACT 2606)

The following comments respond to your draft Environmental Impact Report (EIR) circulated for public comment on September 22, 2008. Based upon the draft EIR we understand that the proposed project includes community wastewater collection, treatment and disposal facilities serving 102 residences and assorted other users (recreation, community and equestrian centers, and a dude ranch). Wastewater generated by the project is estimated to be 33,000 gallons per day and proposed to receive tertiary level treatment prior to disposal to a 20.8 acre pasture. The Central Coast Regional Water Quality Control Board (Water Board) is a responsible agency under the California Environmental Quality Act (CEQA); and as such, we believe the following issues must be addressed in order to ensure long-term water quality protection. **RWQCB[a]-1**

1. On February 18, 2004, we provided comments on an earlier proposed Laetitia Subdivision (copy attached). Each of those earlier comments should be addressed in the final EIR.

2. The draft EIR provides very few details regarding wastewater treatment methods; therefore, we are unable to determine whether such a proposal is consistent with state regulations or good wastewater management practices. Similar proposals implemented over the past decade in San Luis Obispo County have displayed compliance and cost issues significantly outside the scope anticipated during project design. Accordingly, we recommend that treatment methods, costs, and contingency plans be completed in detail prior to project approval. Such plans and estimates should be compared with actual performance records from wastewater facilities serving Monarch Grove, Cypress Ridge, or other similar community wastewater systems as a means of verification. **RWQCB[a]-2**

3. Wastewater Regulatory Setting (section V.L.2.a.) states potential impacts to waters of the U.S. are discussed in detail in Section V.F.; however, we are unable to locate **RWQCB[a]-3**

the corresponding referenced portion of the document. **RWQCB-3[a] (cont'd)**

4. The draft EIR does not include adequate information to evaluate wastewater capacity issues. The text states that treated wastewater will be retained onsite throughout the rainy season, such a proposal would require significant retention capacity which is not presented in the document. The wastewater facilities must be designed to preclude discharge to nearby surface waters, unless they obtain an NPDES permit for such discharge. **RWQCB[a]-4**

5. The draft EIR indicates that a government agency would take over the wastewater facility operation if the facility falls into disrepair. We fully support the proposed mitigation calling for the applicant to provide a letter from such an agency, as we are not aware of any agency both willing and able to take on such duties. However, our preference is that a government agency own and operate the facility from the start. **RWQCB[a]-5**

6. As you know, San Luis Obispo County is subject to the NPDES Phase II Municipal Stormwater Permit that calls for implementation of stormwater pollution prevention measures. The County should incorporate Low Impact Development (LID) practices, including but not limited to Runoff Volume Control, Peak Runoff Rate Control, and Flow Frequency Duration Control in the project permit conditions. We expect that you will require Low Impact Development or equivalent techniques be included as mitigation measures in the final EIR for this project. **RWQCB[a]-6**

If you have questions regarding this letter or Central Coast Water Board requirements, please contact **Sorrel Marks at 805/549-3695** or Burton Chadwick at 805/542-4786.

Sincerely,

Roger W. Briggs
Executive Officer

cc:

Dave Hacker
CA Dept. of Fish & Game
3196 South Higuera St., Suite A
San Luis Obispo, CA 93401

Attachment: February 18, 2004, letter to James Caruso

S:\CEQA\Comment Letters\San Luis Obispo County\2008\Laetitia subdivision.doc

California Environmental Protection Agency

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California Regional Water Quality Control Board
Central Coast Region

Terry Tamminen
Secretary for Environmental Protection

Internet Address: http://www.swrcb.ca.gov/rwqcb3
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401
Phone (805) 549-3147 • FAX (805) 543-0397

Arnold Schwarzenegger
Governor

February 18, 2004

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James Caruso
Department of Planning and Building
County Government Center
San Luis Obispo, CA 93408

Dear Mr. Caruso:

LAETITIA CLUSTER DEVELOPMENT (TRACT 2606), SAN LUIS OBISPO COUNTY

Thank you for the opportunity to review and comment on the proposed Laetitia Cluster Development project. Based upon your submittal, we understand the proposed development includes 100 single-family lots, winery, farm support facilities, equestrian center, dude ranch, recreation facilities, and associated infrastructure to be located on 1910 acres south of Arroyo Grande. Domestic wastewater generated at the development is proposed for conventional septic system treatment and on-site leachfield disposal. The fate of winery wastewater is not specifically identified. We have the following comments regarding water quality issues which should be addressed prior to project approval. **RWQCB[a]-7**

1. Wastewater treatment and disposal systems associated with the proposed project must be consistent with the policies and objectives of the Water Quality Control Plan, Central Coast Region (Basin Plan) for siting and design of such systems. However, specific information regarding compliance with Basin Plan criteria for these issues (lot size, slope, depth to ground water, depth to impervious soil, percolation rates, etc.) is not included in your submittal. **RWQCB[a]-8**

2. Waste Discharge Requirements must be adopted by this Regional Board prior to discharge of waste unless such requirements are waived by this Regional Board. Regulation of on-site systems, which comply with Basin Plan criteria and process less than 2500 gallons per day, is normally delegated to the County. However, your submittal indicates proposed facilities which may require review and regulation by the Regional Board (such as wineries and community recreation facilities). **RWQCB[a]-9**

3. It is this Regional Board's policy to minimize use of on-site septic systems where a regional wastewater system is available. On-site systems should be considered temporary measures until access to a regional wastewater system is feasible. Also, appropriate septage (solids) disposal locations are extremely limited. We strongly recommend that the County pursue appropriate disposal options prior to authorizing addition discharges to septic systems. **RWQCB[a]-10**

4. Projects disturbing more than one acre of land are regulated under the Statewide National Pollutant Discharge Elimination System (NPDES) General Permit for Discharge of Stormwater associated with construction activity. The project sponsor must propose and implement control measures to protect water quality that are consistent with the General Construction permit. Notice of Intent (application) for the General Stormwater Permit and specific requirements are available online at www.swrcb.ca.gov/stormwtr/index.html. **RWQCB[a]-11**

5. The Regional Board must certify that any permit issued by the Army Corps of Engineers pursuant to Section 404 of the Clean Water Act complies with state water quality standards. Section 401 Water **RWQCB[a]-12**

Mr. Caruso **2** **February 18, 2004**

Quality Certification is necessary for all Section 404 permits (covering dredging or filling of wetlands), including reporting and non-reporting Nationwide permits. Any project requiring a 404 permit from the Army Corps of Engineers should apply for Section 401 Water Quality Certification by submitting a Form 200 Report of Waste Discharge and Form 200 Appendix for water quality certification. Application forms for Section 401 Water Quality Certification are available online at www.swrcb.ca.gov/rwqcb3/Applications/index.htm. **RWQCB[a]-12 (cont'd)**

If you have questions, please call **Sorrel Marks at 805/549-3695** or Gerhardt Hubner at 805/542-4647.

Sincerely,

for Roger W. Briggs
Executive Officer

S:/wdr/wdr facilities/san luis obispo co/laetitia/development review
File: Laetitia Winery
Task: 126-01

California Environmental Protection Agency

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Responses to State of California Regional Water Quality Control Board's Comments [a]

Comment No.	Comment
RWQCB[a]-1	The referenced February 18, 2004 letter includes comments related to the applicant's original proposal to use on-site septic systems for wastewater treatment and disposal. Based identification of potentially significant impacts related to the use of on-site systems, the applicant revised the project to include a wastewater treatment facility and storage and re-use of recycled effluent on the project site. The applicant is required to comply with state and local regulations related to stormwater and water quality, and obtain required regulatory permits and authorizations prior to the County's issuance of grading and construction permits.
RWQCB[a]-2	As discussed in Final Section V.O. Wastewater, the applicant proposes a community wastewater treatment system similar to the facilities noted in your agency's comment letter. As noted in the EIR, in addition to compliance with the Basin Plan and federal, state, and local regulations specific to the treatment and disposal of wastewater, the applicant will be required to prepare detailed construction plans. We recognize your agency's concerns regarding compliance and cost issues; therefore, mitigation measure WW/mm-1 has been amended to supplement existing regulations by requiring review and approval by the County Environmental Health Division and your agency prior to issuance of construction permits by the County. Ongoing compliance, and the cost of operation and maintenance, will be the responsibility of the applicant and subsequent HOA, consistent with existing regulations.
RWQCB[a]-3	Final EIR Section V.O.2.a. Wastewater, Regulatory Setting, Federal Policies and Regulations has been revised to include the correct reference (Section V.P. Water and Section V.E. Biological Resources).
RWQCB[a]-4	As noted on Section V.O.4 Wastewater, Impact Assessment and Methodology, the applicant proposes to use two basins, 4 acre-feet each, to store treated effluent prior to recycling during agricultural irrigation. Storage ponds and all associated equipment and facilities would be designed in compliance with existing federal, state, and local regulations, and compliance would be demonstrated prior to issuance of permits to construct the facility. No discharge to surface waters is proposed. No changes to the EIR are necessary.
RWQCB[a]-5	The commenter's preference regarding government agency oversight, ownership, and operation are noted. No changes to the EIR are necessary.
RWQCB[a]-6	Please refer to Recirculated Draft EIR (and Final EIR) Section V.P.5.a.2 Water Resources, Project-specific Impacts and Mitigation Measures, Project-wide, Drainage and Flooding. This section includes additional analysis and information regarding County regulations specific to drainage and stormwater runoff. In addition, mitigation measures WAT/mm-9 and WAT/mm-10 has been added and expanded to ensure compliance with County Stormwater and LID Standards.
RWQCB[a]-7	Comment noted; please refer to the Recirculated EIR (2013) and Final EIR. The applicant revised the proposed project to include a private wastewater treatment facility, collection system, storage ponds, and effluent disposal areas within the vineyards.
RWQCB[a]-8	Please refer to Final EIR Section V.O., which assesses the project's proposed wastewater treatment facility and associated improvements.
RWQCB[a]-9	Please refer to Final EIR Section V.O., which assesses the project's proposed wastewater treatment facility and associated improvements. The applicant is required to comply with RWQCB and SWRCB requirements for wastewater treatment and disposal.
RWQCB[a]-10	Comment noted; please refer to the Recirculated EIR (2013) and Final EIR. The applicant revised the proposed project to include a private wastewater treatment facility, collection system, storage ponds, and effluent disposal areas within the vineyards.
RWQCB[a]-11	Please refer to Recirculated EIR (2013) and Final EIR Section V.P. Water Resources,

Comment No.	Comment
	specifically mitigation measures WAT/mm-12 which requires preparation of a SWPPP and Notice of Intent.
RWQCB[a]-12	Please refer to Recirculated EIR (2013) and Final EIR Section V.E. Biological Resources, specifically mitigation measure BIO/mm-1, which identifies RWQCB and Army Corps of Engineers permits, authorizations, and approvals that will be required prior to implementation of the project.

STATE OF CALIFORNIA – THE RESOURCES AGENCY **ARNOLD SCHWARZENEGGER**, *Governor*

DEPARTMENT OF WATER RESOURCES
1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791

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OCT 29 2008

Mr. Brian Pedrotti, Project Manager
County Planning and Building Department
County of San Luis Obispo
976 Osos Street, Room 300
San Luis Obispo, California 93408-2040

Draft Environmental Impact Report for the Laetitia Agricultural Cluster Subdivision Tentative Tract Map and Conditional Use Permit, SCH No. 2005041094, September 2008
San Luis Obispo County

Dear Mr. Pedrotti:

We have reviewed the Draft Environmental Impact Report for the Laetitia Agricultural Cluster Subdivision Tentative Tract Map and Conditional Use Permit. Based on the information provided, this project includes three new wastewater storage ponds, a new water storage tank, and relocation of an existing agricultural reservoir. **DWR-1**

Ponds One and Two will each impound approximately 4 acre-feet (AF) of wastewater. Pond Three will store plus or minus 12 AF of wastewater. The northern agricultural reservoir, with a capacity of 25 AF will be relocated to the southwest portion of the project. The storage capacity of the water tank will be 268,500 gallons, which is less than 1 AF.

Based on this information, Ponds One and Two, and the water storage tank will not be subject to our jurisdiction for dam safety. Pond Three and the Northern Agricultural Reservoir could be subject to our jurisdiction. Additional information is needed to make this determination. As defined in Sections 6002 and 6003, Division 3, of the California Water Code, dams higher than 6 feet with a storage capacity of 50 acre-feet or more are subject to State jurisdiction.

Per Section 6025 of the Water Code, waste water treatment and storage ponds having a maximum height of 15 feet or less and a maximum storage capacity of 1,500 acre-feet or less, may be exempted from our jurisdiction provided the ponds are 1) designed by, and constructed under the supervision of a registered civil engineer, 2) are not across a stream channel or watercourse, and 3) the governing body or agency which operates the waste water control facility adopts a resolution which finds that they have been adequately designed, constructed, and operated.

Also, per Section 6004(a), no circular tank construction of steel or concrete, or both, no tank elevated above ground, and no barrier which is not across a stream channel, watercourse, or natural drainage area and which has the principal purpose of impounding water for agricultural use shall be considered a dam.

Mr. Brian Pedrotti

Page 2

If you have any questions or need additional information, you may contact Office Engineer Mike Sutliff at (916) 227-4601 or Regional Engineer Mutaz Mihyar at (916) 227-4600. **DWR-1 (cont'd)**

Sincerely,

M. Zumot

Mike Zumot, Acting Chief
Division of Safety of Dams

cc: Ms. Nadell Gayou
Resources Agency Project Coordinator
Environmental Review Section, DPLA
901 P Street
Sacramento, California 95814

Governor's Office of Planning
and Research
State Clearinghouse
Post Office Box 3044
Sacramento, California 95812-3044

Responses to State of California Department of Water Resources' Comments

Comment No.	Comment
DWR-1	Based on review of your agency's response to the Draft EIR (2008) and review of the applicant's proposal, it appears that Pond Three and the northern agricultural reservoir are not subject to your jurisdiction for dam safety. No changes to the EIR are necessary.

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PUBLIC WORKS
Paavo Ogren, Director
County Government Center, Room 207 • San Luis Obispo CA 93408 • (805) 781-5252
Fax (805) 781-1229 email address: pwd@co.slo.ca.us

MEMORANDUM

Date: November 6, 2008

TO: Brian Pedrotti, Project Planner

FROM: Nola Engelskirger, Utilities Division

VIA: Glenn Marshall, Development Services Engineer

SUBJECT: **Public Works Response to the Laetitia Agricultural Cluster Subdivision Draft EIR – Additional Drainage Comments**

In addition to previous comments made in memorandum dated 10/6/08, attached, we have the following:

1. It is anticipated that the Project will increase the volume of storm water in the upper reaches of Los Berros Creek; the impact will be in the lower reaches of Arroyo Grande Creek. We feel it would be most appropriate to evaluate effects of the additional storm flows downstream, in the lower reach of Arroyo Grande Creek flood control channel between Highway 1 and 22nd Street, for the smaller more probable storm events such as the 2-year, 5-year, and 10-year events. We feel this would be most appropriate because the flood control channel has been evaluated and it is already known that it will not be able to contain or convey a 25-year, 50-year, or 100-year storm event. According to the *Arroyo Grande Creek Erosion, Sedimentation and Flooding Alternatives Study*, prepared by Swanson Hydrology and Geomorphology, January 2006 (Swanson Study), the channel is able to convey the 4.6 year storm event and will most likely overtop the south levee just downstream of the Highway 1 Bridge during a 5-year storm event. Therefore, it is our feeling that the addition of any flow upstream will cause more of an impact downstream in the lower reaches of Arroyo Grande Creek during a 2-year or 5-year event than it will during larger storm events. It would be prudent to identify what the impact will be in a smaller storm. **SLOPWU-1**

   The evaluation should include consideration of changes in pre- and post- project times of concentration for the peak flows from the Laetitia area at the proposed point of discharge compared with the peak flows in the Arroyo Grande Creek Channel at the reach of concern described above (i.e. will the project increase peak flows in the channel?). The hydrology/hydraulic study should address/incorporate the HEC HMS/HEC RAS model developed in the Swanson Study referred to above.

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2. Erosion in the Los Berros watershed and subsequent sedimentation into the lower reaches of the flood control channel is a significant problem causing reduced flood capacity. Specific sources of sediment and treatment options that would provide the most benefit were identified in the Swanson Study. The Study recommends Best Management Practices (BMP) aimed at reducing long-term, chronic input of sediment from future point sources. These BMP's are summarized in Table 4.10 of the Swanson Study and have been attached for reference. It is desired that these BMP's be incorporated into the grading and drainage plan for the Project. **SLOPWU-2**

3. While it is recognized that currently no Low Impact Development (LID) ordinance is in place, one is likely to be in effect by the time this project has been approved. In order to reduce detention basin size, as well as downstream sediment transport, the developer may utilize LID techniques as approved by the Department of Public Works, in accordance with the proposed LID design manual. **SLOPWU-3**

4. On page III-30, it is noted that existing natural ditches and swales would be utilized to convey runoff from the project to Los Berros Creek. It is recommended that the existing ditches and swales be evaluated for both their capacity to carry the run-off as well as their potential to increase sediment loading in the creek. Additional flows that impact the downstream peak flows and sediment loaded flows should not be allowed to enter Los Berros Creek. **SLOPWU-4**

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Responses to County of San Luis Obispo Department of Public Works Utilities Division's Comments

Comment No.	Comment
SLOPWU-1	Please refer to Final EIR Section V.P. Water Resources, 5. Project-specific Impacts and Mitigation Measures, a. Project-wide, 3) Drainage and Flooding, which includes additional information regarding flooding in Arroyo Grande Creek. Mitigation measure WAT/mm-9 has been revised to specifically require analysis of 2-year, 5-year, and 10-year storm events using the recommended model. The mitigation measure requires no increase in stormwater discharge flow rates from the project site.
SLOPWU-2	Please refer to Final EIR Section V.P. Water Resources, 5. Project-specific Impacts and Mitigation Measures, a. Project-wide, 3) Drainage and Flooding, which includes additional information regarding Arroyo Grande Creek and mitigation measures WAT/mm-14 incorporates recommended BMPs from the *Arroyo Grande Creek Erosion, Sedimentation and Flooding Alternatives Study* (Swanson Hydrology + Geomorphology 2006).
SLOPWU-3	Please refer to Recirculated Draft EIR (and Final EIR) Section V.P.5.a.3 Water Resources, Project-specific Impacts and Mitigation Measures, Project-wide, Drainage and Flooding. This section includes additional analysis and information regarding County regulations specific to drainage and stormwater runoff. In addition, mitigation measures WAT/mm-10 has been added to ensure compliance with County LID Standards.
SLOPWU-4	The applicant would be required to submit revised drainage calculations based on the final tract map configuration and grading plans (refer to mitigation measures WAT/mm-9 and WAT/mm-10).

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
50 HIGUERA STREET
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November 7, 2008

SLO 101 PM 9.66

Brian Pedrotti, Project Manager
County of San Luis Obispo
Department of Planning & Building
967 Osos Street, Room 300
San Luis Obispo , CA 93408

Dear Mr. Pedrotti,

LAETITIA AGRICULTURAL CLUSTER SUBDIVISION TRACT MAP AND CONDITIONAL USE PERMIT, DRAFT EIR, SCH # 2005041094

Thank you for submitting the above referenced project for our review. The following comments were generated as a result. **CALTRANS-1**

Project-specific Impacts and Mitigation Measures

1. *(Transportation and Circulation*, Page V-204, (2.) *Existing With Project Intersection Operations, (a) Highway 101/Laetitia Vineyard Drive Intersection)* We would like to acknowledge and confirm that Caltrans will not accept any additional traffic introduced onto U.S. 101 at the Laetitia Winery driveway from the proposed Ag Cluster Development. This would include right-in/right-out turning movement traffic from the Laetitia Winery driveway. We are gratified that the traffic study acknowledges our position on this matter as Caltrans agrees that to add traffic at this location via any type of turning movement, is to introduce a significant traffic impact on U.S. 101.

   The mainline segment of U.S. 101 at the Laetitia Winery Intersection location currently experiences traffic traveling at high rates of speed with those traffic volumes continuing to increase. The Ag Cluster project proposes to generate a total of 1,234 daily trips with 90% of that estimate, 1,110 daily trips, being assigned to travel on U.S. 101 everyday. Caltrans must assume that most if not all of these 1,110 daily trips would not voluntarily comply with the intent of the gate restricting access type of emergency access. All of those 1,110 daily trips could theoretically and easily access this high-speed facility.

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Mr. Pedrotti
November 7, 2008
Page 2

Although the Ag Cluster proposal has designated the Laetitia Winery driveway as its secondary access, Caltrans is aware that this secondary access or "emergency access" provides a much shorter and direct route onto U.S. 101 compared to the primary access route that connects to Upper Los Berros Road. Commuters tend to resist traveling out of their way, or out of direction, to reach their destination. The "gate restricting access" to the Laetitia Winery's access to U.S. 101 as proposed, could be remotely actuated by drivers coming in and out of the proposed development's "secondary access". Drivers wouldn't even have to get out of their cars to open the gate restricted access. **CALTRANS-1 (cont'd)**

Caltrans cannot "assume" voluntary compliance whereby non-emergency traffic (daily traffic) will not be indiscriminately traveling onto U.S. 101, unless a "crash-gate" type emergency access will be required instead of the "gate restricting access" promoted by Cal Fire. Caltrans views the traditional type of crash gate, i.e., a chain link suspended between and attached by a pad lock to two posts set in concrete, as one way of assuring that only emergency-event traffic will be able to access U.S. 101 at the Laetitia Winery entrance. We therefore request that the Lead Agency condition the proposed Ag Cluster development to install the traditional "crash-gate" type of emergency access barrier. **CALTRANS-2**

Caltrans asks that Cal Fire provide documentation formally stating the policy that now requires, "gate restricting access" instead of the traditional "crash-gate" type of emergency access. Is this a state-wide policy for Cal Fire or a county specific requirement? We ask for clarification on this matter. **CALTRANS-3**

Please be advised that Caltrans recently held a kick-off Project Development Team (PDT) meeting for the "Construct Median Barrier" project on U.S. 101. This project proposes to construct a median barrier from south Arroyo Grande down to the 101/Thompson-Los Berros Interchange location. The construction of the median barrier will effectively eliminate all left-turn capability in and out of the Laetitia Winery driveway. **CALTRANS-4**

2. *(Transportation and Circulation*, Page V-205, (2.) *Existing With Project Intersection Operations, (b) Highway101 Southbound Ramps/Los Berros Road)* Caltrans acknowledges the signal warrants analysis within the traffic study stating the need for traffic signals at the 101/southbound ramp intersection. Please be advised that early consultation with our Traffic Operations Staff regarding the placement of traffic signals at this location would be of benefit. Caltrans has final authority regarding the construction of traffic signals within our Right of Way (R/W). Please contact Julie Gonzalez, Senior Traffic Operations Engineer (549-3048), regarding the project approval condition involving the placement of a traffic signal at this location. This proposed mitigation will require an encroachment permit from Caltrans. **CALTRANS-5**

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Mr. Pedrotti
November 7, 2008
Page 3

3. *(Transportation and Circulation*, Page V-205, (2.) *Existing With Project Intersection Operations, (c) Highway101 northbound Ramps/Los Berros Road)* Caltrans acknowledges the signal warrants analysis within the traffic study stating the need for traffic signals at the 101/northbound ramp intersection. Please be advised that early consultation with our Traffic Operations Staff regarding the placement of traffic signals at this location would be of benefit. Caltrans has final authority regarding the construction of traffic signals within our Right of Way (R/W). Please contact Julie Gonzalez, Senior Traffic Operations Engineer (549-3048), regarding the project approval condition involving the placement of a traffic signal at this location. This proposed mitigation will require an encroachment permit from Caltrans. **CALTRANS-6**

4. *(Transportation and Circulation*, Page V-209, (4.) *Existing With Project Intersection Operations, (b) Highway101/Los Berros Road/North Thompson Road Ramp Junctions)* Caltrans acknowledges the mitigation being offered, i.e., the lengthening of various ramps to add extra acceleration and deceleration distances. Early consultation with Paul McClintic, Senior Traffic Operations Engineer (549-3473) regarding the feasibility of constructing this mitigation measure, would prove beneficial. This proposed mitigation would require an encroachment permit from Caltrans. **CALTRANS-7**

The Encroachment Permit
All work done in the State's R/W shall be done to the Department's engineering and environmental standards and at no cost to the State. Furthermore, the conditions of approval and the requirements for obtaining the encroachment permit are at the sole discretion of the Permits Office, and nothing in this letter shall be implied as limiting those future conditions and requirements. **CALTRANS-8**

Please contact Mr. Steve Senet at (549-3206) for more information regarding the encroachment permit process or visit The Department's website at: http://www.dot.ca.gov/hq/traffops/developserv/permits/.

If you have any questions regarding the foregoing, please contact me.

Sincerely;

James Kilmer

Development Review for San Luis Obispo County
(805) 549-3683
james.kilmer@dot.ca.gov

Cc: James Worthley - SLOCOG

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Response to State of California Department of Transportation's Comments

Comment No.	Comment
CALTRANS-1	The project does not include use of Laetitia Vineyard Drive and the intersection with Highway 101 as primary access. The EIR acknowledges that compliance with the secondary access gate may be compromised and identifies a significant and unavoidable impact based on Caltrans' noted limitations related to the existing encroachment permit. No changes to the EIR are necessary.
CALTRANS-2	Thank you for your comment. As noted in the EIR, installation of a "crash gate" is not consistent with Cal Fire requirements for secondary access, and the applicant's current proposal to install a guarded gate would not ensure compliance with access limitations.
CALTRANS-3	Further consultation with CAL FIRE, including an agency meeting with the County, your agency, and CAL FIRE was conducted on February 22, 2011 and additional consultation occurred in 2013. Based on these meetings, CAL FIRE verified that a "crash gate" is not acceptable, pursuant to Section 503.6 of the 2010 California Fire Code. While the applicant's proposed guarded gate is considered acceptable by CAL FIRE, the Final EIR notes that this proposal does not address Caltrans concerns that the Laetitia Vineyard Drive/U.S. 101 intersection may be used by future residents in non-emergency situations.
CALTRANS-4	Comment noted.
CALTRANS-5	Please refer to mitigation measure TR/mm-1, which states that the improvements would be constructed and implemented under a Caltrans encroachment permit or Project Study Report. No changes to the EIR are necessary.
CALTRANS-6	Please refer to mitigation measure TR/mm-2, which states that the improvements would be constructed and implemented under a Caltrans encroachment permit or Project Study Report. No changes to the EIR are necessary.
CALTRANS-7	Please refer to mitigation measure TR/mm-5, which states that the improvements would be constructed and implemented under a Caltrans encroachment permit or Project Study Report. No changes to the EIR are necessary.
CALTRANS-8	Comment noted. No changes to the EIR are necessary.

San Luis Obispo Council of Governments

Ronald L. DeCarli - Executive Director

Regional Transportation Planning Agency
Metropolitan Planning Organization
Census Data Affiliate
Service Authority for Freeways and Expressways

Arroyo Grande
Atascadero
Grover Beach
Morro Bay
Paso Robles
Pismo Beach
San Luis Obispo
San Luis Obispo County

November 8, 2008

Brian Pedrotti, Project Manager
County Planning & Building Dept.
976 Osos St. Rm. 300
San Luis Obispo, CA 93408-2040

RE: Laetitia Agricultural Cluster Subdivision Draft EIR

Dear Mr. Pedrotti,

Thank you for the opportunity to provide comments on the Laetitia Agricultural Cluster Draft EIR. The 1200 page document was found to be comprehensive albeit overwhelming in its size. We appreciate the effort to protect and promote agriculture through the clustering of the housing, the acknowledgement of SLOCOG's Regional Housing Needs Plan (page V-427) expectation of housing units in the unincorporated areas of the county, and the willingness to account for some of those units. I would like to submit the following comments. **SLOCOG-1**

TR/mm-11 must restrict 101/at-grade access to/from the subdivision to only Emergency vehicles or emergencies. Page II-78 indicates that "In addition, the residential parcels would be located within the eastern portion of the project site, which would deter residents from using the Laetitia Vineyard Drive / Highway 101 at-grade intersection during a non-emergency." Northbound travelers may continue to choose this direct path if it remains an option. If this access is allowed to residents for purposes of emergency egress, such as a fire, a technological (ITS) approach (similar to catching red-light runners) may be used to monetarily discourage inappropriate uses. **SLOCOG-2**

Q1: What device will be in place to allow emergency vehicle ingress and emergency egress, but disallow non emergency egress?

While a left-turn pocket from southbound Thompson Road to Sheehy road makes sense, the requirement to maintain the existing shoulder width (approximately 4') on Thompson Road north and south of Sheehy is not noted. In accordance with the South County Area Plan, a Class II bike path should extend north of Sheehy Road through the Los Berros Road Interchange to connect with the Class II facility on Los Berros Road at N. Frontage Road. Existing, maintained or improved 4' shoulders would allow for signing and markings for a Class II bike path. **SLOCOG-3**

Q2: How will this be handled?

A possible connection to the northern property neighbor is observed on page III-13 with the connection adjacent to where the project boundary line makes a 90 degree change. A connection is appreciated, however, concerns exist over the terrain at this location. A secondary location with less of a terrain issue exists about halfway between the proposed location and US 101, however a single home site (western cluster, most northern) within the plan would prohibit it. If a frontage road adjacent to US 101 is not viable, a parallel route behind the Picacho Mtn may be the next best option. **SLOCOG-4**

Q3: How will future (non Route 101) access to adjacent parcels be handled?

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E-mail. slocog@slocog.org ◆ Internet. http://www.slocog.org

Page V-187 notes that the nearest transit stop is two miles from the project site main entrance. This transit stop, however, is enroute to most destinations for a high percentage of trips. Improvements such as shelter, lighting, pullout, bike lockers, signage are needed either at this location or perhaps at a better location. Several Significant, Adverse, and Unavoidable impacts (including TR Impact 4 & 15) would also benefit from developing or improving park-and-ride lots, which is included as a mitigation measure for AQ Impact 6. Perhaps a Public-Private partnership could occur to complete such a facility at the Los Berros/Thompson/101 Interchange. Our park-and-ride lots are well-used and are often exceeding their capacity in the South County. This location could also benefit from an RTA bus stop to provide an additional option for north and southbound commuters from this development. Staff disagrees with the statement on page V-211, that transit riders will be negligible and that no mitigation is warranted. Impacts from this project on Route 101 are expected to cause more interest in transit and park and ride opportunities to existing and future residents. **SLOCOG-5**

> **Q4: Given the rising numbers of commuters riding transit especially when living at a considerable distance from their work site and the anticipated degradation of LOS on 101, will these improvements be included in the project to offset some of the unavoidable impacts?**

Caltrans has initiated a median barrier project that will close all left-turns on Route 101 between Los Berros interchange and Traffic Way in Arroyo Grande. **SLOCOG-6**

> **Q5: Will emergency access (from Arroyo Grande) be a significant issue if/when this occurs?**

Page V-290 states that "The 2005 Regional Transportation Plan (RTP) notes that the study segments of Highway 101 are expected to be widened to six lanes in the future, but funding is not secured for this project." While it is true, that this plan expects, one-day, that 6-laning of 101 will be necessary, there is no funding in the next 20 years for this improvement or in the foreseeable future. The widening of 101 should not be a consideration for the future when considering this project's impacts on the mainline of Route 101 or on its ramps. Without a significant shift in funding, the widening simply will not occur. Page V-218 also leads the reader to believe that widening of this segment of 101 will occur after 2025. This is misleading at best. As we develop the 2009 RTP, there is no chance of funding this project by 2030 – the limit of the plan. Capacity improvements on Route 101 <u>are not forthcoming</u>. While a funding mechanism is beyond the scope of this single project, mitigation for transit/ridesharing/ & park and ride lots is not. **SLOCOG-7**

> **Q6: Given that the discussion of Page V-209 a) and b) included consideration of the far-off, unforeseeable, and unfundable widening of Route 101, does TR Impact 4 and its mitigation measures need to be readdressed?**

On page V-211, we appreciate and support the connection of multi-use trails both north and south of the project site. However, I did not observe a map of such. **SLOCOG-8**

The County's Framework for Planning on Page IV-6 indicates Goal 13 as: "Residential Land Uses Goal 13. Locate urban residential densities within urban or village reserve lines near employment areas, while protecting residential areas from incompatible and undesirable uses." Similarly, SLOCOG's Draft (soon to be Final) Community 2050 report contains the following excerpts or policies concerning land use and development. **SLOCOG-9**

Page 31:

- Designing communities or retrofitting existing communities to be more multi-modal and less auto dependent.

- Promoting the use of integrated modes of travel that provide transportation options and reduce environmental impacts.
- Encouraging the use of bikes and transit, and walking.
- Enhancing multimodal and community connectivity.
- Using strategic growth principles for future transportation projects and land use developments

Improved modal access through better design and land use decision-making maximizes transportation choices. The use of more sensitive and human scaled design elements in both public works projects and private development will allow for and support alternative forms of transportation. This is accomplished by providing opportunities and incentives to create a balanced transportation system that gives consideration to public transit, paratransit, bicycles, pedestrians, as well as the automobile. **SLOCOG-9 (cont'd)**

Page 40: The COMMUNITY 2050 REGIONAL GROWTH STRATEGY discourages further rural residential development in agricultural areas and concurs with the University of California Agricultural Issues Center in recommending that avoiding negative impacts on agricultural production is critical. Controls on new residential subdivision and lot splits in ag areas should be evaluated very carefully and requirements providing for new developments to keep land in agricultural production should be considered. Several areas of concern were noted by the Issues Center - a number of which are currently addressed by SLO County. **SLOCOG-10**

- Refining the intermediate levels of regulatory review, between allowing projects by right and requiring full-fledged conditional use permits.
- Refining discretionary review of lot split proposals and other changes on agriculturally-zoned parcels that go beyond minimum parcel size standards examining impacts on agricultural resources.

Page 50: Discourage Development in Rural and Natural Areas **SLOCOG-11**

The county is currently revising the Conservation, Agricultural, Open Space, Aesthetic, and Energy elements of their General Plan. Ranchette development negatively impacts agricultural viability and increases the cost of services and infrastructure. Discouragement of further encroachment into agricultural areas is consistent with all of the other goals.

This project appears in conflict with some of the aforementioned land use policies. As a final note, any provision for affordable housing is absent.

Thank you again for the opportunity to review this document. Please feel free to contact me at 781-4219 should you have any questions.

James J. Worthley
SLOCOG, Transportation Planner

Responses to San Luis Obispo Council of Government's Comments

Comment No.	Comment
SLOCOG-1	Comment noted. No changes to the EIR are necessary.
SLOCOG-2	The intent of TR/mm-11 is to restrict secondary access to emergency vehicles only; however, as noted in the EIR, CAL FIRE requires secondary access be automatically accessible in the event of an emergency. The EIR notes this conflict between the two agencies, and the potentially significant and unavoidable impact that would occur in the event person(s) use the secondary access road in a non-emergency situation. TR/mm-11 and HM/mm-2 have been revised to include additional language, including use of a gate that prevents non-emergency ingress on the secondary access road, and installation of a "KNOX" box to allow ingress by emergency vehicles. Refer to Final EIR Chapter II Table II-1, Chapter VIII Table VIII-1, Section V.N. Transportation and Circulation, and Section V.G. Hazards and Hazardous Materials for the revised mitigation measures.
SLOCOG-3	As part of the transportation and circulation analysis for the EIR, road segments were observed and compared to County road standards (i.e., road width, striping, shoulders, etc.) based on existing and estimated traffic average daily trips. No road shoulder improvements were warranted along Thompson Road. San Luis Obispo County Bikeways Plan (2010 Update), Appendix B, Figure 3: South County shows a proposed Class II Bikeway on North Thompson Road between U.S. Highway 101 and Sheehy Road (project transportation route identified in the EIR); however, this is not identified in the plan as a Class II Bikeways Priorities project in the 2010 Plan. Based on review by County Public Works and the County Parks Division, bike lanes were not identified as a required off-site road improvement for this project. No changes to the EIR are necessary.
SLOCOG-4	As noted in your comment letter, the terrain on the northern property is varied, and steeply sloping in portions. These northern properties are currently accessed via unimproved roads, which take direct access on Highway 101. The applicant does not propose to connect to these northern properties. It is beyond the scope of the EIR to consider how adjacent properties (not included in the project) would be accessed. No changes to the EIR are necessary.
SLOCOG-5	The EIR assessed the potential demand for transit services, and did not identify any significant transit demands, due to the rural location of the proposed, private and gated development, rural development standards for Upper Los Berros Road, and distance between the main entry gate and U.S. 101. Therefore, no transit improvements are included as mitigation. No changes to the EIR are necessary.
SLOCOG-6	Based on subsequent consultation with Caltrans (February 22, 2011), the agency is not pursuing median barriers at the Laetitia Vineyard Drive and Highway 101 intersection; however, this planning effort may be re-initiated in the future. Regardless of the median project, Caltrans objects to use of the Laetitia Vineyard Drive/Highway 101 at-grade intersection for residential use. No changes to the EIR are necessary.
SLOCOG-7	Final EIR Section V.N.6.b.4(a) and Section V.N.7.b have been clarified to note the current and future anticipated lack of funding for the Highway 101 widening project. TR Impact 4 notes: "The proposed project would add traffic to southbound Highway 101 during the p.m. peak hour and exacerbate an existing deficient condition according to Caltrans standards." TR Impact 15 notes that "The proposed project would exacerbate projected deficient operations along Highway 101 during the a.m. and p.m. peak hours under Cumulative Conditions." These impacts are identified as a Class I, significant and unavoidable. Regarding transit, the EIR analysis did not identify a significant impact or anticipated demand for transit services; therefore, related mitigation is not included.
SLOCOG-8	The applicant did not include a trail plan as part of the proposed project. No changes to the EIR are necessary.

Comment No.	Comment
SLOCOG-9	Comment noted. No changes to the EIR are necessary.
SLOCOG-10	Comment noted. No changes to the EIR are necessary.
SLOCOG-11	Comment noted. We concur that the proposed project is not consistent with the identified land use policies (refer to Final EIR Chapter IV Environmental Setting, Table IV-4 Consistency with Agriculture and Open Space Element). No changes to the EIR are necessary.

City of
Arroyo Grande
COMMUNITY DEVELOPMENT

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November 10, 2008

Mr. Brian Pedrotti, Project Manager
County Planning and Building Department
976 Osos Street, Rm. 300
San Luis Obispo CA 93408-2040

Subject: Laetitia Agricultural Cluster Subdivision – NOA for Draft EIR (Tract 2606)

Dear Mr. Pedrotti:

The City of Arroyo Grande staff respectively submits the following comments regarding the above Draft EIR. The subject 1,910-acre property lies two miles southeast of the City of Arroyo Grande, approximately a mile outside the City's Sphere of Influence and immediately adjacent to the City's Area of Environmental Concern. The project includes 102 residential lots (1-acre each) and a total of four buildable open space lots (totaling 1,787 acres) with ranch headquarters (community building), equestrian facility, homeowners association facility and recreation center. Other major project components include a wastewater treatment plant, treated effluent storage ponds, effluent disposal/irrigation system, two new water wells, water storage tank, and 25-acres of internal residential roads. **AGCD-1**

The Draft EIR indicates that there are twenty-three Class I impacts associated with the project including:

- Biology (Impact 3) – impact to 300 Oak Trees
  (Impact 7) - decrease in water quality and quantity within Los Berros Creek

City staff supports the classification of these impacts. The City takes very seriously the review of mitigation and alternatives related to even a single impacted oak tree in an effort to protect this resource within our urban community. Our efforts are rendered ineffective if the County allows the destruction of significant oak woodland habitat next door in rural lands and agricultural land use areas where there are opportunities for avoidance. The consideration of project alternatives that avoid significant oak woodland impacts is paramount to the prevention of continued fragmentation of this habitat and associated decline in the diversity and number of wildlife species. The proposed mitigation measures, while considerable, are not effective (as noted in the DEIR) and project alternatives should be considered.

Los Berros Creek connects to Arroyo Grande Creek within the City and as such, project impacts are transferred into our jurisdiction, particularly flooding impacts due to sediment. City staff is concerned with the long term reduction in quantity and quality of water, particularly in light of other projects and impacts within the **AGCD-2**

Brian Pedrotti, Project Manager
County Planning & Building
Laetitia Agricultural Cluster Subdivision – NOA for Draft EIR (Tract 2606)
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Arroyo Grande Creek Watershed. For example, what is the potential cumulative impact from the reduction of surface flow in Los Berros Creek and the limits in surface flow in Arroyo Grande Creek from the Lopez Reservoir? **AGCD-2 (cont'd)**

- Agricultural Resources (Impact 1) - permanent loss of farmland
  (Impact 2) - non-contiguous nature of the proposed project
  (Impact 4)- cumulative loss of productive Farmland Growth Inducing Class I impact **AGCD-3**

The City strongly opposes any change which dissuades land owners from taking advantage of Williamson Act conservation contract or other incentives to maintain the area as Agricultural. Cumulative impacts in consideration of Busick Track, Falcon Crest and growth areas of Nipomo further impact the City's efforts toward agricultural preservation.

- Transportation and Circulation – (Impact 4) – exacerbate existing deficient conditions Southbound 101 and at the Highway 101/Los Berros Road/North Thompson Road ramp junctions during the p.m. peak hour. (Impacts 10 and 13) – emergency vehicle access control at Laetitia Vineyard Drive) (Impact 15) Cumulative impacts on Hwy 101 during a.m. and p.m. peak hours. **AGCD-4**

Regional access to the site is provided via the Hwy 101/Thomson Road/Los Berros Road interchange in the North portion of Nipomo. Primary access to the project site would be provided from a circuitous route from Upper Los Berros Road, which connects to U.S. Highway 101 via North Dana Foothill Road, Sheehy Road, and North Thompson Avenue. Secondary vehicle access, proposed for emergency use only, will be provided via the existing Laetitia Winery entrance.

City staff supports the classification of these Class I impacts. It also appears that mitigation for several Class II impacts rely on results from future project study reports that may or may not result in adequate mitigation. Approval of additional traffic at areas where existing conditions are deficient by both County and Caltrans standards cannot be overcome by mere lengthening of deceleration lanes. Similarly, gate mechanisms and signage are insufficient to prohibit use of Vineyard Drive for typical residential traffic.

However, there appears to be no analysis of cumulative impacts to traffic along the Freeway corridor in the City or to Traffic Way and Grand Avenue intersections which are likely to be affected by the project nor acknowledgement **AGCD-5**

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County Planning & Building
Laetitia Agricultural Cluster Subdivision – NOA for Draft EIR (Tract 2606)
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of potential City growth and traffic improvements that would directly affect the project. A Project Study Report for U.S. Highway 101/El Campo, initiated by the City, is intended to address the need for traffic solutions prior to continued growth within the City, the City's Sphere of Influence and surrounding communities. This PSR evaluated an interchange solution and five alternative interchange solutions. It would appear from this generation of report, and the 2005 Regional Transportation Plan that there are severe regional traffic deficiencies for the corridor from the City to Nipomo and that an interchange alternative is the appropriate solution. The City is against any approval of a project that allows increased traffic to flow into a rural area without adequate traffic facilities and that ignores impacts to the adjacent jurisdiction. Alternatives should consider costs to correct regional deficiencies that would be exacerbated by the project. **AGCD-5 (cont'd)** **AGCD-6**

- Air Quality (Impacts 9 and 10) – Clean Air Plan inconsistency due to increased traffic trips and cumulative impacts. **AGCD-7**

City staff supports the classification of these Class I impacts and is strongly opposed to a project that is inconsistent with the County's Clean Air Plan by effectively placing a new community in a remote area and increasing traffic trips within the Arroyo Grande fringe.

- Archaeological Resources (Impacts 1 and 9) – impacts to known, significant archaeological sites. **AGCD-8**
- Noise (Impacts 2 3, and 5) – Impacts from noise due to new vehicle traffic on North Thompson Road and harvest processing facility; and
- Hazards and Hazardous materials (Impact 2) – Exceed maximum road length for CAL FIRE.
- Public Services and Utilities – (Impact 4) Increase in service need for CAL FIRE.

The City is in agreement with the classification of these Cass I impacts.

- Aesthetic Resources (Impacts 4, 5, 6 and 18) – noticeability of project from Hwy 101; impact to rural visual character and cumulative impacts from visibility of emerging development along Hwy 101corridor. **AGCD-9**

City staff supports the classification of these Class I impacts and notes that such development clearly falls within any definition of sprawl. As such, the project would distinguish the existing separation of two small town communities resulting in a direct impact to the City.

In addition, City staff is concerned that mitigation outlined for the following Class II impacts may not be adequate: **AGCD-10**

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County Planning & Building
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Water Resources Impacts 1-10. The DEIR states that the project site is located within the Oceano Hydrologic Sub-area (HSA), which is outside of the Santa Maria Groundwater Basin, as defined by the Santa Clara Superior Court. The Tri-Cities Mesa Arroyo Grande Plain and Nipomo Mesa HSA are located to the west and southwest of the project site. All existing and future water demands at the project site are served or would be served by on-site groundwater resources, including wells in the upper Los Berros Canyon. The DEIR specifies several mitigation measures that would address potential water resource deficiencies including the preparation of a Water Master Plan with various conservation measures. **AGCD-10 (cont'd)** The City requests that the County forward the project specific reports by Cleath and Associates so that we can understand the assumption that the project would not affect the level or condition of the Santa Maria Ground Water Basin by influencing water within the Tri-Cities Mesa Arroyo Grande Plain. **AGCD-11** The City believes that the regional priority is to address the lack of water resources available to serve existing communities (the City and Nipomo), sustainability of regional water supplies for regional demand should be a discussion in the EIR and any future discussion involving a Statement of Overriding Considerations should include regional sustainability objectives outlined in the Integrated Regional Water Management Plan. **AGCD-12**

Finally, the DEIR does not identify population growth from the project as significant on a community wide basis based on the population of the City, however City staff believes growth from the project will further tax existing community service facilities. **AGCD-13** The characteristic of the project will undoubtedly encourage and facilitate further growth in the Arroyo fringe area. Although the City would support economic growth opportunities that would compliment the City's economic objectives, we note that the DEIR anticipates that the project would unlikely attract new supporting businesses to the area. The City would like to highlight the analysis in the DEIR regarding removing limitations to growth, in particular that the construction of a community wastewater treatment facility would result in growth inducing effects by removing a limitation to growth and implement urban-level development within an existing agricultural and rural area. **AGCD-14**

The City appreciates the opportunity to comment on the DEIR and would like to continue to be involved in any future project discussion. **AGCD-15**

Sincerely,

Teresa McClish, AICP
Acting Community Development Director

cc: City Council
City Manager

Responses to City of Arroyo Grande Community Development Department's Comments

Comment No.	Comment
AGCD-1	Please note additional alternatives included in the EIR (Recirculated Draft EIR and Final EIR), including the Mitigated Project: Applicant Proposed Alternative (refer to Chapter VI Alternatives Analysis).
AGCD-2	As noted in the Recirculated Draft EIR and Final EIR (refer to Section V.P. Water Resources), mitigation is identified that would require restricted use of wells that may be influenced by the creek (refer to WAT/mm-1). Identified mitigation also requires monitoring of streamflow within Los Berros Creek (refer to WAT/mm-7). This recirculated section also included modified mitigation measures to incorporate additional requirements for drainage management and erosion control, consistent with existing County Ordinance regulations (refer to WAT/mm-9 and WAT/mm-10).
AGCD-3	Comment noted. No changes to the EIR are necessary.
AGCD-4	Comment noted. No changes to the EIR are necessary.
AGCD-5	The project study area was identified based on consultation with the County and California Department of Transportation, and the EIR analysis identifies the significant impacts resulting from the project, including cumulatively considerable effects. No changes to the EIR are necessary.
AGCD-6	Alternatives include reduced density projects, which would reduce traffic loads on directly and indirectly affected roadways. No changes to the EIR are necessary.
AGCD-7	Comment noted. No changes to the EIR are necessary.
AGCD-8	Comment noted. No changes to the EIR are necessary.
AGCD-9	Comment noted. No changes to the EIR are necessary.
AGCD-10	Please refer to Recirculated Draft EIR and Final EIR Section V.P. Water Resources.
AGCD-11	Please refer to Recirculated Draft EIR and Final EIR Section V.P. Water Resources, and appended *Review of Well Testing and Sustainable Yield Assessment* (Geosyntec 2011).
AGCD-12	Please refer to Recirculated Draft EIR and Final EIR Section V.P. Water Resources, and appended *Review of Well Testing and Sustainable Yield Assessment* (Geosyntec 2011).
AGCD-13	Please refer to Final EIR Section V.L. Public Services and Utilities, and Chapter VII Environmental Analysis, Growth Inducing Impacts. The EIR identified significant, but mitigable, impacts to public (community) services. No changes to the EIR are necessary.
AGCD-14	Comment noted. No changes to the EIR are necessary.
AGCD-15	Comment noted. No changes to the EIR are necessary.

State of California – The Resources Agency
DEPARTMENT OF FISH AND GAME
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November 18, 2008

Brian Pedrotti
Department of Planning and Building
County Government Center
San Luis Obispo, California 93408

Subject: Draft Environmental Impact Report (DEIR) for the Laetitia Agriculture Cluster Subdivision (SCH No. 2008091026)

Dear Mr. Pedrotti:

The Department of Fish and Game has reviewed the Laetitia Agricultural Subdivision Tract Map and Conditional Use Permit DEIR (Project). The Project would subdivide 21 parcels (approximately 1,910 acres) into 106 lots, including 102 residential lots (approximately 1 acre each) and 4 open space lots. Development within the open space lots would include a homeowner's association facility, a recreation and community center, and an equestrian facility. The DEIR considers a probable future "dude ranch" as part of the Project, although there is no application to develop the "dude ranch." There would be 140 acres of vineyards and orchards planted. Eight alternatives, including the "no build" alternative, are considered. **CDFG-1**

We are aware that the public comment period for this Project ended on November 10, 2008; due to staffing constraints we were unable to submit our comments by that date. However, rather than waiting to provide our comments during or just in advance of the public hearings that will be held on this Project, we thought that it would be helpful for San Luis Obispo County (County) to receive our comments at this time. We respectfully request that these comments are considered in the development of minimization and mitigation measures and conditions of approval for this Project.

The Department has concerns with the lack of details in the alternatives analysis, which lacks road layouts, lot configurations, and impact quantification to support the conclusions that significant biological impacts are unavoidable, and that mitigating oak woodland and Los Berros Creek surface flow reductions would be infeasible. Many of the significant impacts proposed to be mitigated through compensatory measures appear to be avoidable with alternative Project designs, given the large Project area and the relatively small sensitive habitat areas. **CDFG-2**

Additionally, the DEIR offers no location or performance standards for wetland, riparian, and special status species impacts, deferring the formulation of these measures to the time of permit and subdivision application. **CDFG-3**

The Department strongly discourages approving projects which would reduce Los Berros Creek surface flows. **CDFG-4**

The Department respectfully requests that the proposed wastewater treatment ponds be located away from creeks, employ technology that would preclude chlorinated water or other deleterious materials from discharging into wildlife habitat, and be designed and managed in a way that **CDFG-5**

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poses no risk to wildlife that may be attracted to the ponds. The Project can further minimize Los Berros Creek impacts and special-status species impacts by abandoning the existing dirt road alignment and constructing the required paved road away from the creek. As described below, we believe that the Final Environmental Impact Report (FEIR) prepared for this Project would be significantly strengthened by addressing these issues in a substantive manner. CDFG-5 (cont'd) CDFG-6

California Environmental Quality Act (CEQA) Authority: The Department is a Trustee Agency with the responsibility under CEQA for commenting on projects that could impact plant and wildlife resources. Pursuant to Fish and Game Code Section 1802, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. As a Trustee Agency for fish and wildlife resources, the Department is responsible for providing, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities, as those terms are used under CEQA. CDFG-7

The Department is a Responsible Agency when a subsequent permit or other type of discretionary approval is required from the Department, such as an Incidental Take Permit, pursuant to the California Endangered Species Act (CESA), or a Streambed Alteration Agreement (SAA) issued under Fish and Game Code Section1600 et seq.

It appears that the Project could substantially alter the bed, channel, or bank of multiple streams, which would require SAA Notification to the Department. The Department will be a Responsible Agency for this Project because of the anticipated need for SAAs. If the CEQA document prepared for this Project does not fully disclose and commit to mitigating streambed, riparian, and wetland impacts, the Department may have to prepare another CEQA document to support SAA issuance. This could delay SAA issuance and Project implementation. CEQA grants Responsible Agencies authority to require changes in a project to lessen or avoid effects of that part of the project which the agency will be called on to approve (CEQA Guidelines §15041). CDFG-8

Avoidable Wildlife Impacts from Erosion Control Mesh Products: Due to this Project site's extensive wildlife habitat interface, the Department recommends that erosion control and landscaping specifications allow only natural-fiber, biodegradable meshes, for use in erosion blankets and straw or fiber wattles. "Photodegradable" and other plastic mesh products have been found to persist in the environment, ensnaring and killing terrestrial wildlife. Herpetofauna kills are well-documented (Barton and Kinkead 2005, Walley et al. 2005, Washington State Department of Transportation 2005). Plastic mesh erosion control products would likely cause unanticipated, avoidable impacts and potential "take" of terrestrial and aquatic species. CDFG-9

Reduced Surface Water Flow in Los Berros Creek: The DEIR identifies a 0.1 cubic foot per second (CFS) reduction in surface flows in Los Berros Creek, causing an average of 22 fewer days of surface flows per year. Los Berros Creek flowed perennially until agricultural demands reduced flows to an average 145 days between 1981 and 2001. The Department is concerned with this additional proposed surface flow reduction and any further Los Berros Creek surface flow reductions. Los Berros Creek is designated critical habitat for Federally threatened steelhead (*Oncorhynchus mykiss*), supports the Federally threatened California red-legged frog CDFG-10 CDFG-11

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(*Rana draytonii*), and likely supports the California Species of Special Concern southwestern pond turtle (*Actinemys marmorata pallida*) and Coast Range newt (*Taricha torosa torosa*). The Department strongly discourages any reductions in Los Berros Creek surface flows and recommends that the County and its applicant coordinate with the United States Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) prior to Project approval. CDFG-11 (cont'd) CDFG-12

California Red-Legged Frog and Southwestern Pond Turtle: The DEIR identifies impacts to these species from, among other activities, pond removal. If retaining the existing pond is infeasible, the Department recommends offsetting the pond/aquatic habitat removal with comparable or better aquatic habitat on-site. The DEIR refers the reader to section 5.a.1 for California red-legged frog and Southwestern pond turtle mitigation. Neither section 5.a.1 nor any other section proposes replacing the lost aquatic habitat. Section 5.a.1 discusses mitigating riparian and wetland losses, but identifies no replacement ratio, goals, success criteria, contingencies, potential mitigation sites, functions and values for the target species, or other information necessary to conclude that these special status species impacts become less than significant through riparian and wetland mitigation. We recommend coordinating with the USFWS regarding California red-legged frog impacts, mitigation, and take permit requirements prior to Project approval. CDFG-13 CDFG-14 CDFG-15

Deferred Wetland, Riparian, and Special Status Species Mitigation: The lack of identified mitigation sites, goals, ratios, methods, performance standards, and contingencies amounts to deferred mitigation. DEIR section 5.a.1 further defers special status species, wetland, and riparian mitigation to the time of permit applications and subdivision applications, both of which occur after the CEQA process. CDFG-16

CEQA Guidelines (§15126.4 (a)(1)(B)) stipulates that mitigation measures should not be deferred to a future time. The Court of Appeal in *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645 struck down mitigation measures which required formulating management plans developed in consultation with State and Federal wildlife agencies after project approval. CDFG-17

The FEIR should include a plan to ensure no net loss of wetland and riparian habitat values and acreage. The DEIR proposes a riparian tree replacement ratio; the FEIR should also include a plan to replace the total *area* of wetland and riparian habitat lost, if those losses are unavoidable. Fish and Game Commission policy states that for every acre of wetland lost, no less than one acre of wetland must be created from non-wetland habitat. The policy further describes that the compensatory mitigation must at least duplicate the fish and wildlife habitat values that are lost to project implementation. Mitigation sites should include buffers of sufficient width to eliminate potential disturbance from noise, human activity, feral animal intrusion, and any other potential sources of disturbance. In-kind, on-site mitigation is generally the most acceptable. The Department strongly prefers mitigation which would both expand wetland acreage and enhance wetland habitat values, while avoiding impacts to other classes of sensitive resources. CDFG-18

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Upper Los Berros Road Impacts: The DEIR explains that the Project would require paving Upper Los Berros Road, causing further, unquantified riparian impacts. No plans are provided for the required road work. In addition, all the residential and "dude ranch" traffic would be directed to this road, which parallels the creek bank and encroaches upon the riparian habitat for several miles. Los Berros Creek is designated steelhead critical habitat and supports California red-legged frog. Nearby occurrences indicate that Los Berros Creek also likely supports southwestern pond turtle and Coast Range newt. CDFG-19 CDFG-20

The Department recommends that the applicant and the County determine the required Upper Los Berros Road improvements so that the FEIR can describe the associated impacts and determine how the Project can avoid and minimize those impacts. For example, all the development's traffic would travel on Upper Los Berros Creek Road. The traffic increase would increase roadkill, particularly for the special status herpetofauna which move between the creek channel and surrounding uplands. This could significantly reduce local populations of species, such as the Coast range newt, which migrate en masse to and from the stream during the breeding season. This slow-moving species, like all migratory salamanders, is particularly susceptible to road strikes when a road bisects the upland habitat and the breeding site. CDFG-21

The road work may also require creek bank stabilization, or increase erosion potential, leading to future creek bank stabilization projects. Roadway improvements (paving and overside drains) appear to have degraded riparian functions and have led to increased bank stabilization needs on Los Berros Creek along Sycamore Creek Lane, immediately across from the Project site. The Department would like to see prevention of further habitat degradation and channelization of Los Berros Creek. CDFG-22

The roadway improvement's impacts to Los Berros Creek may be at least partially mitigable by abandoning portions of the existing dirt road and constructing the required paved road farther from the creek. Other environmental constraints would of course have to be considered, but most could be avoided while providing a several-hundred-foot buffer from the creek in at least some areas. This may reduce some of the roadway improvement and traffic associated impacts to special status species while providing an opportunity to enhance the Los Berros Creek riparian corridor. CDFG-23

Wastewater Treatment Plant: The Department recommends locating the wastewater treatment ponds outside of the Los Berros Creek floodplain and in a location where potential discharges are less likely to affect the creek or other special status species habitats. All three proposed ponds are adjacent to creeks. CDFG-24

It is presumed that effluent would be de-chlorinated prior to being piped to the treatment ponds. The sensors and pumps which control the de-chlorination process are known to fail, resulting in releases of heavily chlorinated water. Such a failure is known to have killed steelhead in Chorro Creek in 2008. We recognize that the proposed design would not discharge effluent directly to Los Berros Creek, but the ponds' location on the creek bank poses the risk of releasing chlorine and other materials deleterious to wildlife in violation of Fish and Game Code Section 5650. CDFG-25

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The Department recommends relocating the proposed sewage treatment ponds and employing treatment technology which precludes these risks. **CDFG-25 (cont'd)**

The DEIR provides no discussion of water quality within the treatment ponds or their risk to wildlife. The ponds would likely attract shorebirds, waterfowl, California red-legged frogs, southwestern pond turtles, and other species. Wildlife use of the treatment ponds is another reason to preclude the risk of releasing chlorinated water into the ponds, even if the ponds do not discharge to the creek. The FEIR should provide sufficient sewage treatment pond details to determine their risk to wildlife, assess whether the risk is a potentially significant impact, and to identify mitigation to reduce those impacts to less than significant levels. **CDFG-26**

Keuhl Bill Interpretation: The DEIR states in multiple places that California Senate Bill 1334, or the "Keuhl Bill," which added Section 21083.4 to the Public Resources Code (PRC), limits the County to replacing only half of the oak trees that would be removed. The intent of the Keuhl Bill was not to reduce the amount of oak tree replacement, but to improve oak woodland mitigation by precluding projects from using oak tree replacement as the only method to offset impacts. PRC Section 21083.4 allows oak tree planting to comprise half of the mitigation requirement for a significant oak woodland impact, while conservation easements, Oak Woodland Conservation Fund contributions, and/or other County-prescribed measures may offset the remaining impacts. **CDFG-27**

If avoiding oak tree impacts is infeasible, the Department encourages replacing all oak trees and oak woodland area which the Project would remove and preserving the mitigation sites with conservation easements. Substantial land is available on-site to replace oak woodlands and conserve them in perpetuity. **CDFG-28**

Avoidable Streambed, Riparian, and Oak Woodland Impacts: As discussed above, realigning the existing Los Berros Creek Road would minimize and avoid impacts to Los Berros Creek and listed species. Minimizing and avoiding other biological resource impacts is also feasible. The proposed road system, lot locations, and other project features would affect 2.44 acres of wetlands and streambeds and 14.35 acres of coast live oak woodland. Fourteen creek crossings and lateral encroachments are proposed. It is unclear why the Project cannot avoid most of these significant impacts. These habitat types appear to comprise relatively small amounts of the 1,910-acre Project site (we were unable to locate a description of how much of each habitat was found on the site—only the agricultural and developed acreages were quantified). *A more clustered lot arrangement to minimize and avoid the riparian, oak woodland, and wetlands appears to be feasible given the large amount of land to work with and small amount of area that these sensitive habitat types occupy.* **CDFG-29** **CDFG-30** **CDFG-31**

A true clustered development would eliminate the need for an extensive road system, further reducing oak woodland impacts, minimizing the number of creek crossings, and minimizing habitat fragmentation. The DEIR states that reduced infiltration contributes to the predicted surface flow reduction in Los Berros Creek; a less extensive road system would also help to alleviate reduced infiltration. **CDFG-32**

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The Department also discourages the 0.32-acre wetland fill for agricultural expansion. The Department does not view this as an unavoidable impact when less sensitive upland sites are available for agricultural conversion and when the residential density could be reduced to avoid the agricultural wetland impacts. Another option is a more clustered residential layout, which would free up more space for agricultural conversion, thereby allowing agricultural expansion in uplands instead of wetlands. **CDFG-33** **CDFG-34**

Alternatives Analysis: The proposed Project's significant biological impacts are difficult to justify when the DEIR presents feasible alternatives which would substantially reduce or even avoid the Class I and Class II biological impacts. The 1,920-acre Project site provides sufficient room to configure additional alternatives in ways that reduce most of the significant impacts to less than significant levels without relying heavily on compensatory mitigation. **CDFG-35**

The alternatives analysis may not provide the level of technical detail sufficient to allow full assessment of significant environmental impacts as required by CEQA Guidelines Section 15147. The DEIR does not present maps or describe the footprint of the Reduced Density--Ordinance and General Plan Consistency Alternative, show the lot and road locations for any of the alternatives, or quantify biological impacts of the alternatives. Yet for this and other alternatives, the DEIR concludes that oak woodland and other impacts remain significant and unavoidable. Maps of alternatives should show the road and lot layouts to facilitate impact quantification and disclosure and to justify the conclusions that impacts are significant and unavoidable. The conclusions are based on either no mapping or a map showing only a general polygon intersecting a small oak woodland area (e.g., the Single Cluster Alternative). These conclusions are unsubstantiated when it appears that creative Project design could easily avoid the small oak woodland areas. Simply locating the home sites in the more plentiful and less-sensitive annual grassland would accomplish this. The same comments apply to wetland, riparian, and special status species impacts. **CDFG-36** **CDFG-37**

The DEIR also does not assess whether any of the alternatives would reduce or avoid the other Class I biological impact: reduced flow in Los Berros Creek. A reduced density may reduce the water demand to levels that do not significantly affect creek flows. **CDFG-38**

A Statement of Overriding Considerations (PRC §21081) may be unsupportable given that a) the DEIR does not demonstrate that mitigating the Class I impacts is infeasible, and b) specific economic, legal, social, technological, or other considerations that would outweigh the long-term loss of oak woodlands and the permanently reduced Los Berros Creek surface flows are not presented. We also note that PRC Section 21002.1(b) requires that "Each public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." Approval of the proposed Project may conflict with Sections 21081 and 21002 et seq. **CDFG-39**

Future Development Program: The DEIR describes the "dude ranch" as a "Future Development Program" (FDP) for which no application exists or action by the County is proposed. The DEIR makes findings of significance and prescribes mitigation measures for the FDP as if it were a Project in itself; yet the FDP does not appear to meet the CEQA "Project" **CDFG-40**

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definition (PRC §21065). The FDP determinations and mitigation measures in this DEIR may have no legal consequence. **CDFG-40 (cont'd)**

The Department requests that the DEIR consider the FDP as a probable future, reasonable foreseeable project in the cumulative impacts analysis, pursuant to CEQA Guidelines Sections 15065(a)(3) and 15355. Any mitigation resulting from cumulative impacts should be applied to the Project currently subject to CEQA: the Laetitia Agricultural Cluster. **CDFG-41**

In summary, we respectfully make the following recommendations to strengthen the Laetitia CEQA analysis:

- The CEQA document should include road and lot layout maps and impact quantification with which to compare the alternatives and support significance findings. **CDFG-42**
- The Project and the alternatives should configure roads, lots, and vineyard expansion to avoid resources, instead of relying on compensatory measures to offset impacts. **CDFG-43**
- The alternatives analysis should consider whether the alternatives would avoid or minimize the projected Los Berros Creek flow reduction. **CDFG-44**
- The final EIR should specify wetland, riparian, and special status species mitigation sites and performance standards instead of deferring the measures to the time of building permit and subdivision application and resource agency consultation. **CDFG-45**
- The CEQA document should identify the impacts and mitigation for the proposed Los Berros Road paving and consider abandoning the existing dirt road alignment to offset the road work and increased traffic impacts to the Los Berros Creek riparian corridor and its associated special status species. **CDFG-46**
- The oak woodland mitigation should replace all the trees lost instead of only half, and the Keuhl Bill interpretation should be clarified as discussed above. **CDFG-47**
- The Project should locate sewage treatment ponds away from creeks, employ technologies that preclude releasing materials deleterious to wildlife, and should be managed in a way that minimizes or avoids risk to wildlife that may be attracted to the ponds. **CDFG-48**
- The FDP should be considered in a cumulative impacts analysis only; it is a probable future project but currently does not meet the CEQA "Project" definition **CDFG-49**
- The Project should avoid any reduction in Los Berros Creek flows and water quality. The Department recommends coordinating with the USFWS and NMFS on this issue prior to Project approval. **CDFG-50**

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Thank you for the opportunity to comment on the Laetitia Agricultural Cluster Tact Map and Conditional Use Permit DEIR. If you have any questions regarding these comments, please contact Dave Hacker, Environmental Scientist, at 3196 Higuera Street, Suite A, San Luis Obispo, California 93401, by telephone at (805) 594-6152, or by email at dhacker@dfg.ca.gov.

Sincerely,

W. E. Loudermilk
Regional Manager

cc: Julie Vanderwier
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Literature Cited

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Responses to State of California Department of Fish and Game's Comments

Comment No.	Comment
CDFG-1	Your agency's comments have been considered during preparation of the Recirculated Draft EIR Biological Resources section and Final EIR.
CDFG-2	The alternatives analysis looks at cluster areas where development (including roads, lots, and accessory development) could be accommodated while avoiding or minimizing identified significant impacts. Additional alternatives are identified in the Recirculated Draft and Final EIR, which would minimize significant impacts to oak woodland and other sensitive biological resources.
CDFG-3	Please refer to BIO/mm-6 and BIO/mm-16 in the 2013 Recirculated Draft EIR, and Final EIR, which clarify performance standards for mitigation measures related to the recommended Habitat Revegetation and Restoration Plan and Special-status Plant Mitigation Plan. The applicant is required to demonstrate compliance with identified mitigation measures (including a detailed restoration plan) prior to issuance of grading and construction permits. Based on the size of the project area, and presence of several onsite drainages, adequate areas are present onsite to implement restoration efforts.
CDFG-4	Please note the applicant is no longer proposing the use of domestic wells that may directly result in reduced stream flow in Los Berros Creek, and additional mitigation is necessary to avoid influential effects to the creek flow through use of Well 11 (refer to mitigation measure WAT/mm-1) and streamflow monitoring within Los Berros Creek (refer to mitigation measure WAT/mm-7).
CDFG-5	As noted in Final Section V.O.4 Wastewater, Impact Assessment and Methodology, storage ponds and all associated equipment and facilities would be designed in compliance with existing federal, state, and local regulations, and compliance would be demonstrated prior to issuance of permits to construct the facility. Mitigation measure WW/mm-1 requires preparation of an emergency contingency plan and maintenance measures to avoid or minimize adverse effects to surface waters and biological resources. Treated effluent would be stored in irrigation ponds, similar to other agricultural irrigation ponds within the vineyards.
CDFG-6	Proposed improvements to Upper Los Berros Road will be conducted consistent with County and Cal Fire road standards. Mitigation is identified to minimize impacts to the maximum extent feasible; however, additional constraints including vineyards, slope stability, oak woodland, and road right-of-way affect final design of the improved roadway. No changes to the EIR are necessary.
CDFG-7	Comment noted. No changes to the EIR are necessary.
CDFG-8	Comment noted. No changes to the EIR are necessary.
CDFG-9	Please refer to mitigation measure BIO/mm-9, which has been supplemented by incorporation of CDFG's recommendations regarding erosion control materials.
CDFG-10	Please note the applicant is no longer proposing the use of domestic wells that may directly result in reduced stream flow in Los Berros Creek, and additional mitigation is necessary to avoid influential effects to the creek flow through use of Well 11 (refer to mitigation measure WAT/mm-1 in the 2013 Recirculated Draft EIR and Final EIR), including limitations on yield.
CDFG-11	Based on the applicant's use of domestic wells that would not directly adversely affect base stream flow in Los Berros Creek, including implementation of mitigation measures (WAT/mm-1) that would regulate use of wells that are influenced by creek flow, potential impacts to aquatic species would be avoided. Please refer to Recirculated Section V.E.5.a.6 Biological Resources, Project-specific Impacts and Mitigation Measures, Project-wide, Impacts to South-central California Coast Steelhead.
CDFG-12	Refer to response to comment CDFG-11 above.
CDFG-13	The 2013 Recirculated Draft EIR and Final Section V.E.5.b.1.d clarify potential impacts to California red-legged frog and southwestern pond turtle as a result of removal of the existing reservoir:

Comment No.	Comment
	"*Section V.E.5.a.(1) includes mitigation measures to address these impacts (refer to BIO/mm-17 and BIO/mm-19). As discussed below, three water storage reservoirs would be constructed onsite, which could potentially serve a similar habitat function as the existing agricultural reservoir to be removed. In addition, the applicant is required to implement a Habitat Revegetation and Restoration Plan to mitigate for the loss of riparian and wetland habitat (refer to BIO/mm-6), which would create or improve habitat conditions for special-status species*." Please refer to BIO/mm-6 in the 2013 Recirculated Draft EIR, and Final EIR, which clarifies performance standards for mitigation measures related to the recommended Habitat Revegetation and Restoration Plan. These standards include a minimum replacement ratio of 2:1 for permanently impacted riparian understory and wetland habitat (area), and a minimum replacement ratio of 1:1 for temporarily impacted riparian understory and wetland habitat (area). The applicant is required to demonstrate compliance with identified mitigation measures (including a detailed restoration plan) prior to issuance of grading and construction permits. Based on the size of the project area, and presence of several onsite drainages, adequate areas are present onsite to implement restoration efforts and mitigate for the loss of habitat for California red-legged frog and southwestern pond turtle.
CDFG-14	Please refer to response to comment CDFG-13, above. In addition, the applicant is required to comply with existing regulations, including the Endangered Species Act and USFWS permitting requirements.
CDFG-15	Please refer to mitigation measure BIO/mm-19, which includes a comprehensive list of mitigation measures and standards applicable to USFWS requirements. The County recognizes that USFWS may require additional standards based on further consultation with the applicant; however, the identified mitigation is consistent with standard requirements to avoid adverse impacts to California red-legged frog to the maximum extent feasible.
CDFG-16	Please refer to BIO/mm-6, BIO/mm-7, and BIO/mm-8 in the 2013 Recirculated Draft EIR, and Final EIR, which clarify performance standards, monitoring, and verification for mitigation measures related to the recommended Habitat Revegetation and Restoration Plan. The applicant is required to demonstrate compliance with identified mitigation measures (including a detailed restoration plan) prior to issuance of grading and construction permits, retain a biologist to conduct five-year monitoring to ensure success of the approved Plan, and post a bond with the County to ensure the Plan is completed, monitored, and meets success criteria.
CDFG-17	Comment noted. Please refer to response to comments CDFG-13 and CDFG-16. The County may adopt a mitigation measure requiring preparation of a restoration or mitigation plan, provided performance standards are included in order to verify successful implementation of the required plan and mitigation of the identified impact to a level of significance identified in the certified Final EIR.
CDFG-18	Comment noted. Please refer to response to comments CDFG-13, CDFG-14, and CDFG-16.
CDFG-19	Please refer to 2013 Recirculated Draft EIR and Final EIR Section V.E.5.f. Secondary Impacts, which includes an expanded discussion of potential impacts resulting from off-site road improvements to Upper Los Berros Road. No plans are currently provided; however, the EIR analysis assumes a worst case scenario that would require improving the road to meet County standards. Based on surveys conducted as part of the EIR, identified road improvements would require the removal of, or would impact, up to 1.8 acres of Central Coast sycamore / coast live oak riparian forest habitat. Please refer to Final EIR Figure V.N.-9 Transportation and Circulation Secondary Impacts, which identifies affected habitat.
CDFG-20	Comment noted. No changes to the EIR are necessary.
CDFG-21	Improvements to Upper Los Berros Road would occur within and adjacent to the existing road, which is currently used by residents and visitors to the area. The proposed road improvements would not block existing drainages or tributaries flowing into Los Berros Creek, which would continue to provide migration corridors for special-status and common wildlife species. Final EIR

Comment No.	Comment
	Section V.N. Transportation and Circulation [refer to 2) Secondary Biological Resource Impacts] has been clarified to note that: "*These creeks and tributaries also provide migration corridors for special-status and common wildlife species*." Mitigation measure TR/mm-10, which applies to the proposed Upper Los Berros Road road improvements, has been amended to include the following language (new language in italics): "Prior to approval of subdivision improvement plans, the applicant shall submit road improvement plans to the County Department of Public Works *and CAL FIRE* for review showing roadway improvements in conformance with County Standard A-1(f) along Upper Los Berros Road, up to proposed residential access road approaches to Upper Los Berros Road. *Proposed road improvements shall maintain or improve existing culverts and undercrossings for wildlife migration under the roadway, and shall be subject to review by the U.S. Fish and Wildlife Service and California Department of Fish and Game, as associated with required permits and authorizations.* In addition, *prior to construction of the Dude Ranch,* the unpaved sections of Los Berros Road up to the proposed Dude Ranch access point shall be paved in accordance with County standards. No occupancy shall occur until all improvements are completed."
CDFG-22	As noted in mitigation measure BIO/mm-6, the applicant would be required to submit a Habitat Revegetation and Restoration Plan to mitigate for impacts to sensitive habitats, including riparian and wetland habitat. As noted in mitigation measure BIO/mm-9, a final drainage plan, to be approved by County Public Works is required to ensure that "water discharges into riparian and wetland areas shall be done in a non-erosive manner." The project site and adjacent Los Berros Creek present numerous opportunities and sites to feasibly meet these mitigation standards, and may include bank stabilization along Los Berros Creek.
CDFG-23	As noted in the comment, the project area presents several environmental constraints that will be considered by the County decision makers. At this time, the EIR considers improvements to Upper Los Berros Road within the existing road right-of-way.
CDFG-24	The proposed treated effluent irrigation ponds would not be located within the floodplain of Los Berros Creek. As noted, the ponds will be approximately 25 feet from tributaries to Los Berros Creek. The EIR notes that discharge of treated effluent would have an adverse effect on biological resources. Mitigation measure WW/mm-1 requires preparation of an emergency contingency plan and maintenance measures to avoid or minimize adverse effects to surface waters and biological resources. Note that implementation of a reduced project alternative would likely reduce the quantity and size of necessary ponds; which may further reduce adverse effects as noted. No changes to the EIR are necessary.
CDFG-25	This impact is identified in the EIR; as noted above, approval of a project alternative would likely address this concern, as noted in response to CDFG-24 above. Best available technology will be required to minimize the potential for accidental discharge of chlorinated waters (refer to amended mitigation measure WW/mm-1).
CDFG-26	As noted in the 2013 Recirculated Draft EIR and Final EIR (Section V.E. Biological Resources, pages V.E.-50 through V.E.-53), and as discussed in Final EIR Section V.O. Wastewater, there is a potential for accidental spill, mechanical failure, or other unforeseen event that could cause release of raw sewage (from collection pipes) or improperly treated effluent into surface waters, including the storage ponds. In addition to measures proposed by the applicant (i.e., alarms, emergency generators, contained treatment plant) and compliance with existing regulations, mitigation is identified (refer to WW/mm-1), requiring an emergency contingency plan to avoid accidental discharge into surface waters. Implementation of these measures would minimize the likelihood of accidental harm to special-status species potentially within and down-gradient of the reservoirs.
CDFG-27	The description of the Kuehl Bill has been clarified in the EIR to reflect that mitigation would also require establishment of an open space or conservation easement (refer to BIO Impact 3).
CDFG-28	Please refer to mitigation measures BIO/mm-14 and BIO/mm-15, which require a conservation easement for oak woodland mitigation areas, or monetary contribution to the Oak Woodlands

Comment No.	Comment
	Conservation Fund. The County notes CDFG[W]'s preference regarding onsite mitigation (conservation easement).
CDFG-29	Please refer to EIR Chapter VI Alternatives Analysis, which identifies project alternatives that focus all development in one or two locations on the project site, or locates proposed lots and building envelopes such that sensitive habitats are avoided, thus avoiding and minimizing impacts to biological resources.
CDFG-30	Final EIR Figures V.E.-1 through V.E.-3 show the habitat types present onsite, and the habitats that would be affected by the proposed project. The EIR includes a quantification of impacted habitat types, and identifies measures to mitigate for the loss of identified habitat and individual oak trees.
CDFG-31	Please refer to EIR Chapter VI Alternatives Analysis, which identifies alternatives that primarily avoid riparian, oak woodland, and wetland impacts.
CDFG-32	Please refer to response to comments CDFG-29 and CDFG-31.
CDFG-33	Please refer to response to comments CDFG-29 and CDFG-31.
CDFG-34	Please refer to response to comments CDFG-29 and CDFG-31. Please note that the County will not require or provide discretionary review of agricultural areas.
CDFG-35	Comment noted. No changes to the EIR are necessary.
CDFG-36	Please refer to Chapter VI Alternatives Analysis in the Recirculated EIR, which includes additional alternatives for review and consideration. One of the alternatives, the "Mitigated Project Alternative" provides a revised tract configuration provided by the applicant, including quantification of impacts to oak woodland and individual oak trees. Through project redesign and further consultation with Cal Fire regarding vegetation and fuel load management, this revised project would significantly reduce project-specific impacts to oak woodland.
CDFG-37	Please refer to response to comment CDFG-36 above. Also, please note that the project site presents other environmental constraints, including geologic hazards, scenic resources, significant archaeological sites, and farmland, which create constraints on alternatives that would simply avoid biological resources.
CDFG-38	Please refer to response to comment CDFG-4 above, regarding the proposed changes to the water source, and avoidance of significant adverse effects to Los Berros Creek, and Chapter VI Alternatives Analysis in the Recirculated EIR.
CDFG-39	Comment noted. No changes to the EIR are necessary.
CDFG-40	While the "dude ranch" is not currently included in the applicant's application, analysis of the future development has been conducted based on available information. Future development would require review of consistency with the adopted EIR, including preparation of an Initial Study and CEQA determination. No changes to the EIR are necessary.
CDFG-41	The proposed dude ranch is identified as a future development project in the EIR. Identified mitigation does not replace the requirement for the County to comply with CEQA at the time an application for the dude ranch is submitted.
CDFG-42	Please refer to response to comment CDFG-30.
CDFG-43	Please refer to responses to comments CDFG-29 and CDFG-31.
CDFG-44	Please refer to response to comment CDFG-38.
CDFG-45	Please refer to responses to comments CDFG-16, CDFG-17, and CDFG-18.
CDFG-46	Please refer to responses to comments CDFG-19 through CDFG-23.
CDFG-47	Please refer to responses to comments CDFG-27 and CDFG-28.
CDFG-48	Please refer to responses to comments CDFG-24 through CDFG-26.

Comment No.	Comment
CDFG-49	Please refer to response comment CDFG-41.
CDFG-50	Please refer to responses to comments CDFG-10 and CDFG-11.

COUNTY OF SAN LUIS OBISPO
Department of Agriculture/Measurement Standards

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DATE: **November 21, 2008**

TO: **Brian Pedrotti, Project Manager**

FROM: **Lynda L. Auchinachie, Agriculture Department**

SUBJECT: **Laetitia Agricultural Cluster Tract 2606, CUP 2004-0001 (0825)**

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the Laetitia Agricultural Cluster project. The Agricultural Cluster subdivision tool is designed to protect resources for long-term sustainable agriculture while allowing for residential development that does not conflict with agriculture production. Comments reflect the order of the DEIR with page numbers included in parentheses. **SLOAG-1**

Environmental Setting

22.22.150 K. (IV-20) – Please clarify if the 5% calculation includes areas no longer suitable for agriculture due to the location of residential parcels. An example is the area between lots 47 and 48. The Agriculture Department is concerned that more than 5% of the site will be converted to residential uses and that Land Use Ordinance (LUO) requirements will not be met.

Water Resources

Impacts (V-48 – V-64) – The LUO includes a required finding that, "The water resources and all necessary services are adequate to serve the proposed development, including residential uses, as well as existing and proposed agricultural operations on the subject site and in the site vicinity." Based on the information in this section, it is unclear if there are adequate water resources to support future intensification of surrounding agricultural properties. Please provide clarity. **SLOAG-2**

Agricultural Resources

Agricultural Resources Section (V-159 – V-183) – In general, the Agriculture Department agrees with the analysis and conclusions presented in this section. To protect lands for continued and enhanced agricultural production, the homes should be clustered in a compact, contiguous manner that reduces the agricultural/residential interface. Such compact design minimizes conversion of agricultural resources, buffering requirements, agricultural/residential conflicts, and access roads through **SLOAG-3**

Laetitia Agricultural Cluster
Page 2

agricultural production areas. As currently proposed, the residences are extended throughout the vineyard area unnecessarily impacting agricultural resources. The removal of productive crops to accommodate a large residential development would set a precedent that is inconsistent with Agriculture and Open Space Element policies. **SLOAG-3 (cont'd)**

Table V.G.-2 (V-162) – The California Revised Storie Index is rated by Grade rather than Group. **SLOAG-4**

Table V.G.-3 (V-165) – The California Revised Storie Index rating should be updated to reflect Grade. **SLOAG-5**

Alternatives

It should be noted that agricultural buffers should be located on the residential portion of the project rather than removing/limiting lands from existing or future crop production. **SLOAG-6**

If we can be of further assistance, please call 781-5914.

Responses to County of San Luis Obispo Department of Agriculture/Measurement Standards' Comments

Comment No.	Comment
SLOAG-1	The calculation identified in Table IV-1 includes the one-acre residential parcels, roads, and wastewater treatment facility structure. The calculation does not include the areas between lots, which may be un-farmable due to proximity to residences and subsequent fracturing by development. The consistency analysis for Ordinance Section 22.22.150 has been clarified to state that "This calculation does not include the additional areas within residential clusters, which would not be feasible areas for crop production in the future."
SLOAG-2	Please refer to Recirculated and Final EIR Section V.P. Water Resources, which includes an expanded analysis of water resources and potential interference with other wells.
SLOAG-3	Comment noted. Please also refer to Final EIR Chapter VI Alternatives Analysis, which presents alternatives to the project what would reduce the area of Farmland affected by the project. No changes to the EIR are necessary.
SLOAG-4	Please refer to Final EIR Table V.B.-2 (formerly table V.G.-2), which has been corrected by replacing "Group" with "Grade."
SLOAG-5	Please refer to Final EIR Table V.B.-3(formerly Table V.G.-3), which has been corrected to reflect Grade.
SLOAG-6	Please refer to Recirculated Chapter VI Alternatives Analysis, which includes additional alternatives designed to avoid or minimize significant impacts to agricultural resources. Where applicable, buffers would be limited to the residential parcels; however, due to the presence of vineyards throughout the site, identification of an alternative that would not result in a buffer within agricultural production areas is limited.

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:
2009-FA-0018

December 1, 2008

Brian Pedrotti, Project Manager
Department of Planning and Building
County of San Luis Obispo
County Government Center, Room 200
San Luis Obispo, California 93408

Subject: Draft Environmental Impact Report for the Laetitia Agriculture Cluster Subdivision Tentative Tract Map and Conditional Use Permit (SUB 2002-00001, Tract 2606; SCH# 2005041094)

Dear Mr. Pedrotti:

This letter provides the U.S. Fish and Wildlife Service's (Service) comments on the subject draft environmental impact report (DEIR). While we recognize that comments were to be received by November 8, 2008, the Service was not aware of the availability of the DEIR until several weeks after it was initially made available to the public. As a result, we requested more time to submit our comments and you granted us an extension to December 2, 2008. **USFWS-1**

The proposed project site is located approximately 2 miles north of Los Berros Road, 2 miles north of the community of Nipomo, and 2 miles south of the city of Arroyo Grande, in the South County Inland planning area of San Luis Obispo County. The proposed project consists of the subdivision of 21 parcels (approximately 1,910 acres) into 106 lots, including 102 one-acre residential lots; four buildable open space lots (totaling approximately 1,787 acres); and approximately 25 acres of internal residential roads. Approximately 113 acres of existing vineyard would be removed to accommodate the proposed development and buffer zones. Approximately 140 acres of replacement vineyard would then be re-planted onsite. Development proposed within the open space lots includes a homeowner's association facility, recreation center, community center ("ranch headquarters"), and an equestrian facility. The proposed project would be developed in three phases. Additional components include the construction of a wastewater treatment plant, treated effluent storage ponds, effluent disposal/irrigation system, drilling of two new wells, construction of a water storage tank, installation of private water service lines, entry gates and features, public utility extensions, and landscaping. In addition to these three phases, the applicant proposes a 7.7-acre dude ranch within one of the open space lots. The applicant is not currently requesting a permit to construct the dude ranch; however, it has been included in the DEIR as future development. Existing structures onsite include a 19,278-square foot wine processing building, a 5,572-square foot hospitality building, a 47-space parking lot, 11 wells, and access roads.

The project site supports the following plant communities and habitat types: agricultural land, annual grassland, coastal scrub, Central Coast cottonwood-sycamore riparian forest, Central Coast riparian scrub, freshwater marsh wetland, coast live oak (*Quercus agrifolia*) woodland, and rock outcrop. These communities are interspersed to varying degrees within the project site and provide habitat for various wildlife species. According to the Biological Resources section of the DEIR, the federally listed species identified, or with the potential to occur, on-site include the threatened California red-legged frog (*Rana aurora draytonii*) and south-central California coast steelhead (*Oncorhynchus mykiss irideus*). The DEIR also discusses designated critical habitat for both species, stating Los Berros Creek at the southern boundary of the project site supports suitable habitat and the primary constituent elements for steelhead but that the project site is not located within any designated critical habitat for the California red-legged frog. Steelhead are under the authority of the National Marine Fisheries Service and, as such, will not be further discussed herein. This letter also includes our comments regarding the federally endangered Pismo clarkia (*Clarkia speciosa* ssp. *immaculata*), Gambel's watercress (*Rorippa gambellii*), and marsh sandwort (*Arenaria paludicola*). **USFWS-2**

The Service's responsibilities include administering the Endangered Species Act of 1973, as amended (Act), including sections 7, 9, and 10. Section 9 of the Act prohibits the taking of any federally listed endangered or threatened species. Section 3(18) of the Act defines "take" to mean "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Harm is further defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by the Service as intentional or negligent actions that create the likelihood of injury to a listed species by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. The Act provides for civil and criminal penalties for the unlawful taking of listed species. Exemptions to the prohibitions against take may be obtained through coordination with the Service in two ways. If a project is to be funded, authorized, or carried out by a Federal agency, and may affect a listed species, the Federal agency must consult with the Service pursuant to section 7(a)(2) of the Act. If a proposed project does not involve a Federal agency but may result in the take of a listed animal species, the project proponent should apply to the Service for an incidental take permit pursuant to section 10(a)(1)(B) of the Act. **USFWS-3**

As it is not our primary responsibility to comment on documents prepared pursuant to the California Environmental Quality Act (CEQA), our comments on the DEIR do not constitute a full review of project impacts. We are providing our comments based upon a review of sections addressing biological resources, project activities that have potential to affect federally listed species, and our concerns for listed species within our jurisdiction related to our mandates under the Act. Based upon our review, we have the following concerns regarding the DEIR's characterization of impacts to federally listed species. **USFWS-4**

California Red-Legged Frog: The Biological Resources section of the DEIR states that the project site is not within critical habitat designated for the California red-legged frog in 2006; **USFWS-5**

however, it should be noted that while the critical habitat units designated in 2006 are still valid, critical habitat was re-proposed on September 16, 2008. Any discussion of critical habitat should include the relationship of the project site to newly proposed units. **USFWS-5 (cont'd)**

Based upon the results of surveys conducted in October and November of 2000, nine California red-legged frogs were identified on the property, all within "areas proposed for improvements." It should be noted that surveys conducted 8 years ago should not be used to characterize the extent of current site occupation and use by the species. The survey report concludes that "The proposed project includes installation of road crossings, removal of an existing pond, grading, and lot development within California red-legged frog breeding and dispersal habitat. These activities have potential to impact or result in "take" of California red-legged frog. It is anticipated that these impacts would occur during implementation of the subdivision improvements." Despite this acknowledgment of impacts, the survey report does not make clear where these frogs specifically occur within the project area or which project activities would be likely to result in take. California red-legged frogs are known to move overland for distances well in excess of 100 feet from breeding habitat. Researchers in Santa Cruz County documented marked California red-legged frogs making overland movements of up to 2 miles over the course of a wet season (Bulger et al 2003). Individual frogs were observed to make long-distance movements that were straight-line, point to point migrations over variable upland terrain rather than using riparian corridors for movement between habitats. This information should be considered in the impacts analysis for the species. **USFWS-6**

While numerous mitigation measures are provided for the California red-legged frog in the DEIR, the general nature of the impact discussion makes it impossible to determine if they could be avoided and/or minimized or how effective these measures would be. Many of these measures would involve or facilitate take, and would therefore require an incidental take permit pursuant to section 10(a)(1)(B) of the Act or take exemption pursuant to section 7 of the Act. BIO/mm-20 states that the timing would be "prior to approval of subdivision public improvements or grading permit issuance." This means that mitigation would be deferred until such time as one of these actions occurs and would thereby require input from the Service after the project was approved by the County of San Luis Obispo. When the Service provides input or guidance on a County-permitted project without having been involved in the planning or design stages of the project it is problematic, as the County-permitted project design may preclude the implementation of certain avoidance or protective measures necessary for a project to meet the Service's issuance criteria for an incidental take permit. **USFWS-7**

Pismo Clarkia: In the Biological Resources section of the DEIR it states "David Wolff Environmental conducted focused Pismo Clarkia surveys on June 1, 2, and 4, 2004. Mr. Wolff surveyed areas that were not previously disturbed by agricultural practices and are proposed for development. Rincon Environmental Consultants conducted botanical surveys on the northwest portion of the property on December 20, 21, and 22, 2000; and, January 19, April 4, and June 8, 2001. The Rincon surveys covered the approximate locations of proposed Lots 46 through 85 and the associated roads; however, the survey did not cover the eastern portion of the property. The surveys conducted by Morro Group, Mr. Wolff, and Rincon were timed to coincide with the **USFWS-8**

appropriate blooming periods of special-status plant species that have suitable habitat within the proposed project site and were sufficient to establish the presence/absence of special-status plant species." This section of the DEIR is intended to provide information on Pismo clarkia but seems to rather focus on all sensitive plant species. Table V.C.1 also notes that "soils are not suitable" for Pismo clarkia. Our current knowledge about the habitat requirements of Pismo clarkia is limited. Pismo clarkia is an annual herb that does not necessarily appear in the same locations in consecutive years, suggesting that the species' life history may include seed dormancy and seed bank persistence or limitations. The species is typically found in native and non-native grasslands and openings associated with chaparral and oak woodland habitats, and is often, but not exclusively, found on sandy substrate. The soils and vegetation in areas where occurrences of the species are found have been mapped at a fairly coarse scale that does not capture inclusions of less area than the minimum mapping unit, and Pismo clarkia may occur in these inclusion areas. For example, a population of Pismo clarkia north of Grover City was found to occur on Santa Lucia shaly clay loam soils in the ecotone between coast live oak woodland and valley grassland. The Santa Lucia shaly clay loam series occurs within the project area as indicated in Table V.A.1 of the Geology and Soils section of the DEIR.

USFWS-8 (cont'd)

USFWS-9

Surveys for the purposes of an environmental analysis should not be restricted to those areas proposed for development; in the case of the subject project, the entirety of the project site was not surveyed for sensitive species. Conditions on many of the days during which Rincon Environmental surveyed for Pismo clarkia were not conducive to the species' detection (i.e., too early in the season). In addition, the DEIR does not indicate whether a reference population was checked to ensure that the timing of any surveys would be sufficient to verify negative findings. We were unable to review the report Mr. Wolf (Focused Pismo Clarkia Survey Letter of Findings; David Wolff Environmental, June 17, 2004) as it was not provided as part of Appendix B. This type of document should be included in the DEIR such that it can be reviewed as part of the process. Table V.C.1 of the Biological Resources section of the DEIR states that the nearest population of Pismo clarkia is located "1.68 miles south of the project site north of Black Lake Golf Course;" however, a review of the 2008 California Natural Diversity Database indicates that this population was not found during surveys conducted for the species at this location in 2006.

USFWS-10

USFWS-11

USFWS-12

Based upon the information provided, surveys conducted for Pismo clarkia are not sufficient to determine its absence from the project site. Focused surveys should be conducted for the species such that the results can be used to develop a project design that fulfills the project objectives while also avoiding and/or minimizing impacts to this federally endangered plant species.

USFWS-13

Gambel's Watercress and Marsh Sandwort: The Service considers the populations of these species at Black Lake to be extirpated. The only currently known natural population of Gambel's watercress is at Vandenberg Air Force Base, and marsh sandwort is currently known only from Oso Flaco Lake and as an introduced population in Sweet Springs Marsh in Los Osos, California. Despite these restricted known ranges, the extreme rarity of these species does not mean that populations may not exist elsewhere on unsurveyed lands.

USFWS-14

Brian Pedrotti 5

In the Sensitive Species Descriptions section of Appendix B in the DEIR, it states that potential habitat for marsh sandwort is present in the wet portions of the various drainages and within sandy openings of Los Berros Creek within the project area and that the project would require installation of road crossings in several drainages that could support marsh sandwort. While marsh sandwort was not observed during the botanical surveys, according to Appendix B surveys "were conducted towards the end of the species normal blooming period." There is no discussion of Gambel's watercress in the section; however, in Table V.C.1 of Biological Resources section it states that "Site elevation is too high. Species not observed during surveys." Aside from this brief reference, no other information regarding the actual survey dates or time expended searching for either of these species is included in the Biological Resources section or Appendix B of the DEIR. **USFWS-15**

Marsh sandwort and Gambel's watercress are critically endangered species. Their detection can be difficult and, as such, it is important that surveying botanists possess experience identifying these plants and that surveys are conducted at the proper time of year to maximize detection. **USFWS-16** Once the presence of suitable habitat has been established within the project area, focused surveys for these species should be performed. It should be noted that elevations provided for plant species are typically of a general, approximate nature and should not be used to dismiss the likelihood of occurrence if suitable habitat is otherwise present. **USFWS-17**

Based upon the information provided, we do not agree that surveys conducted for Gambel's watercress and marsh sandwort are sufficient to establish species absence within the project site. Focused surveys should be conducted such that the results can be used to develop a project design that fulfills the project objectives while also avoiding and/or minimizing impacts to these federally endangered plant species. **USFWS-18**

Migratory Birds: For both the Agricultural Residential Cluster Subdivision and Future Development Program, the Service is concerned about potential impacts to migratory birds in the proposed project area. We have conservation responsibilities and management authority for migratory birds under the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. 703 *et. seq.*) (MBTA). Any land clearing or other surface disturbance associated with the proposed actions should be timed to avoid potential destruction of bird nests or young of birds that breed in the area, as such destruction may be in violation of the MBTA. Under the MBTA, nests with eggs or young of migratory birds may not be damaged, nor may migratory birds be killed. If this seasonal restriction is not possible, we recommend that a qualified biologist survey the area for nests or evidence of nesting (e.g., mated pairs, territorial defense, carrying of nesting material, transporting food, etc.) prior to the commencement of land clearing activities. If nests or other evidence of nesting are observed, a protective buffer should be delineated and the entire area avoided to prevent destruction or disturbance to active nests. **USFWS-19** **USFWS-20** **USFWS-21**

Coast Live Oak Woodland: The DEIR considers impacts to coast live oak woodland and coast live oaks to be "significant, adverse, unavoidable." It is unclear from the DEIR how the project objectives could not be achieved (as stated in section II B of the Summary section) without the removal of up to 300 coast live oaks and over 14 acres of coast live oak woodland habitat. **USFWS-22**

Brian Pedrotti 6

While coast live oak woodland is not a resource typically regulated by the Service, loss of the plant and wildlife habitat value of 300 coast live oaks and 14 acres of coast live oak woodland habitat does cause us considerable concern, particularly in relation to watershed integrity and migratory bird habitat. Coast live oak woodlands provide important habitat for a diversity of species, notably raptors. The DEIR includes a proposed mitigation measure to compensate for up to 50 percent of the oak impacts in that "the applicant shall record a conservation easement that protects 2000 square feet of oak woodland habitat for each tree removed in perpetuity…" and that "if the applicant is not able to establish a conservation easement, the applicant shall provide funding to the California Wildlife Conservation Board to be used for the purchase of Oak Woodland Conservation Easements. The final funding amount shall include $970.00 for each tree removed." For the first scenario, the area of projected impact is 14.35 acres. To account for half of that, 7.2 acres would need to be provided. Protecting 2000 square feet each for half of the 300 oaks lost (150) would yield an area of approximately 6.9 acres, which is less than a 1:1 ratio. Additionally, if the second scenario were selected, based on our experience it is unlikely that $145,500 ($970 for each of 150 trees) would be adequate to purchase and manage over 7 acres of coast live oak woodland habitat. We encourage the applicant and County of San Luis Obispo to explore developing a project design that could meet project objectives and also better avoid coast live oak woodland and its constituent trees. **USFWS-23**

In summary, we find the DEIR to be lacking in the specificity of information regarding the presence of federally listed species needed to accurately evaluate and characterize the impacts the project, as proposed, would have on these resources. We encourage that this information be gathered for evaluation by the applicant and the County of San Luis Obispo such that any take of, or impacts to, federally listed species be avoided wherever possible or minimized to the maximum extent. We are willing and available to work with you to achieve this goal. **USFWS-24**

We appreciate the County's extension of the comment period that allowed us the opportunity to provide comments on the Laetitia Agriculture Cluster Subdivision Tentative Tract Map and Conditional Use Permit DEIR. If you have any questions regarding our comments or the section 7 and/or 10 processes, please contact Colleen Mehlberg or Julie M. Vanderwier of my staff at (805) 644-1766, extension 221 and 222, respectively. **USFWS-25**

Sincerely,

Roger P. Root

Roger P. Root
Assistant Field Supervisor

LITERATURE CITED

Bulger, J.B., N.J. Scott, and R.B. Seymour. 2003. Terrestrial activity and conservation of adult California red-legged frogs *Rana aurora draytonii* in coastal forests and grasslands. Biological conservation 110 (2003):85-95.

Responses to United States Department of the Interior Fish and Wildlife Service's Comments

Comment No.	Comment
USFWS-1	Comment noted. No changes to the EIR are necessary.
USFWS-2	Comment noted. No changes to the EIR are necessary.
USFWS-3	Comment noted. No changes to the EIR are necessary.
USFWS-4	Comment noted. No changes to the EIR are necessary.
USFWS-5	Please refer to Final EIR Section V.E. Biological Resources, Critical Habitat Designations (page V.E.-15). As noted in the EIR: "Based on the Revised Designation of Critical Habitat for the California red-legged frog Final Rule Dated March 17, 2010, USFWS has designated four California red-legged frog Critical Habitat Units in San Luis Obispo County. The proposed project site is not located in any of the four San Luis Obispo County Critical Habitat Units."
USFWS-6	Please refer to response to comment USFWS-4 (2013 letter).
USFWS-7	Please refer to responses to comments USFWS-4, USFWS-5, USFWS-6, USFWS-7, and USFWS-8 (2013 letter).
USFWS-8	Please refer to responses to comments USFWS-10, USFWS-11, USFWS-12, and USFWS-13 (2013 letter).
USFWS-9	Please refer to responses to comments USFWS-10, USFWS-11, USFWS-12, and USFWS-13 (2013 letter).
USFWS-10	Please refer to responses to comments USFWS-10, USFWS-11, USFWS-12, and USFWS-13 (2013 letter).
USFWS-11	Please refer to responses to comments USFWS-10, USFWS-11, USFWS-12, and USFWS-13 (2013 letter).
USFWS-12	Please refer to responses to comments USFWS-10, USFWS-11, USFWS-12, and USFWS-13 (2013 letter).
USFWS-13	Please refer to responses to comments USFWS-10, USFWS-11, USFWS-12, and USFWS-13 (2013 letter).
USFWS-14	Please refer to response to comment USFWS-14 (2013 letter).
USFWS-15	Please refer to responses to comments USFWS-14 and USFWS-15 (2013 letter).
USFWS-16	Please refer to responses to comments USFWS-14 and USFWS-15 (2013 letter).
USFWS-17	Please refer to responses to comments USFWS-14 and USFWS-15 (2013 letter).
USFWS-18	Please refer to responses to comments USFWS-14 and USFWS-15 (2013 letter).
USFWS-19	Please refer to response to comment USFWS-16 (2013 letter).
USFWS-20	Please refer to response to comment USFWS-16 (2013 letter).
USFWS-21	Please refer to response to comment USFWS-16 (2013 letter).
USFWS-22	Please refer to response to comment USFWS-17 (2013 letter).
USFWS-23	Please refer to response to comment USFWS-17 (2013 letter).
USFWS-24	Please refer to response to comment USFWS-19 (2013 letter).
USFWS-25	Comment noted.

AIR POLLUTION
CONTROL DISTRICT
COUNTY OF SAN LUIS OBISPO

DEC 3 2008
SLO CO PLAN & BLDG DEPT

December 2, 2008

Brian Pedrotti
San Luis Obispo County Department of Planning and Building
County Government Center Room 310
San Luis Obispo, CA 93401

SUBJECT: APCD Comments Regarding the Laetitia Agricultural Cluster Subdivision Environmental Impact Report; SUB 2003-00001 (Tract 2606); SCH #2005041094

Dear Mr. Pedrotti,

Thank you for including the San Luis Obispo County Air Pollution Control District (APCD) in the environmental review process. We have completed our review of the proposed project located at 453 Laetitia Vineyard Drive in Arroyo Grande. **APCD-1**

The proposed project would subdivide 21 parcels (1,910 acres) into 106 lots, including 102 residential lots and four open space lots. Approximately 113 acres of existing vineyard would be removed to accommodate proposed development and associated buffer zones. Approximately 140 acres of replacement vineyard would be replanted onsite. Development proposed within the open space lots includes a homeowner's association facility, recreation center, community center (ranch headquarters) and an equestrian facility. The proposed project would be developed in three phases. Additional components include the construction of a wastewater treatment plant, treated effluent storage ponds, effluent disposal/irrigation system, drilling of two new wells, construction of a water storage tank, and installation of private water service lines, entry gate and features, public utility extension, and landscaping. In addition to these three phases, the applicant proposed a 7.7 acre dude ranch (75 units) within one of the open space lots. The applicant is not currently requesting a permit to construct the dude ranch; however, the dude ranch is included in this environmental impact report as a future development proposal.

The following are APCD comments that are pertinent to this project. **APCD-2**

General Comments

This project will result in the conversion of agricultural land and an increase in vehicles miles traveled, both of which are inconsistent with the goals of the Clean Air Plan. Agricultural Residential Clusters (ARC) exacerbate the ongoing fracturing of rural land and increasing residential development in areas far removed from commercial services and employment centers. Such development fosters continued dependency of private auto use as the only viable means of access to essential services and other destinations. **The APCD does not support this project or this type of development.** This type of development is inconsistent with:

1. The land use planning strategies recommended in the San Luis Obispo County Clean Air Plan (CAP) which promote the concept of compact development by directing growth to areas within existing urban and village reserve lines (URL/VRL) to reduce vehicular emissions;
2. The Smart Growth Principles adopted by the SLO County Board of Supervisors on June 7, 2005 which support many of the land use planning goals in the CAP; **APCD-3**
3. The results of the 2006 Transportation System Performance Indicators Report that was adopted by the SLO County Council of Governments Board on March 7, 2007, a report that identified a **APCD-4**

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December 2, 2008
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system backslide with vehicular travel times and vehicle miles traveled increasing while the average vehicle ridership is decreasing; APCD-4 (cont'd)

4. Goals in the County's General Plan's Framework for Planning and the Resource Management System such as ensuring that vacant and underutilized parcels within URL/VRLs are developed first and that a distinction between urban and rural areas is maintained; and APCD-5
5. The land use goal of development that provides jobs/housing balance as a means of providing sustainable, low impact growth. APCD-6

Prohibition of Secondary Dwellings

The ARC subdivision's operational air quality impact analysis presented in the DEIR and Revised DEIR, identify what the impacts will be from the 102 single family residences. **Should the ARC subdivision move forward, to ensure that the these documents accurately represent the operational impact of the 102 homes, the DEIR should include an additional mitigation measure that prohibits secondary dwellings. Furthermore, this will help to ensure that the mitigation from the proposed project is not undermined by impacts not accounted for within the DEIR (i.e., secondary homes and associated vehicle trips). This recommendation would also be necessary should a reduced unit alternative be selected.** APCD-7

Incompatible uses

Another concern regarding this type of development is residential dwellings in close proximity to agricultural operations. Dust, odors, and particulate matter from agricultural burning can all present health concerns and issues for residents. While buffer zones have been proposed for this project, buffer zones often times fall short in providing adequate protection for the residences. Measures to address dust, odors and agricultural burning are proposed below. APCD-8

Specific Comments

1. Page V-229 - It should be noted that District staff recommend that all air quality emission calculations be conducted with the most recent version of URBEMIS with is 2007 not URBEMIS 2002. APCD-9

2. Page V-233 - Conoco Phillips is the current owner of the refinery on the Nipomo Mesa. APCD-10

3. Page V-234 - The 2001 Clean Air Plan (CAP) for San Luis Obispo County only addresses ozone. Paragraph 3 on this page incorrectly states that it addresses both ozone and PM10. APCD-11

4. Page V-238 - In addition to the list of special conditions which could result in a finding of significance, the following item should be added: APCD-12
   - If the project is sited in close proximity to a toxic air pollution source (ie. freeways, distribution centers, rail yards, ports, refineries, chrome plating facilities, dry cleaners, and gasoline dispensing facilities) then a health risk assessment may be required. APCD-13

5. Page V-242 – To assess the total impact from construction for the entire project, the grading for the dude ranch must be included in the calculations. **The applicant should make an estimate of the cut and fill volumes for that portion of the project as was done for the residential component. The construction calculations should be redone to include the dude ranch. The construction calculations should also include the drilling and construction of the new water wells.** APCD-14

6. Page V-240- A finding for construction emissions can not be made until the dude ranch construction has been included in the calculations. APCD-15

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7. Page V-246 - AQ/mm-7 - The developmental burning restricts will apply to any phase of construction. It is not clear what is meant by "construction of subdivision improvement plans". This should be changed to include: **any development addressed in the EIR will be subject to the development burning restrictions. It should be noted for this type of developmental burning will not be allowed.** APCD-16

8. Page V-247 - AQ/mm-8 - This measure requires compliance with NESHAP requirement and states that "*for any future propose development within the homeowner's association site*". It is not clear what is being referred to as development within the homeowner's association site. This should be changed to include **any development addressed in the EIR will be subject to the NESHAP requirements.** APCD-17

9. Page V-248 - AQ/mm-9 – District staff agrees with the requirement in AQ/mm-9 to prohibit residential green waste burning. APCD-18

However, the potential for agricultural burning can also result in incompatibility with future homeowners. The applicant has provided agricultural buffering for the ARC subdivision, however, **since the agricultural operation is controlled by the applicant, the APCD strongly urges the following mitigation measure to address the agricultural burning incompatibility issue for the ARC subdivision. If agricultural burning is not limited in this manner, it is possible that it will result in nuisance complaints from agricultural burning that could require enforcement action.** APCD-19

Add Air Quality Mitigation Measure as follows:

Limitation of Agricultural Burning APCD-20

APCD's Rule 501 allows for agricultural burning of agricultural green waste with agricultural burn permits. However, agricultural burning around agricultural clustered developments can result in nuisance and negative health impacts to residents and is an example of the incompatibility of allowing clustered residential developments inside land that has intensive agricultural practices. **Implement the following mitigation measures to minimize these public nuisance and health impacts:**

Prohibit agricultural burning of materials from the agricultural land that is upwind of residential units. For downwind locations, prohibit agricultural burning within 1000' of residential units. APCD-21

10. Page V-249 – **Operational Impacts – District staff have reviewed the emission analysis for the operational phase of the project. The estimated emissions presented in Table V.I.-6 appear to underestimate the emissions for the project for the following reasons:** APCD-22

a. It appears that the operational phase emissions were based on the traffic report and an estimated 1,234 daily trips. This number does not take into consideration the equestrian and other special events associated with the Dude Ranch, nor does it take into consideration hauling of the solid from the waste water treatment plant.

b. Due to the remote location of this project the APCD recommends the trip distance default be 13 mile for all categories of trips. The full URBEMIS report was not included in Appendix E, so it is not possible to determine what distance was used for the modeling. However due to the remote location of this project all trip length should be set to 13 miles. APCD-23

c. For future reference the full URBEMIS report should also be included in EIR, not just the summary sheets. APCD-24

d. Greenhouse gases should be quantified as part of the operational phase air quality impacts. APCD-25

The operational phase emission should be recalculated to address the items listed above. APCD-26

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In lieu of final emission calculations for the operational phase of this project; and based on data presented to date the APCD agrees that this project will exceed the CEQA Tier II threshold of 25 lbs/day. Due to the remote nature of the proposed project most of the emissions from this project will be related to vehicle trips which are not easily mitigated. For these reason as indicated in AQ/mm-13 off-site mitigation fees will be required to bring this project to a level of insignificance. The APCD will work with the County to define necessary offsite mitigation necessary for this project. **APCD-27**

11. Page V-253 -Generation of Dust - Dust generation from the equestrian facility is addressed in this section but fugitive dust on roadway and from other agricultural activities is not. **The following measures should be included in this section of the EIR.** **APCD-28**

- As indicated in the DEIR certain roadways within the development will be shared with agricultural equipment. Since San Luis Obispo County is a non-attainment area for PM_{10} dust control measures should be utilized to prevent agricultural equipment from tracking soil on to the roadway which could then create fugitive dust. **This could be accomplished by installing wheel washers or other control technologies where agricultural vehicles enter shared roadways. The applicant should develop a plan with best management practices to control fugitive dust on shared roadways. This requirement should be included in an agricultural best management practice plan and submitted to the APCD for review and approval.** **APCD-29**

- Agricultural activities can also generate fugitive dust, which could be a nuisance to residents in close proximity to agricultural activities. Dust complaint could result in a violation of the District's 402 "Nuisance" Rule. Measures should be implemented to prevent agricultural dust from impacting residential dwellings. **These measures should be included in an agricultural best management practice plan and submitted to the APCD for review and approval.** **APCD-30**

12. Page V-253 - AQ Impact 7 – The waste water treatment plant will require a permit from the Air Pollution Control District. Prior to the start of construction of the waste water treatment plant the project proponent will be required to obtain an Authority to Construction. In addition, other equipment and or processes may require a permit. For example portable generators and equipment with engines that are 50 hp or greater; or wineries expansions with the capacity of 26,000 gallons per year or more require a Permit to Operate for fermentation and storage of wine. **To minimize potential delays, prior to the start of the project, please contact the APCD Engineering Division at (805) 781-5912 for specific information regarding permitting requirements.** **APCD-31**

13. Page V-253 - AQ Impact 7 – In addition to odor from the equestrian facility and proposed waste water treatment plant the existing waste water treatment plant used for agricultural purpose could also be a source of odors. **Proven methods for handling wastewater discharge and handling of the skins needs to be incorporated into the winery odor control plan to minimize the occurrence of anaerobic processes that mix with ambient air which can result in offsite nuisance odor transport.** **APCD-32**

14. Page V-258- With regard to greenhouse gases, the APCD suggests that projects subject to CEQA quantify project related GHG emissions and identify feasible mitigation. With the passage of AB32, the California Global Solutions Act, the evaluation of Green House Gas impacts during the CEQA review process has gained strong support from the California Attorney General. On June 19, 2008, the California Office of Planning and Research (OPR) released a Technical Advisory titled *CEQA and Climate Change: Addressing Climate Change Through CEQA Review (http://opr.ca.gov/index.php?a=ceqa/index.html).* **APCD-33**

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The following statement is made in paragraph 4 on page V- 258 regarding GHGs "*Due to the lack of significance thresholds and associated impact determinations, mitigation measures cannot be required for the proposed project*". **APCD staff does not agree with this statement.** The following excerpts have been taken from the OPR Technical Advisory cited above. **APCD-34**

- *"Senate Bill 97, enacted in 2007, amends the CEQA statute to clearly establish that GHG emissions and the effects of GHG emissions are appropriate subjects for CEQA analysis."*
- *"CEQA obligates public agencies to consider less environmentally-damaging alternatives and adopt feasible mitigation measures to reduce or avoid a project's significant impacts."*
- *"Public agencies are encouraged but not required to adopt thresholds of significance for environmental impacts. Even in the absence of clearly defined thresholds for GHG emissions, the law requires that such emissions from CEQA projects must be disclosed and mitigated to the extent feasible whenever the lead agency determines that the project contributes to a significant, cumulative climate change impact."*

APCD recommends that the greenhouse gases from this project be quantified and the implementation of feasible mitigation measures that minimize project related GHG impacts for the residential, dude ranch and waste water treatment plant. **APCD-35**

The DEIR presents some potential mitigation measures for GHG on page V258. District staff recommends that the list of potential mitigation measures outlined in the California Air Pollution Control Officers Association's (CAPCOA) white paper entitled "CEQA and Climate Change," dated January 2008, be reviewed and additional measures be incorporated into the project. **APCD-36**
This document can be found at http://www.capcoa.org/ceqa/CAPCOA%20White%20Paper%20-%20CEQA%20and%20Climate%20Change.pdf

15. Page VI-4 - **On the list of Class I impact – APCD staff recommends adding the project will contribute to the cumulative impacts associated with an increase in greenhouse gases from the project.** **APCD-37**

16. Page VI-5 – Regarding Project Alternatives – APCD staff would support the no project alternative. While some of the other alternatives evaluated would decrease the number of dwelling units the development will still contribute to urban sprawl and is inconsistent with the goal and objective of the Clean Air Plan. **APCD-38**

Again, thank you for the opportunity to comment on this proposal. If you have any questions or comments, feel free to contact me at 781-4667.

Sincerely,

Melissa Guise

Melissa Guise
Air Quality Specialist

MAG/arr

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Responses to County of San Luis Obispo Air Pollution Control District's Comments

Comment No.	Comment
APCD-1 through 38	Please refer to responses to comment letter APCD (resubmitted comments). The resubmitted comment letter and responses are provided in Final EIR Section XI.A. (see APCD[a]).

California Regional Water Quality Control Board
Central Coast Region

Linda Adams
Secretary for Environmental Protection

Arnold Schwarzenegger
Governor

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December 2, 2008

Mr. Brian Pedrotti, Project Manager
San Luis Obispo County Planning & Building Dept.
976 Osos Street, Room 300
San Luis Obispo, CA 93408-2040

bpedrotti@co.slo.ca.us

Mr. Pedrotti:

ADDITIONAL COMMENTS: DRAFT ENVIRONMENTAL IMPACT REPORT FOR LAETITIA AGRICULTURAL CLUSTER SUBDIVISION TRACT MAP AND CONDITIONAL USE PERMIT, SAN LUIS OBISPO COUNTY (TRACT 2606)

Thank you for the opportunity to review the Draft EIR, Laetita Agricultural Cluster Subdivision Tract Map and Conditional Use Permit for subdividing 21 parcels (1,910 acres) into 106 lots, including 102 residential lots and four open space lots. The Water Board is a responsible agency under the California Environmental Quality Act (CEQA). The Central Coast Regional Water Quality Control Board (Water Board) provided comments on the Draft EIR in our October 16, 2008 letter. Water Board staff has additional comments on the Draft EIR to specifically address stormwater issues. **RWQCB[b]-1**

The Draft EIR details the project will result in permanent impacts to 0.55 acres of a freshwater marsh wetland and other wetlands throughout the project site. The project applicant has not adequately demonstrated alternatives for avoiding these impacts. The freshwater marsh wetland currently provides natural filtration and flow control for inputs to the Los Berros Creek tributary down-gradient of the wetland. By damaging the freshwater marsh wetland, Los Berros Creek is more susceptible to negative downstream impacts. **RWQCB[b]-2**

The Draft EIR details the project will potentially cause increased erosion and higher pollutant loads in Los Berros Creek and its tributaries. The Draft EIR suggests using riprap at the outfalls into the receiving waterbodies to prevent erosion and synthetic materials at the outfalls to remove pollutants. Both these measures are 'end-of-the-pipe' solutions and are typically inadequate mitigation measures to manage these potential threats to the receiving waterbodies. **RWQCB[b]-3**

The developer should include 'end-of-the-pipe' solutions that utilize natural flow diffusion methods and natural pollutant removing methods. Additionally, the developer must primarily focus on stormwater controls at the sources, as oppose to just focusing on the outfall locations. Draft EIR, WAT Impact 4, proposes the individual lots incorporate site-specific landscaping stormwater controls as feasible. The developer must require site specific stormwater controls to manage flow and pollutant loads, to mimic natural hydrology, and show that these stormwater controls will not increase downstream erosion. The mitigation language in the Draft EIR, WAT Impact 4, is vague and does not specify the effectiveness level the site-specific stormwater controls must achieve. **RWQCB[b]-4**

Additionally, the project applicant must ensure the homeowner's association for the future subdivision will oversee long-term maintenance of site-specific stormwater controls, in addition to the long-term maintenance of stormwater management facilities and infrastructure that support the entire project area. **RWQCB[b]-5**

California Environmental Protection Agency

Recycled Paper

The County of San Luis Obispo is enrolled under the NPDES Phase II Municipal Stormwater Permit (General Permit). As part of its responsibility, the Water Board must determine permittees' compliance with General Permit requirements. This includes determining whether municipalities have reduced pollutant discharges to the Maximum Extent Practicable (MEP).[1] The General Permit requires permittees to prevent or minimize water quality impacts from new development and redevelopment projects.[2] The volume and velocity of stormwater discharged from impervious surfaces can cause increased bank erosion and downstream sedimentation, scouring, and channel widening, which significantly impact aquatic ecosystems and degrade water quality. Therefore, permittees must develop and implement Stormwater Management Programs (SWMP) that require new and re-development maintain pre-development hydrologic characteristics, such as flow patterns, surface retention, and recharge rates, in order to minimize post-development runoff impacts to water bodies. In most cases, MEP standards are not met by conventional site layouts, construction methods, and stormwater conveyance systems with "end of pipe" basins, as treatment systems that do not address the changes in volume and rates of storm water runoff and urban pollutants (including thermal pollution). Low Impact Development (LID) practices meet the MEP standard and are more effective at reducing pollutants in storm water runoff at a practicable cost. **RWQCB[b]-6**

LID is an alternative site design strategy that uses natural and engineered infiltration and storage techniques to control stormwater runoff where it is generated. The objective is to disperse LID devices uniformly across a site to minimize runoff. LID serves to preserve the hydrologic and environmental functions altered by conventional stormwater management. LID methods provide temporary retention areas, increase infiltration, allow for pollutant removal, and control the release of stormwater into adjacent waterways (Anne Guillette, Whole Building Design Guide). For further information on LID please see:

http://www.epa.gov/owow/nps/lid/

or

http://www.lowimpactdevelopment.org/

Water Board staff considers a project that meets the following descriptions (inclusive) to be a LID project:

A. Runoff Volume Control. The pre-development stormwater runoff volume is maintained by a combination of minimizing site disturbance and providing distributed retention BMPs. Retention BMPs are structures that retain the excess (above pre-development project volumes) runoff resulting from the development for the design storm event (2-, 10-, and 25-year, 24-hour duration storm). Note that "retention" is required, as opposed to "detention"; retention may be achieved using infiltration methods, and capture-for-use methods.

[1] "Permittees must implement Best Management Practices (BMPs) that reduce pollutants in storm water runoff to the technology-based standard of Maximum Extent Practicable (MEP) to protect water quality." Effluent Limitations, General Permit Fact Sheet, pg. 6.

[2] "Post-Construction Storm Water Management in new Development and Redevelopment – The Permittee must: 1) Develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects…by ensuring that controls are in place that would prevent or minimize water quality impacts", General Permit, pg 11, Provision e.1.

B. Peak Runoff Rate Control. LID practices maintain the pre-development peak runoff discharge rate. This is done by maintaining the pre-development time of concentration and then using retention and/or detention BMPs (e.g., rain gardens, open drainage systems, etc.) that are distributed throughout the site, to control runoff volume. If retention practices are not sufficient to control the peak runoff rate, detention practices may be added. **RWQCB[b]-6 (cont'd)**

C. Flow Frequency Duration Control. Since LID emulates the pre-development hydrologic regime through both volume and peak runoff rate controls, the flow frequency and duration of post-development conditions must be identical (to the greatest extent possible) to those of pre-development conditions. Maintaining pre-development hydrologic conditions will minimize or eliminate potential impacts on downstream habitat due to erosion and sedimentation.

Therefore, permittees must incorporate LID methodology into new and redevelopment ordinances and design standards, unless permittees can demonstrate that conventional BMPs are equally effective, or that conventional BMPs would result in a substantial cost savings, while still adequately protecting water quality and reducing discharge volume. In order to justify using conventional BMPs based on cost, permittees must show that the cost of low impact development would be prohibitive because the "cost would exceed any benefit to be derived." (State Water Resources Control Board Order No. WQ 2000-11). Environmental Protection Agency studies have shown LID is generally less expensive than conventional development.

The Draft EIR currently incorporates measures to address peak runoff rate controls and some LID practices. The Final EIR must incorporate LID or equivalent technologies as mitigations to meet all the control measures listed above.

We look forward to seeing the Final EIR and request we be contacted when the document is available. If you have questions, please contact **Tamara Presser at (805) 549-3334** or **Matt Thompson at (805) 549-3159**. **RWQCB[b]-7**

Sincerely,

Lisa H McClam

for Roger W. Briggs
Executive Officer

cc:

Dave Hacker
CA Dept. of Fish & Game
3196 South Higuera St., Suite A
San Luis Obispo, CA 9340

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California Environmental Protection Agency

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Responses to State of California Regional Water Quality Control Board's Comments [b]

Comment No.	Comment
RWQCB[b]-1	Comment noted. No changes to the EIR are necessary.
RWQCB[b]-2	Please refer to Recirculated EIR and Final EIR Chapter VI Alternatives Analysis, which includes additional alternatives designed to avoid or further minimize permanent impacts to wetland habitat, including avoidance of freshwater marsh habitat (refer to Redesigned Project A – Single Cluster Alternative; Redesigned Project B – Single Cluster Alternative, 93% Reduction).
RWQCB[b]-3	Please refer to Recirculated Draft EIR (and Final EIR) Section V.P.5.a.2 Water Resources, Project-specific Impacts and Mitigation Measures, Project-wide, Drainage and Flooding. This section includes additional analysis and information regarding County regulations specific to drainage and stormwater runoff. In addition, mitigation measure WAT/mm-9 and 10 include additional measures addressing natural flow diffusion and natural pollutant removal.
RWQCB[b]-4	Please refer to Recirculated Draft EIR (and Final EIR) Section V.P.5.a.2 Water Resources, Project-specific Impacts and Mitigation Measures, Project-wide, Drainage and Flooding. This section includes additional analysis and information regarding County regulations specific to drainage and stormwater runoff. In addition, mitigation measure WAT/mm-10 ensures compliance with County LID Standards.
RWQCB[b]-5	The County ensures long-term maintenance of private systems through the approved SWPPP. The County Land Use Ordinance (Sections 22.10.155, 22.52.130.F.6 and 7 and 22.52.130.G) identifies post-construction stormwater management plans that address operation and maintenance, including short and long-term funding sources, the responsible party, and implementation of a monitoring program.
RWQCB[b]-6	Please refer to Recirculated Draft EIR (and Final EIR) Section V.P.5.a.2 Water Resources, Project-specific Impacts and Mitigation Measures, Project-wide, Drainage and Flooding. Mitigation measure WAT/mm-10 has been added to ensure compliance with County LID Standards.
RWQCB[b]-7	Comment noted. No changes to the EIR are necessary.