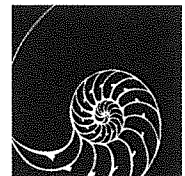


FINAL
ENVIRONMENTAL IMPACT REPORT

State Clearinghouse Number: 2010082060

FREMONT DRAFT GENERAL PLAN UPDATE

PREPARED FOR:
CITY OF FREMONT



PREPARED BY:
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OAKLAND, CA 94606

SEPTEMBER 2011

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PREFACE

PURPOSE OF THE FINAL ENVIRONMENTAL IMPACT REPORT

The California Environmental Quality Act of 1970, as amended (CEQA) requires Environmental Impact Reports (EIRs) to be prepared for all projects which may have a significant impact on the environment. An EIR is an information document, the purposes of which, according to CEQA Guidelines, are "...to identify the significant effects of a project on the environment, to identify alternatives to the project, and to indicate the manner in which such significant effects can be mitigated or avoided." The information contained in this EIR is intended to be objective and impartial, to enable the reader to arrive at an independent judgment regarding the probable character and significance of the environmental impacts associated with implementation of the Fremont DRAFT General Plan Update.

In accordance with the requirements of CEQA, this FINAL EIR formally consists of the responses to comments on the DRAFT EIR and revisions of those portions of the DRAFT EIR which have been modified. The FINAL EIR includes copies of all written comments received during the 45-day public review period following publication of the DRAFT EIR and provides responses to those comments. In some cases, revisions to the DRAFT EIR have been made, and all such changes are reflected in this document. As required by CEQA, this document addresses those comments received during the public review period that relate directly to the adequacy and completeness of the DRAFT EIR. The FINAL EIR does not address those comments about the merits of the DRAFT General Plan Update that do not implicate the DRAFT EIR's analysis of the environmental issues associated with the Project.

The EIR (which is comprised of the DRAFT EIR and the FINAL EIR) is intended to be certified as a complete and thorough program-level record of the types of environmental impacts that may be associated with implementation of the DRAFT General Plan Update. Certification of the EIR as adequate and complete must take place prior to any formal Lead Agency action on adopting the General Plan Update, and certification of the EIR does not equate to approval of the DRAFT General Plan Update.

The EIR has been prepared pursuant to CEQA as amended (commencing with Section 21000 of the California Public Resources Code), and the CEQA Guidelines.

ORGANIZATION OF THE FINAL EIR

The FINAL EIR consists of the following major sections:

Preface – outlines the objectives of the EIR and important preliminary information.

Revisions of the DRAFT EIR – contains revisions to the DRAFT EIR text and graphics.

Comments and Responses – contains letters of comment on the DRAFT EIR and verbal comments recorded during the study session on the Draft EIR, along with responses to these comments.

This FINAL EIR has been prepared for the Lead Agency (City of Fremont) by Lamphier-Gregory, Urban Planning and Environmental Analysis. Each participant in the preparation of the EIR has extensive experience and knowledge in their respective fields. The information in the EIR has been compiled from a variety of sources, including published studies, applicable maps and independent field investigations. Unless otherwise noted, all background documents are available for inspection at the City of Fremont, Community Development Department, 39550 Liberty Street, Fremont, California, 94537-5006.

PUBLIC REVIEW PROCESS

The DRAFT EIR was circulated for public review between July 6, 2011 and August 19, 2011. The DRAFT EIR was available for review at the City of Fremont Community Development Department offices and on the City's website. Copies of the DRAFT EIR were made available through the City of Fremont.

At the close of the public review period, all comments received were compiled, and responses to these comments were prepared and presented in a FINAL EIR. The FINAL EIR also incorporates any necessary revisions to the DRAFT EIR made in response to comments received. The Planning Commission will review the EIR (comprised of the DRAFT EIR and FINAL EIR) and make a recommendation to the City Council, and the City Council will then independently consider whether or not to certify the EIR as adequate and complete.

After reviewing the DRAFT EIR and the FINAL EIR, and following action to certify the EIR as adequate and complete, the City Council will be in a position to determine whether the General Plan Update should be adopted as proposed, revised, or rejected. This determination will be based upon information presented on the DRAFT General Plan Update, impacts and probable consequences, and the possible alternatives and mitigation measures available.

Where potentially significant and unavoidable environmental impacts have been identified in the EIR, the Lead Agency (City of Fremont) will be required to make a written statement of overriding considerations. In accordance with CEQA Guidelines, Section 15093 [a], a decision-making agency must balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental

risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable”.

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REVISIONS OF THE DRAFT EIR

On DEIR page i, under **4. ENVIRONMENTAL ANALYSIS**, J. Cultural and Paleontological Resources has been modified to read “J. Cultural and Archaeological Resources”.

On DEIR page 2-15, the third sentence in the last complete paragraph has been modified to read as follows:

“Because of the City’s vision for “strategically urban” development (described in more detail in Chapter 3, Project description), the City is estimating for purposes of evaluating DRAFT General Plan Update potential environmental impacts that Fremont’s population will grow to ~~263,585~~ 259,000 in 2035.”

On DEIR page 2-48, the text of **Mitigation AIR-2** has been modified to read as follows:

“Mitigation AIR-2: ~~Modify Implementation Measures of the DRAFT General Plan Update Policy 7-7.3 and Related Implementation Measures to Minimize Potential Exposures of Sensitive Receptors to TACs. Implementation 7-7.3A: Prohibit Sensitive Receptors in Poor Air Quality Areas Policy 7-7.3 and related implementation measures~~ shall be modified as follows:

~~“Minimize exposures of new sensitive receptors/land uses near sources of TACs such as freeways, rail lines, stationary air pollutant sources, and industrial areas where existing or projected air quality problems exist. The following measures should be considered to reduce TAC exposures:~~

- ~~• Site-specific studies to identify significance of TAC exposure to identify whether or not additional mitigation measures are necessary, if so, implement the following examples of site-specific mitigation measures:~~

- ~~○ Site design to reduce TAC exposure;~~

- ~~○ Phased developments that delay occupancy of areas with highest TAC exposure to allow for the effects of lower~~

~~future TAC emissions from CARB and BAAQMD regulations or standards that are currently in effect (these regulations or standards require time to become more effective);~~

- ~~○ Landscape planning that includes trees or other vegetation to reduce TAC exposure;~~
- ~~○ Install and maintain filtration systems of fresh air intakes to buildings that sensitive receptors would occupy. Such a measure shall only be undertaken after site-specific studies have identified the magnitude of exposures and level of reductions necessary to minimize exposures to acceptable levels; and~~
- ~~○ Reduce emissions at sources through a number of measures that may include physical treatments to stationary sources, restrictions on the use of those sources, parking/idling restrictions, and truck routing requirements.”~~

“• Policy 7-7.3: Land Use Planning to Minimize Health Impacts from Toxic Air Contaminants

Coordinate land use planning with air quality data and local transportation planning to reduce the potential for long-term exposure to toxic air contaminants (TAC) from permanent sources that affect the community.

Implementation 7-7.3A Limit New TAC Sources

Evaluate new sources of TAC emissions pursuant to BAAQMD guidelines and thresholds for an increased health risk of no more than 10 additional incidents of cancer per million exposures or contribute to a cumulative risk in excess of 100 additional incidents of cancer per million exposures.

Implementation 7-7.3B Limit New Residential Development in High Risk Areas

For infill development sites within existing neighborhoods, apply thresholds for review when new sensitive receptors are within areas exposed to health risk levels in excess of 100 additional incidents of cancer per million exposures. Infill development also includes conditional development of a mixed use and urban residential development within residential and commercial areas of Centers and Urban Corridors.

When considering land use changes that add sensitive receptor uses outside of existing neighborhoods, apply thresholds for review when new sensitive receptors are within areas exposed to health risk levels in excess of 10 additional incidents of cancer per million exposures.

Implementation 7-7.3C Incorporate TAC Controls with New Development

New development projects with sensitive receptors within 1000 feet of a freeway or major TAC source shall assess the TAC health risk for the site and incorporate, to the maximum extent feasible, risk reduction measures to reduce exposure to TAC. Risk reduction measures may include, but not limited to, project phasing, site orientation, distance separations, landscape buffering, building air filtration systems, modified building design or building type, or offsite improvements at a TAC source.”

On DEIR page 2-59, the text of **Mitigation UTIL-1B: Coordinate Use of Recycled Water with ACWD** has been modified to read as follows:

“For development projects located in areas where recycled water is ~~made available~~ planned by Alameda County Water District, developers shall coordinate with ACWD on the installation of separate, non-potable water distribution systems (i.e., purple pipe) for landscape irrigation and other non-potable water needs.”

On DEIR page 3-23, in the block in **Table 3-2: Growth Assumption Comparison** showing “Jobs” for “ABAG Projections for 2035”, the value “127,800” is replaced with the value “140,440”.

On DEIR page 4-194 and 4-195, the sentence beginning on page 4-194 and continuing on to the top of page 4-195 has been modified to read as follows:

“Alameda Creek water, which is diverted and stored in the former quarry ponds on the floodplain ~~west on both sides~~ of the Hayward Fault, accounts for about 15 percent of Fremont’s total water supply, and is used to recharge the aquifers of the Niles Cone Groundwater Basin.”

On DEIR pages 4-137 and 4-138, the text of **Mitigation AIR-2** has been modified to read as follows:

“Mitigation AIR-2: Modify Implementation Measures of the DRAFT General Plan Update Policy 7-7.3 and Related Implementation Measures to

Minimize Potential Exposures of Sensitive Receptors to TACs.
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 - ~~○ Reduce emissions at sources through a number of measures that may include physical treatments to stationary sources, restrictions on the use of those sources, parking/idling restrictions, and truck routing requirements.”~~~~

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On DEIR page 4-209, the following paragraph is added immediately before the *San Francisco Public Utilities Commission Water System Improvement Program*:

“ACWD also conducts groundwater protection and management efforts under Alameda County Water District Groundwater Protection Act (Division 12, Part 5, Chapter 1,

Article 9.3, commencing with Section 31142.20 of the California Water Code) and Alameda County water District ordinance No. 2010-01. As required by ACWD's Ordinance No. 2010-01, an ACWD drilling permit is required prior to the start of any subsurface drilling activities for wells, exploratory holes, and other excavations. Under cooperative agreements with the Regional Water Quality Control Board and the City of Fremont, ACWD also provides regulatory oversight of Leaking Underground Fuel Tank cases and Spills, Leaks, Investigation, and Cleanup cases."

On DEIR page 4-293, the following sentence has been added at the end of the first incomplete paragraph at the top of the page:

"In the event that development is actually proposed on either of these two parcels during the 25-year planning horizon of the General Plan Update, the City of Fremont will evaluate the site-specific impacts on farmlands in accordance with the Land Use Evaluation and Site Assessment (LESA) model."

On DEIR page 4-293, the second complete paragraph has been modified to read as follows:

~~"When residential development of the Guardino parcel actually takes place in the future (resulting in the loss of "Prime Farmland") and when development of the I-680/Palm properties actually takes place in the future (resulting in the loss of "unique Farmland"), this would represent~~ Provided that the completion of a site-specific analysis (LESA) finds either the Guardino parcel or I-680/Palm parcel are in fact agricultural resource land, their subsequent development under the provisions of the General Plan Update would result in a *significant and unavoidable* impact associated with implementation of the DRAFT General Plan Update."

On DEIR page 4-331, the third sentence in the third bullet point has been modified to read as follows:

"Approximately fifty percent of the water delivered to ACWD customers is pumped from the City's natural aquifer, the Niles Cone Groundwater Basin."

On DEIR page 4-331, the seventh sentence in the third bullet point has been modified to read as follows:

"Because the Niles Cone Groundwater Basin extends under San Francisco Bay, the drawing down on fresh water has allowed salt water to intrude from the Bay, a process the ACWD is working to reverse."

On DEIR page 4-332, the second sentence in the first complete paragraph has been modified to read as follows:

“According to the DRAFT ACWD Urban Water Management Plan 2010 – 2015, during fiscal year 2009-2010, the ACWD had 80,139 service connections and distributed 47,000 acre-feet of water.”

On DEIR page 4-332, the second complete paragraph has been modified to read as follows:

“ACWD’s long-term water supply strategy includes a recycled water program. projected for implementation by 2020. As currently envisioned, this program would provide up to 1,600 acre-feet/year of non-potable water for landscape irrigation and industrial processes, and would be a joint project of ACWD and the Union Sanitary District. The implementation of this program will be dependent on the timing of the appropriate type of demand for this project and availability of funding.”

On DEIR page 4-332, the third complete paragraph has been modified to read as follows:

“ACWD is currently updating its Integrated Resources Plan and has adopted the Urban Water Management Plan 2010-2015, which will incorporate a revised district-wide demand forecast and revised assumptions associated with the future availability of water from the SWP. These plans will also indicate measures to be taken to meet the requirements of Senate Bill 7 (SB 7), which requires water agencies to reduce per capita water consumption by 20 percent by 2020.”

On DEIR pages 4-338 and 4-339, the text of **Mitigation UTIL-1B: Coordinate Use of Recycled Water with ACWD** has been modified to read as follows:

“For development projects located in areas where recycled water is made available planned by Alameda County Water District, developers shall coordinate with ACWD on the installation of separate, non-potable water distribution systems (i.e., purple pipe) for landscape irrigation and other non-potable water needs.”

On DEIR page 4-351, immediately following the paragraph addressing *Bay Area Air Quality Management District (BAAQMD)*, the following text has been added:

“*Alameda County Water District (ACWD)*

ACWD is supportive of the City of Fremont’s efforts to reduce GHG emissions, and concurs with the recommendation to improve the energy efficiency of pumps in water infrastructure. Accordingly, ACWD is already working toward improving pumping energy efficiency by incorporating such features as variable speed drives and premium efficiency pumping motors, and operating during off-peak hours when appropriate. Although this practice is consistent with the objective of reducing emissions of GHGs,

end-users account for 74 percent of the electricity and 99.6 percent of the natural gas usage associated with drinking water, mostly in the heating and cooling of water.”

COMMENTS AND RESPONSES

This chapter contains written comments on the DRAFT EIR on the Fremont DRAFT General Plan Update. Each letter is marked to identify distinct comments on the DRAFT EIR. Responses to these comments are provided following each letter.

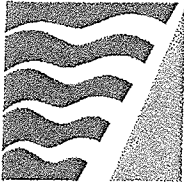
Several points to keep in mind in reviewing the comments received on the DRAFT EIR are presented in Section 15204 of the CEQA Guidelines (as revised on October 28, 1998) which states that a Lead Agency need not “conduct every test or perform all research, study, and experimentation recommended or demanded by commentors.”, in Section 15003 (h) which states that “CEQA does not require technical perfection in an EIR, but rather adequacy, completeness, and a good-faith effort at full disclosure. A court does not pass on the correctness of an EIR’s environmental conclusions, but only determines if the EIR is sufficient as an informational document.”, and in Section 15003 (j), which states: “CEQA requires that decisions be informed and balanced. It must not be subverted into an instrument for the oppression and delay of social, economic, or recreational development or advancement.”

The letters received on the DRAFT EIR are listed below. Each letter has been marked to identify each specific comment in the right-hand margin (i.e., **A-1**, **C-2**, etc.). Following each letter, the response to each identified comment in that letter is presented sequentially (for example, the first comment on the DRAFT EIR identified in **LETTER A** is identified as **A-1** in the right-hand margin of the letter, and the corresponding response immediately following **LETTER A** is coded as **RESPONSE A-1**).

LIST OF LETTERS

	Page
LETTER A: Jean Roggenkamp, Deputy Air Pollution Control Officer, Bay Area Air Quality Management District, August 19, 2011	C&R-3
LETTER B: Timothy Doherty, Coastal Program Analyst, San Francisco Bay Conservation and Development Commission, August 18, 2011	C&R-11
LETTER C: Gary Arnold, District Branch Chief, Local Development - Intergovernmental Review, California Department of Transportation, August 18, 2011	C&R-14

- LETTER D:** Pat Mapelli, Manager, Real Property, Cargill Salt, August 18, 2011 C&R-17
- LETTER E:** Walter L. Wadlow, General Manager, Alameda County Water District, August 18, 2011 C&R-27
- LETTER F:** John M. Lowrie, Program Manager, Williamson Act Program Department of Conservation, August 15, 2011 C&R-41
- LETTER G:** Roy Molseed, Senior Environmental Planner, Valley Transportation Authority, August 18, 2011 C&R-46



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT
SINCE 1955

August 19, 2011

Dan Schoenholz
General Plan Project Manager
City of Fremont Planning Division
39550 Liberty Street (PO Box 5006)
Fremont, CA 94537

Subject: City of Fremont Draft General Plan Draft Environmental Impact Report

Dear Mr. Dan Schoenholz:

Bay Area Air Quality Management District (District) staff has reviewed your agency's Draft Environmental Impact Report (DEIR) for the City of Fremont's (City) Draft General Plan (Plan). We understand that the Draft 2010-2035 General Plan will focus development near existing stations and transit corridors, and anticipates the vast majority of population growth to occur in the City's Priority Development Areas (PDAs). We also understand that the type of residential growth in the Plan will differ from the currently predominate use of single family homes, with approximately 2/3 of new households being multi-family and 1/3 being single-family. By the year 2035, the Plan would allow for an additional 45,000 residents, and over 43,000 jobs.

District staff has the following specific comments on the Project's environmental analysis.

Risks and Hazards for New Receptors Analysis

The Risk and Hazard analysis in the DEIR included air dispersion modeling around potential sources of toxic air contaminants (TAC) and fine particulate matter (PM2.5), such as major roadways/freeways, rail lines, and stationary sources. The results indicated that areas within 1,000 feet from these sources could be above the District's significance thresholds for Risk and Hazards. Based on this analysis, the DEIR identified potentially significant impacts to future sensitive receptors from TAC's and PM2.5.

The DEIR included Mitigation AIR-2 to reduce this potentially significant impact below the significance level by recommending that any future proposed development of sensitive receptors "near" these major sources of TACs and PM2.5 "should" conduct air dispersion modeling to determine if any of the measures in Mitigation AIR-2 should be implemented. Mitigation AIR-2 as currently written cannot ensure that significant impacts to future sensitive receptors will not occur. There is no definition for "near" to identify when additional analysis would be needed and the DEIR did not provide any analysis of the effectiveness of the measures in Mitigation AIR-2 to reduce TAC and PM2.5 exposure. There is the potential that some areas within the City would still expose future sensitive

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receptors to risk levels above the significance thresholds even if all the measures listed in AIR-2 were implemented.

The analysis in the DEIR has not provided any justification to conclude that all future development “near” TAC and PM2.5 sources will be able to mitigate below the significance level. Mitigation AIR-2 measures include site design, phased development, landscape planning/tree plantings, filtration systems and measures addressing physical treatments to stationary sources. While these measures can reduce TAC and PM2.5 impacts, site specific modeling would be needed to determine if these measures would actually reduce the potential impacts below the significance threshold for any given project.

The District recommends that Mitigation AIR-2 be amended to include the following: All proposed development of sensitive receptors located within an area with a greater than 10 in a million cancer risk or a PM2.5 concentration above 0.3 ug/m3 shall conduct air dispersion modeling to determine if the measures in AIR-2, or others, will reduce the impacts below the District’s significance thresholds.

The air dispersion modeling in the DEIR is inconsistent with the District’s Recommended Methods for Screening and Modeling Local Risks Local Risks and Hazards (<http://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CEQA/BAAQMD%20Modeling%20Approach.ashx?la=en>). Therefore, we suggest that the City revise the air dispersion modeling to be consistent with our methodology prior to using it to determine if a proposed project is within trigger levels listed above. However, the District’s Risk and Hazard screening tables can be used to determine if a proposed project is within these trigger levels listed above (<http://www.baaqmd.gov/Divisions/Planning-and-Research/CEQA-GUIDELINES/Tools-and-Methodology.aspx>).

Criteria Air Pollutants Emissions Analysis

A-2

According to the DEIR, City-wide vehicle miles traveled (VMT) is projected to increase at a faster rate than the City’s population, resulting in significant and immitigable air quality impacts. The Bay Area is currently in non-attainment for health based state and federal ozone and particulate matter standards. The emissions from increased VMT should be reduced to the maximum extent feasible to ensure that the Plan does not adversely affect attainment of national and state air quality standards. While the District is pleased to see policies in the Plan that address emission reductions from transportation through enhanced public transit, pedestrian/bicycle amenities and transportation demand management programs, we recommend strengthening the policies to be required as conditions of approval for all future development within the City. This can be accomplished by changing words such as “should” to “shall” and “encourage” to “require” within these policies. In addition to the policies included in the Plan, District staff has identified additional feasible measures/policies that should be required as conditions of approval for all subsequent development within the City:

- Unbundle parking costs from rents and leases;
- Carpool parking preferences;
- Electric vehicle charging stations.

Greenhouse-Gas (GHG) Emissions Analysis

District staff understands that the Plan will result in GHG emission levels below the District's plan-level GHG efficiency threshold of 6.6 metric tons per service population by 2020. However, the DEIR finds a significant cumulative impact from GHG emissions beyond 2020 because the projected GHG estimates would exceed the State's GHG emission reduction goals for the year 2035. District staff has identified a number of feasible measures/policies that will reduce the severity of the significant air quality impacts identified in the DEIR and should be adopted with the Plan:

A-3

- A time of sale Residential Energy Conservation Ordinance/Commercial Energy Conservation Ordinance (RECO/CECO) with energy efficiency requirement that exceeds Title 24 for existing development;
- Parking strategies such as pricing/eliminating minimum requirements for new development;
- Establish a citywide pricing program for public parking;
- Require preferential parking spaces for ridesharing and low emission vehicles in all new office and commercial construction projects.

District staff is available to assist City staff in addressing these comments. If you have any questions, please contact Jackie Winkel, Environmental Planner, (415) 749-4933.

Sincerely,



Jean Roggenkamp
Deputy Air Pollution Control Officer

cc: BAAQMD Chairperson Tom Bates
BAAQMD Director Scott Haggerty
BAAQMD Director Jennifer Hosterman
BAAQMD Director Nate Miley

Response to LETTER A: Jean Roggenkamp, Deputy Air Pollution Control Office, Bay Area Air Quality Management District, August 19, 2011

RESPONSE A-1: Comment that **Mitigation AIR-2** (DEIR pages 4-137 and 4-138) cannot ensure that significant impacts to future sensitive receptors will not occur, and the recommendation that **Mitigation AIR-2** be amended, are noted. Although “near” is not specifically defined in this Mitigation Measure, the analysis presented in the DEIR pages 4-132 through 4-136 identifies the following distances from existing sources of Diesel Particulate Matter (DPM) that the City of Fremont would consider “near” for the purposes of project-specific evaluation related to potential exposure of sensitive receptors to Toxic Air Contaminants (TACs):

I-880:	Up to 1,000 feet east and up to 800 feet west
I-680:	Up to approximately 1,000 feet
SR-84 (West of I-880):	Up to 500 feet south and up to 300 feet north
SR-238 (Mission Boulevard):	Up to approximately 60 feet
SR-262 (Mission Boulevard):	Up to 800 feet south and up to 500 feet north
Mowry Avenue:	Up to approximately 50 feet
Fremont Boulevard:	Up to approximately 50 feet
Thornton Avenue:	Up to approximately 50 feet
Centerville Rail Line (Station Area):	Up to 350 east and up to 280 feet west
Gasoline Stations:	Up to approximately 50 feet
Dry Cleaning Facilities:	Up to approximately 100 feet

The City has proposed modifying **Mitigation AIR-2** (DEIR pages 4-137 and 4-138) to revise proposed Conservation Element Policy 7-7.3 in its entirety. On DEIR pages 4-137 and 4-138, the text of **Mitigation AIR-2** has been modified to read as follows:

“Mitigation AIR-2: ~~Modify Implementation Measures of the DRAFT General Plan Update Policy 7-7.3 and Related Implementation Measures to Minimize Potential Exposures of Sensitive Receptors to TACs. Implementation 7-7.3A: Prohibit Sensitive Receptors in Poor Air Quality Areas~~ Policy 7-7.3 and related implementation measures shall be modified as follows:

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necessary, if so, implement the following examples of site-specific mitigation measures:

- Site design to reduce TAC exposure;
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Implementation 7-7.3B Limit New Residential Development in High Risk Areas

For infill development sites within existing neighborhoods, apply thresholds for review when new sensitive receptors are within areas exposed to health risk levels in excess of 100 additional incidents of cancer per million exposures. Infill development also includes conditional development of a mixed use and urban residential development within residential and commercial areas of Centers and Urban Corridors.

When considering land use changes that add sensitive receptor uses outside of existing neighborhoods, apply thresholds for review when new sensitive receptors are within areas exposed to health risk levels in excess of 10 additional incidents of cancer per million exposures.

Implementation 7-7.3C Incorporate TAC Controls with New Development

New development projects with sensitive receptors within 1000 feet of a freeway or major TAC source shall assess the TAC health risk for the site and incorporate, to the maximum extent feasible, risk reduction measures to reduce exposure to TAC. Risk reduction measures may include, but not limited to, project phasing, site orientation, distance separations, landscape buffering, building air filtration systems, modified building design or building type, or offsite improvements at a TAC source.”

The proposed Policy includes thresholds to evaluate new sources of TAC within the City of Fremont and includes a range of measures to address development of sensitive receptors throughout the City. The thresholds are consistent with BAAQMD guidance on methodology for evaluating lifetime exposure risk of an increased chance of cancer. The City policy allows for a threshold that is consistent with EPA community planning thresholds as an approach to identify high levels of risk and it is also consistent with the Cumulative risk standard identified by BAAQMD.

The effectiveness on the measures identified in **Mitigation AIR-2** could only be estimated through modeling conducted on a site-specific basis as individual development projects are brought forward for development review following adoption of the Fremont General Plan Update. For mobile sources of TAC that are outside the legal control of the City there are no identified mitigation measures to limit associated emissions. Literature provided by the BAAQMD CEQA Guidelines and the California Air Pollution Control Officers Association (CAPCOA) indicate the likely maximum effectiveness of mitigation measures used at the location of receptors would be an 80% reduction in particulate exposure within a building.

Based on the analysis in the EIR, a physical separation from freeways of 1,000 feet would likely result in an exposure level below all relevant thresholds for requiring project-level mitigation techniques. The DEIR is a program-level document that identifies the types of impacts that may be anticipated with future development, but in the absence of specific development plans for specific sites, it cannot evaluate site-specific impacts where development plans have not yet been presented for City review. The City believes that the types of measures identified in **Mitigation AIR-2**, when applied to subsequent individual development projects on a site-specific basis as may be necessary following site-specific evaluation of air quality impacts, would be feasible and are expected to be capable of substantially reducing potential air quality impacts on sensitive receptors to a level considered less than significant.

It is acknowledged that the air dispersion modeling presented in the DEIR is not fully consistent with BAAQMD Recommended Methods for Screening and Modeling Local Risks and Hazards. However, the approach undertaken by the City was prepared by a qualified professional air quality consultant and is a reasonable means of assessing risk for a program level project with a 25-year horizon for implementation. The City will consider using the District's Risk and Hazard screening tables or site specific modeling when evaluating future development projects which may be proposed following adoption of the Fremont General Plan Update.

RESPONSE A-2: Recommendation to strengthen Fremont General Plan Update policies to reflect mandatory requirements on future development projects related to the reduction of vehicle miles traveled (VMT) is noted. Suggestion that additional measures be added to the Fremont General Plan Update to reduce VMT (e.g., unbundled parking costs from rents and leases; carpool parking preferences; electric vehicle charging stations) is noted. The requirement that carpool parking be provided in some development projects is already part of the California Green Building Code currently in force in the City of Fremont, so this will be required in all development situations where applicable even in the absence of any modification to the Fremont General Plan Update. The City has included a number of programs to allow a means for reducing vehicle travel through design and additional measures to evaluate further design level requirements related to travel reductions. Furthermore, the language to support and evaluate additional measures to reduce travel are consistent with the direction articulated as part of the Transportation Control Measures identified as part of the Clean Air Plan. No additional feasible mandatory measures are available to the City in conjunction with the adoption of the General Plan Update. The City has vetted the proposed drafted language through a four-year process that included public participation of stakeholders and interests groups on acceptable land use and mobility policies. Adding new mandatory programs and requirements is not feasible at this time and cannot be included as feasible mitigation measures.

RESPONSE A-3: Suggestion that the City of Fremont include additional measures/policies in the Fremont General Plan Update to further reduce the potentially significant impacts related to greenhouse gases (GHG) identified in the DEIR is noted. The City did find that near term impact of growth on increased greenhouse gas emissions is less than significant based on the performance level of growth in relation to AB32 2020 emission reduction goals. The only identified potentially significant impact was forecasting a sustainable emission level to the horizon year of 2035 when it is unknown what programs, standards, or technical innovations will exist to further reduce the emissions identified in the DEIR. The City did not account for projected state or federal actions that may reduce emissions beyond 2020 because of the uncertainty of which specific measures may be in place. The City does believe that state and federal level action will significantly reduce emission associated with development in Fremont for those sources that are outside of its control.

The City has identified through its public outreach on preparation of a draft Climate Action Plan (CAP) what are the appropriate and feasible measures to reduce greenhouse gas emission at this time, including whether to institute a requirement for a RECO/CECO program. Based on this outreach and study there are no additional mandatory measures identified for reducing emissions beyond the draft General Plan Update policies and the draft CAP. The City believes that compliance with Title 24 requirements and the CalGreen Building Code provides a feasible level of regulatory requirements related to the project impacts of new development under the proposed General Plan Update. In regards to parking measures, the City allows for project-level reductions and includes measures to evaluate systematic citywide reductions in required parking. However, to institute mandatory requirements outside of the public participation process of the past four years is not feasible mitigation at this time. It is not feasible to fundamentally try and shift behavior of a largely built-out City with a broad policy change that goes beyond accepted standards and practices of similarly situated cities.



Making San Francisco Bay Better

August 18, 2011

Dan Schoenholz
 City of Fremont
 Community Development Department
 Planning Division
 39550 Liberty Street
 P.O. Box 5006
 Fremont, CA 94537-5006

SUBJECT: BCDC Inquiry File AL.FT.7025.1; Draft Environmental Impact Report for the
 Fremont General Plan 2030. SCH No. 2010082060

Dear Mr. Schoenholz:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR), dated July 2011, and received in our office on July 8, 2011. These are staff comments based on the San Francisco Bay Conservation and Development Commission (BCDC) laws and regulations, the McAteer-Petris Act, and the provisions of the *San Francisco Bay Plan* (Bay Plan). In particular, these comments are related to BCDC jurisdiction within the project area, public access, transportation and climate change impacts.

Jurisdiction and Authority. As a permitting authority along the San Francisco Bay shoreline, BCDC is responsible for granting or denying permits for any proposed fill (earth or any other substance or material, including pilings or structures placed on pilings, and floating structures moored for extended periods), extraction of materials or change in use of any water, land or structure within the Commission's jurisdiction. Generally, BCDC's jurisdiction over San Francisco Bay extends from the Golden Gate to the Sacramento River and includes tidal areas up to the mean high tide level, including all sloughs, and in marshlands up to five feet above mean sea level; a shoreline band consisting of territory located between the shoreline of the Bay and 100 feet landward and parallel to the shoreline; salt ponds; managed wetlands (areas diked from the Bay and managed as duck clubs); and certain waterways tributary to the Bay. The Commission can grant a permit for a project if it finds that the project is either (1) necessary to the health, safety or welfare of the public in the entire Bay Area, or (2) is consistent with the provisions of the McAteer-Petris Act and the Bay Plan. The McAteer-Petris Act provides for fill in the Bay for water-oriented uses where there is no alternative upland location and requires that any fill that is placed in the Bay is the minimum that is necessary for the project. The McAteer-Petris Act also requires that proposed projects include the maximum feasible public access consistent with the project to the Bay and its shoreline.

B-1

For BCDC's Bay jurisdiction, an essential part of BCDC's regulatory framework is the Commission's Bay Plan. Projects approved by BCDC must be consistent with the McAteer-Petris Act and the Bay Plan. The Bay Plan includes priority land use designations for certain areas around the Bay to ensure that sufficient areas are reserved for important water-oriented uses such as ports, water-related industry, parks, and wildlife areas. In the vicinity of the City of Fremont there is a wildlife priority land use area designation which includes much of the Don Edwards National Wildlife Refuge as well as a park priority use area at Coyote Hills Regional Park. Projects within BCDC's jurisdiction that are inconsistent with these designations require an amendment to the Bay Plan.

Public Access. Section 66602 of the McAteer-Petris Act states in part that "existing public access to the shoreline and waters of the San Francisco Bay is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided." Furthermore, the McAteer-Petris Act authorizes the placement of fill in the Bay only for water-oriented uses or minor fill for improving shoreline appearance or public access.

B-2

If any projects identified in the DEIR may require bay fill or new shoreline development within BCDC's jurisdiction, then the final EIR should consider that BCDC policies on public access state, in part, "maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every new development in the Bay or on the shoreline."

Transportation and Land Use. Because of the continuing vulnerability of the Bay to filling for transportation and development projects, the policies of the Bay Plan recognize that the Commission should continue to take an active role in Bay Area regional transportation and land use planning. The transportation findings of the Bay Plan state, in part, "pressure to fill the Bay for surface transportation projects can be reduced by improving the efficiency and increasing the capacity of existing transportation facilities and services, increasing access to public transit, providing safe and convenient public pathways for non-motorized forms of travel (e.g. bicycles, pedestrian)" and "transportation projects should be designed to maintain and enhance visual and physical access to the Bay and along the Bay shoreline."

B-3

The general goals described for the area defined in the DEIR are goals that, if met in a way that protects the ecological resources along the shoreline, BCDC supports. These goals include, the development of "Transit-Oriented Development" that takes advantage of existing public transit and "that will enable the city to become more urban in strategic locations".

Climate Change. BCDC staff supports the consideration of climate change impacts reflected in the DEIR, specifically in policies 10-3.1 – 10-3.6 to address the risks of flooding related to future sea level rise.

B-4

Thank you for the opportunity to comment on the DEIR. If you have any questions regarding this letter please contact me directly at (415) 352-3667 or by e-mail at timd@bcdc.ca.gov.

Sincerely,

TIMOTHY DOHERTY
Coastal Program Analyst

TD/gg

Response to LETTER B: Timothy Doherty, Coastal Program Analyst, San Francisco Bay Conservation and Development Commission, August 18, 2011

RESPONSE B-1: The City of Fremont acknowledges that there is a BCDC wildlife priority land use designation which includes much of the Don Edwards National Wildlife Refuge as well as a BCDC park priority use area at Coyote Hills Regional Park. No development in either the Don Edwards National Wildlife Refuge or Coyote Hills Regional Park which would be inconsistent with these BCDC designations is anticipated under the Fremont General Plan Update.

RESPONSE B-2: The City of Fremont does not anticipate that any new shoreline development or other uses requiring bay fill within BCDC jurisdiction would take place under the Fremont General Plan Update which would interfere with existing public access in these shoreline areas.

RESPONSE B-3: BCDC support for the general goals of the Fremont General Plan related to transit-oriented development is noted.

RESPONSE B-4: BCDC support for Fremont General Plan Update policies addressing the risks of flooding related to future sea level rise is noted.

LETTER C

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

EDMUND G. BROWN JR., Governor

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5541
FAX (510) 286-5559
TTY 711



*Flex your power!
Be energy efficient!*

August 18, 2011

ALAGEN249
SCH#2010082060

Mr. Kelly Diekmann
Community Development Department
Planning Division
City of Fremont
39550 Liberty Street P.O. Box 5006
Fremont, CA 94537

Dear Mr. Diekmann:

Fremont General Plan 2030 – Draft Environmental Impact Report

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the Fremont General Plan. The following comments are based on the Draft Environmental Impact Report (DEIR).

Vehicular Trip Reduction Recommendations

The Department applauds the City of Fremont's effort to intensify its transit areas to reduce vehicle miles travelled on local and state roadways. Please consider complimentary zoning for residential and retail to improve accessibility through non-vehicular modes of transportation. The Department recommends the including various Transportation Demand Management (TDM) measures in these zoning designations to reduce vehicle demand. Some example of these TDMs are, setting a maximum parking ratio, bundling parking from residential and commercial uses, providing private/public shuttle service to and from major employment centers and transit hubs, providing bicycle storage facilities, etc. Also, a well connected and safe pedestrian and bike-route system will also reduce trips generated local. The City can also develop an Urban Design guideline to promote pedestrian friendly features and scale to enhance access to transit and walkability between existing and future developments.

C-1

Regional Impact Fees

In the DEIR, the traffic generated from the future General Plan 2030 build out will have significant impacts to the already congested state highway system. The Department strongly urges the City of Fremont to contribute regional transportation impact fees to mitigate the impacts of future growth on regional corridors. This can help reduce delays on state roadways which will benefit local roadways within the City. Traffic impact fees are a permanent funding mechanism with a demonstrated nexus to project impacts. These fair share fees would be used to fund regional transportation programs that add capacity and/or improve efficiency to the transportation system and reduce delays while maintaining reliability on major roadways throughout the San Francisco Bay Area.

C-2

"Caltrans improves mobility across California"

LETTER C (continued)

Mr. Kelly Diekmann/City of Fremont
August 18, 2011
Page 2

Should you have any questions regarding this letter, please call Yaiman Kwan of my staff at (510) 622-1670.

Sincerely,



GARY ARNOLD
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

Response to LETTER C: Gary Arnold, District Branch Chief, Local Development - Intergovernmental Review, California Department of Transportation, August 18, 2011

RESPONSE C-1: Caltrans support for the City of Fremont's effort to intensify development in areas served by transit to reduce vehicle miles traveled (VMT) is noted. As the City of Fremont updates the zoning ordinance to be consistent with the Fremont General Plan Update once it has been formally adopted, complimentary zoning for residential and retail uses to improve accessibility through non-vehicular modes of transportation will be considered. The Community Character element of the Fremont General Plan Update includes a number of measures intended to enhance access to transit, promote pedestrian-friendly development features, and improve walkability.

RESPONSE C-2: Suggestion that the City of Fremont implement a Regional Transportation Impact Fee is noted. The development of a regional program intended to raise funds to be used in addressing regional transportation problems would require the cooperation of all jurisdictions within the region, under the auspices of a regional agency such as the Metropolitan Transportation Commission, rather than action by a single municipality (Fremont). However, the City of Fremont is willing to cooperate with such a regional agency in the development and subsequent implementation of Regional Transportation Impact Fee Program. It should be noted that the City of Fremont has invested millions of local dollars in regional transportation projects, most recently the Washington Boulevard and Paseo Padre Grade Separation Projects to facilitate the BART extension.



SENT VIA EMAIL AND NEXT DAY MAIL

August 18, 2011

Mr. Dan Schoenholz, General Plan Project Manager
 City of Fremont Planning Division
 39550 Liberty Street (P.O. Box 5006)
 Fremont, CA 94537

Subject: Comments on City of Fremont Draft General Plan – w/attachments
 (PLN2005-0190) (SCH#2010082060)
 Cargill file #: 3001.008:37

Dear Mr. Schoenholz:

Thank you very much for the opportunity to comment on the Fremont DRAFT General Plan Update. My colleagues and I at Cargill Salt have regularly attended the various public workshops and public hearings related to this effort and we are pleased to provide staff with our comments. Generally speaking, the DRAFT General Plan is well done and while 2035 seems far away, we are hopeful that it will stand the test of time.

D-1

My remarks are focused on Cargill Salt's 92 acre parcel that is commonly known as the Fremont Coyote Tract; and in the vernacular of the planning document, "TAZ #220". We worked extensively with staff in late 2010 in order to protect Cargill's traffic capacity rights for its 92 acre parcel. The foundation for our traffic capacity rights comes from a letter received from the City of Fremont on February 15, 1984 that states "the traffic generation on the industrial lands is calculated to be 135 trips per acre" (See Attachment A). On November 22, 2010, we received a letter from Jeff Schwob, City of Fremont Planning Director, stating that the city staff agreed to include 4,660 jobs in the general plan's travel forecast model (See Attachment B). The city council formalized that agreement by directing staff to continue with the General Plan Update EIR analysis based upon land use assumptions for employment intensities representative of development patterns of the Ardenwood Business Park area.

D-2

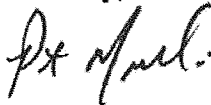
As noted in the introduction to the general plan, the document focuses on "protection of key industrial lands," "provides for local jobs and tax revenues" and assumes "an

increase in office and professional uses above and beyond the intensity of use existing.” We are pleased to see that the city is taking this position on lands like our Fremont Coyote Tract.

The Fremont Coyote Tract, consisting of 92 acres is over 20% of Fremont’s existing, undeveloped industrial lands and therefore is an important component of Fremont’s future growth. We urge the council to approve and adopt the proposed Fremont DRAFT General Plan Update as the final environmental impact report that will govern Fremont’s future growth. We also look forward to working with the city staff in the future on an attractive project on this well positioned tract of land.

Thank you for the opportunity to comment on the Fremont DRAFT General Plan Update

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Mapelli".

Pat Mapelli
Manager, Real Property
Cargill Salt
7220 Central Avenue
Newark, CA 94560
(510) 790-8610

ATTACHMENT A

LETTER D (continued)

PPS
RBT _____
LLM _____
RMV

File # 3001 009:3
:27
:26



City of Fremont
39700 Civic Center Drive
Fremont, California 94538

February 15, 1984

Mr. Paul Shepherd
Vice President, Land Manager
Leslie Salt Company
P.O. Box 364
Newark, CA 94560

Re: Local Improvement District No. 25

Dear Mr. Shepherd:

The statement I read to the City Council last evening, in connection with the proceedings for Local Improvement District No. 25, is as follows:

"The spread of assessments has been made on the basis of handling the traffic generated by development of the participating lands within the district, in accordance with the present general plan. For instance, the traffic generation on the industrial lands is calculated to be 135 trips per acre. The formula upon which the spread of assessment is based is more specifically set forth in the Engineers Report for the district.

The street work being installed is designed to meet the street improvement responsibilities of the included properties at the indicated intensities of land use."

Sincerely,

LARRY MILNES
Assistant City Manager
(415) 791-4169

LM:eh

cc: Sturgis, Ness, Brunsell & Sperry
MacKay & Soms
Public Works Director
LID No. 25

RECEIVED
FEB 21 1984
LAND DEPT.





Community Development
39550 Liberty Street, P.O. Box 5006, Fremont, CA 94537-5006
www.fremont.gov

November 22, 2010

Pat Mapelli
Manager, Real Property
Cargill Salt
7220 Central Avenue
Newark, CA 945610

RE: General Plan Update EIR TAZ #220

We reviewed the traffic assumptions for the 92 acre Cargill Salt property at the northwest corner of Paseo Padre Parkway and State Route 84. The subject parcel is part of the Traffic Analysis Zone # 220 for the City's travel forecast model. In light of the comments provided during the General Plan Update EIR scoping period and our subsequent meetings, the City will include 4,660 jobs in TAZ #220. The 4,660 jobs reflect a level of employment patterned around the industrial uses of the surrounding Ardenwood Business Park and the proposed Tech Industrial land use designation of the General Plan Update. The 4,660 jobs will be part of the City's travel forecast model for the General Plan Update Environmental Impact Report analysis.

If there are any questions please feel free to contact Kelly Diekmann, Senior Planner, kdiekmann@fremont.gov or 510-494-4540.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Schwob".

Jeff Schwob
Planning Director

cc:

Kelly Diekmann, Senior Planner
Kunle Odumade, Transportation Engineer



**.. INFORMATION REPORT ON CARGILL SALT TRANSPORTATION ISSUES FOR
THE GENERAL PLAN UPDATE EIR**

**Response to Direction from the City Council to review the October 26 Request to Review
General Plan Update EIR Transportation Assumptions**

Contact Person:

Name:	Kelly Diekmann	Jeff Schwob
Title:	Senior Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4540	510-494-4527
E-Mail:	kdiekmann@fremont.gov	jschwob@fremont.gov

Executive Summary: The City of Fremont initiated the process of preparing an Environmental Impact Report (EIR) for the General Plan Update with the issuance of a Notice of Preparation (NOP) on August 23, 2010. In response to the NOP, Cargill Salt submitted scoping comments asking for consideration of the travel demands and trip generation potential for the office/R&D uses in the Ardenwood Business Park area as part of the City's traffic forecast model analysis. The City maintains and uses a travel forecast model to analyze future traffic patterns for major projects; in this case it is the primary tool to evaluate impacts of the General Plan Update. Staff met with Cargill Salt representatives on November 18, 2010 and reached concurrence on the level of employment densities assumed for the Cargill Salt property and Ardenwood Business Park as a whole. Average development assumptions for the General Plan Update will include the majority of vacant land developing with office/R&D uses.

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Date	Page ..1

BACKGROUND: The City Transportation and Operations Department maintains a travel forecast model for the purpose of estimating future travel demands and patterns. The travel forecast model is a combination of land use assumptions and travel assumptions based on growth projections produced by the Association of Bay Area Governments (ABAG), Metropolitan Transportation Commission (MTC), and Alameda County Transportation Commission (ACTC). The ABAG 2009 projections identify a Fremont job total of 140,000 jobs, whereas the EIR for the draft General Plan Update considers a job total of approximately 158,000 jobs. The higher level of job potential reflects City Council direction about considering the intensification of uses within the Priority Development Areas in addition to the typical development patterns of the City. The current job estimate for Fremont is approximately 93,000 jobs.

The City model is a refined version of regional and countywide models that accounts for a higher level of local detail. The City updates the model periodically to reflect changes in local conditions and regional projections. The most recent major update was in conjunction with the 2007 citywide impact fee update project. The City will adjust the forecast model in conjunction with the General Plan Update EIR to reflect the draft General Plan.

DISCUSSION/ANALYSIS: The General Plan includes a full range of policies related to the interconnection of land use and transportation. The most pertinent consideration for Fremont's environmental review is the location and types of uses located in the City and how they impact existing and planned facilities. The draft General Plan includes a number of land use designations and sub-categories of residential, commercial, and industrial uses. Within each of these categories there is

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Date

Short Title
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broad range of users that may occupy a site during the planning period of the General Plan. For residential there is often a range in potential household size or age of occupants. For employment uses there is wide range of job types and intensity of use of a site, even after a site is developed. Effectively at any point in time there may be a high intensity user based on the economic conditions of the time or at the other end of the range a low intensity user based upon a particular job type that requires a large amount of floor area per employee. With this in mind, the General Plan appropriately identifies a wide range of allowable uses and job types within land use designations to allow for future flexibility of development and use.

For the purpose of forecasting growth and identifying potential environmental impacts, the City applies specific factors that approximate existing conditions and accounts for trends related to reasonable citywide economic and housing growth projections, i.e. ABAG Projections 2009. The level of detail on any one parcel of land is generally aggregated to its neighboring types of uses and relevant land use designation within a broader traffic analysis zone (TAZ) area. The aggregated uses within these TAZ's create the trip generation estimates and allow for the analysis of citywide travel demand and patterns.

Neither the EIR for the General Plan Update, nor the travel forecast model, consider full buildout of all properties in the City. The amount of potential growth in Fremont is much higher than can be reasonably forecasted to occur during the life of the General Plan. Additionally, the City's approach to forecasting does not revolve around identifying the highest and best use of particular properties in the City. Such an exercise is impractical due to the nature of estimating market and property owner needs as they change over time. As a result, the EIR analysis and output of a travel forecast model is a

Item __.
Date

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Page __.3

reasonable estimate and snapshot of average conditions in a target year. It becomes a benchmark for measuring consistency and progress for the City overall.

The Cargill Salt property location is northwest of the intersection of Paseo Padre Parkway and State Route 84 in the area of the Ardenwood Business Park. The site is a relatively unique circumstance of a vacant large parcel (approximately 92 acres) that is its own TAZ and controlled by a single land owner. Typically a large area like this would be home to a number of different types of businesses and property owners. In this situation with a single property owner and the close proximity to nearby office/R&D uses, Cargill expressed an interest that the area and property not be generalized as industrial and have a more specific categorization related to office/R&D uses that may occur within its land use designation.

City staff reviewed the scoping comment and made changes in the broader City factors related to office/R&D uses and concurs with the request of Cargill Salt on employment density. As result there are a higher number of estimated jobs per acre of land for the Cargill and Ardenwood Business Park area. This reflects its status and corresponding nature as a Restricted Industrial zoning designation that has more office type uses than general industrial uses. Staff worked within the broad City job totals to make adjustments for this area. The City can maintain relative consistency with ABAG regional projections and City Council direction with this change of a more job density estimate.

FISCAL IMPACT: None

ENVIRONMENTAL REVIEW: None

Item __
Date __

Short Title
Page __.4

ENCLOSURE: None

RECOMMENDATION: Direct staff to continue with the General Plan Update EIR analysis based on land use assumptions for employment intensities representative of development patterns of the Ardenwood Business Park area.

Division Head

Department Head

Finance

City Attorney's Office

City Manager's Office

Transportation and Operations

CC-____

Item ____
Date

Short Title
Page __.5

Response to LETTER D: Pat Mapelli, Manager, Real Property, Cargill Salt, August 18, 2011

RESPONSE D-1: Opinion that the DRAFT General Plan Update is, generally speaking, well done is noted.

RESPONSE D-2: Recommendation that the City adopt the Fremont General Plan Update and certify the Environmental Impact Report is noted.



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(510) 668-4200 • FAX (510) 770-1793 • www.acwd.org

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ALTARINE C. VERNON
Manager of Administrative Services

August 18, 2011

Mr. Dan Schoenholz, General Plan Project Manager
City of Fremont Planning Division
39550 Liberty Street
P.O. Box 5006
Fremont, CA 94537-5006

Dear Mr. Schoenholz:

Subject: Draft Environmental Impact Report for the City of Fremont Draft General Plan

The Alameda County Water District (ACWD) wishes to thank you for the opportunity to comment on the “Draft Environmental Impact Report for the City of Fremont Draft General Plan.”

ACWD supplies water to over 337,000 residents in the cities of Fremont, Newark, and Union City. ACWD has three primary sources of water supply: 1) the State Water Project, 2) San Francisco's Regional Water System, and 3) local supplies. The State Water Project and San Francisco Regional Water Supplies are imported into the ACWD service area through the South Bay Aqueduct and Hetch-Hetchy Aqueduct, respectively. Local supplies include fresh groundwater from the Niles Cone Groundwater Basin (underlying the ACWD service area), desalinated brackish groundwater from portions of the groundwater basin previously impacted by seawater intrusion, and surface water from the Del Valle Reservoir. A detailed discussion of ACWD's water supplies can be found in ACWD's 2010-2015 Urban Water Management Plan (UWMP).

ACWD has reviewed the Draft Environmental Impact Report (DEIR) together with the Draft General Plan. ACWD commends the numerous progressive policies and implementations that the City of Fremont (City) is pursuing in the Draft General Plan. However, some of the environmentally sound practices at the core of these policies may not always be appropriate in all applications. Most of ACWD’s concerns and comments on the DEIR stem from the need to restrict implementation of some of these policies from a citywide application to the appropriate areas where their unintended consequences are not likely to out-weigh their benefits.

E-1

Mr. Dan Schoenholz
Page 2
August 18, 2011

ACWD would therefore appreciate your consideration of the following comments:

1. Groundwater Terminology

E-2

The Draft General Plan refers to the Niles Cone Groundwater Basin as the Niles Cone Groundwater Aquifer.

DEIR issue: Language is inaccurate.

Suggested correction: The DEIR and Draft General Plan should both replace the term “Niles Cone Groundwater Aquifer” with “Niles Cone Groundwater Basin” throughout the document.

2. ACWD Urban Water Management Plan

E-3

The Draft General Plan sites ACWD's 2006-2010 Urban Water Management Plan (UWMP) for future water supply and demand estimates. Since publishing the Draft General plan, ACWD has completed and adopted the 2010-2015 UWMP which contains updated water supply and demand figures. This document is available for download from ACWD's website at http://www.acwd.org/document_list.php5.

DEIR issue: Language references an older version of a document.

Suggested correction: The DEIR's reference to ACWD's 2006-2010 UWMP should be replaced with a reference to ACWD's 2010-2015 UWMP.

3. Description of Facilities

E-4

Chapter 4, Page 4-195 refers to facilities as being west of the Hayward Fault when they actually exist on both sides of the fault.

DEIR issue: Language is inaccurate.

Suggested correction: The DEIR should replace the phrase “diverted and stored in the former quarry ponds on the floodplain west of the Hayward Fault.” with “diverted and stored in the former quarry ponds on the floodplain *on both sides of the Hayward Fault.*”

4. Storm Water Policies

E-5

The following refers to “Goals, Policies & Implementation Programs” included in Chapter 7 of the Draft General Plan, Policy “7.3-3B Stormwater Control in New Developments,” “7.3-3C Reduce Impermeable Surfaces,” “7.3.3G Landscape Design,” and “7.4.1C Retention of Storm Water Onsite.”

ACWD concurs with efforts to reduce pervious surfaces, enhance percolation, and reduce the amount of storm water runoff. Minimizing the hardscape area in developments is desirable. Additional reduction of runoff generation by use of pervious pavements can also be advantageous in certain lower-risk applications and settings, such as sidewalks or other walkways in residential or light commercial developments. Other percolation based techniques, such as earthen retention basins, provide additional means of containing and managing runoff on-site. ACWD is not opposed to application of percolation-based alternatives to conventional storm water management except in circumstances where they would pose a significant risk of groundwater contamination. Installations in sensitive settings or improper maintenance may heighten the risk, as noted below:

- Within drinking water Wellhead Protection Zones, on-site storm water disposal may constitute a “potentially contaminating activity” pursuant to state of California regulations for Source Water Assessment Programs (*Drinking Water Source Assessment and Protection (DWSAP) Program*, January 1999, California Dept. of Health Services). In response to these regulations, Wellhead Protection Zones for ACWD production wells were defined in 2002, based on 2-year, 5-year, and 10-year time of travel in groundwater. Although ACWD generally recommends individualized evaluation of any proposal for on-site disposal of storm water within the Niles Cone Groundwater Basin (and hence anywhere in Fremont), the need for such case-by-case evaluation is particularly critical in Wellhead Protection Zones.
- Various other regulatory guidance and technical manuals that ACWD consulted (e.g., *Georgia Stormwater Management Manual, Volume 2 (Technical Handbook)*; Rhode Island Department of Health *Porous Pavement and Groundwater Quality Technical Bulletin*; State of Tennessee *BMP Manual Stormwater Treatment*, July 2002) strongly caution against use of porous pavement in manufacturing areas, industrial areas, and/or “hot spots” including commercial/industrial parking lots, public works storage areas, vehicle washing facilities, and gas stations. In such locations, there is high risk of release of fuel or other hazardous materials, which could pass through porous pavement and ultimately impact groundwater. Environmental Protection Agency’s (EPA’s) Storm Technology Fact Sheet Porous Pavement (1999) advises against installing porous pavement near groundwater drinking water supplies pending availability of more scientific data (to our knowledge, no updates of this fact sheet have been issued). The above-noted risk to groundwater associated with use of porous pavement in “hot spots” and industrial and manufacturing districts is also applicable to other percolation based methods of on-site storm water disposal, such as earthen retention basins.
- Porous pavements are subject to clogging from deposition of sediment carried in urban runoff. It is not unusual that such sediment is laden with elevated levels of non-degradable pollutants, including metals, found in urban runoff. Accordingly, ACWD advocates appropriate management of such sediment and wash water used to dislodge the sediment, especially if there is a risk of subsequent discharge of such material to a groundwater recharge facility (recharge ponds and the ACWD managed segment of the

Alameda Creek Flood Control Channel). This recommendation is consistent with regulatory and technical guidance; namely, Tennessee *BMP Manual Stormwater Treatment*, July 2002; and California Stormwater Quality Association's *California Stormwater BMP Handbook New Development of Redevelopment*, January 2003. Sediments scraped from retention/detention basins receiving significant urban runoff should also be handled and disposed of properly.

Because percolation-based methods of storm water disposal can pose a risk of adverse impacts to beneficial uses of groundwater, they would not in all cases be preferable to conventional discharge to surface water or conventional discharge in combination with another BMP (such as landscape treatment). Therefore, determination of an appropriate storm water management strategy for a project should be based on an evaluation that includes consideration of site scale, land use, and proximity of the site to sensitive areas within the Niles Cone Groundwater Basin.

ACWD is planning to develop a non-potable water policy to ensure that certain emerging water conservation approaches, such as recycled water reuse, gray water reuse, and on-site disposal of storm water by porous pavement, may be practiced in ways that will also be protective of the quality of groundwater and other potable water supplies within the community. The policy would be intended to facilitate mutually beneficial coordination and cooperation with other local agencies, including the City.

DEIR issue: Draft General Plan policies 7.3-3B, 7.3-3C, 7.3.3G, and 7.4.1C, as written, could have potentially significant impacts on groundwater quality which have not been considered in the DEIR.

Suggested mitigations: These impacts could be fully addressed by:

- Modifying the applicable policies in the Draft General Plan to require coordination with ACWD on development proposals that involve either percolation-based storm water management methods or surface water drainage to an ACWD groundwater recharge facility.
- Acknowledge in the Draft General Plan that ACWD is developing a non-potable water policy.

5. Protecting Water Resources

E-6

The following refers to "Goals, Policies & Implementation Programs" included in Chapter 7 of the Draft General Plan, Policy "7-2.1.A: Development near Riparian Areas," and Policy "7-3.3E: Preserve Areas with Water Quality Benefits."

ACWD groundwater recharge facilities percolate surface water to replenish the groundwater basin. The facilities include the Quarry Lakes area, Kaiser Pond, Bunting Pond, Shinn Pond,

Grau Pond, Snell Pond, the T-Pits, and the segment of the Alameda Creek Flood Control Channel from Niles Canyon to the Dry Creek. Although the primary source of water to these ponds originates in undeveloped hill areas and range lands within the Alameda Creek Watershed, these facilities also receive local run-off from adjacent developed or developable land, identified as High Priority Notification Area A and Priority Area B on the attached map (2008 Storm Drain Map Priority Notification Areas). Any disposal of urban runoff from development within these notification areas, either by storm drain discharge into a recharge facility or through on-site percolation, could threaten the sensitive drinking water aquifer. Therefore, for each new project involving development, re-development, or a change in storm drainage facilities, a project-specific optimal approach for storm water management should be proposed, with the goal of minimizing impacts on the quality of both 1) groundwater directly beneath the project site and 2) recharge pond water within the notification area. The optimal approach should be considered from an evaluation of multiple best management practices (BMPs), including, as appropriate, percolation based methods (which at least offer some attenuation of the filterable type of contaminants) and landscape treatment. In addition, in reference to Section 7.3-3E, low impact land use should be encouraged to minimize urban runoff pollutant loads in these notification areas to the extent possible. In the extreme case of an industrial facility handling hazardous chemicals in a notification area, special controls should be required to avoid discharges of pollutants either to surface water or underlying soil and groundwater. Such controls could include an individualized NPDES permit, capping, routing of runoff to a sanitary sewer via an impermeable detention basin, or a combination thereof.

Draft General Plan Policies “7-2.1.A: Development near Riparian Areas” and “7-3.3E: Preserve Areas with Water Quality Benefits” do not specify any protections (such as set-backs) or preservation areas near the most critical areas for the local water supply, namely groundwater recharge areas and local drainages.

DEIR issue: Draft General Plan policies 7-2.1.A and 7-3.3E, as written, could have potentially significant impacts on local groundwater supply which have not been considered in the DEIR.

Suggested mitigation: These impacts could be fully addressed by modifying the applicable policies in the Draft General Plan to include language calling for the protection of sensitive areas within the groundwater recharge area.

6. Recycled Water Policies

E-7

The following refers to “Goals, Policies & Implementation Programs” included in Chapter 7 of the Draft General Plan, Policy “7.4.2.A Reclaimed Water Program,” “7.4.2.C Tertiary Treatment at Pump Stations,” and “7.4.2.D. Recycled Water Systems.”

ACWD appreciates the City’s support of local efforts to implement a recycled water program. However, similar to comments made under our item “4. Storm Water Policies”

starting on page 2, uncontrolled application of recycled water can have negative impacts on groundwater. Recycled water and/or gray water contain chemicals of concern, including salts, nitrogen, and chemicals of *emerging* concern (CECs) such as pharmaceuticals, fire retardants, NDMA, and 1,4 Dioxane which can adversely impact groundwater and local water supplies. Local guidance beyond minimum state regulations may be required to ensure appropriate site locations and other controls in sensitive groundwater basins such as the Niles Cone. For example, although the State Water Board's Recycled Water Policy will allow landscape irrigation projects without advanced levels of treatment, a recent Santa Clara Valley Water District pilot study determined the presence of NDMA in soil and groundwater underlying a recycled water landscape irrigation project. NDMA, like 1,4 Dioxane, is recalcitrant in the environment and toxic at even very low levels. Levels of treatment beyond tertiary, namely ultra violet (UV) radiation and Advanced Oxidation Processes (AOP), are required to respectively remove these two chemicals from wastewater. 1,4 Dioxane, which is associated with (an impurity within) certain surfactants, may be present in higher concentrations in gray water than recycled water. Gray water may contain other CECs, as well as salts. Impacts on groundwater are a concern for use too close to drinking water wells, or in sensitive areas of the basin should use become widespread. In addition to concerns related to groundwater protection, improperly constructed gray water and recycled water systems pose a risk of cross-connection to potable water plumbing and the public water system. As discussed in Comment #4, recycled water and gray water reuse will be included as topics in a future ACWD non-potable water policy.

The purpose of this policy will be to ensure application of such waters within the community will be consistent with efforts to protect the public health and the integrity of potable water supplies.

DEIR issue: Draft General Plan policies 7.4.2.C and 7.4.2.D, as written, could have potentially significant impacts on groundwater quality which have not been considered in the DEIR.

Suggested mitigation: These impacts could be fully addressed by modifying policy 7.4.2C to require coordination with ACWD. ACWD suggests the following wording: "Encourage use of on-site recycled water systems, consistent with all environmental and health and safety regulations and Alameda County Water District policies and requirements."

7. Recycled Water Planning

E-8

Page 4-332 states "ACWD's long-term water supply strategy includes a recycled water program projected for implementation by 2020." This information is based on the 2005-2010 UWMP which had assumed that one or more "anchor customers" would exist by the year 2020. An anchor customer is a customer with a large demand for water than can be sufficiently met with a non-potable source (e.g., a golf course). As reflected in the 2010-

2015 UWMP, ACWD does not currently envision a specific year when such an anchor customer will be in place.

DEIR issue: DEIR misstates current planning timeline for the availability of recycled water.

Suggested correction: The DEIR should be corrected to state that “ACWD’s long-term water supply strategy includes a recycled water program. The implementation of this program will be dependent on the timing of the appropriate type of demand for this project and availability of funding.”

8. Recycled Water System Infrastructure

E-9

Reference is made to DEIR pages 4-338 and 4-339, Impact UTIL-1 and Mitigation Measure UTIL-1B. The DEIR requires developers to coordinate with ACWD “[f]or development projects located in areas where recycled water is made available.” ACWD has required the installation of recycled water system infrastructure for properties within areas where recycled water is planned to be made available, and the existing recycled water pipelines are served with potable water through connections with the potable water distribution system until such time as recycled water becomes available.

DEIR issue: Proposed Mitigation Measure UTIL-1B, as written, could have potentially significant impacts on groundwater quality if it is not restricted to areas where ACWD is confident that applied recycled water will not have an impact on groundwater quality.

Suggested correction: Mitigation Measure UTIL-1B could be revised to apply to “development projects located in areas where recycled water *is* planned by Alameda County Water District.”

9. Impacts to Existing and Future Water System Infrastructure

E-10

The following refers to “Goals, Policies & Implementation Programs” from various chapters, including “Implementation 1.1.A: Complete Streets Design Standards,” “Implementation 3-3.1.A Engineering Design Standards,” “Implementation 3-3.1.B: Narrower Streets,” “Implementation 3-4.5.A: Traffic Calming in Future Plans,” “Implementation 4-1.4.A: Place Type Design Manual: Corridors,” “Policy 4-4.2: Activating the Street,” “Policy 4-4.3: Streetscape Design,” “Implementation 4-5.6.C: Tree Master Plan,” and “Policy 9-1.4: Facilitate Public Uses Within Public Easements.”

The Draft General Plan acknowledges increased development over that which was previously anticipated and planned for under the existing General Plan and current zoning. In addition to the identified impacts on water supply (Impact UTIL-1), the DEIR should also acknowledge

the impact of the above listed goals, policies, and implementations on both existing and future water system infrastructure.

For example, these policies and implementations could result in impacts to water system infrastructure as they guide improvements within the same areas used for public water service, transmission, and distribution. ACWD maintains installation standards and requirements, such as ACWD's Standard Specifications for Water Main Installation, to ensure water system infrastructure installations protect public health and safety, are accessible for repair and maintenance, and conform to government regulations and standards. The Draft General Plan should acknowledge that the City's corridors, streetscapes, and rights-of-way provide not only transportation and recreational benefits but also serve as corridors for utility infrastructure necessary to provide service to the many uses within the City. Policies that encourage conversion of existing streets and rights of way (such as narrowing and re-aligning existing streets and converting areas previously designated as vehicular access areas to pedestrian access or developable areas) should consider the potential effects on such utility corridors and the resultant impacts on the ability for such utilities to protect the public health and safety and provide the needed services to a changing community.

Further, the General Plan designates several areas for increased FARs and/or redevelopment. In some cases this intensification may result in requirements to improve ACWD's existing distribution system in order to meet minimum water service and firefighting requirements, as the existing public water system was designed and constructed to provide for the previously envisioned level of development. Such improvements may be at the location of the redevelopment / intensification, but significant off-site improvements may also be required in order to provide the required level of service to support the new uses. In either case, such improvements in areas of existing development will result in nuisance impacts (construction, traffic delays, noise, utility service outages, etc.) to residents and businesses as well as significant infrastructure costs.

DEIR issue: DEIR does not evaluate the impacts of these Goals, Policies and Implementation Measures on utility infrastructure.

Suggested mitigations: These impacts will be reduced if:

- **The City amends the Draft General Plan wording to recognize the shared use of existing transportation and utility corridors, and assure coordination with local utility providers as the City's goals and policies are implemented.**
- **Require that individual projects which implement the General Plan Policies and Goals must conform to ACWD's Development Specifications and Standard Specifications for Water Main Installation and applicable ACWD policies related to development and redevelopment.**

10. Regulatory Framework

E-11

Reference is made to Chapter 4: pages 4-202, and 4-208 and 4-209 – “Alameda County Water District.”

DEIR issue: Under Regulatory Framework, the DEIR does not acknowledge the Alameda County Water District Groundwater Protection Act or the Alameda County Water District Ordinance No. 2010-01. The DEIR also does not acknowledge Alameda County Water District’s local regulatory oversight of Leaking Underground Fuel Tank (LUFT) and Spills, Leaks, Investigation, and Cleanup (SLIC) cases pursuant to 1996 cooperative agreements with the City of Fremont and the Regional Water Quality Control Board.

Suggested correction: ACWD requests the language include that “ACWD also conducts groundwater protection and management efforts under Alameda County Water District Groundwater Protection Act (Division 12, Part 5, Chapter 1, Article 9.3, commencing with Section 31142.20 of the California Water Code) and Alameda County Water District Ordinance No. 2010-01. As required by ACWD’s Ordinance No. 2010-01, an ACWD drilling permit is required prior to the start of any subsurface drilling activities for wells, exploratory holes, and other excavations.” ACWD also requests that the language include “Under cooperative agreements with the Regional Water Quality Control Board and the City of Fremont, ACWD also provides regulatory oversight of Leaking Underground Fuel Tank cases and Spills, Leaks, Investigation, and Cleanup cases.”

11. Global Climate Change

E-12

In Chapter 4, Section P, page 4-351 refers to various proposals in the City’s Draft Climate Action Plan (CAP) to encourage businesses and residences to reduce greenhouse gas (GHG) emissions. Preparation of the CAP is one of the intended uses of the General Plan EIR. ACWD is supportive of the City’s efforts to reduce GHG emissions, and concurs with the recommendation in the CAP (Item M17 in the “Implementation Table of Actions for Reducing Greenhouse Gas Emissions”) to improve the energy efficiency of pumps in water infrastructure. Accordingly, ACWD is already working toward improving pumping energy efficiency by incorporating such features as variable speed drives and premium efficiency pumping motors, and operating during off-peak hours when appropriate. Although this practice is consistent with the objective of reducing emissions of GHGs, end-users account for 74 percent of the electricity and 99.6 percent of the natural gas usage associated with drinking water, mostly in the heating and cooling of water (California’s Water-Energy Relationship, California Energy Commission, November 2005).

Suggested correction: ACWD’s requests that the language in the EIR acknowledge ACWD’s practices to reduce GHGs, as described in the above paragraph. The language should also note that end users are responsible for most of the electricity

and natural gas consumption associated with drinking water (i.e. 74% and 99.6%, respectively).

12. ACWD Contacts

The following ACWD contacts are provided so that the City can coordinate with ACWD as needed during the CEQA process:

- Eric Cartwright, Special Assistant to the General Manager, at (510) 668-4206, or by e-mail at eric.cartwright@acwd.com, for coordination regarding water supply issues.
- Ed Stevenson, Development Services Manager, at (510) 668-4472, or by e-mail at ed.stevenson@acwd.com, for coordination regarding public water systems and infrastructure planning.
- Steven Inn, Groundwater Resources Manager, at (510) 668-4441, or by e-mail at steven.inn@acwd.com, for coordination regarding ACWD's groundwater resources.
- Michelle Myers, Well Ordinance Supervisor, at (510) 668-4454, or by e-mail at michelle.myers@acwd.com, for coordination regarding groundwater wells and drilling permits.

Thank you for the opportunity to comment on the Draft Environmental Impact Report for the City of Fremont Draft General Plan at this time.

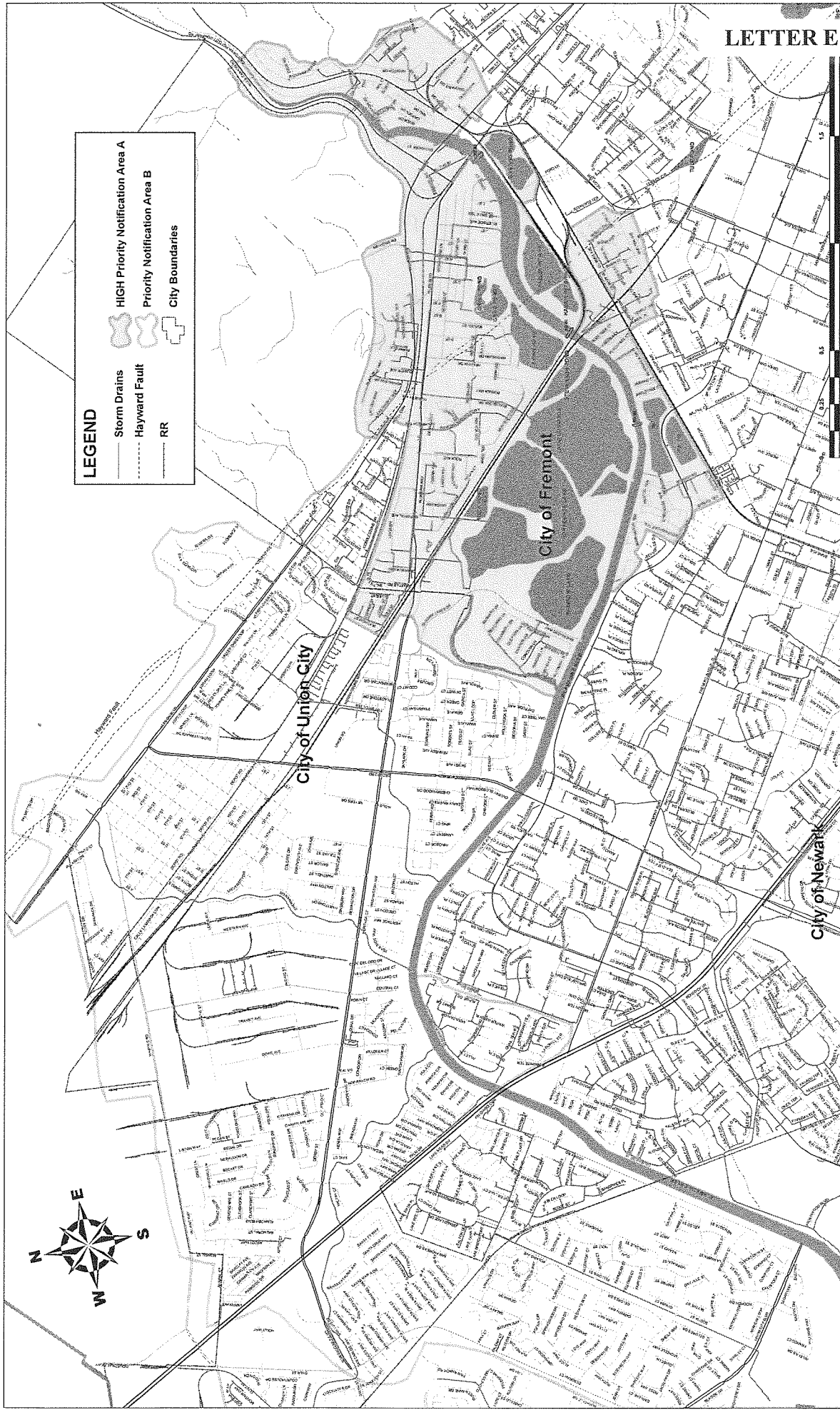
Sincerely,



For Walter L. Wadlow
General Manager

tn-mh/tf
E-mail
Enclosure

cc: Eric Cartwright, ACWD
Robert Shaver, ACWD
Ed Stevenson, ACWD
Steven Inn, ACWD
Michelle Myers, ACWD



LEGEND

- Storm Drains
- Hayward Fault
- RR
- HIGH Priority Notification Area A
- Priority Notification Area B
- City Boundaries



File: C:\RE Storm Drain_2.mxd
 Date: June 25, 2008
 Scale: As Shown
 Job No: N/A

**ACWD GROUNDWATER RECHARGE FACILITIES
 PRIORITY NOTIFICATION AREA MAP**

Alameda County Water District
 43855 South Gimmer Blvd.
 Fremont, CA 94538
 Phone: (510) 988-6282 Fax: (510) 770-1793



DESIGNED BY: T. BISHARA, LIS
 CHECKED BY: G. DENNIS
 DATE: 6/25/08
 BY: JAP/ JAP/ SUBREVISOR/ENR

NO.	DATE	REVISION

Response to LETTER E: Walter L. Wadlow, General Manager, Alameda County Water District, August 18, 2011

RESPONSE E-1: Comment that some of the policies and implementations presented in the DRAFT General Plan Update may not always be appropriate in all applications is noted.

RESPONSE E-2: Comment noted. On DEIR page 4-331, the third sentence in the third bullet point has been modified to read as follows:

“Approximately fifty percent of the water delivered to ACWD customers is pumped from the City’s natural aquifer, the Niles Cone Groundwater Basin.”

On DEIR page 4-331, the seventh sentence in the third bullet point has been modified to read as follows:

“Because the Niles Cone Groundwater Basin extends under San Francisco Bay, the drawing down on fresh water has allowed salt water to intrude from the Bay, a process the ACWD is working to reverse.”

RESPONSE E-3: Comment noted. On DEIR page 4-332, the second sentence in the first complete paragraph has been modified to read as follows:

“According to the DRAFT ACWD Urban Water Management Plan 2010 – 2015, during fiscal year 2009-2010, the ACWD had 80,139 service connections and distributed 47,000 acre-feet of water.”

On DEIR page 4-332, the third complete paragraph has been modified to read as follows:

“ACWD is currently updating its Integrated Resources Plan and has adopted the Urban Water Management Plan 2010-2015, which ~~will~~ incorporates a revised district-wide demand forecast and revised assumptions associated with the future availability of water from the SWP. These plans ~~will~~ also indicate measures to be taken to meet the requirements of Senate Bill 7 (SB 7), which requires water agencies to reduce per capita water consumption by 20 percent by 2020.”

RESPONSE E-4: Comment noted. On DEIR page 4-194 and 4-195, the sentence beginning on page 4-194 and continuing on to the top of page 4-195 has been modified to read as follows:

“Alameda Creek water, which is diverted and stored in the former quarry ponds on the floodplain ~~west~~ on both sides of the Hayward Fault, accounts for about 15 percent

of Fremont’s total water supply, and is used to recharge the aquifers of the Niles Cone Groundwater Basin.”

RESPONSE E-5: This comment relates to suggested modification to policies/implementation measures presented in the DRAFT General Plan Update. However, it is also related to the DEIR, as it suggests that implementation of the identified DRAFT General Plan Update implementation measures without adequate coordination with ACWD could result in potentially significant groundwater quality impacts. It should be noted that DRAFT General Plan Update **Implementation 7-3.2.D: ACWD Coordination** addresses the need for such coordination specifically to reduce potential impacts to groundwater resources.

RESPONSE E-6: This comment relates to suggested modification to policies/implementation measures presented in the DRAFT General Plan Update. However, it is also related to the DEIR, as it suggests that implementation of the identified DRAFT General Plan Update implementation measures without the suggested modifications could result in potentially significant groundwater quality impacts. It should be noted that DRAFT General Plan Update **Implementation 7-3.2.D: ACWD Coordination** addresses the need for such coordination specifically to reduce potential impacts to groundwater resources.

RESPONSE E-7: This comment relates to suggested modification to policies/implementation measures presented in the DRAFT General Plan Update. However, it is also related to the DEIR, as it suggests that implementation of the identified DRAFT General Plan Update implementation measures without the suggested modifications could result in potentially significant groundwater quality impacts. It should be noted that DRAFT General Plan Update **Implementation 7-3.2.D: ACWD Coordination** addresses the need for such coordination specifically to reduce potential impacts to groundwater resources.

RESPONSE E-8: Comment noted. The second complete paragraph on DEIR page 4-332 has been modified to read as follows:

“ACWD’s long-term water supply strategy includes a recycled water program. projected for implementation by 2020. As currently envisioned, this program would provide up to 1,600 acre-feet/year of non-potable water for landscape irrigation and industrial processes, and would be a joint project of ACWD and the Union Sanitary District. The implementation of this program will be dependent on the timing of the appropriate type of demand for this project and availability of funding.”

RESPONSE E-9: Comment noted. On DEIR pages 4-338 and 4-339, the text of **Mitigation UTIL-1B: Coordinate Use of Recycled Water with ACWD** has been modified to read as follows:

“For development projects located in areas where recycled water is ~~made available~~ planned by Alameda County Water District, developers shall coordinate with ACWD on the installation of separate, non-potable water distribution systems (i.e., purple pipe) for landscape irrigation and other non-potable water needs.”

RESPONSE E-10: Impacts to utility infrastructure that may be associated with development under the DRAFT General Plan Update are addressed on DEIR pages 4-337 through 4-342. As indicated on DEIR page 4-338, all public water infrastructure construction or modifications related to development projects which may be proposed following the City’s adoption of the DRAFT General Plan Update must conform to ACWD’s Development Specifications and Standard Specifications for Water Main Installation and applicable ACWD policies related to development and redevelopment.

RESPONSE E-11: Comment noted. On DEIR page 4-209, the following paragraph is added immediately before the *San Francisco Public Utilities Commission Water System Improvement Program*:

“ACWD also conducts groundwater protection and management efforts under Alameda County Water District Groundwater Protection Act (Division 12, Part 5, Chapter 1, Article 9.3, commencing with Section 31142.20 of the California Water Code) and Alameda County water District ordinance No. 2010-01. As required by ACWD’s Ordinance No. 2010-01, an ACWD drilling permit is required prior to the start of any subsurface drilling activities for wells, exploratory holes, and other excavations. Under cooperative agreements with the Regional Water Quality Control Board and the City of Fremont, ACWD also provides regulatory oversight of Leaking Underground Fuel Tank cases and Spills, Leaks, Investigation, and Cleanup cases.”

RESPONSE E-12: Comment noted. On DEIR page 4-351, immediately following the paragraph addressing *Bay Area Air Quality Management District (BAAQMD)*, the following text has been added:

“Alameda County Water District (ACWD)

ACWD is supportive of the City of Fremont’s efforts to reduce GHG emissions, and concurs with the recommendation to improve the energy efficiency of pumps in water infrastructure. Accordingly, ACWD is already working toward improving pumping energy efficiency by incorporating such features as variable speed drives and premium efficiency pumping motors, and operating during off-peak hours when appropriate. Although this practice is consistent with the objective of reducing emissions of GHGs, end-users account for 74 percent of the electricity and 99.6 percent of the natural gas usage associated with drinking water, mostly in the heating and cooling of water.”



DEPARTMENT OF CONSERVATION

Managing California's Working Lands

DIVISION OF LAND RESOURCE PROTECTION

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

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August 15, 2011

VIA FACSIMILE (510) 494-4457

Mr. Dan Schoenholz
City of Fremont
PO Box 5006
Fremont, CA 94537

Subject: DEIR for the Fremont Draft General Plan Update - SCH# 2010082060

Dear Mr. Schoenholz:

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the DEIR for the Fremont Draft General Plan Update. The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. We offer the following comments and recommendations with respect to the proposed project's potential impacts on agricultural land and resources.

Project Description:

The project is the adoption and implementation of a comprehensive update of the City of Fremont General Plan, which was last comprehensively updated in 1991. Although the DOC has classified the majority of Fremont as Urban and Built-Up Land, it has also identified several areas of Prime Farmland or Unique Farmland in Fremont. As of 2010, a relatively small area of Unique Farmland has been mapped in the Mission San Jose area, a relatively small area of Prime Farmland has been mapped off Walnut Avenue southeast of Lake Elizabeth, and larger areas of Prime Farmland have been mapped on the publicly owned Ardenwood Historic Farm, which is operated by East Bay Regional Park District. Grazing Land is mapped in the Hill Area east of Mission Boulevard and in the Patterson Ranch area.

Implementation of the Draft General Plan Update could result in the irrevocable conversion of existing agricultural land currently designated by the California Department of Conservation as Prime Farmland (the Guardino parcel) or Unique Farmland (I-680/Palm properties) to urban uses. This would represent a potentially significant and unavoidable impact.

Division Comments:

The Division questions the DEIR statement on page 4-293, that outlines mitigation in the form of rezoning parcels within the City to an agricultural use and in-lieu fees for preservation of land within the city. There are other options available such as conservation easements. Conservation easements can be located outside the city, and make more sense than preserving

F-1

LETTER F (continued)

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August 15, 2011
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farmland in an area planned for urban growth. The City of Fremont most likely receives a lot of its agricultural goods from surrounding farming communities within Alameda County and surrounding counties. It would be in the City's best interests to consider mitigation in outlying areas of the County or regionally to help preserve these resources. Any loss of this agricultural land should be mitigated whenever possible. In addition, reduction to a level below significance is not a criterion for mitigation under CEQA.

Mitigation Measures

CEQA is the state's main policy tool for agricultural land preservation. If a project is deemed significant, lead agencies are required to adopt feasible mitigation measures to avoid or substantially lessen them. The loss of agricultural land represents a permanent reduction in the State's agricultural land resources. As such, the Department adamantly advises the use of permanent agricultural conservation easements on land of at least equal quality and size as compensation for the direct loss of agricultural land. Conservation easements are an available mitigation tool and considered a standard practice in many areas of the State.

Conservation easements will protect a portion of those remaining land resources and lessen project impacts in accordance with CEQA Guideline §15370. The Department highlights this measure because of its acceptance and use by lead agencies as an appropriate mitigation measure under CEQA and because it follows an established rationale similar to that of wildlife habitat mitigation.

Although direct conversion of agricultural land is often an unavoidable impact under California Environmental Quality Act (CEQA) analysis, mitigation measures must be considered. In some cases, the argument is made that mitigation cannot reduce impacts to below the level of significance because agricultural land will still be converted by the project, and, therefore, mitigation is not required. However, reduction to a level below significance is not a criterion for mitigation under CEQA. Rather, the criterion is feasible mitigation that lessens a project's impacts. A Statement of Overriding Considerations is not a substitute for the requirement to prepare findings (CEQA Guidelines §15091). CEQA states that the Lead Agency shall describe the specific reasons for rejecting identified mitigation measures. Therefore, all mitigation measures allegedly feasible should be included in the DEIR. A measure brought to the attention of the Lead Agency should not be left out unless it is infeasible based on its elements. Because agricultural conservation easements are an available mitigation tool they should always be considered.

Mitigation via agricultural conservation easements can be implemented by at least two alternative approaches: the outright purchase of easements or the donation of mitigation fees to a local, regional, or statewide organization or agency whose purpose includes the acquisition and stewardship of agricultural conservation easements. The conversion of agricultural land should be deemed an impact of at least regional significance. Hence, the search for replacement lands should not be limited strictly to lands within the project's surrounding area.

One source that has proven helpful for regional and statewide agricultural mitigation banks is the California Council of Land Trusts, which can be found at:

LETTER F (continued)

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<http://www.calandtrusts.org>

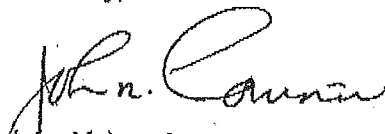
The California Council of Land Trusts deals with all types of mitigation banks. It is suggested that the County contact them to get an understanding of the fees associated with mitigation banking and the options available.

Another source is the Division's California Farmland Conservancy Program (CFCP), which has participated in bringing about conservation easements throughout the State of California involving Land Trust Alliance, the California Council of Land Trusts, and the American Farmland Trust. If the County were not able to make arrangements for easement mitigation through one of these or many other land trusts operating in California, the Department would be glad to help. Of course, the use of conservation easements is only one form of mitigation that should be considered. Any other feasible mitigation measures should also be considered.

The Division strongly recommends that the City review the option of conservation easements in the FEIR and apply them where necessary for the loss of Prime and Unique Farmland.

Thank you for giving us the opportunity to comment on the DEIR for the Fremont Draft General Plan Update. Please provide this Department with the date of any hearings for this particular action, and any staff reports pertaining to it. If you have questions regarding our comments, or require technical assistance or information on agricultural land conservation, please contact Meri Meraz, Environmental Planner, at 801 K Street, MS 18-01, Sacramento, California 95814, or by phone at (916) 445-9411.

Sincerely,


John M. Lowrie
Program Manager
Williamson Act Program

cc: State Clearinghouse

Response to LETTER F: John M. Lowrie, Program Manager, Williamson Act Program, Department of Conservation, August 15, 2011

RESPONSE F-1: The limited size of the remaining two parcels identified as either “Prime Farmland” or “Unique Farmland” in Fremont would not justify the creation of an effective conservation easement program, which would require the formal development of administrative policies, identification of funding mechanisms and definition of on-going monitoring responsibilities before it could be approved and implemented by the City, and the City regards the establishment of such a program as infeasible.

It should be noted that the City of Fremont has worked with the East Bay Regional Park District to preserve the Ardenwood Historic Farm as a way to preserve an example of the City’s agricultural heritage.

On DEIR page 4-293, one mitigation option identified would be to collect an impact fee at the time of conversion of the remaining two parcels identified as either “Prime Farmland” or “Unique Farmland” to non-agricultural uses. Although this was not identified as a feasible mitigation (as such fees could not be applied to support on-going agricultural operations in Fremont, since no commercial agricultural production currently takes place in and around Fremont), the City would consider collecting such a fee and directing it to support non-commercial/non-profit agricultural activities which may be pursued within the community in the future as a way to partially off-set the loss of these designated lands to any potential future agricultural use. Such a fee collection/distribution would not halt the significant and unavoidable impact associated with the conversion of those lands, however.

On DEIR page 4-293, the following sentence has been added at the end of the first incomplete paragraph at the top of the page:

“In the event that development is actually proposed on either of these two parcels during the 25-year planning horizon of the General Plan Update, the City of Fremont will evaluate the site-specific impacts on farmlands in accordance with the Land Use Evaluation and Site Assessment (LESA) model.”

On DEIR page 4-293, the second complete paragraph has been modified to read as follows:

“When residential development of the Guardino parcel actually takes place in the future (resulting in the loss of “Prime Farmland”) and when development of the I-680/Palm properties actually takes place in the future (resulting in the loss of “unique Farmland”), this would represent Provided that the completion of a site-specific analysis (LESA) finds either the Guardino parcel or I-680/Palm parcel are in fact agricultural resource land, their subsequent development under the provisions of the

General Plan Update would result in a *significant and unavoidable* impact associated with implementation of the DRAFT General Plan Update.”



August 18, 2011

City of Fremont
Development and Environmental Services Department
P.O. Box 5006
Fremont, CA 94537-5006

Attention: Dan Schoenholz

Subject: City File No.: PLN2005-0190 / Fremont General Plan

Dear Mr. Schoenholz:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft EIR for the Fremont General Plan Update. We have no comments at this time.

G-1

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,

A handwritten signature in black ink, appearing to read "R Molseed", is written over the word "Sincerely,".

Roy Molseed
Senior Environmental Planner

Response to LETTER G: Roy Molseed, Senior Environmental Planner, Valley Transportation Authority, August 18, 2011

RESPONSE G-1: Lack of comments on the DEIR is noted.

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