

*Final*

**Environmental Impact Report/  
Environmental Assessment**  
*for the*  
**U.S. Highway 50/  
El Dorado Hills Boulevard-Latrobe Road  
Interchange Project**

**El Dorado County  
Department of Transportation**

April 2000



State Clearinghouse No. 98072050

**U.S. Highway 50/El Dorado Hills Boulevard-  
Latrobe Road Interchange Project**

**Final  
ENVIRONMENTAL IMPACT REPORT/  
ENVIRONMENTAL ASSESSMENT**

El Dorado County Department of Transportation

and

State of California Department of Transportation

and

U.S. Department of Transportation  
Federal Highway Administration

May 2000

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# **Chapter 1. Introduction**

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This final environmental impact report/environmental assessment (EIR/EA) for the U.S. Highway 50/El Dorado Hills Boulevard–Latrobe Road Interchange project has been prepared by El Dorado County (County) Department of Transportation, the California Department of Transportation (Caltrans), and the Federal Highway Administration (FHWA), in accordance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA).

Section 15132 of the State CEQA Guidelines requires that a final EIR consist of the following:

- the draft EIR or a revision of the draft EIR;
- comments and recommendations received on the draft EIR, either verbatim or in summary;
- a list of persons, organizations, and public agencies commenting on the draft EIR;
- the responses of the lead agency to significant environmental concerns raised in the review and consultation process; and
- any other information added by the lead agency.

Section 771.119(g) of the U.S. Department of Transportation NEPA regulations (23 Code of Federal Regulations 771) states:

If no significant impacts are identified, the applicant shall furnish the administration a copy of the revised EA, as appropriate; . . . copies of any comments received and responses thereto; and recommend a finding of no significant impact . . .

## **FORMAT AND ORGANIZATION OF THE FINAL EIR/EA**

This final EIR/EA comprises four chapters:

- Chapter 1 outlines the contents and organization of the report and summarizes the public review process.

- Chapter 2 contains a revised version of Table 3-1 from the Draft EIR/EA (draft EIR/EA) for the U. S. Highway 50/El Dorado Hills Boulevard–Latrobe Road Interchange Project (November 1999), entitled “Impacts of U.S. Highway 50/El Dorado Hills Boulevard–Latrobe Road Interchange Project”. This chapter also contains a summary of impacts related to the alternatives to the proposed project in response to Comment L-4.
- Chapter 3 contains copies of all written comments received on the draft EIR/EA. The lead agencies reviewed each comment and prepared a response to each comment. CEQA requires that the lead agency respond to all significant environmental comments at a level of detail appropriate to the comment (State CEQA Guidelines Section 15088). Comments that do not relate directly to the adequacy of the draft EIR/EA have not been given specific responses.
- Chapter 4 contains revisions to the draft EIR/EA (with the exception of Table 3-1 which is contained in Chapter 2 of this report) based on comments received on the report.
- Appendix A contains traffic data in support of Responses B-4, B-5, and B-7 (see Chapter 3).
- Appendix B contains additional noise analysis of the second stories of selected residences in support of Response E-36 (see Chapter 3).
- Appendix C contains toxic air contaminant modeling results in support of Response E-48 (see Chapter 3).
- Appendix D contains a site assessment for the California red-legged frog in support of Response G-11 (see Chapter 3).

## PUBLIC REVIEW PROCESS

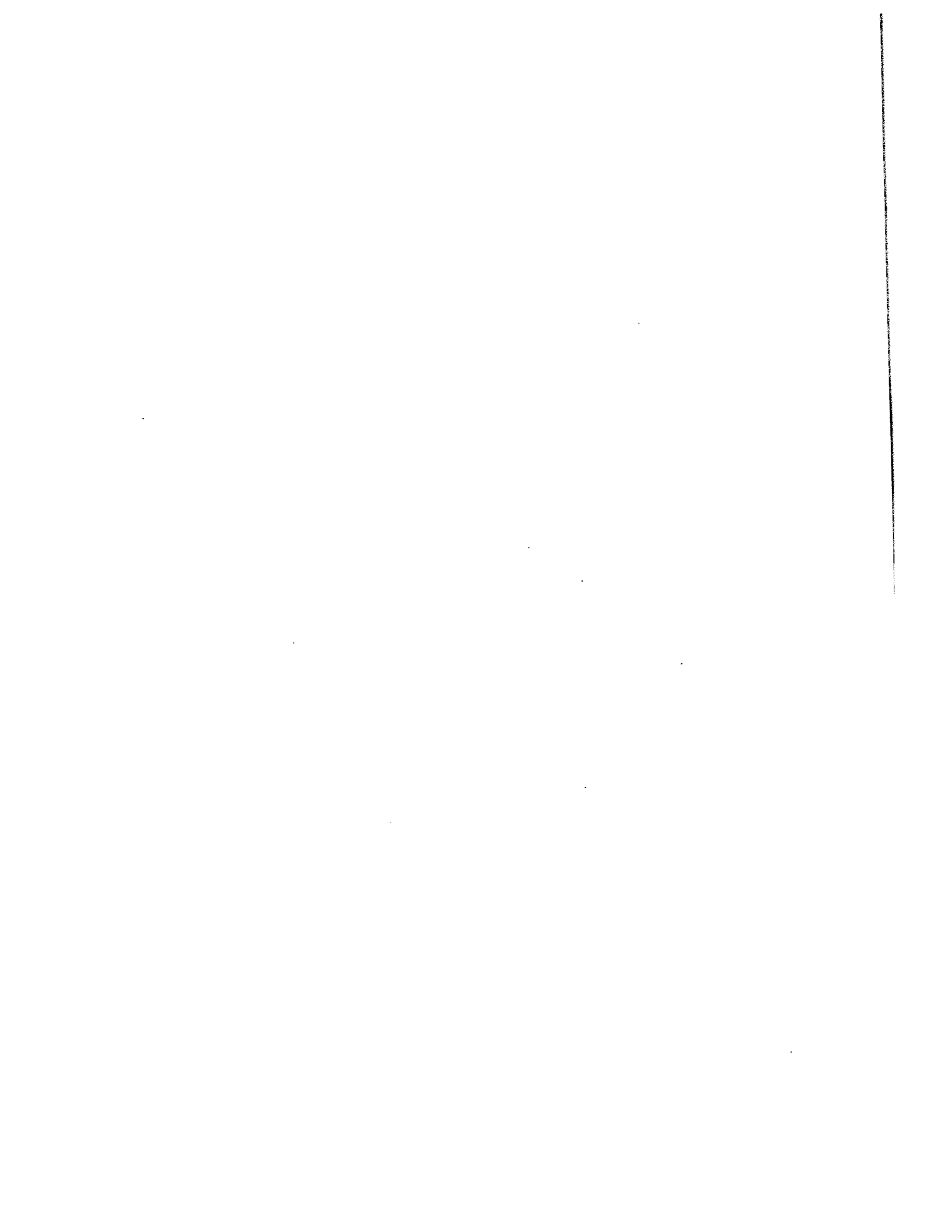
The public review period for the draft EIR/EA began on November 15, 1999, and ended 45 days later on December 30, 1999. Copies of the report were also made available for review at the main library in Placerville, the West Slope branch library, and the El Dorado Hills Community Services District office. Notices of availability of the draft EIR/EA were also published in the Folsom Telegraph on November 17, 1999; the Sacramento Bee on November 12, 1999; and in the Mountain Democrat on November 12 and 15, 1999. Copies of the draft EIR/EA were mailed directly to numerous agencies, organizations, and interested groups and persons for review. A public hearing on the project will be held upon completion of the final EIR/EA.



## **Chapter 2. Revised Summary Table**

This chapter presents a revised version of Table 3-1 (Impacts of U.S. Highway 50/El Dorado Hills Boulevard–Latrobe Road Interchange Project) from the draft EIR/EA. This table summarizes the environmental impacts, mitigation measures, and the CEQA significance conclusions before and after mitigation for the proposed project. Text in standard print is original draft EIR/EA text, text in italics is added text, and text that is struck out is deleted text.

This chapter also includes a new summary table that compares the Preferred Alternative with alternatives to the proposed project.



NEPA and CEQA Impacts	NEPA and CEQA Mitigation Measures	CEQA Level of Significance before Mitigation	CEQA Level of Significance after Mitigation
Impact 4.1. Exposure of Residents to Noise from Project Construction	Mitigation Measure 4.1. Employ Noise-Reduction Construction Measures	S	LTS
Impact 4.2. Exposure of Residents to Noise from Construction Blasting	Mitigation Measure 4.2. Retain a Qualified Blasting Consultant and Limit Peak Overpressures	S	LTS
Impact 4.3. Exposure of Residences to Traffic Noise under 2005 Conditions	Mitigation Measure 4.3a. Construct Sound Barriers Along the Eastern and Southern Property Lines of Residences Located in the Northwest Quadrant of the Interchange  <i>Mitigation Measure 4.3b. Evaluate the interior noise levels of residences and improve the acoustical insulation to result in interior noise levels below 45 dBA Ldn or 52 dBA Leq. Install dual-pane glazing with a Sound Transmission Class rating of at least 30 in the second-story rooms on those residences adjacent to the proposed project that have single-pane windows facing the proposed project</i>	S	LTS
Impact 4.4. Exposure of Existing and Future Commercial Land Uses to Traffic Noise under 2005 Conditions	None proposed	LTS	LTS
Impact 4.5. Exposure of Residents to Traffic Noise under 2020 Conditions	Mitigation Measure 4.5a. Construct Sound Barriers Along the Eastern and Southern Property Lines of Residences Located in the Northwest Quadrant of the Interchange  <i>Mitigation Measure 4.5b. See Mitigation Measure 4.3b above.</i>	S	LTS

CEQA significance conclusions:

S = significant

LTS = less than significant

Table 3-1. Continued

NEPA and CEQA Impacts	NEPA and CEQA Mitigation Measures	CEQA Level of Significance before Mitigation	CEQA Level of Significance after Mitigation
Impact 4.6. Exposure of Existing and Future Commercial Land Uses to Increased Noise under 2020 Conditions	None proposed	LTS	LTS
Impact 5.1. Temporary Generation of Emissions from Construction of the Project	Comply with El Dorado County APCD's Construction Measures	S	LTS
Impact 5.2. Conformity with the State Implementation Plan	None proposed	LTS	LTS
Impact 5.3. No Exceedance of Carbon Monoxide Standards in 2005	None proposed	LTS	LTS
Impact 5.4. No Exceedance of Carbon Monoxide Standards in 2020	None proposed	LTS	LTS
Impact 6.1. Short-Term Changes in Views of the Project Site from Construction Activities	None proposed <sup>1</sup>	LTS	LTS
Impact 6.2. Changes to Views of the Project Site from U.S. Highway 50 and Other Public Roads	None proposed	LTS	LTS

<sup>1</sup> Although Impact 6.1 is less than significant, the following measures are recommended:

- Construction staging areas for equipment, personal vehicle parking, and material storage should be a minimum of 154 meters (500 feet) from adjacent residences near Saratoga Way. Where possible, opportunities for screening staging areas with existing topography and vegetation should be maximized. If chain-link security fencing is placed around such areas, slats of an earth-tone or other neutral color should be used.
- Hours for construction for the realignment of Saratoga Way should be limited to the hours specified in Mitigation Measure 4.1.
- Implement Mitigation Measure 6.5: Replace high-pressure sodium light fixtures.

CEQA significance conclusions:  
 S = significant  
 LTS = less than significant

NEPA and CEQA Impacts	NEPA and CEQA Mitigation Measures	CEQA Level of Significance before Mitigation	CEQA Level of Significance after Mitigation
Impact 6.3. Changes to Views of the Project Site from Residences in the Northwest Quadrant	Mitigation Measure 6.3. Provide Aesthetic Treatment to Sound Barriers that are Visible from Private Residences	S	LTS
Impact 6.4. Changes in Light and Glare	None proposed	LTS	LTS
Impact 6.5. Consistency with Adopted Plans and Policies Related to Visual Resources	Mitigation Measure 6.5. Replace High-Pressure Sodium Light Fixtures	S	LTS
Impact 7.1. Construction-Related Safety Concerns	Mitigation Measure 7.1. Implement a Construction Traffic-Control Plan	S	LTS
Impact 7.2. Elimination of Park-and-Ride Activities on Saratoga Way	None proposed	LTS	LTS
Impact 7.3. Acceptable Operations on Saratoga Way under No-Project and with Project Conditions in 2020	None proposed	LTS	LTS
Impact 8.1. Consistent with General Plan Designation or Zoning	None proposed	LTS	LTS
Impact 8.2. Consistent with Applicable Environmental Plans or Policies Adopted by Agencies with Jurisdiction over the Project	None proposed	LTS	LTS
Impact 8.3. Potential Incompatibility with Existing Land Uses in the Vicinity	None proposed	LTS	LTS
Impact 8.4. Potential Effect on Agricultural Resources or Operations	None proposed	LTS	LTS
Impact 8.5. Potential Disruption or Division of the Physical Arrangement of an Established Community	None proposed	LTS	LTS

CEQA significance conclusions:

S = significant

LTS = less than significant

Table 3-1. Continued

NEPA and CEQA Impacts	NEPA and CEQA Mitigation Measures	CEQA Level of Significance before Mitigation	CEQA Level of Significance after Mitigation
<i>Impact 8.5. Alteration or relocation to existing water and/or wastewater utility infrastructure.</i>	<i>None proposed.</i>	LTS	LTS
<i>Impact 8.6. Alteration or relocation to existing communication, electricity, and natural gas utility infrastructure.</i>	<i>None proposed.</i>	LTS	LTS
<i>Impact 8.7. Increased need for landfill space.</i>	<i>None proposed.</i>	LTS	LTS
<i>Impact 8.8. Interference with emergency response activities.</i>	<i>None proposed.</i>	LTS	LTS
<i>Impact 8.9. Potential interference on community cohesion.</i>	<i>None proposed.</i>	LTS	LTS
<i>Impact 8.10. No disproportionate effect on minority or low-income population</i>	<i>None proposed.</i>	LTS	LTS
<i>Impact 8.11. Temporary business impacts</i>	<i>Mitigation Measure 8.11. See Mitigation Measure 7.1 above.</i>	S	LTS
<i>Impact 8.12. Increase in temporary employment generated by the proposed project</i>	<i>None proposed.</i>	LTS	LTS
<i>Impact 9.1. Increased Short-Term Erosion Rates</i>	<i>None proposed.</i>	LTS	LTS
<i>Impact 9.2. Potential Exposure of People to Asbestos</i>	<i>None proposed. Mitigation Measure 9.2. Comply with El Dorado County's Asbestos Ordinance</i>	LTS	LTS

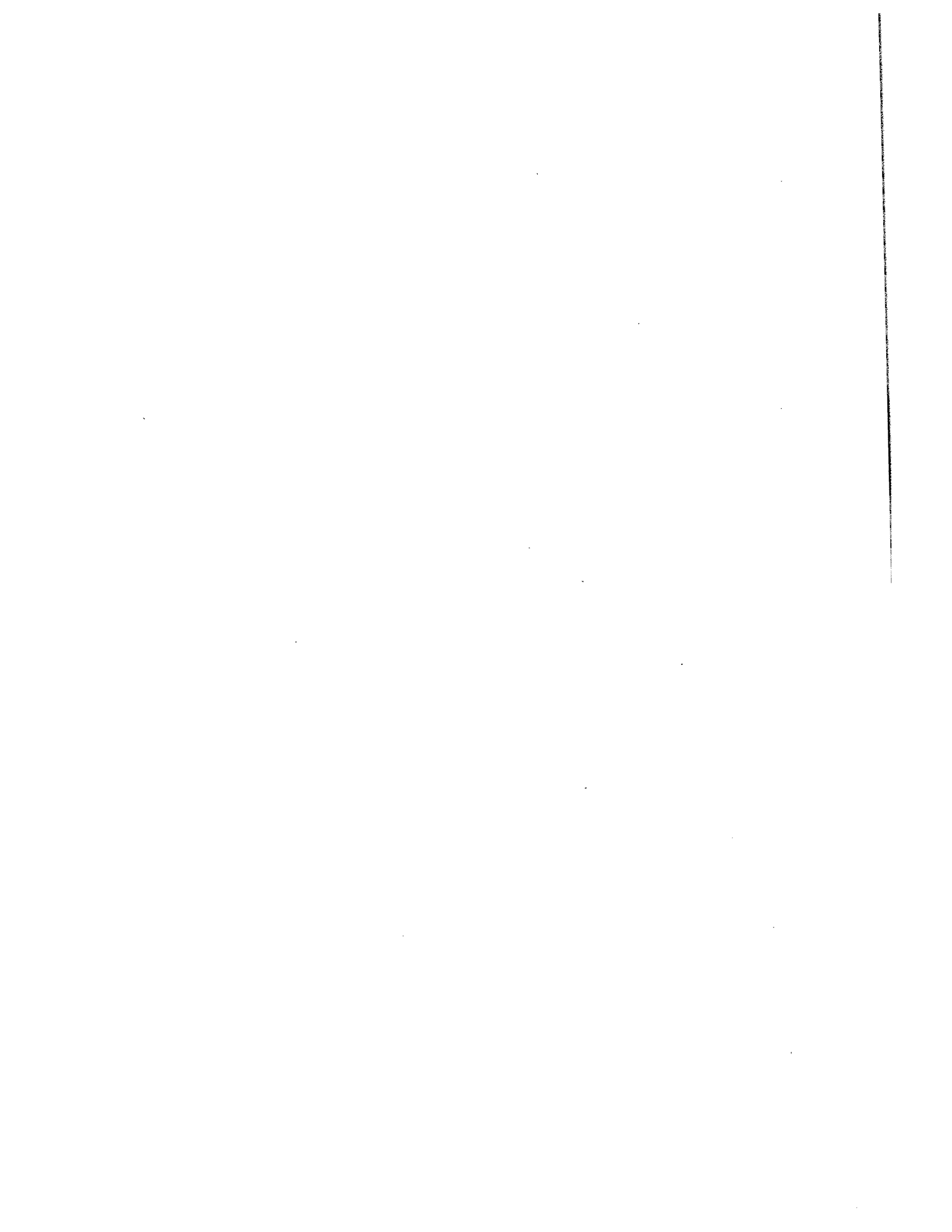
CEQA significance conclusions:  
 S = significant  
 LTS = less than significant

NEPA and CEQA Impacts	NEPA and CEQA Mitigation Measures	CEQA Level of Significance before Mitigation	CEQA Level of Significance after Mitigation
Impact 10.1. Degradation of Water Quality as a Result of Construction Activities	None proposed	LTS	LTS
Impact 10.2. Degradation of Water Quality as a Result of Urban Pollutant Loadings	Mitigation Measure 10.2a: Implement Best Management Practices to Control Urban Pollutants	S	LTS
Impact 11.1. Loss of Annual and Ruderal Grassland and Disturbance to Wildlife Habitat	None proposed	LTS	LTS
Impact 11.2. Loss of Perennial Drainages and Wildlife Habitat	<del>Mitigation Measure 11.2a: Conduct a Wetland Delineation</del>	S	LTS
	Mitigation Measure 11.2b-a: Avoid Disturbance of Drainages and Wetland and Riparian Vegetation		
	Mitigation Measure 11.2e-b: Minimize Impacts on Perennial Drainages		
	Mitigation Measure 11.2d-c: Compensate for the Loss of Potential Wetland and Riparian Vegetation		
Impact 12.1. Potential Damage to Currently Unknown Cultural Resources	Mitigation Measure 12.1a: Implement a Plan for the Unanticipated Discovery of Cultural Resources	S	LTS

CEQA significance conclusions:

S = significant

LTS = less than significant





Comparison of Alternatives with Proposed Project

Preferred Alternative (Proposed Project)	No-Project Alternative	Alternative I: Former Alternative 3 with Saratoga Way Tangent Alignment	Alternative II: New Interchange Configuration (Former Alternative 2 with S Curve Alignment)
<b>Noise</b>			
Impact 4.1: Exposure of residents to noise from project construction (S/LTS)	No noise generation at interchange site; Exposure of residents to noise from development of commercial property (S/LTS)	Same as Preferred Alternative (S/LTS)	Same as Preferred Alternative (S/LTS)
Impact 4.2: Exposure of residents to noise from construction blasting (S/LTS)	No noise generation at interchange site; Potential exposure to residents from construction blasting from development of commercial property (S/LTS)	Same as Preferred Alternative (S/LTS)	Same as Preferred Alternative (S/LTS)
Impact 4.3: Exposure of residences to traffic noise under 2005 conditions; Most receptors would exceed or approach Caltrans criterion; All receptors would exceed County normally acceptable standard (S/LTS)	1 dB less than under Preferred Alternative at all residential receivers analyzed except Receptor 1, where noise level would be 2dB less; Same exceedances as Preferred Alternative (S/LTS)	Same as Preferred Alternative (S/LTS)	Same as Preferred Alternative (S/LTS)
Impact 4.4: Exposure of existing and future commercial land uses to traffic noise for 2005 conditions; no exceedance of Caltrans criterion (LTS/LTS)	1 dB less than under Preferred Alternative at some receptors; No exceedance of Caltrans criterion (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)

Significance conclusion before mitigation/significance conclusion after mitigation:

LTS = less than significant

S = significant

SU = significant and unavoidable

<sup>1</sup> See revised Table 3-1 in this chapter for a listing of mitigation measures related to the Preferred Alternative.

See Chapter 13 of the draft EIR/EA for a description of mitigation measures recommended for Alternatives I and II.

Comparison of Impacts Associated with the Preferred Alternative and Alternatives to the Proposed Project' (Continued)

Comparison of Alternatives with Proposed Project			
Preferred Alternative (Proposed Project)	No-Project Alternative	Alternative I: Former Alternative 3 with Saratoga Way Tangent Alignment	Alternative II: New Interchange Configuration (Former Alternative 2 with S Curve Alignment)
Impact 4.5: Exposure of residents to traffic noise for 2020 conditions; All receptors would exceed or approach Caltrans criterion and County normally and conditionally acceptable standards (S/LTS)	1 dB less than under Preferred Alternative for residences located between Mammoth Way and Arrowhead Drive and along Kings Canyon Drive (same noise level for other receptors); Same exceedances as Preferred Alternative (S/LTS)	Same as Preferred Alternative (S/LTS)	Same as Preferred Alternative (S/LTS)
Impact 4.6: Exposure of existing and future commercial land uses to increased noise for 2020 conditions; no exceedance of Caltrans criterion (LTS/LTS)	1 dB less than under Preferred Alternative at some receptors; No exceedance of Caltrans criterion (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
<b>Air Quality</b>			
Impact 5.1: Temporary generation of emissions from construction of project (S/LTS)	No emissions generation at interchange site; Temporary generation of emissions from development of commercial property (S/LTS)	Same as Preferred Alternative (S/LTS)	Same as Preferred Alternative (S/LTS)
Impact 5.2: Conformity with State Implementation Plan (LTS/LTS)	Maintaining project components in current configuration doesn't reflect improvements per 1996 MTP (Unknown)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 5.3: No exceedance of carbon monoxide standards in 2005 (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)

Significance conclusion before mitigation/significance conclusion after mitigation:

- LTS = less than significant
- S = significant
- SU = significant and unavoidable

1 See revised Table 3-1 in this chapter for a listing of mitigation measures related to the Preferred Alternative. See Chapter 12 of the draft FIR/FA for a description of mitigation measures recommended for Alternatives I and II.

Comparison of Alternatives with Proposed Project

Preferred Alternative (Proposed Project)	Comparison of Alternatives with Proposed Project	
	Alternative I: Former Alternative 3 with Saratoga Way Tangent Alignment	Alternative II: New Interchange Configuration (Former Alternative 2 with S Curve Alignment)
Impact 5.4: No exceedance of carbon monoxide standards in 2020 (LTS/LTS)	No-Project Alternative  Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
<b>Visual Resources</b>		
Impact 6.1: Short-term changes in views of the project site from construction activities (LTS/LTS)	Interchange site would remain unchanged; Short-term changes in views during development of commercial uses (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 6.2: Changes to views of the project site from U.S. Highway 50 and other public roads (LTS/LTS)	Interchange site would remain unchanged; change in view of commercial property upon development of commercial uses (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 6.3: Changes to views of the project site from residences in the northwest quadrant (S/LTS)	Interchange site would remain unchanged; change in view of commercial property upon development of commercial uses (S/LTS)	Same as Preferred Alternative (S/LTS)
Impact 6.4: Changes in light and glare (LTS/LTS)	Number of light fixtures at interchange site would remain unchanged; Potential for changes in light and glare with development of the commercial property (unknown)	Same as Preferred Alternative (LTS/LTS)

Significance conclusion before mitigation/significance conclusion after mitigation:

LTS = less than significant

S = significant

SU = significant and unavoidable

<sup>1</sup> See revised Table 3-1 in this chapter for a listing of mitigation measures related to the Preferred Alternative. See Chapter 13 of the draft EIR/EA for a description of mitigation measures recommended for Alternatives I and II.

Comparison of Impacts Associated with the Preferred Alternative and Alternatives to the Proposed Project<sup>1</sup> (Continued)

Preferred Alternative (Proposed Project)	Comparison of Alternatives with Proposed Project		
	No-Project Alternative	Alternative I: Former Alternative 3 with Saratoga Way Tangent Alignment	Alternative II: New Interchange Configuration (Former Alternative 2 with S Curve Alignment)
Impact 6.5: Consistency with adopted plans and policies related to visual resources (S/LTS)	No change in light fixtures at interchange site; Commercial development would be required to comply with El Dorado Hills Specific Plan Design Guidelines (LTS/LTS)	Same as Preferred Alternative (S/LTS)	Same as Preferred Alternative (S/LTS)
<b>Traffic and Circulation</b>			
Impact 7.1: Construction-related safety concerns (S/LTS)	Construction-related detours may occur with development of commercial uses (S/LTS)	Same as Preferred Alternative (S/LTS)	Same as Preferred Alternative (S/LTS)
Impact 7.2: Elimination of park-and-ride facilities on Saratoga Way (LTS/LTS)	No impact on park-and-ride facilities on Saratoga Way (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 7.3: Acceptable operations on Saratoga Way under No Project and With Project Conditions in 2005 and 2020 (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 7.4: Acceptable operations at ramp terminal intersections in 2005 and 2020 (LTS/LTS)	Unacceptable operations at ramp terminal intersections in 2005 and 2020 (SU)	Same as Preferred Alternative (LTS/LTS)	Unacceptable operations at the unsignalized El Dorado Hills Boulevard/U.S. Highway 50 westbound diagonal off-ramp in 2020 (SU)

Significance conclusion before mitigation/significance conclusion after mitigation:

LTS = less than significant

S = significant

SU = significant and unavoidable

<sup>1</sup> See revised Table 3-1 in this chapter for a listing of mitigation measures related to the Preferred Alternative.

See Chapter 13 of the draft FIR/EA for a description of mitigation measures recommended for Alternatives I and II.

Comparison of Alternatives with Proposed Project

Preferred Alternative (Proposed Project)	No-Project Alternative	Alternative I: Former Alternative 3 with Saratoga Way Tangent Alignment	Alternative II: New Interchange Configuration (Former Alternative 2 with S Curve Alignment)
Impact 7.5: No disruptions to future transit service in 2005 and 2020 (LTS/LTS)	Disruptions to future transit service in 2005 and 2020 (SU)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 7.6: Accommodation of planned bicycle facilities (LTS/LTS)	Interference with planned bicycle facilities (S/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 7.7: Acceptable operations at the El Dorado Hills Boulevard/Park Drive intersection in 2005 and 2020 (LTS/LTS)	Unacceptable operations at the El Dorado Hills Boulevard/Park Drive intersection in 2020 (SU)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
<b>Land Use and Socioeconomics</b>			
Impact 8.1: Consistent with general plan designation and zoning (LTS/LTS)	No general plan or zoning designation change would be required (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 8.2: Consistent with applicable environmental plans or policies adopted by agencies with jurisdiction over the project (LTS/LTS)	Inconsistent with applicable environmental plans or policies adopted by agencies with jurisdiction over the project (SU)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)

Significance conclusion before mitigation/significance conclusion after mitigation:

- LTS = less than significant
- S = significant
- SU = significant and unavoidable

<sup>1</sup> See revised Table 3-1 in this chapter for a listing of mitigation measures related to the Preferred Alternative. See Chapter 13 of the draft EIR/EA for a description of mitigation measures recommended for Alternatives I and II.

Comparison of Impacts Associated with the Preferred Alternative and Alternatives to the Proposed Project<sup>1</sup> (Continued)

Preferred Alternative (Proposed Project)	Comparison of Alternatives with Proposed Project		
	No-Project Alternative	Alternative I: Former Alternative 3 with Saratoga Way Tangent Alignment	Alternative II: New Interchange Configuration (Former Alternative 2 with S Curve Alignment)
Impact 8.3: Potential incompatibility with existing land uses in the vicinity (for interchange LTS/LTS; for Saratoga Way realignment area, see Noise, Air Quality, and Visual Resources impacts)	Development of commercial property could result in potential incompatibility with existing land uses in the vicinity (see Noise, Air Quality, and Visual Resource impacts)	For interchange, same as Preferred Alternative; for Saratoga Way realignment area, See Noise, Air Quality, and Visual Resources impacts	For interchange, same as Preferred Alternative; for Saratoga Way realignment area, See Noise, Air Quality, and Visual Resources impacts
Impact 8.4: Potential effect on agricultural resources or operations (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
<b>Public Service and Utilities</b>			
Impact 8.5: Alteration or relocation to existing water and/or wastewater utility infrastructure (LTS/LTS)	Development of commercial property could affect water and/or wastewater infrastructure (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 8.6: Alteration or relocation to existing communication, electricity, and natural gas utility infrastructure (LTS/LTS)	Development of commercial property could affect public services and utilities (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 8.7: Increased need for landfill space (LTS/LTS)	Development of commercial property could affect landfill space (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)

Significance conclusion before mitigation/significance conclusion after mitigation:

- LTS = less than significant
- S = significant
- SU = significant and unavoidable

<sup>1</sup> See revised Table 3-1 in this chapter for a listing of mitigation measures related to the Preferred Alternative. See Chapter 13 of the draft EIR/EA for a description of mitigation measures recommended for Alternatives I and II.

Comparison of Alternatives with Proposed Project

Preferred Alternative (Proposed Project)	No-Project Alternative	Alternative I: Former Alternative 3 with Saratoga Way Tangent Alignment	Alternative II: New Interchange Configuration (Former Alternative 2 with S Curve Alignment)
Impact 8.8: Interference with emergency response activities (LTS/LTS)	Development of commercial property could affect emergency response activities (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 8.9: Potential interference on community cohesion (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 8.10: No disproportionate effect on minority or low-income population (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 8.11: Temporary business impacts (S/LTS)	Potential for temporary business impacts could occur with development of commercial property (S/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 8.12: Increase in temporary employment generated by the proposed project (LTS/LTS)	Potential increase in temporary employment generated by development of commercial property (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
<b>Earth Resources</b>			
Impact 9.1: Increased short-term erosion rates (LTS/LTS)	No construction or short-term erosion at interchange site; Potential for increased short-term erosion rates with development of commercial property (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)

Significance conclusion before mitigation/significance conclusion after mitigation:

- LTS = less than significant
- S = significant
- SU = significant and unavoidable

<sup>1</sup> See revised Table 3-1 in this chapter for a listing of mitigation measures related to the Preferred Alternative. See Chapter 13 of the draft EIR/EA for a description of mitigation measures recommended for Alternatives I and II.

Comparison of Impacts Associated with the Preferred Alternative and Alternatives to the Proposed Project' (Continued)

Preferred Alternative (Proposed Project)	Comparison of Alternatives with Proposed Project	
	Alternative I: Former Alternative 3 with Saratoga Way Tangent Alignment	Alternative II: New Interchange Configuration (Former Alternative 2 with S Curve Alignment)
Impact 9.2: Potential exposure of people to asbestos (S/LTS)	No-Project Alternative No construction at interchange site; Potential exposure of people to asbestos with development of commercial property (S/LTS)	Same as Preferred Alternative (S/LTS)
<b>Hydrology and Water Quality</b>		
Impact 10.1: Degradation of water quality as a result of construction activities (LTS/LTS)	Potential degradation of water quality with development of commercial property (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 10.2: Degradation of water quality as a result of urban pollutant loadings (S/LTS)	Potential degradation of water quality with development of commercial property (S/LTS)	Same as Preferred Alternative (S/LTS)
<b>Biological Resources</b>		
Impact 11.1: Loss of annual and ruderal grassland and disturbance to wildlife habitat (LTS/LTS)	Potential loss of annual and ruderal grassland and disturbance to wildlife habitat with development of the commercial property (LTS/LTS)	Same as Preferred Alternative (LTS/LTS)
Impact 11.2: Loss of perennial drainages and wildlife habitat (S/LTS)	No impact to interchange site (LTS/LTS)	Same as Preferred Alternative (S/LTS)

Significance conclusion before mitigation/significance conclusion after mitigation:

LTS = less than significant

S = significant

SU = significant and unavoidable

1 See revised Table 3-1 in this chapter for a listing of mitigation measures related to the Preferred Alternative. See Chapter 12 of the Draft FIR/EA for a description of mitigation measures recommended for Alternatives I and II.



Comparison of Alternatives with Proposed Project

Preferred Alternative (Proposed Project)	No-Project Alternative	Alternative I: Former Alternative 3 with Saratoga Way Tangent Alignment	Alternative II: New Interchange Configuration (Former Alternative 2 with S Curve Alignment)
<b>Cultural Resources</b>			
Impact 12.1: Potential damage to currently unknown cultural resources (S/LTS)	Potential damage to currently unknown cultural resources with development of the commercial property (S/LTS)	Same as Preferred Alternative (S/LTS)	Same as Preferred Alternative (S/LTS)

Significance conclusion before mitigation/significance conclusion after mitigation:

LTS = less than significant

S = significant

SU = significant and unavoidable

<sup>1</sup> See revised Table 3-1 in this chapter for a listing of mitigation measures related to the Preferred Alternative. See Chapter 13 of the draft EIR/EA for a description of mitigation measures recommended for Alternatives I and II.

## **Chapter 3. Comment Letters and Responses to Comments**

This chapter presents El Dorado County's responses to all comments received on the draft EIR/EA during the public review period between November 15, 1999 and December 30, 1999. Each written comment is presented in letter form as received by the County. Each comment is numbered in the right margin and followed by a corresponding numbered response (the responses for each letter immediately follow each letter). References in this chapter to the errata refer to changes to the draft EIR/EA contained in Chapter 4.

The following is a list of the capital letter assigned to each letter, the letters received (by date of receipt), and the date of each letter:

List of Comment Letters Received on Draft EIR/EA for the  
U.S. Highway 50/El Dorado Hills Boulevard–Latrobe Road Interchange Project

<b>Assigned Letter Designation</b>	<b>Comments Received From</b>	<b>Date of Letter</b>
A	Pacific Bell	December 15, 1999
B	Crain & Associates	December 17, 1999
C	Kenneth E. Ebert	December 21, 1999
D	Reed and Mechell McDermott	December 22, 1999
E	The Zumbrun Law Firm on behalf of Citizens Against Roadway Encroachment (CARE)	December 23, 1999
F	Steve Ruark	December 28, 1999
G	U.S. Fish and Wildlife Service	December 28, 1999
H	Clayton A. Littman	December 29, 1999
I	California's Governor's Office of Planning and Research, State Clearinghouse	December 30, 1999
J	Byran J. Coomes Sr.	December 30, 1999
K	Gary and Camile Kern	December 30, 1999
L	Serrano Associates, LLC	December 30, 1999
M	Gary and Loretta Richards	December 1999
N	El Dorado Hills Area Planning Advisory Committee	January 3, 2000
O	James C. Miller	undated
P	James Miller	undated
Q	Eleanor Miller and Ruth Horner	undated
R	Kenneth and Mary West	undated
S	County of El Dorado Air Pollution Control District	January 31, 1999

*map attached*

**PACIFIC BELL**  
Right of Way Department  
3675 "T" Street, #111-62  
P. O. Box 15038  
Sacramento, CA 95851-1038

December 15, 1999

County of El Dorado  
Department of Transportation  
2850 Fairlane Court  
Placerville, CA 95667

**Attention: Kris Payne, Supervising Civil Engineer**

**Subject: U. S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange**

In response to your request for comments on the Draft Environmental Impact Report/Environmental Assessment for the above mentioned project, our Engineering staff has prepared the enclosed material. We have aerial and underground facilities in the project scope. Upon review of the enclosed material, if it is determined that relocation of any of Pacific Bell's facilities will be required, please issue a Notice to Owner indicating the scope of work required and determination of liability. In addition, we would appreciate receiving an indication of a tentative date by which our work must be complete in order to accommodate your project. This will assist us in scheduling our work in a timely manner.

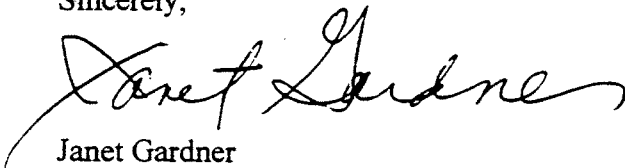
A-1

The location of facilities shown hereon are subject to field verification. Pacific Bell assumes no responsibility for the accuracy of the substructure information herein provided. The user assumes responsibility for verifying substructure locations before excavating and assumes all liability for damage to telephone facilities as a result of such excavation. Call Underground Service Alert on (800) 642-2444 two days before digging in proximity to telephone plant.

A-2

The Engineer responsible for details concerning the enclosed materials is Bob Willard who may be reached on (916) 453-7126. If you have any further questions regarding this matter, please call me on (916) 453-6132.

Sincerely,



Janet Gardner  
Public Works Coordinator

Enclosures

RECEIVED  
DEC 17 1999

EL DORADO COUNTY  
DEPT. OF TRANSPORTATION

## RESPONSES TO PACIFIC BELL (DECEMBER 15, 1999)

**Response A-1:** Comment noted.

**Response A-2:** Comment noted.

# Crain & Associates Of Southern California

2007 Sawtelle Boulevard, Suite 4  
Los Angeles, California 90025  
Telephone (310) 473-6508  
Facsimile (310) 444-9771

## FAX TRANSMITTED

December 17, 1999

El Dorado County Department of Transportation  
2850 Fairlane Court  
Placerville, California 95667

Attention: Mr. Kris Payne  
Supervising Civil Engineer

RECEIVED

DEC 22 1999

EL DORADO COUNTY  
DEPT. OF TRANSPORTATION

RE: Comments on the U.S. Highway 50/El Dorado Hills Boulevard – Latrobe Road  
Interchange EIR

Dear Kris,

Crain & Associates is a transportation planning and traffic engineering firm with long experience in the US 50 corridor. Starting in 1984, we prepared the East Area Transportation study for Sacramento County. This study encompassed the entire area between US 50 and the Jackson Highway extending from the City of Sacramento to the El Dorado County line. We have participated in numerous assessment district studies and Specific Plan analyses of uses proposed for this corridor in the subsequent years. Most recently, over the past six months we have prepared traffic analyses of the West Valley portion of the Valley View Specific Plan. Since we are extremely familiar with this corridor, we were asked to review the traffic projections used to analyze the US Highway 50/El Dorado Hills Boulevard – Latrobe Road Interchange project.

We have carefully reviewed the contents of Chapter 7, Traffic and Circulation, of the Environmental Impact Report/Environmental Assessment for the U.S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange Project, prepared in November 1999. While we believe that this report adequately addresses the impacts of the project as proposed, we are concerned that it overstates cumulative impacts with regard to existing and future traffic conditions. The study uses several assumptions and analysis methodologies which result in an overstatement of the level of congestion currently in the area and which will be experienced in the future.

B-1

Figure 7-2, Peak Hour Traffic Volumes – Existing Conditions, of the EIR shows westbound AM peak hour traffic volumes at 4,000 vehicles per hour, and eastbound PM peak hour volumes at 3,900 vehicles per hour on U.S. Highway 50. These values were apparently based on factoring upward of previous counts. However, we have reviewed published Caltrans data from 1988 to 1998. This data shows that while peak month average daily traffic volumes have increased over the past decade, AM and PM peak hour, peak direction volumes have remained relatively stable, and in some cases actually decreased. Current Caltrans data shows approximately 3,200 vph westbound during the AM peak hour, and approximately 3,400 vph eastbound during the PM peak hour. As a result, data presented in Figure 7-2 of the EIR are overstating actual conditions, as determined by the most current Caltrans published data.

B-2

The increase in daily traffic volumes, while peak hour peak direction volumes remain at relatively similar levels to what they were 10 years ago, demonstrates that a greater jobs/housing balance is being achieved in this portion of El Dorado County and is transforming El Dorado Hills from a bedroom community to an employment center. This shift will become increasingly important in the coming years as continued business development is slated to occur in the vicinity of the El Dorado Hills-Latrobe Road Interchange project. Further, regional Transportation Demand Management programs are reducing the percentage of daily trips which are concentrated into the single morning and evening peak hours. This trend will also continue into the future.

B-3

In addition to the overstatement of AM and PM peak hour volumes on U.S. Highway 50 to the west of the El Dorado Hills Boulevard-Latrobe Road Interchange, the data calculations contained in the appendix of the EIR have been performed using release 2.1d of the Highway Capacity Manual software. The 1997 update of the Highway Capacity Manual, as well as complementary software, has been released since the calculation of the results presented in the EIR. The updated software has refined the calculation methodologies and allows for more refined computation of levels of service than could be previously calculated.

A comparison of data outputs for the same inputs was prepared in order to demonstrate the effect, if any, of using the updated Highway Capacity Manual software. This computational comparison was performed for existing the conditions of the U.S. Highway 50 westbound on-ramps during the AM peak hour. As shown in the EIR, release 2.1d of the software calculates the level of service as F. The updated software, release 3.1b calculates a level of service E with the same input data. The worksheets for each of these calculations are attached to this letter.

B-4

The updated software is able to take more factors into account. By directly accounting for these variables, it is able to use fewer conservative estimates. While each assumption may itself have relatively minor influences, when compounded these conservative assumptions led to very

conservative results. Therefore, by being more accurate, the newer versions of the software in many cases show that the actual conditions are better than was indicated by the older, less accurate calculations. The results in the EIR should be viewed considering the conservative nature of the software utilized. Actual conditions would be shown to be better in most cases by the newer software.

B-4  
cont.

Another conservative assumption is the acceleration lane length. The existing conditions calculations for the eastbound on-ramp only assume a 150 foot length. According to the 1994 Highway Manual, "The length of such lanes is measured from the point at which the left edge of the ramp lanes and the right edge of the freeway lanes converge to the end of the taper segment connecting the ramp to the freeway." In actuality, this length is longer than the 150 feet used for computational purposes. Again, this leads to an overstatement of the level of congestion.

B-5

The ramp analysis also takes into consideration the presence of 2.0 percent heavy vehicles and 1.0 percent recreational vehicles. However, the Final Traffic analysis Report for the U.S. Highway 50 Bass Lake Grade Truck-Climbing Lane Project Report, prepared by Fehr & Peers Associates, Inc. in January 1999, documents the existence of less than a 1.5 percent combined total of heavy and recreational vehicles in the traffic stream. This overstatement of the proportion of heavy and recreational vehicles in the traffic stream, again, results in more conservative results.

B-6

In addition to overstating the proportion of heavy and recreational vehicles for the ramp analysis, the mainline analysis for 2005 does not take into account the planned high-occupancy vehicle lane in the westbound direction to the west of the interchange. This omission serves to overstate the number of vehicles in the two mixed flow lanes.

B-7

The analysis of existing conditions at Saratoga Way/El Dorado Hills Boulevard/U.S. Highway 50 Westbound Ramps is also very conservative. Currently, these two signals operate as a single, six legged intersection, rather than using queue management techniques to improve operations. Further, the analysis does not allow for right turns concurrent with the adjacent through movement during phase combination eight at either intersection. In addition, right-turns-on-red have not been accounted for. Not reflecting these movements overstates congestion, especially for southbound right turns onto the westbound U.S. Highway 50 on-ramp.

B-8

The future growth assumed in the analysis also does not reflect actual growth patterns in the area. Caltrans counts show that the average daily traffic volumes on the U.S. Highway 50 west of El Dorado Hills Boulevard during the ten year period from 1988 to 1998 have only grown by 2 percent per year. The peak hour volumes have grown at even slower rates. However, for the seven year period between the years 1998 and 2005, the EIR projects peak hour growth to

B-9



average over 6 percent annually. Even over the 22 year period through the extending year 2020, a nearly 3 percent annual growth in peak hour traffic was assumed. These overstated growth factors are on top of the base year 1998 volumes, which shown in the EIR are substantially higher than Caltrans count volumes for 1998. When these two factors are compounded, they result in projections of congested conditions at locations where no congestion would actually be anticipated to occur.

B-9  
cont.

This overstatement of growth seems to come from two factors. First, the "updated traffic forecasts are consistent with the forecasts developed for the 1996 El Dorado County General Plan" (page 7-13 of the EIR). All land-use in the County fully building out by the Year 2020 is very unlikely. Second, the freeway volumes in the seven years (1998-2005) were assumed to grow at over twice the annual rate for the 22 year buildout period (1998-2020). These two factors, when compounded, result in projections of unrealistically poor conditions, especially for the Year 2005.

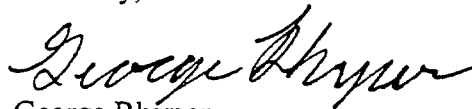
B-10

As can be seen by the above information, we believe that the analysis methodologies as well as count data presented in Chapter 7, Traffic and Circulation, of the Environmental Impact Report/Environmental Assessment for the U.S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange Project, overstates current conditions as well as projected future conditions within the study area. While fully identifying all potentially significant traffic impacts, the analysis understates the benefits from the freeway interchange reconstruction project. The decision-makers should consider the substantial overstatements of existing and future congestion when making decisions about this and other area projects.

B-11

If you have any questions, please feel free to call me.

Sincerely,



George Rhyner  
Senior Transportation Engineer

GR:mlc  
C8233  
attachments

## ANALYSIS WORKSHEETS

=====

Center For Microcomputers In Transportation  
 University of Florida  
 512 Weil Hall  
 Gainesville, FL 32611-2083  
 Ph: (904) 392-0378

=====

File Name ..... EXWBOFPM.HCS  
 Location..... US 50 WESTBOUND DIAG. ON-RAMP  
 Analyst..... FP  
 Time of Analysis..... AM PK HR  
 Driver Population Factor..... 1.00  
 Date of Analysis..... 8/6/98  
 Other Information..... EXISTING CONDITIONS

A. Ramp Configuration Input Data

	Freeway	Analysis Ramp	Upstream Ramp
Traffic Volume	3047	953	602
Peak-Hour Factor	0.95	0.95	0.95
Percentage HV's	2.0	2.0	2.0
Percentage RV's	1.0	1.0	1.0
Number of Lanes	2	1	
Lane Width (ft)	12.0	12.0	12.0
Free-flow Speed (mph)	65	35	
Obstructions	0	0	0
Distance from Edge (ft)			
Type of Ramp		ON	OFF

Analysis ramp is a right-hand ramp.  
 Length of acceleration lane is 150 ft.  
 Distance to upstream ramp is 1500 ft.

=====  
 File Name ..... EXWBOFPM.HCS

B. Adjustment Factors

Terrain Type	E	E	F	F	F
	T	R	HV	W	P
Freeway	3.00	2.00	0.952	1.00	1.00
Urban	3.00	2.00	0.952	1.00	1.00
Arterial	3.00	2.00	0.952	1.00	1.00

C. Level of Service Results

Type	Vol (vph)	FFS (mph)	#of Lanes	Lane Width (ft)	f W	f HV	f P	Vol (pcph)
Freeway	3047	65	2	12.0	1.00	0.952	1.00	3369
Urban	953	35	1	12.0	1.00	0.952	1.00	1054
Arterial	602			12.0	1.00	0.952	1.00	666

Information of V12:

FM = 1.000 Using Equation: 1 V12 = 3369

Density Checks:

FO = 4423 VR12 = 4423

Speed, and Density:

Level of Service (LOS) F  
 Computed Density (pc/mi/ln) \*  
 Computed Speed (mph) \*

Available flow

Crain & Associates  
 2007 Sawtelle Boulevard, Suite #4  
 Los Angeles, CA 90025

Phone: (310) 473-6508

Fax: (310) 444-9771

E-mail: craindata@crainandassociates.com

MERGE ANALYSIS

Location: WB US-50 On-Ramp at Latrobe Rd  
 Analyst: KML  
 Analysis Time Period: AM Peak Hour  
 Date Performed: 12/13/1999

FREEWAY-RAMP COMPONENTS AND CHARACTERISTICS

Type of Analysis	Merge		
Freeway Data:			
Number of Lanes in Freeway	2		
Free-Flow Speed on Freeway	65.0	mph	
Volume on Freeway	3047	vph	
On Ramp Data:			
Side of Freeway	Right		
Number of Lanes in Ramp	1		
Free-Flow Speed on Ramp	35.0	mph	
Volume on Ramp	953	vph	
Length of First Accel/Decel Lane	150	ft	
Length of Second Accel/Decel Lane		ft	
Adjacent Ramp Data if one exists:			
Does adjacent ramp exist?	Yes		
Volume on Adjacent Ramp	602	vph	
Position of Adjacent Ramp	Upstream		
Type of Adjacent Ramp	Off		
Distance to Adjacent Ramp	1500	ft	

VOLUME ADJUSTMENT

Function Components	Freeway	Ramp	Adjacent Ramp	
Terrain Type	Rolling	Rolling	Rolling	
Grade	%	%	%	
Length	mi	mi	mi	
Volume, V (vph)	3047	953	602	vph
Peak-Hour Factor, PHF	0.95	0.95	0.95	
Peak 15-min Volume, v15	802	251	158	v
Trucks and Buses	2	2	2	%
Trucks and Buses PCE, ET	3.0	3.0	3.0	
Recreational Vehicles	1	1	1	%
Recreational Vehicle PCE, ER	2.0	2.0	2.0	
Heavy Vehicle Adjustment, fHV	0.952	0.952	0.952	
Driver Population Adjustment, fP	1.00	1.00	1.00	
Service Flow Rate, vp	3368	1054	664	pcph

ANALYSIS and RESULTS of MERGE AREAS

Information of Flow entering Lanes 1 and 2:  
 Portion of Freeway Vehicles  
 Lanes 1 and 2,  $P = 1.000$  Using Equation 1  
 $v_{FM}$   
 in Lanes 1 and 2,  $v_{12} = v_F (P_{FM}) = 3368$  pcph

Capacity Checks:

	Actual	Maximum	LOS F?
$v_{FO}$	4422	4700	No
$v_{R12}$	4422	4600	No

Level of Service Operation (if not LOS F):  
 Capacity,  $D = 5.475 + 0.00734 v_R + 0.0078 v_{12} - 0.00627 L_A = 39-$  pc/mi/ln

Level of Service for Ramp-Freeway Junction Areas of Influence  
 Speed in Ramp Influence Area,  $S_R = 50.4$  mph

## RESPONSES TO CRAIN & ASSOCIATES (DECEMBER 17, 1999)

**Response B-1:** The commenter believes that the analysis overstates impacts with regard to existing and future traffic conditions. More specifically, the commenter believes the assumptions and analysis methodologies overstate the level of congestion in the area, both currently and in the future. The subsequent Responses B-2 through B-10 identify the specific assumptions and analysis methodologies questioned by the commenter. Please refer to Responses B-2 through B-10 for specific reasons why we disagree with the comments.

**Response B-2:** The commenter believes that the existing peak hour traffic volumes on U.S. Highway 50 were factored up from previous counts. In reality, the existing counts were not factored, but were taken from Caltrans 1995 traffic count data and directional percentages determined from actual counts. While current Caltrans count data shows lower volumes, we believe they are attributable to the high levels of congestion that regularly occurs in the peak travel direction, and are therefore not indicative of improved operations. This conclusion is supported by the following data.

- Field observations conducted in 1995 did not reveal regular occurrences of congestion and low travel speeds on this section of U.S. Highway 50. However, field observations in 1999 and 2000 indicate that morning peak hour traffic in the westbound direction routinely backs up to and beyond Bass Lake Road.
- A comparison of Caltrans' tachograph plots of the corridor show that average travel speeds in the westbound direction (morning) have reduced from 54 miles per hour in 1997 to 38.3 miles per hour in 1999. It therefore stands to reason that the peak hour volume passing this section of U.S. Highway 50 would be lower because of the more extensive congestion and lower speeds.
- The mainline congestion during the morning peak hour appears to be caused by the unacceptable operation of the westbound on-ramp merge. Caltrans' count data shows that the volume of traffic using this on-ramp has increased from 4,550 vehicles per day in 1988 to 9,600 vehicles per day in 1998. This represents an average increase of 7.75% per year.

**Response B-3:** The commenter asserts that the limited growth in peak hour traffic volumes are due to a greater jobs-housing balance and regional transportation demand management strategies. However, the commenter offers no quantitative evidence to support these conclusions. The quantitative evidence cited in Response B-2 above does not support the commenter's conclusions.

**Response B-4:** The commenter states that use of the Highway Capacity Manual software version 3.1b (1997) would result in better service levels "in most cases" as compared to the version 2.1d (1994) used in the draft EIR/EA analysis. First, the analysis was conducted prior to the release of version 3.1b. Second, we disagree with the commenter's statement that the newer version takes more factors into account. In reality, the newer version simply assumes a higher ideal saturation

flowrate than the 1994 version. Finally, we disagree with the comment that service levels would improve in most cases by using the newer software. We conducted a sensitivity analysis of base year conditions to evaluate whether the change in software would affect the results. The results are shown in the table below (see also Appendix A of this report). As shown, the service level changes for only one of the eight scenarios evaluated.

Sensitivity Analysis of Highway Capacity Manual Software

U.S. Highway 50 Segment	Version 2.1d	Version 3.1b
EB - West of Interchange - AM Peak Hour	LOS B	LOS B
WB - West of Interchange - AM Peak Hour	LOS E	LOS E
EB - West of Interchange - PM Peak Hour	LOS E	LOS D
WB - West of Interchange - PM Peak Hour	LOS B	LOS B
EB - East of Interchange - AM Peak Hour	LOS A	LOS A
WB - East of Interchange - AM Peak Hour	LOS D	LOS D
EB - East of Interchange - PM Peak Hour	LOS D	LOS D
WB - East of Interchange - PM Peak Hour	LOS B	LOS B

**Response B-5:** The commenter believes that the assumed acceleration length of 150 feet for the existing operations of the ramp junctions is too conservative. In fact, Caltrans staff (Jim Brake, Caltrans District 3) directed us to assume a 150-foot acceleration lane length for existing conditions.

We also conducted a sensitivity test to evaluate whether a longer acceleration lane length would affect the results. As shown in Appendix A of this report, the service levels do not change at the westbound on-ramp, even if the acceleration length was increased to 500 feet.

**Response B-6:** The commenter notes the differences in assumed levels of heavy vehicles and recreational vehicles between the 1995 data used for this draft EIR/EA and the 1998 data used for the Bass Lake Truck Climbing Lane Project Report in 1998. We disagree with the conclusion that the data collected for the 1998 study should be used in this analysis for the following reasons:

- The 1998 data was collected for one peak period (evening) along one segment of U.S. Highway 50 (east of El Dorado Hills Boulevard/Latrobe Road interchange) in one direction (eastbound). We do not believe that it is appropriate to apply this segment-specific information to all segments during all peak hours.
- The 1998 data does not document the existence of less than 1.5% combined heavy and recreational vehicles. As shown on Table 2 of the referenced study, the data was collected separately for each travel lane on eastbound U.S. Highway 50 as it climbs the Bass Lake grade. The results indicate very low truck and recreational vehicle use of the



inside lane, but the percentages ranged from 2.3% to 4.8% in the outside lane. While the average between the two lanes may be slightly less than 1.5%, we do not believe that it is appropriate to apply this highly-imbalanced average to both lanes.

**Response B-7:** The commenter states that the 2005 analysis of westbound U.S. Highway 50 west of the interchange did not take into account the planned high-occupancy vehicle (HOV) lane. The analysis intentionally excluded the HOV lane because preliminary plans available at the time the analysis was conducted were unclear as to whether or not the new lane would be fully transitioned at the westbound on-ramp junction. However, since that time, it has been determined that the lane will begin at the El Dorado Hills Boulevard overcrossing and, therefore, can be included in the analysis.

The analysis results for the 2005 morning peak hour condition of the westbound segment of U.S. Highway 50 were re-computed with this corrected lane assumption. As shown in Appendix A of this report, the morning peak hour operations would remain LOS F in 2005.

In addition, an analysis was conducted to determine the 2005 operations of the mainline and ramp junctions of the preferred project under revised land-use and traffic count forecasts prepared in response to the Writ of Mandate issued in litigation over the County's 1996 general plan. (In Chapter 4 of this report, see the errata to page 14-2 for a discussion of the litigation, the Writ of Mandate, the revised forecasts, the results of the additional 2005 traffic analysis, and related matters.) This additional traffic analysis showed that under the revised forecasts, 2005 peak hour operations would be LOS E or better assuming construction of the planned HOV lanes previously discussed (see also Appendix A of this document for technical calculations).

**Response to Comment B-8:** The commenter states that the analysis of existing conditions at the Saratoga Way/El Dorado Hills Boulevard /westbound ramps intersection is very conservative because it does not consider "queue management techniques", right-turns concurrent with adjacent through movements, and right-turn-on-red volumes. The reasons for these assumptions are listed below.

- We assume that the term "queue management techniques" means allowing vehicles to queue between the two intersections (i.e., the westbound ramps and Saratoga Way). This was not reflected in the existing conditions analysis because the signals did not utilize this type of phasing at the time the analysis was conducted. Caltrans District 3 staff has historically maintained a practice of not allowing vehicles to queue between closely-spaced intersections such as these.
- Right-turns were not assumed concurrent with adjacent through movements because the signals did not provide for this type of overlapping phasing.
- As shown in Appendix C of Volume II of the draft EIR/EA ("Technical Appendix for the Draft Environmental Impact Report, U.S. Highway 50/El Dorado Hills Boulevard/Latrobe Road Interchange", Fehr & Peers Associates, August 27, 1998), the

analysis does include right-turns on red. Please refer to pages 5 and 6 of Appendix A of the technical appendix report.

**Response B-9:** The commenter states that the assumed growth rates of traffic on U.S. Highway 50 are too aggressive due to the historic growth rate from 1988 to 1998. As documented on page 7-13 of the draft EIR/EA, the growth projections developed for this analysis are based on the El Dorado County general plan and its supporting economic absorption studies. Historic growth rates were not utilized in the travel demand forecasting process.

Another factor to consider in reviewing the reality of the projected growth rate is the growth in local traffic. As discussed in Response B-2 above, the daily volume on the westbound on-ramp has grown at an average rate of 7.75 % per year between 1988 and 1998.

**Response B-10:** The commenter states that the travel demand forecasts include a full buildout of El Dorado County by 2020. In fact, the 2020 forecasts do not include a full buildout of the general plan land uses. Table 7 of the "Final Report - U.S. Highway 50 Interchange Planning Study through Folsom and Western El Dorado County, Fehr & Peers Associates, November 1, 1995" indicates that the residential uses were assumed to grow by 2.71 % per year and the employment was assumed to grow by 3.7 % per year through 2020. Please see also Response B-9.

**Response B-11:** The commenter reiterates the view that the analysis is too conservative and overstates traffic conditions. Responses B-2 through B-10 above document our position that the analysis assumptions are appropriate and do not overstate traffic conditions.

Dec. 21, 1999

El Dorado County  
Dept. of Transportation  
Attn: Kris Payne

The back of my house faces  
Highway 50 + my wife + I do not want  
to be forced to move.

We looked for 5 years to find a  
suitable house, not slab, with a  
raised floor.

Due to our age + physical  
condition we cannot make another  
move.

My wife has had back surgery  
+ is disabled + a move would be  
difficult both physically + mentally.

RECEIVED

DEC 29 1999

EL DORADO COUNTY  
DEPT. OF TRANSPORTATION

Kenneth E. Ebert  
707 Platt Circle  
El Dorado Hills, Ca.  
95762

C-1

**RESPONSE TO COMMENTS FROM KENNETH E. EBERT,  
707 PLATT CIRCLE (DECEMBER 21, 1999)**

**Response C-1:** Comment noted.

December 22, 1999

Kris Payne  
El Dorado County  
Department of Transportation  
2850 Fairlane Court  
Placerville, CA 95667

RE: EIR Draft - Saratoga Way, El Dorado Hills

Before the final draft is written, we would like to express my thoughts and feelings about the realignment of Saratoga Way. We have written before, but no one has responded to my letter. We want our voice to be heard before the deadline to start the final draft.

- We have attended most all public meetings and some private associated with this realignment. We have written letters to the Board of Supervisors, DOT, and individuals involved in the planning process. Nobody has addressed our concerns!
- We live in house #15 on your map. We are on the hill and we feel in some instances, we will have more problems than other homeowners along this street, yet no one from DOT has done any testing in our area! For example, when we visit the back yards of neighbors on the cul-de-sac, we hear noise from the freeway. We even listened from inside their homes. The noise levels are much greater in the back yard of our home on the hill! We are not sure why the noise is carried differently, but it is. When extra lanes go in on Saratoga, the cars will "gear up" to go up the hill, and "brake" to slow down coming down the hill. All of this, a short distance from our home!
- We feel the noise pollution is barely tolerable now. Yes, we knew the highway was there when we bought the home, however, we only bought a lot. After the home was built, we were astonished how much noise was inside the home! It took many months to "adjust" to the noise, but we are prisoners of our home. We can never open windows, or use the back yard much. We are often wakened in the middle of sleep with a thoughtless motorcycle, siren, or jake brake. Now, you want to double the noise with additional lanes! This is very distressing for us! We were told there would be small office buildings built there, not four more lanes! We aren't even getting the consolation of a sound wall!
- This affects our financial well-being. We bought in El Dorado Hills for the investment of a strong community, and some insurance that the home would hold its value. With a "sound wall" appearance, thousands of cars zooming even closer, noise levels completely

D-1

D-2

D-3

DEC 27 1999

EL DORADO COUNTY

intolerable, air pollution closer to the home, cars cutting through the neighborhood at the first slow down, cars cutting through when Finders is closed off by one lane, our home will never stand a chance of reselling. Already, any home that has been listed in the last year along this side of the street has not sold. Once a buyer finds out about the potential development, they are quickly disinterested.

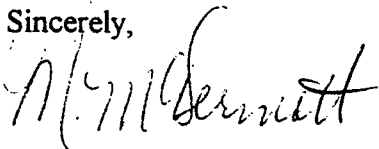
D-3  
cont.

- Although we feel the county and DOT have ignored us from the beginning, our hope is this letter will be answered. Please do sound testing inside and outside of our home! Please consider using Town Center Road as the new relief-valve for highway 50 instead of Saratoga. Please consider that our home just may be condemned because the noise level makes it uninhabitable.

D-4

D-5

Sincerely,



Reed and Mechell McDermott  
365 Platt Circle  
El Dorado Hills, CA 95762  
(916) 933-6001

**RESPONSES TO COMMENTS FROM REED AND MECHELL MCDERMOTT,  
365 PLATT CIRCLE (DECEMBER 22, 1999)**

**Response D-1:** As noted on page 4-3 of the draft EIR/EA, noise monitoring locations were selected on the basis of their proximity to the interchange and roadway improvements and represent noise exposure for the most affected residential uses. The modeled noise measurements for receptor 15 are indicated in the tables in Chapter 4 of the draft EIR/EA. See also Response E-36.

**Response D-2:** The noise would not be doubled at receptor 15 with the proposed project. The tables in Chapter 4 of the draft EIR/EA indicate that the existing noise level is 63  $L_{eq}$  and would increase to 65  $L_{eq}$  under 2005 with-project conditions and 66  $L_{eq}$  under 2020 with-project conditions; these same noise levels would occur in 2005 and 2020, respectively, even without implementation of the project. This means that the expected increase in noise is due to increases in traffic noise levels that would occur even without the project. A 3-dB increase (doubling of acoustic energy, not noise levels) is just perceptible. Most people have difficulty distinguishing the louder of two sounds if they differ by less than 1.5-2.0 dB.

**Response D-3:** Comment noted. See also Response E-13.

**Response D-4:** See Response E-36.

**Response D-5:** See Responses E-83 through E-86.

# THE ZUMBRUN LAW FIRM

*A Professional Corporation*

December 23, 1999

Mr. Kris Payne  
Supervising Civil Engineer  
El Dorado County Department of Transportation  
2850 Fairlane Court  
Placerville, CA 95667

Dear Mr. Payne:

Re: Comments to the Draft Environmental Impact Report/Environmental Assessment for the Proposed U.S. Highway 50/El Dorado Hills Boulevard Latrobe Road Interchange Project

On behalf of Citizens Against Roadway Encroachment (CARE), I am submitting comments related to the draft environmental impact report/environmental assessment (EIR/EA) for the proposed U.S. Highway 50/El Dorado Hills Boulevard---Latrobe Road Interchange Project. These comments are being provided within the 45-day review and comment period ending December 30, 1999, as indicated in the El Dorado County Department of Transportation's letter soliciting the views and comments of interested persons and agencies. The enclosed comments focuses on inaccurate statements and omissions contained in the EIR/EA for the above-referenced project.

E-1

CARE hereby incorporates by reference all previously submitted comments and documents, by CARE and others, related to the U.S. Highway 50 El Dorado Hills Boulevard--Latrobe Road Interchange Project. The comments submitted herewith are not fully inclusive of all the comments that could be listed regarding the draft EIR/EA.

E-2

3800 Watt Avenue  
Suite 101  
Sacramento, CA 95821

RECEIVED

DEC 27 1999

EL DORADO CO.  
DEPT. OF TRANSPORTATION

3-23

Tel 916-486-5900  
Fax 916-486-5959



Mr. Kris Payne  
December 23, 1999  
Page 2

As indicated in your letter, we hope the final EIR/EA will reflect these written comments submitted by CARE. Please notify both CARE and its counsel regarding the hearing date at the addresses below:

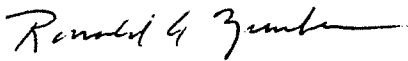
E-3

Hilary Krogh  
Citizens Against Roadway Encroachment  
P.O. Box 3117  
Diamond Springs, CA 95619

Ronald A. Zumbrun  
The Zumbrun Law Firm  
3800 Watt Avenue, Suite 101  
Sacramento, CA 95821

If you have any questions, please do not hesitate to contact me.

Sincerely,



RONALD A. ZUMBRUN  
Managing Attorney

Enclosure

# Draft Environmental Impact Report /Environmental Assessment for the US Highway 50/EI Dorado Hills Boulevard- Latrobe Road Interchange Project, November 1999 (Draft EIR)

Citizens Against Roadway Encroachment (C.A.R.E.) incorporates by reference all previously submitted comments/documents relating to the U.S. Highway 50/EI Dorado Hills Boulevard-Latrobe Road Interchange Project by C.A.R.E. and others. The Draft EIR contains numerous inaccurate statements and omissions that may be corrected. Therefore, any conclusions that are based on inaccurate statements should also be corrected. The comments submitted are not fully inclusive of all the comments that could be listed regarding the Draft EIR.

E-4

E-5

The following comments submitted by C.A.R.E. are generally organized into two columns. The left column corresponds to statements (itemized by page number) in the Draft EIR. Strikethroughs are added to further emphasize inaccuracies. Asterisks correspond to an added "note" by C.A.R.E. The right column corresponds to comments by C.A.R.E. that may include corrections of the draft EIR statement. The bold print in the right column are proposed additions that could replace inaccurate ("striketrough") statements in the left column.

## Volume I: Draft Environmental Impact Report /Environmental Assessment for the US Highway 50/EI Dorado Hills Boulevard-Latrobe Road Interchange Project, November 1999 (Draft EIR)

### Chapter 1. Introduction

#### Current Inaccurate Statement and/or omission

(page 1-1) The proposed project involves the following:

- Realigning Saratoga Way to intersect with Park Drive to address the exiting spacing problem between the westbound on-ramp and the Saratoga Way/EI Dorado Hills Boulevard intersection.

#### Proposed statement and/or addition and/or comments

The proposed project involves the following:

- Realigning Saratoga Way as two lanes with the S curve to replace Park Drive and moving Mammoth Way closer to residences to intersect with Saratoga Way. General Plan Policy 3.1.2.2 states that a separation of at least 500 feet shall be provided between the terminus of freeway off-ramps and the nearest future intersection. The Saratoga Way/EI Dorado Hills Boulevard intersection is an existing intersection that operates at an acceptable level of service.

E-6

E-7

E-8

E-9

(page 1-2) The County General Plan and the El Dorado Hills-Specific Plan specify the proposed improvements to the El Dorado Hills-Latrobe Road interchange as needed to accommodate buildout of western El Dorado County.

The County General Plan and the El Dorado Hills Specific Plan specify that a new interchange is needed in the vicinity of the existing Silva Valley Road and Highway 50 undercrossing to accommodate the planned buildout of western El Dorado County.

<p>(page 1-2) <del>A Preferred Alternative was selected by the County* in February, 1996, and a Mitigated Negative Declaration** was circulated for public review in November 1996.</del></p> <p>* (note: the County Board of Supervisors did not select a Preferred Alternative until June 1998)</p> <p>** (note: a <u>Draft</u> Negative Declaration was circulated)</p>	<p>The Project Development Team, consisting of consultants and DOT staff, selected their preference for an alternative (i.e. Alternative 3A, with Saratoga Way aligned immediately adjacent to the existing townhomes in the northwest quadrant of the interchange) in February 1996 and a <u>Draft Negative Declaration</u> was circulated by DOT for public review in November 1996. The Board of Supervisors did not certify the <u>Draft Negative Declaration</u> at the January 27, 1997 Board of Supervisors hearing or the February 4, 1997 hearing.</p>	E-10
<p>(page 1-3) SCOPE OF THE ENVIRONMENTAL IMPACT REPORT/ ENVIRONMENTAL ASSESSMENT</p>	<p>General Plan Consistency has not been adequately addressed in the Draft EIR</p>	E-11
<p>(page 1-3) SCOPE OF THE ENVIRONMENTAL IMPACT REPORT/ ENVIRONMENTAL ASSESSMENT</p>	<p>Blight and the ramifications thereof have not been addressed in the Draft EIR, as requested by the public.</p>	E-12
<p>(page 1-3) SCOPE OF THE ENVIRONMENTAL IMPACT REPORT/ ENVIRONMENTAL ASSESSMENT</p>	<p>Financial impact/property values has not been addressed in the Draft EIR, as requested by the public</p>	E-13
<p>(page 1-3) SCOPE OF THE ENVIRONMENTAL IMPACT REPORT/ ENVIRONMENTAL ASSESSMENT...</p> <p>... public health impacts of air emissions on residents</p>	<p>Public health impact of air emissions on residents is not addressed (see Table 3-1) as an impact. C.A.R.E. submitted correspondence from Earl Withycombe, Air Quality Consulting Engineer, dated January 9, 1999. Another copy of this attachment is being submitted at this time because Earl Withycombe's correspondence was omitted by El Dorado County Department of Transportation in Volume II: Appendices of the Draft EIR. This January 9, 1999 correspondence should have been included in the Draft EIR.</p>	E-14
<p>(page 1-3) SCOPE OF THE ENVIRONMENTAL IMPACT REPORT/ ENVIRONMENTAL ASSESSMENT</p>	<p>Sequence of mitigation implementation has not adequately been addressed in the Draft EIR (e.g., mitigation measures occurring prior to construction). The plan to do a hindsight study is not adequate.</p>	E-15

## Chapter 2. Description of the Proposed Project and Alternatives to the Project

### Current Inaccurate Statement and/or omission

### Proposed statement and/or addition

<p>(page 2-1) The proposed project involves the following:</p> <ul style="list-style-type: none"> <li>▪ <i>Realigning Saratoga Way to intersect with Park Drive...</i></li> </ul>	<p>The proposed project involves the following:</p> <ul style="list-style-type: none"> <li>▪ <b>Realigning Saratoga Way as two lanes with the S curve to replace Park Drive and moving Mammoth Way closer to residences to intersect with Saratoga Way.</b></li> </ul>	E-16
<p>(page 2-1) The proposed project would be constructed in two phases (see Figures 2-2 and 2-3), as described below under "Project Phasing."</p>	<p><b>Figures do not accurately depict the proposed project. The figures are not to scale. Figures that are supposed to depict the same</b></p>	E-17

designs are varied throughout the Draft EIR --- Since the distance between the S Curve Saratoga Way and residences is depicted differently depending upon a specific figure, it is nearly impossible to know which S curve Saratoga, if any, is accurate.

E-17  
cont.

*Current Inaccurate Statement and/or omission*

~~(page 2-2) The General Plan incorporates the 1988 El Dorado Hills Specific Plan as its guideline for development in the western portion of El Dorado County. The El Dorado Hills Specific Plan specifies that the El Dorado Hills Latrobe Road interchange improvements are needed to accommodate the planned buildout of western El Dorado County.~~

**Proposed statement and/or addition**

The El Dorado Hills Specific Plan does not dictate what is required in the western portion of El Dorado County. The El Dorado Hills Specific Plan is one of the Area Plans in the western portion of El Dorado County that provides for development in a specified Plan Area. The northwest quadrant and the northeast quadrant of the proposed interchange, among other areas in western El Dorado County are not included in the El Dorado Hills Specific Plan. The El Dorado Hills Specific Plan specifies that a new interchange is needed in the vicinity of the existing Silva Valley Road and Highway 50 undercrossing to accommodate the planned buildout of western El Dorado County. The 1988 El Dorado Hills Specific Plan does not mention, let alone specify, that the El Dorado Hills-Latrobe interchange improvements are needed.

E-18

~~(page 2-2) The project was addressed in the general plan EIR, certified in January 1996 (State Clearinghouse No. 94012008). The project is also included in the biennial 1996 Metropolitan Transportation Plan and is consistent with the project approved in the El Dorado County Regional Transportation Improvement Program/Federal Transportation Improvement Program.~~

The General Plan does not contemplate specific interchange designs. The project is inconsistent with the El Dorado County General Plan. Among other inconsistencies, the Plan does not contemplate the re-location ("realignment") of the west leg of Saratoga to intersect with Park Drive.

E-20

A "List of Capital Improvement Projects" is included in the biennial 1996 Metropolitan Transportation Plan that refer to "Interchange Modify," but not in the manner consistent with the proposed project.

There is no mention of any type of interchange project at El Dorado Hills Boulevard or any listing of funding for fiscal years 1996/97 through 2002/03 in the El Dorado County Regional Transportation Improvement Program/Federal Transportation Improvement Program.

E-21

(page 2-2) Two public meetings were held to consider which of these alternatives should be selected as the Preferred Alternative: an open house meeting held in El Dorado Hills in October 1995 and a presentation of viable alternatives at a Board of Supervisors meeting in December 1995. A Preferred Alternative was selected by El Dorado County (County)\* on February 1, 1996 (Alternative 3A, with Saratoga Way aligned immediately adjacent to the existing townhomes in the northwest quadrant of the interchange).

\* (note: the County Board of Supervisors did not select a preferred Alternative until 1998)

The County Board of Supervisors met three times during January and February 1997 to consider approval of the Mitigated Negative Declaration and, on February 4, 1997, directed that the Mitigated Negative Declaration be recirculated with additional proposed mitigation measures. At this time, as a result of DOT's identification of concerns raised by the public regarding selection of the preferred alternative\*, a community outreach effort was initiated by the County to solicit public comments and facilitate consensus.

\* (note: the County Board of Supervisors did not select a preferred Alternative until 1998)

Without notice to adjacent residences, two public meetings were held to present the DOT Alternative 3 with option 3A and 3B: an open house meeting held in El Dorado Hills in October 1995 and a presentation of viable alternatives at a Board of Supervisors meeting in December 1995. El Dorado County transportation staff selected their preference for an alternative on February 1, 1996 (Alternative 3A, with Saratoga Way aligned immediately adjacent to the existing townhomes in the northwest quadrant of the interchange).

The County Board of Supervisors met two times during January and February 1997 to hold a public hearing to consider certification of the Draft Negative Declaration. At this time, as a result of concerns raised by the public, a community outreach effort was initiated at the request of the Board of Supervisors to solicit public comment.

(page 2-3) ... however, the westbound U.S. Highway 50 on-ramp geometrics are more compact to increase the distance between the ramp improvements and the townhomes located in the northwest quadrant...

The Board of Supervisors also indicated that, as one of the original mitigation measures the realignment of Saratoga Way would include a connection with Mammouth Way.

... however, the westbound U.S. Highway 50 on-ramp geometrics are more compact to increase the distance between the ramp improvements and the homes located in the northwest quadrant...

The Board of Supervisors also indicated that, as one of the original mitigation measures the realignment of Saratoga Way would include a connection with Mammouth Way and that there would be no truck traffic allowed on Saratoga Way and the sound wall, berm and landscaping would be in place prior to construction.

**ALTERNATIVES TO THE PROPOSED PROJECT**

(page 2-11)

DOT's originally preferred Alternative 3A3B (Subsequently, "Alternative 3A-E) with Saratoga Way Tangent Alignment should not be referred to as "Alternative I." The label will confuse the public and the Board of Supervisors. In addition, the "Alternative I designation is already assigned to the SPUJ design (see page 13-8 of the draft EIR). DOT should just keep the originally assigned numeric name as it appears in the Project Study Report (PSR). In the project study report and throughout all the public hearings, it has been referred to as Alternative 3. The "Alternative I"

designations are already assigned to the SPU design. If there is a mandated reason to label or rename an alternative, DOT should not use the same name already assigned to an alternative preferred by C.A.R.E.

There is no need to provide a new label to Alternative 3A-E (3A3B) with tangent alignment for Saratoga Way. There is no label at all for the "No Project Alternative" or the Board of Supervisors "Preferred Alternative." DOT clarified how to pronounce the Alternative I ("eye") when the label is applied to the SPU design, but did not clarify how to pronounce it when assigned to DOT Alternative 3A-E (3A3B). Does DOT now want everyone to refer to their design as Alternative I (pronounced one)? This Alternative I will be confused with Alternative 1 (pronounced one) in the Project Study Report. Alternative 1 in the PSR was widely supported by the residents, while Alternative 3A-E was widely opposed by the residents.

**Current in draft EIR**

- Preferred Alternative
- Alternative I
- Alternative II
- No project Alternative

**Suggested change**

- Preferred Alternative
- Alternative 3 with Tangent Alignment
- Alternative 2 with S Curve Alignment
- No project Alternative

E-26  
cont.

**Chapter 3. Summary of Impacts and Mitigation Measures**

*Current Inaccurate Statement and/or omission*

**(page 3-3) SIGNIFICANT IMPACTS OF THE PROJECT UNDER CEQA**

Under CEQA, the following project impacts are considered significant before mitigation and can be reduced to less-than-significant level with the suggested mitigation measures:  
 Impact 4.1: Exposure of Residents to Noise from Project Construction  
 Impact 4.2: Exposure of Residents to Noise from Project Blasting

**Proposed statement and/or addition**

Under CEQA, the following project impacts are considered significant before mitigation and can not be reduced to less-than-significant level with the suggested mitigation measures:  
 Impact 4.1: Exposure of Residents to Noise from Project Construction  
 Impact 4.2: Exposure of Residents to Noise from Project Blasting  
 As indicated in Table 4-5, activities involved in construction would generate noise levels ranging from 70 to 90 dB at a distance of 50 feet (see page 4-5). Construction noise may will exceed the County's standard for nontransportation noise sources, and the construction-noise level may will be substantially above the late-night minimum sound levels at the nearest residences. This impact is considered significant.  
 (See page 4-7).

E-27

E-28

**Table 3-1. Impacts of U.S. Highway 50/EI Dorado Hills Boulevard-Latrobe Road Interchange Project**

C.A.R.E. is not in agreement with the table as outlined in responses to each of the chapters in the Draft EIR. For example, General Plan Policy 6.5.1.2 states that "...an acoustical analysis shall be required as part of the environmental review process so that noise mitigation may be included in the project design." Refer to comments made about the impacts and proposed mitigation in each chapter.

E-29

## Chapter 4. Noise

### *Current Inaccurate Statement and/or omission*

(page 4-5) Caltrans has required that construction work associated with the mainline freeway be conducted during nighttime hours to avoid commuter traffic delays. This may be required for this project. As indicated in Table 4-5, activities involved in construction would generate noise levels ranging from 70 to 90 dB at a distance of 50 feet (see page 4-5). Construction noise may exceed the County's standard for nontransportation noise sources, and the construction-noise level may be substantially above the late-night minimum sound levels at the nearest residences. This impact is considered significant. (See page 4-7).

(Page 4-6) The most important project generated noise source would be truck traffic associated with transport of heavy materials and equipment. This noise source would be of short duration and limited to primarily daytime hours.

(page 4-7) Unless required by Caltrans, restrict construction within 1,000 feet of residences to daytime hours. Unless required by Caltrans, no construction shall be performed within 1,000 feet of an occupied dwelling unit on Sundays, legal holidays, or between the hours of 9:00 p.m. and 6:00 a.m. on other days. Any variance from this condition must be approved by the County.

(page 4-9) The specific type and location of the blasting that may be required for this project has not been determined. Based on the proximity of residences to roadway construction, there is potential for blasting to exceed 112 dB peak over pressure and to disturb residences.

If blasting is required, the County shall retain a qualified blasting consultant to determine the size, type, and location of blasting so as to limit the peak overpressure from blasting to 112 dB at the nearest inhabited building façade.

(page 4-10) County general plan policy 6.5.1.5 discourages soundwall barriers, in this case, this measure is recommended because sufficient right-of-way for earthen barriers is not available in locations required.

### **Proposed statement and/or addition**

Caltrans has required that construction work associated with the mainline freeway be conducted during nighttime hours to avoid commuter traffic delays. When this is required for this project, residents in the Northwest quadrant will be compensated for alternative motel accommodations or alternative rental homes. Landlords shall be reimbursed for rental value for the duration of the construction period.

The construction period is expected to be of lengthy duration. The sound wall, berm, landscaping and interior noise reduction measures should occur prior to construction.

Restrict construction within the northwest quadrant to daytime hours. No construction shall be performed within the northwest quadrant on Sundays, Saturdays, legal holidays, or between the hours of 5:00 p.m. and 7:00 a.m. on other days. The County should not approve any variance from this condition.

Alternatives to blasting shall be identified and available for public review prior to the final EIR.

Blasting shall not be permitted in the northwest quadrant.

Sufficient right-of-way for earthen barriers should be made available through adequate setbacks from residences to be consistent with the assurances given by the Board of Supervisors to nearby residents.

E-30

E-31

E-32

E-33

E-34

E-35

(page 4-10) \* Subsequent to completion of the proposed project and installation of sound barrier mitigation, the county shall hire a qualified acoustical consultant to conduct a detailed acoustical analysis of traffic noise reduction of the building facades of residences in the project area exposed to traffic noise in excess of 60 dB Ldn ... If future predicted traffic noise levels exceed the 45 dB Ldn or 53 dB Leq interior noise level criteria, the County shall determine and implement façade construction improvements to reduce interior noise levels below 45 dB Ldn or 53 dB Leq.

\* note: General Plan Policy 6.5.1.2 states that "...an acoustical analysis shall be required as part of the environmental review process so that noise mitigation may be included in the project design."

Potential façade improvements to be implemented and funded by the County include replacement of windows and sliding glass doors with acoustically rated windows and doors, treatment of exterior to interior vents to reduce sound transmission, adding mass to façade walls, and installing fresh air ventilation systems to allow windows and doors to remain closed.

(page 4-15) Table 4-11 shows the results of this analysis.

The table is inaccurate and misleading because it does not indicate which receiver locations were two story and that these homes would not really benefit from barriers in the manner implied from the table.

(page 4-16) Table 4-11

Receiver location	Predicted Leq/Ldn (dB) without barrier	8/10' barrier	10'	12'
R1 Scenic Court	67/68	59/60*	57/58*	55/56*
R2 Scenic Court	67/68	60/61*	58/59*	56/57*
R3 Hills Court	68/69	61/62*	59/60*	57/58*
R4 Hills Court	69/70	63/64*	61/62*	59/60*

\*(note: Add suggested comments in column to the right)

(page 14-16) According to general plan policy, noise levels in excess of 60 dB Ldn up to 65 dB Ldn are conditionally acceptable if available exterior noise

As part of the EIR public review process and prior to certification of the final EIR, the County shall hire a qualified acoustical consultant to conduct a detailed acoustical analysis of traffic noise reduction of the building facades of residences in the project area exposed to traffic noise in excess of 60 dB Ldn. If future predicted traffic noise levels exceed the 45 dB Ldn or 53 dB Leq interior noise level criteria, the County shall determine and implement façade construction improvements to reduce interior noise levels below 45 dB Ldn or 53 dB Leq. prior to project construction. (Note: Results of the analysis has not been provided to make an informed decision about whether façade construction improvements would reduce interior noise below 45dB Ldn or 53 Leq.)

Requiring residents to keep their windows and doors closed is an unacceptable mitigation measure. It is also unacceptable to prevent residents from using their second-story balconies. Fresh air ventilation systems to allow windows and doors to remain closed are an added expense in terms of utility bills. Air conditioning units will be running more often which is also an added expense.

Table 4-11 shows the results of this analysis for one-story locations and/ or as analyzed for the first story of two story homes, as barriers typically will not provide noise reduction to second-story locations.

Note: \*These predicted Leq/Ldn (dB) levels with barriers apply to the first story only. Because R1, R2, R3, R4 receiver locations are two story homes, noise levels of at least 68 dB Ldn would occur (i.e., the same level that would occur without barrier). The R1, R2, R3, R4 locations would also exceed county acceptable exterior noise exposure standards because barriers will not provide noise reduction to second-story locations.

In addition to Receiver locations R1 through R13, the following residential units will be eligible for a detailed acoustical analysis of traffic noise reduction of the building facades of residences in the



level reduction measurements have been implemented and interior noise levels are below 45 dB Ldn. Mitigation measure 4.5b involves County upgrading of the acoustical insulation of residential structures. Mitigation measure 4.5b involves County upgrading of the acoustical insulation of residential structures to ensure that interior noise levels are below 45 db ldn and 52 dBA Leq (page 4-16)... Barriers heights may be reduced for aesthetic reasons

project area exposed to traffic noise in excess of 60 dB Ldn.

**PLEASE LIST ADDRESSES OF THE RESIDENTIAL UNITS**

The 10-foot high wall is too high when within 16 to 40 feet of the back doors of homes. The wall will block light to the small patios and creates a significant aesthetic impact for residences.

E-40  
cont.

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**Chapter 5. Air Quality**

*Current Inaccurate Statement and/or omission*

(page 5-3) ~~Asbestos is not expected to occur in the immediate project area as indicated on Figure 9-1~~

(page 5-3) ~~With additional implementation of County grading measures to control asbestos, this air contaminant is not expected to be emitted by this project.~~

**Proposed statement and/or addition**

As shown in Figure 9-1, several fault zones cross the project area that include varying amounts of serpentine rock, chrysotile asbestos, and tremolite asbestos. Asbestos disturbed by grading and vehicle traffic could affect nearby residents.

The draft EIR does not propose that the project implement the asbestos ordinance adopted in April 1998 by the El Dorado County Board of Supervisors. "Impact 9-2 Potential Exposure of People to Asbestos... Mitigation Measure: None proposed." (Draft EIR, page 9-7).

Therefore, it cannot be stated that this air contaminant is not expected to be generated by the project with additional implementation of County grading measures to control asbestos.

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Results of asbestos testing in the northwest quadrant in proximity to affected nearby residents has not been provided in order to make an informed decision about asbestos being emitted or controlled.

The Metropolitan Transportation Plan (MTP) is not a "federal" plan because the contents of this report do not necessarily reflect the official views or policy of the U.S. Department of Transportation. If DOT has submitted a specific interchange project to SACOG for inclusion in the MTP, such an action would appear to be premature at this time and inconsistent with the environmental review process. C.A.R.E. wishes to exercise its right to have the subject action rescinded and object to

E-44

(page 5-7) ~~The project has been included in the federal Metropolitan Transportation Improvement Program (MTIP), which is prepared and maintained by the Sacramento Area Council of Governments (SACOG). By including the project in the MTIP, SACOG has shown that the project is consistent with the area's Metropolitan Transportation Improvement Plan and is in conformance with the Sacramento Area Regional Ozone~~

~~Attainment Plan adopted by the El Dorado County APCD. This also means the project conforms with the APCD's transportation conformity rule.~~

(page 5-9) Impact 5-2: Conformity with the State Implementation Plan

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cont.

(page 5-7) Impact 5.1: Temporary Generation of Emissions from Construction of the Project

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(page 5-9) Impact 5-3: No Exceedance of Carbon Monoxide Standards in 2005

The CO modeling analysis indicates that with the proposed project the highest predicated CO level in 2005 would be 6.8 ppm for the 1-hour averaging period and 4.5 ppm for the 8-hour averaging period (Table 5-3). This is a substantial reduction in CO concentrations over the existing conditions based on a reduction of future vehicle emissions associated with changes in the vehicle mix. ~~The preferred alternative would not cause a new violation of the standards or contribute to an existing violation.~~

E-46

(page 5-10) Impact 5.4: No Exceedance of Carbon Monoxide Standards in 2020 The CO modeling analysis indicates that with the proposed project the highest predicted CO level in 2020 would be 7.6 ppm for the 1-hour averaging period and 5.0 ppm for the 8-hour averaging period (Table 5-3).

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(page 5-10) Significant Conclusions under CEQA. The alternative would have an adverse impact if it would:

- Violate any ambient air quality standard,
- Contribute substantially to an existing or projected air quality violation, or
- Expose sensitive receptors to substantial pollutant concentrations.

E-48

references to it in the EIR. The statement is also misleading because it leads the reader to believe that interchange designs are included in the Sacramento Area Regional Ozone Attainment Plan. The project may not be in conformance with the Air Pollution Control District (APCD) because "implementation of the proposed project may significantly impact the District's ability to meet and maintain State and Federal ambient air quality standards." APCD would need additional information to make the determination. They provided a list of issues and concerns regarding the proposed project in a December 31, 1996 letter to DOT.

Results of analysis on the proposed mitigation measure have not been provided to determine if these measures will actually mitigate impact 5.1. A barrier between residences and the proposed project should occur prior to construction of the project.

Results of the CO modeling analysis did not provide adequate information for an informed decision about whether the proposed project would cause a new violation of the standard or contribute to an existing violation. The model assumes that any reduction in CO concentrations will be due to better cars by 2005. This is an assumption about the possible fuel mix of future cars within five years. **The proposed project would cause a new violation of the standards or contribute to an existing violation if the fuel mix of vehicles does not improve in the manner assumed by the modeling analysis.**

Results of the CO modeling analysis did not provide adequate information for an informed decision about whether the proposed project would cause a new violation of the standard or contribute to an existing violation.

**The proposed project would cause a new violation of the standards or contribute to an existing violation if the fuel mix of vehicles does not improve in the manner assumed by the modeling analysis.**

**Results of testing in the northwest quadrant in proximity to affected nearby residents has not been provided in order to make an informed decision about exposure of sensitive receptors to substantial pollutant concentrations.**

In response to the NOP, C.A.R.E. submitted written comments (dated

Table 3-1 identifies premitigation and postmitigation significance conclusions for air quality impacts based on the above significance criteria. \*

\* (note: Table 3-1 indicates that there are "none proposed" for NEPA and CEQA Mitigation Measures and that there is a less than significant CEQA level of significance before mitigation for Impacts 5-3 and 5-4.)

August 3, 1998) to the El Dorado County Department of Transportation. One of the attachments to the C.A.R.E. comment letter is correspondence from Earl Withycombe, Air Quality Consulting Engineer, dated January 9, 1999. Another copy of this attachment is being submitted at this time because Earl Withycombe's correspondence was omitted by El Dorado County Department of Transportation in Volume II: Appendices of the draft EIR. This January 9, 1999 correspondence should have been included in the draft EIR. Omitting it is a very serious matter for obvious reasons, but especially because it is in disagreement with the draft EIR Air Quality conclusions and modeling analysis.

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cont.

## Chapter 6. Visual Resources

### *Current Inaccurate Statement and/or omission*

(page 6-4) Residences in the northwest quadrant of the interchange include townhouses and single-family homes, some of which are two-story homes.

(page 6-5)

The townhouses face away from the project site and have parking areas (including structures for covered parking) \* and mature vegetation planted in dense hedgerows around the perimeter.

\* (note: the parking areas, including structures for covered parking are not "around the perimeter.")

(page 6-7) Impact 6.1 Short term changes in views of the Project Site from Construction Activities  
Mitigation Measure: none proposed. \*

(page 6-7) Impact 6.2: Changes to Views of the Project Site from U.S Highway 50 and other Public Roads  
Implementation of the project would introduce visual changes... To mitigate noise impacts associated with interchange improvements, a

### **Proposed statement and/or addition**

Residences in the northwest quadrant of the interchange include townhouses and single-family homes, many of which are two-story homes.

About half of the townhouses face away from the project site with mature vegetation planted around the perimeter, except for those townhouses (for example, 3881 and 3883 Scenic Court) where there is a clear unobstructed view of the proposed project site. Although some front doors of townhouses "face away" from the project site, the living areas face toward the project site, including sliding glass doors that provide access to the back patios and back balconies (second story). Other townhomes that face toward the project site are higher in elevation and have a clear unobstructed view of the proposed project site.

Construction activities associated with the realignment of Saratoga Way would intrude on the viewshed of adjacent townhouses and residences. Therefore, mitigation measures (as referred to on page 6-7 of the draft EIR) should be listed in Table 3-1

El Dorado County General Plan identifies the intrusiveness associated with noise walls that are in the viewshed of U.S. Highway 50 and other high volume roadways.

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noise barrier is proposed in the northwest quadrant along the right-of-way and residential rear-yard property lines. ~~These elements are largely unobtrusive and are similar to and typical of the existing interchange facility and adjacent interchanges to the west.~~ \*

\* (note: "adjacent interchanges to the west" are in Sacramento County)

(page 6-8) Overall, the resultant change in viewscape from U.S. Highway 50, El Dorado Hills Boulevard, and Latrobe Road would not be adverse. The new features introduced to the viewshed by the Preferred Alternative would not limit or alter the vividness, intactness or unity of existing views from these corridors.

Impact 6.3: Changes to Views of the Project Site from Residences in the Northwest Quadrant

Mitigation Measure 6.3: Provide Aesthetic Treatment to Sound Barriers that are Visible from Private Residences

- Earthen berms may be substituted for sound walls where sufficient right-of-way exists....
- Residents should be permitted to paint, apply surfacing to, or landscape the side of the barrier facing their property following the resident's submission of a screening plan for approval by the County Department of Transportation. The County Department of Transportation should approve plans based on preserving the structural integrity of the barrier. Cost incurred by the resident for designing and implementing approved screening plans should be reimbursed by the County El Dorado up to \$1,500 per dwelling unit as compensation for out-of-pocket expenses incurred by residents choosing to implement such screening plans.

(page 6-9) ~~The County Department of Transportation should approve plans based on preserving the structural integrity of the barrier. Cost incurred by the resident for designing and implementing approved screening plans should be reimbursed by the County El Dorado up to \$1,500 per dwelling unit as compensation for out-of-pocket expenses incurred by residents choosing to implement such screening plans.~~

Policy 6.5.1.5 "Setbacks shall be the preferred method of noise abatement for residential projects located along U.S. Highway 50. Noise walls shall be discouraged within the foreground viewshed of U.S. Highway 50 and shall be discouraged in favor of less intrusive noise mitigation (e.g., landscape berms, setbacks) along other high volume roadways."

El Dorado County General Plan identifies the intrusiveness associated with noise walls that are in the viewshed of U.S. Highway 50 and other high volume roadways.

Results of where earthen berms may be substituted for sound walls in the northwest quadrant in proximity to affected nearby residents has not been provided in order to make an informed decision about the validity of earthen berms as a mitigation measure.

The burden of screening the proposed 10-foot wall is being unfairly placed upon the residents. The assumption that the wall can be screened is invalid because the wall will be so close to certain residences (e.g., the townhomes that have small patios and no backyards) that landscaping will not be possible.

El Dorado Hills Townhouse Association has "common ground areas" where a per unit compensation would not cover the expenses incurred by the Association to screen walls next to the common ground areas.

Results of the specific distance between homes and sound walls in the northwest quadrant has not been provided in order to make an informed decision about the validity of wall screening as a mitigation measure.

The County would need to provide adequate property line setbacks from residents to provide landscape and berms (to reduce the exposed visible surface of the noise barrier to 2.2 meters/ 7 feet or less) on both sides of the sound wall at the time of construction through a landscape professional.

## Chapter 7. Traffic and Circulation

### *Current Inaccurate Statement and/or omission*

(page 7-2) Saratoga Way is planned to extend west parallel to U.S. Highway 50 to the Iron Point Road extension in \* Folsom  
\* (note: The general plan does not specify that Saratoga Way will connect to Iron Point Road)

(page 7-2) The east leg of Saratoga Way serves as the main entrance to a large commercial area consisting of two gas stations, a supermarket, fast food establishments, and other businesses.

(page 7-5) Based on Policy 3.5.1.1. of the El Dorado County General Plan, the acceptable level of service for county roadways and intersections is LOS C (because the Capital Improvement program would result in LOS C or better operations on the study segments of El Dorado Hills Boulevard, Latrobe Road, and Saratoga Way).

(page 7-6) Operations were also evaluated at each of the U.S. 50/El Dorado Hills Boulevard-Latrobe Road ramp junctions during the a.m. and p.m. peak hours. The results are summarized in Table 7-5 and indicate that the westbound ramps operate at LOS E or F during the a.m. peak hour while the eastbound ramps operate at LOS D or E during the p.m. peak hour.  
(page 7-7) According to Table 7-6, the two ramp terminal intersections each operate at LOS D or worse during the a.m. and p.m. peak hours.

Field observations indicate that southbound traffic in the outside lane at the El Dorado Hills Boulevard/Saratoga Way intersection queues back beyond Park drive during the a.m. peak hour. This is caused by the heavy volume of southbound traffic and the close proximity of Saratoga Way and the westbound ramps, which limits the amount of green time that can be allocated to southbound movements.

(page 7-14) These improvements were assumed to be in place for the interim (2005) conditions analysis. The following roadway improvements identified in the ~~El Dorado County General Plan~~, in

### **Proposed statement and/or addition**

It is noted in Volume II of the General Plan that Saratoga Way is planned to extend west parallel to U.S. Highway 50 to Folsom

The east leg of Saratoga Way serves as the main entrance to a large commercial area consisting of two gas stations, a supermarket, fast food establishments, and other businesses; and it routes behind the commercial area and adjacent to the west side of the golf course to another main entrance for the commercial area at El Dorado Hills Boulevard, across from Park Drive.

Results of 2015 traffic analysis have not provided information for an informed decision on whether the Capital Improvement program would result in level of service C or better operations on the study segments of El Dorado Hills Boulevard, Latrobe Road, and Saratoga Way.

However, the Signalization Improvement Project currently under construction will relieve congestion and move traffic more efficiently (by 1 level of service up).

Field observation did not consider the signalization improvement project that is currently under construction to improve signal timing for the ramps, and intersections by the restructuring of the control boxes for the intersection and timing.

(NOTE: We wish to incorporate by reference all documents/correspondence and communication with DOT staff related to the Signalization Improvement Project including the April 27, 1999 Board of Supervisors Meeting when approval for "dividing the intersection and installing two interconnected 170 controllers, one controlling Saratoga Way and the other operating SR 50 WB Ramps" was given).

The General Plan is divided into two volumes: Volume I, Goals, Objectives and Policies; and Volume II, Background Information. Volume I represents the General Plan and legal policy guide for all land

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<p>addition to those listed above, were assumed to be in place in the cumulative (2020) analysis:</p> <ul style="list-style-type: none"> <li>Extend Saratoga Way west as a two-lane roadway to connect with Iron Point Road extension in Folsom. The El Dorado County General Plan identifies Saratoga Way as a four-lane arterial. Only two lanes were assumed for consistency with the project description.</li> </ul>	<p>use decisions in El Dorado County. <b>Volume II does not contain policy, nor should any information contained therein be construed to imply policy. The need for new roadways is noted in Volume II – Background Information and Saratoga Road is noted as follows:</b></p> <ul style="list-style-type: none"> <li>An extension of Saratoga Road to connect to the City of Folsom.</li> </ul> <p>The project is inconsistent with the El Dorado County General Plan. Among other inconsistencies, the Plan does not contemplate the re-location (“realignment”) of the west leg of Saratoga to Park Drive. Consequently, if Saratoga Way is identified as a four-lane arterial in the General Plan, it no longer applies.</p>	<p>E-62 cont.</p>
<p>(page 7-22) It should be noted that the El Dorado County General Plan shows Saratoga Way extending west to the City of Folsom as a four-lane road. The proposed project will relocate Saratoga Way as a two-lane road. If and when the County Board of Supervisors decides as a future action, <del>unrelated to this project, to widen Saratoga Way to four lanes</del>, improved operations could be achieved under No Project and With Project conditions in 2020. If a specific proposal for widening and extending Saratoga Way is introduced in the future, such a proposal would undergo a separate environmental review.</p>	<p>Keeping Saratoga Way as a two-lane roadway was recommended by the County hired facilitators. Keeping Saratoga Way as a two-lane roadway is certainly part of this proposed project and is part of the project as described in the Preferred Alternative.</p> <p>The project is inconsistent with the El Dorado County General Plan. Among other inconsistencies, the Plan does not contemplate the re-location (“realignment”) of the west leg of Saratoga to Park Drive. Consequently, if Saratoga Way is identified as a four-lane arterial in the General Plan, it no longer applies.</p>	<p>E-63</p>

## Chapter 8. Land Use and Socioeconomics

### *Current Inaccurate Statement and/or omission*

“The 1987 El Dorado Hills Specific Plan is designed to provide for the orderly and systematic development of the ~~El Dorado Hills area~~ in a manner consistent with the policies of El Dorado County and with the characteristics of the land.” (page 8-4 of the draft EIR, **emphasis and strikethrough added**)

(page 8-4) ~~The General Plan incorporates the 1987 El Dorado Hills Specific Plan as its guideline for development in the western portion of El Dorado County.~~

### **Proposed statement and/or addition**

“The purpose of the El Dorado Hills Specific Plan is to provide for the orderly and systematic development of the **Plan Area** in a manner consistent with the policies of El Dorado County and with the characteristics of the land.” (page 1 of the El Dorado Hills Specific Plan, **emphasis added**)

In the Volume II – Background Information of the General Plan, the 1988 El Dorado Hills Specific Plan is referred to as one of the “Historic Planning Documents” and as one of the 24 adopted Area Plans that have provided land use policy and direction. The El Dorado Hills Specific Plan is one of the Area Plans in the western portion of El Dorado County that provides for development in a specified Plan Area. Other areas of the western portion of El Dorado County are guided by

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<p>(page 8-4) "The 1987 El Dorado Hills Specific Plan includes improvements of the Latrobe Road <b>Interchange</b> in its description of timing for road improvements as necessary to accommodate the buildout of western El Dorado County, including improvement of Latrobe Road, from the El Dorado Hills interchange to White Rock Road, to a four-lane, divided roadway concurrent with construction of the Silva Valley Interchange (El Dorado County 1988)."</p> <p>(page 8-4 of the draft EIR, <b>emphasis and strikethrough added</b>)</p>	<p>other specific plans. There are many specific plans in El Dorado Hills (e.g., Promontory Specific Plan, Carson Creek Specific Plan, Bass Lake Hills Specific Plan, etc.)</p> <p>The El Dorado Specific Plan includes improvements of <b>Latrobe Road</b> as follows:</p> <p>"d. Latrobe Road"</p> <p>"1) Latrobe Road, from the El Dorado Hills interchange to White Rock Road, shall be upgraded to a four-lane, divided roadway concurrent with construction of the Silva Valley interchange." (El Dorado County 1988).</p> <p>The El Dorado Hills Specific Plan specifies that a new interchange is needed in the vicinity of the existing <b>Silva Valley Road and Highway 50</b> undercrossing to accommodate the planned buildout of western El Dorado County. The new interchange is referred to as the "Silva Valley Parkway Interchange."</p>
<p>(page 8-10) <u>Impact 8.1 Consistent with General Plan Designation or Zoning.</u> Implementation of the Preferred Alternative would not conflict with the General Plan designation or zoning. The proposed project is the improvement of the existing El Dorado Hills Boulevard-Latrobe Road interchange on U.S. Highway 50. The preferred Alternative would not require a land use or zoning change</p>	<p>The project is inconsistent with the El Dorado County General Plan. Among other inconsistencies, the Plan does not contemplate the re-location ("realignment") of the west leg of Saratoga to intersect with Park Drive. The proposed project is the expansion of the El Dorado Hills Boulevard-Latrobe Road interchange. The expansion includes relocation of a road onto a parcel where no road currently exists. <b>Because the road is not contemplated in the General Plan</b>, residents were not informed that a road would be within 20 to 30 feet of their back doors when they purchased their homes. Historically, residents were assured for 23 years that the parcel the behind townhouses would be developed with professional office buildings.</p>
<p>(page 8-10) <u>Impact 8.2 Consistent with Applicable Environmental Plans or Policies adopted by Agencies with Jurisdiction over the Project</u></p> <p><del>The General Plan incorporates the 1987 El Dorado Hills Specific Plan as its guideline for development in the western portion of El Dorado County. The El Dorado Hills Specific Plan specifies that the El Dorado Hills-Latrobe Road interchange improvements are needed to accommodate the planned buildout of western El Dorado County.</del></p> <p>The project is also included in the biennial 1994 Metropolitan Transportation Plan and will be constructed to be consistent with the project approved in the El Dorado County Regional Transportation</p>	<p>The El Dorado Hills Specific Plan does not dictate what is required in the western portion of El Dorado County. The El Dorado Hills Specific Plan is one of the Area Plans in the western portion of El Dorado County that provides for development in a specified Plan Area. The northwest quadrant and the northeast quadrant of the proposed interchange, among other areas in western El Dorado County are not included in the El Dorado Hills Specific Plan. The El Dorado Hills Specific Plan specifies that a new interchange is needed in the vicinity of the existing Silva Valley Road and Highway 50 undercrossing to accommodate the planned buildout of western El Dorado County.</p>

~~Improvement Program/Federal Transportation Improvement Program:~~  
Therefore, implementation of the Preferred Alternative would not conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project.

Mitigation Measure: None proposed

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A "List of Capital Improvement Projects" is included in the biennial Metropolitan Transportation Plan that refers to "Interchange Modify," but not in the manner consistent with the proposed project.  
There is no mention of any type of interchange project at El Dorado Hills Boulevard or any listing of funding for fiscal years 1996/97 through 2002/03 in the El Dorado County Regional Transportation Improvement Program/Federal Transportation Improvement Program.

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(page 8-10) Potential incompatibility with Existing Land Uses in the Vicinity  
Implementation of the Preferred Alternative would not be directly incompatible with existing land use in the vicinity. Interchange Improvements would ~~expand the current use of the site\*~~ and are designed to improve traffic flow to surrounding commercial and residential land uses.

\* (note: Obviously, there was no thought given to the realignment of Saratoga Way when this statement was made.)

The expansion includes relocation of a road onto a parcel where no road currently exists—this is not improvements that only "expand the current use of the site." There is no interchange or road currently on the vacant parcel. Because the road is not contemplated in the General Plan, residents were not informed that a road would be within 20 to 30 feet of their back doors when they purchased their homes. El Dorado County generally encourages a buffer of commercial buildings between high volume roadways and residences. A high volume roadway constructed next to residences does create incompatibility with existing land uses in the vicinity.

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## Chapter 9. Earth Resources

### *Current Inaccurate Statement and/or omission*

(page 9-6) Asbestos Control (page 9-6) In April 1998, the El Dorado County Board of Supervisors adopted an interim ordinance to ensure that construction activities in the County are done in a manner that minimizes the release of asbestos fibers into the air. The ordinance requires builders in serpentine areas to: ... The El Dorado County Board of Supervisors has directed the Director of Environmental Management to ensure compliance with this ordinance throughout the County... In addition, if the presence of asbestos is suspected in a work area, the federal and California Occupational ...

### **Proposed statement and/or addition**

Results of asbestos testing in the northwest quadrant in proximity to affected nearby residents has not been provided in order to make an informed decision about it being emitted or controlled.



<p>(page 9-7) Impact 9-2 Potential Exposure of People to Asbestos Mitigation Measure: None Proposed</p>	<p>In April 1998, the El Dorado County Board of Supervisors adopted an interim ordinance to ensure that construction activities in the County are done in a manner that minimizes the release of asbestos fibers into the air. The ordinance requires builders in serpentine areas to... The El Dorado County Board of Supervisors has directed the Director of Environmental Management to ensure compliance with this ordinance throughout the County... In addition, if the presence of asbestos is suspected in a work area, the federal and California Occupational ... <b>Results of asbestos testing in the northwest quadrant in proximity to affected nearby residents has not been provided in order to make an informed decision about it being emitted or controlled.</b></p>	E-72
<p>(page 9-7) The following significant thresholds were developed from Appendices G and I of the State CEQA Guidelines and from professional practice. The project would result in a significant impact if it would:</p> <ul style="list-style-type: none"> <li>▪ Expose people, structures, or property to... or potentially hazardous materials, such as asbestos...</li> <li>▪ Increase wind or water erosion of soils, either on or off the site.</li> </ul>	<p><b>Results of asbestos testing in the northwest quadrant in proximity to affected nearby residents has not been provided in order to make an informed decision about it being emitted or controlled.</b></p>	E-73
<p><b>Figure 9-1 Note:</b> This map shows the general locations of the more significant ultramafic rock areas and faults where serpentine rock, chrysotile asbestos and tremolite asbestos may occur, not the presence or absence of asbestos at specific sites.</p>	<p><b>Results of asbestos testing in the northwest quadrant in proximity to affected nearby residents has not been provided in order to make an informed decision about it being emitted or controlled.</b></p>	E-74

### Chapter 13. Alternatives to the Proposed Project

Results of studies of alternative designs that have been proposed by the public have not been provided to make an informed decision. C.A.R.E. submitted "ALTERNATIVES FOR INCLUSION IN THE DRAFT EIR" (See Volume II, Appendix A. Notice of Preparation Comment Letters) that have not been studied, but rather were unilaterally dismissed by DOT. The Draft EIR should study these alternatives, especially because the proposed Preferred Alternative creates significant impacts. The Draft EIR has demonstrated that certain significant impacts cannot be mitigated with proposed procedures. For example, the proposed sound wall does not mitigate the noise impact for those with two story homes; and results of acoustical analysis (implement façade construction improvements to reduce interior noise levels below 45 dB Ldn or 53 dB Leq.) have not been provided to make an informed decision about whether "façade construction improvements" would actually work.

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E-76

<p>(page 13-2) As described in chapter 2, the County has studied more than 17 alternative design concepts that have been proposed by the project development team or the public.</p> <p>(page 13-2) All of the other design concepts were rejected from further detailed consideration in this EIR/EA for one or more of the following reasons.</p> <p>(page 13-3) A significant conclusion of the quantitative noise and air quality analyses of the preferred Alternative, Alternative I, Alternative II is that the effects of U.S. Highway 50 noise levels under future conditions completely overwhelms any effect of the realignment of Saratoga Way... Therefore, alternatives that include moving the alignment of Saratoga Way are ineffective in significantly (or even measurably) reducing the noise and air quality impacts on residential receptors in the northwest quadrant.</p>	<p>Results of studies of alternative designs that have been proposed by the public have not been provided to make an informed decision.</p> <p>Results of studies of alternative designs that have been proposed by the public have not been provided in order to make an informed decision.</p> <p>C.A.R.E. disagrees that it was a "significant conclusion" by the noise and air quality analysis that ... "the effect of U.S. Highway 50 noise levels under future conditions completely overwhelms any effect of the realignment of Saratoga Way."</p> <p>Results of studies of alternative designs that have been proposed by the public have not been provided to make an informed decision. One of the attachments to the C.A.R.E. comment letter is correspondence from Earl Withycombe, Air Quality Consulting Engineer, dated January 9, 1999. Please refer to this letter to review the significant health impacts from Saratoga Way when it is realigned in close proximity to homes and the recommendation for maximized separation distances between residential areas and high volume roadways.</p>	<p>E-77</p>
<p>(page 13-3) A significant conclusion of the quantitative noise and air quality analyses of the preferred Alternative, Alternative I, Alternative II is that the effects of U.S. Highway 50 noise levels under future conditions completely overwhelms any effect of the realignment of Saratoga Way... Therefore, alternatives that include moving the alignment of Saratoga Way are ineffective in significantly (or even measurably) reducing the noise and air quality impacts on residential receptors in the northwest quadrant.</p>	<p>There are other reasons for moving Saratoga Way further away from residents including, but not limited to, providing enough distance to allow for setbacks (for berms/landscaping) future buildings to buffer noise, sidewalks for safety, bicycle lanes, etc. Moving Saratoga Way further away is also justified for aesthetic considerations such as Impact 6.2 (Changes to Views of the Project Site from U.S Highway 50 and other Public Roads). General Plan Policy 6.5.1.5 "Setbacks shall be the preferred method of noise abatement for residential projects located along U.S. Highway 50. Noise walls shall be discouraged within the foreground viewshed of U.S. Highway 50 and shall be discouraged in favor of less intrusive noise mitigation (e.g., landscape berms, setbacks) along other high volume roadways." If the proposed 10-foot noise wall is built within 30 feet of the back doors of homes, it will "box in" residents - moving Saratoga Way away from homes allows the noise wall to be setback from the property line. This also allows for the landscaping</p>	<p>E-80</p>

<p>screening of the noise wall that was identified as a mitigation for significant Impact 6.3 (changes to views from the project site from residences in the northwest quadrant).</p>	<p>(page 13-3) Alternative 1: Expanded Existing Configuration... the fact that Alternative 1 fails to meet operational objectives was also generally acknowledged by the public at the scoping meeting.</p>	<p>E-80 cont.</p>
<p>It was acknowledged at the scoping meeting that DOT would state that an expanded existing configuration would not work. However, the public still assumed that the alternative would be sufficiently studied in the Draft EIR. Results of studies of alternative 1 design that have been proposed by the public have not been provided in order to make an informed decision.</p>	<p>(page 13-8 &amp; 13-9) This alternative interchange design was considered by the County, but rejected from further consideration because it would not eliminate the other operational deficiencies and east problems associated with the SPUI design described above.</p>	<p>E-81</p>
<p>Results of studies of SPUI designs and all variations of the SPUI (Alternative H, J and Hook alignment) have not been provided in order to make an informed decision about any operation or cost problems. The SPUI design was recommended by KORVE Engineering (see Appendix A in Volume II of the Draft EIR for the January 27, 1997 letter from KORVE that was submitted by C.A.R.E.)</p>	<p>(page 13-11) This alternative was considered by the County, but rejected from further consideration because the County could not reasonably acquire access for arterial through the Town Center subdivision because it is approved and under construction, and Town Center Boulevard was not extended to the project boundary to serve as an arterial roadway. It is also considered topographically unsuitable. In addition, replacing the planned extension of Saratoga Way* with an arterial south of U.S. Highway 50 is not consistent with the El Dorado County General Plan, the Sacramento County General Plan and the City of Folsom general Plan. Finally, an arterial south of U.S. Highway 50 is considered functionally redundant because of the close proximity of White Reek Road.</p>	<p>E-82</p>
<p>During the community outreach meeting with the county hired facilitators, transportation experts thought consideration of Town Center Boulevard frontage road south of U.S. Highway 50 was a "great idea." Matt Boyer, El Dorado County Transportation Commission indicated that any future connection to Sacramento County would have to be worked out, but did not indicate that the open space land or General Plan consistency would be an issue for El Dorado County. There is extensive open space between the Town Center subdivision and U.S. highway 50. In fact, there is significantly more open space on the south side of the highway than on the north side (where residents are in close proximity to highway 50 and the Saratoga Way frontage road). The county hired facilitators pointed out that the topography on the south side of highway 50 was no worse than the topography on the north side (where the proposed extension of Saratoga Way may occur). Town Center Boulevard would not be "functionally redundant" because White Rock Road is further to the south, impacted by commute traffic and is filled with poor design turns and curves that create safety concerns.</p>	<p>* (note: The assumption is being made that "replacing Saratoga Way would occur, but the public has suggested that Saratoga Way could remain two lanes while the two lane Town Center Boulevard would serve traffic in the South, especially traffic in the business Park to the south.)</p>	<p>E-83</p>
<p>Results of studies of SPUI designs and all variations of the SPUI (Alternative H, J and Hook alignment) have not been provided in order to make an informed decision about any operation or cost problems. The SPUI design was recommended by KORVE Engineering (see Appendix A in Volume II of the Draft EIR for the January 27, 1997 letter from KORVE that was submitted by C.A.R.E.)</p>	<p>(page 13-11) This alternative was considered by the County, but rejected from further consideration because the County could not reasonably acquire access for arterial through the Town Center subdivision because it is approved and under construction, and Town Center Boulevard was not extended to the project boundary to serve as an arterial roadway. It is also considered topographically unsuitable. In addition, replacing the planned extension of Saratoga Way* with an arterial south of U.S. Highway 50 is not consistent with the El Dorado County General Plan, the Sacramento County General Plan and the City of Folsom general Plan. Finally, an arterial south of U.S. Highway 50 is considered functionally redundant because of the close proximity of White Reek Road.</p>	<p>E-84</p>
<p>Results of studies of SPUI designs and all variations of the SPUI (Alternative H, J and Hook alignment) have not been provided in order to make an informed decision about any operation or cost problems. The SPUI design was recommended by KORVE Engineering (see Appendix A in Volume II of the Draft EIR for the January 27, 1997 letter from KORVE that was submitted by C.A.R.E.)</p>	<p>(page 13-11) This alternative was considered by the County, but rejected from further consideration because the County could not reasonably acquire access for arterial through the Town Center subdivision because it is approved and under construction, and Town Center Boulevard was not extended to the project boundary to serve as an arterial roadway. It is also considered topographically unsuitable. In addition, replacing the planned extension of Saratoga Way* with an arterial south of U.S. Highway 50 is not consistent with the El Dorado County General Plan, the Sacramento County General Plan and the City of Folsom general Plan. Finally, an arterial south of U.S. Highway 50 is considered functionally redundant because of the close proximity of White Reek Road.</p>	<p>E-85</p>

(page 13-11) The potential alignment would also not provide substantial environmental advantages over the proposed project because it would need to traverse an open space parcel that was designated to buffer the existing residences in the Springfield Meadows subdivision from U.S. Highway 50. This would be expected to expose these existing residences to similar impacts to those that would be experienced by the residences north of the Saratoga Way realignment under the proposed project.

E-86

### Chapter 14. Cumulative Impacts, Growth-Inducing Impacts

#### *Current Inaccurate Statement and/or omission*

(page 14-2) Information on past, present, and probable future projects was obtained from El Dorado County staff. Table 14-1 presents a list of projects considered in this cumulative analysis. The location of these projects is presented in Figure 14-1.

(page 14-8) As noted in Table 14-1, all of these projects, except the Valley View Specific Plan, have tentative maps... Therefore, planned development in El Dorado Hills can proceed (with the exception of Valley View)... The proposed project would not foster the vast majority of economic or population growth in the El Dorado Hills area.

E-87

#### *Proposed statement and/or addition*

Figure 14-1 is not accurate. For example, the El Dorado Hills Specific Plan does not include land in the northwest or northeast quadrant of the interchange (see the El Dorado Specific Plan, page 6, Figure 3)

The Growth Inducement impacts of the proposed project are significant because, among other future growth, the Valley View development depends upon the proposed project to mitigate traffic impacts associated with the Valley View Specific Plan.

E-88

The open space parcel between U.S. Highway 50 and the Springfield Meadows subdivision is significantly larger than the parcel on the north side for the proposed expansion of Saratoga Way. It is ridiculous to indicate that this subdivision would be exposed to similar impacts because the homes on the south are significantly further away from U.S. Highway 50. The County reasoning implies that it is acceptable for the Springfield Meadows subdivision to impact Saratoga Way traffic and residents on the north side, instead of being served by a frontage road on the south side.

**Volume II: Appendices Draft Environmental Impact Report /Environmental Assessment for the US Highway 50/El Dorado Hills Boulevard- Latrobe Road Interchange Project, November 1999 (Draft EIR)**

**Appendix A. Notice of Preparation and Comment Letters**

**California Environmental Quality Act/ Environmental Checklist Form**

There are discrepancies between noted "Environmental Impacts" on the current checklist included in the Draft EIR and the checklist that was completed as part of the previously proposed Draft Negative Declaration. For example, the current checklist indicates that "Risk of upset" is less than significant, but the checklist for the previous negative declaration indicates that it is potentially significant unless mitigation is incorporated. There are approximately fourteen instances of such discrepancies, including differences in "Determination."

E-89

**DOT omitted 9 pages of the C.A.R.E. letter, dated August 3, 1998 submitted to DOT during the Notice of Preparation (NOP) period for the current Draft EIR**

In response to the NOP, C.A.R.E. submitted written comments (dated August 3, 1998) to the El Dorado County Department of Transportation. The C.A.R.E. letter appears in Volume II with some of the attachments. One of the attachments to the C.A.R.E. comment letter is correspondence from Earl Withycombe, Air Quality Consulting Engineer, dated January 9, 1999. El Dorado County Department of Transportation omitted Earl Withycombe's correspondence in Volume II, Appendices of the Draft EIR. This January 9, 1999 correspondence should have been included in the draft EIR. Omitting it is a very serious matter for obvious reasons, but especially because it is in disagreement with the draft EIR Air Quality conclusions. DOT obviously received the letter because David Bolland, Jones & Stokes Associates, Inc., called Hilary Krogh, C.A.R.E., on August 27, 1998 to specifically discuss the Withycombe letter.

E-90

**Draft EIR did not address specific impacts and alternatives submitted by Comment letter**

General Plan Consistency is not adequately addressed in the Draft EIR. Blight and the ramifications thereof are not addressed at all nor is financial impacts/property value impacts as requested by C.A.R.E. Public health impact of air emissions on residents is not addressed (see Table 3-1) as an impact even though C.A.R.E. submitted correspondence from Earl Withycombe, Air Quality Consulting Engineer, dated January 9, 1999. The sequence of mitigation implementation has not adequately been addressed in the Draft EIR (e.g., mitigation measures occurring prior to construction).

E-91

For several years, the community has suggested that the Silva Valley Parkway Interchange occur as planned in the El Dorado Hills Specific Plan. The Plan specifies that a new interchange is needed in the vicinity of the existing Silva Valley Road and U.S. Highway 50 undercrossing to accommodate the planned buildout of western El Dorado County. The Draft EIR has not considered building the Silva Valley Parkway Interchange prior to extensive modifications on the El Dorado Hills Boulevard interchange. It may be possible to improve to the El Dorado Hills Boulevard interchange in a less intrusive manner if the Silva Valley Parkway Interchange was in place to accommodate the buildout that has occurred in the El Dorado Hills Specific Plan Area.

E-92

**Appendix C. Traffic Analysis Technical Appendix**

The agencies contracted to complete the EIR should not have a conflict of interest or experiences that may prevent an impartial and objective draft EIR. As stated in the August 3, 1998 letter submitted as part of the NOP process, C.A.R.E. objects to the reliance on Fehr and Peers Associates, Inc., as the transportation consultants on this project. Fehr and Peers Associates has been repeatedly hired by local developers. In fact the *same person* in the consultant group has also completed the traffic study on development adjacent to the interchange project. These local developers have supported DOT in their preference for an interchange design. The local developers' projects have needed specific roadway and interchange designs to mitigate the traffic impacts related to large projects. Another example of conflict of interest can be seen with the Valley View Specific Plan where specified improvements to the interchange are described as "Mitigation" for a significant project impacts.

E-93

**Appendix E. Technical Memorandum Discussing the Saratoga Way Alternative Alignments**

Under the proposed project that incorporates the S curve realignment of Saratoga Way (referred to as "Alternative A" in the HDR memorandum) residents would suffer from the road being 20 to 30 feet from their back doors. Any design that moves the proposed Saratoga Way away from residences and/or allows room for potential buildings to be a buffer between Saratoga Way and homes should be given serious consideration. A 10-foot sound wall is unacceptable, especially for those homes that will be "boxed in" because there is not sufficient setback between the sound wall and back patios. As discussed in the HDR memorandum on the Saratoga Way Alternative Alignments, the modified S curve (Alternative C) or the Hook (Alternative B) would increase the distance between the proposed relocated Saratoga Way and homes. In addition, there are safety benefits to Alternative C or B because the "65 m radius curve allows for better sight distance and a greater design speed."

E-94

**Appendix K. CEQA Findings of Fact and Statement of Overriding Considerations Valley View Specific Plan, December 1998**

It is C.A.R.E.'s understanding that the Board of Supervisors met on December 8, 1998, at which time they approved the Valley View Specific Plan. The Valley View Specific Plan EIR - Finding of Fact and Statement of Overriding Consideration is replete with references to the proposed US 50/El Dorado Hills Boulevard interchange project. On behalf of C.A.R.E., the Law Firm of Zumbrun & Findley previously sent correspondence to the El Dorado County Board of Supervisors, the Planning Department, and the Department of Transportation, requesting to be provided with notices of any meetings or hearings related to the US 50/El Dorado Hills Boulevard interchange project and to notify specific individuals. C.A.R.E. would like an explanation for not receiving notice of the meetings and hearings on the Valley View Specific Plan. Taking such an action would appear to be committing the County to a future course of action, which is premature at this time and inconsistent with the environmental review process. C.A.R.E. wishes to exercise its right to have the subject action item rescinded and object to references to it in the current Draft EIR. C.A.R.E. considers this a very serious matter and feels it is part of the exclusionary approach taken by the Department of Transportation on these related subjects.

E-95

(Note: see page 14-9 of Volume I of the Draft EIR for further references to the Valley View Specific Plan and the growth inducement impacts of the proposed project)

4960 Puma Way  
Carmichael, CA 95608  
January 9, 1998

Brian and Hilary Krogh  
P.O. Box 3117  
Diamond Springs, CA 95619

Re: U.S. Highway 50/El Dorado Hills Boulevard - Latrobe Road Interchange

Dear Mr. & Mrs. Krogh:

Recently you asked whether the realignment of Saratoga Way to a location closer to residential structures as a part of the Highway 50/El Dorado Hills Boulevard interchange modification would produce any adverse air quality impacts. After reviewing the Draft Negative Declaration for the project and other related documents, my conclusion is that the Saratoga Way realignment will cause residents of the development presently bounded by Mammoth Way and Arrowhead Drive to be exposed to higher concentrations of carcinogenic compounds from motor vehicle exhaust than are now found presently at this site. The magnitude of this increase has the potential to equal the level at which new industrial facilities in El Dorado County would be required to provide environmental mitigation.

E-96

### Background

For several years, toxic pollutant monitoring has confirmed that the majority of airborne cancer risk in urban areas results from exposure to motor vehicle emissions. These emissions of benzene, formaldehyde, acetaldehyde, and 1,3-butadiene typically produce cancer risks in areas like urban Sacramento that are several times higher than the Proposition 65 warning level, for example. Highest risks are found immediately adjacent to those freeways and highways carrying the largest traffic volumes. As with combustion pollutants emitted by motor vehicles, concentrations of vehicle-generated toxic pollutants decline to regional background levels at locations greater than one thousand feet or so from the roadway centerlines. Because continuous monitoring of toxic pollutants commenced only recently, in 1991, the conclusions of such efforts and the impacts near major traffic routes have not yet gained widespread public recognition. This is evidenced by the fact that environmental impact analyses of most projects directly or indirectly producing increases in motor vehicle use, including this one, fail to even mention this cause and effect relationship.

E-97

### Project Impacts

According to project design documents, Saratoga Way will be relocated to within one hundred feet of several existing residences and widened to ultimately carry 15,000 vehicles per day. These actions in combination will sharply increase concentrations of toxic pollutants emitted by vehicles using this thoroughfare at these impacted structures. To quantify the magnitude of cancer risk increases produced by these potential concentrations, a screening emission and dispersion analysis was conducted using

E-98

protocols developed by air pollution control agencies for assessment of new industrial facilities.

Emissions rates of toxic pollutants from gasoline-powered vehicles were derived from studies published in recent years by the U.S. Environmental Protection Agency. Then, on a pollutant-by-pollutant basis, these emissions rates were multiplied by cancer toxicity factors and combined to derive an equivalent cancer risk emission rate for the average vehicle. This rate was applied to the anticipated traffic volume and then distributed over the length of the realigned road near the residences.

E-98  
cont.

The EPA-approved plume dispersion model ISCST3 was used to determine how carcinogenic gases emitted by the passing vehicles would be transported by local winds. A file of hourly weather data collected over a full year by the Sacramento Metropolitan Air Quality Management District near south Sacramento was used to represent local atmospheric conditions.

The results of the computer modeling indicate that cancer risks associated with anticipated traffic emissions on Saratoga Way will approximate 10 in a million, the Proposition 65 warning level. Because the screening procedure used to generate this initial assessment relies on several assumptions, the accuracy of this estimate is good only within a factor of 2. In other words, the actual risks produced this relocation will vary generally between 5 and 20 in a million at those residences closest to the roadway edge. A copy of the program output is being mailed to you later today.

E-99

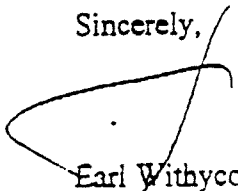
### Conclusion

The public health impacts estimated from this analysis are quite similar to those computed for other transportation projects that involve localized increases in traffic volume. These impacts should be carefully evaluated using a more refined analysis before the environmental review process for this project is concluded. Understanding the relationships between traffic volume increases, residential proximity, and potential health effects, alternatives to the preferred design of the project that maximized separation distances between residential areas and high volume roadways should be identified and evaluated before the final decision on project design is made. Finally, measures which would mitigate any adverse health effects should also be incorporated into the design of the project as required by the California Environmental Quality Act.

E-100

I hope that these comments respond to the questions you have raised with respect to the project at hand. If you have any followup questions, or desire clarification of any issues raised in this analysis, please contact me at 916-444-6666 during business hours.

Sincerely,

  
Earl Withycombe  
Air Quality Consulting Engineer

encl: Resume



Résumé

Earl Withycombe

Education

Bachelor of Science, Aeronautical Engineering, 1970,  
Massachusetts Institute of Technology, Cambridge, Massachusetts

Certificate in the Management of Hazardous Materials, 1989,  
University of California, Davis, California

Numerous short courses and seminars in management, personnel administration,  
legislative advocacy, safety, emergency services, health planning, toxic substance control,  
risk assessment, and technical aspects of air quality management.

Professional Experience

5/93 to present      Partner  
                                 Sierra Research

4/88 to 5/93        Senior Engineer  
                                 Sierra Research

Partner and project manager in consulting firm specializing in air quality analysis and management. Experience includes management of regulatory development and project evaluation services for governmental clients; management of process, control, and instrumentation design; emission and impact evaluation; and compliance strategy services for private clients. Technical contributions include air quality modeling, combustion and stack sampling project design, screening risk assessment, permit development, and particulate matter and fugitive dust emission factor development services for a variety of projects, including those related to power production, cogeneration, industrial boilers, geothermal activities, mineral extraction and processing, lumber production, toxic waste treatment, fugitive dust, and Superfund remediation. Advocacy services include permit negotiation, technical briefing and presentation, expert witness testimony, legal support, rulemaking representation, regulatory interpretation, and technical reporting for a variety of public and private clients.

7/83 to 4/88

Managing Partner  
Sierra Air Consultants

Founder and managing partner of a small consulting firm specializing in air quality impact analysis. Directed the development of permit applications and provided air quality troubleshooting services to a number of wood processing clients. Analyzed the environmental impacts of several energy projects for environmental and governmental clients. Managed all fiscal and administrative functions for the partnership.

7/75 to 4/88

Air Basin Engineer  
Mountain Counties Air Basin,  
Lake Tahoe Air Basin

Established and managed a consulting practice providing exclusive and comprehensive technical services to an association of nine county air pollution control districts in the Sierra Nevada region of California. During vacancies in administrative positions, assumed the responsibilities of program management for interim periods in several Districts in the Air Basin. Drafted numerous amendments to the air basin plan in implementing federal and state mandates and responding to new local problems. Developed annual budgets for a number of districts.

Developed ozone nonattainment plans for El Dorado and Mariposa Counties. Drafted and implemented the first local Prevention of Significant Deterioration program in rural California. Analyzed compliance with emission limits and ambient air quality standards for all major and many minor new and modified source applications within the nine counties. Developed comprehensive stationary and area source emission inventories for Mountain Counties baseline inventory (1977) and for the Lake Tahoe Nonattainment Plan (1981). Designed air quality monitoring networks throughout the Air Basin, including systems to measure the impacts of controlled wildland vegetative burning and residential wood combustion. Developed toxic pollutant test burn plans for the experimental incineration of toxic wastes in cement kilns, rotary kilns, and starved air incinerators. Designed a testing program and developed district regulations for the assessment and control of asbestos emissions from unpaved roads and parking lots. Certified all test plans and oversaw all stationary source testing in the Air Basin.

Served as the Co-Chairman of the CAPCOA-ARB New Source Review Rule Committee that developed the 1982 CAPCOA NSR rule which served for many years as a model regulation for the permitting of new sources by districts. Drafted and successfully lobbied several legislative bills amending the relationship between districts and the California Air Resources Board and authorizing experimental programs seeking innovative solutions to air quality problems. Drafted language and lobbied for passage of AB 3374 (1986), the second Calderon landfill testing bill, which refocused priorities on active landfills and adopted more cost effective monitoring protocols for small rural landfills.

11/86 to 4/87

Air Pollution Control Officer  
Northern Sierra Air Quality Management District

Designed and managed the process for unifying three county air pollution control districts into a multi-county agency to increase program service levels while reducing administrative costs. During agency formation, served as agency administrator and organized basic fiscal, regulatory, enforcement, legal and legislative programs. Designed and enacted a stationary source permit fee proposal that dramatically increased program revenues. Developed the first district wildland vegetation management burning regulation and permit fee program in the state.

1/79 to 4/86

Member and Chairman  
Sierra County Board of Supervisors

Served two terms as a member and three years as Chairman of the Board of Supervisors of Sierra County. Chaired the Board's Finance, Personnel, and Health & Welfare Committees. Served as the de facto county administrator coordinating multi-department responses to legislation mandates and community problems. Drafted and enacted numerous ordinances, resolutions, and Board orders in the areas of general administration, health, personnel management, human services, finance, and public safety. Served seven years as the Chairman of the County Board of Equalization. Together with the County Auditor, supervised the development of annual county budgets and fiscal policy. Served as the County's labor negotiator for six years. Represented the County on numerous inter- and intra-county boards, commissions, and councils. Served two years on the Executive Committee of the County Supervisors Association of California. Drafted and sponsored several bills streamlining state statutes related to unique rural concerns. Coauthored and led the successful lobbying effort to secure passage of SB 1691 (1983) which established the state's first locally administered groundwater management districts.

7/75 to 9/78

Managing Partner  
SierraTech Associates

Founder and managing partner of a small consulting firm specializing in civil engineering for small residential and commercial projects. Designed and analyzed custom residential and commercial structures, retaining walls, roads, and on-site wastewater treatment systems. Managed all fiscal and administrative functions for the partnership.

8/73 to 1/75

Air Pollution Control Officer  
County of Sierra

Served as the program manager of a rural county air pollution control district. Developed and implemented compliance plans for two timber processing facilities. Managed the

accounting, budget, reporting, permit review, and air quality monitoring functions of the agency. Developed the technical justification for formation of the Mountain Counties Air Basin to supplant the mountain portions of the Sacramento and San Joaquin Valley Air Basins. Drafted major portions of the first Air Basin Plan and related regulations.

### Other Experience

- 1990- Member and Treasurer, Board of Directors, American Lung Association of Sacramento-Emigrant Trails
- 1989- Member and Chairman, Clean Air Committee, American Lung Association of Sacramento-Emigrant Trails
- 1989- Member, Treasurer, and Chairman, Executive Board, Air & Waste Management Association, Mother Lode Chapter
- 1987-88 Public Member, California Department of Health Services/  
Department of Conservation Mine Waste Study Steering Committee
- 1985- Instructor, U.S. Forest Service, California Department of Forestry, and California Department of Parks and Recreation Fire Management Training Programs
- 1982 Chairman, Environmental Health Task Force, Golden Empire Health Systems Agency
- 1979-86 Member and Chairman, Golden Empire Health Services Agency Governing Board
- 1976-84 Instructor, American Heart Association and American Red Cross, Cardio-Pulmonary Resuscitation
- 1974-88 Member and Chairman, Western Sierra Medical Clinic Board of Directors
- 1973-89 Chairman, Sierra County Chapter, American Red Cross
- 1973 Founding Administrator, Western Sierra Medical Clinic
- 1972-88 Member and Chairman, Sierra County Health Council
- 1971-79, Member, Treasurer, and Chairman, Sierra City Fire  
1986-Present District Board of Commissioners

+

## Credentials, Memberships, and Awards

Qualified Environmental Professional, Air Pollution; Institute of Professional Environmental Practice

Registered Civil Engineer, California

Diplomate, Air Pollution; American Academy of Environmental Engineers

Member, American Society of Civil Engineers

Member, Air and Waste Management Association

Outstanding Individual, 1994 Summer Smog Season Campaign, Partners for Clean Air, Sacramento, California

Lifetime Teaching Credential: Health Technologies, California Community Colleges

Emergency Medical Technician 1-A, California

## Selected Publications

"Air Quality Impacts of the Proposed Rough and Ready Project," prepared for Ford Construction Company, June 1994.

"Evaluation of Public Health Impacts Resulting from Emission of Asbestos Fibers from the California Asbestos Monofill Project," prepared for Calaveras County Air Pollution Control District, November 1993.

"Feasibility and Cost Effectiveness of New Air Pollution Control Measures," prepared for Maricopa Association of Governments, August 1993.

"A Methodology for Assessing the Significance of Air Quality Impacts Under the California Environmental Quality Act and the Amador County Air Pollution Control District Rules and Regulations," prepared for Amador County Air Pollution Control District, June 1993.

"Collins Pine Company Requested Permit Conditions (Northern Sierra Air Quality Management District)," prepared for Collins Pine Company, October 1992.

"Collins Pine Company Requested Permit Conditions (U.S. Environmental Protection Agency)," prepared for Collins Pine Company, October 1992.

"Air Quality Impacts of the Proposed Brigantino Placement Project," prepared for Granite Rock Company, August 1991.

"City of Redlands and C.L. Pharris Sand & Gravel Inc. Preannexation Agreement Air Quality Analysis," prepared for the City of Redlands, June 1990.

"American Moulding and Millwork Company Application for Authority to Construct," prepared for American Moulding and Millwork Company, June 1990.

"Air Quality Impacts of Proposed Eagle Mountain Project," prepared for Mine Reclamation Corporation, March 1990.

"Air Quality Permitting Requirements for the Eagle Mountain Mine Project," prepared for Mine Reclamation Corporation, September 1989.

"Air Toxics 'Hot Spots' Information and Assessment Act (AB 2588) Emission Inventory Plans," prepared for Blue Mountain Minerals, Diamond Walnut Growers Inc., American Moulding & Millwork Company, and Teledyne Picco, July 1989.

"Rohr Industries, Inc. Riverside Facility Environmental Compliance Audit," prepared for Rohr Industries, Inc., May 1989.

"Blue Mountain Minerals Emission Baseline Analysis," prepared for Blue Mountain Minerals, April 1989.

"Blue Mountain Minerals Dust Control System Emission Compliance Analysis," prepared for Blue Mountain Minerals, April 1989.

"Copper Cove Village Asbestos Remediation Project: Test Methods and Health Risk," prepared for Calaveras County Air Pollution Control District, March 1989.

"R.C. Collet Rocklin Aggregate Facility Emission Impact Analysis," prepared for R.C. Collet, March 1989.

"Evaluation of Public Health Impacts Resulting from Emission of Asbestos Fiber From the Calaveras Asbestos Ltd. Landfill Project," prepared for Calaveras County Air Pollution Control District, October 1988.

"San Joaquin Valley Biomass Emission Analysis," prepared for Biomass Coalition, September 1988.

"Air Quality and Environmental Significance: The South Valley Power Project," prepared for the City of Calexico, February 1987.

"Cyclone Efficiency Analysis by Microcomputer," 1986 CAPCOA Engineers Technical Seminar, December 1986.

"Air Quality," Foothill County Mining Handbook, Special Publication 86. California Division of Mines and Geology, October 1985.

"Smoke Management," Proceedings of the 6th Annual Conference, Forest Vegetation Management Conference, November 1984.

## **RESPONSES TO COMMENTS FROM THE ZUMBRUN LAW FIRM ON BEHALF OF CITIZENS AGAINST ROADWAY ENCROACHMENT (CARE) (DECEMBER 23, 1999)**

Letter E contains several issues that are addressed in multiple comments. For these issues, one response has been prepared that addresses the concerns related to the issue. The one response is referred to each time the issue is discussed in a related comment. The following lists the issue and the response where the issue is addressed:

- Consistency of the proposed interchange reconstruction with adopted plans: Response E-9;
- Blight: Response E-12;
- Economic impacts: Response E-13;
- Noise impacts on second stories: Response E-36;
- Asbestos-related impacts: Response E-43;
- Design of the proposed noise barrier: Response E-54;
- Consistency of the proposed realignment of Saratoga Way with adopted plans: Response E-62;
- Adequacy of the alternatives analysis: Response E-75; and
- Impacts related to toxic air contaminants: Response E-98.

**Response E-1:** Comment noted.

**Response E-2:** Responses E-1 through E-100 respond to CARE's specific comments on the draft EIR/EA. The County has considered all of CARE's previously submitted comments in preparing the draft EIR/EA.

**Response E-3:** Responses to CARE's written comments are contained in Responses E-3 through E-100.

**Response E-4:** Comment noted. Erroneous statements contained in the draft EIR/EA are corrected in Chapter 4, "Errata", of this report

**Response E-5:** Comment noted.



**Response E-6:** The errata to pages 1-1, 2-1, and 2-5 specify that the proposed project entails realigning Mammouth Way to intersect with Saratoga Way. The project description is clear that the project entails realigning Saratoga Way with an “S” curve.

**Response E-7:** The realignment of Saratoga Way is being proposed to correct the existing spacing problem between the freeway on-ramp and the Saratoga Way/El Dorado Hills Boulevard intersection, consistent with Policy 3.1.2.2. This policy’s reference to “future” intersection does not prevent the County from correcting an existing spacing problem.

**Response E-8:** Page 7-7 of the draft EIR/EA (Table 7-6) shows that this intersection currently operates at level of service (LOS) E during the a.m. peak hour and LOS D during the p.m. peak hour. The traffic analysis further states the following:

- Field observations indicate that southbound traffic in the outside lane at the El Dorado Hills Boulevard/Saratoga Way intersection queues back beyond Park Drive during the a.m. peak hour. This is caused by the heavy volume of southbound traffic and the close proximity of Saratoga Way and the westbound ramps, which limits the amount of green time that can be allocated to southbound movements.

**Response E-9:** This comment implies that the El Dorado Hills Specific Plan and the County General Plan do not specify the proposed project; this statement is not true. The El Dorado Hills Specific Plan (July 18, 1988) specifically refers to improving the El Dorado Hills Boulevard interchange. Page 77 of this plan states:

- Implementation of the concepts, goals, and policies set forth in the Specific Plan address several aspects of community development. These include:
- Public Services and Facilities Financing Plan . . .

Page 81 of the plan further states:

- A detailed Public Services and Facilities Financing Plan shall be prepared and be made part of the Specific Plan, which will identify the costs and alternative funding methods for each of the public services and capital facilities necessary to serve the Specific Plan area.

Exhibit 2 (Study Area Buildout of Improvements including Specific Plan, El Dorado Hills Specific Plan Traffic Analysis) and Exhibit 5 (El Dorado Hills Specific Plan Fee, Primary & Secondary Road Improvements) of the approved El Dorado Hills Specific Plan Public Improvements Financing Plan (December 28, 1988) reference the proposed project as follows:

Exhibit 2

El Dorado Hills Boulevard Interchange:      New eastbound off-ramp (construct  
and signalize)  
Westbound offramp widening  
Westbound offramp (signalize)  
Underpass widening  
Widening of eastbound loop  
New westbound off-ramp

Exhibit 5: The interchange is shown at node 19, which corresponds with the location identified in Exhibit 2.

These exhibits are included in this report after Response E-100.

Page V.9-88 of the County General Plan Draft EIR (December 1994) also references the proposed project and states:

- Also included in the Specific Plan are modifications to the El Dorado Hills/Latrobe Road interchange . . .

**Response E-10:** The errata to page 1-2 clarifies the referenced text, consistent with the comment. See also Response E-22. The commenter is correct in noting that the environmental document prepared for this project in 1996 was entitled “Negative Declaration”. However, the negative declaration contained mitigation measures and, therefore, under CEQA was technically a mitigated negative declaration.

**Response E-11:** Comment noted. Since this comment doesn’t specify the inadequacies of the General Plan consistency analysis, a specific response cannot be given. Chapter 8 of the draft EIR/EA (pages 8-2 through 8-4, and 8-10) presents an analysis of project consistency with applicable plans and policies.

**Response E-12:** State law (Health and Safety Code Section 33030(b)) defines a “blighted area” as follows:

- (1) An area that is predominantly urbanized, as that term is defined in Section 33320.1, and is an area in which the combination of conditions set forth in Section 33031 is so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community which cannot

reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

- (2) An area that is characterized by either of the following:
  - (A) One or more conditions set forth in any paragraph of subdivision (a) of Section 33031 and one or more conditions set forth in any paragraph of subdivision (b) of Section 33031.
  - (B) The condition described in paragraph (4) of subdivision (a) of Section 33031.

A blighted area also may be one that contains the conditions described above and is, in addition, characterized by the existence of inadequate public improvements, parking facilities, or utilities.

Pursuant to Health and Safety Code Section 33031(a), the physical conditions that cause blight include the following:

- (1) Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions can be caused by serious building code violations, dilapidation and deterioration, defective design or physical construction, faulty or inadequate utilities, or other similar factors.
- (2) Factors that prevent or substantially hinder the economically viable use or capacity of buildings or lots. This condition can be caused by a substandard design, inadequate size given present standards and market conditions, lack of parking, or other similar factors.
- (3) Adjacent or nearby uses that are incompatible with each other and which prevent the economic development of those parcels or other portions of the project area.
- (4) The existence of subdivided lots of irregular form and shape and inadequate size for proper usefulness and development that are in multiple ownership.

Pursuant to (Health and Safety Code Section 33031(b), the economic conditions that cause blight include the following:

- Depreciated or stagnant property values or impaired investments, including, but not necessarily limited to, those properties containing hazardous wastes that require the use of agency authority as specified in Article 12.5 (commencing with Section 33459).
- Abnormally high business vacancies, abnormally low lease rates, high turnover rates, abandoned buildings, or excessive vacant lots within an area developed for urban use and served by utilities.

- A lack of necessary commercial facilities that are normally found in neighborhoods, including grocery stores, drug stores, and banks and other lending institutions.
- Residential overcrowding or an excess of bars, liquor stores, or other businesses that cater exclusively to adults, that has led to problems of public safety and welfare.
- A high crime rate that constitutes a serious threat to the public safety and welfare.

Although transportation projects can result in blight conditions, blight normally occurs only in situations where new facilities substantially displace large portions of neighborhoods, or when new facilities physically eliminate access to or divide an existing neighborhood, resulting in a neighborhood with multiple long-term residential vacancies and non-maintenance of structures and landscaping, and, ultimately, in the visual and physical deterioration of residences. Blight can also occur when projects result in parcel sizes that are no longer economically viable to accommodate the existing use. None of these situations would occur under the proposed project.

Existing homeowners near the realigned Saratoga Way are concerned that they may suffer reductions in property values before, during, and after the construction of the project. Although realigning Saratoga Way closer to existing townhomes and single-family homes could result in reduced property values, the creation of neighborhood blight is highly unlikely for several reasons. The most important of these is that property values would need to substantially decrease, and stay depressed for a long period, before multiple vacancies, non-maintenance of properties, and deterioration of landscaping and structures would occur. If realignment of Saratoga Way affects housing prices, the housing market in these neighborhoods would eventually re-stabilize after construction is completed. At this point, housing prices would reach a level at which buyers would be willing to accept the effects of a realigned Saratoga Way. In other words, buyers for properties would exist at a given price, making it unlikely that homes would go unoccupied and unmaintained over a long period of time. It should be understood that residential market values are affected by many factors, including interest rates, regional economic conditions, proximity of homes to shopping, jobs, and transportation facilities, etc. Changes in any of these factors in the future could also affect the value of homes near Saratoga Way, serving to either increase or reduce future property values. It is doubtful that the effects of the project alone would make neighborhood conditions so unbearable that no market would exist for these homes in the future.

It should also be noted that following construction, the project's potential impact on property values would be lessened by mitigation measures designed to reduce the physical impacts of the project on nearby residents. For example, a noise barrier would be constructed that would reduce noise impacts to less-than-significant levels. This measure would lessen the adverse effect on property values.

To some extent, the project's current effect on property values could reflect the uncertainties regarding the future impacts of the project. Once the project has been completed, these uncertainties

would be removed, freeing the housing market to account for these new conditions, and for potential buyers to bid on houses with more certainty of conditions near these neighborhoods. These bid prices may be lower than pre-project prices; however, a market would still exist for these homes. It should be recognized that market uncertainty could be introduced by any future project proposed near existing neighborhoods. The vacant property located between El Dorado Hills Boulevard and the townhomes (i.e., the property that would be bisected by the Saratoga Way realignment) is currently zoned for commercial use. Any number of different types of commercial uses could be constructed on this property in the future, resulting in lighting glare, vehicular noise, and visual impacts on residences adjacent to this property. A proposal to develop this property could also create market uncertainty, temporarily or permanently affecting property values near the property.

Based on these considerations and the experience of El Dorado County with similar projects, it is highly unlikely that blight would result from the proposed project.

**Response E-13:** Under CEQA, economic effects, such as property value impacts, are not considered environmental impacts. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic changes resulting from the project to physical changes caused in turn by the economic changes. The intermediate economic change need not be analyzed in an EIR in any detail greater than necessary to trace the chain of cause and effect. The focus on the analysis should be on the physical changes (CEQA Guidelines section 15131).

As discussed in the response to Comment E-12, the realignment of Saratoga Way could temporarily or permanently reduce residential properties values in neighborhoods near the realigned road. As discussed in the response to Comment E-13, residential blight is highly unlikely, even if property values decline. Although current property owners may suffer private equity losses if property values fall, the property value effects are not subject to CEQA and require no additional analysis within the EIR.

Similarly, NEPA does not require property value effects to be addressed in an EA. Although economic impacts may be considered effects under NEPA, economic effects are not intended by themselves to require preparation of an environmental impact statement, which indicates that economic effects need not be addressed in an EA (40 CFR 1508.14).

**Response E-14:** See Response E-98.

**Response E-15:** The County will adopt a mitigation monitoring program as part of this project, as required by CEQA, that will specify the timing for implementation and monitoring of each adopted mitigation measure.

**Response E-16:** See Response E-6.

**Response E-17:** The comment implies that Figures 2-2 and 2-3 are inaccurate and not to scale. These figures are half-size reductions of the preliminary design of the proposed project at a scale of 1:2000. Therefore, these figures are to scale. The full-size version of the 11x17-inch figures

in Chapter 2 of the draft are available for review at County DOT offices. Conceptual figures in the report that are not to scale are indicated as such. The scales for the figures in the draft EIR/EA have been clarified in the errata chapter.

**Response E-18:** The referenced statement is intended to highlight that the El Dorado Hills Specific Plan is the primary land use plan for El Dorado Hills, the area containing the proposed project. The comment is correct in noting that the specific plan area does not contain the northwest or northeast quadrant of the interchange. However, the specific plan calls for the construction of transportation improvements, including the proposed project, that are needed to serve planned development within the specific plan area. (see Response E-9)

**Response E-19:** See Response E-9.

**Response E-20:** The project is not inconsistent with the County General Plan. See Response E-9. Regarding Saratoga Way, see Response E-62.

**Response E-21:** The project is consistent with the 1996 Metropolitan Transportation Plan. This plan identifies transportation projects anticipated to be funded and constructed over a 20-year horizon and is not intended to identify detailed project characteristics. The County's 20-year Capital Improvement Program, last updated on July 25, 1996, identifies the proposed project on page 20 as follows:

Modify existing interchange El Dorado Hills Boulevard/Latrobe Road interchange

The proposed project is included in the El Dorado County Transportation Commission (EDCTC) 2000 Regional Transportation Improvement Program (RTIP), adopted March 2, 2000. The EDCTC approved \$500,000 for Phase 1 of this project in the RTIP. The EDCTC will consider programming the balance of the funding requested by the County for this project following environmental clearance.

Once the California Transportation Commission accepts EDCTC's programming (scheduled for June 2000), the project will officially be in the State Improvement Program (STIP). The RTIP and STIP are programming documents used to assign funds to specific projects.

Phases 1 and 2 of the proposed project are also included in the 1998/99 Metropolitan Transportation Improvement Program (MTIP), also called the Federal Transportation Improvement Program (FTIP), adopted by the Sacramento Area Council of Governments. The MTIP is used to ensure that transportation projects being proposed in the region are consistent with the federal Clean Air Act.

**Response E-22:** The referenced meetings were noticed in a local newspaper. The commenter is correct in noting that the County Board of Supervisors selected a preferred alternative for analysis in the EIR/EA in 1998. The referenced text has been revised to clearly differentiate

between the alternative selected for analysis in the draft negative declaration in 1996 versus the alternative selected for analysis in the EIR/EA in 1998.

**Response E-23:** According to County staff, the negative declaration was included on the Board of Supervisors meeting agenda of January 7, 1996. The item was continued on January 28, 1996 and again on February 4, 1996. The errata to page 2-2 reflects two hearings. The other suggested deletions are not required as the draft EIR/EA text correctly reads that the Board of Supervisors *considered* approval of the negative declaration and does not state that the Board certified the negative declaration. The term "preferred alternative" refers to the alternative selected for analysis in 1996 in the negative declaration, not the one selected for analysis in 1998 for the EIR/EA. Read in context, pages 2-2 and 2-3 of the draft EIR/EA are clear on this point. See also Response E-22.

**Response E-24:** This correction is made in Chapter 4.

**Response E-25:** The commenter's statement is not completely accurate. According to County staff, on February 4, 1996, the Board of Supervisors took the following action:

... directed that mitigation measures be added to reduce the width of Saratoga Way to two lanes and move it easterly as far as possible, to construct an 8-foot sound wall with landscaping in the buffer between Saratoga Way and the El Dorado Hills townhouses, to restrict through trucks on Saratoga Way, and to make certain Mammo(u)th Way connects to Saratoga Way ...

Page 13 of Thorpe, Van Camp & Associates' Community Process Report (May 12, 1998) states the following:

- Impact Mitigation

... plan phasing so that berms and soundwalls, or other appropriate measures, are in place prior to the start of roadway construction. Incorporate provisions to monitor implementation and effectiveness of adopted mitigation measures.

However, on June 2, 1998, the Board did not adopt the Community Process Report in its entirety and did not adopt Thorpe, Van Camp & Associates' above-described mitigation. On this date, the Board authorized the following:

... preparation of an EIR with the Saratoga Way "S" curve alternative defined as the project; one or more alternatives to be studied based upon what is determined in the scoping process to be a reasonable range of alternatives; the four-lane alternative, referenced this date, as "Alternative 2" will receive the same level of analysis as the project; other alternatives may receive lesser review ...

**Response E-26:** The origin of the preferred alignment and the two build alternatives is clearly explained in Chapter 2, "Description of the Proposed Project and Alternatives to the Project" of the draft EIR/EA. To further clarify this point, the section headers in Chapters 2 and 13, "Alternatives to the Proposed Project", have been revised in the Errata chapter of this report (see errata for pages 2-11, 2-12, 13-16, and 13-22).

**Response E-27:** It is fair to state that, on occasion, construction noise will exceed the County planning standard and existing nighttime noise levels. This was the intent of the second paragraph on page 4-6 of the draft EIR/EA. Noise due to construction and blasting is commonly considered a temporary condition, and is considered to be reduced to a less-than-significant level by the application of standard mitigation measures (see Mitigation Measure 4.1 on page 4-7 of the draft EIR/EA) such as those required by Caltrans.

**Response E-28:** See Response E-27.

**Response E-29:** Comment noted. See other responses to this letter.

**Response E-30:** See Response E-32 regarding construction timing. The County will not compensate residents for motel accommodations or rental homes during construction of the project. The County will consider constructing a temporary noise barrier during construction and will base its decision on a number of factors, including the costs and effectiveness of constructing a temporary noise barrier.

**Response E-31:** See Responses E-30, E-36, and E-54.

**Response E-32:** Mitigation Measure 4.1, as it appears in the draft EIR/EA, applies to construction activities related to the interchange. The mitigation measure has been revised (see errata to pages 4-7 and 4-8) to include contract specifications for construction activities related to realignment of Saratoga Way and the proposed noise barrier; these restrictions include no construction on Saturdays between 5:00 p.m. and 8:00 a.m., unless approved in advance by the County.

**Response E-33:** Mitigation Measure 4.2 requires the County to retain a qualified blasting consultant if blasting is required. One of the duties of the blasting consultant will be to ensure that no property damage results from blasting, whether due to air blast or ground-borne vibration. If blasting effects are controlled to comply with accepted standards for noise and vibration, there will be no significant environmental effect. If it is not possible to comply with those standards, alternatives to blasting would have to be considered. The request for additional information on blasting alternatives is noted.

**Response E-34:** See Response E-33.

**Response E-35:** See Response E-54. One option to conventional noise barriers is a berm/wall combination, which would require less right-of-way than a berm alone.



**Response E-36:** Appendix B of this report contains the results of additional noise analysis conducted for the first and second stories of five selected residences located adjacent to the proposed project (3883 Scenic Court, 3913 Hills Court, 970 Kings Canyon Drive, 721 Platt Circle, and 357 Platt Circle). Interior and exterior sound level measurements and concurrent traffic counts were conducted at these selected homes in February 2000 in response to comments received on the draft EIR/EA. As noted in this report, exterior noise measurements were conducted in the adjacent yard at heights of 5 feet and 14 feet above the ground to represent both the ground-level and upper-floor receivers. The interior noise measurements were conducted in the living rooms and/or bedrooms that would be most affected by noise on U.S. Highway 50 or El Dorado Hills Boulevard. The resulting interior noise levels expected to occur with implementation of the proposed project were also estimated, including the appropriate correction for upper floor receivers.

The report indicates that the County interior noise standard of 45 dB  $L_{dn}$  would be exceeded at the upper floors of two tested homes and at the downstairs of one tested home, and that the standard would be satisfied inside two of the tested homes. The Caltrans interior noise standard of 52 dB  $L_{dn}$  would be satisfied at all of the tested homes.

The County will implement the following mitigation measure to meet the County interior noise standard (see also the errata to pages 4-10, 4-11, and 4-17 of the draft EIR/EA):

**Mitigation Measure 4.3b: Install dual-pane glazing with a Sound Transmission Class (STC) rating of at least 30 on those residences adjacent to the proposed project that have single-pane windows in the second-story rooms facing the proposed project.**

Acoustical glazing will be installed in those second-story rooms with single-pane windows in the first row of homes that are adjacent to either Highway 50 or El Dorado Hills Boulevard. The first row of homes with second stories is listed below:

- |   |              |                        |                  |
|---|--------------|------------------------|------------------|
| ■ | Receptor 1   | 3881/3883 Scenic Court | both two stories |
| ■ | Receptor 2   | 3889/3891 Scenic Court | both two stories |
| ■ | Receptor 3   | 3905 Hills Court       | two story        |
| ■ | Receptor 4   | 3915 Hills Court       | two story        |
| ■ | Receptor 5   | 970 Kings Canyon Drive | two story        |
| ■ | Receptor 7   | 956 Kings Canyon Drive | two story        |
| ■ | Receptor 9   | 940 Kings Canyon Drive | two story        |
| ■ | Receptor 10  | 703 Platt Circle       | two story        |
| ■ | Receptor 11  | 705 Platt Circle       | two story        |
| ■ | Receptor 13A | 721 Platt Circle       | two story        |
| ■ | Receptor 14  | 357 Platt Circle       | two story        |
| ■ | Receptor 15  | 365 Platt Circle       | two story        |
| ■ | Receptor 16  | 377 Platt Circle       | two story        |
| ■ | Receptor 17  | 379 Platt Circle       | two story        |

All of the windows of the affected rooms will be replaced, unless otherwise requested by the homeowner. Windows will be replaced on a like-for-like basis. That is, the window configuration, size, and style will be the same as the original windows.

Acceptable windows must have been acoustically tested by a qualified acoustical laboratory and must have an STC rating of at least 30. The homeowner will have the option of selecting the window supplier from a list supplied by the County.

**Response E-37:** Providing residents the opportunity to close windows to achieve the desired acoustical isolation has been accepted as a noise mitigation measure, exemplified by the regulations cited above. Many jurisdictions recognize that it is usually impractical to meet exterior noise standards at balconies and other elevated outdoor activity areas. If a homeowner closes doors and windows to achieve the desired acoustical isolation, the use of fans and air conditioning under those circumstances will result in energy consumption costs.

**Response E-38:** The text in Chapter 4 of the draft EIR/EA makes it clear that sound barriers will not provide noise reduction to second stories (for example, see pages 4-10 [third paragraph] and 4-16 [second paragraph]). See Response E-36 regarding the analysis of second stories. See Response E-49 for the location of second-floor receivers.

**Response E-39:** See Response E-38.

**Response E-40:** See Response E-36.

**Response E-41:** Comment noted. Reductions in barrier heights will result in increases in traffic noise levels.

**Response E-42:** See Response E-43.

**Response E-43:** Figure 9-1 of the draft EIR/EA shows areas near the project site that are underlain by asbestos-bearing serpentine rock. Based on input from El Dorado County Air Pollution Control District (APCD) staff, a review of the 1974 soil survey for El Dorado County shows serpentine deposits in the project area but not at the project site. A new mitigation measure has been added to the EIR/EA (Mitigation Measure 9.2) that would require the County Department of Transportation to comply with the applicable asbestos ordinance and associated control measures in force within El Dorado County at the time the project is under construction (see the errata to page 9-7). The currently applicable asbestos ordinance within El Dorado County is the Naturally Occurring Asbestos & Dust Protection Ordinance, which became law on February 3, 2000. Asbestos testing of soils near affected residents has not been conducted as part of the environmental review for this project.

**Response E-44:** The Metropolitan Transportation Plan (MTP) is the regional 25-year plan for the Sacramento metropolitan area, and includes transportation projects in El Dorado County. The 1999 MTP (last updated in 1999), which includes the proposed project, is updated every 3 years. A conformity determination has been prepared on the MTP by the Sacramento Area Council of Governments (SACOG) that evaluates whether the MTP is consistent with the regional ozone air quality plan. SACOG has determined that the MTP conforms with the ozone plan and both the U.S. Environmental Protection Agency (EPA) and the Federal Highway Administration have concurred with SACOG.

**Response E-45:** The proposed construction emission mitigation measures are designed to minimize the generation of construction dust and vehicle exhaust (at least 50 percent reduction as compared to an uncontrolled situation). The measures, which are required by the El Dorado County APCD, do not include installation of a barrier between residences and the proposed project.

**Response E-46:** The carbon monoxide (CO) modeling analysis used the California Air Resources Board's EMFAC7F1.1 model to estimate mobile source CO emissions. EMFAC7F1.1 is recommended by Caltrans for estimating CO motor vehicle emissions and consequently was used for this analysis. The CO emissions estimated with EMFAC7F1.1 were then used as input to the CALINE4 CO modeling effort, the results of which are summarized in Table 5-3 of the draft EIR/EA. The EMFAC7F1.1 model estimates CO emissions using several parameters, including vehicle class percentages, for the years specified (in this case 2005 and 2020).

**Response E-47:** The CO modeling results indicates that the proposed project would not result in violations of either the state or federal 1-hour nor 8-hour CO standards. Consequently, no mitigation measures are required. Please also see Response E-46.

**Response E-48:** See Response E-98.

**Response E-49:** The following table lists the number of stories for each of the homes fronting the project area (see Figure 4-1 of the draft EIR/EA for the location of these homes). In summary, of the four townhomes fronting the project area (receptors 1-4 in Figure 4-1 of the draft EIR/EA), two townhomes include two attached two-story homes, and two include two attached homes, one of which is two-story. Of the remaining fourteen single-family homes fronting the project area (receptors 5-17 including receptor 13A; see Response K-1), eleven homes are two-story.

Number of Stories on Residential Units Fronting Project Area

Receptor per Figure 4-1	Residential Location	Number of Stories
1	3881/3883 Scenic Court	both two stories
2	3889/3891 Scenic Court	both two stories
3	3903/3905 Hills Court	one single story/one two story
4	3913/3915 Hills Court	one single story/one two story
5	970 Kings Canyon Drive	two story
6	962 Kings Canyon Drive	one story
7	956 Kings Canyon Drive	two story
8	948 Kings Canyon Drive	one story
9	940 Kings Canyon Drive	two story
10	703 Platt Circle	two story
11	705 Platt Circle	two story
12	707 Platt Circle	one story
13	711 Platt Circle	two story
13A	721 Platt Circle	two story
14	357 Platt Circle	two story
15	365 Platt Circle	two story
16	377 Platt Circle	two story
17	379 Platt Circle	two story

**Response E-50:** The text referenced on page 6-5 refers to reasons why the *existing interchange*, under *existing* conditions, is obscured and is not readily visible from residences in the northwest quadrant. It appears that the commenter is interpreting the referenced text as applying to the visibility of the parcel that would be affected by the proposed Saratoga Way realignment (referred to as “project site” in the comment). The second story of townhomes that are east of Hills and Scenic Court have a view of the existing interchange. Those townhomes that face the interchange on the west side of Hills and Scenic Court do not have an unobstructed view of the interchange since the parking areas and perimeter vegetation and fencing partially block their views.

**Response E-51:** The measures from page 6-7 have been added to Table 3-1 (see Chapter 2, “Revised Summary Table” and Chapter 4, “Errata”). The second bullet under Recommendation 6.1 has been revised in the errata to page 6-7.

**Response E-52:** The County acknowledges that the County General Plan contains the referenced policy (Policy 6.5.1.5). This policy states that setbacks are the *preferred* method of noise abatement. In the case of the proposed project, in those areas where adequate setbacks are not available for construction of an earthen berm, sound walls would be constructed for noise

mitigation. Policy 6.5.1.5 does not prevent the County from constructing noise walls. Mitigation Measure 6.3 recommends that the County substitute earthen berms for noise walls where feasible. The text with strikethrough is not inaccurate; the main point of this statement is that noise walls are often used to mitigate noise associated with interchanges. No revisions to the draft EIR/EA are required.

**Response E-53:** The cited text concludes that the proposed project, as viewed from the roadways, would not significantly affect existing views because project features are similar to the existing interchange and proposed noise barriers would follow the same contour and have similar form to existing property fences and hedgerows. The commenter has not stated why this text is inaccurate; therefore, no further response is possible. See also Response E-52.

**Response E-54:** The precise design of the required noise barrier cannot be finalized until final design of the project. The purpose of the mitigation measures recommended in the EIR/EA is to provide the County with performance standards that would be used during final design. In final design, the County will consider a number of factors in designing the noise barriers, including topography, sound attenuation requirements, and the provision of usable space on the privately owned commercial parcel proposed for realigned Saratoga Way. According to County staff, it is likely that a noise wall, rather than an earthen berm, will be constructed along the southern half of the commercial property to maximize the usable space on the commercial property. See also Response L-6.

**Response E-55:** The County's offer to reimburse residents for designing and implementing approved screening plans is intended to give each resident the ability to design a screening plan that meets the resident's needs and preferences. It would be difficult for the County to design a uniform screening plan that would be acceptable to all residents.

Screening, in the form of painting, applying surface treatments to, and/or landscaping (potted plants can be used to screen the noise barrier where the entire backyard is concreted), is possible regardless of the size of the yard. For the common ground areas, the County would provide an equivalent amount commensurate with \$1,500 per dwelling unit; Mitigation Measure 6.3 has been revised to clarify this point (see the errata to page 6-9 in Chapter 4). See also Responses E-54 and M-11.

**Response E-56:** The final design of the noise barrier will be based on the considerations specified in Response E-54. Landscaping for the noise barrier would be consistent with the El Dorado Hills Community Services District standards. No revisions to the draft EIR/EA are required.

**Response E-57:** The commenter is correct in that Volume II of the General Plan does not specifically identify Iron Point Road as the connecting roadway in Folsom. See the errata to page 7-14.

**Response E-58:** Comment noted.

**Response E-59:** The commenter does not feel that adequate 2015 traffic analysis has been provided to support the conclusion that level of service C is the applicable threshold for El Dorado Hills Boulevard, Latrobe Road, and Saratoga Way. In fact, the thresholds were based on the data presented in the El Dorado County Capital Improvements Program dated June 26, 1996 (pages 4, 7, and 15). This document shows that the level of service on these three roadways will be C or better in 2015 with the capital improvements in place.

**Response E-60:** The commenter states that the Signalization Improvement Project will move traffic more efficiently (by 1 level of service up). Although no future conditions analysis of this referenced interim project was included in the Project Study Report/Project Report (PSR/PR) (May 1999), a similar scenario was evaluated as Alternative 1 ( Expanded Existing Configuration Interchange) as discussed on page 13-3 of the draft EIR/EA, as well as the technical studies supporting the draft PSR/PR. Year 2015 conditions were analyzed assuming some additional turn lanes, the signalization of the Latrobe Road/eastbound ramps intersection, and the improved efficiency of traffic operations in the entire corridor. The results show that this configuration would not provide acceptable operations in 2015 and therefore would not achieve the project objectives.

The commenter is correct in noting that field observations did not consider the signalization improvement project as it was not underway when the technical analysis was completed.

**Response E-61:** The referenced documents support the conclusions stated in Response E-60 regarding the level of improvement to current traffic operations at the interchange.

**Response E-62:** The extension of Saratoga Way is not only specified in the County general plan EIR, but also in the County general plan. The extension of Saratoga Way to the Sacramento County line to the west is shown on the El Dorado County General Plan Circulation Map (January 31, 1996). On this map (available for review at County offices), the extension of Saratoga Way is shown as a “future road/ 4 lanes undivided roadway (80 feet wide right-of-way/64 feet wide road)”. Page 49 of the County General Plan, Volume I (January 23, 1996) states that this map is a part of the general plan. The general plan circulation map is intended to identify, in conceptual form, needed major transportation improvements to guide future project-level planning and design. The circulation map is not intended to represent engineering-level plans. In addition, page 7-56 of the El Dorado Hills Specific Plan draft EIR (October 1987) also identifies the following mitigation measure:

- Park Drive: Construct a four-lane undivided arterial from El Dorado Hills Boulevard to an arterial in Folsom connecting to the County line Interchange.

The commenter does not believe that the project is consistent with the El Dorado County General Plan because it does not specifically identify the relocation of the west leg of Saratoga to Park Drive. The County disagrees with this conclusion because the general plan analysis was not sufficiently detailed to identify specific alignments or intersection configurations for any new or modified facility. The general plan does not prevent the County from proposing realignment of existing Saratoga Way.

See also Response E-57.

**Response E-63:** See Response E-62. The County agrees that the project proposes keeping Saratoga Way as a two-lane road.

**Response E-64:** The suggested change has been made in the errata to page 8-4

**Response E-65:** The referenced text from page 8-4 of the draft EIR/EA is not incorrect. Page I-13 of the County General Plan, Volume II explains that a comprehensive general plan update was necessitated by the fact that the Area Plans were outdated or obsolete. Therefore, the County General Plan, in effect, replaces the Area Plans. The commenter is incorrect in stating that the El Dorado Hills Specific Plan is one of the Area Plans.

Page 7 of the El Dorado Hills Specific Plan (July 18, 1988) states that the specific plan provides for implementation of the El Dorado Hills/Salmon Falls Area Plan. Since the Area Plans are no longer in effect, the El Dorado Hills Specific Plan is the main guide for development in the project area, not the El Dorado Hills/Salmon Falls Area Plan. It is true that there are many specific plans in the El Dorado Hills area; of these specific plans, the El Dorado Hills Specific Plan guides development in the project area.

**Response E-66:** See Response E-9. The suggested revision has been made in the errata to page 8-4.

**Response E-67:** See Response E-20.

**Response E-68:** See Responses E-9, E-18, and E-65. No revisions to the draft EIR/EA text are required.

**Response E-69:** See Response E-9, E-44, and E-62.

**Response E-70:** Until final design of realigned Saratoga Way is completed, the distance between Saratoga Way and the townhomes is unknown. According to County staff, the distance between Saratoga Way (in an "S" curve) and the closest residential property line will be greater than 20-30 feet.

Potential land use conflicts related to the realignment of Saratoga Way are discussed under Impact 4.2 (Exposure of Residents to Noise from Blasting), Impact 4.3 (Exposure of Residents to Traffic Noise for 2005 Conditions), Impact 4.5 (Exposure of Residents to Traffic Noise for 2020 Conditions), Impact 5.3 (No Exceedance of Carbon Monoxide Standards in 2005), Impact 5.4 (No Exceedance of Carbon Monoxide Standard in 2020), Impact 6.1 (Short-Term Changes in Views of the Project Site from Construction Activities), Impact 6.3 (Changes in Views of the Project Site from Residences in the Northwest Quadrant), and Impact 6.4 (Changes in Light and Glare).

**Response E-71:** See Response E-43.

**Response E-72:** See Response E-43.

**Response E-73:** See Response E-43.

**Response E-74:** See Response E-43.

**Response E-75:** The County has considered the alternative designs recommended by CARE. The reasons for which the County has rejected certain alternative designs as infeasible are explained in Chapter 13 of the draft EIR/EA. The reasons that the County has rejected certain alternatives are related to their inability to meet the most basic project objectives, their infeasibility (defined as incapable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors), and/or their inability to avoid significant environmental effects. The CARE letter in response to the notice of preparation presents various permutations of various design options for the interchange and Saratoga Way, all of which are considered in Chapter 13. Appendix E of Volume II of the draft EIR/EA also further discusses the hook alignment for Saratoga Way. Appendix I of Volume II summarizes the pros and cons of the alternatives.

**Response E-76:** All of the impacts identified in the draft EIR/EA can be mitigated to a less-than-significant level with the recommended mitigation measures. The draft EIR/EA does not propose to mitigate noise impacts to second stories with a sound wall. The new Mitigation Measure 4.3b (Install Dual-pane Glazing with Sound Transmission Class Rating of at Least 30 on Those Residences Adjacent to the Proposed Project That Have Single-pane Windows in the Second-story Rooms Facing the Proposed Project) is recommended to mitigate impacts to second stories. See also Response E-36.

**Response E-77:** See Response E-75.

**Response E-78:** See Response E-75.

**Response E-79:** Because the quantitative noise analysis demonstrates that U.S. Highway 50 noise levels under future conditions completely overwhelm the impacts of Saratoga Way realignment, it follows logically that alternative alignments of Saratoga Way will not significantly (or even measurably) alter or diminish the overall noise environment. Regarding the feasibility of alternative alignments and their influence on overall air quality, see Responses E-75, E-96, E-98, E-99, and E-100.

**Response E-80:** Regarding Policy 6.5.1.5, see Response E-52. See Response E-54 regarding the final design of the noise barrier and the need for setbacks. The alignment of Saratoga Way and the noise barrier will be designed considering a number of factors, including the residents' desires for setbacks, the topography, and the need to meet noise attenuation performance standards. Another factor that must be weighed, however, is the need to provide usable space on the adjacent privately-owned commercial parcel. As this parcel is not owned by the County, the County must



also recognize the rights of this landowner. See also Response E-67 regarding distances between residential property lines and realigned Saratoga Way.

**Response E-81:** See Responses E-75 and E-79.

**Response E-82:** The second full paragraph on page 13-8 of the draft EIR/EA explain the County's reasons for rejecting the Single Point Urban Interchange (SPUI) design. See also Responses E-75 and E-79.

**Response E-83:** The County considers the Town Center Boulevard Frontage Road South of U.S. Highway 50 alternative to be infeasible, as explained on page 13-10 of the draft EIR/EA. The County's transportation consultant has never stated that this alternative was a "great idea". Comment noted regarding the El Dorado County Transportation Commission's alleged comments regarding this alternative.

The County disagrees that there is extensive open space south of U.S. Highway 50. The width of the open space strip between U.S. Highway 50 and the subdivided lots of the Springfield Ranch subdivision is only 230 feet. The width of the commercial property (where Saratoga Way is proposed for realignment is) is approximately 400 feet wide. Once constructed, the homes in the Springfield Ranch subdivision would be exposed to impacts at least as intense as those anticipated for the residences adjacent to realigned Saratoga Way under the proposed project. It is also important to note that the area north of U.S. Highway 50 proposed for the Saratoga Way realignment is zoned with commercial and multi-family housing uses, whereas the area suggested for the Town Center frontage road is approved for single-family residential development.

**Response E-84:** Thorpe, Van Camp & Associates' Community Process Report for this project (contained in Appendix J of Volume II of the draft EIR/EA) contains no discussion of topography on the north side versus south side of U.S. Highway 50. See page 13-11 of the draft EIR/EA regarding topography.

**Response E-85:** As called for in the County's general plan, the County plans to realign and widen White Rock Road to four lanes with dedication of right-of-way and property setbacks being required of all developers along this road. White Rock Road is intended to be a major east-west arterial south of U.S. Highway 50. Construction of another major arterial south of the highway is considered functionally redundant by the County and would be inconsistent with adopted County plans. Improved White Rock Road would not have safety concerns.

**Response E-86:** See Response E-83.

**Response E-87:** Figure 14-1 is accurate. This figure does not indicate the El Dorado Hills Specific Plan area includes lands located in the northeast and northwest quadrants of the El Dorado Hills Boulevard-Latrobe Road interchange. See also Response E-68.

**Response E-88:** Page 14-9 of the draft EIR/EA states that the Valley View development represents 20% of the total dwelling units proposed by major development projects in El Dorado Hills. Based on these figures and on the discussion on pages 14-8 to 14-10, the draft EIR/EA asserts that the proposed project would not foster the vast majority of growth in the El Dorado Hills area. See also Response G-1.

**Response E-89:** No substantive differences exist between the initial study (IS) completed in 1996 and the one contained in the notice of preparation in 1998. Minor differences occur, as documented below, primarily due to differences in the specific wording of questions contained in the 1996 and 1998 ISs or in interpretation of the questions. These minor differences did not affect the range of issues analyzed in the draft EIR/EA (i.e., all potentially significant issues identified in the 1996 and 1998 ISs were fully evaluated in the draft EIR/EA).

Comparison of 1996 and 1998 Initial Studies

1996 IS Question	1996 IS Answer	1998 IS Question	1998 IS Answer	Explanation of Difference in Answer
IIIa-e: Would the proposal result in or expose people to potential impacts involving: fault rupture; seismic ground shaking; seismic ground failure, including liquefaction; landslides or mudflows?	No impact	1g. Will the proposal result in exposure of people or property to geologic hazards, such as earthquakes, landslides, mudslides, ground failure, or similar hazards?	Potentially significant unless mitigation incorporated	1998 IS includes consideration of particulate asbestos ("similar hazards"). The draft EIR/EA discusses this issue on page 9-6. See Response E-43.
Vd. Would the proposal create objectionable odors?	No impact	2b. Will the proposal result in the creation of objectionable odors?	Less-than-significant impact	The discussions contained in both IS's address short-term construction-related odors.
IVd. Would the proposal result in changes in the amount of surface water in any water body?	No impact	3d. Will the proposal result in the change in the amount of surface water in any water body?	Potentially significant unless mitigation incorporated	The discussion in the 1998 IS refers to stormwater runoff discussed in Chapter 10 of the draft EIR/EA.
Xa. Would the proposal result in increases in existing noise levels?	Potentially significant unless mitigation is incorporated	6a. Will the proposal result in increases in existing noise levels?	Significant	Noise impacts are fully discussed in Chapter 4 of the draft EIR/EA.
XIIa,b,e. Would the proposal result in a need for new systems or supplies, or substantial alterations to the following utilities: power or natural gas, communication systems, stormwater drainage?	Less than significant	16a, b, e. Will the proposal result in the need for new systems or substantial alterations to the following utilities: power or natural gas, communication systems, stormwater drainage?	No impact	The discussions contained in both IS's address minor relocations of utilities. Impacts to utilities are discussed in Chapter 8 of the draft EIR/EA.
IXc. Would the proposal involve the creation of any health hazard or potential health hazard	Potentially significant unless mitigation is incorporated	17a. Will the proposal result in the creation of any health hazard or potential health hazard (excluding mental health)?	No impact	The discussion in the 1996 IS refers to underground storage tanks in the project vicinity. This issue and the results of the hazardous waste evaluation conducted for this project are discussed on pages 9-4 and 9-5 of the draft EIR/EA.
XVIc. Does the project have impacts that are individually limited, but cumulatively considerable?	No impact	21c. Does the project have impacts that are individually limited, but cumulatively considerable?	Less than significant	Cumulative impacts for all environmental issues are discussed in Chapter 14 of the draft EIR/EA.

**Response E-90:** Although the Withycombe letter was inadvertently not included in Volume II of the draft EIR/EA, it was considered in preparing the draft EIR/EA. It is included in this report and addressed in Responses E-96 through E-100.

**Response E-91:** See Responses E-12 and E-13 regarding blight and economic impacts. See Response E-98 regarding the health effect of air emissions. See Response E-15 regarding the sequencing of mitigation. See Response E-11 regarding general plan consistency.

**Response E-92:** Page 19 of the El Dorado Hills Specific Plan (July 18, 1988) specifies when the Silva Valley Parkway interchange should be built, as follows:

- Silva Valley Parkway Interchange

Construction of the Silva Valley Parkway interchange shall commence and continue until completion at such time as the LOS on Silva Valley Parkway between Harvard Way and Highway 50 reaches an LOS of mid-C (V/C of 0.75) for 60 days or more within any twelve (12) month period.

The trigger for construction of this interchange has not yet occurred. It should also be noted that the specific plan indicates the need for both construction of the Silva Valley Parkway interchange and the proposed project (see Response E-9).

**Response E-93:** Fehr & Peers Associates conducted traffic analyses for the Town Center East, Carson Creek, and Promontory projects in El Dorado Hills under contract to the County, either directly or as a subconsultant to a project proponent with the project proponent responsible for payment of the services (as allowed for by CEQA Guidelines Section 15084(d)(4)). In addition, because of Fehr & Peers Associates' work on these projects, they worked with the County (under contract with a private developer) to ensure that the Valley View Specific Plan traffic analysis was consistent with their prior work. Their work was overseen by the County and does not, in any way, affect the objectivity of the traffic analysis performed for the proposed project.

**Response E-94:** The reasons the County rejected the hook alternative are discussed on page 13-10 of the draft EIR/EA, including the lack of environmental advantages over the "S" curve and creation of a lot inside the "hook" that would be too small for the type of commercial development permitted in this location. Appendix E of Volume II of the draft EIR/EA states that the reduced design speed achieved with the "S" curve versus the hook design is

... not a major concern since the majority of traffic traveling northbound on Saratoga Way will be making a left or right turn at the signal ...

**Response E-95:** This comment does not relate to the adequacy of the subject draft EIR/EA. Comment noted.

**Response E-96:** See Responses E-97 and E-98.

**Response E-97:** Ambient air monitoring, including monitoring for toxic air contaminants, has not been conducted for areas near the El Dorado Hills Boulevard interchange. However, the commenter is correct that the toxic air contaminants—benzene, formaldehyde, acetaldehyde, and 1,3

butadiene—are emitted by motor vehicles and that the concentration of toxic air pollutants is typically greatest within 1000 feet of heavily traveled roadways.

**Response E-98:** Computer modeling of toxic air contaminant concentrations related to the proposed project were estimated using a different modeling approach than that conducted by the commenter (see Appendix C of this report). The CALINE4 model was used to estimate ambient concentrations of benzene, formaldehyde, acetaldehyde, and 1,3 butadiene resulting from vehicles traveling on U.S. Highway 50, El Dorado Hills Boulevard, and Saratoga Way. The CALINE4 model was used since it applies to line sources such as a roadway (whereas Withycombe used a model intended for industrial point sources).

The toxic air contaminant modeling results conducted in response to comments indicated that the health risks associated with post-project ambient concentrations (at sensitive receptors) from vehicle emissions associated with the proposed project and Alternative I alignments of Saratoga Way would be less than 10 in one million, the Proposition 65 warning level. The health risks associated with the proposed project and Alternative I would be approximately the same.

The results of the toxic air contaminant modeling also indicate that concentrations of toxic air contaminants from motor vehicles at residences located between Mammouth Way and Arrowhead Drive would increase over existing conditions due to increases in motor vehicle traffic in the area, but would be less than the Proposition 65 warning level, as indicated above.

See also Response E-90.

**Response E-99:** See Response E-98.

**Response E-100:** See Response E-98.

EXHIBIT 2

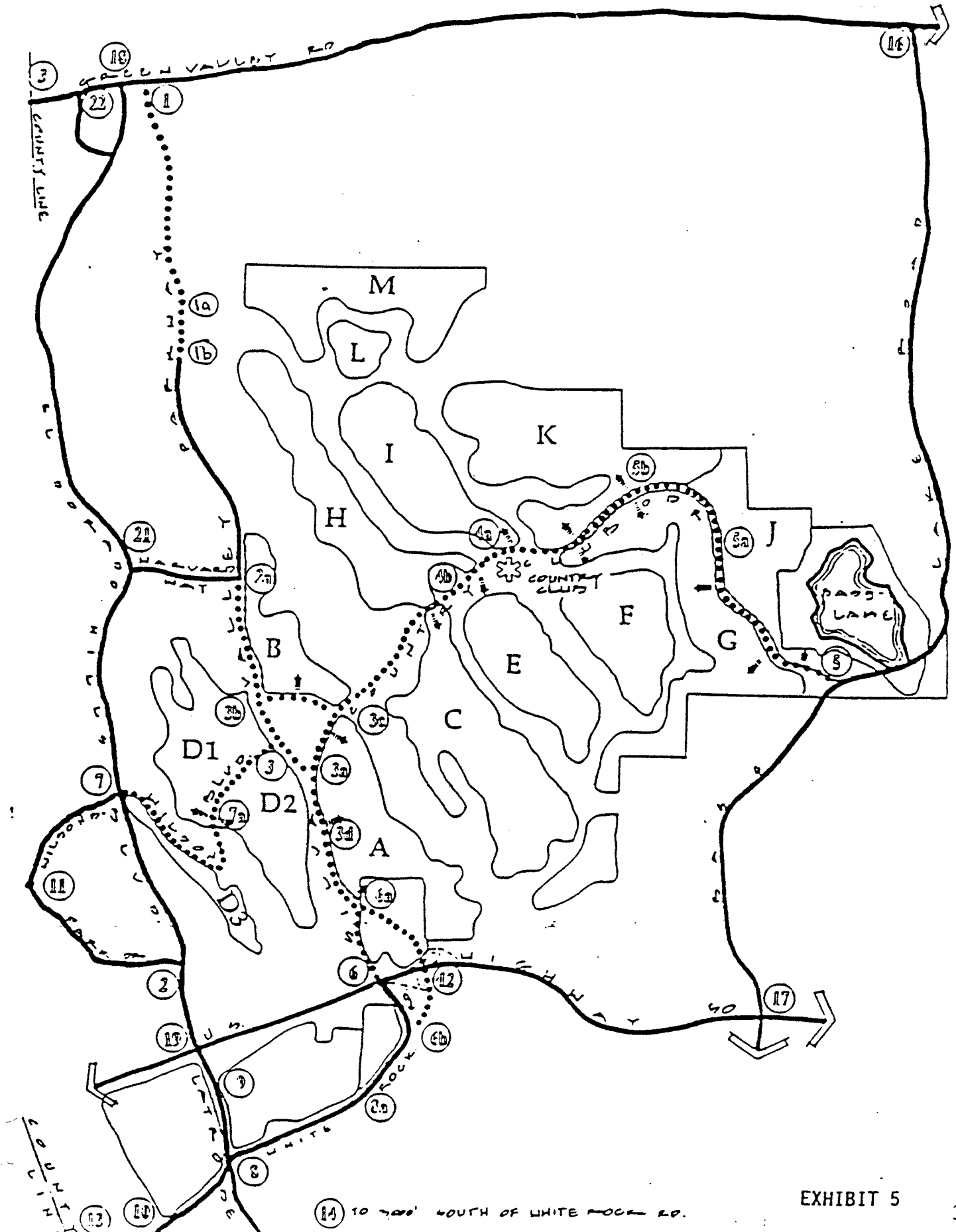
STUDY AREA BUILDOUT OF IMPROVEMENTS INCLUDING SPECIFIC PLAN  
EL DORADO HILLS SPECIFIC PLAN TRAFFIC ANALYSIS  
(\$4000,000)

LOCATION	LIMITS (IN NODES)	LENGTH IN FEET	EXISTING CONDITIONS	1994		2000		2010		L O S TOTALS		
				V/C	DIST(I)	IMPROVEMENT	DIST(I)	IMPROVEMENT	DIST(I)			
1 SILVA VALLEY PARKWAY	1 TO 2a	10,900	N/A							0.33 A	1.80	1.80
1.1 SILVA VALLEY PARKWAY	1a TO 1b	300	N/A							0.33 A	0.05	0.05
2 SILVA VALLEY PARKWAY	2a TO 3a	4,400	N/A			2 TO 4D	0.51	2 TO 4D		0.30 A	0.84	1.35
3 SILVA VALLEY PARKWAY	3a TO 6	3,400	N/A			2 TO 4D	0.46	2 TO 4D		0.58 A	1.02	1.02
4 SILVA VALLEY PARKWAY	3a	N/AD	N/A	SIGNALIZE	0.14					0.07 B	0.14	0.14
5 SILVA VALLEY PARKWAY	2a	N/AD	N/A	SIGNALIZE	0.14					0.49 A	0.14	0.14
6 SILVA VALLEY PARKWAY	3b	N/AD	N/A							0.48 A	0.14	0.14
8 VILLAGE GREEN DRIVE	3b TO 3c	1,800	N/A							0.54 A	0.30	0.30
9 COUNTRY CLUB DRIVE	3a TO 5	16,300	N/A							0.60 A	4.69	4.69
10 COUNTRY CLUB DRIVE	3c	N/AD	N/A							0.72 C	0.14	0.14
12 WILSON BLVD	7 TO 3	5,900	N/A	0 TO 2	2.38	SIGNALIZE	0.14	2 TO 4U	2.31	0.60 A	4.69	4.69
13 SILVA VALLEY PARKWAY a	6	N/AD	N/A	0 TO 2	1.12	SIGNALIZE	0.14			0.66 B	1.12	1.12
14 SILVA VALLEY PARKWAY a	6	N/AD	N/A							0.60 A	16.66	16.66
15 SILVA VALLEY PARKWAY a	6	N/AD	N/A							0.74 C	0.14	0.14
16 WHITE ROCK ROAD	6	N/AD	N/A							0.79 C	0.14	0.14
17 WHITE ROCK ROAD	8 TO 12	5,800	2 LANES							0.88 D	2.69	2.69
18 WHITE ROCK ROAD	13 TO 8	6,000	2 LANES							0.85 D	2.17	2.17
19 LATROBE ROAD	8	N/AD	NO SIGNAL	UPGRADE TO 2L	0.76					0.90 D	0.32	0.32
20 LATROBE ROAD	19 TO 8	2,600	2 LANES	SIGNALIZE	0.14					0.90 D	1.03	1.03
21 LATROBE ROAD	8 TO 14	3,000	2 LANES	2 TO 4D	0.35					0.90 D	0.41	0.41
22 BASS LAKE ROAD	14 TO 15	7,000	2 LANES	2 TO 4D	0.91					0.90 D	0.87	0.87
23 BASS LAKE ROAD	5	N/AD	N/A							0.55 A	0.14	0.14
24 BASS LAKE ROAD	16 TO 5	10,800	2 LANES	0 TO 2	1.21					0.64 B	3.22	3.22
25 BASS LAKE ROAD	5 TO 17	8,000	2 LANES	0 TO 2	0.90					0.63 B	2.39	2.39
26 BASS LAKE ROAD	17	N/AD	NO SIGNAL	SIGNALIZE	0.14					0.80 C	0.14	0.14
27 BASS LAKE ROAD	17	N/AD	NO SIGNAL	SIGNALIZE	0.14					0.75 C	0.14	0.14
28 EL DORADO HILLS BLVD	18 TO 21	11,300	2 LANES							0.74 C	0.54	0.54
29 EL DORADO HILLS BLVD	21 TO 7	5,000	2 LANES	SIGNALIZE	0.14					0.80 C	0.14	0.14
30 EL DORADO HILLS BLVD	7	N/AD	NO SIGNAL							0.78 C	0.14	0.14
31 EL DORADO HILLS BLVD	21	N/AD	NO SIGNAL							0.64 B	1.20	1.20
32 EL DORADO HILLS BLVD	7 TO 2	4,600	2 LANES	2 TO 4D	0.50					0.88 D	0.25	0.25
33 EL DORADO HILLS BLVD a	2 TO 19	1,600	4 LANES	2 TO 4D						N/A	1.82	1.82
34 EL DORADO HILLS BLVD a	19	N/AD	N/A							N/A	0.14	0.14
35 EL DORADO HILLS BLVD a	19	N/AD	NO SIGNAL							N/A	0.56	0.56
36 EL DORADO HILLS BLVD a	19	N/AD	1 LANE							0.78 C	0.14	0.14
37 EL DORADO HILLS BLVD a	19	N/AD	NO SIGNAL							0.78 C	0.14	0.14
38 EL DORADO HILLS BLVD a	19	N/AD	4 LANES							N/A	5.88	5.88
39 EL DORADO HILLS BLVD a	19	N/AD	1 LANE							0.90 D	0.42	0.42
43 GREEN VALLEY ROAD	19	N/AD	N/A							N/A	1.82	1.82
45 GREEN VALLEY ROAD	3 TO 22	8,400	2 LANES	2 TO 4D	1.71					0.56 A	2.41	2.41
46 GREEN VALLEY ROAD	18	N/AD	N/A	SIGNALIZE	0.14					0.70 B	0.14	0.14
47 GREEN VALLEY ROAD	1	N/AD	N/A							0.48 A	0.14	0.14
48 GREEN VALLEY ROAD	22 TO 18	2,000	2 LANES							0.77 C	0.33	0.33
49 GREEN VALLEY ROAD	18 TO 1	1,000	2 LANES							0.17	0.17	0.17
50 GREEN VALLEY ROAD	1 TO 16	18,200	2 LANES							0.46 A	3.03	3.03
TOTALS	138,300				13.37		38.45		9.54		61.37	61.37

NOTE: Costs above do not include Landscaping, Lighting, Water, Sewer, P & E lines, or property acquisition.  
 [1] Cost estimates are in 1988 dollars and include 40% contingencies for rock and other unknown factors.

EL DORADO HILLS  
EL DORADO COUNTY, CA

FEE, PRIMARY & SECONDARY ROAD IMPROVEMENTS



Steve Ruark  
3881 Scenic Ct  
El Dorado Hills, CA 95762  
(916) 939-7134

Tuesday December 28, 1999

To: El Dorado County Department of Transportation  
Kris Payne  
Supervising Civil Engineer  
2850 Fairlane Court  
Placerville, CA 95667

RECEIVED

DEC 28 1999

EL DORADO COUNTY  
DEPT. OF TRANSPORTATION

Dear Mr. Payne,

This letter is in response to the Draft Environmental Impact Report for the Highway 50/El Dorado Hills Blvd-Latrobe Road Interchange Project. After reading these documents I feel the County of El Dorado is being unfair to me. It is very disheartening. It is already noisy from the traffic on El Dorado Hills Blvd. To put Saratoga Way outside my back door, and Mammoth Way outside my dining room window would increase both the noise and pollution. I am a cancer patient who moved out of downtown Sacramento to calm my life down. I saved my money for a long time so I would be able to put a down payment on a home, and to finally own my own home. I am very proud I accomplished this. So, for the County to come in and de-value my success is upsetting. How would you feel if the quality of life at your home was going to be so adversely affected

F-1

If the proposed changes were to take place, the Draft EIR mentions using special windows and fans for 2-story townhomes as if it would be a good idea never to open the windows because of noise and poor air quality. That is unacceptable. It is unacceptable that Mammoth Way would be moved up against my north window with the glare of a traffic signal shining through the glass and curtains.

F-2

Has there really been enough study on making

F-3



these modifications on the south side of the intersection at Town Center where there is more commercial property? Or what about modifying the Silva Valley / Highway 50 interchange? I don't see why it is necessary to drain all the traffic through El Dorado Hills Blvd and Saratoga Way.

I like where I live. All I ask is for some understanding and consideration from our County government, for me and the other residents and tax payers in our neighborhood.

Sincerely,

Steven C. Rusk

**RESPONSES TO COMMENTS FROM STEVE RUARK, 3881 SCENIC COURT  
(DECEMBER 28, 1999)**

**Response F-1:** The effects of the proposed project on noise and pollution are discussed in detail in the draft EIR/EA.

**Response F-2:** See Responses E-37 and H-2.

**Response F-3:** See Responses E-83 through E-85 regarding Town Center Boulevard.

**Response F-4:** See Response E-92 regarding the Silva Valley Parkway interchange.

**Response F-5:** Comment noted.



United States Department of the Interior  
FISH AND WILDLIFE SERVICE  
Sacramento Fish and Wildlife Office  
2800 Cottage Way, Room W-2605  
Sacramento, California 95825

IN REPLY REFER TO:  
PPN 2536

December 28, 1999

Mr. Kris Payne  
Supervising Civil Engineer  
El Dorado County Department of Transportation  
2850 Fairlane Court  
Placerville, California. 95667

Subject: U.S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange  
Draft Environmental Impact Report/Environmental Assessment

Dear Mr. Payne:

The U.S. Fish and Wildlife Service (Service) has reviewed the Draft Environmental Impact Report/Environmental Assessment (DEIR/EA) for the U.S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange Project in El Dorado County. These comments and recommendations are intended to assist you with the compliance of the National Environmental Policy Act (NEPA) and will not take the place of any formal comments that may be required at a later date pursuant to the Fish and Wildlife Coordination Act or the Endangered Species Act of 1973, as amended (ESA).

**GENERAL COMMENTS:**

The construction of the U.S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange may accommodate significant regional growth. The proposed interchange could facilitate: (1) the conversion of native habitats to municipal and industrial uses; (2) conversion of agricultural land for municipal and industrial uses; (3) construction of infrastructure and supportive networks; and (4) increased application of pesticides and herbicides. Municipal and industrial development could result in the increased roadkill of wildlife, reduction of water and air quality, and increased disturbance such as noise. Our natural and open space habitats are critical not only to fish and wildlife species, but critical to sustaining our economies and communities that rely on their products.

G-1  
G-2  
G-3  
G-4  
G-5

RECEIVED

JAN 3 2000

EL DORADO CO.  
DEPT. OF TRANSPORTATION

The identification and analysis of potentially significant direct, indirect and cumulative impacts on the environment and methods of mitigating these impacts, as presented in the DEIR/EA, is inadequate because methods of reducing and avoiding adverse environmental effects are not included. The DEIR/EA is a public document used to analyze environmental effects, indicate ways to reduce or avoid possible environmental damage and to identify alternatives to the proposed project. The information it contains should be used in the local planning and decision making processes.

G-6

We encourage the integration of legislation, administrative rules, and agency policy to facilitate NEPA's mandate of protecting the human environment. Section 1500.2 (c) of the Council of Environmental Quality (CEQ) regulations for implementing the procedural provisions of the NEPA, directs Federal agencies to "Integrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice so that all such procedures run concurrently rather than consecutively". By integrating legislation and policy, public officials will be able to make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.

G-7

Like NEPA, the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) (Public Law 105-178), emphasizes public participation in transportation planning. The increased decision making authority at the local level should lead to the development of transportation plans which will protect and enhance the environment, promote energy conservation, and improve the quality of life. We believe the California Department of Transportation (Caltrans) and the Federal Highway Administration (FHWA) should provide leadership and guidance to local planning agencies in the creation of a diverse and environmentally sustainable transportation system.

Provisions of TEA-21 lend an opportunity to improve and integrate these planning and environmental processes. Under TEA-21, the Transportation and Community and System Preservation Pilot Program has been developed to improve the integration of land use and transportation planning. TEA-21 allows flexibility in the manner in which transportation dollars are spent. Funds are available for congestion mitigation and air quality improvements; projects which address water pollution due to highway runoff; transportation enhancements (including projects which reduce wildlife mortality); wetland restoration, mitigation and habitat conservation projects.

G-8

TEA-21 has placed added emphasis on considering environmental and social factors in the early stages of the NEPA decision making process. As with TEA-21, NEPA is a collaborative effort involving the public, affected parties, decision makers, and other Federal, State, and local agencies. We encourage Caltrans and the FHWA to work vigorously with these parties and their transportation, community and environmental partners to merge TEA-21, NEPA, California Environmental Quality Act (CEQA), and related project development procedures in developing a comprehensive transportation and land-use plan.

## SPECIFIC COMMENTS:

### Chapter 5. Air Quality

The DEIR/EA fails to analyze the indirect and cumulative effects of the proposed project on air quality. The authors of the DEIR/S explain that the proposed project conforms to State and Federal air quality implementation plans, (as required by the Environmental Protection Agency's conformity requirements (40 CFR, part 51, subpart T and 40 CFR Part 93, Subpart A)), but fails to provide an analysis.

G-9

Air pollution has detrimental effects on the health of both public and natural communities. While the effects of air pollution on most wildlife species are unknown, a growing body of research on the effects of air pollution on vegetative communities is available. The Sierra Nevada Ecosystem Project (SNEP) report references studies in which damage is being done to a variety of tree species due to air pollution. The most deleterious air quality impacts to this region are closely tied to the efficient transport of air pollutants from the Central Valley (SNEP, 1996). Of the pollutants from the Central Valley, ozone has the best documented and most important effects, especially in its connection to serious injury to the Jeffery and ponderosa pines. Not only are these tree species economically important, but they provide important shade, shelter, nesting and foraging habitat for many wildlife species. In addition, upland habitats, such as conifer habitats, provide water quality/buffer properties which increase wetland values.

G-10

### Page 11-2. Special-Status Species

The proposed project occurs in an area that may provide habitat for the federally listed threatened California red-legged frog. Therefore, the Service requests that a California red-legged frog site assessment be conducted according to our February 18, 1997, Guidance on Site Assessment and Field Surveys for California Red-legged Frogs (see enclosure). The site assessment should be forwarded to the Service prior to conducting field surveys for red-legged frogs. Based on the site assessment and the information provided in the DEIR/EA, the Service will provide guidance to you regarding whether California red-legged frog field surveys should be conducted. In addition, the Service may also provide recommendations for avoiding potential impacts to frogs from the proposed project. The site assessment, potential survey data, and guidance provided by the Service, should be included in the future environmental document for the proposed project.

G-1

### Page 11-4. Wetlands

The proposed project would result in the fill of 0.15 acre of jurisdictional wetlands. While the quantity of wetlands directly impacted is small, the indirect and cumulative impacts may be significant. El Dorado County is experiencing intensive development pressure, the effects of these projects contribute to the direct, long-term, cumulative loss of wetland habitat and open space important for native plants and wildlife. The DEIR/EA fails to analyze the indirect and cumulative impacts of this project on regional wetland resources. The recommended land use and transportation planning processes will identify sensitive biological resources, such as wetlands, and allow public agencies and private citizens to protect these important natural lands.

G-12

Caltrans and the FHWA frequently make decisions on transportation projects that may or may not have significant direct effects, but that may induce indirect and cumulative effects. The contributions of indirect and cumulative effects of transportation projects can be a measurable element of the aggregated change leading to significant long-term impacts at a regional scale.

While the development of a transportation system is not the only factor in anticipated growth, it is a factor that can, and should, be planned to deliver a comprehensive regional plan. A regional plan could avoid problems related to future impacts to biological resources. While planning efforts at the landscape scale may not be able to address and avoid all future problems, they may significantly reduce them.

G-13

The cumulative impact analysis should seek links that the transportation projects may have with other programmed development and area-wide resource management plans (wetlands, water quality, air quality). We suggest the appropriate scale of analysis for cumulative effects should be based on these area-wide plans, or the specific resource sphere of influence (i.e., watershed, airshed). The cumulative effects analysis should evaluate and quantify all actions which may affect the same resources potentially impacted by the proposed project.

**Summary**

The proposed interchange project may result in significant direct, indirect, and cumulative impacts to the region's fish and wildlife resources, including federally listed species. To ensure that these resources are fully addressed, we recommend:

1) The development of an Environmental Impact Statement (EIS) in lieu of the presented EA. The EIS should include a thorough analysis of all direct, indirect and cumulative impacts, identifying sensitive resources and means to conserve these resources at the landscape level over the long term.

G-14

2) Work with local agencies that can influence future growth and promote the benefits of controls that incorporate environmental protection into all planned development. Under the provisions of TEA-21, NEPA, CEQA and FHWA environmental policy guidelines, assist in the implementation of land use planning, development regulation, land acquisition, private landowner incentives, and public land management.

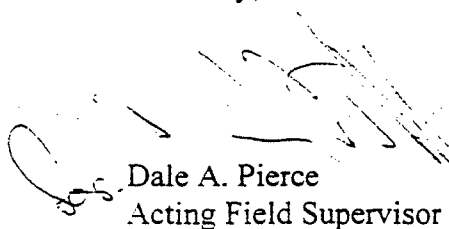
G-15

3) Conduct a California red-legged frog site assessment. We will provide guidance to you regarding whether California red-legged frog field surveys should be conducted. In addition, we may also provide recommendations for avoiding potential impacts to frogs from the proposed project.

G-16

Thank you for the opportunity to comment on this report. If you have any further questions regarding these comments, please contact Jerry Bielfeldt (Wetlands Branch) at (916) 414-6584. For questions regarding special status species issues, please contact Jason Davis at (916) 414-6640.

Sincerely,



Dale A. Pierce  
Acting Field Supervisor

Enclosure

cc: PARD (ES)-Portland, OR  
FHWA, Sacramento, CA (Attn: John Hoole)  
Caltrans Hqts, Sacramento, CA  
EPA, San Francisco, CA (Attn: Kathleen Dadey/David Tomsovic)  
NMFS, Santa Rosa, CA  
NMFS, Sacramento, CA (Attn: M. Aceituno)  
ACOE, Sacramento, CA (Attn: Tom Cavanaugh)  
CVRWQCB, Sacramento, CA (Attn: Michael Negrete)  
(w/o enclosure)

#### REFERENCE

Sierra Nevada Ecosystem Project, Final Report to Congress, vol. II, Assessments and Scientific Basis for Management Options (Davis: University of California, Centers for Water and Wildland Resources, 1996).



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Ecological Services  
Sacramento Field Office  
3310 El Camino Avenue, Suite 130  
Sacramento, California 95821

IN REPLY REFER TO:

1-1-97-TA-1093

April 4, 1997

### Memorandum

**To:** Distribution

**From:** Field Supervisor, Sacramento Field Office, Sacramento, California

**Subject:** Dissemination of Interim Guidance on Site Assessment and Field Surveys for California Red-legged Frogs

The U.S. Fish and Wildlife Service (Service) provides the attached interim guidance for determining habitat suitability and presence or absence of California red-legged frogs (*Rana aurora draytonii*) during the 1997 survey season. The Service will be evaluating the appropriateness of this guidance for accuracy, usefulness of data, and implementation. The attached guidance is provided on an interim basis and is subject to revision at any time. Successful implementation of the subject guidance will require ongoing contact with the Service before, during, and after site assessments and field surveys. Questions regarding this guidance may be addressed to Mr. Wayne S. White, Field Supervisor, Sacramento Field Office at (916) 979-2710.

*Wayne S. White*

*for* Wayne S. White.

Attachments



February 18, 1997

U.S. Fish and Wildlife Service

Guidance on Site Assessment and Field Surveys for California Red-legged Frogs

I. Introduction

A final rule determining threatened status for the California red-legged frog under the Endangered Species Act of 1973, as amended (Act), was published on May 23, 1996 (61 Federal Register 25813) and became effective on June 24, 1996. Since then the United States Fish and Wildlife Service (Service) has received numerous requests from private and government entities for guidance in planning for the protection of the California red-legged frog at the sites of proposed developments or of other land use activities. This document provides guidance for two procedures to accurately assess California red-legged frog status in the vicinity of a project site: (1) an assessment of California red-legged frog locality records and potential California red-legged frog habitat in and around the project area; and (2) focused field surveys of aquatic habitats to determine whether California red-legged frogs are present. Both procedures may be recommended because California red-legged frogs are mobile and, during different life history stages or different seasons of the year, may occupy a variety of aquatic and upland habitats. Both procedures should be incorporated into any assessment of the potential effects of projects on California red-legged frogs, unless field surveys are determined to be unnecessary based on the site assessment (see "Interpreting the results of the site assessment" section).

Ongoing contact and discussions with the Service before, during, and after site assessments and field surveys are a crucial element of this guidance. Results of the site assessment and field survey should also be reported to the Service (see "Reporting the results" sections below); however, results of the site assessment should be reported prior to proceeding with field surveys. The addresses and phone numbers of the appropriate field office are provided in section V below.

II. Site Assessment

Careful evaluation of the following information about California red-legged frogs and their habitats in the vicinity of projects or other land use activities is important because this information indicates the likelihood that California red-legged frogs may occur on the project site.

Protocol

1. Is the project site within the range of the California red-legged frog?

Because knowledge of the distribution of the California red-legged frog is likely to change as new locality information becomes available, surveyors should contact the appropriate Service field office (see section V below) to determine if a project site is within the range of this species.

2. What are the known localities of California red-legged frogs within the project site and within 8 kilometers (km) (five miles) of the project boundaries?

The surveyor should consult the Natural Diversity Data Base (NDDB) maintained by the California Department of Fish and Game's (CDFG) Natural Heritage Division to determine known localities of California red-legged frogs. Information on the NDDB is attached to the end of this document. Other information sources on local occurrences of California red-legged frogs should be consulted. These sources may include, but are not limited to, biological consultants, local residents, amateur herpetologists, resource managers and biologists from municipal, State, and Federal agencies, environmental groups, and herpetologists at museums and universities. The surveyor should report to the Service all known California red-legged frog localities within the project site and within 8 km of the project boundaries.

3. What are the habitats within the project site and within 1.6 km (one mile) of the project boundaries?

Describe the upland and aquatic habitats within the project site and within 1.6 km of the project boundaries. The aquatic habitats should be mapped and characterized (e.g., ponds vs. creeks; pool, riffle, rootball, vegetation). The information provided in section 4 of the attached appendix serves as a guide to the features that will indicate possible California red-legged frog habitat.

**Reporting the results of the site assessment.** Surveyors should prepare a report that includes the following: photographs of the project site, survey dates and times, names of surveyors, a description of the methods used, and a map of the site showing habitat as requested in section II(3) above. The report should include copies of those portions of the 7.5' topographic quads that contain the site and the area within 1.6 km of its boundaries. A list of California red-legged frog localities as requested in section II(2) above should be included. The report should be provided to the appropriate Service field office (see section V below).

**Interpreting the results of site assessment.** After completing elements 1-3 of the site assessment above, the appropriate Service field office should be contacted for technical assistance. Based on the information provided from the site assessment, the Service will provide guidance on how California red-legged frogs should be addressed, including whether field surveys are needed or whether incidental take authorization should be obtained through section 7 consultation or a section 10(a)(1)(B) permit pursuant to the Act. A protocol for field surveys is presented below.

### III. Field surveys

Frogs can be detected opportunistically in various habitats depending on weather and time of year. Aquatic sampling during the summer months is a reliable method of detecting frogs. Care should be taken to apply a level of effort and to use a style of surveying appropriate to the site. For instance, survey methods may differ according to habitat extent and type (e.g., deep

pond, shallow pond, creek). In addition, field work should be conducted according to the best professional judgement of the surveyor (e.g., dogs should not be brought on surveys as they disturb frogs). The Service recommends that surveyors have field experience in the identification of California amphibians. The Service is willing to cooperate with surveyors who have specific needs not addressed by this field survey protocol and who may wish to propose alternative methods.

#### Protocol

1. Surveys should be conducted between May 1 and November 1. These sampling dates were selected because they allow surveys to be conducted with minimal disturbance of breeding frogs, eggs, or tadpoles during a period when frogs can be reliably detected.
2. All aquatic habitat identified during the site assessment should be surveyed four times, twice during the day and twice at night. Surveyors should wait at least twenty-four hours and possibly longer, to meet the environmental conditions described in section III(3) below, before repeating surveys at the same site.
3. Day-surveys should be conducted on clear, sunny days. Night-surveys should be conducted on warm, still nights between one hour after sunset and 12 midnight. Warm, still nights are preferable for surveying because the probability of observing frogs tends to decrease under cold, windy conditions. In some circumstances where safety issues preclude night-surveys, the Service can provide alternatives to the surveyor on a case-by-case basis to ensure that safe surveys are conducted.
4. Surveyors should work along the entire shore (either on the bank or in the water), visually scanning all shoreline areas in all aquatic habitats identified during the site assessment. This methodology should be applied to both day- and night-surveys. In the case of water bodies covered with floating vegetation such as duckweed, both the shoreline and surface of the water should be scanned. When wading, surveyors should take maximum care to avoid disturbing sediments, vegetation, and any visible larvae. When walking on the bank, surveyors should take care to not crush rootballs, overhanging banks, and stream side vegetation that might provide shelter for frogs.
5. When conducting night-surveys for eyeshine, flashlights and headlamps that use one 6-volt or four to six D-cell batteries are recommended. High-powered spotlights are prohibited to avoid harming frogs.
6. Although not required, photographs of frogs observed during field surveys may aid in verification of species identifications. Surveyors should limit photography to the extent necessary to document the presence of California red-legged frogs and should not attempt to photograph frogs if this is likely to disturb them.

Reporting the results of field surveys. Any information on California red-legged frog distribution resulting from field surveys should be sent to the NDDB administered by the CDFG. Information about the NDDB is attached to the

end of this document. Copies of the NDDB form should be mailed immediately to both the Service and CDFG.

Surveyors should also prepare a final report that includes the following: copies of all field notes, data sheets, photographs of the project site and of frogs observed, and a typed summary providing survey dates and times (both begin and end times), names of surveyors, temperature (water and air), wind speed, a description of the methods used, numbers and size classes of all amphibians observed, a map of the site showing survey locations, habitat and frog sightings, a copy of the NDDB form, and a description of possible threats to California red-legged frogs observed at the site. The report should be provided to the appropriate Service field office (see section V below).

**Interpreting the results of field surveys.** Based on the results of field surveys, the Service will provide guidance on how California red-legged frog should be addressed. If California red-legged frogs are found, the Service will work with the project proponent through the section 7 or section 10(a)(1)(B) process to determine a further course of action, including the consideration of avoidance or minimization measures and whether incidental take authorization is needed. If frogs are observed but not identified to species, additional survey effort may be recommended. If the Service recommended that field surveys be conducted and if California red-legged frogs were not identified during these field surveys conducted according to this protocol, the Service will consider the California red-legged frog not to be present on the project site and will not recommend any further take avoidance or mitigation measures. The Service may question the results of field surveys conducted under this protocol for any of the following reasons: 1) if the appropriate Service field office was not contacted prior to field surveys being conducted; 2) if field surveys were conducted in a manner inconsistent with this protocol; 3) if field surveys were incomplete; or 4) if the reporting requirements, including submission of NDDB forms, were not fulfilled.

#### **IV. Statement on permitted activities.**

This field survey protocol allows for conducting visual surveys for California red-legged frogs. Surveys following this protocol do not require a section 10(a)(1)(A) recovery permit pursuant to the Act. Activities that would require a section 10(a)(1)(A) recovery permit include: 1) any capture or handling of California red-legged frog adults, larvae, or eggs; 2) any activity intended to significantly modify the behavior of California red-legged frogs; 3) any activity that subjects California red-legged frogs to some environmental condition not naturally present (e.g., experiments designed to study a frog's response to heat, moisture, noise) other than low-level illumination for night surveys as described in section III(5); and 4) any survey methods not covered in this field survey protocol if any form of "take" would occur during such activities. All surveyors using this field survey protocol should make all possible efforts to avoid unintentionally disturbing California red-legged frogs or their habitat. Surveyors should direct inquiries about section 10(a)(1)(A) recovery permits to the Service's Regional Office (see section V below).

V. Service Contacts

For project sites and land use activities in Santa Cruz, Monterey, San Benito, San Luis Obispo, Santa Barbara, and Ventura Counties, portions of Los Angeles and San Bernardino Counties outside of the Los Angeles Basin, and portions of Kern, Inyo and Mono Counties east of the Sierra Crest and south of Conway Summit, contact:

Ventura Field Office,  
2493 Portola Road, Suite B  
Ventura, California, 93003  
(805/644-1766).

For project sites and land use activities in all other areas of the State south of the Transverse Ranges, contact:

Carlsbad Field Office  
2730 Loker Avenue West  
Carlsbad, California, 92008  
(619/431-9440).

For project sites and land use activities in all other areas of the State, contact:

Sacramento Field Office  
3310 El Camino Avenue, Suite 130  
Sacramento, California 95821  
(916/979-2725).

For information on section 10(a)(1)(A) recovery permits, contact:

Regional Office,  
Eastside Federal Complex  
911 N.E., 11th Avenue  
Portland, Oregon 97232-4181  
(503) 231-6241.

February 18, 1997

U.S. Fish and Wildlife Service

Guidance on Site Assessment and Field Surveys for California Red-legged Frogs

Appendix

California red-legged frog ecology and distribution.

1. Identification

The California red-legged frog, *Rana aurora draytonii*, is a relatively large aquatic frog ranging from 4 to 13 centimeters (cm) (1½ to 5 inches) from the tip of the snout to the vent. From above, the California red-legged frog can appear brown, gray, olive, red or orange, often with a pattern of dark flecks or spots. The skin usually does not look rough or warty. The back of the California red-legged frog is bordered on either side by an often prominent dorsolateral fold of skin running from the eye to the hip. The hindlegs are well-developed with large webbed feet. A cream, white, or orange stripe usually extends along the upper lip from beneath the eye to the rear of the jaw. The undersides of adult California red-legged frogs are white, usually with patches of bright red or orange on the abdomen and hindlegs. The groin area can show a bold black mottling with a white or yellow background.

California red-legged frog tadpoles range from 14 to 80 millimeters (mm) (½ to 3 1/4 inches) in length. They are generally brownish with darker marbling and lack distinct black or white spotting or speckling. Large California red-legged frog tadpoles often have a wash of red coloration on their undersides.

Positive diagnostic marks should be used to accurately distinguish California red-legged frogs from other species of frogs that may be observed. A positive diagnostic mark is an attribute of the animal that will not be found on any other animal one might expect to encounter at the same locality. The following features are positive diagnostic marks that, if observed, will distinguish California red-legged frogs from yellow-legged frogs, *Rana boylei*, and bullfrogs, *Rana catesbeiana*:

- a. Prominent dorsolateral folds (thick upraised fold of skin running from eye to hip) on any frog greater than 5 cm long from snout to vent. Young yellow-legged frogs can show reddish folds; these usually fade as the frogs attain maturity.
- b. Bright red dorsum.
- c. Well defined stripe as described above running along upper lip.

Because California red-legged frogs are often confused with bullfrogs, surveyors should note those features that might be found on bullfrogs that will rarely be observed on California red-legged frogs. These features are:

- a. Bright yellow on throat.
- b. Uniform bright green snout.

- c. Body length greater than 15 cm (6 inches).
- d. Tympanum (ear disc) distinct and much larger than eye.

Please note that some frogs may lack all of the above characteristics given for both California red-legged frogs and bullfrogs. Surveyors should regard such frogs as "unidentified."

California red-legged frogs are cryptic because their coloration tends to help them blend in with their surroundings, and they can remain immobile for one half hour or more. When an individual California red-legged frog is disturbed, it may jump into the water with a distinct "plop." The California red-legged frog may do this either when the surveyor is still distant or when a surveyor is very near. Bullfrogs exhibit similar behavior but will often emit a "squawk" as they dive into the water. Because a California red-legged frog is unlikely to make such a sound, a "squawk" from a fleeing frog will be considered sufficient to positively identify the frog as a bullfrog.

## 2. Reproduction

California red-legged frogs breed during the winter and early spring from late November through April. Adults engage in complex courtship behaviors that result in the female depositing from 2,000 to 6,000 eggs, each measuring between 2 and 3 mm. California red-legged frog eggs are typically laid in a loose mass attached to emergent vegetation near the surface of the water body, where they can be easily dislodged. Eggs hatch within 6 to 14 days after deposition at which time the newly hatched tadpoles are delicate. California red-legged frog tadpoles transform into juvenile frogs in 3.5 to 7 months.

## 3. Movement

California red-legged frogs may move up to 1.6 km (one mile) up or down a drainage and are known to wander throughout riparian woodlands up to several dozen meters from the water. On rainy nights California red-legged frogs may roam away from aquatic sites as much as 1.6 km. California red-legged frogs will often move away from the water after the first winter rains, causing sites where California red-legged frogs were easily observed in the summer months to appear devoid of this species.

## 4. Habitat

California red-legged frogs occur in different habitats depending on their life stage and the season. All life history stages are most likely to be encountered in and around breeding sites, which are known to include coastal lagoons, marshes, springs, permanent and semipermanent natural ponds, ponded and backwater portions of streams, as well as artificial impoundments such as stock ponds, irrigation ponds, and siltation ponds. California red-legged frog eggs are usually found in ponds or in backwater pools in creeks attached to emergent vegetation such as *Typha* and *Scirpus*. California red-legged frog tadpoles remain in these habitats until metamorphosis in the summer months. Young California red-legged frogs can occur in slow moving, shallow riffle zones in creeks or along the margins of ponds. In the summer, older California red-legged frogs are often found close to a pond or a deep pool in

a creek where emergent vegetation, undercut banks, or semi-submerged rootballs afford shelter from predators. Older California red-legged frogs may also take shelter in small mammal burrows and other refugia on the banks up to several dozen meters from the water any time of the year and can be encountered in smaller, even ephemeral bodies of water in a variety of upland settings. California red-legged frogs are frequently encountered in open grasslands occupying seeps and springs. Such bodies may not be suitable for breeding but may function as foraging habitat or refugia for wandering frogs. Creeks and ponds where California red-legged frogs are found often have dense growths of woody riparian vegetation, especially willows (*Salix* sp.). The absence of *Typha*, *Scirpus*, and *Salix* at an aquatic site does not rule out the possibility that the site provides habitat for California red-legged frogs, but the presence of one or all of these plants is an important indicator that the site may provide foraging or breeding habitat for California red-legged frogs.



## The California Natural Diversity-Data Base Commonly Asked Questions

### What is the Natural Diversity Data Base (NDDDB)?

The NDDDB is a program within the Department of Fish and Game's Natural Heritage Division. The NDDDB's mission is to track the location and condition of California's many species of rare and sensitive plants, animals, and natural communities (e.g., marshes, riparian systems, desert scrub, etc.). These species and natural communities are collectively referred to as inventory elements. The NDDDB includes site records for all federally and state listed plants and animals, and all species that are candidates for listing. Also included are those species that are considered "sensitive" by government agencies and the conservation community. This is a computerized inventory and information is available for a fee in hardcopy and digital forms. As of November 1992, the NDDDB contained about 20,450 locational records for 1,164 inventory elements.

### How is NDDDB information set up or organized?

NDDDB data are organized geographically and taxonomically. Information can be retrieved by United States Geological Survey (USGS) map sheet (e.g., typically 1:24,000, 1:62,500, 1:100,000, or 1:250,000 scale), or by taxa. Most NDDDB clients request information for USGS 7.5 minute quads. The approximately 49 square miles covered by a single USGS 7.5 minute quad is the smallest area for which we will perform a data retrieval. Due to the nature of our inventory, it is important that our clients consider inventory element locations on and near their project site or area of interest.

### What types of information can I obtain?

Information from the NDDDB is usually made available in three formats:

**TEXT** - Reports can be generated by 7.5' quad, 1:100,000 scale map, by county, or custom area. If the number of records for the region of interest exceed 200 (a report of about 25 pages in length), we prefer to use a digital format rather than relying on hardcopy reports. Reports vary in cost with the number of records involved. Our per record rates for our government/conservation clients is \$4.00/record and \$8.00/record for our commercial clients. Our experience has been that reports related to 7.5' quads usually vary between \$140 and \$270 each for our commercial clients.

**OVERLAY** - We have the ability to produce computer generated overlays for any scale base map you might have. These overlays have only the map features representing our inventory elements and a map sheet boarder for registration to your base map. Most of our clients request overlays for USGS 7.5' and 1:100,000 scale maps. Overlays cost \$30.00 each.

**RAREFIND** - We can also make our data available via a microcomputer database application called *RAREFIND*. You can obtain our entire state wide data set or request that we customize the data set to a single county or a set of counties. *RAREFIND* is available by yearly subscription. The entire state cost is \$1,250 government rate, or \$2,500 commercial rate. You can call us for county pricing. A subscription includes an initial set of data with the *RAREFIND* application followed by an updated data set 6 months later. *RAREFIND* subscribers are also afforded a special rate of \$20 per overlay. Costs for customized data sets will vary with the number of data base records involved. *RAREFIND* is a compiled, stand alone application that requires an IBM compatible microcomputer with adequate hard disk space (e.g., 5 to 23 MB) to run. No additional software is required.

How do I order information from the NDDB?

It is easy to request information from the NDDB. Call one of our Information Services staff at (916) 324-3812 to place your order by phone. It is most helpful to have the name or names of the 7.5' maps you want information for at hand when you call. We will tell you how many records we have in the NDDB for your area of interest and give you a cost estimate before we proceed with your request.

To what extent can information be customized to my needs?

For special requests, with adequate notification, our geographic information system allows us to customize our information products to your specific needs. For projects that affect large areas, you can send us a map showing your project boundaries. We can then enter this boundary into our system and use it to accurately determine what data we might have for your project area.

How long does it take to get information from the NDDB?

The usual turn around time for data requests is one to two weeks. We ask you to remember that this is a computerized system and it does go down from time to time. Such unforeseen, but not unexpected, events can interfere with our normal response time.

How do I pay?

You are invoiced directly from our accounting department after the products have been sent to you. You do not need to pay up front; however, delinquent accounts will be denied additional services until the balance has been paid.

NOTE: There is a 50% cancellation charge if you cancel your order after we have already processed your request and generated our products. There is a no return policy on products already delivered.

Why is there a charge for this information?

Our enabling legislation requires that we "insure cost-sharing by all who use the" NDDB, "and develop a fee structure to recover actual costs for use of the" NDDB. The Department of Finance has determined that this will include not only direct costs for generating and distributing our data, but will also include some program-overhead. We recover about \$225,000 per year in fees, which amount to about 25% of our program costs.

# California Native Species Field Survey Form

Mail to:  
 Natural Diversity Data Base  
 California Department of Fish and Game  
 1416 Ninth Street, 12th Floor  
 Sacramento, California 95814

For office use only	
Source Code _____	Quad Code _____
Elm Code _____	Occ # _____
Copy to _____	Map Index # _____

Date of field work _____
mo   day   year

Scientific Name: _____
Common Name: _____

Species Found? <input type="checkbox"/> yes <input type="checkbox"/> no <i>If not, why?</i> _____
Total # Individuals _____ Subsequent visit? <input type="checkbox"/> yes <input type="checkbox"/> no
Is this an existing NDDDB occurrence? <input type="checkbox"/> no <input type="checkbox"/> unk. Yes, Occ. # _____
Collection? If yes: _____ number                      Museum/Herbarium

Reporter: _____
Address: _____
Phone: (     ) _____

Plant Information		
Phenology: _____	_____	_____
% vegetative	% flowering	% fruiting

Animal Information						
Age Structure: _____						
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
nesting	breeding	foraging	wintering	roosting	burrew site	other

**Location** (Please also attach or draw map on back.)

County: \_\_\_\_\_ Landowner/Mgr: \_\_\_\_\_

Quad Name: \_\_\_\_\_ Elevation: \_\_\_\_\_ UTM: \_\_\_\_\_

T            R                      % of            % Sec                      T            R                      % of            % Sec

**Habitat Description** (Plant communities, dominants, associates, substrate/soils, aspects/slope)

\_\_\_\_\_

\_\_\_\_\_

Other rare spp.? \_\_\_\_\_

**Site Information** Overall site quality:  Excellent  Good  Fair  Poor

Current/surrounding land use: \_\_\_\_\_

Visible disturbances, possible threats: \_\_\_\_\_

Comments: \_\_\_\_\_

<b>Determination:</b> (Check one or more, fill in the blanks)
Keyed in a site reference: _____
Compared with specimen housed at: _____
Compared with photo/drawing in: _____
By another person (name): _____
Other: _____

<b>Photographs:</b> (Check one or more)	Slide	Print
Plant/animal	_____	_____
Habitat	_____	_____
Diagnostic Feature	_____	_____
May we obtain duplicates at our expense? <input type="checkbox"/> Yes <input type="checkbox"/> No		

## RESPONSES TO COMMENTS FROM THE U.S. FISH AND WILDLIFE SERVICE (DECEMBER 28, 1999)

**Note:** In a letter dated April 4, 2000, the USFWS concluded that the:

. . . construction of the proposed project will not adversely affect the California red-legged frog or any other federally listed threatened or endangered species. Therefore, unless new information reveals that the proposed action may affect listed species in a manner or to an extent not considered, or a new species or critical habitat is designated that may be affected by the proposed action, no further action pursuant to the Endangered Species Act of 1973, as amended, is necessary.

See Appendix F for a copy of USFWS' letter of concurrence.

The following responses address USFWS comments in its letter dated December 28, 1999.

**Response G-1:** Comments G-1 through G-5 address the potential growth-inducing impacts of the project, which are discussed on pages 14-8 through 14-10 of the draft EIR/EA. Following is additional explanatory material on growth inducement. The proposed project entails reconstruction of an existing interchange, not development of vacant land. The effect of the proposed project is to correct existing operational deficiencies and safety problems (inadequate spacing between the interchange's westbound ramp/El Dorado Hills Boulevard intersection and the Saratoga Way/El Dorado Hills Boulevard intersection) and to increase interchange capacity to accommodate existing and approved development in western El Dorado County, primarily in El Dorado Hills. The project would not increase the through capacity of El Dorado Hills Boulevard or Latrobe Road, nor would it provide excess capacity for unapproved or speculative projects. Rather, the project would only increase the capacity of the interchange to service existing or already approved development.

Table 14-1 and Figure 14-1 in the draft EIR/EA describe and depict all residential development projects in El Dorado Hills, in the vicinity of the proposed project, that have already received subdivision map and/or development agreement approvals, but are not built or are under construction. Table 14-1 and Figure 14-1 show that these projects encompass substantially all of the future development potential and traffic demand that can be generated in the vicinity of the project. Also, as noted on page 14-8 of the draft EIR/EA, approximately 70% of total vehicle trips using the El Dorado Hills Boulevard-Latrobe Road interchange in 2015 (including existing trips) will be going to or coming from El Dorado Hills. Of the remaining 30%, 16% will be from the Cameron Park/Shingle Springs area, an area that is already largely built-out, and the remaining 14% will represent trips from various other parts of the County many miles remote from the interchange.

With the exception of the Valley View Specific Plan, each of the projects listed on Table 14-1 has approved tentative subdivision maps. All of the projects have previously been subject to environmental review in conjunction with these prior approvals. Under California law, these tentative subdivision map approvals are the County's final discretionary decision regarding whether and how these developments will occur. The issuance of final maps creating individual, saleable

lots, as well as the issuance of building permits for those lots, are "ministerial" actions over which by law the County exercises no discretion.

A number of the projects listed in Table 14-1, including the Valley View Specific Plan, also hold development agreements with the County. A development agreement fixes the development standards applicable to the development, and "vests" the right to develop in accordance with those standards. All of the specific plans listed in Table 14-1, as well as the Marble Valley, Euer Ranch, and Promontory projects, hold development agreements. Also, the applicant for the Valley View tentative maps requires federal permit authorization that will require separate Section 7 consultation with the USFWS for impacts on listed species related to this project.

The recent court decision invalidating the County's 1996 General Plan nonetheless allows residential developments to proceed if they require no discretionary approvals and/or if they hold a development agreement. (See the errata to page 14-2 in Chapter 4, for a discussion of the litigation, the Writ of Mandate, and related matters.) As the draft EIR/EA and the discussion above shows, everything in Table 14-1 falls within these two exceptions. Therefore, the projects to be developed in the vicinity of the proposed project can and will be constructed even if the proposed interchange reconstruction is not approved (since the tentative maps have been approved and final map approval and building permit issuance are ministerial actions, and the court ruling allows ministerial actions and development agreements to proceed). Because growth would occur in the project vicinity regardless of the proposed project, the impacts of that growth on resources of concern to USFWS are not growth-inducing effects of the proposed project subject to analysis in this environmental document.

Aside from the growth-inducement issue, there is the possibility that "footprint" impacts of the proposed project could include the resources identified in Comments G-1 through G-5 that are of concern to the commenter. USFWS, in a letter dated April 4, 2000, concludes that the project would not affect federally listed threatened or endangered species. See Appendix F of this report.

**Response G-2:** The project does not entail the conversion of agricultural lands. Regarding potential growth-inducing impacts on the identified resource, see Response G-1.

**Response G-3:** The project involves construction of infrastructure in that it entails reconstruction of an existing interchange. Regarding potential growth-inducing impacts on the identified resource, see Response G-1.

**Response G-4:** The project does not entail the increased use of pesticides or herbicides. Regarding potential growth-inducing impacts on the identified resource, see Response G-1.

**Response G-5:** The proposed project is reconstruction of an existing interchange, not development of vacant land. Project-related impacts to water and air quality are discussed in Chapters 10 and 5, respectively, of the draft EIR/EA. Impacts to noise are discussed in Chapter 4. Regarding potential growth-inducing impacts on the identified resource, see Response G-1.

**Response G-6:** Methods of reducing and avoiding adverse environmental effects are included throughout the draft EIR/EA, and are identified as mitigation measures. The commenter does not specify what particular analyses or proposed mitigation measures it considers to be inadequate. Therefore, a more detailed response cannot be given.

**Response G-7:** The draft EIR/EA does document how the NEPA process for this project integrated other environmental requirements. For example, page 11-5 of the report documents compliance with Executive Order 11990 (Protection of Wetlands) and Section 7 of the federal Endangered Species Act.

**Response G-8:** Comment noted. This comment does not relate to the adequacy of the draft EIR/EA. Therefore, no further response is warranted.

**Response G-9:** The 2020 analysis in Chapter 5, “Air Quality”, of the EIR/EA is a cumulative analysis. See also Response E-44.

**Response G-10:** Comment noted.

**Response G-11:** Appendix D of this report contains a copy of the California red-legged frog site assessment conducted for this project based on the Guidance on Site Assessment and Field Surveys for California Red-Legged Frogs. This report was sent to USFWS for their concurrence on March 13, 2000. Appendix F of this report contains a letter of concurrence from USFWS stating that the proposed project would not adversely affect the California red-legged frog or any other federally listed threatened or endangered species.

The site assessment concludes that the unnamed stream and adjacent drainages in the project site are unsuitable breeding habitat but provide potential low-quality dispersal habitat for the California red-legged frog. Based on lack of breeding habitat and the distance of California red-legged frog sightings in the watershed to the project site, it is unlikely that the species occurs in the project area. Implementation of the best management practices listed in the site assessment report, including obtaining a Section 1601-1603 streambed alteration agreement, would minimize impacts on biological resources including the red-legged frog, in the unlikely event that they are present.

**Response G-12:** Indirect effects are caused by or result from the proposed action, are later in time, and are reasonably certain to occur. As explained in the “Growth-Inducement” section in Chapter 14 of the draft EIR/EA (see pages 14-8 through 14-10), the proposed project will not have indirect effects on wetlands since development in El Dorado Hills will be constructed regardless of the proposed project. See also Response G-1.

Cumulative impacts include effects of future state, local, and private actions, not involving a federal action, that are reasonably certain to occur within the action area under consideration. It is expected that because of the need for federal permit authorization, the proposed projects in the vicinity will involve a federal action and would not fall within this definition.

**Response G-13:** As stated in Responses G-1 and G-12, the draft EIR/EA analyzes the potential for this project to induce indirect and cumulative effects by facilitating development in the vicinity of the project site. It concludes, based on the status of development approvals in nearby land and on the terms of the judicial order issued by the County's general plan litigation, that the project is not a significant factor influencing development of nearby areas.

It is also important to note that the County is a signatory to a Memorandum of Understanding (MOU) (1999) with the American River Conservancy, U.S. Bureau of Land Management, U.S. Forest Service, U.S. Fish and Wildlife Service, U.S. Bureau of Reclamation, California Department of Fish and Game, and the El Dorado Irrigation District regarding management of the California red-legged frog. The MOU establishes a commitment to cooperatively develop and implement a management plan for the red-legged frog for 54 acres on the north fork of Weber Creek, Spivey Pond Unit. The County has also given its support to a project funded with CALFED funding to acquire and protect an ecologically intact buffer zone of approximately 146 acres of riparian and coniferous forest immediately upstream of Spivey Pond and to acquire an additional 282 acres of reproductive habitat immediately downstream of Spivey Pond. As these actions are implemented, species recovery within Weber Creek and adjoining watershed basins is expected to occur through natural recolonization and population expansion.

Also, the County is in the early stages of developing a countywide multi-species habitat conservation plan (HCP) that is expected to involve multiple agencies and other stakeholders and to integrate environmental, planning, and development considerations in the manner suggested by USFWS in both its July 12 and December 28, 1999 letters. County staff is pursuing funding for the HCP in the fiscal year 2000/2001 budget.

**Response G-14:** The federal lead agency, FHWA, does not believe that preparation of an environmental impact statement is appropriate for this project since the project will not cause significant impacts on the environment. USFWS, in a letter dated April 4, 2000, concurs that the project would not affect federally listed threatened or endangered species. See Appendix F of this report.

**Response G-15:** Comment noted. See also Response G-13.

**Response G-16:** See Response G-11.

Clayton A. Littman  
962 Kings Canyon Drive  
El Dorado Hills, CA 95762  
Phone: (916) 933-4732

29 December 1999

El Dorado County  
Department of Transportation  
2850 Fairlane Court  
Placerville, CA 95667  
Attn: Kris Payne

Reference: (1) Draft EIR/EA for the U.S. Highway 50/ El Dorado Hills Blvd.-  
Latrobe Rd. Interchange Project, dated November 1999, State  
Clearinghouse No. 98072050

Dear Mr. Payne:

I have reviewed the document referenced above (Ref. 1). I have the following concerns and comments that need to be addressed in the final EIR/EA:

Page 2-1:	Improve vertical and horizontal alignment of the interchange on- and off-ramps.		H-1
Concern:	Noise level measurements were taken with the existing westbound on- and off-ramps below the vertical alignment of the residents. The proposed project would raise the vertical alignment of the on- and off-ramps to within the line-of-sight of the residents. In addition, the westbound off-ramp will be relocated to the West Side of El Dorado Hills Blvd., much closer to the residents. These two facts will significantly increase the noise level at the residents. Predicted traffic noise levels at project completion should take this into account and the sound barrier height should be selected based on normal county standards (i.e. no more than 60dB <sub>dn</sub> ).		H-1
Page 2-8:	Lighting – 330-watt high pressure sodium luminaries (approx. 28-33 feet) will be installed on Saratoga Way at the intersection with Arrowhead.		H-2
Concern:	High intensity lighting at this intersection will introduce too much glare at the residents, which currently have no street lighting. The height of the sound barrier should be selected to block excessive glare from the intersection.		H-2
Page 3-2:	Impact 6.4: Changes in Light and Glare.		H-3
Concern:	Same as above.		H-3
Page 3-3:	Impact 4.2: Exposure of residents to noise from construction blasting.		H-4

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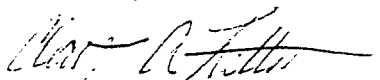
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EL DORADO CO.  
DEPT OF TRANSPORTATION



<p>Concern:</p>	<p>No impact is identified due to vibration through bedrock from construction blasting. I believe the potential exists for damage to concrete and structures if blasting is used. The county should be prepared to compensate the residents for repair of damages due to vibrations due to blasting.</p>	<p>H-4 cont.</p>
<p>Page 4-7: Concern:</p>	<p>Mitigation measure 4.1: Employ noise-reduction construction measures. Construction noise levels will be significant at times. This mitigation measure should include construction of the sound barrier prior to initiation of the project.</p>	<p>H-5</p>
<p>Page 4-14: Comment:</p>	<p>Property line barriers. A property line barrier 14 feet in height, such as that proposed in figure 4-3, would reduce noise levels to county normally acceptable levels (Ref. 1, Table 4-10) after project completion. Existing noise levels at the residents already exceed the county normally acceptable levels of 60dB<sub>dn</sub>. Since the county is proposing to mitigate noise from the project (i.e. sound barriers), I believe it should mitigate using it's own normally acceptable noise level criteria.</p>	<p>H-6</p>
<p>Page 4-17: Concern:</p>	<p>Mitigation measure 4.5a Sound barriers less than 14 feet high will not reduce noise levels to less than the county's normally acceptable noise level criteria of 60dB<sub>dn</sub> (Ref 1, Table 4-10) for residents R1 through R13.</p>	<p>H-7</p>
<p>Page 6-8: Concern:</p>	<p>Mitigation measure 6.3: Provide aesthetic treatment to sound barrier that are visible from private residents. \$1500 is not adequate to cover the costs of plants, irrigation systems, and installation. The fence line of my resident is 150 feet long and will require landscaping of the entire length. Reimbursement to the residents should be increased to a maximum of \$4000 per resident if required.</p>	<p>H-8</p>
<p>Page 8-5: Concern:</p>	<p>Table 8-1. Existing Utility Infrastructure Located within the Project Area (Sewer). A sewer line currently exists along the Southern property lines of the single-family residents on Kings Canyon Drive. This fact is not shown in Table 8-1. Construction of the proposed sound barrier should not interfere with maintenance or service of the sewer line.</p>	<p>H-9</p>

Sincerely,

  
Clayton A. Littman

**RESPONSES TO COMMENTS FROM CLAYTON A. LITTMAN,  
962 KINGS CANYON DRIVE (DECEMBER 29, 1999)**

**Response H-1:** The locations and elevations of the proposed on- and off-ramps were accounted for in the noise modeling. Noise barrier heights required to meet both the County Noise Element standards and the FHWA standards are provided in the analysis.

**Response H-2:** This impact is discussed under Impact 6.4. As noted in the impact discussion, the proposed lighting would provide an illumination intensity consistent with that typically recommended for pedestrian safety and circulation. Down-cast cut-off type fixtures, as proposed, in combination with soundwalls, would effectively minimize fugitive light at residences.

**Response H-3:** See Response H-2.

**Response H-4:** See Response E-33.

**Response H-5:** See Response E-30.

**Response H-6:** Mitigation Measure 4.5a calls for construction of noise barriers at least 10 feet above the existing ground level to achieve the County's 60 dB  $L_{dn}$  noise-level criteria. Beyond this, the mitigation measure requires that the actual height and extent of the noise barriers necessary to achieve the required noise reduction will be determined by a qualified acoustical consultant.

**Response H-7:** Table 4-10 of the draft EIR/EA shows that a 10-foot barrier would achieve the County's conditionally acceptable criteria of 65 dB  $L_{dn}$  (65 dB  $L_{dn}$  may be allowed provided that available exterior noise level reduction measures have been implemented and interior noise levels are below 45 dB  $L_{dn}$ ) at all receivers and that a 12-foot high barrier would result in noise levels of 60 dB  $L_{dn}$  or less at all receivers except R12 and R13. See also Response E-36.

**Response H-8:** See Responses E-55 and M-11.

**Response H-9:** The County would coordinate with El Dorado Irrigation District (EID) for all construction-related effects on sewer lines to relocate facilities, as needed, while preserving continuity of service. EID would provide all users with advance notice if residential service would be affected. See Impact 8.5 in the draft EIR/EA and the errata to Table 8-1.



STATE OF CALIFORNIA  
 Governor's Office of Planning and Research  
 State Clearinghouse



Gray Davis  
 GOVERNOR

Loretta Lynch  
 DIRECTOR

December 30, 1999

Kris Payne  
 EL DORADO COUNTY, DEPARTMENT OF TRANSPORTATION  
 El Dorado County Dept of Transportation  
 2850 Fairlane Court  
 Placerville, CA 95667

Subject: U.S. Highway 50/ El Dorado Hills Boulevard-Latrobe Road Interchange Project  
 SCH#: 98072050

Dear Kris Payne:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on December 29, 1999, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

I-1

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the eight-digit State Clearinghouse number when contacting this office.

Sincerely,

*Terry Roberts*  
 Terry Roberts  
 Senior Planner, State Clearinghouse

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 DEPT. OF TRANSPORTATION

3-106

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 98072050  
**Project Title** U.S. Highway 50/ El Dorado Hills Boulevard-Latrobe Road Interchange Project  
**Lead Agency** El Dorado County

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**Type** eir Draft EIR  
**Description** The proposed project is the reconstruction of the El Dorado Hills Boulevard-Latrobe Road interchange on U. S. Highway 50.

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**Lead Agency Contact**

**Name** Kris Payne  
**Agency** EL DORADO COUNTY, DEPARTMENT OF TRANSPORTATION  
**Phone** 530.621.5900 **Fax**  
**email**  
**Address** El Dorado County Dept of Transportation  
2850 Fairlane Court  
**City** Placerville **State** CA **Zip** 95667

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**Project Location**

**County** EL DORADO  
**City** Folsom  
**Region**  
**Cross Streets** U.S. Highway 50 / El Dorado Hills Blvd - Latrobe Road  
**Parcel No.** 107-01-32, 107-04-03, 107-12-06, 107-13-19,108-03-17  
**Township** 9 N **Range** 8 E **Section** 11 **Base** Clarksvi

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**Proximity to:**

**Highways**  
**Airports**  
**Railways**  
**Waterways** Carson Creek  
**Schools**  
**Land Use** interchange

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**Project Issues** Aesthetic/Visual; Air Quality; Archaeologic-Historic; Drainage/Absorption; Economics/Jobs; Flood Plain/Flooding; Geologic/Seismic; Minerals; Noise; Public Services; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Wetland/Riparian; Wildlife; Growth Inducing; Landuse; Cumulative Effects; Other Issues

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**Reviewing Agencies** Resources Agency; Department of Conservation; Department of Fish and Game, Region 2; Office of Historic Preservation; Department of Parks and Recreation; California Highway Patrol; Caltrans, District 3; Regional Water Quality Control Bd., Region 5 (Sacramento); Native American Heritage Commission; State Lands Commission

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**Date Received** 11/15/1999 **Start of Review** 11/15/1999 **End of Review** 12/29/1999

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**RESPONSE TO COMMENTS FROM THE CALIFORNIA GOVERNOR'S OFFICE OF  
PLANNING AND RESEARCH, STATE CLEARINGHOUSE (DECEMBER 30, 1999)**

**Response I-1:** Comment noted.

Bryan J. Coomes Sr.  
711 Platt Circle  
El Dorado Hills, CA 95762

December 30, 1999

El Dorado County Department Of Transportation  
Attention: Kris Payne, Supervising Civil Engineer  
2850 Fairlane Court  
Placerville, CA 95667

**RE: Draft Environmental Impact Report/Environment Assessment for the U.S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange Project.**

Dear Sir:

My comments are listed below regarding the proposed EIR/EA for the project listed above. I have divided my comments into two sections, the first section relates directly to the project proposed above, the second section relates to the future projects slated for Highway 50 and Saratoga Way.

**Comments regarding the proposed U.S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange Project**

- The EIR/EA does not appear to contain any indication of how close the realignment of Saratoga Way will come to the existing residences in Crescent Ridge east of Finders Way on Platt Circle. Based on the maps contained in the EIR/EA it appears that the closer the residence is to Arrowhead, the closer the realigned Saratoga Way will be to that residence. This is of particular concern to me, since I was not informed when I bought my home that there was the potential to have Saratoga Way moved closer to my residence. I was simply informed that the land behind my home was zoned commercial and would most likely be a one or two story office complex. I am very concerned about the increase in air and noise pollution due to this project.
- It was not clear to me after reviewing the draft EIR/EA how the El Dorado County Department Of Transportation will ensure proper maintenance of the proposed sound walls. I have observed the graffiti that has been tagged on the sound walls that have been placed in Sacramento County along the Highway 50 corridor. This can be quite an eyesore to those entering the community of El Dorado Hills if it is not properly maintained.

J-1

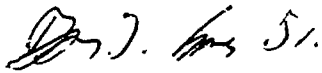
J-2

**Comments relating to two of the future projects identified in the EIR/EA. Specifically the expansion of Highway 50 to a combined total of eight lanes by the year 2020 and the eventual extension of Saratoga Way to Iron Point Road in Folsom**

I was not informed when I purchased my home that Saratoga Way might be expanded to four lanes or connect with Iron Point Road in Folsom. Nor was I told that U.S. Highway 50 might be expanded to eight lanes. If both of these projects occur, I will have an additional six lanes of road thoroughfare behind my home. I already have the noise and air pollution that result from six lanes of road behind my home. Furthermore expanding Saratoga Way to four lanes would most assuredly move Saratoga closer to my home. I am interested in how El Dorado County and Cal Trans plan to mitigate the impact of this proposed expansion on the homes in Crescent Ridge and Park Village. The EIR/EA states that our homes are already at or exceeding both El Dorado County and state and Federal noise regulations.

J-3

Sincerely,



Bryan J. Coomes Sr.

**RESPONSES TO COMMENTS FROM BYRAN J. COOMES SR.,  
711 PLATT CIRCLE (DECEMBER 30, 1999)**

**Response J-1:** The commenter is correct in noting that the closer the residence is to Arrowhead Drive, the closer the realigned Saratoga Way will be to the residence. Impacts related to noise and air quality are addressed in the draft EIR/EA in Chapters 4 and 5, respectively.

**Response J-2:** See Response L-6

**Response J-3:** The draft EIR/EA recommends mitigation to reduce noise impacts to less than significant. See Mitigation Measures 4.5a (Construct Sound Barriers Along the Eastern and Southern Property Lines of Residences Located in the Northwest Quadrant of the Interchange) and 4.3b (Evaluate the Interior Noise Levels of Residences and Improve the Acoustical Insulation to Result in Interior Noise Levels Being Below 45dB  $L_{dn}$  or 53 dB  $L_{eq}$ ). Any expansion of U.S. Highway 50 or Saratoga Way would be separate and unrelated projects, independent of the proposed project. Neither is reasonably foreseeable at this time.



December 30, 1999

El Dorado County Department of Transportation  
Attention: Kris Payne, Supervising Civil Engineer  
2850 Fairlane Ct.  
Placerville, CA 95667

Re: US Highway 50/El Dorado Hills Blvd.-Latrobe Road Interchange Project

Dear Mr. Payne,

We are writing to voice some of our concerns regarding the above-mentioned project. Upon reviewing the Environmental Impact Report and the Environmental Assessment vol. I, we were shocked to discover that our home is not listed in the study, although our back yard was accessed twice for noise assessment. We live immediately next door to the West of #13 (figure 4-2), yet are not listed. Our home is the lowest elevation of all the homes listed in the report, and we believe that our noise level is higher than our neighbors. We are highly impacted by the noise, and wonder just why we were left off the study.

K-1

When we bought our home in 1994, we were not informed of any plans to widen Highway 50 to 8 lanes, nor were we informed of any plans to widen Saratoga Lane to 4 lanes. In fact, we specifically asked about the property between us and the freeway, including Saratoga Lane, and were told that the plan called for commercial use, and that there would probably be a strip of office buildings built in the vacant land behind our home, which would give us a sound buffer for the traffic noise. We were never informed of even the possibility that Saratoga would be widened or re-aligned, or that it would eventually connect with Folsom, all of which impacts us with increased traffic, increased noise, limited access out of our development, safety hazards to our children because of the increased traffic, and of course, increased pollution. It also brings the road closer to our property, which we consider unacceptable.

K-2

The Report refers to building sound walls along Highway 50, yet the general plan refers to no sound walls. If you proceed in building a sound wall, how in the world do you plan to keep it from being an eyesore? You would be inviting taggers and delinquents to fill it with graffiti. In no time at all, we would look like some of the nation's inner cities. We specifically moved here to get away from that. Is that the kind of image that you would like the entrance to El Dorado County to give? In addition to the obvious aesthetic concerns about building a sound wall, there is the equally obvious fact that a sound wall would do very little in mitigating or suppressing the noise that we will be subjected to. Certainly, it will do absolutely nothing for the second story of our home.

K-3

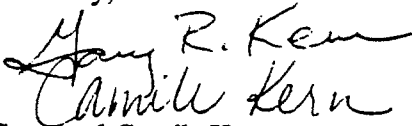
Page 1 of 2

We intentionally purchased this home located next to vacant land and a small creek, which our children spend hours at on nearly a daily basis, playing and exploring. We believe that the increased noise, traffic, and pollution of the proposed projects would make it harmful and damaging for them to continue to do so. We would no longer be able to enjoy spending time outdoors. In effect, we would be confined to indoors, where even now, at times, the noise levels are severe. In short, it would dramatically affect the quality of our family's life, which again brings us back to the purpose of why we moved here.

K-4

Perhaps you should take a step back and further analyze how better to address the concerns and the welfare of those of us who already live in and love El Dorado County. That you are planning for the people who someday may move here at the expense of those of us who are already here is baffling to us, and in our opinion, very poor business management and planning.

Sincerely,



Gary and Camille Kern  
721 Platt Circle  
El Dorado Hills, CA 95762

**RESPONSES TO COMMENTS FROM GARY AND CAMILE KERN,  
721 PLATT CIRCLE (DECEMBER 30, 1999)**

**Response K-1:** The residence in question was not visible on the original report graphics, so it was inadvertently omitted from the discussions of noise impacts. This oversight was corrected recently in the errata to Tables 4-4, 4-7, 4-8, 4-9, 4-10, and 4-11.

**Response K-2:** It remains likely that the land between the residential area and the freeway will be developed for commercial uses. The commercial buildings will provide shielding for the residential area, dependent upon the building heights and linear extent. As a rule of thumb, if the buildings simply block line of sight from the traffic noise sources to the receivers, the traffic noise level is expected to decrease by about 5 dB. The insertion loss (noise reduction) provided by the buildings will be compromised by gaps between buildings, where those gaps provide line of sight from receivers to the roadway. See also Responses E-9, E-62, and J-3.

**Response K-3:** The noise barriers are designed to provide significant noise reduction at the first-floor outdoor activity areas for the nearest residential receivers. The commenter is correct in noting that the barriers provide no significant noise reduction for receivers at upper floors where the barriers fail to block line of sight to the noise sources. Mitigation Measure 4.3b mitigates impacts related to second stories. See also Response E-36.

Regarding the aesthetic effects of the sound barriers, Mitigation Measure 6.3 provides for aesthetic treatments for these barriers.

**Response K-4:** Refer to Chapters 4 and 7, respectively, of the draft EIR/EA for a discussion of recommended mitigation measures to reduce noise and traffic impacts to less than significant levels. The vacant lot next to the commenter's home is zoned commercial and was zoned as such in 1994.



# SERRANO

December 30, 1999

Michael Stoltz  
El Dorado County  
Department of Transportation

Re: Draft EIR/EA El Dorado Hills Blvd. Interchange

Dear Michael:

Thank your for the opportunity to review the draft EIR/EA for the El Dorado Hills Blvd. interchange. While we have some detail questions which follow our basic observation is that the environmental impacts of both the preferred alternative and Alternative One are a "dead heat"

The analysis of Alternatives contained in Chapter 13 clearly indicates that the Preferred Alternative and Alternative 1 result in virtually the same impacts. Construction and traffic noise impacts of Alternative 1 are the same as those described for the preferred Alternative project. Air Quality impacts are minimally different but not adverse for either option. Visual impacts of Alternative are mitigated with the very same measures employed under the Preferred Alternative and are not considered adverse with mitigation. All other impacts are identical. Given that there are no discernable differences in environmental impacts between the Preferred Alternative and Alternative 1, one must focus on land use compatibility and economic factors.

L-1

The Preferred Alternative, including the S curved Saratoga Way, will require substantially more right of way and will eliminate the possibility of our developing the previously approved commercial parcel west of El Dorado Hills Boulevard. We submit that the land acquisition costs associated with the Preferred Alternative, together with increased improvement costs required by the Preferred Alternative, will substantially increase the cost of constructing the interchange beyond the cost associated with Alternative 1, without any identified environmental benefit. The EIR should quantify those costs so that informed decision making occurs.

L-2

1. In chapter two, page 2-8, a brief acknowledgement is provided concerning the necessity to acquire right of way for the project. Would you please quantify this requirement as it relates to the Northwest quadrant. The number of acres to be acquired for the preferred alternative and alternative one would be useful.

L-3

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JAN 3 2000

EL DORADO CO.  
DEPT. OF TRANSPORTATION

SERRANO ASSOCIATES, LLC

4525 SERRANO PARKWAY, EL DORADO HILLS, CALIFORNIA 95762-7510

916-939-4060 FAX 916-939-4116

install improvements to El Dorado Hills Blvd. (also at no cost to the County). Given the nearly equal environmental effects of the preferred alternative and alternative one the question of right of way acquisition should become a telling consideration.

L-3  
cont.

2. It was our understanding that the EIR would give equal consideration to environmental evaluation of the "preferred alternative" and alternative one ("Saratoga tangent"). While the information in the Chapter 13 accomplishes this objective the summary tables and much of the content of the Draft EIR does not provide a continuous comparison of the effects of the no project, preferred alternative and alternative one. It would be most helpful to provide a summary table similar to provide one with a quick comparison of the impacts of each alternative.

L-4

3. The no project analysis mistakenly fails to reflect the approval of three office/commercial buildings which have been approved by the County for construction and which have been put on hold pending disposition of this project. The no project alternative should include the impacts of the approved commercial development on the site. The analysis appears to not take this into consideration. For example, short term construction noise would occur in the no project alternative. The traffic, noise, and air quality effects of this element of the no project alternative have not been considered in this draft.

L-5

4. The draft at page 4-17 cross references mitigation measure 6-3 on page 6-9. The measure suggests that a berm as much as 14 feet high would be installed in lieu of a sound wall. Given the design parameters the berm would require a strip of land approximately 115 feet in width. The EIR does not identify where such a berm would be provided. We would like to see the following:

- a. Where is such a berm contemplated?
- b. How much would such a berm cost?
- c. Where would the funding come from to maintain the berm and planting?
- d. Would the property owner become the owner of the "owner's side of the berm and be responsible for its maintenance?
- e. Would an easement over the berm be recorded in favor of the County or neighbors that would assure that the "owner" side of the berm would never be planted with trees?

L-6

5. Impact 6.4. Changes in light and glare. What is the estimated cost of providing the cut off fixtures?

L-7

6. In reviewing the traffic analysis the Peak Hour Intersection Operations it appears that there is no difference between the preferred alternative and alternative in LOS and average delay at the El Dorado Hills Boulevard/Park Drive intersection. Is this correct?

L-8

I would also like to have brief discussion of the difference in roadway capacity, travel time and level of service on the Saratoga link between the preferred alternative and alternative one. Our rough estimate is that at projected 2020 traffic levels the additional feet of travel required under the Preferred Alternative, when compared to Alternative One, is 42 miles of travel per day for an additional cost of about \$95,000 over a 20 year period. It would also seem that the two reverse curves and the additional travel distance under the preferred alternative would result in some reduction in LOS and/or roadway capacity.

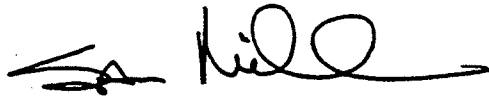
L-9

No consideration has been given to the impacts of the Saratoga realignment upon access to the Western Sierra/Mansour Offices/Senior Housing sites. How will these accesses be provided and what effect does the access have upon the capacity and LOS of the Park/Saratoga/El Dorado Hills Blvd. Intersection?

L-10

Thank you for the opportunity to comment upon the Draft EIR/EA.

Sincerely,



Sam Miller  
DIRECTOR OF PLANNING

**RESPONSES TO COMMENTS FROM SERRANO ASSOCIATES  
(DECEMBER 30, 1999)**

**Response L-1:** As described on page 13-19 of the draft EIR/EA, Alternative I would result in an adverse, but mitigable, impact related to changes in light and glare due to the proximity of the Saratoga Way realignment to the townhomes. This impact was determined not to be adverse for the Preferred Alternative. To mitigate this impact related to Alternative I, the draft EIR/EA recommends installing cut-off shields to direct light from luminaries away from residences. The comment is correct in its conclusions regarding the other impact issues.

**Response L-2:** The right-of-way costs are likely to be different for the Preferred Alternative and Alternative I, with Alternative I being less costly. The design and construction costs related to the Preferred Alternative and Alternative I are expected to be similar based on the planning-level designs prepared to date. Detailed costs cannot be developed until final design. See Response L-1 and the summary table in Chapter 2 of this report (which compares the Preferred Alternative and the three alternatives to the proposed project) regarding environmental impacts related to the Preferred Alternative and Alternative I.

**Response L-3:** As noted in Response L-2, the right-of-way area and costs will not be known until final design.

**Response L-4:** A summary table comparing the Preferred Alternative and the three alternatives to the proposed project is provided in Chapter 2 of this report.

**Response L-5:** The operational impacts related to construction of the three office/commercial buildings approved for the commercial property (on which Saratoga Way is proposed for realignment) are analyzed under the 2005 and 2020 no-project conditions in Chapters 4 (Noise), 5 (Air Quality), and 7 (Traffic and Circulation). The errata to pages 13-11 and 13-12 note the construction-related noise and air quality related impacts that could occur with development of the commercial property. See also the new alternatives summary table in Chapter 2 of this report.

**Response L-6:** The reference (in Mitigation Measure 6.3) to a minimum setback of 7.7 meters (25 feet) for earthen berms has been deleted in the errata to page 6-9. The precise design of the required noise barrier cannot be finalized until final design of the project. The purpose of the mitigation measures recommended in the EIR/EA is to provide the County with performance standards that would be used during final design. In final design, the County will consider a number of factors in designing the noise barriers, including topography, sound attenuation requirements, and the provision of usable space on the privately owned commercial parcel proposed for realigned Saratoga. According to County staff, it is likely that a noise wall, rather than an earthen berm will be constructed, for the southern half of the commercial property to maximize the usable space on the commercial parcel.

The cost of the noise barrier will not be known until final design of the barrier is completed.

According to County staff, responsibility for maintenance of the noise barrier would likely depend on the relative timing of construction of the proposed project versus development of the commercial parcel. If the commercial parcel develops first, the commercial property owners would likely be responsible for maintenance of that portion of the noise barrier located adjacent to commercial uses (i.e., along the southern half of the commercial property); under this scenario, the El Dorado Hills Community Services District would likely be responsible for maintenance of that portion of the noise barrier located adjacent to Saratoga Way (i.e., along the northern half of the commercial property). If the proposed project is constructed first, the El Dorado Hills Community Services District would likely be responsible for maintaining the barrier along the entire length of the commercial property. Under both scenarios, the residents would be responsible for maintenance of the side of the barrier facing their residences if the noise barrier is located within their property or on their property line.

As noted in Mitigation Measure 6.3, the residents would be permitted to landscape the side of the noise barrier facing their property following the resident's submission of a screening plan for approval by the County Department of Transportation. The County would approve the plans based on preserving the structural integrity of the barrier.

**Response L-7:** The costs of the luminaires will not be known until final design.

**Response L-8:** The commenter's interpretation of the analysis ( on pages 13-19 and 13-20 of the draft EIR/EA) is correct.

**Response L-9:** The commenter requests a discussion of the difference in roadway capacity, travel time, and level of service on Saratoga Way between the preferred alignment and Alternative I (Saratoga Way tangent alignment). First, the issues of roadway capacity and level of service are addressed throughout Chapter 7, "Transportation and Circulation" and Chapter 13, "Alternatives to the Proposed Project" of the draft EIR/EA. While it is acknowledged that the curved alignment of Saratoga Way under the preferred alternative would slightly reduce the roadway capacity as compared to a tangent alignment, its effects are not quantifiable using conventional capacity analysis techniques. Changes in travel time caused by this S-curve are also considered to be minimal.

**Response L-10:** Final plans for access to the Western Sierra/Mansour Offices/Senior Housing sites will be based on County design standards. Access onto Park Drive will be limited to minimize effects on the Park Drive/Saratoga Way/El Dorado Hills Boulevard intersection. The primary access for these properties will be onto Mammoth Way.



Gary and Loretta Richards  
970 Kings Canyon Drive  
El Dorado Hills, CA 95672  
(916) 933-3189  
December 1999

El Dorado County  
Department of Transportation  
Attention: Kris Payne, Supervising Civil Engineer  
2850 Fairlane Court  
Placerville, CA 95667

Dear Mr. Payne:

This letter constitutes our comments concerning the Draft Environmental Impact Report for the US Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange Project. State Clearinghouse Number 98072050.

Please notify us of any hearings on this draft or the final EIR/EA. Notification should be forwarded to our address listed above.

Concerning the EIR/EA the following specific comments are made:

Pages 2-6, 2-7, and 2-9 speak to the inclusion of the High Occupancy Vehicle Lanes planned for Highway 50 between Sunrise Boulevard and El Dorado Hills Boulevard. It is believed that these lanes will contribute to the sound and visual affects; consequently CALTRANS should contribute to the cost of any mitigation (sound walls, etc).

M-1

On page 2-6 and a number of locations throughout the report, construction is broken into 2 phases. Phase I is immediate to be accomplished in fiscal year 2002. Phase II is to be accomplished when traffic conditions indicate. Consideration should be given to accomplishing all construction at the same time. This would reduce the amount of time that residents would be impacted, and reduce overall cost.

M-2

On page 2-7 and a number of locations throughout the report Saratoga Way is mentioned. Specifically, the EIR/EA identifies Saratoga as a 2 lane road connecting with Iron Point. You indicate "left turn pockets" on to Arrowhead and Mammouth. You should cul de sac Arrowhead so that through traffic would not be allowed in the residential neighborhood. The cul de sac should occur just north of the intersection of Arrowhead and Saratoga. If this does not occur then a stop sign will be required at the intersection of Saratoga and Kings Canyon Drive. Again, if through traffic is allowed then "speed bumps" will be required on Arrowhead to insure speed limits are adhered to. The alignment of Saratoga must remain as far south from the

M-3

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EL DORADO CO.  
DEPT. OF TRANSPORTATION

residences as possible. Another possible means of traffic diverting from Saratoga in to the residential neighborhood is to open Platte Circle so traffic can flow on to Kings Canyon Drive. This must not occur.

M-3  
cont.

On page 2-8 lighting for the project is discussed. Any lighting installed on Arrowhead or the eastbound off ramp in the northwest quadrant must consider the residences to insure that it's impact is decreased.

M-4

On page 2-9 future projects are discussed. The following must take priority and be accelerated as they will minimize traffic congestion in the area.

Connect Silva Valley Road to White Rock Road. It is discussed as a 2 lane road; however, 4 lanes should be considered.

Widen White Rock Road from Sunrise Boulevard in the west to Latrobe Road in the east to 4 lanes.

M-5

Construct the following:

Silva Valley interchange

HOV lanes from Sunrise in the west to El Dorado Hills Boulevard in the east.

On page 4-5 construction noise is discussed. It indicates that noise could increase to 90 decibels. The first step in the project must be the construction of the proposed sound wall. The alternative shown as Option 1 (figure 4-3) is the preferred alternative.

M-6

Page 4-10 indicates that a "qualified acoustical consultant" should be used to determine the noise impact, and recommend solutions. This should occur immediately as it will be required in any event. In addition, our home located at 970 Kings Canyon Drive must be one that the consultant surveys. This is necessary since the decibel readings from the sound studies indicate readings well above acceptable levels. Throughout chapter 4 you indicate that additional mitigating factors such as acoustical windows, fresh air ventilation systems, etc., will be implemented. Until these are identified we reserve comment on the adequacy of the mitigation.

M-7

Page 4-19 discusses the cumulative noise impacts. One mitigation that should be included is the policy that aircraft approaching or leaving Mather air field must fly south of Highway 50, and remain at an altitude that will decrease noise.

M-8

In the discussion of air quality occurring on page 5-8 inclusion of the policy that construction equipment/vehicles can not travel on Arrowhead north of the Town homes or Single Family residences will assist the residents.

M-9

On page 6-4 the impact of construction/movement of Saratoga Way was not discussed. This will have an impact on the residents, further justifying the landscaping of the sound wall on both sides of it.

M-10

Page 6-9 discusses that up to \$1,500 will be available to each impacted resident for landscaping the sound wall on their side of the barrier. I am unsure that \$1,500 will cover the cost of design, plant acquisition, and labor to plant them. It is reasonable to expect reimbursement for all of these. Additionally, DOT review of the design must be limited to insuring the sound barrier stability is not jeopardized.

M-11

M-12

Priority on the following projects discussed on pages 7-14 and 7-15 will decrease the congestion. While they are included in the Counties five year capitol improvement plan or cumulative 2020 analysis, they must be accelerated.

M-13

Widen White Rock Road to 4 lanes from Sunrise Blvd. to El Dorado Hills Blvd.

Construct the Silva Valley Interchange.

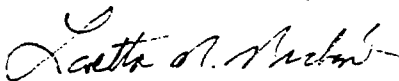
The construction will create a substantial amount of dust and possible damage. To rectify this it is reasonable to expect weekly dust abatement (interior cleaning of the home) and an initial inspection of the impacted homes to document status so that construction damage can be validated.


M-14

Table 7-16 located on page 7-21 indicates that the Preferred Alternative will increase traffic on Saratoga substantially. It indicates that the level of service will decrease in the year 2020 to level E. It is understood that this EIR/EA only studies constructing Saratoga Way at the existing 2 lanes. To add additional lanes another environmental study would be required. This is included to insure that if or when additional studies occur we are to be consulted.

M-15

Sincerely,

  
Loretta R. Richards

  
Gary D. Richards

**RESPONSES TO COMMENTS FROM GARY AND LORETTA RICHARDS,  
970 KINGS CANYON DRIVE (DECEMBER 1999)**

**Response M-1:** Comment noted. This comment does not relate to the adequacy of the draft EIR/EA. Therefore, no further response is required.

**Response M-2:** Constructing both phases of the project at the same time would reduce construction costs due to economies of scale. However, based on available funding and project priorities in El Dorado Hills, the project is proposed to be constructed in two phases.

**Response M-3:** The County will consider cul-de-sacing Arrowhead Drive as a part of this project during the project approval process.

**Response M-4:** This impact is discussed under Impact 6.4.

**Response M-5:** Comment noted. This comment does not relate to the adequacy of the draft EIR/EA. Therefore, no further response is required. (Regarding Silva Valley Parkway interchange, see Response E-92.)

**Response M-6:** See Responses E-30 and E-54.

**Response M-7:** See Response E-36.

**Response M-8:** Comment noted. See Response O-12. Noise from aircraft overflights associated with Mather Field operations is not an impact of this project. The lack of a casual or legal nexus precludes the imposition of the proposed mitigation. Also, the proposed measure is not considered feasible because the Federal Aviation Administration governs aircraft activities, balancing numerous factors, including safety and regionwide noise considerations.

**Response M-9:** The County will consider prohibiting construction vehicle/equipment travel on Arrowhead Way in preparing the traffic-control plan for this project (see Mitigation Measure 7.1 of the draft EIR/EA for a description of this plan).

**Response M-10:** Page 6-4 describes existing conditions, not impacts related to the proposed project. The impacts of realigning Saratoga Way are discussed under Impacts 6.1, 6.3, and 6.4.

**Response M-11:** The \$1,500 per dwelling unit compensation was deemed to be reasonable by the County based on 25 five-gallon container plants; plant support trellis; irrigation, mulch, and miscellaneous materials; installation and delivery fees, and landscape design fees. For a noise wall, the estimate was based on ten gallon of custom color exterior latex paint, miscellaneous painting supplies, professional painter fees, and painting scheme design fees. See also Response E-55.

**Response M-12:** Mitigation Measure 6.3 recommends that the County approve plans based on preserving the structural integrity of the barrier.

**Response M-13:** See Response M-5.

**Response M-14:** See Response S-5 regarding mitigation. No additional mitigation is required.

**Response M-15:** Comment noted.



**El Dorado Hills  
Area Planning  
Advisory  
Committee**

1021 Harvard Way  
El Dorado Hills, CA 95762

January 3, 2000

**2000 BOARD**

Norb Witt 939-6666  
Chairperson

John Hidahl 933-2703  
Vice-Chairperson

Joanne Davis 939-2505  
Vice-Chairperson

Tamara Boeck 933-9487

El Dorado County  
Department of Transportation  
ATTN: Kris Payne, Supervising Civil Engineer  
2850 Fairlane Court  
Placerville, CA 95667

Dear Mister Payne:

A subcommittee of the El Dorado Hills Area Planning Advisory Committee (APAC) was formed to complete a detailed review of the Draft Environmental Impact Report/Environmental Assessment for the U.S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange Project. They completed their review and made recommendations to APAC at a special meeting conducted on December 30, 1999. APAC desires to submit the following comments for consideration:

a. Saratoga Way. When acquiring the right of way for the connection of Saratoga Way to Iron Point and the realignment for the connection to Park, insure that sufficient right of way is gained for a four lane road. During the public hearings in which the County Board of Supervisors decided on the "preferred alternative" it was understood that even though the realigned Saratoga Way was initially to be constructed as a two lane road, the right of way for four lanes was to be purchased for future road widening if needed. It is strongly recommended that Arrowhead be cul de saced , terminating just north of the intersection of Arrowhead and Saratoga. This will reduce traffic in the residential neighborhood and is a safety factor. The second preference is making Arrowhead a right in-right out turn only at it's intersection with Saratoga. The third requirement would be a stop sign at the intersection of Arrowhead and Kings Canyon. You should use sound deadening pavement on Saratoga Way.

N-1

N-2

b. Additions to Phase I. Add to Phase I the construction of a free right turn lane from Park on to El Dorado Hills Boulevard going south, dual left hand turn lanes exiting the Raley's Shopping Center at the intersection of Saratoga and El Dorado Hills Boulevard to turn south, and the east bound off ramp from Highway 50 to Latrobe Road going south.

N-3

c. Add Phase Zero. Prior to starting construction on Saratoga or the interchange accomplish the following: (1) Construct the sound wall between Saratoga and the residences. The sound wall must be of sufficient height to reduce sound impacts on the

N-4

residences to the County's current acceptable standard (60db). You should use a combination of berm and split face block wall to improve the aesthetics. Landscaping on both sides of the wall should be accomplished during this period. The standard for the planting along that portion of the sound wall visible to the residences should be increased from 33% to 50% coverage in 5 years, and increase the coverage from 25% to 35% for the area visible from public roadways. Insulation of homes, sound deafening windows, along with any other sound mitigation must also be accomplished during Phase Zero.

N-5

d. Mammouth Way (just east of the residences and the Senior Citizens housing being constructed) should also be cul de saced. This will reduce traffic in the neighborhood and enhance public safety.

N-6

e. Any construction staging area during Phases Zero through II should be located on the south side of Highway 50.

N-7

f. Lighting in the north west quadrant is of great concern. Any lighting installed must consider the adjacent residences. Possibly use of a more pedestrian style (lower pole height) near the residential areas should be accomplished. Another alternative is the non-cobra style of lights with tall support structures but focus their light down, not out.

N-8

g. EDH APAC has previously supported Alternative 1 (tangent style - Saratoga Way next to Town Homes). The draft EIR/EA summarizes Alternative 1 and the Preferred Alternative. Both alternatives environmental impacts are similar; however, the monetary difference is significant due to the needed purchase of the land and/or right of way easement. RIF funds pay for these. EDH APAC urges adoption of Alternative 1.

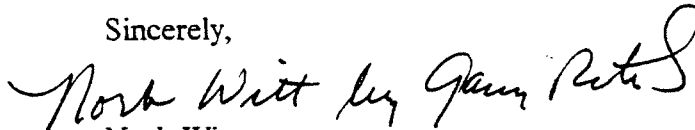
N-9

N-

h. The APAC members voted 5 yes, 0 no in support of the EIR/EA.

N-

Sincerely,



Norb Witt  
Chairman  
El Dorado Hills APAC

**RESPONSES TO COMMENTS FROM THE EL DORADO HILLS AREA  
PLANNING ADVISORY COMMITTEE (JANUARY 3, 2000)**

**Response N-1:** The decision to widen Saratoga Way to four lanes and to acquire additional right of way for Saratoga Way, if needed, would be made in the future as a separate action, unrelated to this project, by the County Board of Supervisors. If a specific proposal for widening Saratoga Way is introduced in the future, such a proposal would undergo separate environmental review.

**Response N-2:** The County will consider using sound-deadening pavement on Saratoga Way as an additional measure to further reduce noise levels during final design.

**Response N-3:** The construction of a free right-turn lane from Park Drive onto El Dorado Hills Boulevard and dual left-turn lanes from the Raley's shopping center at Saratoga Way was studied; it was determined that acceptable levels of service could be achieved at these locations without these improvements. Dual left-turn lanes at the eastbound offramp from Highway 50 to Latrobe Road were recently constructed.

**Response N-4:** See Response E-30.

**Response N-5:** See Responses E-54 and L-6 regarding the final design of the noise barrier. The County does not propose to modify the coverage standards specified in Mitigation Measure 6.3 due to the minimal aesthetic benefit that could be achieved and the potential for increased costs and overcrowding of plants. See Response E-36 regarding insulation of the second stories of residences. See Response E-30 regarding construction of a temporary noise barrier during construction.

**Response N-6:** See Response E-25 regarding why cul-de-sacing Mammouth Way would be inconsistent with the County Board of Supervisor's direction.

**Response N-7:** Construction staging areas will be determined during final design. The County will consider the commenter's recommendation.

**Response N-8:** This impact is discussed under Impact 6.4. As noted in the impact discussion, the proposed lighting should provide an illumination intensity consistent with that typically recommended for pedestrian safety and circulation. Down-cast cutoff-type fixtures, as recommended by the commenter, are components of the project as proposed.

**Response N-9:** See Responses L-2 and L-3.

**Response N-10:** Comment noted.

**Response N-11:** Comment noted.



El Dorado County Dept. of Transportation

Attn: Kris Payne

re: Draft Environmental Impact Report/  
Environmental Assessment for the  
U.S. Highway 50/ El Dorado Hills Boulevard\_  
-Latrobe Road Interchange Project.

### COMMENTS

It is not my intention in writing these comments on the environmental impact report/environmental assessment for the U.S. highway 50/ Eldorado Hills Blvd.-Latrobe Road Interchange project to close down the project or to delay construction of this or any other project in the El Dorado Hills area.

It is instead my intention to require El Dorado County Dept. of Transportation to heed and conform to the requirements of CEQA Article 1 section 15003

" In addition to the policies declared by the legislature concerning environmental protection and administration of CEQA sections 21000, 21001, 21002 and 21002.1 of the Public Resources code, the Courts of this State have declared the following policies to be implicit in CEQA:

- (a) The EIR requirement is the heart of CEQA. (County of Inyo V Yorty, 32 Cal App. 3d 795)
- (b) The EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected. ( County of Inyo V. Yorty 32 Cal App. 3d 705).
- (c) The EIR is to inform other governmental agencies and the public generally of the environmental impact of a proposed project. ( No Oil Inc. V. City of Los Angeles, 13 Cal. 3d 68)
- (d) The EIR is to demonstrate to an apprehensive citizenry that the agency has in fact analyzed and considered the ecological implications of its actions. ( People ex rel Department of Public Works V. Bosio, 47 Cal App. 3d 495).
- (e) The EIR process will enable the public to determine the environmental and economic values of their elected and appointed officials thus allowing for appropriate action come election day should a majority of the voters disagree. ( People V. County of Kern, 39 Cal App. 3d 830)
- (i) 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 upon the correctness of an EIRs environmental conclusions, but only determines if the EIR is sufficient as environmental document. ( Kings County Farm Bureau V. City of Hanford (1990) 221 Cal App 3d 692)

O-1

Judge Cecily Bond, Superior Court of California at Sacramento Department 45 in the matter of El Dorado County Taxpayers for Quality Growth et al V. El Dorado County Board of Supervisors regarding the General Plan of El Dorado County stated.

" The goal of CEQA, however, is not necessarily to force changes in a project to make it more environmentally benign. Instead, the goal of the law is to promote full disclosure and public discussion of the environmental costs of a project and to require decision makers to set forth the full basis of actions that affect the environment so that the public will be able "to determine the environmental and economic values of their elected and appointed officials, thus allowing for appropriate action come election day should a majority of the voters disagree."  
(People v. County of Kern (1974) 39 Cal App. 3d 830,842."

O-1  
cont.

Judge Bond in this order found much of the General Plan was not supported by substantial evidence, facts or reasoned analysis and was , for those reasons a violation of CEQA in some 20 instances. Violations which did not disclose environmental impacts associated with the General Plan.

O-2

The EIRs assumption that Ambient Air Quality Monitors located 20 miles away at Cool and Placerville would provide data representative of Air Quality in the El Dorado Hills Valleys is unreal and misleading to the public. And fails in its effort at FULL DISCLOSURE.

The EIR for the Interchange, Chapter 5 Air Quality page 5-1 Affected Environment, Regional Climate tells us in paragraph 2

"The area experiences episodes of poor atmospheric mixing caused by inversion layers. Inversion layers are formed when temperature increases with elevation above ground or when a mass of warm dry air settles over a mass of cooler air near the ground. Surface inversions ( 0-500 ft ) are most frequent during winter and subsidence inversions ( 1,000 - 2,000 feet) are most frequent during summer. Inversion layers limit vertical mixing in the atmosphere, trapping pollutants near the surface."

O-3

There is a significant difference between the altitudes and air temperatures between Cool, Placerville and the project site in El Dorado Hills. Topography plays a role also as air may during an inversion be trapped longer in the El Dorado Hills valleys than at the other locations where monitors are located. Such trapped air would linger longer and cause problems with receptors.

El Dorado Hills, with an elevation of 622 ft is an entirely different Eco-system from Cool( elevation 1657 ft.) and Placerville ( elevation 1800-2,000 ft.) . Temperatures vary with location, and temperature affects inversion layers.

According to the Sacramento Bee of October 23, 1999 Western El Dorado County experienced 34 unhealthy days, so far, in 1999. while Sacramento County experienced 26 days of unhealthy air. 1997 the Clifornia Air Resources Board data shows 0 bad air days at the monitor at 1309 T St. in the City of Sacramento. And only 5 days of unhealthy Air in 1996. The Sacramento Metropolitan Air Quality Monitoring District people tell me that the City is attempting to change its designation to "in Comliance with State and Federal Standards".

O-4

How can this be, if the polluted air is blowing in from the Bay Area? Is the City of Sacramento in a pocket? Is El Dorado Hills in a pocket? Since data from Cool and Placerville is just about as far away as the City of Sacramento and on the floor of the Valley one would believe that air in Rancho Cordova or El Dorado Hills would be of a similar nature. How can this be?

O-5

It seems that Modeling air quality in the Valley ot the Sacramento would predict air quality in Rancho Cordova to be similar to the City of Sacramento, Which is much closer to Rancho Cordova than El Dorado Hills is to Cool or to PLacerville. The flat terrain should make a differance.

It is Clear that a monitoring Station is need in the El Dorado Hills area near the project site and data from this monitor used to evaluate the Ambient Air Quality of the Interchange Project. As well as the Interchange project nearly all of the development in the El Dorado Hills area have used data from remote monitors. Promontory used monitors at Folsom and Citrus Heights and stated that data from those monitors was not representative of air quality at their project site due to the differances in elevation and topography.

O-6

In the EIR page 5-3 the statement is made, and I quote.

" The El Dorado County APCD Air Pollution Control Officer has stated thati it would be economically unwise to conduct Air Quality monitoring at this location, because monitoring would not mitigate any air quality impacts associated with the project ( Duncan Pers. Comm.)".

O-7

This statement is misleading to the reader in that it implies that only those things which would mitigate air quality need be included into the EIR.

It completely ignores CEQAs requirement to FULLY INFORM the public of the environmental IMPACTS of the project,As an informational document the EIR in this instance falls far short of the law.

Which is the more economically feasible, Monitoring data in an area relevant and representative of the project area, or a Law Suit to force compliance with CEQA?

PM10

Table 5-2 Summary of Air Pollutant Monitoring Data tells us that in 1996 the highest 24 hour average for the year was 58 micrograms per cubic meter and that this occurred only one time during that year

We referred to California EPA Air Resources Boards California Air Quality Summary for the year 1996. On page 128 we find under Mountain Counties- El Dorado County, Placerville- Gold NU and find that this figure was based upon 59 observations during 1996 which would indicate that this monitoring data was collected an average of 1.1346 times per week for the year 1996. And only at the Placerville monitoring station.

O-8

There is no telling at which time of day or on which day of the week these samples were taken. But, based upon past performance of El Dorado Counties DOT when Sound studies were performed after the completion of the Negative Declaration for this same Interchange and made during non-peak hours during a week when U.S. Highway 50 was closed down due to mud slides in the mountains and the lack of pertinent data they used to divert traffic from Saratoga Way through Arrowhead Dr. in order to prevent a left turn, north onto El Dorado Hills Blvd. there is a great chance that these test for PM10 were done at an irrelevant time. The opportunities to manipulate this data are enormous, thus invalid. as well as non representative of PM10 at the project site.

According to the Sacramento Bee studies have shown that long term, possibly permanent damage from lower-level, longer exposure to Ozone can occur in the foothills due to a slower passage of Pollution through the foothills than is found in the valley. The lower levels are staying in the foothills longer.

O-9

to offset this the Federal Government has lowered the 8 hour allowable level of ozone from 0.12 PPM to 0.08 PPM. yet the EIR does not even list Federal Standards and instead uses the State one hour standard.

In Short- a monitor for Ambient Air Quality is needed in El Dorado Hills.

Noise

While it is appreciated that the quality of the noise study in the EIR is far superior to the Noise study previously completed for the Negative Declaration for this project (Draft) in 1997 it still leaves a couple of questions unanswered or evaded depending on how you view the questions.

O-10

First, concerns for the noise levels at home on the north side of Kings Canyon Dr. have not been addressed. And we can find little discernable difference in noise levels from the south side of the homes on Kings Canyon Dr.

As pointed out numerous times in the past, the cliff face on the south west side of U.S. Highway 50 do strange and marvelous things with the acoustics in the northwest quadrant and this seems to be an example.

O-

As well no mention has been made of that new phenominum the addition of aircraft over the northwest quadrant. The noise and pollution.

O-

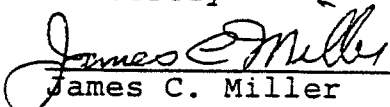
We note from Mitigation 4.3b that you intend to further sampling of sound levels exterior and interior of at least 25 % of the homes listed on Platt circle, Kings Canyon Dr. and in the Town houses. Eleveln of the seventeen homes are believed to be already fitted with double pane windows. As this fact may affect the treatment of those homes without double paned windows may we be advised as to which houses would be among the 25% sampled?

O-

Sound Wall. In placing the sound walls we note that you intend to utilize easement right of way. We have mentioned this before but it is good to re-emphasize, there is a sewer line through this easement at present and a manhole on the property on the south line of 956 Kings Canyon Dr.. I would not like to see County have to pull down the sound wall every time it desires to work on the sewer. But, that is your problem isn't it?

O-

Sincerely

  
James C. Miller  
956 Kings Canyon Dr.  
El Dorado Hills, Ca. 95762  
916-933-2230

**RESPONSES TO COMMENTS FROM JAMES C. MILLER,  
956 KINGS CANYON DRIVE (UNDATED)**

**Response O-1:** Comment noted.

**Response O-2:** Comment noted.

**Response O-3:** Commenter is correct that the altitudes differ between Cool, Placerville, and the project site in El Dorado Hills. There are no air quality monitoring stations in El Dorado Hills and the El Dorado County APCD has stated that it does not intend to install a monitor near the proposed project site. Consequently, we included air quality monitoring results for the nearest stations in El Dorado County, located in Cool and Placerville. An ozone monitoring station is also located in Folsom, at a lower elevation than El Dorado Hills. The ozone concentrations for the Folsom monitoring station show 1-hour high concentrations of 0.14 ppm in 1994, 0.16 ppm in 1995, and 0.16 ppm in 1996. Those concentrations are close to, but slightly higher than monitored ozone concentrations for Placerville and Cool. The conclusion that can be drawn from these monitoring results is that the proposed project is located in an area where annual exceedances of the state and federal ozone standards occur on an annual basis.

**Response O-4:** Comment noted.

**Response O-5:** The Sacramento area is currently classified as a severe nonattainment area for the state and federal ozone standards. The 1994 state implementation plan (SIP) describes the measures that will be enacted to meet the federal ozone standards by 2005. This plan is to include the entire Sacramento metropolitan area, including western El Dorado County.

**Response O-6:** Both the California Air Resources Board and the El Dorado County APCD were contacted about the use of monitors for this project. As stated on page 5-3 of the draft EIR/EA, both agencies stated that monitors were not needed at this location.

**Response O-7:** The air quality in the project vicinity would not be expected to differ substantially from the monitored results for the Cool and Placerville sites. Both indicate that the western portion of El Dorado County frequently exceeds the state and federal ambient ozone standards. The results of ozone monitoring for Folsom, summarized in Response O-3, shows slightly higher concentrations compared to those at higher elevations. The project site, located between Folsom and the Cool and Placerville monitoring stations, is expected to have ozone concentrations similar to the surrounding monitoring sites.

**Response O-8:** The PM10 data referred to by the reader was taken at a monitor for which samples are taken once every six days. For the Placerville PM10 monitoring station, the highest recorded PM10 concentration of 58 micrograms per cubic meter was collected on August 19, 1996. This is a 24-hour average sample, consequently, the time of day during which the sample was taken is not pertinent.

**Response O-9:** The federal government has issued an 8-hour ozone standard of 0.08 ppm, which is designed to protect the health and safety of individuals that could be exposed to lower levels of ozone concentrations over a longer time period. However, in a lawsuit filed by the American Trucking Association against the U.S. EPA (May 28, 1999), the 8-hour ozone standard has been invalidated. Consequently, the only ozone standards that currently apply are the 1-hour state (0.09 ppm) and 1-hour federal (0.12 ppm) standards. These standards are included in the draft EIR/EA in Table 5-1.

**Response O-10:** In accordance with standard procedures, it was assumed that the traffic noise levels on the north side of Kings Canyon Drive would be lower than on the south side as a function of increased distance from the roadways.

**Response O-11:** The effects of the embankments on the opposite side of the freeway on traffic noise levels were accounted for in the noise measurement and model calibration process.

**Response O-12:** Noise due to aircraft operating at Mather Field (now Mather Airport) has been documented in several other publications, and none of those predictions indicate that aircraft noise levels are in excess of 60 dB  $L_{dn}$  in the project vicinity. Therefore the aircraft noise is considered insignificant by comparison to the traffic noise. See also Response M-8.

**Response O-13:** See Response E-36. The homes tested to determine traffic noise reduction included those with and without dual-pane windows.

**Response O-14:** See Response H-9.

Kris

Sorry you failed  
to answer my calls.  
We may have been  
able to resolve some  
of my problems w/ the  
EIRO

I am enclosing this  
article for your  
information.

P-1

James Miller



# Environmental Concerns May Stall Long-Awaited Freeway Extension

By JESS BRAVIN

Staff Reporter of THE WALL STREET JOURNAL  
ALHAMBRA—To U.S. Rep. Matthew G. "Marty" Martinez, it's no great mystery why this San Gabriel Valley town suffers from such a wicked case of air pollution.

Here on Valley Boulevard, at the abrupt terminus of the Long Beach Freeway, cars and trucks pour off Interstate 710 and onto local streets. From there, they surge their way north for 6.2 miles until the freeway picks up again just outside the South Pasadena city limits. And in between, says Mr. Martinez, they clog intersections and idle at stop lights, sending "noxious fumes" to afflict schoolchildren, while exhaust coats homes with soot and grime.

It is in large part to alleviate such problems that Mr. Martinez and the state and federal transportation departments have vowed to complete the Long Beach Freeway—a plan first laid out four decades ago, but frustrated by dogged opposition from those who lie in the project's path: residents of the city of South Pasadena.

Last November, that fight finally seemed won after the Clinton administration announced it would give the 710 its blessing. The administration took a sudden interest in the interstate after Mr. Martinez, a Monterey Park Democrat, agreed to support the president's trade legislation.

The \$1.4 billion completion of the freeway—the last such project slated for Los Angeles County—"will not only make our streets safer for children, it will cut down on pollution," the congressman declared at the time. "The extension will resolve serious transportation and environmental problems that have plagued the area for years."

But, in the past few weeks, Mr. Martinez's hopes for the freeway have hit the skids again. At a meeting last Friday in Miami, a federal historic-preservation board raised the stakes in its effort to halt the project, which imperils turn-of-the-century homes in South Pasadena. That decision came on the heels of a letter in which the U.S. Environmental Protection Agency accused highway officials of failing to properly consider alternatives to the 710 extension.

And, in a development that could ultimately prove the greatest threat to the 710, pollution experts now say that state officials may have significantly underestimated the amount of smog the freeway will

**Freeway Snarl**  
State and federal highway officials are pushing to extend the 710 freeway. But environmental scientists suggest that the project could cause a significant increase in air pollution. Clearly concerned, Wilson administration aides inquired about the situation in a memo last summer.

**The Resources Agency**  
of California

Date: June 5, 1997  
To: Camden McEfee, Office of the Governor  
From: Michael Mantell, Undersecretary for Resources

Camden:  
...The bottom line, I think, is that the State is vulnerable on a CEQA challenge to the I-710 EIR. How vulnerable vs. moving forward with a 5+ year old EIR is the issue that CALTrans should intelligently grapple with.  
Feel free to follow-up directly with Doug and Maureen.  
Michael

give off. In fact, contrary to highway planners' claims, the completion of the interstate looks like it may add to—rather than help alleviate—the level of pollution in the area. And that could possibly violate the federal Clean Air Act.

"The questions are significant enough for EPA to take a look," says Mark Brucker, who heads transportation planning in the agency's regional air division in San Francisco.

State Transportation Department officials "don't want anything to interfere with projects moving forward," Mr. Brucker explains. But the specter of inaccurate pollution estimates, he warns, "has that potential."

### Flawed Emfac?

Indeed, opponents of the freeway extension are beginning to see the emissions issue as a potentially major roadblock to the project. And some suggest they're going to seize on it. "If there's credible scientific evidence that the emissions have been understated, we must investigate," says Democratic state Assemblyman Jack Scott, who represents South Pasadena. The prospect

that the pollution estimates are too low, he adds, is "very disturbing."

Pollution estimates in California are based on a formula known as "Emfac"—for emissions factor—that is regularly updated by the state Air Resources Board. In the case of the 710 extension, however, backers of the project have been citing out-of-date Emfac numbers, according to a leading scholar familiar with the data.

The environmental-impact statement for the 710 freeway, prepared in 1992 by the state Transportation Department, uses variables that "grossly underestimate emissions," says Matthew Barth, who directs transportation-systems analysis at the University of California-Riverside's Center for Environmental Research and Technology. Dr. Barth examined the air-pollution figures in the Caltrans environmental-impact statement at the request of The Wall Street Journal.

In 1996, Caltrans prepared a partial update to its environmental-impact report, using a more current Emfac model. It concluded that carbon-monoxide emissions

CONT'D.....

from the 710 will total more than originally projected—but not by much. Dr. Barth says, however, that the information supplied by the agency doesn't explain the basis for its conclusion, and may still underestimate emissions because it relies on shaky predictions of driver behavior.

For instance, Dr. Barth says, the data provided by Caltrans officials contain the flawed assumption that traffic will move at the 710's designated speed limit of 55 miles an hour.

Outside of rush hour, he says, real freeway speeds approach 70 mph. And under the latest Emfac model, a car traveling that fast would generate about 50% more hydrocarbons and roughly double the amount of carbon-monoxide and oxides-of-nitrogen (NOx) emissions than it would at 55.

Other experts agree. "There is a relationship between emissions and speed—and they do start to go up a lot after 55," says Mark Hansen, an associate professor of civil and environmental engineering at UC-Berkeley.

Meanwhile, Caltrans is also at fault because it overlooks "substantial academic evidence" that total traffic volume increases as the freeway system is expanded, says the EPA's Mr. Brucker. "Unfortunately, Caltrans generally tends to assume that the amount people drive is completely fixed and will not vary at all based on conditions."

Caltrans, however, says that its environmental assessment of the 710 extension is more than adequate. In a statement, the agency notes that it used "the latest approved" scientific models available at the time its reports were prepared. And they consistently showed "a reduction in overall air-quality emissions."

Still, at least some state officials appear to have had their doubts. In a confidential memorandum dated June 5, 1997, Resources Agency Undersecretary Michael Mantell warned Camden McEfee, deputy cabinet secretary to Gov. Pete Wilson, that out-of-date information in Caltrans environmental documents could leave the state open to legal action under the California Environmental Quality Act. The statute requires that environmental-impact reports, or EIRs, be completed before major construction projects are undertaken.

"The bottom line, I think, is that the state is vulnerable on a CEQA challenge to the I-710" Freeway environmental-impact report, Mr. Mantell wrote. "How vulnerable vs. moving forward with a 5+ year-old EIR is the issue that Caltrans should intelligently grapple with."

Mr. Mantell subsequently left the Wilson administration. His Sacramento law office says he is traveling and unavailable for comment.

Mr. McEfee declines to comment on the memo. But a spokesman for the governor, Ron Low, says that the issues raised were properly addressed by Caltrans.

"We asked Caltrans...to run all the

traps and make sure that the EIR was in compliance," Mr. Low says. Highway officials satisfied the governor's office "that the EIR is still good and no new supplemental EIR was needed," he adds. Therefore, "there should be no additional delay" in completing the 710.

But delay is suddenly a real possibility.

At last Friday's meeting in Miami, the Advisory Council on Historic Preservation, an independent federal panel dominated by Clinton appointees, voted 12-2 to ask the president to cancel the freeway extension.

The council had never before petitioned the president on any project, according to its executive director, John Fowler. But this time, he says, "the impacts on historic properties were so great they could not really be mitigated." The 710 threatens to cleave South Pasadena in half, flattening

remembered as the heroes who stopped this freeway," says Antonio Rossmann, a San Francisco attorney who represents South Pasadena. "The directive to other agencies has always been, 'Don't make waves for Federal Highways.' And now EPA has broken the loop of silence."

Although the EPA has no direct authority over transportation projects, Mr. Rossmann says, "Federal Highways has no choice but to honor this letter. If they refuse, it's almost certain a federal court will order them to do so."

The upshot, he predicts, will be the death of the freeway project. That's because in a new environmental-impact statement, agencies such as the California Air Resources Board will formally be asked their view of the situation. And that may well bring into the open a long-running dis-

**W** HILE THE HIGHWAY agencies had rejected a lower-impact alternative to the extension as unfeasible, an EPA official contends that the 'data and analysis' on which that conclusion rests are 'questionable in many respects'

tree-lined neighborhoods of hundreds of homes, dozens of which are designated as historic buildings.

The preservation council's vote followed a scathing assessment of the 710-extension plan issued by Felicia Marcus, the regional EPA administrator in San Francisco and Mr. Brucker's boss.

In a March 4 letter to her counterpart at the Federal Highway Administration, Julie Anna Cirillo, Ms. Marcus questioned the "purpose and need for the project." She added that state and federal highway officials had failed to sufficiently consider the "low-build" alternative being offered by South Pasadena. That proposal calls for a relatively short extension of the freeway, along with a series of traffic and public-transportation improvements.

While the highway agencies had rejected the South Pasadena alternative as unfeasible, Ms. Marcus contends that the "data and analysis" on which that conclusion rests are "questionable in many respects."

Taken together, Ms. Marcus wrote, "the scope and significance of the issues...are so compelling that" a new environmental-impact statement should be prepared. Such statements often take years and hundreds of thousands of dollars to put together.

The Federal Highway Administration didn't respond to requests for comment.

To South Pasadena, however, the EPA letter is cause for celebration. "Thirty years from now, the people at EPA will be

pute between state highway engineers dedicated to completing the 710 and Air Board specialists who believe current emissions models underestimate pollution.

Indeed, many pollution experts criticize the current Emfac models used by Caltrans "for systematic understatement of emissions," says Rob Harley, an assistant professor of civil and environmental engineering at UC-Berkeley.

Neither Caltrans nor the Air Board will comment on technical disagreements between staff. But Mr. Brucker of the federal EPA says it's an open secret that the Air Board "has been interested in improving the models"—and Caltrans officials have resisted.

The disagreements, Mr. Brucker recounts, have sometimes been heated. "To call them 'discussions' would be a very polite way to put it," he says.

Talk of further pollution studies, however, leaves 710 project supporters like Rep. Martinez fuming. "There have been more environmental-impact studies on that project than any other in history," he says. "How much study do you do?"

Since his days on the Monterey Park Planning Commission more than 20 years ago, Mr. Martinez has longed for completion of the freeway so that traffic in the cities below South Pasadena would ease. Instead, Alhambra was left with an ugly interstate stump.

"This has gone on for four decades," Mr. Martinez sighs. "Who builds a freeway to nowhere? If that was the plan, they never should have started it." XXX

## RESPONSE TO COMMENT FROM JAMES MILLER (UNDATED)

**Response P-1:** Comment noted. This comment does not relate to the adequacy of the draft EIR/EA. Therefore, no further response is required.

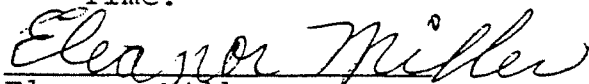
El Dorado County  
Department of Transportation  
Attn: Kris Payne  
Supervising Civil Engineer  
2850 Fairlane Court  
Placerville, CA. 95667

Re:Draft, Environmental Impact Report/  
Environmental Assessment for the  
U.S. Highway 50/ El Dorado Hills Blvd.-  
Latrobe Road Interchange.

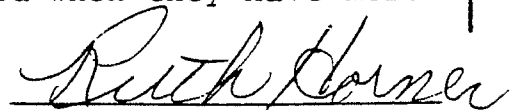
Comments

The EIR is inadequate and misleading in regard to air quality in El Dorado Hills.

- 1...We are classified county wide as severe non-attainment for State and Federal ozone standards. The freeway ramp and the opening of Saratoga to Folsom will certainly add to the problem. How do you propose to meet the deadline on clearing up the air if you keep adding more traffic to the area? Q-1
- 2...In your document you stated that CO concentration is now estimated at 8.4 ppm for the peak traffic period. Can you assure us that adding all the future construction such as light rail and heavy rail plus heavy traffic will not raise the CO level over 9ppm? Q-2
- 3...There are ten cases (10) of cancer that we know of in Park Village. Why won't you put in an air monitor near the freeway ramp so that we can at least see if there are canaer causeing agents affecting our health here in the area. Q-3
- 4...When you survey 25% of the homes for noise levels will you use the homes that do not have dual pane windows and leave out those with dual pane windows? Q-4
- 5...The monitoring stations used for data were in Placerville and Cool. It is a known fact that the air is worse right around Folsom Lake than at these far off monitoring Stations. Can this really give us a true picture of air quality in El Dorado Hills? Q-5
- 6...The period to review the EIR was from November 15,1999 to December 30,1999. I believe that you picked this time period so that people would not have time to review the EIR thoroughly due to it being the holiday season. Therefore I request a forty-five (45) day extention so that people can analyze the document during a period when they have more Time. Q-6



Eleanor Miller  
956 kings Cyn. Dr.  
El Dorado Hills CA. 95762



Ruth Horner  
958 Kings Cyn Dr.  
El Dorado Hills CA.

**RESPONSES TO COMMENTS FROM ELEANOR MILLER, 956 KINGS CANYON DRIVE, AND RUTH HORNER, 958 KINGS CANYON DRIVE (UNDATED)**

**Response Q-1:** The commenter is correct that the Sacramento metropolitan area is classified as nonattainment for the state and federal ozone standards. SACOG is responsible for developing transportation plans for the Sacramento area. SACOG must also demonstrate that the mobile source emissions associated with those transportation plans do not exceed the emissions budgets for the region. The emission budgets cannot be exceeded because they are based on estimates of the carrying capacity of the air basin. Consequently, no regionally important transportation facilities can be built unless SACOG can demonstrate that its transportation plans will not result in violations of the CO standards. See also Response E-44.

**Response Q-2:** CO modeling includes CO emissions from on-road vehicles plus background CO concentrations from other sources not included in the modeling. Although construction activities will result in CO emissions, construction activities are expected to be short-term and would not result in long-term CO problems. The highest future year predicted 1-hour CO concentration equaled 7.6 ppm as compared to the 1-hour California standard of 20 ppm. The highest 8-hour CO concentration equaled 5.0 as compared to the 8-hour California and federal ambient standard of 9 ppm. The estimated concentrations are based on worst-case assumptions regarding meteorology and actual concentrations are expected to be less than estimated.

**Response Q-3:** See Response O-6.

**Response Q-4:** See Response O-13.

**Response Q-5:** See Response O-3.

**Response Q-6:** The public review period for the draft EIR/EA met the requirements of Section 777.119(f), 23 Code of Federal Regulations (FHWA National Environmental Policy Act Regulations) and Section 15105(a) of the CEQA Guidelines. All comments received to date on the draft EIR/EA have been responded to in writing and are included in this report.

Kenneth & Mary West  
357 Platt Circle  
El Dorado Hills, CA 95762  
(916) 939-1582

Kris Payne  
El Dorado county Dept. of Transportation  
2850 Fairlane Ct.  
Placerville, CA 95667

Re: EIR Draft

We are Crescent Ridge Village homeowners in El Dorado Hills. Our home is located on Lot #14 of the Draft. We are writing this letter to address our concerns regarding the EIR Draft and the land use issues in the area directly behind our home.

It is our understanding that "improvements" include a four-lane road from El Dorado Hills Blvd. to the city of Folsom running between Highway 50 and our backyard. This is totally unacceptable to us. We purchased our home in 1994 and freeway plans were never disclosed to us. Had we been aware of these major changes, we certainly would not have purchased this home...or any home located in Crescent Ridge Village. However, we were willing to accept the noise level from the freeway as it was at that time and assumed that with proper landscaping techniques (we have planted over 160 trees) the noise level would be minimal. Now it seems that we are faced with increased noise from four lanes of frontage road AND two additional lanes on Highway 50 (diamond lanes?).

R-1

The following are our reasons for contesting this horrible surprise:

1. The noise and pollution levels will be intolerable. R-2
2. Our financial well-being is at risk. We expected to gain equity in our property-not loose it! The equity in this home was to be our retirement. R-3
3. We had no previous knowledge of the noise and pollution level. R-4
4. We purchased our house with the intention on living in it indefinitely. Our peace and quiet will be profoundly affected. R-5
5. Our concerns and those of our neighbors have been all but ignored in the past. There has been absolutely no compromise from El Dorado County. R-6
6. Due to the position of our home in relation to the "new" frontage road, we will have an even higher noise level due to the traffic gaining speed up the hill (heading west) and braking on the down hill (heading east). R-7
7. Even if a sound wall were built behind our house, the increase in pollution levels will always have a negative impact on our quality of life. R-8

RECORDED

DEC 23 1996

Page 2

Please include in the EIR Final Draft a test to determine noise levels inside as well as outside our home.

R-9

Please reconsider your plans to destroy our investment.

Sincerely,



Kenneth & Mary West

C: Kim Ryan

**RESPONSES TO COMMENTS FROM KENNETH AND MARY WEST,  
357 PLATT CIRCLE (UNDATED)**

**Response R-1:** The proposed project does not include widening Saratoga Way to 4 lanes or extending it to the City of Folsom. The County may consider this improvement in the future, as explained under Impact 7.3. See also Response E-62 and J-3.

**Response R-2:** Noise impacts related to the proposed project are described in Chapter 4 of the draft EIR/EA. Air quality impacts related to the proposed project are described in Chapter 5 of the draft EIR/EA.

**Response R-3:** See Response E-13.

**Response R-4:** Comment noted.

**Response R-5:** Comment noted. See Response R-2.

**Response R-6:** Comment noted.

**Response R-7:** The commenter's residence at 357 Platt Circle is receptor number 14 in Tables 4-7 and 4-8 of the draft EIR/EA. According to these tables, the commenter will not experience any increase in noise levels as compared to no-project conditions in 2005 and 2020.

**Response R-8:** The footnotes to Tables 4-9, 4-10, and 4-11 indicated that a noise barrier on the western leg of Platt Circle (receptors 14-17) would not be effective in reducing noise because these homes are elevated and would not break the line of sight between noise source and receiver. See also Response R-2.

**Response R-9:** See Response E-36.



# ENVIRONMENTAL MANAGEMENT DEPARTMENT

ENVIRONMENTAL HEALTH DIVISION

AIR POLLUTION CONTROL DISTRICT

SOLID WASTE & HAZARDOUS MATERIALS DIVISION

COUNTY OF  
EL DORADO



MAIN OFFICE  
2850 Fairlane Court  
Placerville, CA 95667  
(530) 621-5300

SOUTH LAKE TAHOE OFFICE  
3368 Lake Tahoe Blvd. #303  
South Lake Tahoe, CA 96150  
(530) 573-3450

January 31, 2000

Mr. Kris Payne, Supervising Civil Engineer  
El Dorado County Department of Transportation  
2850 Fairlane Court  
Placerville, CA 95667

**SUBJECT: Notice of Completion of a Draft Environmental Impact Report/Environmental Assessment for the U.S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange Project**

Dear Mr. Payne:

The El Dorado County Air Pollution Control District (District) has been asked to express comments which identify our concerns regarding the **Notice of Completion of a Draft Environmental Impact Report/Environmental Assessment for the U.S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange Project** dated November 1999. The project involves: reconstructing the El Dorado Hills Boulevard-Latrobe Road interchange on Highway 50; improving the vertical and horizontal alignment of the interchange on- and off-ramps; providing an additional lanes to accommodate exclusive turn lanes at the intersections; providing dual left-turn lanes at the eastbound and westbound on-ramp intersections and realigning Saratoga way to interest with Park Drive to address the existing spacing problem.

El Dorado County violates the state and federal ambient air quality standard for the criteria pollutant ozone at the Western Slope area of the county. As of June 1, 1995, El Dorado County nonattainment area classification status for ozone has been reclassified from a "serious" to a "severe" ozone nonattainment area (40 CFR [Code of Federal Regulations] Part 81 CFR Update Service). Monitoring data from the California Air Resources Board have indicated the town of "Cool" to have the highest ozone concentration in the Sacramento Metro area. The county violates state ambient air quality standard for the criteria pollutant fine particulate matter (PM10) at both the Western Slope and South Lake Tahoe area of El Dorado County. The California Clean Air Act of 1988 requires the state's air pollution control program meet the state's ambient air quality standards. The efforts of the District are focused primarily on attainment of state and federal ambient air quality standards for criteria air pollutants.

The District has completed its review of the **Notice of Completion of a Draft Environmental Impact Report/Environmental Assessment for the U.S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange Project** dated November 1999. The District provided a list of issues and concerns in previous letters dated December 31, 1996 and August 13, 1998 and should be considered in the preparation of the environmental impact report. Implementation of the proposed project may significantly impact the Districts ability to meet and maintain State and Federal ambient air quality standards.

S-1

S-2

**RECEIVED**

FEB 02 2000

3-144

EL DORADO COUNTY  
DEPT. OF TRANSPORTATION

According to Appendix G of the State CEQA Guidelines states, a project will normally have a significant effect on the environment if it will:

1. Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system; S-3
2. Violate any ambient air quality standard, contribute substantially to an existing or projected air quality violation, or expose sensitive receptors to substantial pollutant concentrations. S-3

The construction phase has the potential to create an increase in traffic and exceed the Districts daily threshold level for ROG, Nox and PM10, thus meets the criteria as having a significant effect on the environment. El Dorado County's Clean Air Act Plan lists a menu of mitigation measures for project design construction. The District would like additional information to determine that the application is complete. The mitigating effects of the project will not be realized without detailed guidelines and standards to protect and enhance air quality. Therefore, the project must include the additional information in order for an environmental impact report to accurately identify and quantify the significance of the project impacts: S-4

1. Project construction may involve grading and excavation operations which will result in a temporary negative impact on air quality with regard to the release of particulate matter (PM<sub>10</sub>) in the form of dust. District Rule # 223 addresses the regulation and mitigation measures for fugitive dust emissions—Rule 223 shall be adhered to during the construction process. In addition, a **fugitive dust prevention and control plan shall be submitted to and approved by the District prior to beginning project construction.** S-5
2. Project construction may involve road development and **should adhere to District Rule 224 Cutback and Emulsified Asphalt Paving Materials.** S-6
3. The project construction may involve the application of architectural coating, which shall adhere to District Rule 215 Architectural Coatings. S-7
4. If an air contaminant is expected to be generated by the project, it must be identified. One potential air contaminant, which has been identified as a toxic air contaminant by the State Air Resources Board, is asbestos containing serpentine. S-8  

If it is determined that an air contaminant is being emitted then a health risk assessment should be prepared by the project applicant. S-9

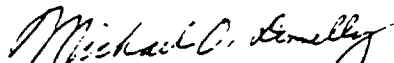
If present, what mitigating measures will be taken to control the drifting of the air contaminant to a sensitive receptor site(s) if found above an acceptable level? S-10
5. Burning of wastes that result from "Land Development Clearing" must be permitted through the DISTRICT. Only vegetative waste materials may be disposed of using an open outdoor fire. S-11

6. If there is an additional increase of in/out traffic from the project then long-term emissions data must be determined. Long term emissions are direct emissions generated by the project operation and the indirect emissions induced by the operation, the latter caused principally by the use of motor vehicles. El Dorado County is classified as nonattainment for ozone (O<sub>3</sub>) and particulate matter (PM<sub>10</sub>); therefore, the impact of this operation on long-term attainment status needs to be determined. Computer modeling should be used to make this assessment. Models URBEMIS #5 and CALINE 4 should be used for this purpose and are available from the California Air Resources Board. S-12
7. If there is an additional increase of in/out traffic from the project then a local scale analysis data must be determined. Local scale analysis is an estimate of the operation's air quality impact in the vicinity of the operation. Carbon monoxide (CO) is the primary concern regarding this analysis. CO impacts may be determined using CALINE 4. S-13
8. If there is an additional increase of in/out traffic from the project then a corridor analysis data must be determined. Corridor analysis should include the expected change in emissions for the affected transportation corridor, which may result from a significant change in level of service of local roadways, freeways, and/or arterials. S-14
9. If there is an additional increase of in/out traffic from the project then cumulative impacts must be determined. Cumulative impacts are impacts on the ambient air that result from the incremental impact of the operation when added to other past, present, and reasonably foreseeable future development activities. S-15
10. The project applicant should encourage the public to utilize mass transit by making available bus stops with shelters (passengers should be able to see and be seen by approaching transit vehicles). Having this service in close proximity to project neighborhoods would reduce travel distances and mobile source pollutants. This is consistent to the Non-Motorized Transportation System (NMTS) section, Goal 3.11; Air Quality section, Goal 6.7; and Land Use Policy 2.1.4.4, Goal 2.1 of the El Dorado County General Plan. S-16

The above District rules are found in the El Dorado County Air Pollution Control District Rules and Regulations. A copy is available at your Department. If you have any questions regarding these comments, please call our office at (530) 621-6662. S-17

Respectfully,

Dennis Otani, Program Manager  
Air Pollution Control District



Michael O. Donnelly, Senior Air Quality Specialist; REHS #5501  
Air Pollution Control District

MD:md

H: noticeofcompletionofadraftenvironmentalimpactreportedhushy50

**RESPONSES TO COMMENTS FROM THE COUNTY OF EL DORADO  
ENVIRONMENTAL MANAGEMENT DEPARTMENT,  
AIR POLLUTION CONTROL DISTRICT (JANUARY 31, 2000)**

**Response S-1:** Comment noted.

**Response S-2:** The previous comments submitted by the El Dorado County APCD have been addressed in the draft and final EIR/EAs.

**Response S-3:** The State CEQA guidelines referred to have been used in the draft EIR/EA to determine the significance of the project's air and traffic impacts.

**Response S-4:** The mitigation measures proposed by the air district applicable to this project have been included in the draft EIR/EA.

**Response S-5:** The draft EIR/EA and the proposed mitigation measures include steps that must be taken to minimize construction emissions, including the preparation of a dust mitigation plan (see also the last paragraph on page 5-5 of the draft EIR/EA).

**Response S-6:** The proposed project will involve road development and, consequently, the project applicant will be required to comply with District Rule 224 Cutback and Emulsified Asphalt Paving Materials (see also the last paragraph on page 5-5 of the draft EIR/EA).

**Response S-7:** The project is unlikely to result in the use of significant amounts of architectural coatings. However, the project applicant would have to comply with District Rule 215 whenever architectural coatings need to be applied (see also the last paragraph on page 5-5 of the draft EIR/EA).

**Response S-8:** See Response E-43 for a discussion of asbestos. The project applicant would be required to comply with the most current asbestos ordinance in effect at the time that construction is initiated. Other air toxics that would be emitted during project construction include diesel exhaust, recently classified by the California Air Resources Board as a toxic air contaminant. The California Air Resources Board has not yet developed a methodology for assessing the health risks associated with exposure to diesel engine exhaust.

Motor vehicles using the interchange have also been implicated as generators of toxic air contaminants. The toxic air contaminants of particular concern in motor vehicle exhaust include benzene, formaldehyde, 1-3 butadiene, acetaldehyde, and diesel particulate matter. See Response E-98.

**Response S-9:** See Response E-43 for a discussion of asbestos issues associated with this project. See Response S-8 regarding diesel exhaust particulate matter from heavy-duty construction

equipment. See Responses E-97 and E-98 regarding the evaluation of health risks associated with on-road motor vehicle exhaust.

**Response S-10:** See Response S-8.

**Response S-11:** Construction of the project would not result in the burning of wastes. Consequently, the project applicant does not envision the need for obtaining such a permit to burn wastes.

**Response S-12:** This project is not a land use development project that would generate added vehicle trips. Consequently, there is no in/out traffic associated with the project. Computer modeling of motor vehicle emissions was used to estimate ambient CO concentrations, especially for the project elements that would bring motor vehicle traffic closer to sensitive receptors such as residences. URBEMIS5 was not used for this project because the project is not considered to be a trip generator.

**Response S-13:** The CALINE4 model was used to estimate CO concentrations at nearby sensitive receptors. The results of the CO analysis are summarized in Chapter 5, "Air quality", of the draft EIR/EA. See Response S-12.

**Response S-14:** The air quality analysis in the draft EIR/EA addresses the corridor wide impacts of the proposed project. See Response S-12.

**Response S-15:** The air quality analysis in the draft EIR/EA addresses the cumulative effects of the proposed project. See Response S-12.

**Response S-16:** Neither the proposed project nor project alternatives currently include plans for a transit stop within the project's boundaries. However, a transit stop exists at the Raley's shopping center and a multi-modal station exists at the Latrobe Road/White Rock Road intersection. The decision to add transit stops is based on a cooperative effort by the El Dorado County Transit Authority and Department of Transportation. Neither agency believes additional transit stops are warranted.

**Response S-17:** Comment noted.

## Chapter 4. Errata

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This chapter shows all revisions to all chapters of the draft EIR/EA with the exception of revisions to the summary table (Table 3-1 of the draft EIR/EA entitled “Impacts of U.S. Highway 50/El Dorado Hills Boulevard–Latrobe Road Interchange Project”). Revisions to the summary table are contained in Chapter 2 of this report. Text in standard print is original draft EIR/EA text, text in italics is added text, and text that is struck out is deleted text. Errata are organized by draft EIR/EA chapters. Chapters for which there are no errata are not identified below. Figures from the draft EIR/EA that have been revised are contained at the end of this chapter.

### CHAPTER 1. INTRODUCTION

On page 1-1, add a sixth bullet as follows:

- . . . , and
- realigning Saratoga Way to intersect with Park Drive to address the existing spacing problem between the westbound on-ramp and the Saratoga Way/El Dorado Hills Boulevard intersection; and
- *realigning Mammouth Way to intersect with realigned Saratoga Way.*

On page 1-2 , last paragraph, fourth sentence, make the following change:

An ~~Preferred~~ alternative (*Alternative 3A with Saratoga Way being relocated as a tangent alignment adjacent to the existing residences in the northwest quadrant of the interchange*) was selected by the County staff in February 1996, and a Mitigated Negative Declaration was circulated for public review in November 1996.

## CHAPTER 2. DESCRIPTION OF THE PROPOSED PROJECT AND ALTERNATIVES TO THE PROJECT

On page 2-1, add a sixth bullet as follows:

- providing dual left-turn lanes at the eastbound and westbound on-ramp intersections, ~~and~~
- realigning Saratoga Way to intersect with Park Drive to address the existing spacing problem between the westbound on-ramp and the Saratoga Way/El Dorado Hills Boulevard intersection, *and*
- *realigning Mammouth Way to intersect with realigned Saratoga Way.*

On page 2-2, third paragraph, fourth sentence, make the following changes:

Two public meetings were held to consider which of these alternatives should be selected as the ~~P~~preferred ~~A~~alternative: an open house meeting held in El Dorado Hills in October 1995 and a presentation of viable alternatives at a Board of Supervisors meeting in December 1995. ~~An Preferred A~~alternative was selected by El Dorado County (County) on February 1, 1996 (Alternative 3A, with Saratoga Way ~~aligned as a tangent alignment~~ immediately adjacent to the existing townhomes in the northwest quadrant of the interchange).

On page 2-2, last paragraph, first sentence, make the following changes:

The County Board of Supervisors met ~~three times~~ *twice* during January and February of 1997 to consider approval of the Mitigated Negative Declaration . . .

On page 2-2, last paragraph, second sentence, make the following changes:

. . . as a result of DOT's identification of concerns raised by the public regarding selection of the *alternative with Saratoga Way as a tangent alignment Preferred Alternative*, . . .

On page 2-3, first full paragraph, third sentence, make the following change:

Alternative E was developed as a result of the community outreach effort and contains the same ramp configurations as Alternative 3A; however, the westbound U.S. Highway 50 on-ramp geometrics are more compact to increase the distance between the ramp improvements and the townhomes located in the northwest quadrant.

On page 2-5, add a sixth bullet as follows:

- . . . and
- realigning Saratoga Way to intersect with Park Drive to address the existing spacing problem between the westbound on-ramp and the Saratoga Way/El Dorado Hills Boulevard intersection, *and*
- *realigning Mammouth Way to intersect with realigned Saratoga Way.*

On page 2-11, change the second header as follows:

**Alternative I: Former Alternative 3 with Saratoga Way Tangent Alignment Alternative**

On page 2-12, change the header as follows:

**Alternative II: New Interchange Configuration  
(Former Alternative 2 with S Curve Alignment)**

**CHAPTER 4. NOISE**

On Table 4-4 (follows page 4-4), make the following change:

Table 4-4. Existing Traffic-Noise Levels at Receiver Locations

Receiver	Location/Land Use	Predicted Existing Traffic-Noise Levels	
		dB L <sub>dn</sub>	dB L <sub>eq</sub>
<b>Northwest Quadrant</b>			
13A	Residential	67	66

On pages 4-7 and 4-8 make the following changes to Mitigation Measure 4.1:

**Mitigation Measure 4.1: Employ Noise-Reduction Construction Measures**

The following measures shall be incorporated into contract specifications to reduce the impact of construction noise to a less-than-significant level:

- *Interchange Construction:* Unless required by Caltrans, restrict construction within 1,000 feet of residences to daytime hours. Unless required by Caltrans, no construction



shall be performed within 1,000 feet of an occupied dwelling unit on Sundays, legal holidays, or between the hours of 9:00 p.m. and 6:00 a.m. on other days. Any variance from this condition must be approved by the County. Where Caltrans requires construction during nighttime hours, construction activity shall be staged so that it does not occur over an extended period of time (i.e., more than 14 days at a time).

*Saratoga Way and Noise Barrier Construction: Same as above except that no construction shall be performed on Saturdays between the hours of 5 p.m. and 8 a.m., unless approved in advance by the County.*

On Table 4-7 (follows page 4-9), make the following change:

Table 4-7. Year 2005 Traffic-Noise Levels at Receiver Locations  
With and Without the Proposed Interchange and Roadway Improvements

Receiver	Land Use	Year 2005 No Project Alternative		Year 2005 Preferred Alternative	
		dB L <sub>dn</sub>	dB L <sub>eq</sub>	dB L <sub>dn</sub>	dB L <sub>eq</sub>
<b>Northwest Quadrant</b>					
13A	Residential single Family	69	68	69	68

On page 4-10, make the following changes to Mitigation Measure 4.3b:

**Mitigation Measure 4.3b: Evaluate the Interior Noise Levels of Residences and Improve the Acoustical Insulation to Result in Interior Noise Levels Below 45 dB Ldn or 52 dB Leq** *Install dual-pane glazing with a Sound Transmission Class (STC) rating of at least 30 in the second-story rooms of those residences adjacent to the proposed project that have single-pane windows facing the proposed project.*

~~Subsequent to completion of the proposed project and installation of sound barrier mitigation, the County shall hire a qualified acoustical consultant to conduct a detailed acoustical analysis of traffic noise reduction of the building facades of residences in the project area exposed to traffic noise in excess of 60 dB Ldn. The analysis shall include sampling of exterior and interior sound levels of at least 25% of the affected residences. The analysis shall include simultaneous interior and exterior traffic noise measurements of second-story rooms facing the roadway improvement project site and evaluation of ground-floor rooms where barriers do not reduce exterior levels to 60 dB Ldn or less. Measured exterior to interior noise reduction factors for buildings facades shall be applied to the future predicted traffic noise levels to determine the predicted future interior traffic noise levels. If future predicted traffic noise levels exceed the 45 dB Ldn or 52 dB Leq interior noise level criteria, the County shall determine and implement facade construction improvements to reduce interior noise levels to below 45 dB Ldn or 52 dB Leq. Potential facade improvements to be implemented and funded by the County include replacement of windows and sliding glass doors with acoustically rated windows and doors, treatment of exterior to interior vents to reduce sound transmission, adding mass to facade walls, and installing fresh air ventilation systems to allow windows and doors to remain closed.~~

*Acoustical glazing will be installed in those second-story rooms with single-pane windows in the first row of homes that are adjacent to either Highway 50 or El Dorado Hills Boulevard. The first row of homes with second stories is listed below:*

- |                |                        |                  |
|----------------|------------------------|------------------|
| ■ Receptor 1   | 3881/3883 Scenic Court | both two stories |
| ■ Receptor 2   | 3889/3891 Scenic Court | both two stories |
| ■ Receptor 3   | 3905 Hills Court       | two story        |
| ■ Receptor 4   | 3915 Hills Court       | two story        |
| ■ Receptor 5   | 970 Kings Canyon Drive | two story        |
| ■ Receptor 7   | 956 Kings Canyon Drive | two story        |
| ■ Receptor 9   | 940 Kings Canyon Drive | two story        |
| ■ Receptor 10  | 703 Platt Circle       | two story        |
| ■ Receptor 11  | 705 Platt Circle       | two story        |
| ■ Receptor 13A | 721 Platt Circle       | two story        |
| ■ Receptor 14  | 357 Platt Circle       | two story        |
| ■ Receptor 15  | 365 Platt Circle       | two story        |
| ■ Receptor 16  | 377 Platt Circle       | two story        |
| ■ Receptor 17  | 379 Platt Circle       | two story        |

All of the windows of the affected rooms will be replaced, unless otherwise requested by the homeowner. Windows will be replaced on a like-for-like basis. That is, the window configuration, size, and style will be the same as the original windows.

Acceptable windows must have been acoustically tested by a qualified acoustical laboratory and must have an STC rating of at least 30. The homeowner will have the option of selecting the window supplier from a list supplied by the County.

This measure shall be implemented and funded by the County. FHWA and Caltrans will not participate in the initial and/or maintenance costs of ~~any insulation measures proposed.~~ *this measure.*

On Table 4-8 (follows page 4-11), make the following change:

Table 4-8. Year 2020 Traffic-Noise Levels at Receiver Locations  
With and Without the Proposed Interchange and Roadway Improvements

Receiver	Land Use	Year 2020 No Project Alternative		Year 2020 Preferred Alternative	
		dB L <sub>dn</sub>	dB L <sub>eq</sub>	dB L <sub>dn</sub>	dB L <sub>eq</sub>
<b>Northwest Quadrant</b>					
13A	Residential Single Family	70	69	70	69

On page 4-14, Table 4-9, make the following change:

Table 4-9. Predicted U.S. Highway 50 Right-of-Way and  
Westbound On-Ramp Hinge Wall Barrier Effectiveness  
(Year 2020 Preferred Alternative)

Receiver	Location	dB L <sub>eq</sub> /L <sub>dn</sub> without Barrier	Predicted dB L <sub>eq</sub> /L <sub>dn</sub>		
			10-Foot Barrier	12-Foot Barrier	14-Foot Barrier
R13a	Platt Circle	69/70	63/64	63/64	62/63

On page 4-15, Table 4-10, make the following change:

Table 4-10. Predicted Property Line Barrier Effectiveness  
(Year 2020 Preferred Alternative)

Receiver	Location	dB $L_{eq}/L_{dn}$ without Barrier	Predicted dB $L_{eq}/L_{dn}$		
			10-Foot Barrier	12-Foot Barrier	14-Foot Barrier
R13A	Platt Circle	69/70	62/63	60/61	59/60

On page 4-16, Table 4-11, make the following change:

Table 4-11. Predicted Combined Right-of-Way/Property Line Barrier Effectiveness  
(Year 2020 Preferred Alternative)

Receiver	Location	dB $L_{eq}/L_{dn}$ (dB) without Barrier	Predicted dB $L_{eq}/L_{dn}$		
			8'/10' Barrier <sup>a</sup>	10' Barrier	12' Barrier
R13A	Platt Circle	69/70	10' 62/63	63/64	63/64

On page 4-17, make the following change to Mitigation Measure 4.5b:

**Mitigation Measure 4.5b: Evaluate the Interior Noise Levels of Residences and Improve the Acoustical Insulation to Result in Interior Noise Levels Being Below 45 dB L<sub>dn</sub> or 52 dB L<sub>eq</sub> Install dual-pane glazing with an STC rating of at least 30 in the second story rooms of those residences adjacent to the proposed project that have single-pane windows facing the proposed project.**

Refer to the discussion under Mitigation Measure 4.3b.

## CHAPTER 6. VISUAL RESOURCES

On page 6-7, second bullet, make the following change:

**Recommendation 6.1:** Implement screening and limit work hours to reduce construction impacts on residences near Saratoga Way.

Although the impact on the local viewshed from construction activities is considered less than significant, the following measures are recommended to further reduce the magnitude of the impact:

- Hours for construction for the realignment of Saratoga Way should be limited to *the hours specified in Mitigation Measure 4.1* ~~weekdays from 7:00 a.m. to 5:00 p.m. to avoid visual disruption to adjacent residents during typical nonworking hours.~~

On page 6-9, second line, make the following change:

Earthen berms should be setback a minimum of 7.7 meters (25 feet) from the property line and have slopes no steeper than 3:1.

On page 6-9, second bullet, third sentence, make the following change:

Costs incurred by the resident for designing and implementing approved screening plans should be reimbursed by the County El Dorado up to \$1,500 per dwelling unit (*a commensurate amount would be applied to common ground areas in the Park Village townhomes; approved screening plans would be implemented by the townhome association*) as compensation for out-of-pocket expenses incurred by residents choosing to implement such screening plans.

## CHAPTER 7. TRAFFIC AND CIRCULATION

On page 7-5, second paragraph, make the following change:

### Acceptable Levels of Service

Based on Policy 3.5.1.1 of the El Dorado County General Plan, the acceptable level of service for county roadways and intersections is LOS C (because the 2015 Capital Improvement Program would result in LOS C or better operations on the study segments of El Dorado Hills Boulevard, and Latrobe Road, ~~and Saratoga Way~~). *The acceptable level of service for Saratoga Way is assumed to be E since this project assumes a two-lane Saratoga Way in 2015, not a four-lane Saratoga Way as assumed in the 2015 Capital Improvement Program.*

On page 7-11, second paragraph, make the following change:

The following thresholds are applicable to the study locations based on Objective 3.5.1 (~~Policy 3.5.1.1 does not apply since the County has not adopted a roadway plan.~~)

- LOS E for Saratoga Way; *the County's roadway plan assumed four lanes on Saratoga Way based on the County's General Plan which would result in LOS C on Saratoga Way in 2015. However, because this project assumes two lanes on Saratoga Way in 2015, based on the County Board of Supervisor's direction, LOS E is assumed as the level-of-service threshold on Saratoga Way. If and when the County Board of Supervisors decides to widen Saratoga Way to four lanes in the future, it would occur as a separate action, unrelated to this project.*

On page 7-13, bottom paragraph, make the following change:

Interim (2005) traffic forecasts were developed by linearly interpolating between the existing traffic volumes and the cumulative traffic forecasts. Figures 7-3 and 7-4 display peak-hour traffic forecasts for the preferred interchange alternative under interim (2005) and cumulative (2020) conditions, respectively. *See also the "Traffic Forecasts" section in Chapter 14, "Cumulative Impacts, Growth-Inducing Impacts, and Other Requirements", for a discussion of the General Plan litigation, Writ of Mandate, and revised traffic forecasts. (This section has been expanded in the errata to page 14-2.)*

On page 7-14, second set of bullets, third bullet, make the following change:

- Extend Saratoga Way west as a two-lane roadway to the City of ~~connect with the Iron Point Road extension in Folsom.~~ The El Dorado . . .

On page 7-16, make the following changes to Tables 7-9 and 7-10:

Table 7-9. Mainline U.S. Highway 50 Peak-Hour Levels of Service - Interim (2005) Conditions

Direction	A.M. Peak Hour		P.M. Peak Hour	
	Density (pcpmp)	Level of Service	Density (pcpmp)	Level of Service
Eastbound - west of interchange	16	C <sup>1</sup>	*	F <sup>3</sup>
Eastbound - east of interchange	18	C <sup>1</sup>	*	F <sup>2</sup>
Westbound - east of interchange	*	F <sup>2</sup>	20	C <sup>1</sup>
Westbound - west of interchange	*	F <sup>3</sup>	22	C <sup>1</sup>

Notes: pcpmp = passenger cars per mile per lane.

\* = Demand flow exceeds capacity.

These results apply to both the No Project and Preferred Alternatives.

*Under the Writ of Mandate approved by the County Board of Supervisors, the level of service would be:*

<sup>1</sup> LOS B

<sup>2</sup> LOS E

<sup>3</sup> LOS D

Table 7-10. Ramp Junction Peak-Hour Levels of Service - Interim (2005) Conditions

Ramp	Level of Service			
	No Project Alternative		Preferred Alternative	
	A.M. Peak Hour	P.M. Peak Hour	A.M. Peak Hour	P.M. Peak Hour
Eastbound loop off-ramp <sup>a</sup>	Under capacity	Under capacity	Under capacity	Under capacity
Eastbound diagonal on-ramp	C	F	C <sup>1</sup>	F <sup>2</sup>
Westbound loop off-ramp	F	D	F <sup>2</sup>	D <sup>1</sup>
Westbound diagonal on-ramp	F	D	F <sup>3</sup>	C <sup>1</sup>

<sup>a</sup> The outside lane on eastbound U.S. Highway 50 drops at this ramp. Since the exiting volume is less than the practical capacity of 1,800 vehicles per hour, operations are under capacity according to Chapter 5 of the 1994 HCM.

*Under the Writ of Mandate approved by the County Board of Supervisors, the level of service would be:*

<sup>1</sup> LOS B

<sup>2</sup> LOS E

<sup>3</sup> LOS D

<sup>4</sup> LOS C

## CHAPTER 8. LAND USE AND SOCIOECONOMICS

On page 8-4, under the header “El Dorado Hills Specific Plan”, make the following change to the first sentence:

The 1987 El Dorado Hills Specific Plan is designed to provide for the orderly and systematic development of the ~~El Dorado Hills~~ *plan* area in a manner consistent with the policies of El Dorado County and with the characteristics of the land.

On page 8-4, under the header “El Dorado Hills Specific Plan”, make the following change to the third sentence:

The 1987 El Dorado Hills Specific Plan includes improvement of Latrobe Road ~~interchange~~ in its description of timing for road improvements as necessary to accommodate the buildout of western El Dorado County, . . .

On page 8-5, make the following change to Table 8-1:

Table 8-1. Existing Utility Infrastructure Located within the Project Area

Utility	Location	Description
Sewer	Along El Dorado Hills Boulevard	One 6-inch underground line
	<i>Southern property line of Kings Canyon Drive residents</i>	<i>Underground line</i>

## CHAPTER 9. EARTH RESOURCES

On page 9-6, revise the text beginning with the first full paragraph as follows:

### Asbestos Control

In April 1998, the El Dorado County Board of Supervisors adopted an interim ordinance to ensure that construction activities in the county are done in a manner that minimizes the release of asbestos fibers into the air. The ordinance ~~requires~~ *required* builders in serpentine areas to:

- pre-wet work areas;
- limit vehicle access and speed;



- cover areas exposed to vehicle travel with non-asbestos material;
- maintain high moisture conditions or apply a “binder” to seal fibers of disturbed surfaces or stockpiles; and
- provide employee notification of potential exposures and risk.

The El Dorado County Board of Supervisors has directed the Director of Environmental Management to ensure compliance with this ordinance throughout the county.

*On February 3, 2000, El Dorado County enacted the Naturally Occurring Asbestos and Dust Protection Ordinance. This new ordinance is stronger than the 1998 interim ordinance by requiring preparation of “Asbestos Hazard Dust Mitigation Plans” that must be reviewed and approved by the El Dorado County APCD before ground disturbance or grading activities can begin. These plans must contain specific information not required by the 1998 interim ordinance, including air monitoring and specific measures to prevent the release of asbestos-laden dust.*

On page 9-7, make the following changes to Impact 9.2:

**Impact 9.2: Potential Exposure of People to Asbestos**

As shown on Figure 9-1, several fault zones cross the project area that include varying amounts of serpentine rock, chrysotile asbestos, and tremolite asbestos. *A review of the 1974 soil survey for El Dorado County also shows serpentine deposits in the project area but not at the project site. However, the potential exists for unknown deposits of asbestos to be disturbed by grading and vehicle traffic, which could affect construction workers and nearby residents. Asbestos disturbed by grading and vehicle traffic could affect construction workers and nearby residents. However, the project is required to comply with existing asbestos control measures adopted by the El Dorado County Board of Supervisors and the ARB, which are adequate to prevent adverse environmental effects.*

**Mitigation Measure 9.2: Comply with El Dorado County’s Asbestos Ordinance. None proposed.**

*The project is required to comply with currently applicable asbestos control measures adopted by the El Dorado County Board of Supervisors and the California Air Resources Board. The currently applicable ordinance within El Dorado County is the Naturally Occurring Asbestos and Dust Protection Ordinance, which became law on February 3, 2000. This ordinance will require the County Department of Transportation (DOT) to prepare an Asbestos Hazard Dust Mitigation Plan, which must first be reviewed and approved by the El Dorado County APCD before project grading can begin. Preparation of this plan by the County DOT, approval by the El Dorado County APCD, and effective implementation of the plan by the applicant will reduce this impact.*

## CHAPTER 11. BIOLOGICAL RESOURCES

On page 11-5, fifth paragraph, eighth line, make the following changes:

On May 21, 1999, Caltrans, on behalf of FHWA, requested concurrence from USFWS that the project has no effect on listed species under the Endangered Species Act (see Appendix H). ~~FHWA, Caltrans, and the County are currently coordinating with the USFWS to ensure compliance with Section 7.~~ *In a letter dated April 4, 2000, USFWS concurred that the proposed project would not adversely affect the California red-legged frog or any other federally listed, threatened, or endangered species.*

## CHAPTER 13. ALTERNATIVES TO THE PROPOSED PROJECT

On page 13-11, fourth paragraph, make the following changes:

### Noise

Under the No Project Alternative, no improvements to the interchange would be made and no project impacts would occur. *Although no construction noise would occur related to the project, construction noise would occur with development of the commercial parcel within the project site.* [end of paragraph]

On page 13-12, third paragraph, make the following changes:

### Air Quality

No construction-related emissions would result: *related to construction of the interchange or realignment of Saratoga Way. Construction-related emissions would be generated with development of the commercial parcel within the project site.* [end of paragraph]

On page 13-16, change the first centered header as follows:

**Alternative I: *Former Alternative 3 With Saratoga Way Tangent Alignment***

On page 13-22, change the first centered header as follows:

**Alternative II: *New Interchange Configuration  
(Former Alternative 2 with S Curve Alignment)***

## CHAPTER 14. CUMULATIVE IMPACTS, GROWTH-INDUCING IMPACTS, AND OTHER REQUIREMENTS

On page 14-2, first full paragraph, make the following changes:

The transportation improvements assumed in the 2005 and 2020 analyses are listed in Chapter 7, "Traffic and Circulation", of this report in the "Planned Roadway Improvements" section. The 2005 analysis includes those improvements in the vicinity of the proposed project contained in the El Dorado County Five-Year Capital Improvement Program, dated January 6, 1998. In addition, the 2020 analysis contains improvements identified in the El Dorado County General Plan.

*The validity of the 1996 El Dorado County General Plan was challenged in court. The court ultimately ruled in 1999 that the substance of the General Plan complied fully with the law; however, the court invalidated the plan due to inadequacies in the environmental review that accompanied its adoption. The court issued a Writ of Mandate that governs the County's consideration and approval of land-use development projects in the interim period while the County addresses the legal deficiencies found by the court.*

*A copy of the Writ of Mandate is provided as Appendix E to this final EIR/EA. Several aspects of the Writ of Mandate are pertinent to the proposed project and its environmental review, particularly in the areas of traffic and growth-inducing impacts. First, the Writ of Mandate generally suspends the County's authority to issue any discretionary land use approvals or entitlements for residential housing development. Second, the Writ of Mandate authorizes the County to issue approvals that are ministerial in nature, specifically including final subdivision maps and building permits. Third, the Writ of Mandate allows the County, upon the making of specified findings, to issue discretionary approvals such as tentative subdivision maps and map extensions for residential development that is occurring pursuant to an existing development agreement. Fourth, the Writ of Mandate allows the County, upon the making of specified findings, to issue any approvals for non-residential development, provided that the property is already zoned for the use and was designated for the use on both the 1996 General Plan and its immediate predecessor. Fifth, the Writ of Mandate authorizes the County, upon the making of specified findings, to: approve projects, including capital projects, submitted to it for review by other government agencies; approve and carry out any capital improvement projects of the County, except if their sole or primary purpose is to serve future development which would itself require approvals not permitted by the Writ of Mandate; and authorize the repair, remodeling, reconstruction, or replacement of existing structures if it does not expand or increase the intensity of the use of the structure.*

*In 1999, the County developed a revised land use scenario consistent with the Writ of Mandate. This land use scenario maintains most of the 1996 General Plan land uses in the El Dorado Hills/Latrobe area, but includes some notable reductions in other areas of El Dorado County. The County is currently in the process of preparing an interim traffic impact mitigation fee program consistent with the Writ of Mandate-allowed development scenario it developed in 1999. In conjunction with that effort, updated traffic forecasts were developed for buildout conditions. The results indicate that while the ramp and intersection volumes are generally consistent with the levels*

projected under the 1996 General Plan-based forecasts, the mainline U.S. Highway 50 forecasts are much lower, due primarily to the reduced development levels outside the El Dorado Hills/Latrobe area.

For information purposes, an analysis was conducted to determine the 2005 operations of the mainline and ramp junctions of the preferred project under the Writ of Mandate-allowed development scenario. The following table compares the results to the general plan-based results (see "Writ-Approved Development Analysis" worksheets in Appendix A of the final EIR/EA for technical calculations).

Comparison of 2005 Level of Service for U.S. Highway 50 Mainline and Ramp Junctions under 1996 General Plan and the Writ-Allowed Development Scenario

Facility	1996 General Plan-Based Analysis from Draft EIR/EA <sup>1</sup> (2005 Level of Service)		Writ-Approved Development Analysis <sup>1</sup> (2005 Level of Service)	
	A.M. Peak Hour	P.M. Peak Hour	A.M. Peak Hour	P.M. Peak Hour
U.S. 50 Eastbound - west of the interchange	C	F	B	D
U.S. 50 Eastbound - east of the interchange	C	F	B	E
U.S. 50 Westbound - east of the interchange	F	C	E	B
U.S. 50 Westbound - west of the interchange	F	C	D	B
U.S. 50 Eastbound loop offramp <sup>2</sup>	Under capacity	Under capacity	Under capacity	Under capacity
U.S. 50 Eastbound diagonal onramp	C	F	B	E
U.S. 50 Westbound loop offramp	F	D	E	C
U.S. 50 Westbound diagonal onramp	F	C	D	B

Notes:

<sup>1</sup> All analysis assumed construction of an HOV lane on U.S. 50 from the El Dorado Hills/Latrobe overcrossing west into Sacramento County.

<sup>2</sup> The outside lane on eastbound U.S. 50 drops at this ramp. Since the exiting volume is less than the practical capacity of 1,800 vehicles per hour, operations are under capacity according to Chapter 5 of the 1994 Highway Capacity Manual.

*As this information shows, 2005 peak hour operations would be LOS E or better under the Writ of Mandate-allowed development scenario assuming construction of the planned HOV lanes between Sunrise Boulevard and the El Dorado Hills Boulevard overcrossing.*

*In 1998, County voters approved Measure Y, which added policies to the 1996 General Plan regarding traffic levels of service and the mitigation of traffic impacts. The County is still engaged in the process of interpreting the meaning of Measure Y's policies; also, a lawsuit is pending that challenges the legal validity of some of Measure Y's policies. Consequently, Measure Y has not been implemented and is unlikely to be in the immediate future. Its meaning, scope, and manner of implementation is uncertain. It would therefore be extremely speculative at this time to try to account for Measure Y in this document, and the analyses herein do not engage in that speculation.*

On Table 14-1. Cumulative Development Projects in El Dorado Hills, last row, make the following changes:

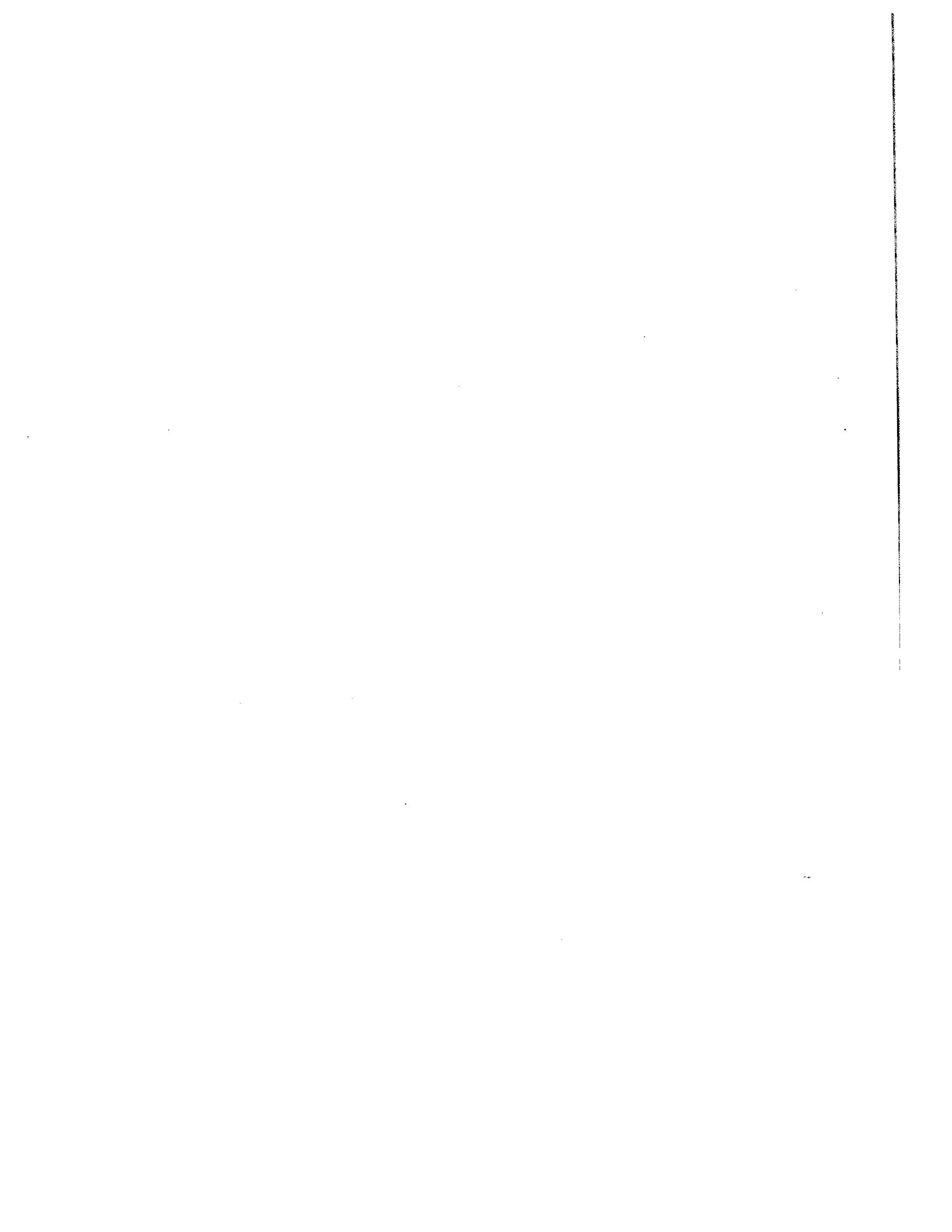
Promontory (TM 98-1356)	Residential	450 acres; 609 DUs	Continued by Board of Supervisors until 12/99 TM approved 12/99
----------------------------	-------------	--------------------	--

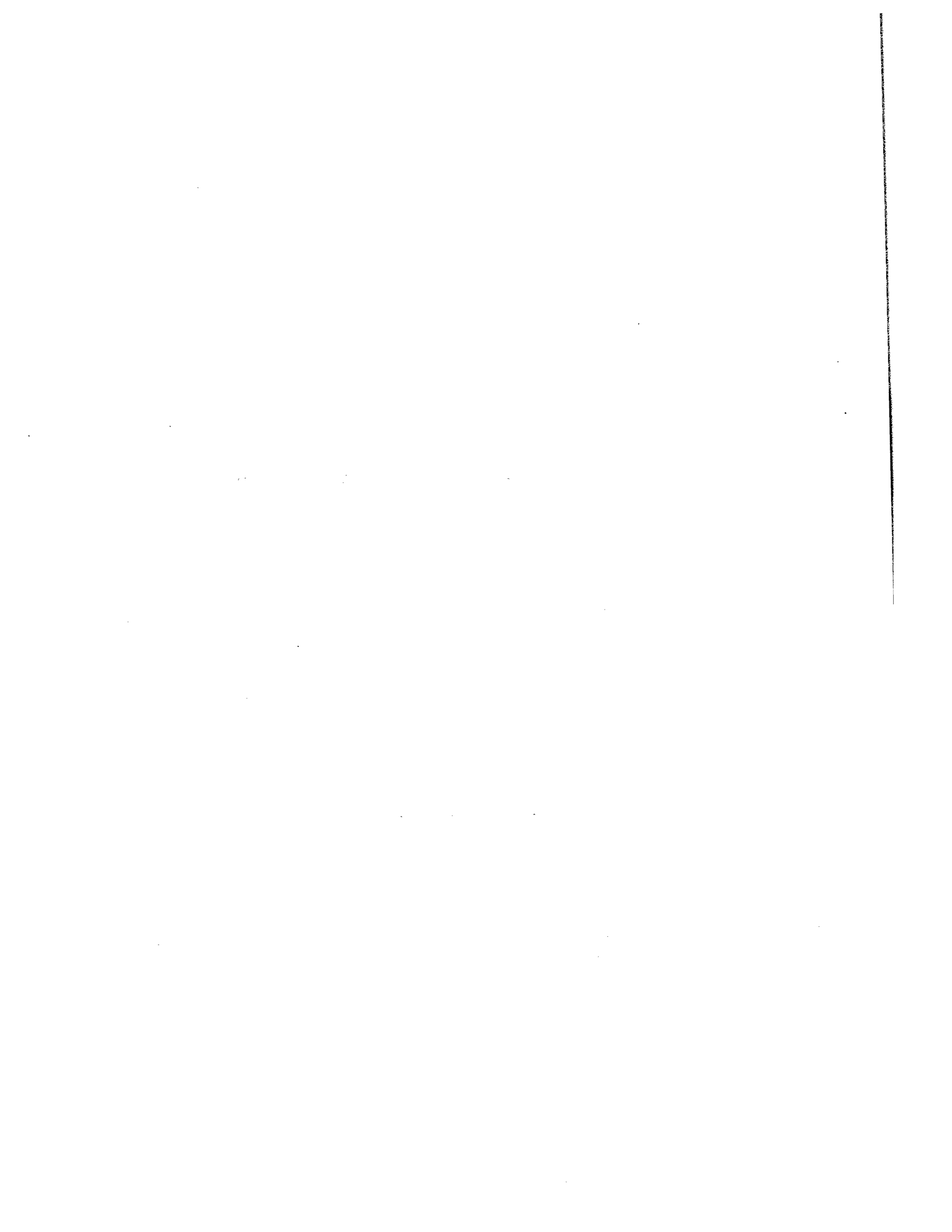
On page 14-5, second paragraph, sixth line, make the following changes:

~~...County's General Plan Objective 3.5.1. This degradation in level of service is considered a significant incremental contribution to a cumulative impact under CEQA. To mitigate the project's incremental contribution to a less-than-significant level under CEQA, the County will implement the County's General Plan Circulation Element Circulation Map (Volume 1, Chapter 3, page 49), which designates Saratoga Way as a four-lane roadway to be extended to the proposed extension of Iron Point Road in Folsom, if and when volumes on Saratoga Way exceed acceptable levels of service under the County's general plan requirements. If and when the County Board of Supervisors decide as a future action, unrelated to this project, to widen Saratoga Way to four lanes, improved operations could be achieved under No Project and With Project conditions in 2020. If a specific proposal for widening and extending Saratoga Way is introduced in the future, such a proposal would undergo separate environmental review. The proposed project realigns Saratoga Way, but does not increase the capacity of Saratoga Way and, therefore, does not contribute to this cumulative impact. As presented in the "Growth Inducement" section that follows, the projects to be developed in the vicinity of the proposed project can and will be constructed even if the proposed interchange reconstruction and Saratoga Way realignment are not approved (since the tentative maps for projects in the project vicinity have been approved, and final map approval and building permit issuance are ministerial actions). Because growth would occur in the project vicinity regardless of the proposed project, the project would not contribute to background growth that is expected to result in LOS E on Saratoga Way under 2020 with-project conditions.~~

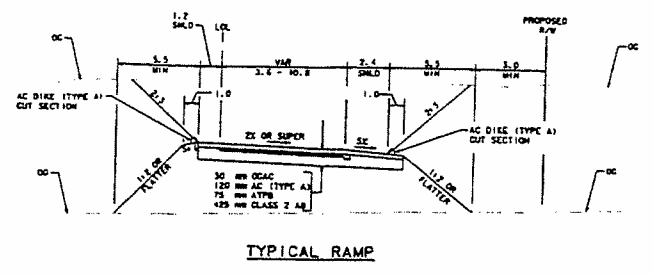
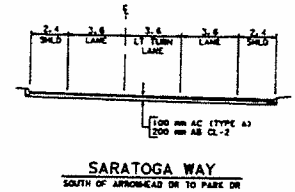
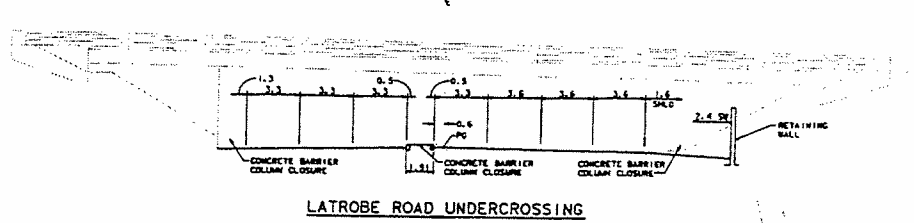
## REVISED FIGURES

The following pages contain revised figures. The scale of Figures 2-2 through 2-6, 4-1, 5-1, and 8-1 have been clarified. Receptor 13A has been added to Figures 4-2 through 4-5.

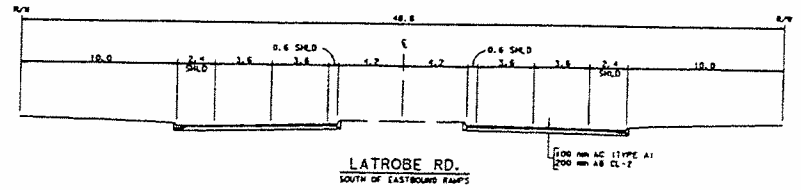
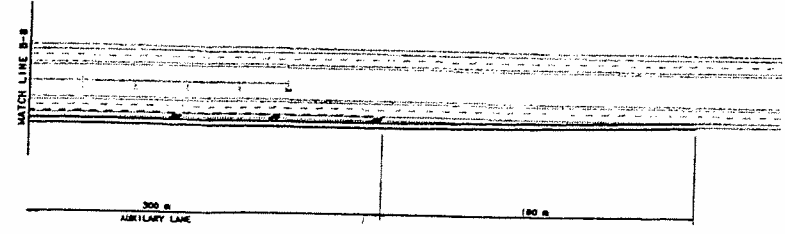
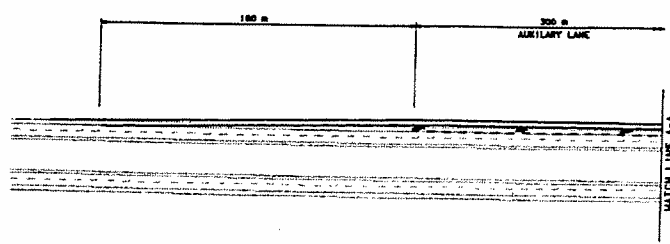
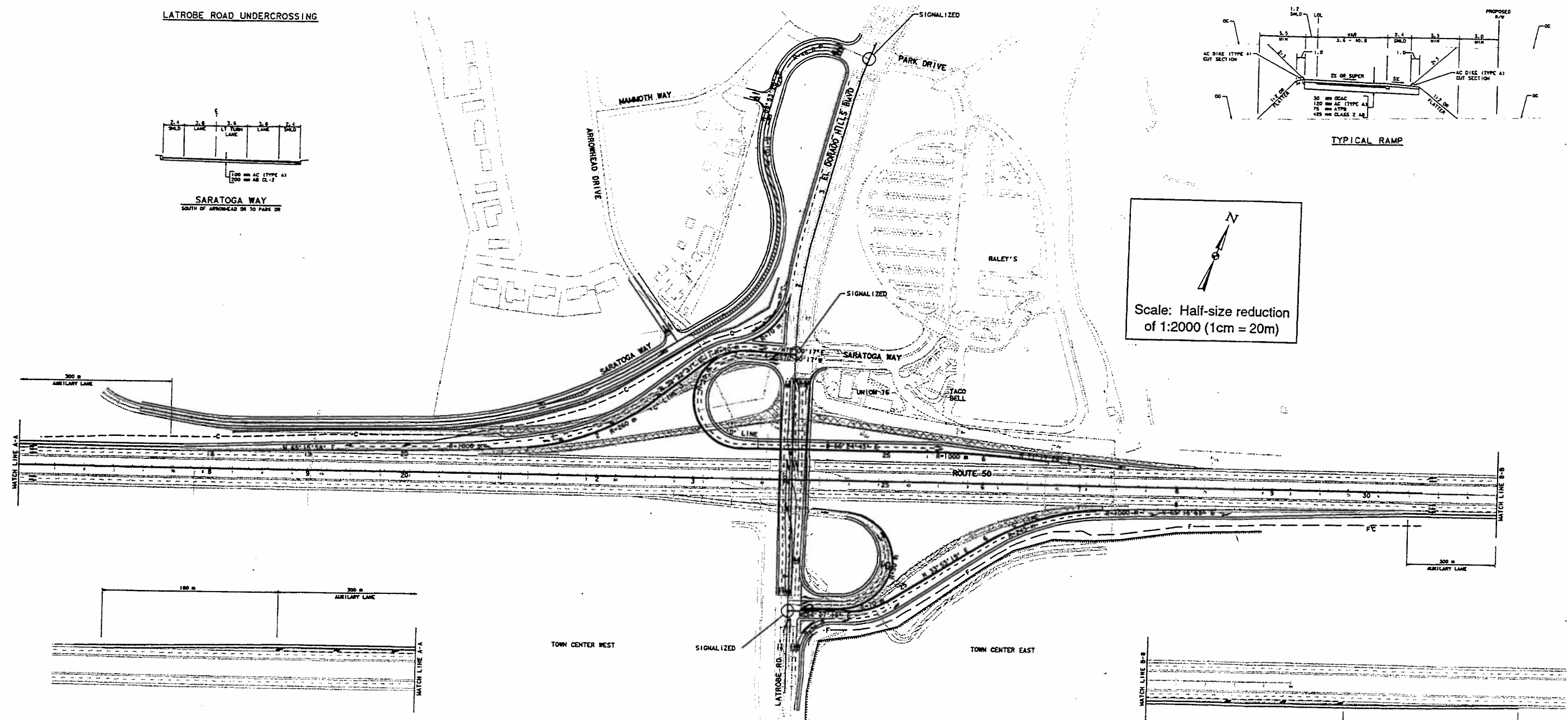








Scale: Half-size reduction  
of 1:2000 (1cm = 20m)

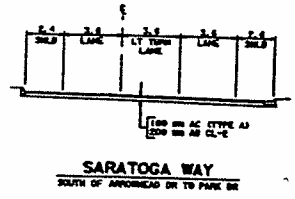
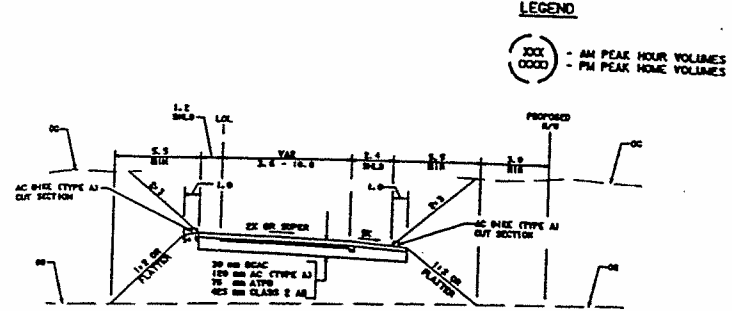
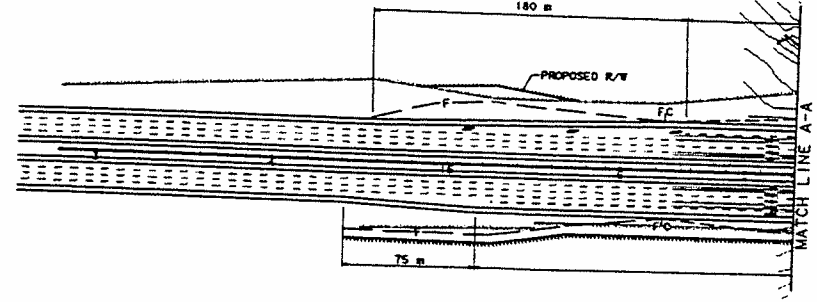
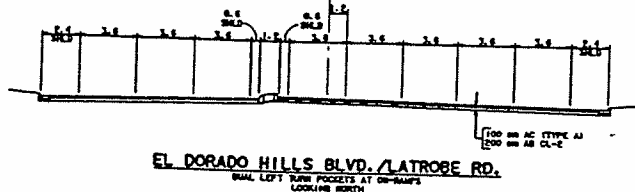
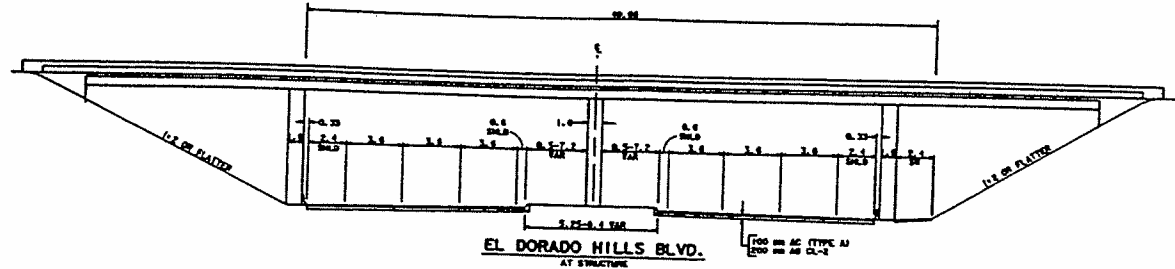


**HDR**  
HDR Engineering, Inc.

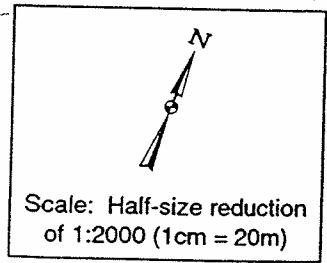
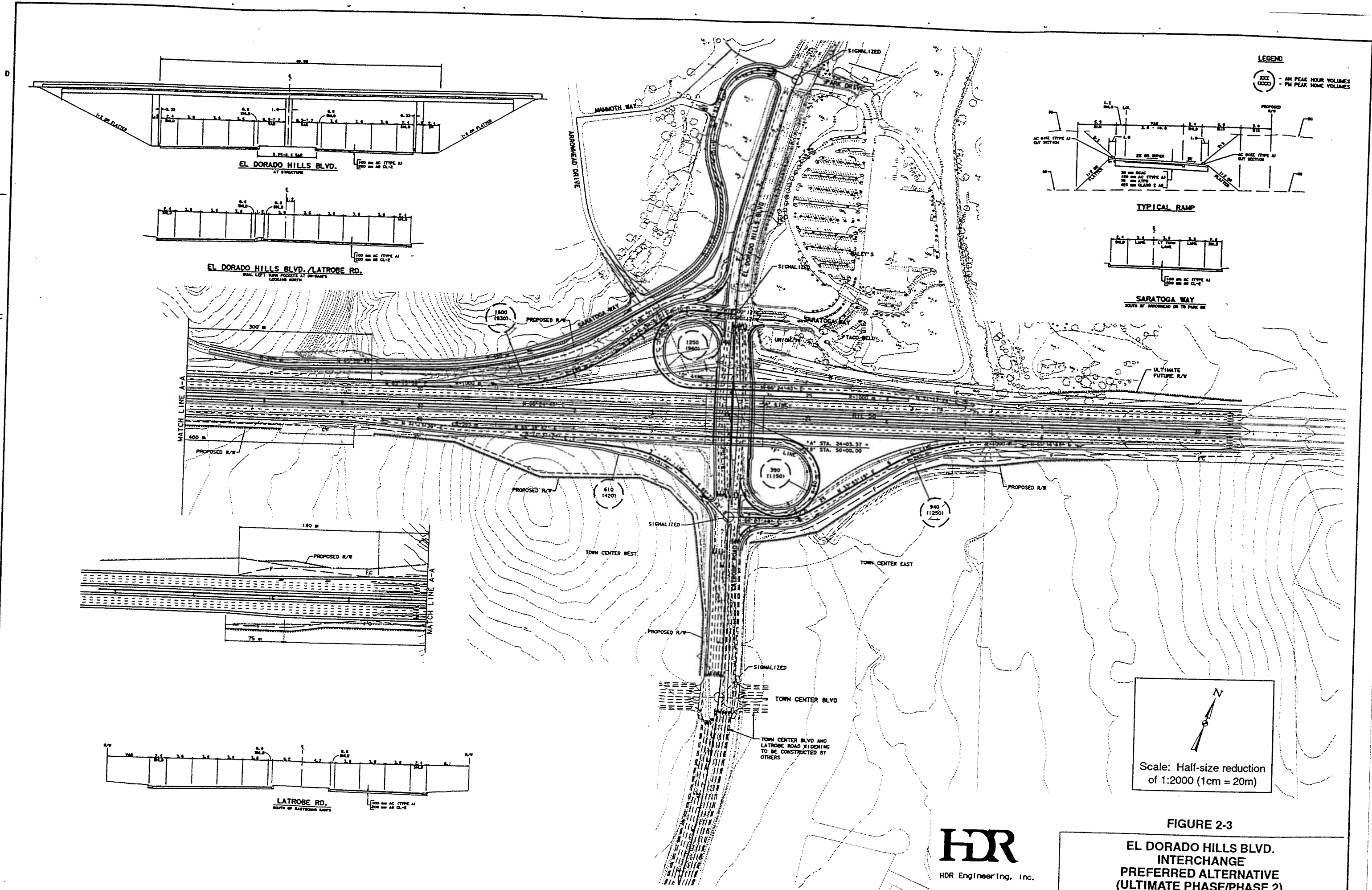
**FIGURE 2-2**  
**EL DORADO HILLS BLVD.**  
**INTERCHANGE**  
**PREFERRED ALTERNATIVE**  
**(PHASE 1)**

Date	5/19/99
Scale	1:2000





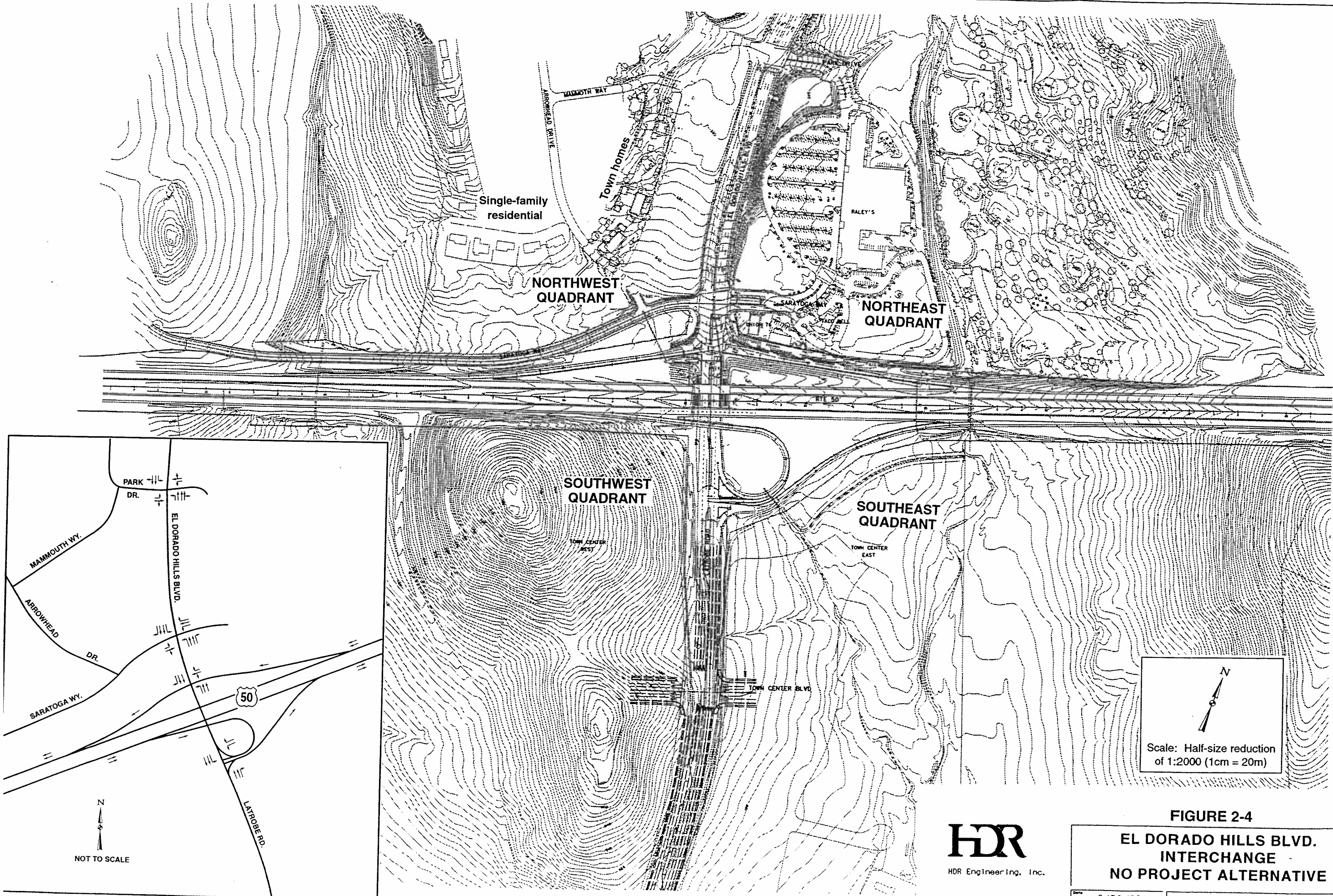
LEGEND  
 (XXX 0000) - AM PEAK HOUR VOLUMES  
 (XXX 0000) - PM PEAK HOUR VOLUMES



**HDR**  
 HDR Engineering, Inc.

FIGURE 2-3  
 EL DORADO HILLS BLVD.  
 INTERCHANGE  
 PREFERRED ALTERNATIVE  
 (ULTIMATE PHASE/PHASE 2)  
 DATE 2/25/99





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 Scale: Half-size reduction  
 of 1:2000 (1cm = 20m)

N  
 NOT TO SCALE

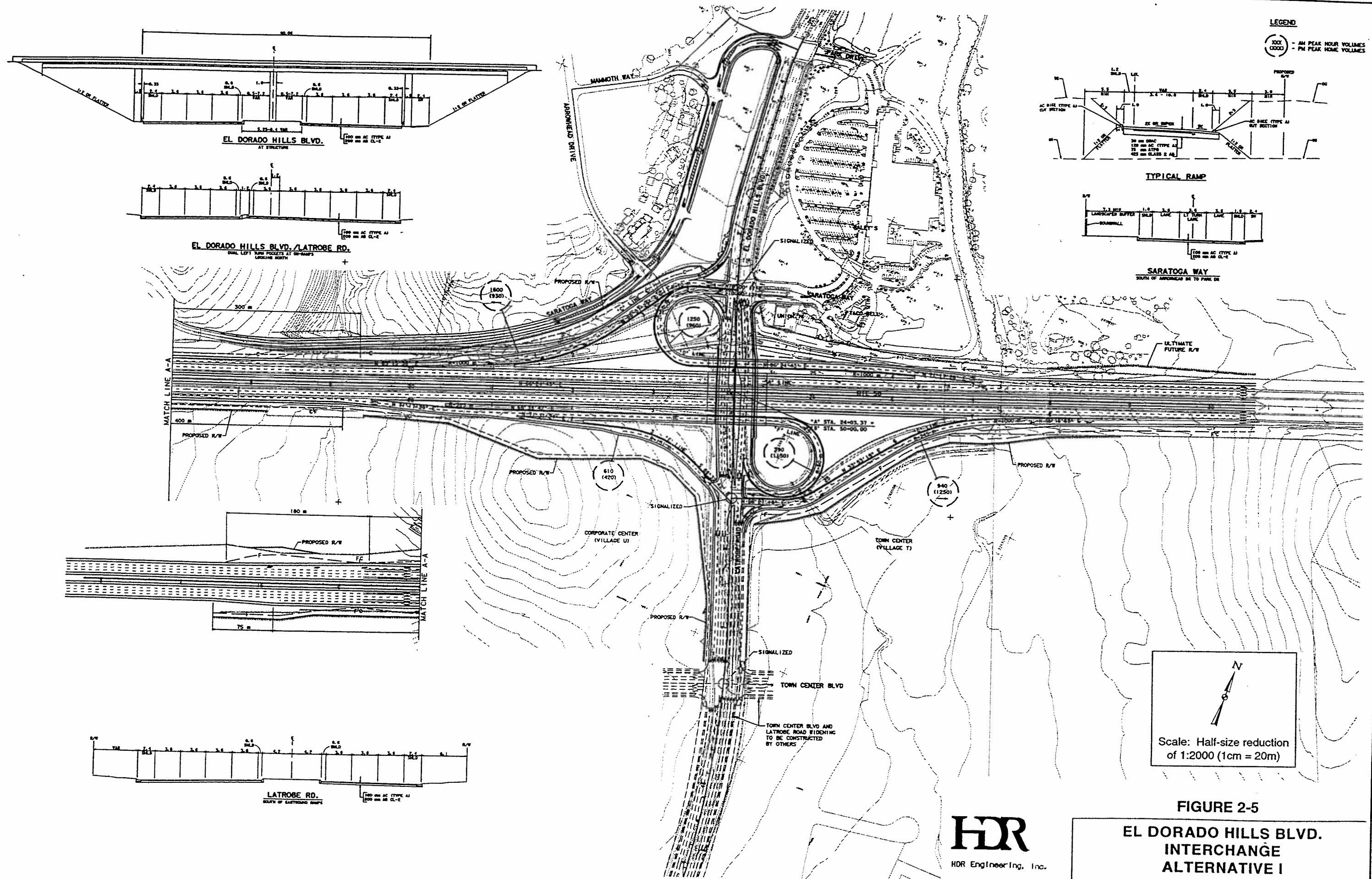
**HDR**  
 HDR Engineering, Inc.

**FIGURE 2-4**  
**EL DORADO HILLS BLVD.**  
**INTERCHANGE**  
**NO PROJECT ALTERNATIVE**

8/20/98







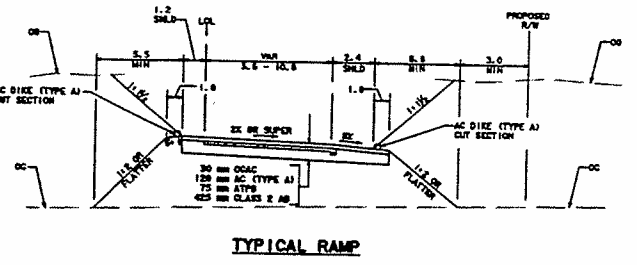
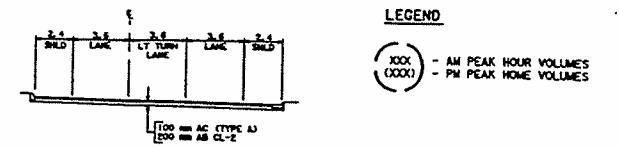
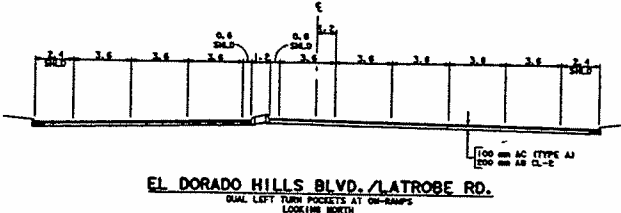
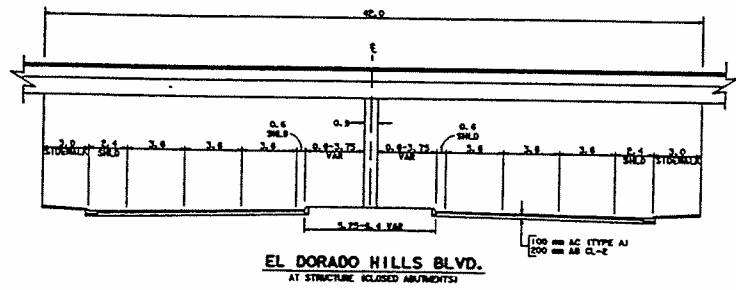
**FIGURE 2-5**  
**EL DORADO HILLS BLVD.**  
**INTERCHANGE**  
**ALTERNATIVE I**

Date: 2/25/99  
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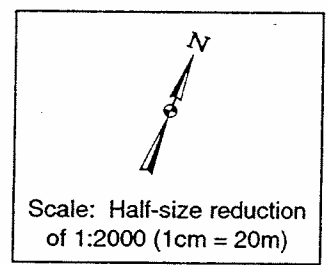
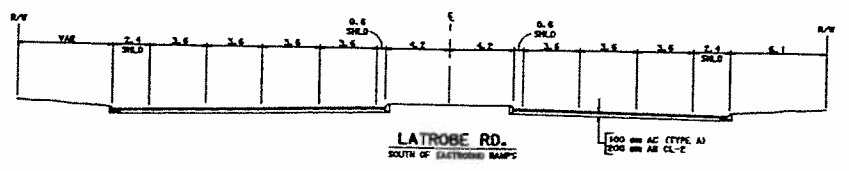
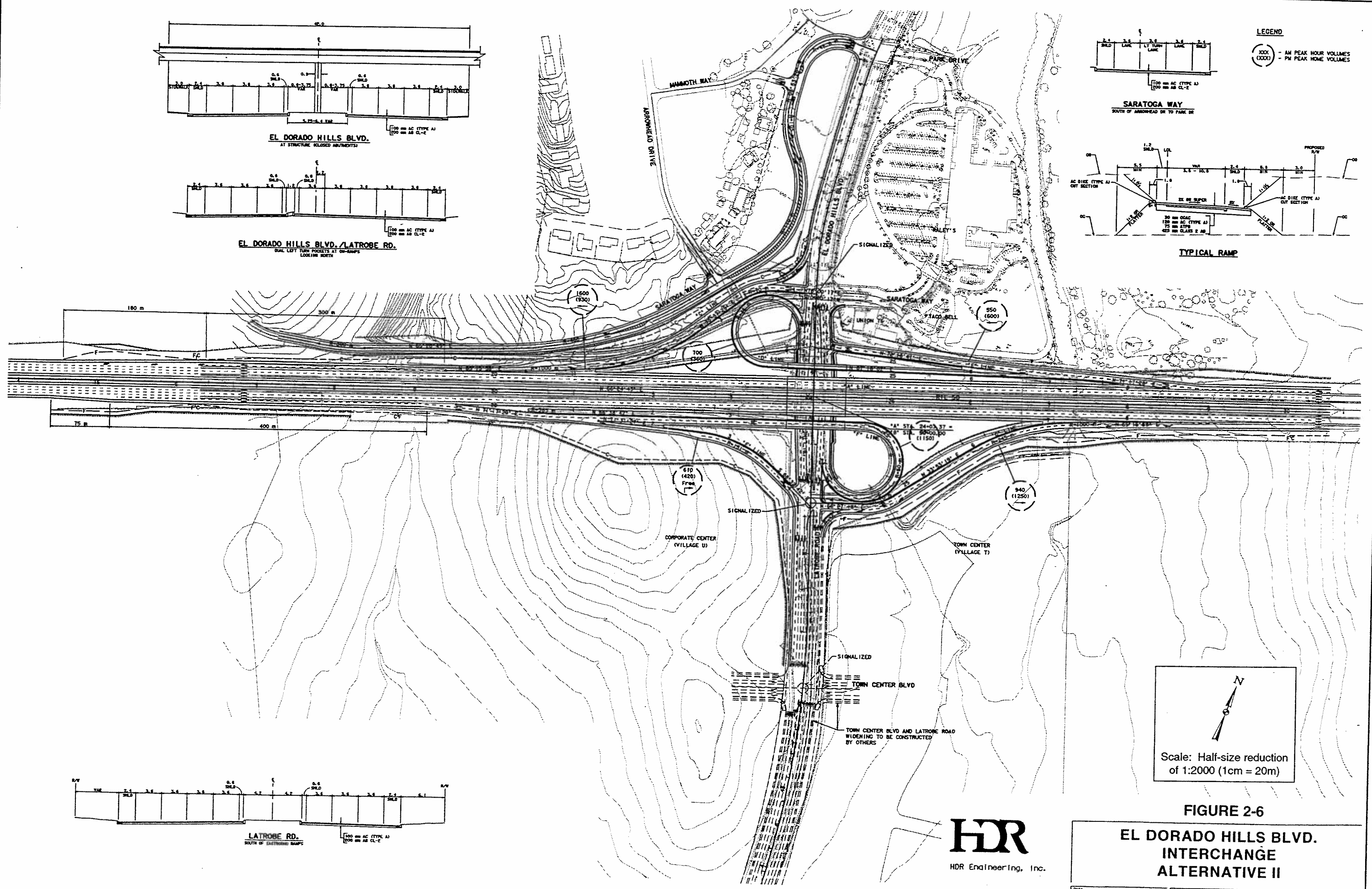
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**LEGEND**

(XXX) - AM PEAK HOUR VOLUMES  
(XXX) - PM PEAK HOUR VOLUMES



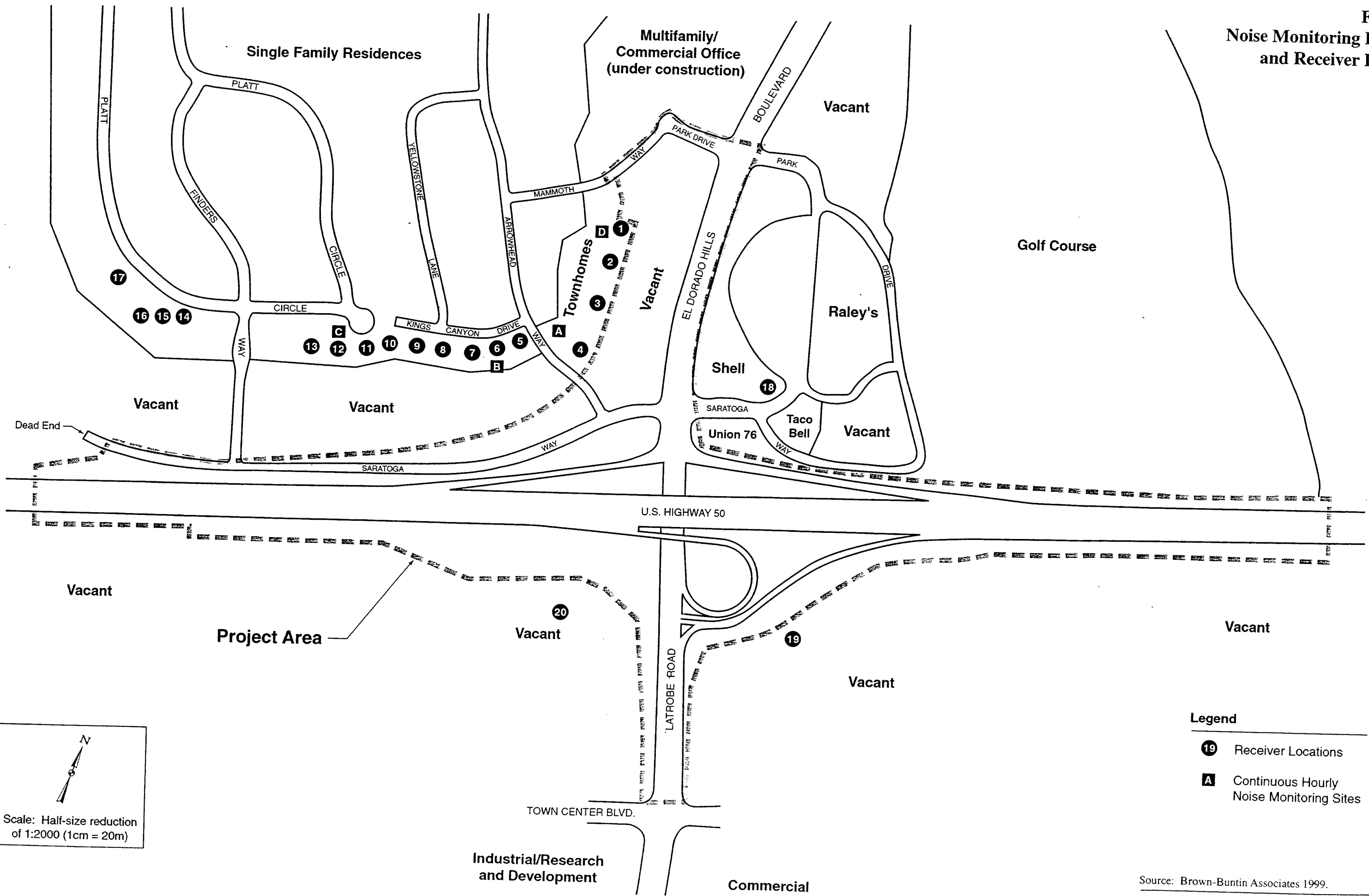
**FIGURE 2-6**  
**EL DORADO HILLS BLVD.**  
**INTERCHANGE**  
**ALTERNATIVE II**

**HDR**  
HDR Engineering, Inc.

FILE: CV-AUGUST-98 091.00A

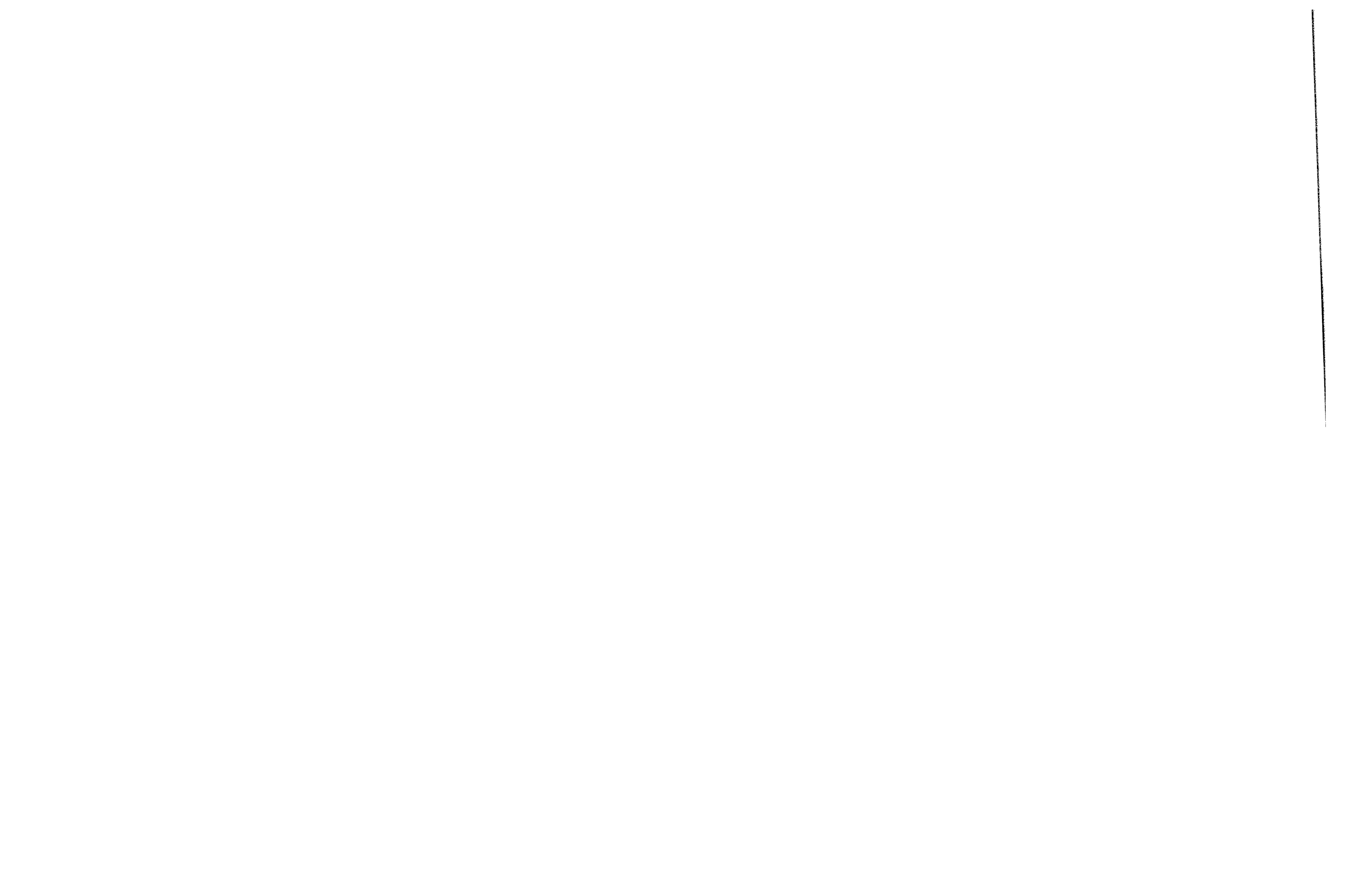


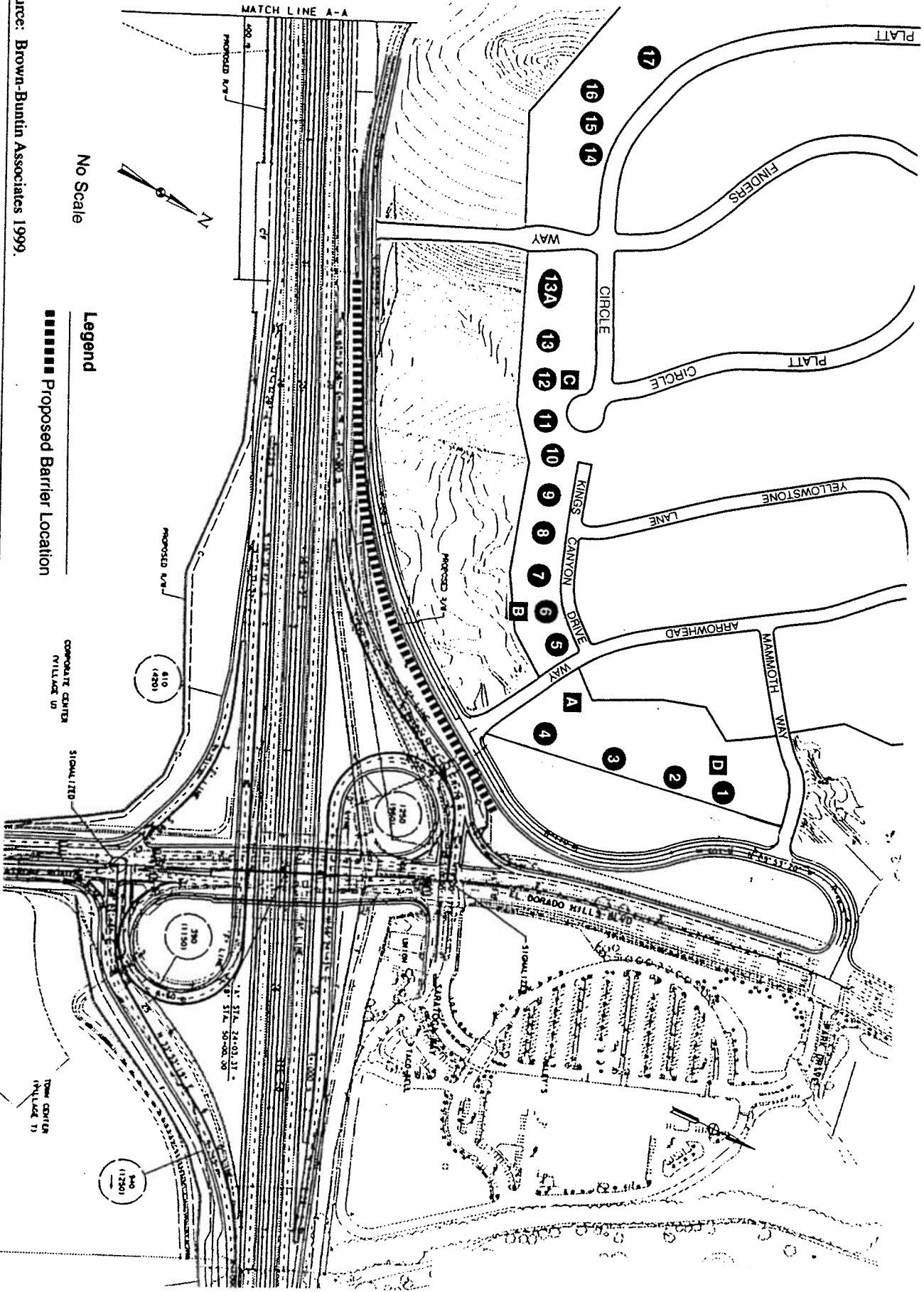
**Figure 4-1  
Noise Monitoring Locations  
and Receiver Locations**



- Legend**
- 19 Receiver Locations
  - A Continuous Hourly Noise Monitoring Sites

Scale: Half-size reduction  
of 1:2000 (1cm = 20m)





No Scale

**Legend**  
 ■■■■■■ Proposed Barrier Location

CORPORATE CENTER WILLAGE 10

SIGNALIZED

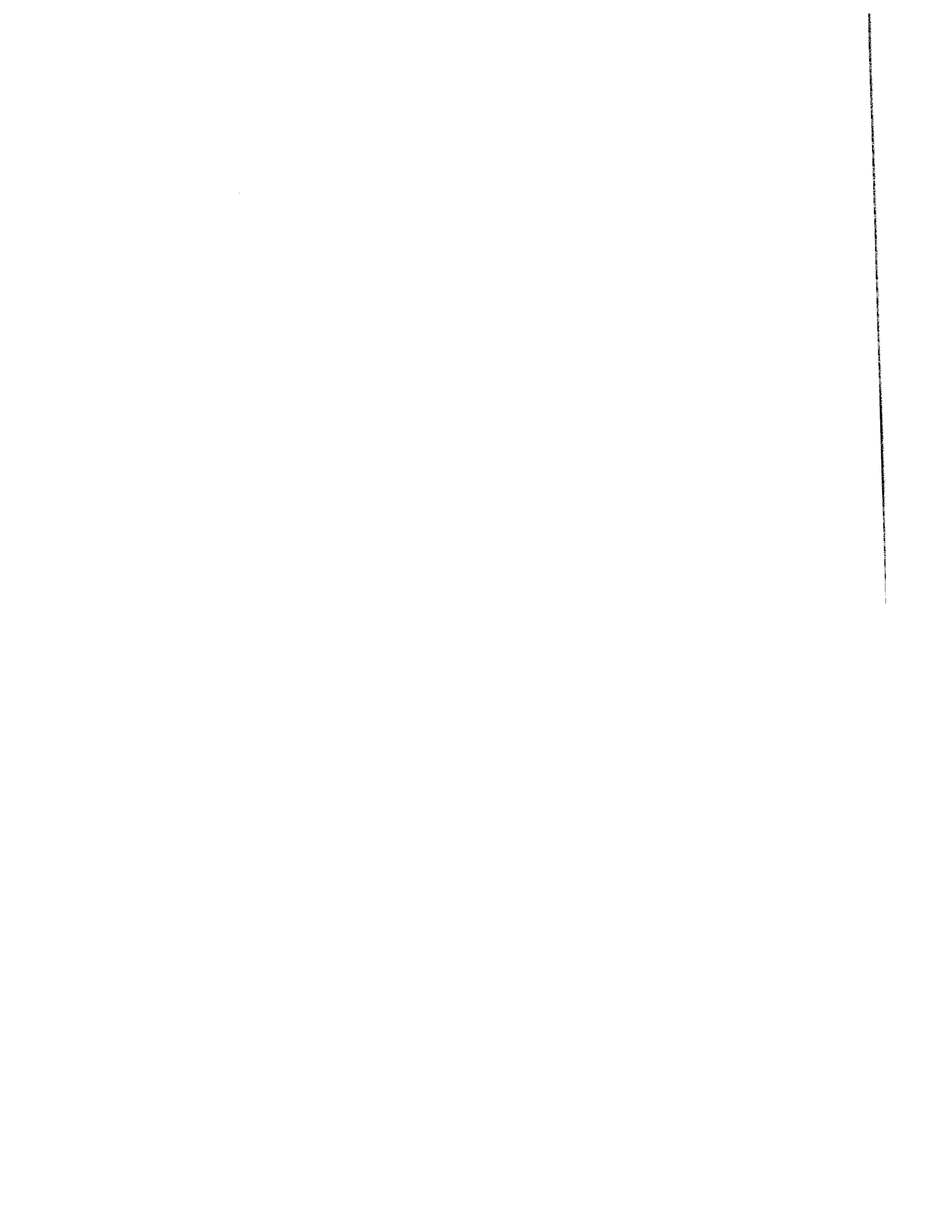
TRUCK CENTER WILLAGE 11

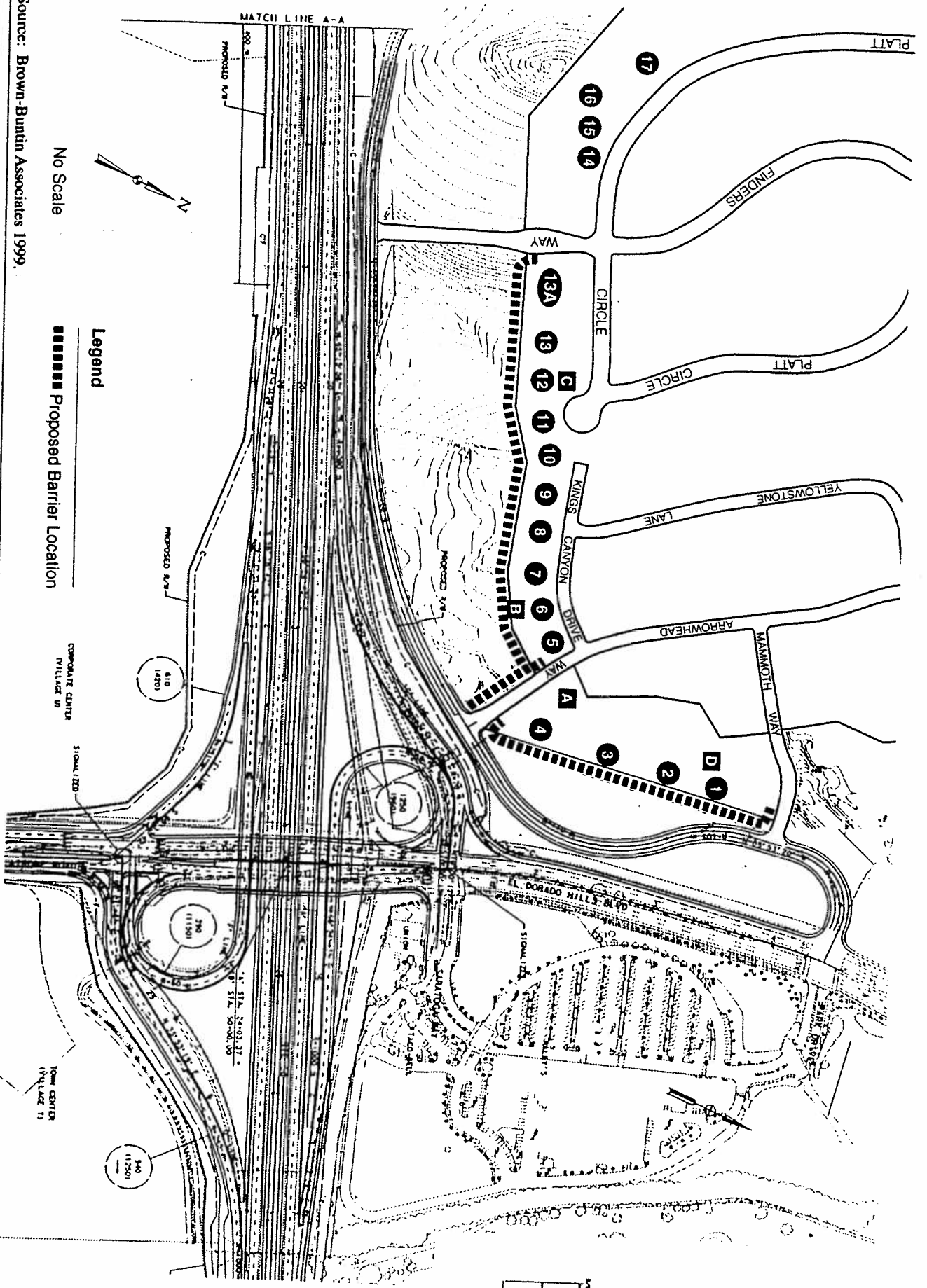
Source: Brown-Buntin Associates 1999.



Jones & Stokes Associates, Inc.

**Figure 4-2**  
 Location of Right-of-Way and On Ramp Proposed Barrier





Source: Brown-Buntin Associates 1999.



Jones & Stokes Associates, Inc.

No Scale

Legend

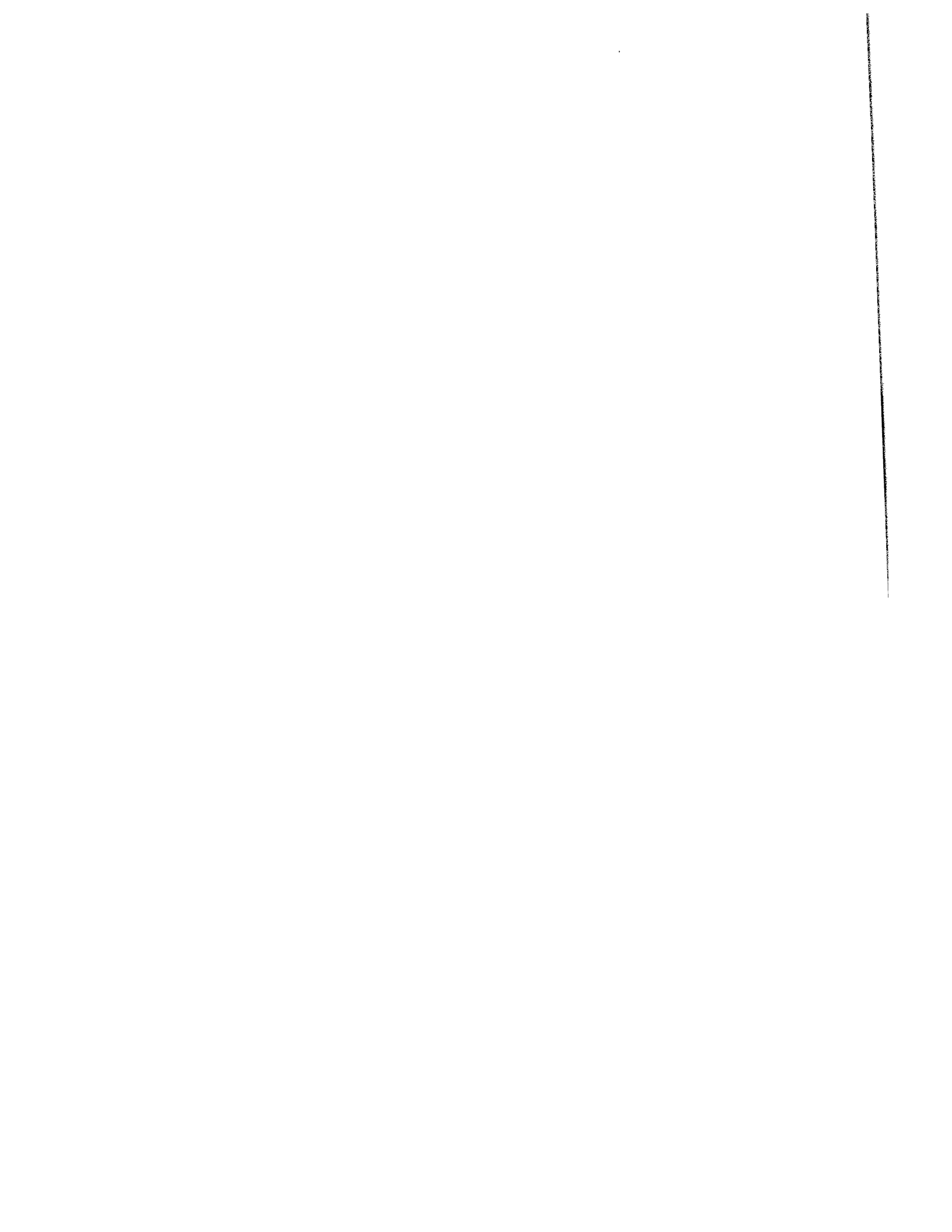
Proposed Barrier Location

CORPORATE CENTER (VILLAGE II)

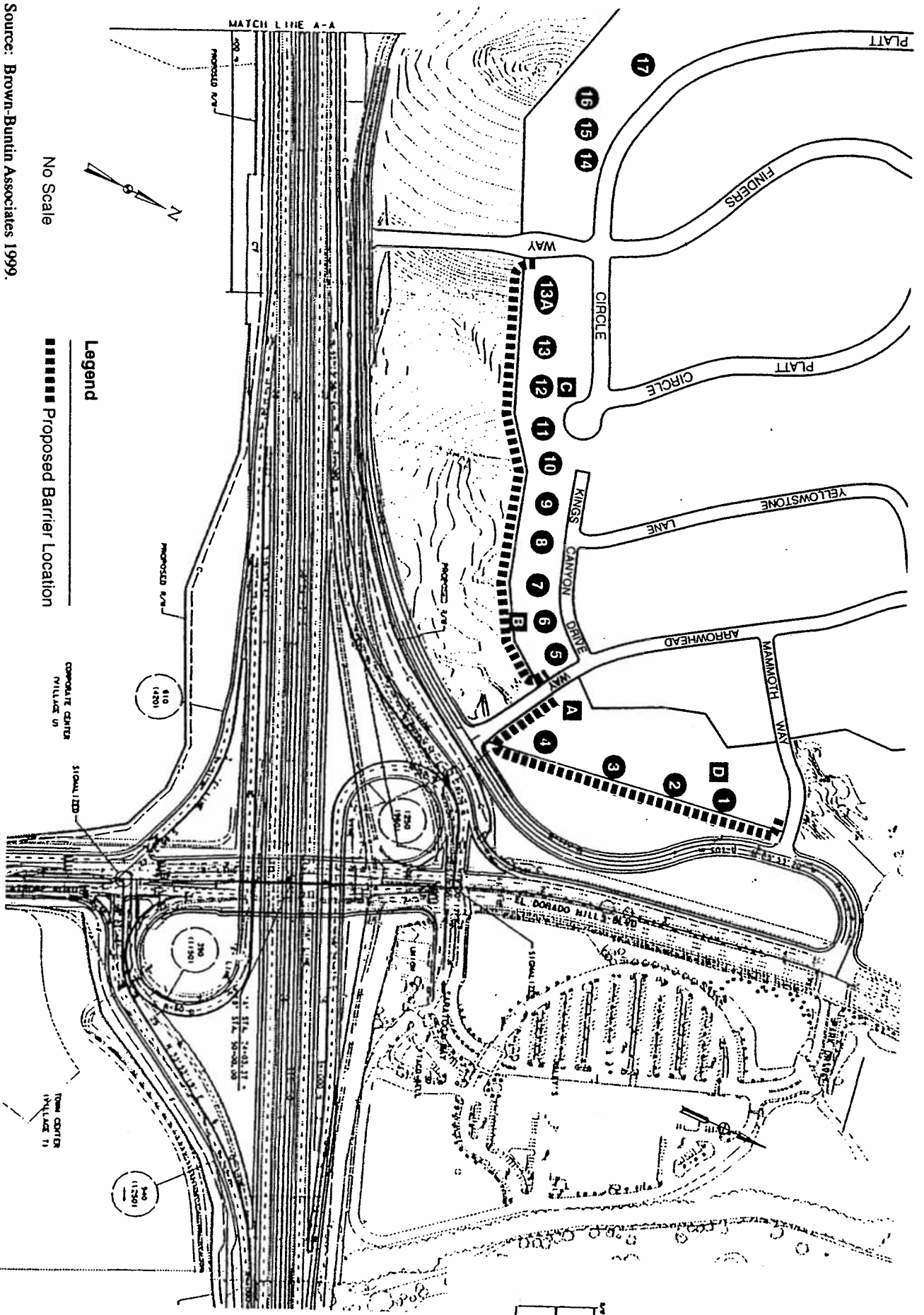
SIGNALIZED

TOWN CENTER (VILLAGE II)

Figure 4-3  
Location of Proposed Property Line Barrier: Option 1







Source: Brown-Buntin Associates 1999.



Jones & Stokes Associates, Inc.

Figure 4-4  
Location of Proposed Property Line Barrier: Option 2



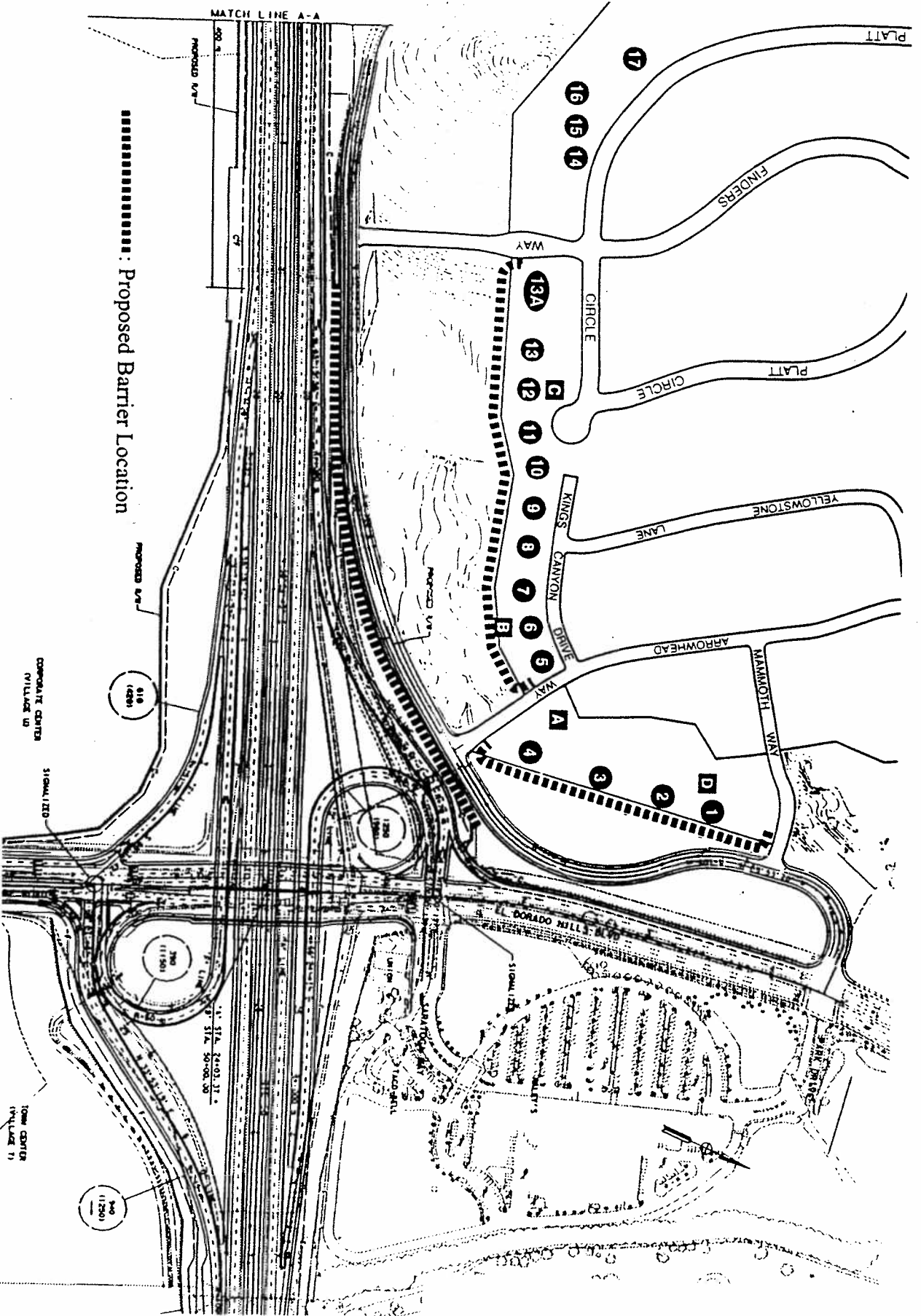


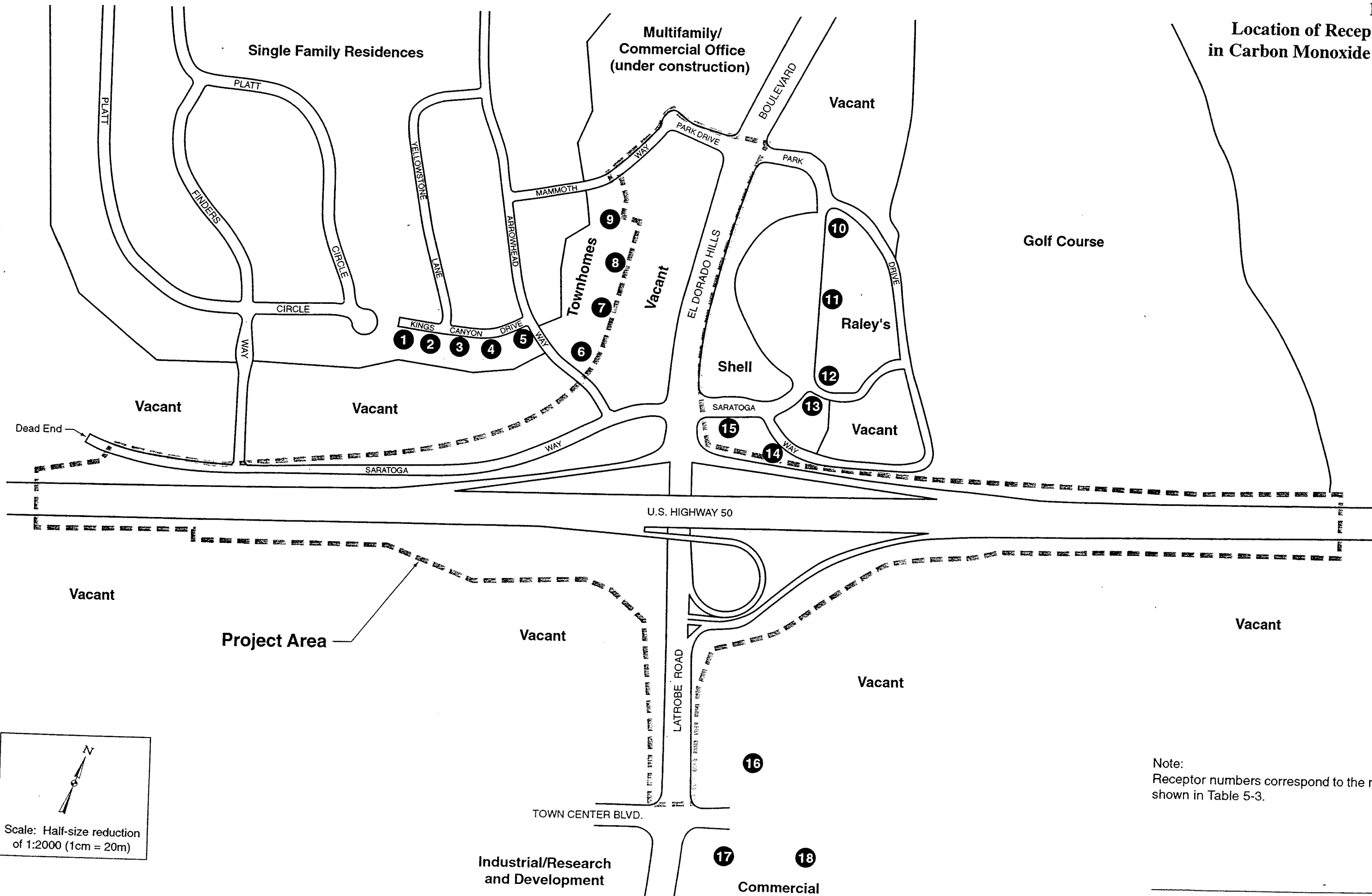
Figure 4-5  
Location of Proposed Combined ROW/Property Line Barrier



Jones & Stokes Associates, Inc.



**Figure 5-1**  
**Location of Receptors Used**  
**in Carbon Monoxide Modeling**

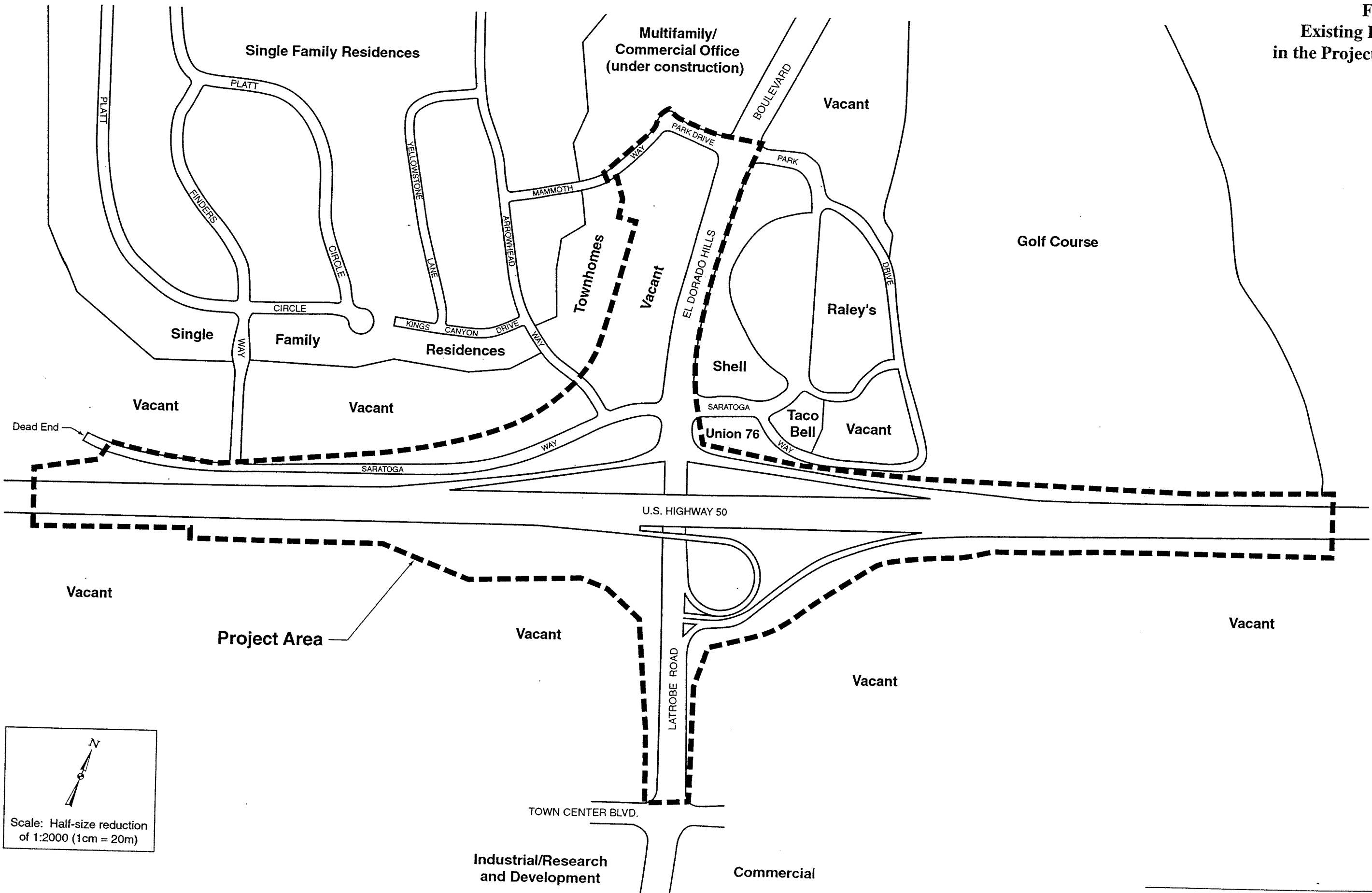


Scale: Half-size reduction  
of 1:2000 (1cm = 20m)

Note:  
Receptor numbers correspond to the numbers  
shown in Table 5-3.



**Figure 8-1**  
**Existing Land Use**  
**in the Project Vicinity**



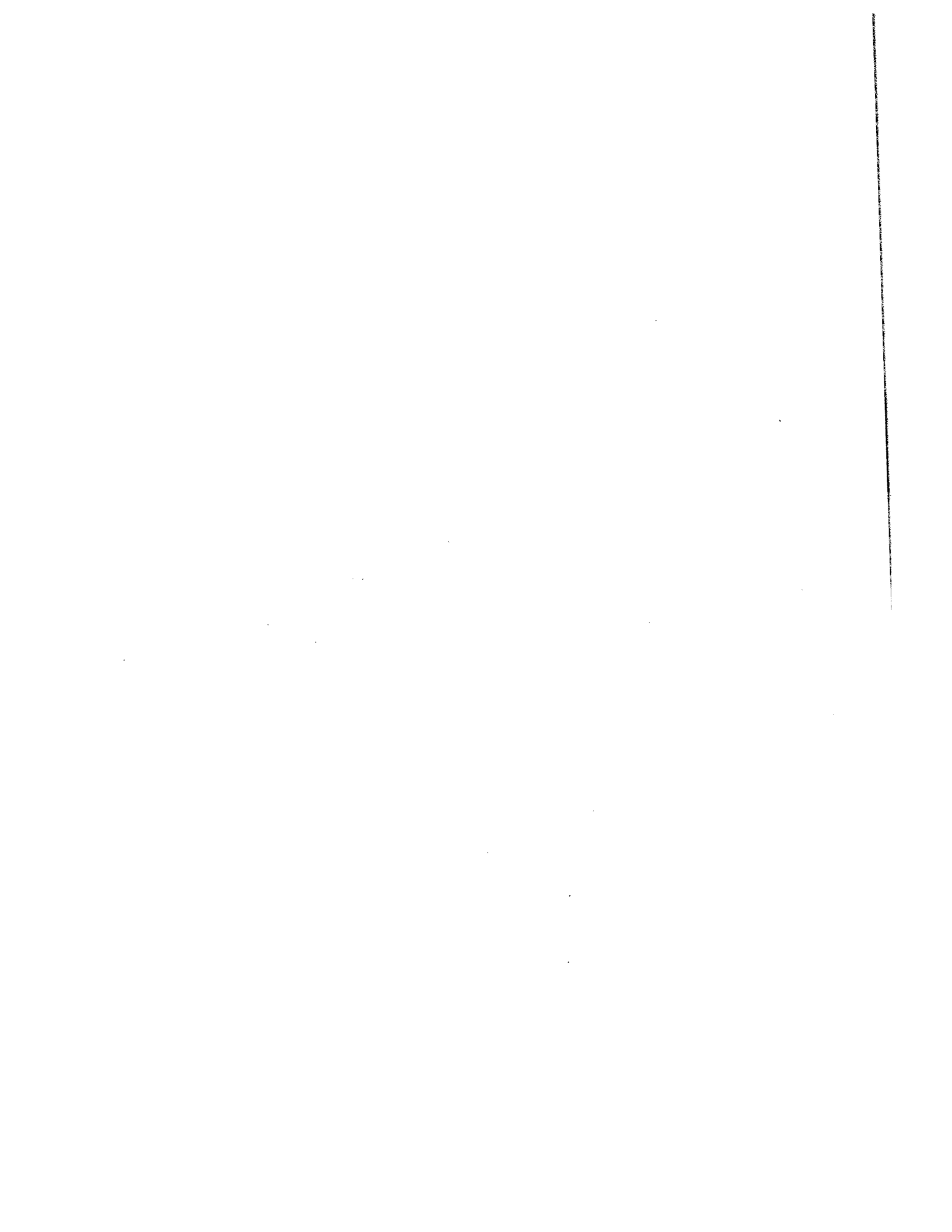
Scale: Half-size reduction  
of 1:2000 (1cm = 20m)





**Appendix A. Traffic Data in Support of Responses B-4,  
B-5, and B-7**

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# Sensitivity Analysis - Version 2.1d/Version 3.1 (Response B-4)

HCS: Freeways Release 2.1d

=====  
 Center For Microcomputers In Transportation  
 University of Florida  
 512 Weil Hall  
 Gainesville, FL 32611-2083  
 Ph: (904) 392-0378  
 =====

File Name ..... THURBOTH.HC3  
 Location..... US 50 WEST OF EDH/LATROBE IC  
 From/To.....  
 Analyst..... FP  
 Time of Analysis..... AM PEAK HOUR  
 Date of Analysis..... 8 /7 /98  
 Other Information.... EXISTING CONDITIONS

A. Geometrics and Traffic Input Data	EB	WB
	Dir 1	Dir 2
Traffic Volume (vph)	1400	4000
Peak-Hour Factor or Peak 15-min Volume	1.00	1.00
Percentage of Trucks	1.0	1.0
Percentage of Recreational Vehicles	0.0	0.0
Number of Lanes	2	2
Free-Flow Speed (mph)	65.0	65.0
Lane Width (ft)	12.0	12.0
Obstructions-No (0), One (1) or Both (2)	0	0
Distance from Pavement Edge (ft)		
Driver Population Factor	1.00	1.00

B. Adjustment Factors

	Segment Length(ft)	Equiv. Grade	E		F		F
			T	R	HV	W	P
Dir 1	5700.0	-1.61%	1.50		0.995	1.00	1.00
Dir 2	5700.0	1.61%	1.50		0.995	1.00	1.00

C. Level of Service Results

	Dir 1	Dir 2
Maximum Service Flow (MSF) (pcphpl)	704	2010
Level of Service (LOS)	B	E
Projected Speed at Flow Rate (mph)	65.0	60.0
Density (pc/mi/ln)	10.83	33.48
Density (veh/mi/ln)	10.78	33.31
Speed of prevailing traffic (mph)	65.0	60.0

=====  
 Center For Microcomputers In Transportation  
 University of Florida  
 512 Weil Hall  
 Gainesville, FL 32611-2083  
 Ph: (904) 392-0378  
 =====

File Name ..... EXWEAM.HC3  
 Location..... US 50 WEST OF EDH/LATROBE IC  
 From/To.....  
 Analyst..... FP  
 Time of Analysis..... PM PEAK HOUR  
 Date of Analysis..... 8 /7 /98  
 Other Information.... EXISTING CONDITIONS

	<i>EE</i>	<i>wf</i>
A. Geometrics and Traffic Input Data	Dir 1	Dir 2
Traffic Volume (vph)	3900	1600
Peak-Hour Factor or Peak 15-min Volume	1.00	1.00
Percentage of Trucks	1.0	1.0
Percentage of Recreational Vehicles	0.0	0.0
Number of Lanes	2	2
Free-Flow Speed (mph)	65.0	65.0
Lane Width (ft)	12.0	12.0
Obstructions-No (0), One (1) or Both (2)	0	0
Distance from Pavement Edge (ft)		
Driver Population Factor	1.00	1.00

B. Adjustment Factors

	Segment Length(ft)	Equiv. Grade	E T	E R	F HV	F W	F P
Dir 1	5700.0	-1.61%	1.50		0.995	1.00	1.00
Dir 2	5700.0	1.61%	1.50		0.995	1.00	1.00

C. Level of Service Results

	Dir 1	Dir 2
Maximum Service Flow (MSF) (pcphpl)	1960	804
Level of Service (LOS)	E	B
Projected Speed at Flow Rate (mph)	60.8	65.0
Density (pc/mi/ln)	32.21	12.37
Density (veh/mi/ln)	32.05	12.31
Speed of prevailing traffic (mph)	60.8	65.0

=====  
 Center For Microcomputers In Transportation  
 University of Florida  
 512 Weil Hall  
 Gainesville, FL 32611-2083  
 Ph: (904) 392-0378  
 =====

=====  
 File Name ..... EXWEAM.HC3  
 Location..... US 50 EAST OF EDH/LATROBE IC  
 From/To.....  
 Analyst..... FP  
 Time of Analysis..... AM PEAK HOUR  
 Date of Analysis..... 8 /7 /98  
 Other Information.... EXISTING CONDITIONS  
 =====

A. Geometrics and Traffic Input Data	<i>EB</i>	<i>WB</i>
	Dir 1	Dir 2
Traffic Volume (vph)	917	3649
Peak-Hour Factor or Peak 15-min Volume	1.00	1.00
Percentage of Trucks	1.0	1.0
Percentage of Recreational Vehicles	0.0	0.0
Number of Lanes	2	2
Free-Flow Speed (mph)	65.0	65.0
Lane Width (ft)	12.0	12.0
Obstructions-No (0), One (1) or Both (2)	0	0
Distance from Pavement Edge (ft)		
Driver Population Factor	1.00	1.00

B. Adjustment Factors

	Segment Length(ft)	Equiv. Grade	E		F		F
			T	R	HV	W	P
Dir 1	900.0	-1.60%	1.50		0.995	1.00	1.00
Dir 2	900.0	1.60%	1.50		0.995	1.00	1.00

C. Level of Service Results

	Dir 1	Dir 2
Maximum Service Flow (MSF) (pcphpl)	461	1834
Level of Service (LOS)	A	D
Projected Speed at Flow Rate (mph)	65.0	62.6
Density (pc/mi/ln)	7.09	29.29
Density (veh/mi/ln)	7.06	29.15
Speed of prevailing traffic (mph)	65.0	62.6

=====  
 Center For Microcomputers In Transportation  
 University of Florida  
 512 Weil Hall  
 Gainesville, FL 32611-2083  
 Ph: (904) 392-0378  
 =====

File Name ..... EXEAAM.HC3  
 Location..... US 50 EAST OF EDH/LATROBE IC  
 From/To.....  
 Analyst..... FP  
 Time of Analysis..... PM PEAK HOUR  
 Date of Analysis..... 8 /7 /98  
 Other Information.... EXISTING CONDITIONS

	<i>EB</i> Dir 1	<i>WB</i> Dir 2
-----		
A. Geometrics and Traffic Input Data		
Traffic Volume (vph)	3559	1351
Peak-Hour Factor or Peak 15-min Volume	1.00	1.00
Percentage of Trucks	1.0	1.0
Percentage of Recreational Vehicles	0.0	0.0
Number of Lanes	2	2
Free-Flow Speed (mph)	65.0	65.0
Lane Width (ft)	12.0	12.0
Obstructions-No (0), One (1) or Both (2)	0	0
Distance from Pavement Edge (ft)		
Driver Population Factor	1.00	1.00

B. Adjustment Factors

	Segment Length(ft)	Equiv. Grade	E T	E R	F HV	F W	F
Dir 1	900.0	-1.60%	1.50		0.995	1.00	1.
Dir 2	900.0	1.60%	1.50		0.995	1.00	1.

	Dir 1	Dir
-----		
C. Level of Service Results		
Maximum Service Flow (MSF) (pcphpl)	1788	6'
Level of Service (LOS)	D	
Projected Speed at Flow Rate (mph)	63.1	65
Density (pc/mi/ln)	28.33	10.
Density (veh/mi/ln)	28.19	10.
Speed of prevailing traffic (mph)	63.1	65

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail: \_\_\_\_\_

OPERATIONAL ANALYSIS

Highway/Dir. Travel: US 50 WEST OF EDH (EB)  
 From/To: \_\_\_\_\_  
 Agency or Company: FEHR & PEERS ASSOCIATES  
 Analyst: JH  
 Analysis Time Period: AM PEAK HOUR  
 Jurisdiction: \_\_\_\_\_  
 Analysis Year: 8/7/98 - EXISTING CONDITIONS  
 Date Performed: 1/28/00

VOLUME

Volume, V	1400	vph
Peak-Hour Factor, PHF	1.00	
Peak 15-min Volume, v15	350	v
Number of Lanes, N	2	
Terrain Type	Grade	
Grade	-1.61	%
Segment Length	1.08	mi
Trucks and Buses	1	%
Trucks and Buses PCE, ET	1.5	
Recreational Vehicles	0	%
Recreational Vehicle PCE, ER	1.2	
Heavy Vehicle Adjustment, fHV	1.00	
Driver Population Adjustment, fP	1.00	
Adjusted Flow Rate, vp	704	pcphpl

FREE-FLOW SPEED

Free-Flow Speed:	Measured	
FFS or FFSi	65.0	mph
Right-Shoulder Lateral Clearance	12.0	ft
Right-Shoulder Lateral Clearance Adjustment, fLW	0.0	mph
Lateral Clearance Adjustment, fLC	6.0	ft
Interchange Density	0.0	mph
Interchange Density Adjustment, fID	0.50	interchange/mi
Number of Lanes, N	0.0	mph
Number of Lanes Adjustment, fN	2	
Adjusted Free-Flow Speed	4.5	mph
	65.0	mph

Regular Freeway

Adjusted free-flow speed cannot be less than 55 mph.

RESULTS

Adjusted Flow Rate, vp	704	pcphpl
Adjusted Free-Flow Speed, FFS	65.0	mph
Average Passenger-Car Speed, S	65.0	mph
Number of Lanes, N	2	
Density, D	10.8	pc/mi/ln
Level of Service, LOS	B	



Phone:  
E-mail:

Fax:

OPERATIONAL ANALYSIS

Highway/Dir. Travel: US 50 WEST OF EDH (WB)  
 From/To:  
 Agency or Company: FEHR & PEERS ASSOCIATES  
 Analyst: JH  
 Analysis Time Period: AM PEAK HOUR  
 Jurisdiction:  
 Analysis Year: 8/7/98 - EXISTING CONDITIONS  
 Date Performed: 1/28/00

VOLUME

Volume, V	4000	vph
Peak-Hour Factor, PHF	1.00	
Peak 15-min Volume, v15	1000	v
Number of Lanes, N	2	
Terrain Type	Grade	
Grade	1.61	%
Segment Length	1.08	mi
Trucks and Buses	1	%
Trucks and Buses PCE, ET	1.5	
Recreational Vehicles	0	%
Recreational Vehicle PCE, ER	1.2	
Heavy Vehicle Adjustment, fHV	1.00	
Driver Population Adjustment, fP	1.00	
Adjusted Flow Rate, vp	2010	pcphpl

FREE-FLOW SPEED

Free-Flow Speed:	Measured	
FFS or FFSi	65.0	mph
Right-Shoulder Width	12.0	ft
Right-Shoulder Width Adjustment, fLW	0.0	mph
Right-Shoulder Lateral Clearance	6.0	ft
Lateral Clearance Adjustment, fLC	0.0	mph
Interchange Density	0.50	interchange/mi
Interchange Density Adjustment, fID	0.0	mph
Number of Lanes, N	2	
Number of Lanes Adjustment, fN	4.5	mph
Adjusted Free-Flow Speed	65.0	mph

Regular Freeway

Adjusted free-flow speed cannot be less than 55 mph.

RESULTS

Adjusted Flow Rate, vp	2010	pcphpl
Adjusted Free-Flow Speed, FFS	65.0	mph
Average Passenger-Car Speed, S	61.6	mph
Number of Lanes, N	2	
Density, D	32.6	pc/mi/ln
Level of Service, LOS	E	

Phone:  
E-mail:

Fax:

OPERATIONAL ANALYSIS

Highway/Dir. Travel: US 50 WEST OF EDH (EB)  
 From/To:  
 Agency or Company: FEHR & PEERS ASSOCIATES  
 Analyst: JH  
 Analysis Time Period: PM PEAK HOUR  
 Jurisdiction:  
 Analysis Year: 8/7/98 - EXISTING CONDITIONS  
 Date Performed: 1/28/00

VOLUME

Volume, V	3900	vph
Peak-Hour Factor, PHF	1.00	
Peak 15-min Volume, v15	975	v
Number of Lanes, N	2	
Terrain Type	Grade	
Grade	-1.61	%
Segment Length	1.08	mi
Trucks and Buses	1	%
Trucks and Buses PCE, ET	1.5	
Recreational Vehicles	0	%
Recreational Vehicle PCE, ER	1.2	
Heavy Vehicle Adjustment, fHV	1.00	
Driver Population Adjustment, fP	1.00	
Adjusted Flow Rate, vp	1960	pcphpl

FREE-FLOW SPEED

Free-Flow Speed:	Measured	
FFS or FFSi	65.0	mph
Right-Shoulder Lateral Clearance	12.0	ft
Right-Shoulder Lateral Clearance	0.0	mph
General Clearance Adjustment, fLC	6.0	ft
Interchange Density	0.0	mph
Interchange Density Adjustment, fID	0.50	interchange/mi
Number of Lanes, N	0.0	mph
Number of Lanes Adjustment, fN	2	
Adjusted Free-Flow Speed	4.5	mph
	65.0	mph

Regular Freeway

Adjusted free-flow speed cannot be less than 55 mph.

## RESULTS

Adjusted Flow Rate, vp	1960	pcphpl
Adjusted Free-Flow Speed, FFS	65.0	mph
Average Passenger-Car Speed, S	62.3	mph
Number of Lanes, N	2	
Density, D	31.5	pc/mi/ln
Level of Service, LOS	D	

Phone:  
E-mail:

Fax:

OPERATIONAL ANALYSIS

Highway/Dir. Travel: US 50 WEST OF EDH (WB)  
 From/To:  
 Agency or Company: FEHR & PEERS ASSOCIATES  
 Analyst: JH  
 Analysis Time Period: PM PEAK HOUR  
 Jurisdiction:  
 Analysis Year: 8/7/98 - EXISTING CONDITIONS  
 Date Performed: 1/28/00

VOLUME

Volume, V	1600	vph
Peak-Hour Factor, PHF	1.00	
Peak 15-min Volume, v15	400	v
Number of Lanes, N	2	
Terrain Type	Grade	
Grade	1.61	%
Segment Length	1.08	mi
Trucks and Buses	1	%
Trucks and Buses PCE, ET	1.5	
Recreational Vehicles	0	%
Recreational Vehicle PCE, ER	1.2	
Heavy Vehicle Adjustment, fHV	1.00	
Driver Population Adjustment, fP	1.00	
Adjusted Flow Rate, vp	804	pcphpl

FREE-FLOW SPEED

Free-Flow Speed:	Measured	
FFS or FFSi	65.0	mph
Road Width	12.0	ft
Road Width Adjustment, fLW	0.0	mph
Right-Shoulder Lateral Clearance	6.0	ft
Lateral Clearance Adjustment, fLC	0.0	mph
Interchange Density	0.50	interchange/mi
Interchange Density Adjustment, fID	0.0	mph
Number of Lanes, N	2	
Number of Lanes Adjustment, fN	4.5	mph
Adjusted Free-Flow Speed	65.0	mph

Regular Freeway

Adjusted free-flow speed cannot be less than 55 mph.

---

RESULTS

Adjusted Flow Rate, vp	804	pcphpl
Adjusted Free-Flow Speed, FFS	65.0	mph
Average Passenger-Car Speed, S	65.0	mph
Number of Lanes, N	2	
Density, D	12.4	pc/mi/ln
Level of Service, LOS	B	

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail: \_\_\_\_\_

OPERATIONAL ANALYSIS

Highway/Dir. Travel: US 50 EAST OF EDH (EB)  
 From/To: \_\_\_\_\_  
 Agency or Company: FEHR & PEERS ASSOCIATES  
 Analyst: JH  
 Analysis Time Period: AM PEAK HOUR  
 Jurisdiction: \_\_\_\_\_  
 Analysis Year: 8/7/98 - EXISTING CONDITIONS  
 Date Performed: 1/28/00

VOLUME

Volume, V	917	vph
Peak-Hour Factor, PHF	1.00	
Peak 15-min Volume, v15	230	v
Number of Lanes, N	2	
Terrain Type	Grade	
Grade	-1.61	%
Segment Length	0.17	mi
Trucks and Buses	1	%
Trucks and Buses PCE, ET	1.5	
Operational Vehicles	0	%
Operational Vehicle PCE, ER	1.2	
Heavy Vehicle Adjustment, fHV	1.00	
Driver Population Adjustment, fP	1.00	
Adjusted Flow Rate, vp	461	pcphpl

FREE-FLOW SPEED

Free-Flow Speed:	Measured	
FFS or FFSi	65.0	mph
Lane Width	12.0	ft
Lane Width Adjustment, fLW	0.0	mph
Right-Shoulder Lateral Clearance	6.0	ft
Lateral Clearance Adjustment, fLC	0.0	mph
Interchange Density	0.50	interchange/mi
Interchange Density Adjustment, fID	0.0	mph
Number of Lanes, N	2	
Number of Lanes Adjustment, fN	4.5	mph
Adjusted Free-Flow Speed	65.0	mph

Regular Freeway

Adjusted free-flow speed cannot be less than 55 mph.

RESULTS

Adjusted Flow Rate, vp	461	pcphpl
Adjusted Free-Flow Speed, FFS	65.0	mph
Average Passenger-Car Speed, S	65.0	mph
Number of Lanes, N	2	
Density, D	7.1	pc/mi/ln
Level of Service, LOS	A	



Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail: \_\_\_\_\_

OPERATIONAL ANALYSIS

Highway/Dir. Travel: US 50 EAST OF EDH (WB)  
 From/To: \_\_\_\_\_  
 Agency or Company: FEHR & PEERS ASSOCIATES  
 Analyst: JH  
 Analysis Time Period: AM PEAK HOUR  
 Jurisdiction: \_\_\_\_\_  
 Analysis Year: 8/7/98 - EXISTING CONDITIONS  
 Date Performed: 1/28/00

VOLUME

Volume, V	3649	vph
Peak-Hour Factor, PHF	1.00	
Peak 15-min Volume, v15	913	v
Number of Lanes, N	2	
Terrain Type	Grade	
Grade	1.61	%
Segment Length	0.17	mi
Trucks and Buses	1	%
Trucks and Buses PCE, ET	1.5	
Recreational Vehicles	0	%
Recreational Vehicle PCE, ER	1.2	
Heavy Vehicle Adjustment, fHV	1.00	
Driver Population Adjustment, fP	1.00	
Adjusted Flow Rate, vp	1834	pcphpl

FREE-FLOW SPEED

Free-Flow Speed:	Measured	
FFS or FFSi	65.0	mph
Lane Width	12.0	ft
Lane Width Adjustment, fLW	0.0	mph
Right-Shoulder Lateral Clearance	6.0	ft
Lateral Clearance Adjustment, fLC	0.0	mph
Interchange Density	0.50	interchange/mi
Interchange Density Adjustment, fID	0.0	mph
Number of Lanes, N	2	
Number of Lanes Adjustment, fN	4.5	mph
Adjusted Free-Flow Speed	65.0	mph

Regular Freeway

Adjusted free-flow speed cannot be less than 55 mph.

# RESULTS

Adjusted Flow Rate, vp	1834	pcphpl
Adjusted Free-Flow Speed, FFS	65.0	mph
Average Passenger-Car Speed, S	63.5	mph
Number of Lanes, N	2	
Density, D	28.9	pc/mi/ln
Level of Service, LOS	D	

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail: \_\_\_\_\_

OPERATIONAL ANALYSIS

Highway/Dir. Travel: US 50 EAST OF EDH (EB)  
 From/To: \_\_\_\_\_  
 Agency or Company: FEHR & PEERS ASSOCIATES  
 Analyst: JH  
 Analysis Time Period: PM PEAK HOUR  
 Jurisdiction: \_\_\_\_\_  
 Analysis Year: 8/7/98 - EXISTING CONDITIONS  
 Date Performed: 1/28/00

VOLUME

Volume, V	3559	vph
Peak-Hour Factor, PHF	1.00	
Peak 15-min Volume, v15	890	v
Number of Lanes, N	2	
Terrain Type	Grade	
Grade	-1.61	%
Segment Length	0.17	mi
Trucks and Buses	1	%
Trucks and Buses PCE, ET	1.5	
Recreational Vehicles	0	%
Recreational Vehicle PCE, ER	1.2	
Heavy Vehicle Adjustment, fHV	1.00	
Driver Population Adjustment, fP	1.00	
Adjusted Flow Rate, vp	1788	pcphpl

FREE-FLOW SPEED

Free-Flow Speed:	Measured	
FFS or FFSi	65.0	mph
Lane Width	12.0	ft
Lane Width Adjustment, fLW	0.0	mph
Right-Shoulder Lateral Clearance	6.0	ft
Lateral Clearance Adjustment, fLC	0.0	mph
Interchange Density	0.50	interchange/mi
Interchange Density Adjustment, fID	0.0	mph
Number of Lanes, N	2	
Number of Lanes Adjustment, fN	4.5	mph
Adjusted Free-Flow Speed	65.0	mph

Regular Freeway

Adjusted free-flow speed cannot be less than 55 mph.

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RESULTS

Adjusted Flow Rate, vp	1788	pcphpl
Adjusted Free-Flow Speed, FFS	65.0	mph
Average Passenger-Car Speed, S	63.8	mph
Number of Lanes, N	2	
Density, D	28.0	pc/mi/ln
Level of Service, LOS	D	

CALINE4: CALIFORNIA LINE SOURCE DISPERSION MODEL  
 JUNE 1989 VERSION  
 PAGE 1

JOB: El Dorado Hills Blvd - Alternative 1  
 RUN: Hour 1 (WORST CASE ANGLE)  
 POLLUTANT: Carbon Monoxide

I. SITE VARIABLES

U= .5 M/S  
 BRG= WORST CASE  
 CLAS= 7 (G)  
 MIXH= 1000. M  
 SIGTH= 30. DEGREES  
 Z0= 100. CM  
 VD= .0 CM/S  
 VS= .0 CM/S  
 AMB= .0 PPM  
 TEMP= .0 DEGREE (C)  
 ALT= 0. (M)

II. LINK VARIABLES

LINK DESCRIPTION	* X1	* Y1	* X2	* Y2	* TYPE	VEH	EF (G/MI)	H (M)	W (M)
A. Link A	212	309	181	316	AG	1500	100.0	.0	9.9
B. Link B	181	316	166	306	AG	1500	100.0	.0	10.2
C. Link C	166	306	119	175	AG	1500	100.0	.0	10.2
D. Link D	119	175	47	144	AG	1500	100.0	.0	10.2

III. RECEPTOR LOCATIONS

RECEPTOR	* X	* Y	* Z
1. Recept 1	90	200	1.8
2. Recept 2	105	225	1.8
3. Recept 3	110	247	1.8
4. Recept 4	120	269	1.8

IV. MODEL RESULTS (WORST CASE WIND ANGLE )

RECEPTOR	* BRG (DEG)	* PRED CONC (PPM)	* A	* B	* C	* D
1. Recept 1	57.	4.6	.4	.1	4.1	.0
2. Recept 2	60.	5.2	.5	.2	4.6	.0

3. Recpt 3	*	61.	*	4.9	*	.7	.3	3.8	.0
4. Recpt 4	*	69.	*	5.2	*	.9	.5	3.9	.0

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail: \_\_\_\_\_

OPERATIONAL ANALYSIS

Highway/Dir. Travel: US 50 EAST OF EDH (WB)  
 From/To: \_\_\_\_\_  
 Agency or Company: FEHR & PEERS ASSOCIATES  
 Analyst: JH  
 Analysis Time Period: PM PEAK HOUR  
 Jurisdiction: \_\_\_\_\_  
 Analysis Year: 8/7/98 - EXISTING CONDITIONS  
 Date Performed: 1/28/00

VOLUME

Volume, V	1351	vph
Peak-Hour Factor, PHF	1.00	
Peak 15-min Volume, v15	338	v
Number of Lanes, N	2	
Terrain Type	Grade	
Grade	1.61	%
Segment Length	0.17	mi
Trucks and Buses	1	%
Trucks and Buses PCE, ET	1.5	
Recreational Vehicles	0	%
Recreational Vehicle PCE, ER	1.2	
Heavy Vehicle Adjustment, fHV	1.00	
Driver Population Adjustment, fP	1.00	
Adjusted Flow Rate, vp	679	pcphpl

FREE-FLOW SPEED

Free-Flow Speed:	Measured	
FFS or FFSi	65.0	mph
Road Width	12.0	ft
Road Width Adjustment, fLW	0.0	mph
Right-Shoulder Lateral Clearance	6.0	ft
Lateral Clearance Adjustment, fLC	0.0	mph
Interchange Density	0.50	interchange/mi
Interchange Density Adjustment, fID	0.0	mph
Number of Lanes, N	2	
Number of Lanes Adjustment, fN	4.5	mph
Adjusted Free-Flow Speed	65.0	mph

Regular Freeway

Adjusted free-flow speed cannot be less than 55 mph.

---

RESULTS

Adjusted Flow Rate, vp	679	pcphpl
Adjusted Free-Flow Speed, FFS	65.0	mph
Average Passenger-Car Speed, S	65.0	mph
Number of Lanes, N	2	
Density, D	10.4	pc/mi/ln
Level of Service, LOS	B	



# Sensitivity Analysis - Acceleration Length (Response B-5)

HCS: Ramps and Ramp Junctions Release 3.1c

Lehr & Peers Associates

685 Mt. Diablo Blvd  
 Suite 301  
 Lafayette, CA 94549  
 Phone: 925.284.3200  
 E-mail:

Fax:

## MERGE ANALYSIS

Location: US 50 Westbound On-Ramp  
 Analyst: JKS  
 Analysis Time Period: Existing AM Peak Hour  
 Date Performed: 01/28/2000

## FREEWAY-RAMP COMPONENTS AND CHARACTERISTICS

Type of Analysis	Merge		
Freeway Data:			
Number of Lanes in Freeway	2		
Free-Flow Speed on Freeway	65.0	mph	
Volume on Freeway	3047	vph	
Ramp Data:			
Side of Freeway	Right		
Number of Lanes in Ramp	1		
Free-Flow Speed on Ramp	35.0	mph	
Volume on Ramp	953	vph	
Length of First Accel/Decel Lane	500	ft	
Length of Second Accel/Decel Lane		ft	
Adjacent Ramp Data if one exists:			
Does adjacent ramp exist?	Yes		
Volume on Adjacent Ramp	602	vph	
Position of Adjacent Ramp	Upstream		
Type of Adjacent Ramp	Off		
Distance to Adjacent Ramp	1000	ft	

## VOLUME ADJUSTMENT

Adjustment Components	Freeway	Ramp	Adjacent Ramp	
Adjustment Type	Level	Level	Level	
Grade	%	%	%	
Length	mi	mi	mi	
Volume, V (vph)	3047	953	602	vph
Peak-Hour Factor, PHF	0.95	0.95	0.95	
Peak 15-min Volume, v15	802	251	158	v
Trucks and Buses	2	2	2	%
Trucks and Buses PCE, ET	1.5	1.5	1.5	
Recreational Vehicles	1	1	1	%
Recreational Vehicle PCE, ER	1.2	1.2	1.2	
Heavy Vehicle Adjustment, fHV	0.988	0.988	0.988	

Driver Population Adjustment, fP	1.00	1.00	1.00	
Adjusted Flow Rate, vp	3246	1015	641	pc

ANALYSIS and RESULTS of MERGE AREAS

Estimation of Flow entering Lanes 1 and 2:  
 Proportion of Freeway Vehicles  
 in Lanes 1 and 2, P = 1.000 Using Equation 1  

$$v_{12} = v_F (P) = 3246 \text{ pcph}$$

Capacity Checks:

	Actual	Maximum	LOS F?
v	4261	4700	No
FO			
v	4261	4600	No
R12			

Level of Service Operation (if not LOS F):

$$\text{Density, } D = 5.475 + 0.00734 v_R + 0.0078 v_{12} - 0.00627 L_A = 35+ \text{ pc/mi}$$

Level of Service for Ramp-Freeway Junction Areas of Influence E  
 Speed in Ramp Influence Area, S = 52.1 mph

Fehr & Peers Associates

3685 Mt. Diablo Blvd  
 Ste. 301  
 Lafayette, CA 94549  
 Phone: 925.284.3200  
 E-mail:

Fax:

MERGE ANALYSIS

Location: US 50 Westbound On-Ramp  
 Analyst: JKS  
 Analysis Time Period: Existing AM Peak Hour  
 Date Performed: 01/28/2000

FREEWAY-RAMP COMPONENTS AND CHARACTERISTICS

Type of Analysis	Merge		
Freeway Data:			
Number of Lanes in Freeway	2		
Free-Flow Speed on Freeway	65.0	mph	
Volume on Freeway	3047	vph	
Ramp Data:			
Side of Freeway	Right		
Number of Lanes in Ramp	1		
Free-Flow Speed on Ramp	35.0	mph	
Volume on Ramp	953	vph	
Length of First Accel/Decel Lane	150	ft	
Length of Second Accel/Decel Lane		ft	
Adjacent Ramp Data if one exists:			
Does adjacent ramp exist?	Yes		
Volume on Adjacent Ramp	602	vph	
Position of Adjacent Ramp	Upstream		
Type of Adjacent Ramp	Off		
Distance to Adjacent Ramp	1000	ft	

VOLUME ADJUSTMENT

Junction Components	Freeway	Ramp	Adjacent Ramp	
Drain Type	Level	Level	Level	
Grade	%	%	%	
Length	mi	mi	mi	
Volume, V (vph)	3047	953	602	vph
Peak-Hour Factor, PHF	0.95	0.95	0.95	
Peak 15-min Volume, v15	802	251	158	v
Trucks and Buses	2	2	2	%
Trucks and Buses PCE, ET	1.5	1.5	1.5	
Recreational Vehicles	1	1	1	%
Recreational Vehicle PCE, ER	1.2	1.2	1.2	
Heavy Vehicle Adjustment, fHV	0.988	0.988	0.988	

Driver Population Adjustment, fP	1.00	1.00	1.00	
Adjusted Flow Rate, vp	3246	1015	641	pc

ANALYSIS and RESULTS of MERGE AREAS

Estimation of Flow entering Lanes 1 and 2:  
 Proportion of Freeway Vehicles  
 in Lanes 1 and 2, P = 1.000 Using Equation 1  

$$v_{12} = v_{FM} (P) = 3246 \text{ pcph}$$

Capacity Checks:

	Actual	Maximum	LOS F?
v	4261	4700	No
FO			
v	4261	4600	No
R12			

Level of Service Operation (if not LOS F):

$$D = 5.475 + 0.00734 v_R + 0.0078 v_{12} - 0.00627 L_A = 37+ \text{ pc/mi}$$

Level of Service for Ramp-Freeway Junction Areas of Influence E  
 Speed in Ramp Influence Area, S R 51.5 mph

Fehr & Peers Associates

1685 Mt. Diablo Blvd  
 Ste. 301  
 Lafayette, CA 94549  
 Phone: 925.284.3200  
 E-mail:

Fax:

MERGE ANALYSIS

Location: US 50 Westbound On-Ramp  
 Analyst: JKS  
 Analysis Time Period: Existing PM Peak Hour  
 Date Performed: 01/28/2000

FREEWAY-RAMP COMPONENTS AND CHARACTERISTICS

Type of Analysis	Merge		
Freeway Data:			
Number of Lanes in Freeway	2		
Free-Flow Speed on Freeway	65.0	mph	
Volume on Freeway	999	vph	
Ramp Data:			
Side of Freeway	Right		
Number of Lanes in Ramp	1		
Free-Flow Speed on Ramp	35.0	mph	
Volume on Ramp	601	vph	
Length of First Accel/Decel Lane	500	ft	
Length of Second Accel/Decel Lane		ft	
Adjacent Ramp Data if one exists:			
Does adjacent ramp exist?	Yes		
Volume on Adjacent Ramp	352	vph	
Position of Adjacent Ramp	Upstream		
Type of Adjacent Ramp	Off		
Distance to Adjacent Ramp	1000	ft	

VOLUME ADJUSTMENT

Adjustment Components	Freeway	Ramp	Adjacent Ramp	
Friction Type	Level	Level	Level	
Grade	%	%	%	
Length	mi	mi	mi	
Volume, V (vph)	999	601	352	vph
Peak-Hour Factor, PHF	0.95	0.95	0.95	
Peak 15-min Volume, v15	263	158	93	v
Trucks and Buses	2	2	2	%
Trucks and Buses PCE, ET	1.5	1.5	1.5	
Recreational Vehicles	1	1	1	%
Recreational Vehicle PCE, ER	1.2	1.2	1.2	
Heavy Vehicle Adjustment, fHV	0.988	0.988	0.988	

Driver Population Adjustment, fP	1.00	1.00	1.00	
Adjusted Flow Rate, vp	1064	640	375	pc

ANALYSIS and RESULTS of MERGE AREAS

Estimation of Flow entering Lanes 1 and 2:  
 Proportion of Freeway Vehicles  
 in Lanes 1 and 2, P = 1.000 Using Equation 1

Flow in Lanes 1 and 2,  $v_{12} = v_F (P) = 1064$  pcph  
FM FM

Capacity Checks:

	Actual	Maximum	LOS F?
v	1704	4700	No
FO			
v	1704	4600	No
R12			

Level of Service Operation (if not LOS F):

Density,  $D = 5.475 + 0.00734 v_R + 0.0078 v_{12} - 0.00627 L_A = 15+$  pc/mi

Level of Service for Ramp-Freeway Junction Areas of Influence B  
 Speed in Ramp Influence Area, S = 57.9 mph  
R

Lehr & Peers Associates

685 Mt. Diablo Blvd  
 Suite 301  
 Lafayette, CA 94549  
 Phone: 925.284.3200  
 E-mail:

Fax:

MERGE ANALYSIS

Location: US 50 Westbound On-Ramp  
 Analyst: JKS  
 Analysis Time Period: Existing PM Peak Hour  
 Date Performed: 01/28/2000

FREEWAY-RAMP COMPONENTS AND CHARACTERISTICS

Type of Analysis	Merge		
Freeway Data:			
Number of Lanes in Freeway	2		
Free-Flow Speed on Freeway	65.0	mph	
Volume on Freeway	999	vph	
Ramp Data:			
Side of Freeway	Right		
Number of Lanes in Ramp	1		
Free-Flow Speed on Ramp	35.0	mph	
Volume on Ramp	601	vph	
Length of First Accel/Decel Lane	150	ft	
Length of Second Accel/Decel Lane		ft	
Adjacent Ramp Data if one exists:			
Does adjacent ramp exist?	Yes		
Volume on Adjacent Ramp	352	vph	
Position of Adjacent Ramp	Upstream		
Offset of Adjacent Ramp	Off		
Distance to Adjacent Ramp	1000	ft	

VOLUME ADJUSTMENT

Adjustment Components	Freeway	Ramp	Adjacent Ramp	
Adjustment Type	Level	Level	Level	
Grade	%	%	%	
Length	mi	mi	mi	
Volume, V (vph)	999	601	352	vph
Peak-Hour Factor, PHF	0.95	0.95	0.95	
Peak 15-min Volume, v15	263	158	93	v
Trucks and Buses	2	2	2	%
Trucks and Buses PCE, ET	1.5	1.5	1.5	
Recreational Vehicles	1	1	1	%
Recreational Vehicle PCE, ER	1.2	1.2	1.2	
Heavy Vehicle Adjustment, fHV	0.988	0.988	0.988	

Driver Population Adjustment, fP	1.00	1.00	1.00	
Adjusted Flow Rate, vp	1064	640	375	pc

ANALYSIS and RESULTS of MERGE AREAS

Estimation of Flow entering Lanes 1 and 2:

Proportion of Freeway Vehicles

in Lanes 1 and 2, P = 1.000 Using Equation 1

Flow in Lanes 1 and 2,  $v_{12} = v_{F, FM} (P) = 1064$  pcph

Capacity Checks:

	Actual	Maximum	LOS F?
v	1704	4700	No
FO			
v	1704	4600	No
R12			

Level of Service Operation (if not LOS F):

Density,  $D = 5.475 + 0.00734 v_{R, R} + 0.0078 v_{12} - 0.00627 L_A = 18-$  pc/mi

Level of Service for Ramp-Freeway Junction Areas of Influence B  
 Speed in Ramp Influence Area, S R 57.4 mph



**writ-Approved Development Analysis (Response B-7)**

HCS: Freeways Release 2.1g

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=====  
 File Name ..... 05WEAM.HC3  
 Location..... US 50 WEST OF EDH/LATROBE IC  
 From/To.....  
 Analyst..... FP  
 Time of Analysis..... AM PEAK HOUR  
 Date of Analysis..... 03/14/00  
 Other Information.... 2005 CONDITIONS  
 =====

A. Geometrics and Traffic Input Data	Dir 1	Dir 2
Traffic Volume (vph)	1410 → 1710 - 310 HOV	3740 → 4210 - 570 HOV
Peak-Hour Factor or Peak 15-min Volume	1.00	1.00
Percentage of Trucks	1.0	1.0
Percentage of Recreational Vehicles	0.0	0.0
Number of Lanes	2	2
Free-Flow Speed (mph)	65.0	65.0
Lane Width (ft)	12.0	12.0
Obstructions-No (0), One (1) or Both (2)	0	0
Distance from Pavement Edge (ft)		
Driver Population Factor	1.00	1.00

B. Adjustment Factors

Terrain Type	E T	E R	F HV	F W	F P
Dir 1 ROLLING	3.00		0.980	1.00	1.00
Dir 2	3.00		0.980	1.00	1.00

C. Level of Service Results

	Dir 1	Dir 2
Maximum Service Flow (MSF) (pcphpl)	719	1907
Level of Service (LOS)	B	D
Projected Speed at Flow Rate (mph)	65.0	61.7
Density (pc/mi/ln)	11.06	30.91
Density (veh/mi/ln)	10.84	30.31
Speed of prevailing traffic (mph)	65.0	61.7

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File Name ..... 05WEPM.HC3  
 Location..... US 50 WEST OF EDH/LATROBE IC  
 From/To.....  
 Analyst..... FP  
 Time of Analysis..... PM PEAK HOUR  
 Date of Analysis..... 03/14/00  
 Other Information.... 2005 CONDITIONS

A. Geometrics and Traffic Input Data	Dir 1	Dir 2
Traffic Volume (vph)	3690 → <del>4300</del> - 610 HOV	1630 → <del>1980</del> - 350 HOV
Peak-Hour Factor or Peak 15-min Volume	1.00	1.00
Percentage of Trucks	1.0	1.0
Percentage of Recreational Vehicles	0.0	0.0
Number of Lanes	2	2
Free-Flow Speed (mph)	65.0	65.0
Lane Width (ft)	12.0	12.0
Obstructions-No (0), One (1) or Both (2)	0	0
Distance from Pavement Edge (ft)		
Driver Population Factor	1.00	1.00

B. Adjustment Factors

Terrain Type	E	E	F	F	F
	T	R	HV	W	P
Dir 1 ROLLING	3.00		0.980	1.00	1.00
Dir 2	3.00		0.980	1.00	1.00

C. Level of Service Results	Dir 1	Dir 2
Maximum Service Flow (MSF) (pcphpl)	1882	831
Level of Service (LOS)	D	B
Projected Speed at Flow Rate (mph)	62.1	65.0
Density (pc/mi/ln)	30.32	12.78
Density (veh/mi/ln)	29.73	12.53
Speed of prevailing traffic (mph)	62.1	65.0

=====  
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=====  
 File Name ..... EXEAPM.HC3  
 Location..... US 50 EAST OF EDH/LATROBE IC  
 From/To.....  
 Analyst..... FP  
 Time of Analysis..... AM PEAK HOUR  
 Date of Analysis..... 03/14/00  
 Other Information.... 2005 CONDITIONS  
 =====

A. Geometrics and Traffic Input Data	Dir 1	Dir 2
Traffic Volume (vph)	1300	3980
Peak-Hour Factor or Peak 15-min Volume	1.00	1.00
Percentage of Trucks	1.0	1.0
Percentage of Recreational Vehicles	0.0	0.0
Number of Lanes	2	2
Free-Flow Speed (mph)	65.0	65.0
Lane Width (ft)	12.0	12.0
Obstructions-No (0), One (1) or Both (2)	0	0
Distance from Pavement Edge (ft)		
Driver Population Factor	1.00	1.00

B. Adjustment Factors

Terrain Type	E	E	F	F	F
	T	R	HV	W	P
Dir 1 ROLLING	3.00		0.980	1.00	1.00
Dir 2	3.00		0.980	1.00	1.00

C. Level of Service Results

	Dir 1	Dir 2
Maximum Service Flow (MSF) (pcphpl)	663	2030
Level of Service (LOS)	B	E
Projected Speed at Flow Rate (mph)	65.0	59.6
Density (pc/mi/ln)	10.20	34.03
Density (veh/mi/ln)	10.00	33.36
Speed of prevailing traffic (mph)	65.0	59.6

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File Name ..... EXEAAM.HC3  
 Location..... US 50 EAST OF EDH/LATROBE IC  
 From/To.....  
 Analyst..... FP  
 Time of Analysis..... PM PEAK HOUR  
 Date of Analysis..... 03/14/00  
 Other Information.... 2005 CONDITIONS

A. Geometrics and Traffic Input Data	Dir 1	Dir 2
Traffic Volume (vph)	3980	1800
Peak-Hour Factor or Peak 15-min Volume	1.00	1.00
Percentage of Trucks	1.0	1.0
Percentage of Recreational Vehicles	0.0	0.0
Number of Lanes	2	2
Free-Flow Speed (mph)	65.0	65.0
Lane Width (ft)	12.0	12.0
Obstructions-No (0), One (1) or Both (2)	0	0
Distance from Pavement Edge (ft)		
Driver Population Factor	1.00	1.00

B. Adjustment Factors

Terrain Type	E	E	F	F	F
	T	R	HV	W	P
Dir 1 ROLLING	3.00		0.980	1.00	1.00
Dir 2	3.00		0.980	1.00	1.00

C. Level of Service Results	Dir 1	Dir 2
Maximum Service Flow (MSF) (pcphpl)	2030	918
Level of Service (LOS)	E	B
Projected Speed at Flow Rate (mph)	59.6	65.0
Density (pc/mi/ln)	34.03	14.12
Density (veh/mi/ln)	33.36	13.85
Speed of prevailing traffic (mph)	59.6	65.0

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=====  
 File Name ..... 7BWBONAM.HC5  
 Location..... US 50 WESTBOUND DIAG ON-RAMP  
 Analyst..... FP  
 Time of Analysis..... AM PK HR  
 Driver Population Factor..... 1.00  
 Date of Analysis..... 3/13/0  
 Other Information..... 2005 CONDITIONS - BUILD ALTERNATIVES  
 =====

A. Ramp Configuration Input Data

	Freeway	Analysis Ramp	Upstream Ramp
Traffic Volume	2710 → 3250	1030	700
Peak-Hour Factor	0.95 - 570 / 1400	0.95	0.95
Percentage HV's	2.0	2.0	2.0
Percentage RV's	1.0	1.0	1.0
Number of Lanes	2	2	
Lane Width (ft)	12.0	12.0	12.0
Free-flow Speed (mph)	65	35	
Obstructions	0	0	0
Distance from Edge (ft)			
Type of Ramp		ON	OFF

Analysis ramp is a right-hand ramp.  
 Length of acceleration lane is 400 ft.  
 Distance to upstream ramp is 3200 ft.

File Name ..... 7BWBONAM.HC5

B. Adjustment Factors

Terrain Type	E T	E R	F HV	F W	F P
Freeway ROLLING	3.00	2.00	0.952	1.00	1.00
Ramp	3.00	2.00	0.952	1.00	1.00
Upstrm	3.00	2.00	0.952	1.00	1.00

C. Level of Service Results

Type	Vol (vph)	#of FFS Lanes (mph)	Lane Width (ft)	f W	f HV	f P	Vol (pcph)
Freeway	2710	65 2	12.0	1.00	0.952	1.00	2995
Ramp ON	1030	35 2	12.0	1.00	0.952	1.00	1138
Upstream OFF	700		12.0	1.00	0.952	1.00	774

Estimation of V12:

PFM = 1.000 Using Equation: 1 V12 = 2995

Capacity Checks:

VFO = 4133 VR12 = 4133

LOS, Speed, and Density:

Level of Service (LOS)	D
Computed Density (pc/mi/ln)	35
Computed Speed (mph)	53

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=====  
 File Name ..... 7BWBNPM.HC5  
 Location..... US 50 WESTBOUND DIAG ON-RAMP  
 Analyst..... FP  
 Time of Analysis..... PM PK HR  
 Driver Population Factor..... 1.00  
 Date of Analysis..... 3/13/0  
 Other Information..... 2005 CONDITIONS - BUILD ALTERNATIVES  
 =====

A. Ramp Configuration Input Data

	Freeway	Analysis Ramp	Upstream Ramp
Traffic Volume	980 → 1330 -	650	470
Peak-Hour Factor	0.95	0.95	0.95
Percentage HV's	2.0	2.0	2.0
Percentage RV's	1.0	1.0	1.0
Number of Lanes	2	2	
Lane Width (ft)	12.0	12.0	12.0
Free-flow Speed (mph)	65	35	
Obstructions	0	0	0
Distance from Edge (ft)			
Type of Ramp		ON	OFF

Analysis ramp is a right-hand ramp.  
 Length of acceleration lane is 400 ft.  
 Distance to upstream ramp is 3200 ft.

=====  
 File Name ..... 7BWBONPM.HC5

B. Adjustment Factors

Terrain Type		E T	E R	F HV	F W	F P
Freeway	ROLLING	3.00	2.00	0.952	1.00	1.00
Ramp		3.00	2.00	0.952	1.00	1.00
Upstrm		3.00	2.00	0.952	1.00	1.00

C. Level of Service Results

Type	Vol (vph)	#of FFS Lanes (mph)	Lane Width (ft)	f W	f HV	f P	Vol (pcph)
Freeway	980	65 2	12.0	1.00	0.952	1.00	1083
Ramp	650	35 2	12.0	1.00	0.952	1.00	718
Upstream	470		12.0	1.00	0.952	1.00	519

Estimation of V12:

-----  
 PFM = 1.000      Using Equation: 1      V12 = 1083

Capacity Checks:

-----  
 VFO = 1801      VR12 = 1801

LOS, Speed, and Density:

Level of Service (LOS)	B
Computed Density (pc/mi/ln)	17
Computed Speed (mph)	58



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=====  
 File Name ..... 7XWBOFAM.HC5  
 Location..... US 50 WESTBOUND ~~DIAG~~ OFF-RAMP  
 Analyst..... FP LOOP  
 Time of Analysis..... AM PK HR  
 Driver Population Factor..... 1.00  
 Date of Analysis..... 3/13/0  
 Other Information..... 2005 CONDITIONS - BUILD ALTERNATIVES  
 =====

A. Ramp Configuration Input Data

	Freeway	Analysis Ramp	Downstream Ramp
Traffic Volume	3980	700	1030
Peak-Hour Factor	0.95	0.95	0.95
Percentage HV's	2.0	2.0	2.0
Percentage RV's	1.0	1.0	1.0
Number of Lanes	2	1	
Lane Width (ft)	12.0	12.0	12.0
Free-flow Speed (mph)	65	30	
Obstructions	0	0	0
Distance from Edge (ft)			
Type of Ramp		OFF	ON

Analysis ramp is a right-hand ramp.  
 Length of deceleration lane is 0 ft.  
 Distance to downstream ramp is 3200 ft.

=====  
 File Name ..... 7XWBOFAM.HC5

B. Adjustment Factors

Terrain Type		E T	E R	F HV	F W	F P
Freeway	ROLLING	3.00	2.00	0.952	1.00	1.00
Ramp		3.00	2.00	0.952	1.00	1.00
Dnstrm		3.00	2.00	0.952	1.00	1.00

C. Level of Service Results

Type	Vol (vph)	#of FFS Lanes (mph)	Lane Width (ft)	f W	f HV	f P	Vol (pcph)	
Freeway	3980	65	2	12.0	1.00	0.952	1.00	4399
Ramp	700	30	1	12.0	1.00	0.952	1.00	774
Downstream	1030			12.0	1.00	0.952	1.00	1138

Estimation of V12:

-----  
 PFD = 1.000      Using Equation:      6      V12 = 4399

Capacity Checks:

-----  
 VFO+VR = 4399      V12 = 4399

LOS, Speed, and Density:

-----

Level of Service (LOS)	E
Computed Density (pc/mi/ln)	42
Computed Speed (mph)	52

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=====  
 File Name ..... 7BWBOFAM.HC5  
 Location..... US 50 WESTBOUND ~~DIAG~~ OFF-RAMP  
 Analyst..... FP LOOP  
 Time of Analysis..... PM PK HR  
 Driver Population Factor..... 1.00  
 Date of Analysis..... 3/13/0  
 Other Information..... 2005 CONDITIONS - BUILD ALTERNATIVES  
 =====

A. Ramp Configuration Input Data

	Freeway	Analysis Ramp	Downstream Ramp
Traffic Volume	1800	470	650
Peak-Hour Factor	0.95	0.95	0.95
Percentage HV's	2.0	2.0	2.0
Percentage RV's	1.0	1.0	1.0
Number of Lanes	2	1	
Lane Width (ft)	12.0	12.0	12.0
Free-flow Speed (mph)	65	30	
Obstructions	0	0	0
Distance from Edge (ft)			
Type of Ramp		OFF	ON

Analysis ramp is a right-hand ramp.  
 Length of deceleration lane is 0 ft.  
 Distance to downstream ramp is 3200 ft.

=====  
 File Name ..... 7BWBOFAM.HC5

B. Adjustment Factors

Terrain Type		E T	E R	F HV	F W	F P
Freeway	ROLLING	3.00	2.00	0.952	1.00	1.00
Ramp		3.00	2.00	0.952	1.00	1.00
Dnstrm		3.00	2.00	0.952	1.00	1.00

C. Level of Service Results

Type	Vol (vph)	#of FFS Lanes (mph)	Lane Width (ft)	f W	f HV	f P	Vol (pcph)	
Freeway	1800	65	2	12.0	1.00	0.952	1.00	1989
Ramp	470	30	1	12.0	1.00	0.952	1.00	519
Downstream	650			12.0	1.00	0.952	1.00	718

Estimation of V12:

-----  
 PFD = 1.000      Using Equation:      6      V12 = 1989

Capacity Checks:

-----  
 VFO+VR = 1989      V12 = 1989

LOS, Speed, and Density:

-----  
 Level of Service (LOS)      C  
 Computed Density (pc/mi/ln)      21  
 Computed Speed (mph)      53

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File Name ..... 7XEBOAM.HC5  
Location..... US 50 EASTBOUND DIAG ON-RAMP  
Analyst..... FP  
Time of Analysis..... AM PK HR  
Driver Population Factor..... 1.00  
Date of Analysis..... 3/13/0  
Other Information..... 2005 CONDITIONS - BUILD ALTERNATIVES

A. Ramp Configuration Input Data

	Freeway	Analysis Ramp
Traffic Volume	960	340
Peak-Hour Factor	0.95	0.95
Percentage HV's	2.0	2.0
Percentage RV's	1.0	1.0
Number of Lanes	2	2
Lane Width (ft)	12.0	12.0
Free-flow Speed (mph)	65	35
Obstructions	0	0
Distance from Edge (ft)		
Type of Ramp		ON

Analysis ramp is a right-hand ramp.  
Length of acceleration lane is 150 ft.



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=====  
 File Name ..... 7BEBONAM.HC5  
 Location..... US 50 EASTBOUND DIAG ON-RAMP  
 Analyst..... FP  
 Time of Analysis..... PM PK HR  
 Driver Population Factor..... 1.00  
 Date of Analysis..... 3/13/0  
 Other Information..... 2005 CONDITIONS - BUILD ALTERNATIVES  
 =====

A. Ramp Configuration Input Data

	Freeway	Analysis Ramp
Traffic Volume	3200	780
Peak-Hour Factor	0.95	0.95
Percentage HV's	2.0	2.0
Percentage RV's	1.0	1.0
Number of Lanes	2	2
Lane Width (ft)	12.0	12.0
Free-flow Speed (mph)	65	35
Obstructions	0	0
Distance from Edge (ft)		
Type of Ramp		ON

Analysis ramp is a right-hand ramp.  
 Length of acceleration lane is 150 ft.

=====

File Name ..... 7BEBONAM.HC5

B. Adjustment Factors

Terrain Type		E T	E R	F HV	F W	F P
Freeway	ROLLING	3.00	2.00	0.952	1.00	1.00
Ramp		3.00	2.00	0.952	1.00	1.00

C. Level of Service Results

Type	Vol (vph)	#of FFS Lanes (mph)	Lane Width (ft)	f W	f HV	f P	Vol (pcph)
Freeway	3200	65 2	12.0	1.00	0.952	1.00	3537
Ramp	ON 780	35 2	12.0	1.00	0.952	1.00	862

Estimation of V12:

-----

PFM = 1.000      Using Equation: 1      V12 = 3537

Capacity Checks:

-----

VFO = 4399      VR12 = 4399

LOS, Speed, and Density:

-----

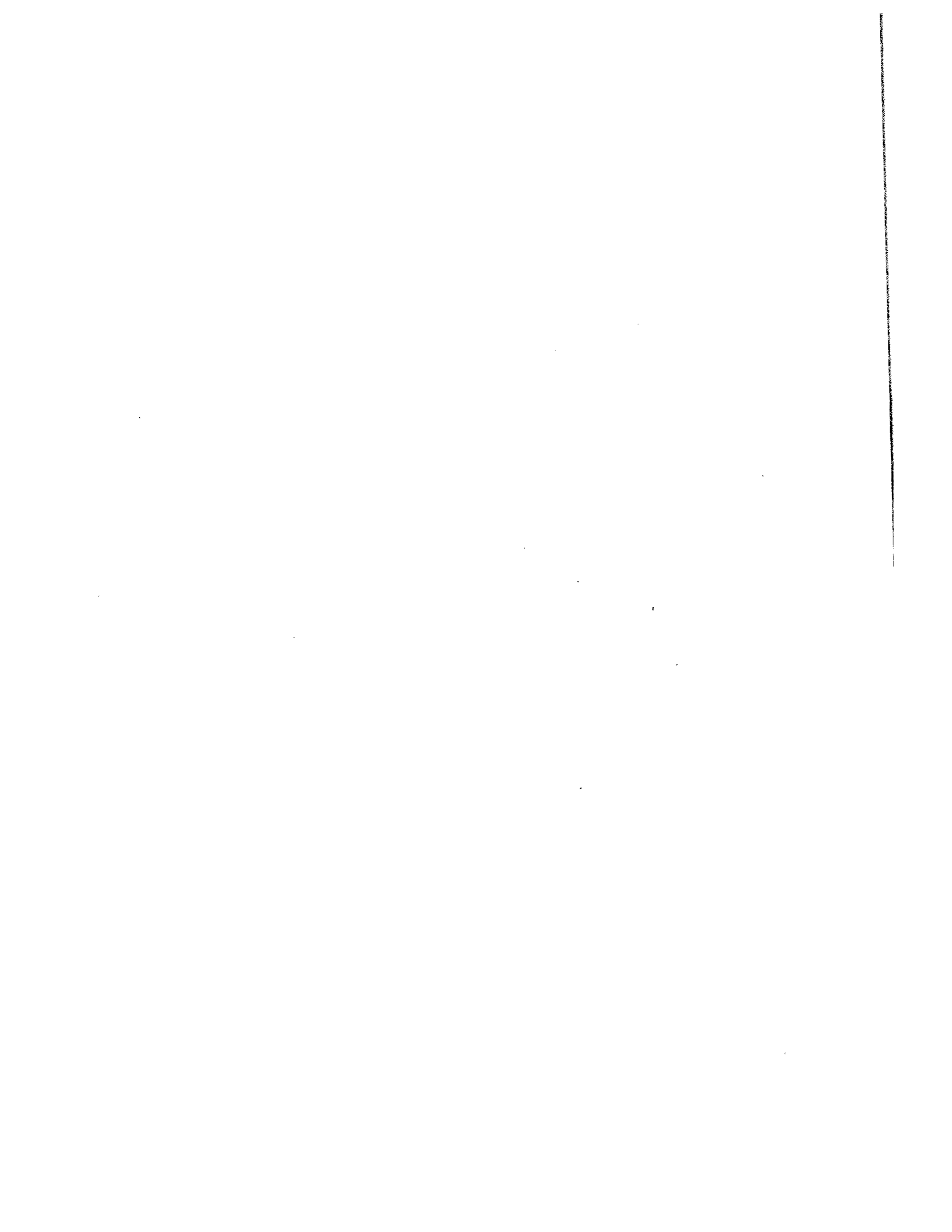
Level of Service (LOS)	E
Computed Density (pc/mi/ln)	38
Computed Speed (mph)	51



**Appendix B. Noise Analysis of Second Stories of Selected  
Residences in Support of Response E-36**

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# ENVIRONMENTAL NOISE ANALYSIS

## TRAFFIC NOISE REDUCTION: EL DORADO HILLS BLVD/SR 50

El Dorado County, California

BBA Project No. 00-208

Prepared For

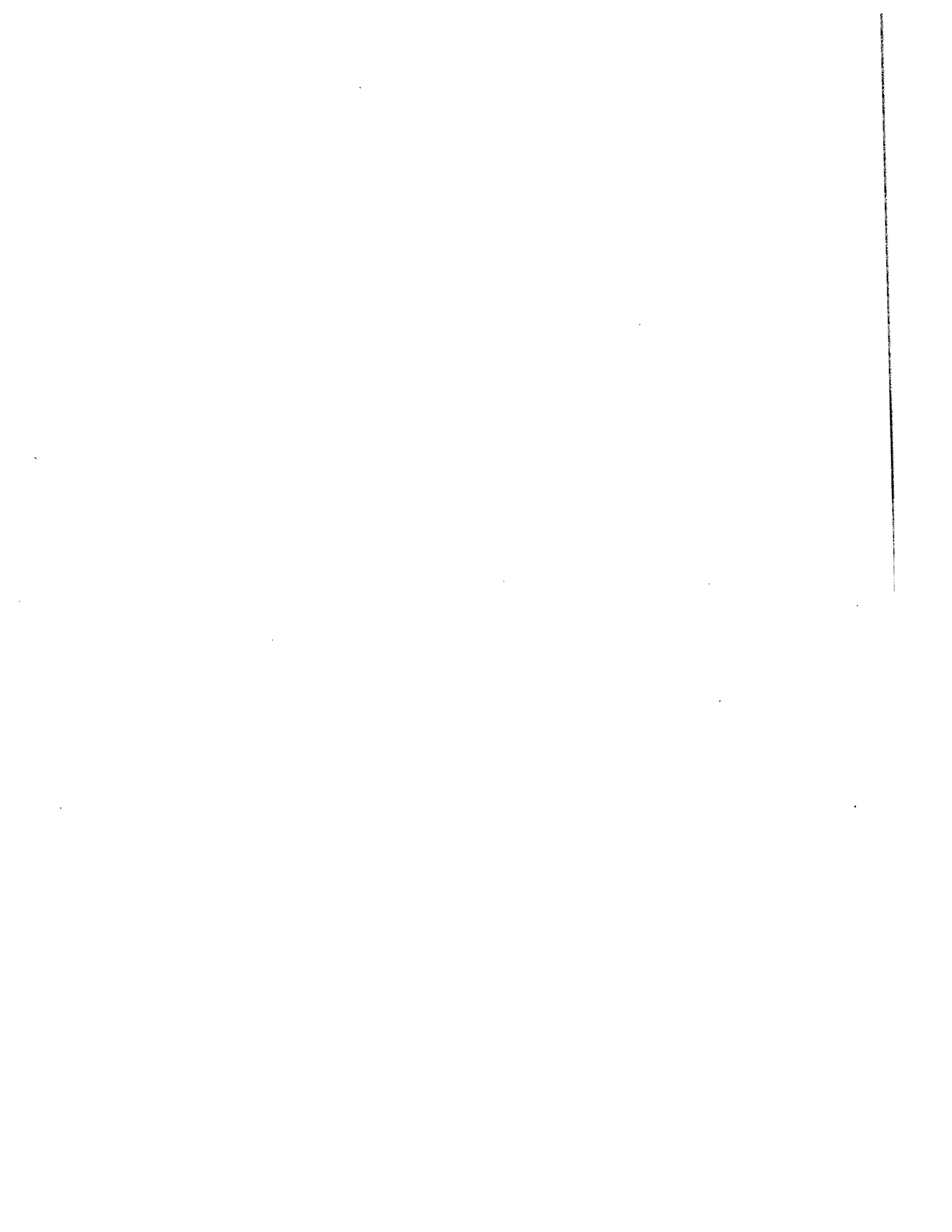
HDR Engineering, Inc.  
271 Turn Pike Drive  
Folsom, CA 95630

March 3, 2000

Prepared By

Brown-Buntin Associates, Inc.  
Fair Oaks, California





## INTRODUCTION

Previously, Brown-Buntin Associates, Inc. (BBA) prepared an acoustical study for the El Dorado Hills Boulevard/U. S. 50 Interchange Modification Project, which was revised on January 13, 1999. Based upon the project Draft Environmental Impact Report (DEIR), the County of El Dorado has requested an acoustical analysis to determine whether traffic noise would cause interior noise levels at representative homes in the project area to exceed acceptable limits. Specifically, the County has requested that an analysis be prepared to show the relationship between exterior and interior noise levels in five homes, in living areas where communication and sleep are critical.

## CRITERIA

The Noise Element of the El Dorado County General Plan establishes an interior noise level standard of 45 dB  $L_{dn}^1$ . The Federal Highway Administration (FHWA) has established an interior noise level standard of 52 dB  $L_{eq}$ . These standards were applied in the DEIR for the El Dorado Hills Boulevard/U. S. 50 Interchange Modification Project.

## EVALUATION OF THE NOISE ENVIRONMENT

### Site Description:

The study area is located in the northwest quadrant of the El Dorado Hills Boulevard/U. S. 50 Interchange Modification Project. See Figure 1 for a site description.

### Traffic Noise Levels:

According to the Draft Environmental Impact Report (DEIR), predicted future exterior noise levels at the homes in the study area are in the range of 67 to 69 dB  $L_{eq}$ , and 68 to 70 dB  $L_{dn}$ .

### Noise Level Measurements:

Interior and exterior sound level measurements and concurrent traffic counts were conducted at the selected homes on February 22, 25, and 28 of the year 2000 (see Figure 1). The exterior noise measurements were conducted in the adjacent yards at heights of 5 feet and 14 feet above the ground to represent both the ground-level and upper-floor receivers. The interior noise measurements were conducted in the living rooms and/or bedrooms which were most affected by noise due to traffic on U. S. 50 or El Dorado Hills Boulevard. The purpose of the noise measurements was to determine the noise reduction provided by the building facades.

Sound measurement equipment consisted of Larson Davis Model 820 and Model 870 precision sound level meters. The measurement equipment was calibrated in the field immediately before

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<sup>1</sup> For an explanation of terms used in this report, see Appendix A.

use, and meets the specifications of the American National Standards Institute (ANSI) and International Electrotechnical Institute (IEC) for Type 1 (precision) sound measurement equipment. The noise measurements for each site consisted of two 15-minute simultaneous samples. The measured average noise levels ( $L_{eq}$ ) and the one-second time history data were collected for later analysis.

The noise measurement sites are listed below. The Receiver number corresponds to the designation of each home in the DEIR noise studies.

### **3883 Scenic Court (Receiver 1)**

This measurement site was a residential town house. Traffic noise measurements were conducted on the afternoon of February 28, 2000. Weather conditions were fair and the pavement was dry. From this location, traffic on El Dorado Hills Boulevard and was visible and audible.

Noise measurements were performed inside the downstairs living room and the upstairs bedroom. Both rooms overlooked El Dorado Hills Boulevard, which was the dominant noise source inside these rooms. All glass doors and windows had single-pane glazing, with the exception of the window on the south facade in the living room, which had dual-pane glazing.

### **3913 Hills Court (Receiver 4)**

This measurement site was a residential town house. Traffic noise measurements were conducted on the morning of February 25, 2000. Weather conditions were fair and the pavement was dry. From this location, traffic on U. S. 50 was visible and audible.

Noise measurements were performed inside the downstairs living room and the upstairs bedroom. Both rooms overlooked U. S. 50 and a small section of El Dorado Hills Boulevard. Highway 50 was the dominant noise source inside these rooms. All glass doors and windows had single-pane glazing.

### **970 Kings Canyon (Receiver 5)**

This measurement site was a two-story residence. Traffic noise measurements were conducted on the morning of February 22, 2000. Weather conditions were cloudy, with winds of 10 mph. The pavement on U. S. 50 was damp due to light showers, but no spray was visible from the traffic, and the frequency content of the traffic noise was unaffected by the rain. From this location, traffic on U. S. 50 was visible and audible.

Noise measurements were performed inside the downstairs south bedroom, upstairs bedroom, and the upstairs south bathroom. The downstairs bedroom and the upstairs bedroom overlooked U. S. 50, and the facade of the upstairs bedroom was perpendicular to U. S. 50. All glass doors and windows had single-pane glazing, with the exception of the window on the south facade of the upstairs bedroom, which has dual-pane glazing.

### **721 Platt Circle (Receiver 13A)**

This measurement site was a two-story residence. Traffic noise measurements were conducted on the morning of February 22, 2000. Weather conditions were cloudy, with wind between 0-5 mph, and light showers toward the end of the second 15-minute measurement sample. The pavement on U. S. 50 was damp due to light showers, but no spray was visible from the traffic, and the frequency content of the traffic noise was unaffected by the moisture. From this location, which is below grade with U. S. 50, traffic on U. S. 50 was visible and audible.

Noise measurements were performed inside the downstairs living room, the southeast bedroom, and the master bedroom were tested. All of the rooms tested overlooked U. S. 50. All glass doors and windows in the rooms that were tested had dual-pane glazing and were covered with solar screens.

### **357 Platt Circle (Receiver 14)**

This measurement site was a tri-level residence. Traffic noise measurements were conducted on the early morning of February 25, 2000. Weather conditions were good and the pavement was dry. From this location, which was above grade with U. S. 50, traffic on U. S. 50 was visible and audible.

Noise measurements were performed inside the downstairs living room, the east bedroom, the master bedroom. The living room and the master bedroom overlooked U. S. 50, and the most affected facade of the east bedroom was perpendicular to U. S. 50. All glass doors and windows had dual-pane glazing.

## **RESULTS**

Table I shows the traffic counts during each measurement sample. The purpose of these counts was to document traffic conditions during the tests. Traffic was free-flowing during all of the measurement periods.

Table II shows the measured noise levels and the differences between the interior and exterior noise levels. In some cases, extraneous activities affected noise levels inside the tested rooms, as revealed by the one-second time histories. Where this occurred, BBA deleted the affected portion of the sample, and re-calculated the average noise levels outside and inside the home for the remaining portion of the sample. In two cases, the interference occurred throughout the sample, and could not be deleted.

**TABLE I**  
**15-MINUTE TRAFFIC COUNTS**  
**El Dorado Hills Boulevard/U. S. 50 Interchange Modification Project**

Roadway	Date	Time	Autos	Medium Trks.	Heavy Trks.
<b>3883 Scenic Court (Receiver 1)</b>					
El Dorado Hills Boulevard	2/28/00	14:23	320	8	9
		14:41	300	4	3
U. S. 50 (through traffic)	2/28/00	14:23	650	22	14
		14:41	706	15	17
U. S. 50 (eastbound off-ramp traffic)	2/28/00	14:23	158	5	2
		14:41	190	3	1
<b>3913 Hills Court (Receiver 4)</b>					
U. S. 50 (through traffic)	2/25/00	10:08	502	26	16
		10:23	657	25	17
<b>970 Kings Canyon (Receiver 5)</b>					
U. S. 50	2/22/00	8:40	1548	15	14
		8:55	1275	16	13
<b>721 Platt Circle (Receiver 13A)</b>					
U. S. 50	2/22/00	10:36	899	27	23
		10:53	822	38	22
<b>357 Platt Circle (Receiver 14)</b>					
U. S. 50	2/25/00	8:23	1072	25	24
		8:42	1085	34	20



**TABLE II  
MEASURED TRAFFIC NOISE LEVEL REDUCTIONS  
El Dorado Hills Boulevard/U. S. 50 Interchange Modification Project**

Room Description	L <sub>eq</sub> , dB			
	Exterior, dB	Interior, dB	Noise Level Reduction, dB	
			Per Test	Average
<b>3883 Scenic Court (Receiver 1)</b>				
Living Room	56.6/58.3*	33.6	23.0	24.1
	59.0/60.9*	33.8	25.2	
East Bedroom	58.4	35.6	22.8	23.7
	60.2	35.6	24.6	
<b>3913 Hills Court (Receiver 4)</b>				
Living Room	58.7	42.2	16.5**	25.5
	59.4	33.9	25.5	
South Bedroom	62.2	37.3	24.9	24.9
	62.7	37.8	24.9	
<b>970 Kings Canyon (Receiver 5)</b>				
South Bedroom	65.1	40.8	24.3	24.3
	65.2	40.9	24.3	
Southeast Bedroom	65.6	37.8	27.8	28.3
	65.7	36.9	28.8	
Bathroom	65.6	36.3	29.3	29.8
	65.7	35.5	30.2	
<b>721 Platt Circle (Receiver 13A)</b>				
Den	66.1	46.9	19.2**	26.3
	66.1	39.8	26.3	
Master Bedroom	67.7	38.9	28.8	28.7
	67.6	39.0	28.6	
Southeast Bedroom	67.7	39.5	28.2	29.5
	67.6	36.9	30.7	

**TABLE II**  
**MEASURED TRAFFIC NOISE LEVEL REDUCTIONS**  
**El Dorado Hills Boulevard/U. S. 50 Interchange Modification Project**

Room Description	L <sub>eq</sub> , dB			
	Exterior, dB	Interior, dB	Noise Level Reduction, dB	
			Per Test	Average
357 Platt Circle (Receiver 14)				
Den	64.9	35.5	29.4	29.2
	64.6	35.7	28.9	
East Bedroom	67.0	32.7	34.3	34.7
	66.8	31.7	35.1	
Master Bedroom	67.0	36.3	30.7	30.8
	66.8	35.9	30.9	
* - This microphone was near the south facade aimed toward U. S. 50. ** - Resident activity inside room invalidated sample.				

It is common for traffic noise levels to differ between upper and lower floors of buildings because of differences in the view of the roadway and the character of the intervening surfaces. To quantify these differences at the homes in this study, exterior noise measurements were conducted at two heights. Table III shows the differences between noise levels at each height.

**TABLE III  
FIRST FLOOR AND SECOND FLOOR EXTERIOR NOISE LEVELS  
El Dorado Hills Boulevard/U. S. 50 Interchange Modification Project**

Site	L <sub>eq</sub> , dB			
	First Floor, dB	Second Floor, dB	Difference, dB	
			Per Test	Average
3883 Scenic Court (receiver 1)	56.6	58.4	1.8	1.5
	59.0	60.2	1.2	
3913 Hills Court (receiver 4)	58.7	62.2	3.9	3.6
	59.4	62.7	3.3	
970 Kings Canyon (receiver 5)	65.1	65.6	0.5	0.5
	65.2	65.7	0.5	
721 Platt Circle (receiver 13A)	66.1	67.7	1.6	1.6
	66.1	67.6	1.5	
357 Platt Circle (receiver 14)	64.9	67.0	2.1	2.2
	64.6	66.8	2.2	

## CONCLUSIONS

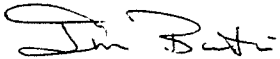
Assuming the average measured noise level r noise levels, it is possible to estimate the resu Boulevard/U. S. 50 Interchange Modification including the appropriate correction for upper

<b>T ESTIMATED FUTURE El Dorado Hills Boulevard/U. S. 50</b>	
Home/Room	Predicted F
	From DEIR
<b>3883 Scenic Court (Receiver 1)</b>	
Living Room	68
East Bedroom	68
<b>3913 Hills Court (Receiver 4)</b>	
Living Room	70
South Bedroom	70
<b>970 Kings Canyon (Receiver 5)</b>	
Downstairs South Bedroom	70
Upstairs Bedroom	70
Upstairs Bathroom	70
<b>721 Platt Circle</b>	
Den	70
Master Bedroom	70
Southeast Bedroom	70
<b>357 Platt Circle</b>	
Den	67
East Bedroom	67
Master Bedroom	67

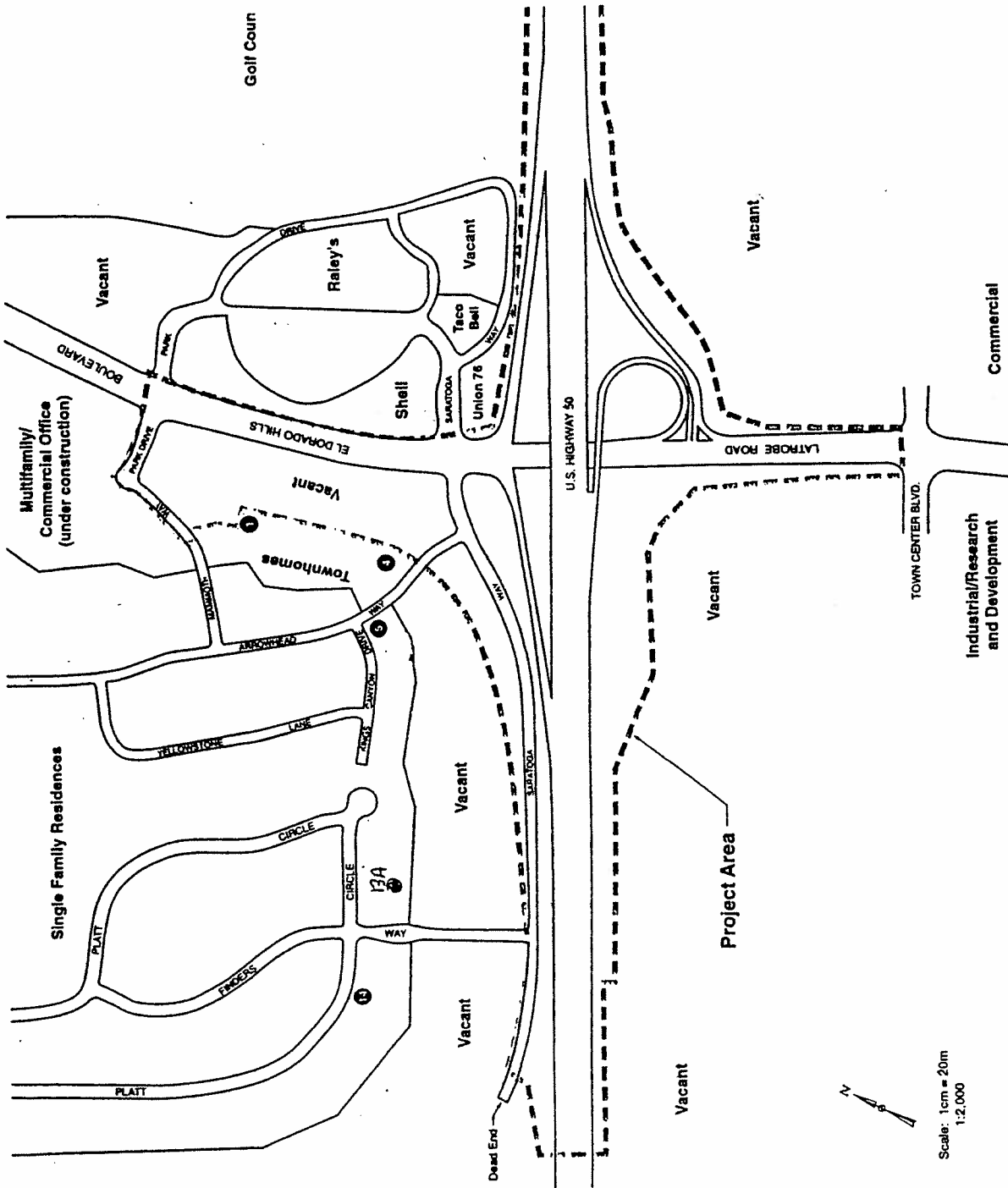
The noise measurements indicate that the County interior noise standard of 45 dB  $L_{dn}$  will be satisfied inside two of the tested homes. At the upper floors of the homes at 3883 Scenic Court and 3913 Hills Court, and at the downstairs south bedroom of 970 Kings Canyon, the interior noise standard will be exceeded. Since the  $L_{dn}$  values for this project are within 1 dB of the hourly  $L_{eq}$  values used by Caltrans, it may also be concluded that the predicted interior noise levels in all of the tested homes will comply with the Caltrans interior noise standard of 52 dB  $L_{eq}$ .

The noise measurements also show that the use of energy-efficient dual-pane glazing may be expected to provide a significant improvement in the acoustical performance of the building facades, as illustrated by the results at 357 Platt Circle. Such glazing typically provides a Sound Transmission Class (STC) rating of about 30, as compared to standard older single pane glazing, which has a typical STC rating of about 26. If the County chooses to install new glazing as a noise mitigation measure in homes which are likely to be impacted, the specifications for the glazing should include a requirement that the glazing provide an STC rating of at least 30.

Respectfully submitted,  
Brown-Buntin Associates, Inc.



Jim Buntin  
Vice President



**FIGURE 1**  
**NOISE MONITORING SITES**  
**El Dorado Hills Traffic Noise Study**

**APPENDIX A**  
**ACOUSTICAL TERMINOLOGY**

**AMBIENT NOISE LEVEL:** The composite of noise from all sources near and far. In this context, the ambient noise level constitutes the normal or existing level of environmental noise at a given location.

**CNEL:** Community Noise Equivalent Level. The average equivalent sound level during a 24-hour day, obtained after addition of approximately five decibels to sound levels in the evening from 7:00 p.m. to 10:00 p.m. and ten decibels to sound levels in the night before 7:00 a.m. and after 10:00 p.m.

**DECIBEL, dB:** A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

**DNL/ $L_{dn}$ :** Day-Night Average Sound Level. The average annual equivalent sound level during a 24-hour day, obtained after addition of ten decibels to sound levels in the night after 10:00 p.m. and before 7:00 a.m.

**$L_{eq}$ :** Equivalent Sound Level. The sound level containing the same total energy as a time varying signal over a given sample period.  $L_{eq}$  is typically computed over 1, 8 and 24-hour sample periods.

**Note:**  $L_{dn}$  represents the daily level of noise exposure averaged on an annual basis, while  $L_{eq}$  represents the average noise exposure for a shorter time period, typically one hour.

**$L_{max}$ :** The maximum sound level recorded during a noise event.

**$L_n$ :** The sound level exceeded "n" percent of the time during a sample interval.  $L_{10}$  equals the level exceeded 10 percent of the time ( $L_{90}$ ,  $L_{50}$ , etc.)

## APPENDIX A-2 ACOUSTICAL TERMINOLOGY

### **NOISE EXPOSURE CONTOURS:**

Lines drawn about a noise source indicating constant levels of noise exposure.  $L_{dn}$  contours are frequently utilized to describe community exposure to noise.

### **SEL OR SENEL:**

Sound Exposure Level or Single Event Noise Exposure Level. The level of noise accumulated during a single noise event, such as an aircraft overflight, with reference to a duration of one second. More specifically, it is the time-integrated A-weighted squared sound pressure level for a stated time interval or event, based on a reference pressure of 20 micropascals and a reference duration of one second.

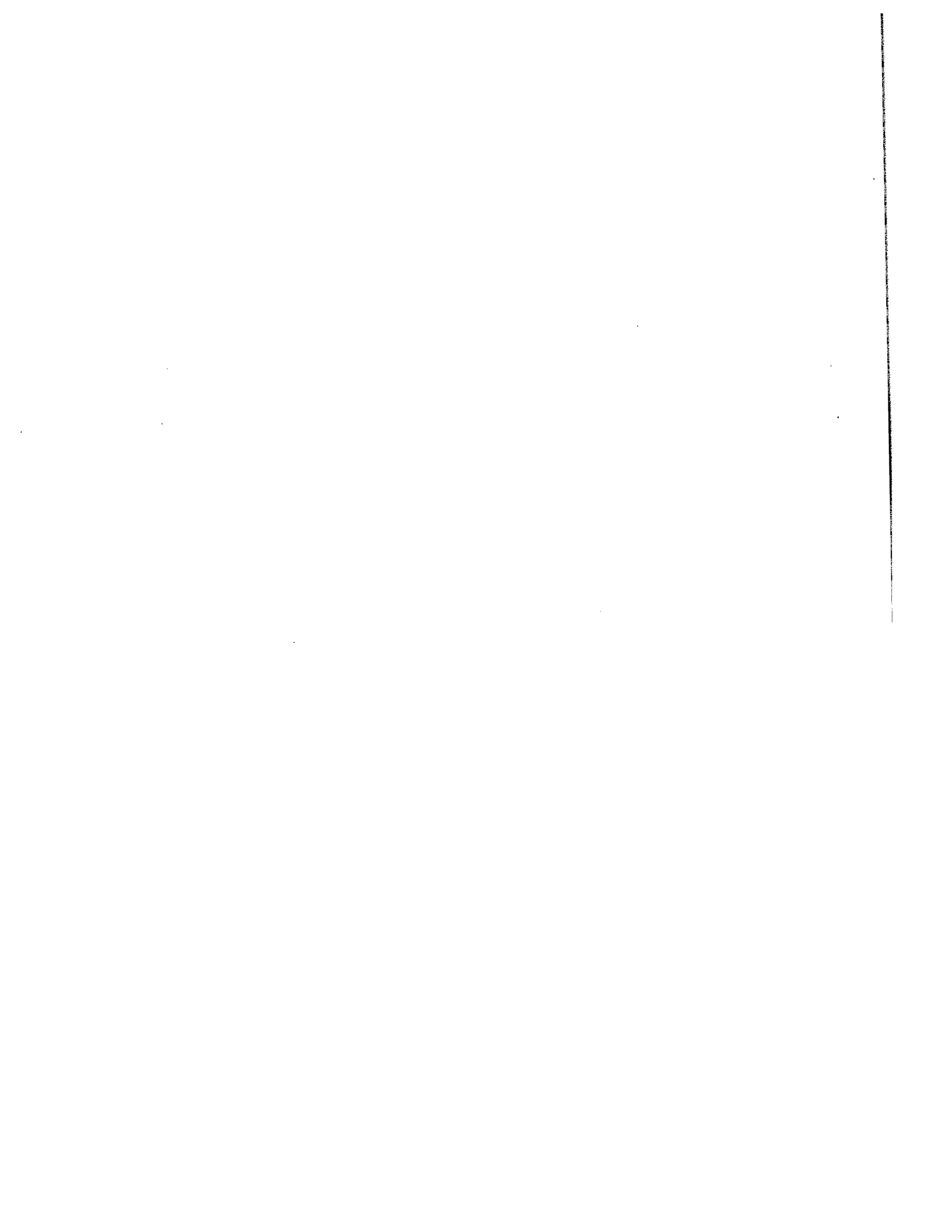
### **SOUND LEVEL:**

The sound pressure level in decibels as measured on a sound level meter using the A-weighting filter network. The A-weighting filter de-emphasizes the very low and very high frequency components of the sound in a manner similar to the response of the human ear and gives good correlation with subjective reactions to noise.



**Appendix C. Toxic Air Contaminant Modeling Results in  
Support of Response E-98**

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El Dorado Hills Blvd. Mobile Source Air Toxics Risk Assessment - Saratoga Way Comparision

Preferred Project

Maximum Concentratio	ppm @ 1 gram/mile	ppm @ actual emission rate	1-hour ug/m3	Annual ug/m3	Unit Risk Factor	Cancer Risk
Benzene	0.045	0.0004275	1.387063	0.138706	2.90E-05	4.02248E-06
Formaldehyde	0.045	0.0002745	0.342554	0.034255	6.00E-06	2.05532E-07
1,3 Butadiene	0.045	0.0000675	0.151622	0.015162	1.70E-04	2.57758E-06
Acetaldehyde	0.045	0.000099	0.181198	0.01812	2.70E-06	4.89235E-08
						6.85452E-06
						6.85 in a million

Alternative 1

Maximum Concentratio	ppm @ 1 gram/mile	ppm @ actual emission rate	1-hour ug/m3	Annual ug/m3	Unit Risk Factor	Cancer Risk
Benzene	0.052	0.000494	1.602829	0.160283	2.90E-05	4.6482E-06
Formaldehyde	0.052	0.0003172	0.39584	0.039584	6.00E-06	2.37504E-07
1,3 Butadiene	0.052	0.000078	0.175208	0.017521	1.70E-04	2.97854E-06
Acetaldehyde	0.052	0.0001144	0.209384	0.020938	2.70E-06	5.65338E-08
						7.92078E-06
						7.92 in a million

		2020 (milligrams per mile)
Emission rates:	Benzene	9.5
Fleet average emission	Formaldehyde	6.1
rates	1,3 Butadiene	1.5
	Acetaldehyde	2.2

Emission Rates from:  
Sierra Research. 1999. Analysis of the Impacts of Control Programs on Motor Vehicle Toxics Emissions and Exposure  
Prepared for U.S. EPA. EPA420-R-99 029.

CALINE4: CALIFORNIA LINE SOURCE DISPERSION MODEL  
 JUNE 1989 VERSION  
 PAGE 1

JOB: El Dorado Hills Blvd - Preferred  
 RUN: Hour 1 (WORST CASE ANGLE)  
 POLLUTANT: Carbon Monoxide

I. SITE VARIABLES

U= .5 M/S                      Z0= 100. CM                      ALT= 0. (M)  
 BRG= WORST CASE              VD= .0 CM/S  
 CLAS= 7 (G)                      VS= .0 CM/S  
 MIXH= 1000. M                      AMB= .0 PPM  
 SIGTH= 30. DEGREES              TEMP= .0 DEGREE (C)

II. LINK VARIABLES

LINK DESCRIPTION	*	LINK COORDINATES (M)				*	TYPE	VPH	EF (G/MI)	H (M)	W (M)
		X1	Y1	X2	Y2						
A. Link A	*	212	309	181	316	*	AG	1500	100.0	.0	10.1
B. Link B	*	181	316	166	306	*	AG	1500	100.0	.0	10.4
C. Link C	*	166	306	159	269	*	AG	1500	100.0	.0	10.4
D. Link D	*	159	269	162	241	*	AG	1500	100.0	.0	10.4
E. Link E	*	162	241	159	209	*	AG	1500	100.0	.0	10.4
F. Link F	*	159	209	119	175	*	AG	1500	100.0	.0	10.4
G. Link G	*	119	175	47	144	*	AG	1500	100.0	.0	10.4

III. RECEPTOR LOCATIONS

RECEPTOR	*	COORDINATES (M)		
		X	Y	Z
1. Recpt 1	*	90	200	1.8
2. Recpt 2	*	105	225	1.8
3. Recpt 3	*	110	247	1.8
4. Recpt 4	*	120	269	1.8

CALINE4: CALIFORNIA LINE SOURCE DISPERSION MODEL  
 JUNE 1989 VERSION  
 PAGE 2

JOB: El Dorado Hills Blvd - Preferred  
 RUN: Hour 1 (WORST CASE ANGLE)  
 POLLUTANT: Carbon Monoxide

IV. MODEL RESULTS (WORST CASE WIND ANGLE )

RECEPTOR	* * BRG * (DEG)	* PRED * CONC * (PPM)	CONC/LINK (PPM)							
			A	B	C	D	E	F	G	
1. Recpt 1	* 186.	* 3.9 *	.0	.0	.0	.0	.0	.0	.0	3.9
2. Recpt 2	* 53.	* 3.7 *	.6	.3	1.2	1.3	.4	.0	.0	.0
3. Recpt 3	* 58.	* 3.9 *	.8	.4	1.7	1.0	.0	.0	.0	.0
4. Recpt 4	* 69.	* 4.5 *	.9	.5	2.6	.5	.0	.0	.0	.0



**Appendix D. Red-Legged Frog Site Assessment in Support  
of Response G-11**

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# Jones & Stokes

March 13, 2000

Ms. Maria Boroja  
U.S. Fish and Wildlife Service  
Sacramento Fish and Wildlife Office  
2800 Cottage Way, Room W-2605  
Sacramento, CA 95825

Subject: Response to Correspondence on PPN 2536 (dated December 28, 1999) on the U.S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange Draft Environmental Impact Report/Environmental Assessment (EIR/EA) - California Red-Legged Frog Site Assessment

Dear Ms. Boroja,

On behalf of El Dorado County Department of Transportation (DOT), we are forwarding a copy of the California red-legged frog site assessment conducted for the U.S. Highway 50/ El Dorado Hills Boulevard-Latrobe Road Interchange project, in response to the U.S. Fish and Wildlife Service's (USFWS) letter on the project's draft EIR/EA. The enclosed report concludes that the stream and drainages contained in the project area are considered unsuitable red-legged frog breeding habitat due to the lack of adequate water depth and the disturbed nature of the area from previous construction activities related to the existing interchange. The area provides potential low-quality dispersal habitat for red-legged frogs; the dispersal habitat is considered low quality since portions of the stream and drainages occur under U.S. Highway 50. Therefore, it is considered unlikely that the species occurs in the project area.

El Dorado County DOT is requesting written concurrence from the USFWS that protocol-level surveys for the red-legged frog are not required and that the project area is not considered suitable breeding habitat for the red-legged frog. DOT would appreciate a response from the USFWS regarding this matter as soon as possible in order to meet the project schedule.

Please call me or Debbie Loh, the Jones & Stokes' project manager for this project, if you have any questions.

Sincerely,

Steve Avery  
Senior Wildlife Biologist

cc Kris Payne, El Dorado County DOT  
Jim Avila, Caltrans, District 3



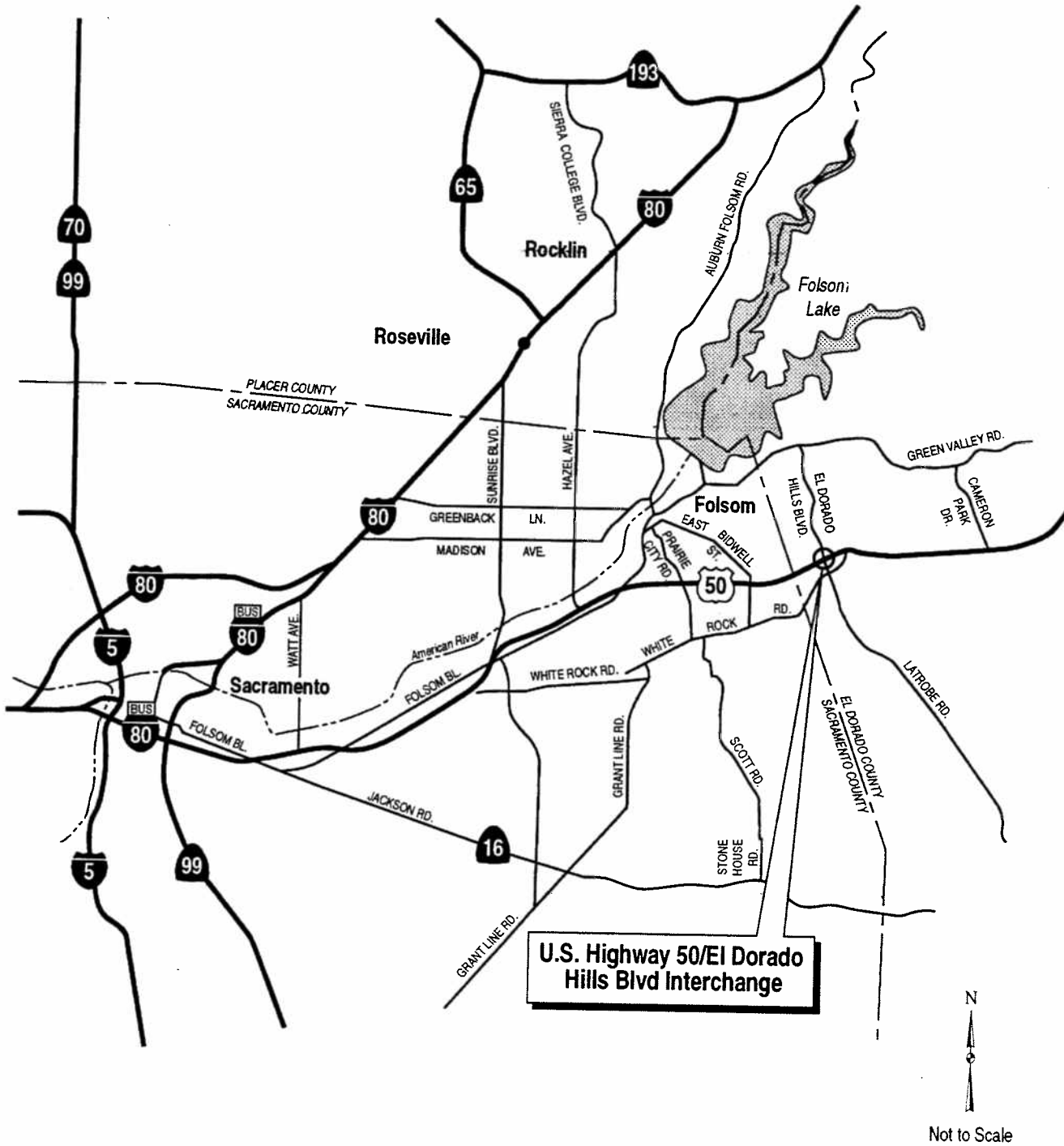
# **Site Assessment for California Red-Legged Frog for the U.S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange Project, El Dorado County, California**

## **PROJECT DESCRIPTION AND BACKGROUND**

The proposed project involves the following (see Figure 1, Project Location, for project vicinity, and Figure 2, Project Site, for project design):

- reconstructing the El Dorado Hills Boulevard-Latrobe Road interchange on U.S. Highway 50,
- improving the vertical and horizontal alignment of the interchange on- and off-ramps,
- providing an additional lane at the following locations to accommodate exclusive turn lanes at the intersections (these lanes do not increase the through capacity of El Dorado Hills Boulevard or Latrobe Road):
  - southbound: between Park Drive and the westbound diagonal on-ramp, and between the westbound loop off-ramp and Town Center Boulevard; and
  - northbound: between Town Center Boulevard and the eastbound diagonal on-ramp, and between the eastbound loop off-ramp and Saratoga Way.
- providing dual left-turn lanes at the eastbound and westbound on-ramp intersections,
- realigning Saratoga Way to intersect with Park Drive to address the existing spacing problem between the westbound on-ramp and the Saratoga Way/El Dorado Hills Boulevard intersection, and
- realigning Mammouth Way to intersect with realigned Saratoga Way.





**Figure 1**  
**Regional Location**  
**U.S. Highway 50/El Dorado Hills Boulevard-**  
**Latrobe Road Interchange Project**



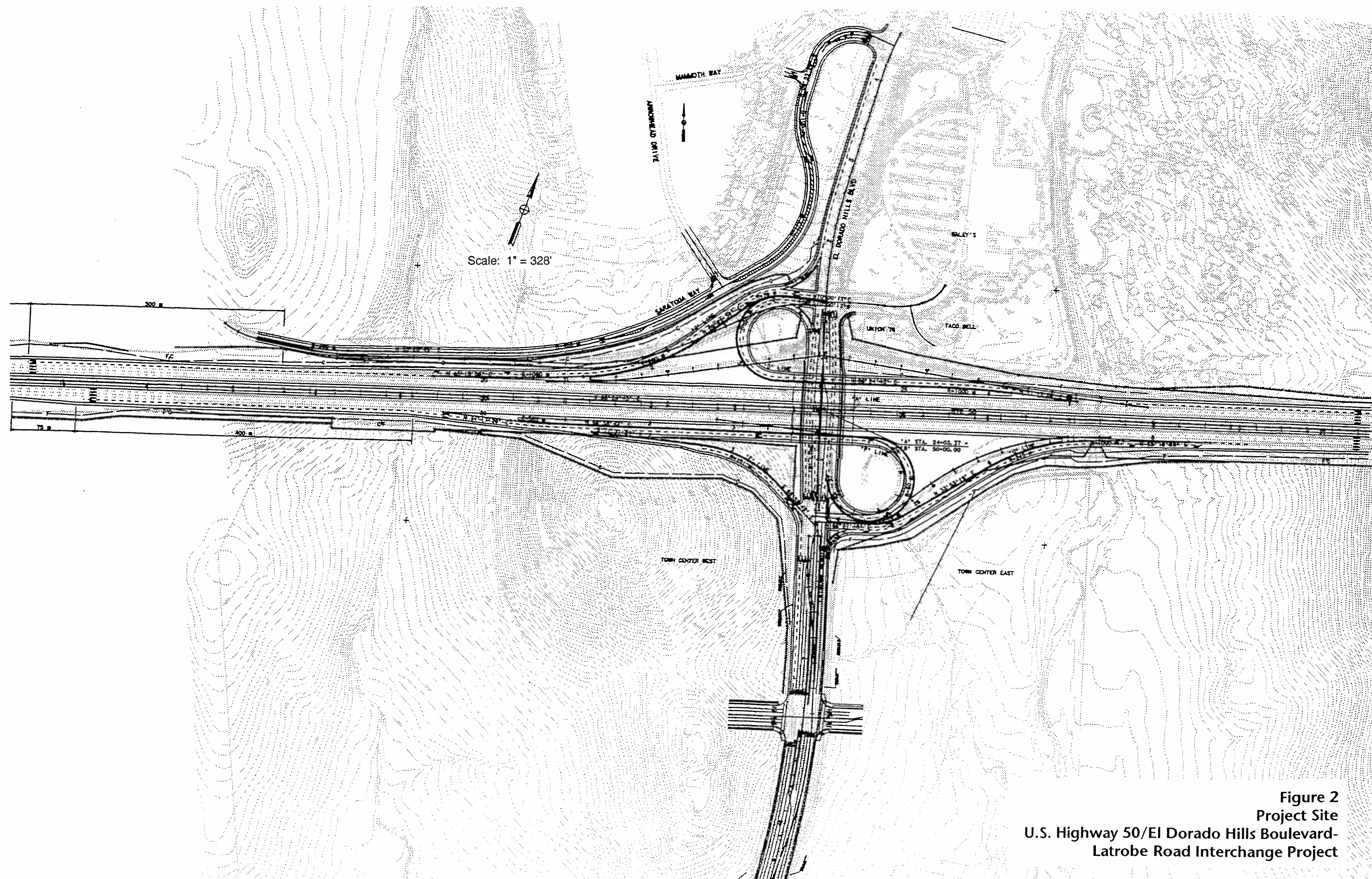


Figure 2  
 Project Site  
 U.S. Highway 50/El Dorado Hills Boulevard-  
 Latrobe Road Interchange Project





## SPECIES DESCRIPTION AND STATUS

### Legal Status

The California red-legged frog (*Rana aurora draytonii*) is one of two subspecies of red-legged frog (*Rana aurora*) found along the Pacific coast. The U.S. Fish and Wildlife Service (USFWS) designated the California red-legged frog as a threatened subspecies under the federal Endangered Species Act on June 24, 1996. This species is also designated as a state species of special concern by the California Department of Fish and Game (DFG).

### Distribution

The California red-legged frog was once common from Redding, south to Baja California, including in the Sierra Nevada and Coast Ranges. Its current range is much reduced, and most remaining populations are found in central California along the Pacific coast from Marin County, south to Ventura County. Within its range, the California red-legged frog breeds in lowland streams and wetlands, including livestock ponds. Red-legged frogs may also be found in upland habitats near breeding areas and along intermittent drainages connecting wetlands.

### Reasons for Decline

The decline of the red-legged frog is attributable to a variety of factors. From the late 1800s to mid-1900s, the species' distribution was substantially reduced by the conversion of millions of acres of wetland habitat to agricultural uses in the Central Valley and elsewhere. Large-scale commercial harvest of the species for food during this period probably also had a detrimental effect. Continued recent declines are attributed to ongoing loss of wetland and stream habitat (especially from dam construction and water management activities) and introduction of nonnative predators and competitors, including bullfrogs (*Rana catesbeiana*), crayfish (*Procambarus clarki*), and fish. (Jennings and Hayes 1994)

### Habitat Requirements

Red-legged frogs require cold water pond habitats (e.g., pools, streams, and ponds) with emergent and submergent vegetation. Habitats with the highest densities of frogs are deep-water pools (at least 2.5 feet deep) with dense stands of overhanging willows and a fringe of tules or cattails. Juvenile frogs seem to prefer open, shallow aquatic habitats with dense submergent vegetation. Although red-legged frogs can inhabit either ephemeral or permanent streams or ponds,

populations probably cannot be maintained in ephemeral streams from which all surface water disappears. (Jennings and Hayes 1994)

As adults, red-legged frogs are highly aquatic when active but depend less on permanent water bodies than other frog species. Adults may take refuge during dry periods in rodent holes or leaf litter in riparian habitats. Although red-legged frogs typically remain near streams or ponds, recent information suggests that they are capable of moving 1 mile or more into upland habitats or through ephemeral drainages.

## ASSESSMENT METHODS

A Jones & Stokes Associates biologist examined topographic maps (Clarksville quadrangle) and identified potentially suitable habitat for California red-legged frogs within 1 mile of the project site area. Reconnaissance-level surveys of the study area were then conducted on August 24, 1998 and January 21, 2000. The site assessment focused on portions of the project site with potential red-legged frog habitat that could be affected by the project, including

- an unnamed stream that is a tributary of the Cosumnes River through Carson and Deer Creeks (Figure 3), and
- drainages that flow through and along the freeway interchange and into the unnamed stream (Figure 3).

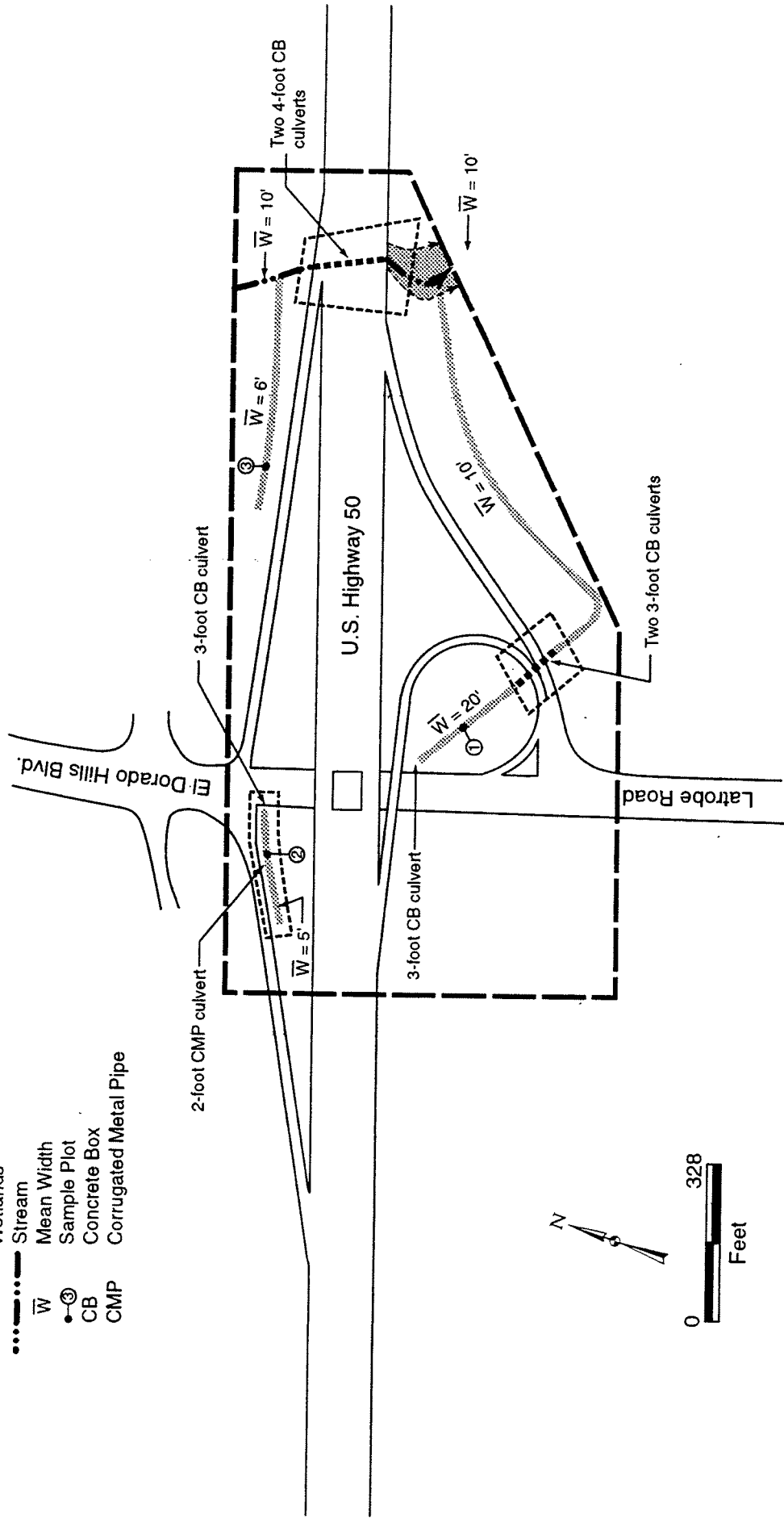
The biologist also conducted a records search of DFG's Natural Diversity Data Base in 1998 (NDDB 1998).

The site assessment was based on habitat requirements described in the USFWS's February 18, 1997 guidance on site assessment and field surveys for California red-legged frogs. To evaluate habitat suitability, biologists assessed the area's potential to support breeding or foraging frogs, provide refuge, or support dispersal. Areas evaluated for suitability included the unnamed stream and drainages in the project area.

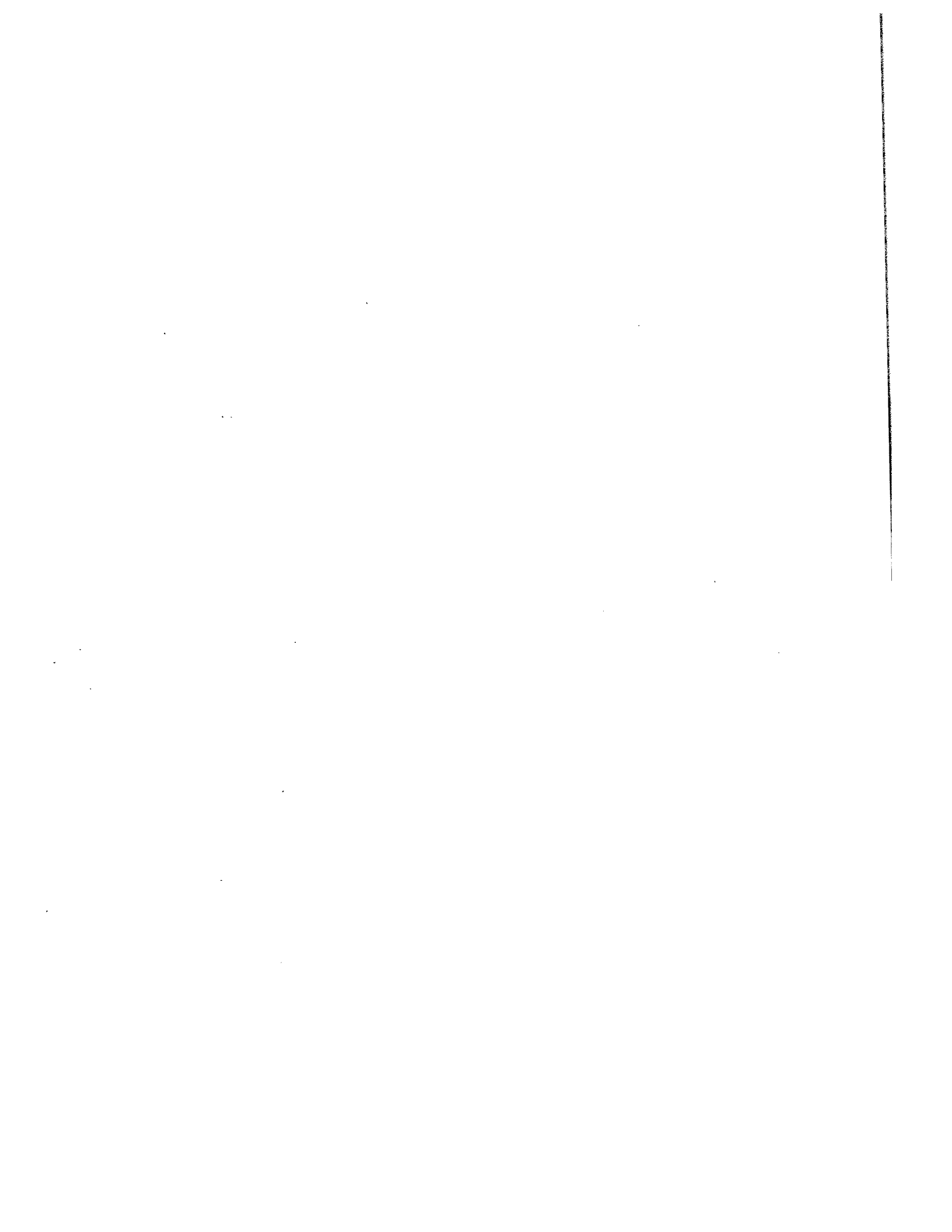
All suitable habitat areas were mapped on USGS 7.5-minute topographic maps. Suitable habitat was categorized as breeding habitat and dispersal habitat only, based on the attributes of the areas. The quality of breeding habitat was evaluated by comparing it to habitat associated with reported red-legged frog observations in the same geographic region.

**Legend**

- Wetlands
- Stream
- Mean Width
- Sample Plot
- Concrete Box
- CMP
- Corrugated Metal Pipe



**Figure 3**  
**Location of Streams and Wetlands**  
**U.S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange Project**



## RESULTS

### Occurrence in the Project Area

From examination of topographic maps and identification of suitable habitat during field surveys, Jones & Stokes Associates biologists identified two areas on the project site that provide suitable habitat for red-legged frogs. These areas are:

- an unnamed stream and adjacent drainage (Figure 3), and
- the interchange drainage (Figure 3).

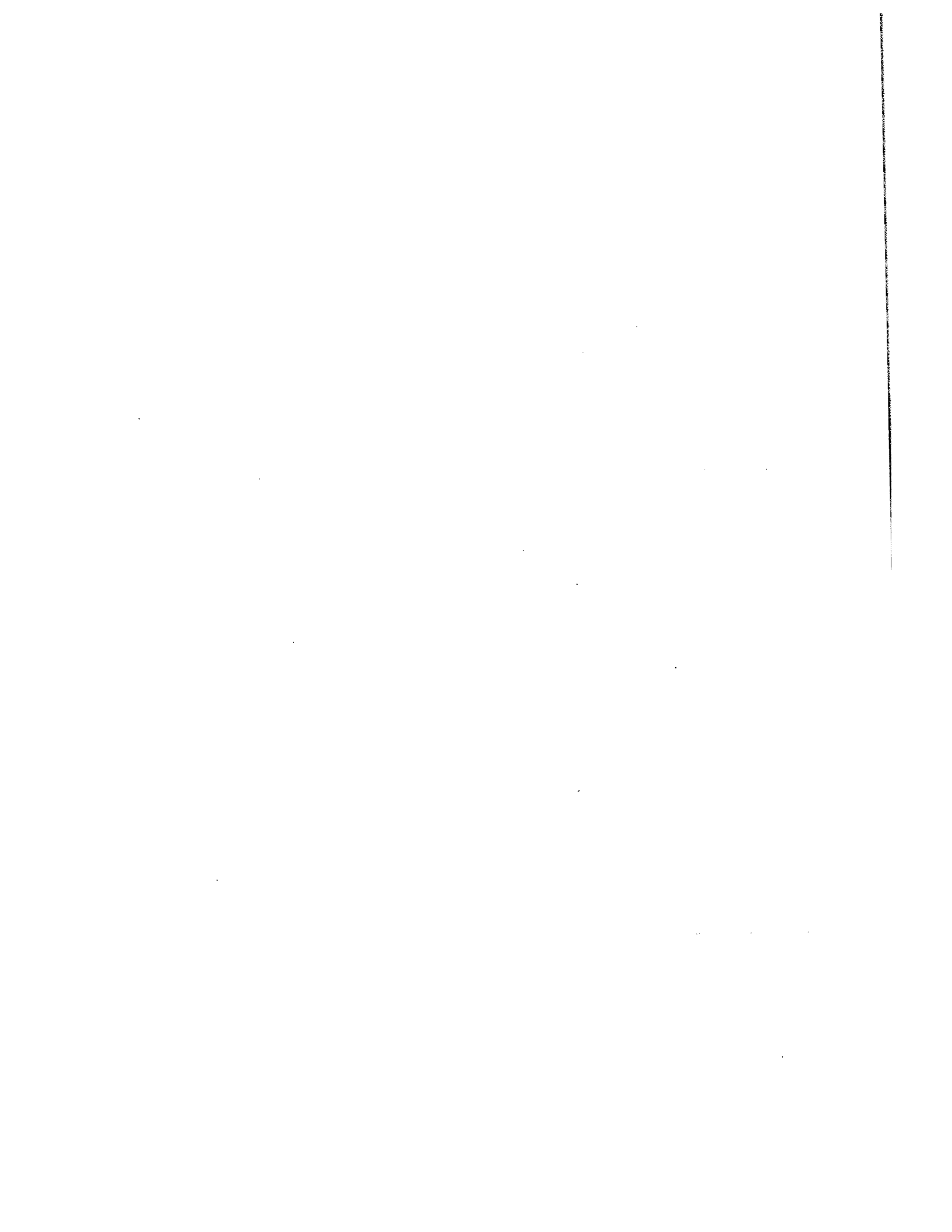
The suitability of the habitat in these two areas to support red-legged frogs is described below. Information on known red-legged frog occurrences in the project vicinity and a comparison of habitat conditions at the project site with sites known to be occupied by red-legged frogs are also provided.

### Unnamed Stream and Adjacent Drainages

No suitable breeding habitat occurs in the unnamed stream and adjacent drainages because of the lack of adequate water depth and the disturbed nature of the area due to previous construction activities related to the existing interchange. Low-quality dispersal habitat for red-legged frogs is present (Figure 4, Figure 5, and Figure 6). The unnamed stream flows along the west side of the El Dorado Hills golf course and crosses under U.S. Highway 50 just east of the west-bound off-ramp (Figures 3 and 5). Upstream of the golf course, the drainage becomes a roadside ditch with no vegetation until it reaches the top of a hill (Figure 4 [Photo 1]). The stream flow is conveyed under U.S. Highway 50 through two 4-foot-diameter concrete-box culverts (Figure 5 [Photo 4]). North of U.S. Highway 50, the stream is bordered by a 50-foot-wide strip of riparian vegetation dominated by arroyo willows (*Salix lasiolepis*), alders (*Alnus rhomifolia*), and Himalaya blackberry (*Rubus discolor*) (Figure 4 [Photo 2] and Figure 5 [Photo 3]). No woody riparian plant community is present south of U.S. Highway 50, although a few willows and alders are present (Figure 5 [Photo 4] and Figure 6). A small amount of water was flowing in the creek in August 1998 and substantial flows were observed during January 2000. During August 1998, the water was several inches deep, and no distinct pools were present at the site. In January 2000, there was substantial flow at a high velocity.

Willow riparian scrub is also present in the lower half of a channel (drainage) along the north side of the westbound off-ramp (Figure 3). This channel is a tributary of the unnamed stream.

Freshwater marsh, dominated by broadleaved cattail (*Typha latifolia*) is present in a channel that crosses the interior of the east bound off-ramp loop. Fremont cottonwoods (*Populus fremontii*) are present along the margins of the channel. On the south side of the off-ramp loop, the channel



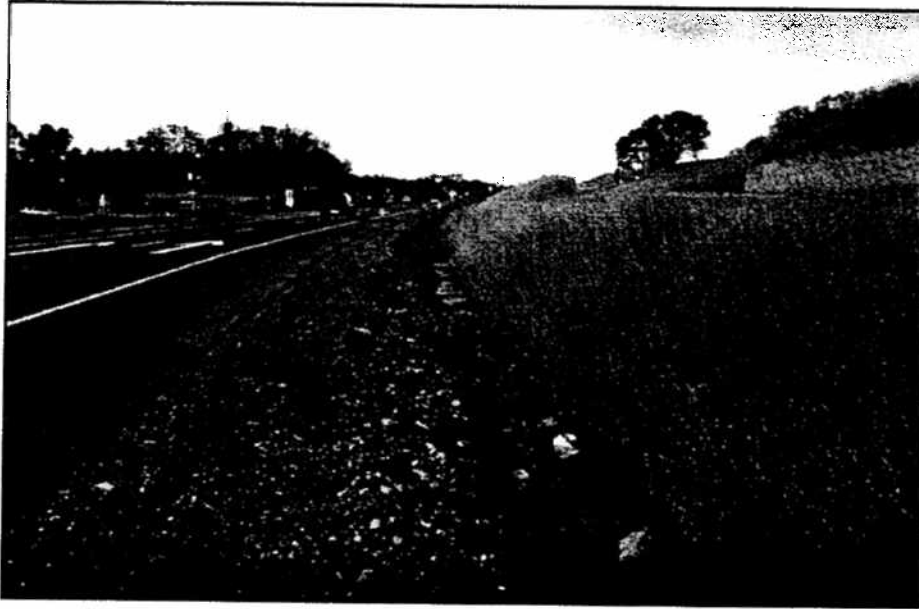
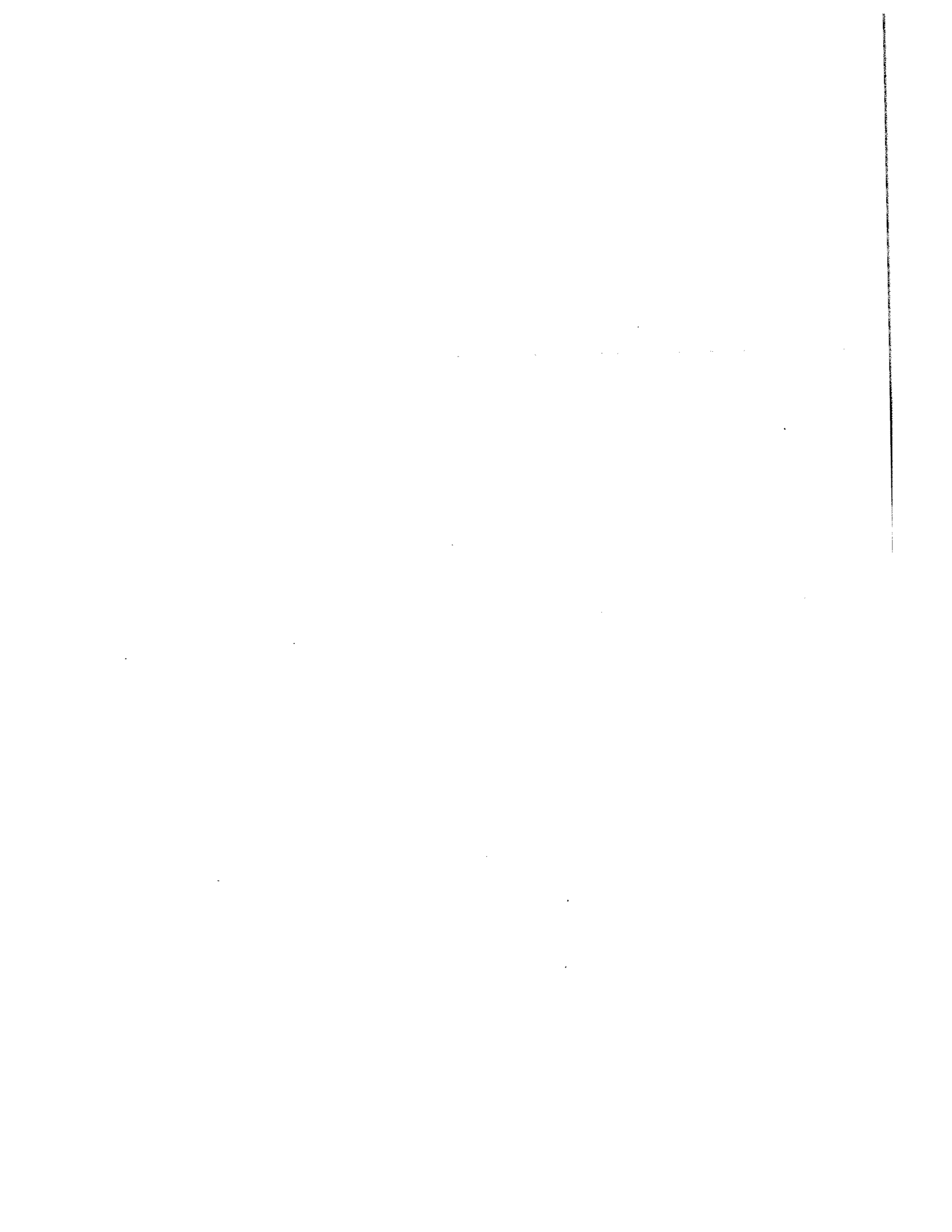


Photo 1. Headwaters of unnamed stream along El Dorado Hills Boulevard.



Photo 2. Unnamed stream adjacent to golf course, north of U.S. Highway 50.





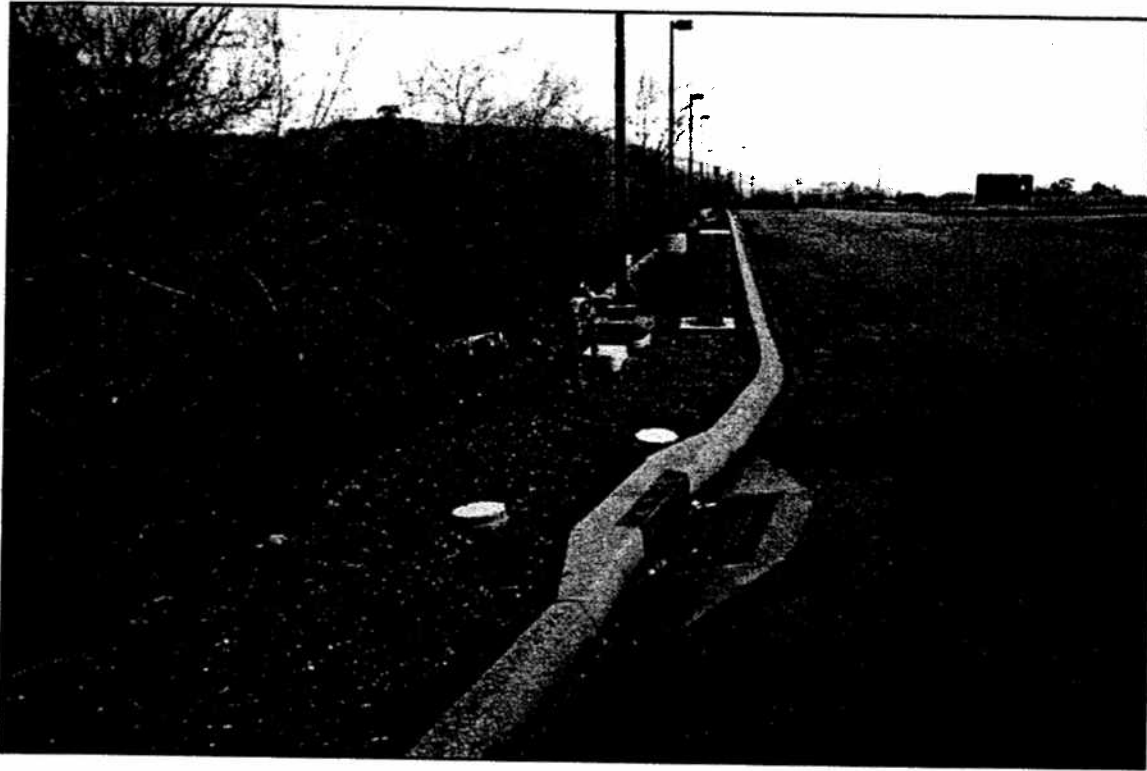


Photo 3. Unnamed stream about 100 yards north of U.S. Highway 50.

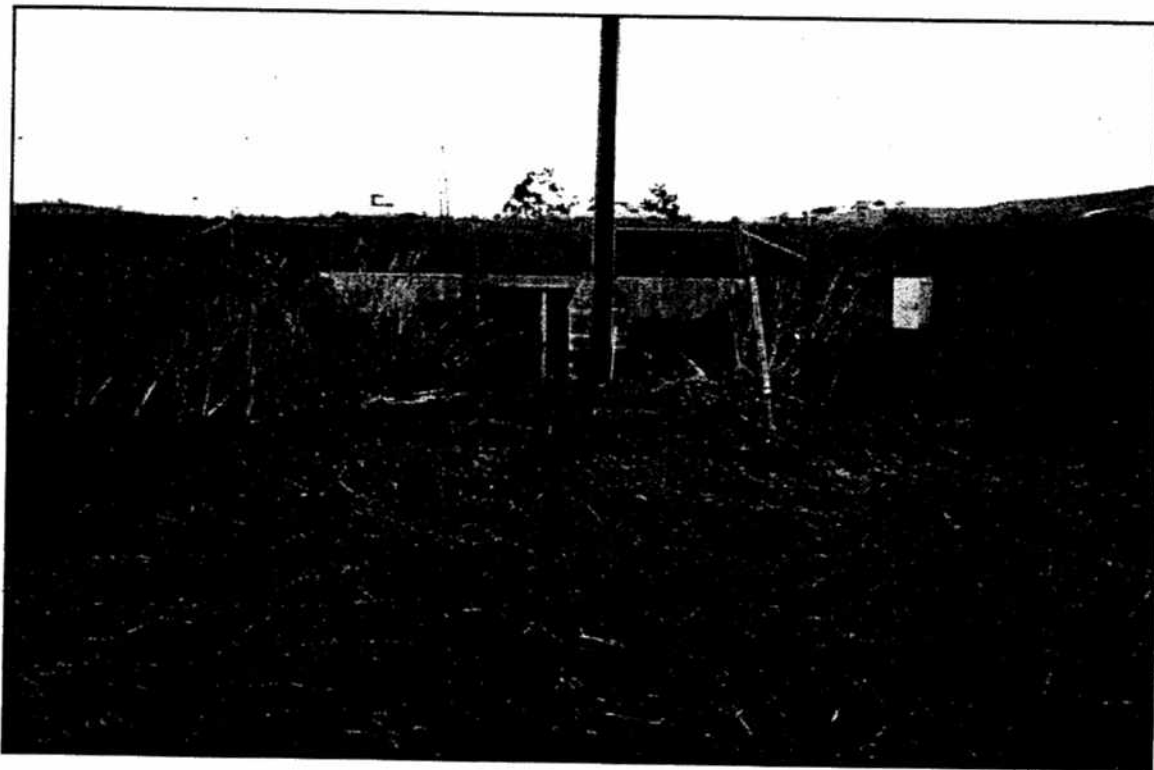
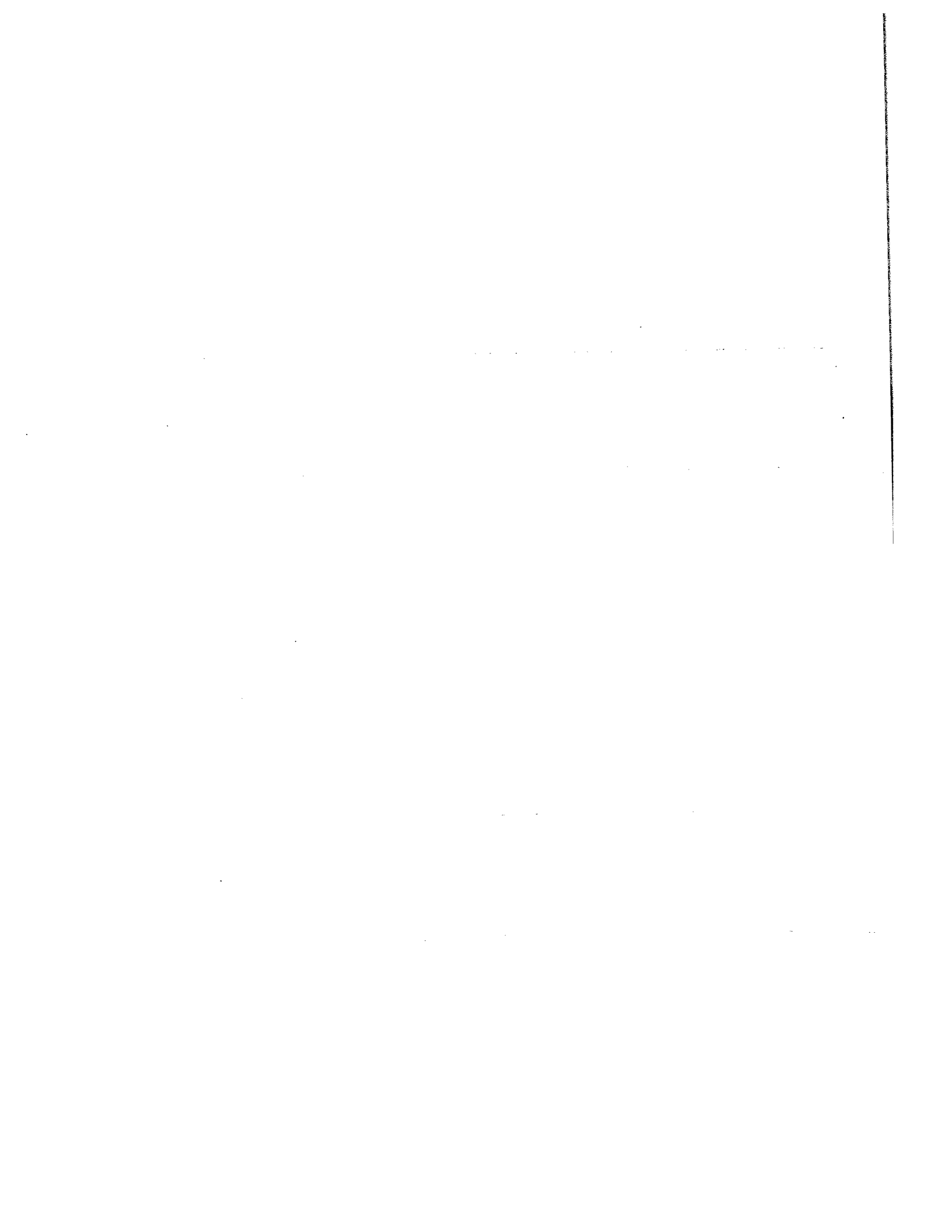


Photo 4. Unnamed stream and culvert on south side of U.S. Highway 50.



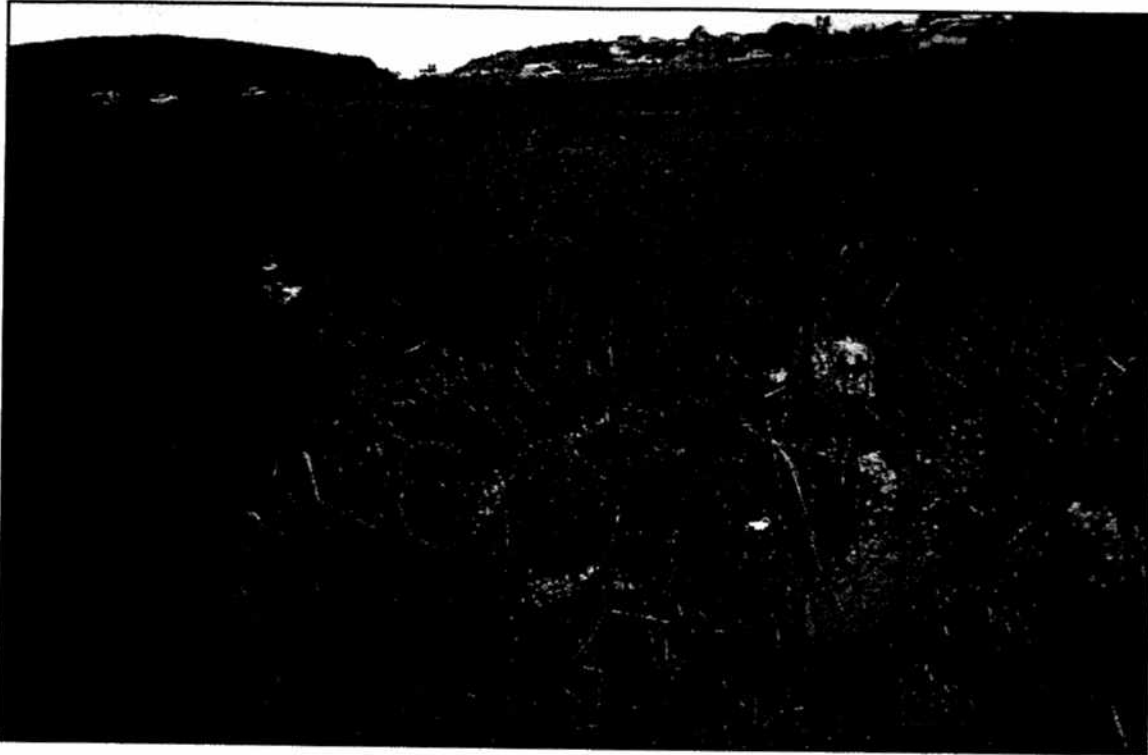


Photo 5. Drainage on southside U.S. Highway 50 (Looking west towards the interchange).

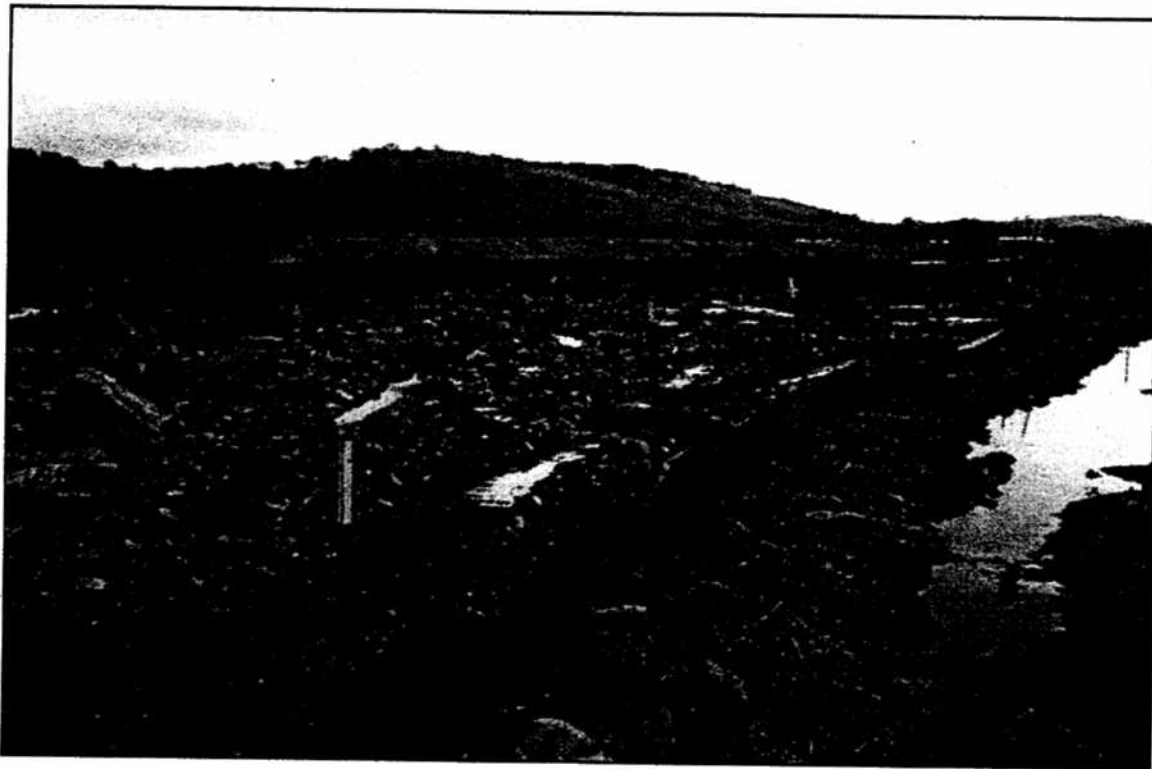
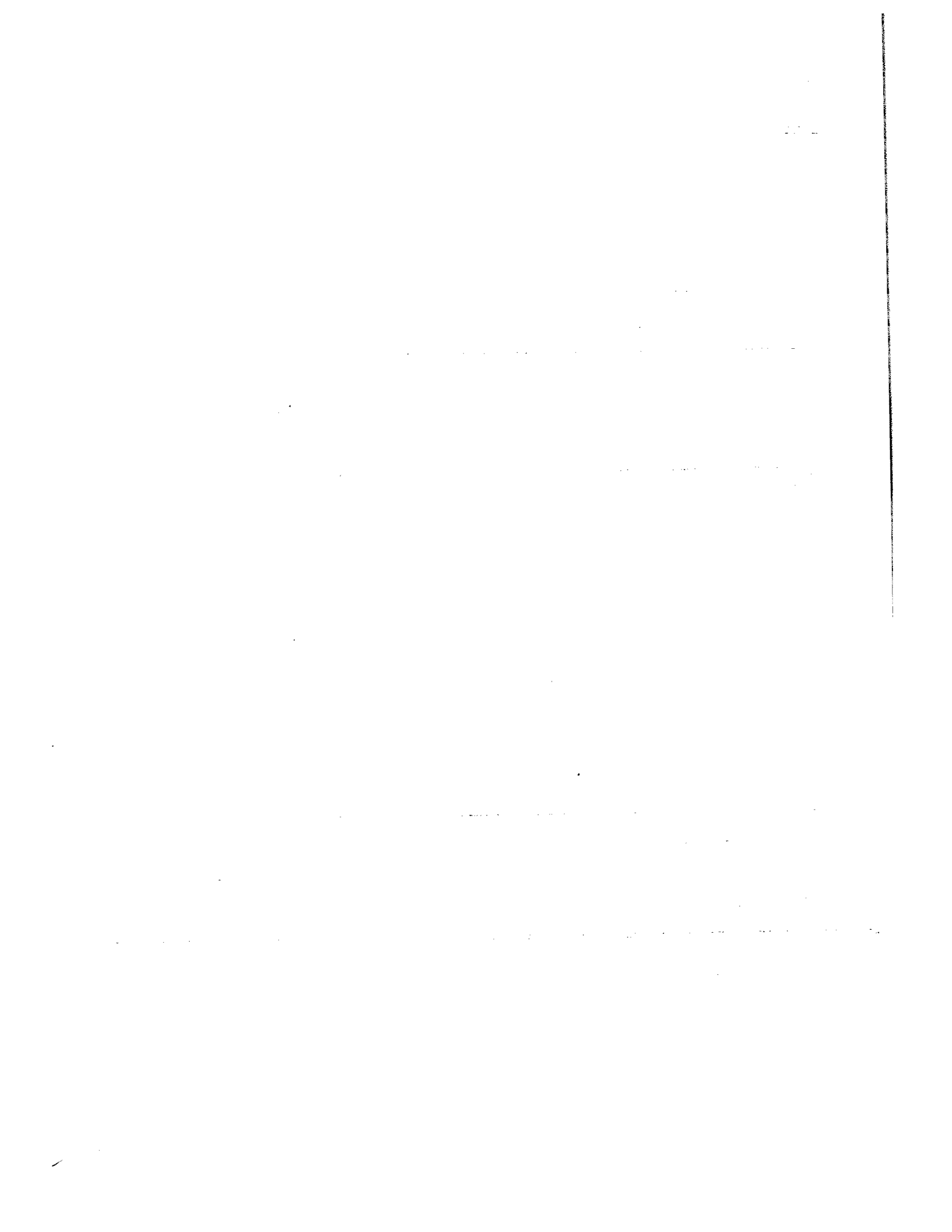


Photo 6. Unnamed stream south of U.S. Highway 50.



is U-shaped and is concrete lined for the first 150 feet. Freshwater marsh vegetation is present on the channel bottom, dominated by broadleaved cattail. This channel flows into the unnamed stream. Freshwater marsh is also present in the lower half of a channel along the south side of the westbound on-ramp.

Adjacent to the unnamed stream (north of the highway) is a golf course and commercial development. South of the highway, the unnamed stream is surrounded by annual grassland and increasing development.

The streams and drainages in the project area were probably ephemeral streams prior to human development in the area. The streams in the El Dorado Hills area are becoming perennial with year-round landscaped irrigation.

These streams and drainages are considered unsuitable red-legged frog breeding habitat because of the lack of adequate water depth and the disturbed nature of the area due to previous construction activities related to the existing interchange. There is potential for low-quality dispersal habitat to occur. The dispersal habitat is considered low quality because portions of the stream and drainages occur under U.S. Highway 50.

#### **Other Suitable Habitat in the Project Area**

During the field survey, one golf course pond was found in the northeast quadrant of the highway interchange, but outside the affected area. This pond is adjacent to and east of the unnamed stream. This was the only pond found within 1 mile of the project site. The golf course pond is considered marginal-quality habitat for red-legged frogs due to the likely runoff of herbicides and fertilizer used on the fairways. Mosquitofish are also typically found in these types of ponds. No other potential breeding habitat was found within 1 mile of the project area. Seasonal wetlands are common in the area and could be used for dispersal or other seasonal movements.

#### **Occurrence in the Project Vicinity**

No red-legged frog observations from the project area have been reported to the NDDDB. No additional information on red-legged frog sightings in this area was found. The nearest recent occurrences are at Webber Creek, near Placerville (about 9 miles east of the project site). There is no hydrologic connection between Webber Creek and drainages at the project site.

## MEASURES TO REDUCE ENVIRONMENTAL IMPACTS

Best management practices will be included as part of the project to minimize impacts on biological resources. These best management practices include:

- **Obtaining a Section 1601-1603 Streambed Alteration Agreement from the California Department of Fish and Game**

To reduce the potential for short-term impacts on biological resources from construction related activities, the project proponent will obtain a Section 1601-1603 streambed alteration agreement from the DFG. Typical requirements in a streambed alteration agreement include no disturbance or removal of vegetation and measures to minimize siltation of downstream habitats. No construction would be allowed in the unnamed stream until the agreement is obtained by project applicant. After receiving written notice from DFG that construction begins, the project proponent would ensure compliance with the construction requirements outlined in the agreement, including any site-specific conditions the agreement stipulates.

- **Mitigation Measure 10.2 Implement Best Management Practices to Control Urban Pollutants**

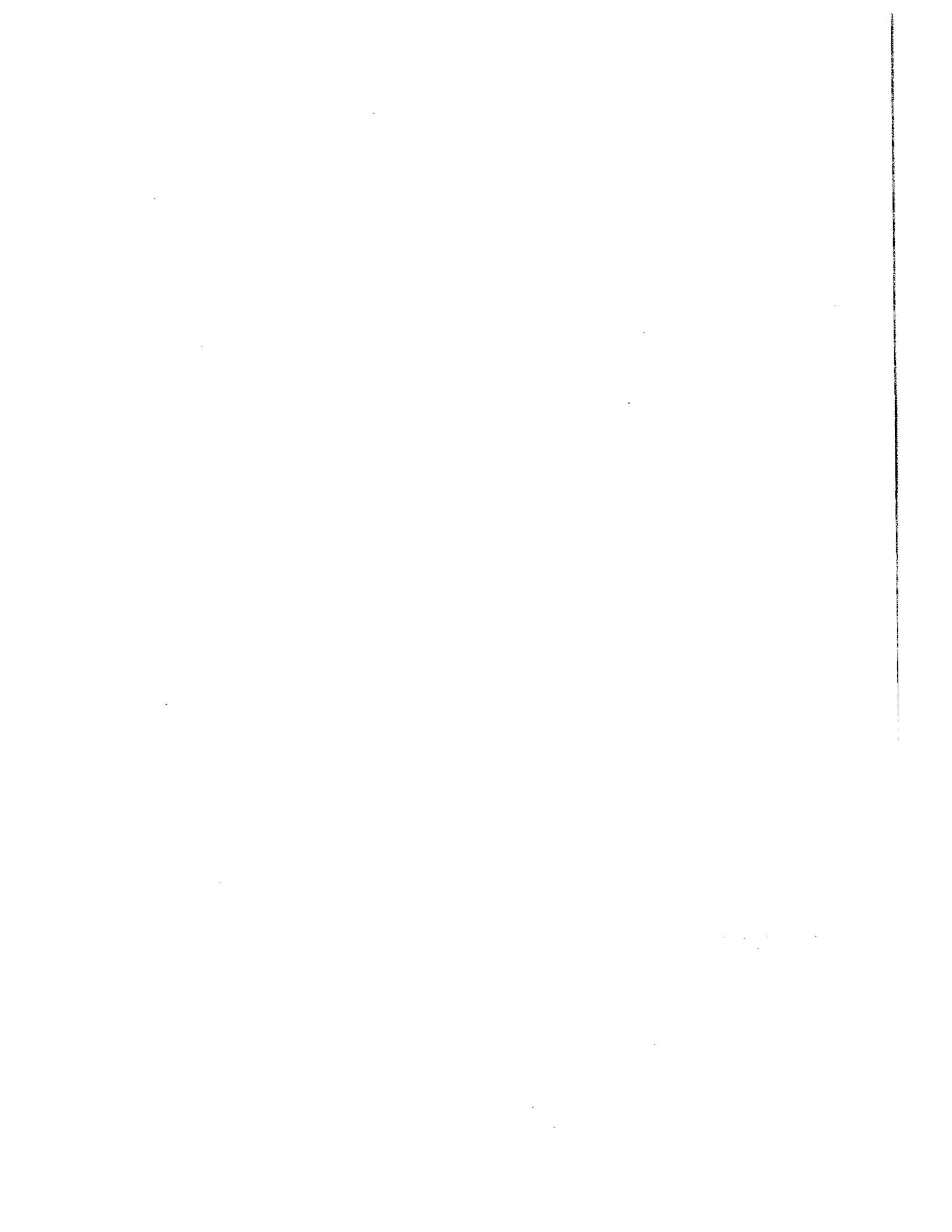
The draft EIR/EA for this project includes this measure which calls for the project proponent to implement best management practices to reduce urban pollutant loadings, including vegetative buffer strips, oil and grease traps, sediment traps, and street sweeping to reduce runoff from road services before it is discharged to waterways. The measure also includes implementation of a maintenance schedule to inspect structural best management practices and remove accumulated sediments.

## CONCLUSIONS

The unnamed stream and adjacent drainages are unsuitable breeding habitat, and a potential low-quality dispersal habitat for red-legged frogs. Based on the distance of California red-legged frog sightings in the watershed and the disturbed nature of the site (i.e., directly adjacent to U.S. Highway 50 and El Dorado Boulevard), it is unlikely that the species occurs in the project area. In addition, impacts on biological resources from construction of the freeway interchange would be minor because of the small scale of the project. Implementing the best management practices listed above, including obtaining a Section 1601-1603 streambed alteration agreement, would minimize impacts on biological resources (including the red-legged frog in the unlikely event that they are present).

## **Appendix E. Writ of Mandate**

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20-JUL-99 TUE 08:59 AM

July 19, 1999 P.02/17

Recd 7-16

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10 Attorneys for Respondents  
 EL DORADO COUNTY BOARD OF SUPERVISORS *et al.*

11  
 12  
 13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 14 IN AND FOR THE COUNTY OF SACRAMENTO

15 EL DORADO COUNTY TAXPAYERS FOR QUALITY )  
 GROWTH, LEAGUE TO SAVE SIERRA LAKES,  
 ENVIRONMENTAL PLANNING AND  
 16 INFORMATION COUNCIL OF WESTERN  
 EL DORADO COUNTY, INC., FRIENDS AWARE OF  
 17 WILDLIFE NEEDS, SAFEGROW, CALIFORNIA  
 NATIVE PLANT SOCIETY, PLASSE HOMESTEAD  
 18 HOMEOWNERS' ASSOCIATION, CAPLES LAKE  
 HOMEOWNERS ASSOCIATION, KIT CARSON  
 19 LODGE, PLASSE'S RESORT, CAPLES LAKE  
 RESORT, SORENSEN'S RESORT, KIRKWOOD  
 20 MEADOWS PUBLIC UTILITIES DISTRICT,  
 NORTHERN SIERRA SUMMER HOMEOWNERS'  
 21 ASSOCIATION, SOUTH SILVER LAKE  
 HOMEOWNERS' ASSOCIATION, ALPINE  
 22 COUNTY, CALIFORNIA SPORTFISHING  
 PROTECTION ALLIANCE, and SIERRA CLUB,

23 Petitioners,

24 v.

25 EL DORADO COUNTY BOARD OF SUPERVISORS,  
 26 the governing body of El Dorado County,  
 California, and EL DORADO COUNTY,  
 27

28 Respondents.

Case No. 96CS01290

~~WRIT OF HABEAS CORPUS~~  
WRIT OF MANDATE

Dept: 45

Honorable Cecily Bond

Complaint Filed:  
February 26, 1996

1 A judgment having been entered in this action ordering that a writ of mandate be issued from  
 2 this Court, and in consideration of the judgment and the Court's "Ruling on Submitted Matter  
 3 Petition for Writ of Mandate" ("Ruling"),

4 IT IS ORDERED that:

5 1. Respondents EL DORADO COUNTY BOARD OF SUPERVISORS and COUNTY  
 6 OF EL DORADO ("County") shall void and set aside Resolution No. 7-96 by which the Court  
 7 certified the final environmental impact report ("EIR") for the El Dorado County General Plan  
 8 ("General Plan") and conditionally adopted the General Plan. This resolution is remanded to the  
 9 County for reconsideration.

10 2. The County shall void and set aside Resolution No. 10-96 by which the County  
 11 adopted Findings of Fact, a Statement of Overriding Considerations, and the General Plan. This  
 12 resolution is remanded to the County for reconsideration.

13 Having found in Petitioners' favor on those issues raised in the Petition for Writ of Mandate  
 14 described below, the Court finds that the County must take the following actions, also set forth  
 15 the Court's Ruling, in order to fully comply with the provisions of the California Environment  
 16 Quality Act.

17 2.1 Point II(B)(2) of the Ruling: "Changes in Land Use Maps"

18 2.1.1 Court Finding and Decision

19 "[T]he finding that the changes in the land use maps did not require  
 20 further environmental review was not supported by substantial  
 21 evidence. Accordingly, the Court grants the petition for writ of  
 mandate on this issue."

22 (Ruling, p. 68.)

23 2.1.2 Direction to the County

24 The County is directed that, in any reanalysis or supplemental analysis prepared by the  
 25 County in response to this writ and the related judgment, the County must "either make a finding  
 26 based on substantial evidence, that the changes in the land use maps did not result in a net  
 27 significant environmental impact or a substantial increase in the severity of an environmental impact  
 28

1 or it must review the environmental impacts of the changes pursuant to CEQA." (See also Ruling,  
2 pp. 68-69.)

3 2.2 Point II(B)(4) of the Ruling: "Change in Oak Woodland Canopy  
4 Coverage Policies"

5 2.2.1 Court Finding and Decision

6 "The Draft EIR contained a policy, proposed as an 'additional  
7 mitigation measure', that established 'canopy cover retention  
8 standards' expressed as stated percentages of existing canopy cover  
9 that must be retained on sites under development. This policy was  
10 added to the General Plan in the Annotated Project Description dated  
11 August 17, 1995. By the time the Final EIR and the Annotated  
12 General Plan were issued on December 21, 1995, however, this policy  
13 had been altered to establish 'canopy coverage retention or  
14 replacement standards'.

15 "[The County] offers no substantial evidence to show that there is no  
16 significant environmental impact stemming from the change.  
17 Accordingly, the failure to disclose and discuss this change in an EIR,  
18 or even to make findings demonstrating that the change would have  
19 no significant environmental impact, was a violation of CEQA. The  
20 petition for writ of mandate is granted on this issue."

21 (Ruling, pp. 70, 72-73 (footnotes omitted; emphasis in original).)

22 2.2.2 Direction to the County

23 The County is directed that, in any reanalysis or supplemental analysis prepared by the  
24 County in response to this writ and the related judgment, the County must

25 "either: 1) readopt its original policy of retention of specified percentages of canopy  
26 coverage as proposed in the Annotated Project Description dated August 17, 1995;  
27 2) make a finding, based on substantial evidence, that the change in the oak  
28 woodland canopy coverage policies did not result in a new significant environmental  
impact or a substantial increase in the severity of an environmental impact previously  
disclosed; or 3) review the environmental impacts of the change pursuant to CEQA."

(Ruling, p. 73.)

23 2.3 Point II(B)(5) of the Ruling: "Changes in Acceptable Levels of Traffic  
24 Congestion"

25 2.3.1 Court Finding and Decision

26 "[P]etitioners allege that [the County] changed the General Plan  
27 during the process of environmental review to permit a higher level  
28 of [traffic] congestion—and did so in a manner that evaded meaningful  
environmental review.

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"At the very least, the County's discussion of traffic impacts was unnecessarily complex and obscure. The Court is persuaded that it violated CEQA because it did not fairly disclose one of the significant environmental impacts of the General Plan."

(Ruling, pp. 73, 79.)

**2.3.2 Direction to the County**

The County is directed that, in any reanalysis or supplemental analysis prepared by the County in response to this writ and the related judgment, the County must "perform a full environmental review of the traffic impacts of the General Plan in compliance with the provisions of CEQA." (Ruling, p. 80.)

**2.4 Point II(C)(2) of the Ruling: "Range of Alternatives Considered"**

**2.4.1 Court Finding and Decision**

"[I]t is not clear how the Low Growth Alternative offered 'substantial environmental advantages over the project proposal'. \* \* \* While CEQA does not, as the Supreme Court has said, impose a 'categorical legal imperative' as to the scope of alternatives, its purposes can be served only where the discussion of alternatives effectively discloses to the public the analytic route the County traveled in arriving at its conclusion that an alternative would offer significant environmental advantages. [¶] Here, the County's discussion of alternatives failed to make that disclosure. Accordingly the Court finds that the County's discussion of alternatives violated CEQA by failing to demonstrate that it had considered a reasonable range of alternatives. The petition for writ of mandate is granted as to this issue."

(Ruling, p. 90 (footnotes and citations omitted).)

**2.4.2 Direction to the County**

The County is directed that, in any reanalysis or supplemental analysis prepared by the County in response to this writ and the related judgment, the County must "make a finding, supported by substantial evidence, which adequately discloses the analytic route it traveled in arriving at its conclusion that the 'Low Growth Alternative' offered significant environmental advantages over the General Plan, or, in the alternative, the County shall consider at least one new alternative that does so." (Ruling, p. 91.)

**2.5 Point II(C)(3) of the Ruling: "Consideration of a 'No Project' Alternative"**

**2.5.1 Court Finding and Decision**

1 "The 'No Project' alternative here was faulty, petitioners assert,  
2 because it was based on buildout under the existing area plans, and  
not on the current conditions in the County.

3 " \* \* \* Although the EIR does discuss current environmental  
4 conditions in a number of areas, it does not clearly address the issue  
5 of population growth. Instead, the EIR obscures that issue by  
6 focusing on a comparison between the projected population under the  
proposed General Plan and projected population under the existing  
plans, rather than basing the comparison on the current population of  
the County."

7 (Ruling, pp. 91, 94.)

8 **2.5.2 Direction to the County**

9 The County is directed that, in any reanalysis or supplemental analysis prepared by the  
10 County in response to this writ and the related judgment, the County must "analyze the 'No Project'  
11 alternative in a manner that clearly discloses the population impacts of the General Plan in relation  
12 to current County population as well as in relation to what would be reasonably expected to occur  
13 in the foreseeable future if the General Plan were not approved, based on current plans and consistent  
14 with available infrastructure and community services." (Ruling, p. 95.)

15 **2.6 Points II(D)(3)-D(4) of the Ruling: "Rejection of Specific Proposed  
16 Mitigation Measures"**

17 **2.6.1 Court Finding and Decision**

18 "[T]he Court has found that certain of the County's findings that  
19 proposed mitigation measures were infeasible based on  
20 incompatibility with project objectives violated CEQA because they  
21 did not set forth the facts and analysis supporting them. The Court's  
22 Ruling as to these findings should not be construed, however, as a  
23 ruling that no findings of infeasibility could be made, only that such  
24 findings were not made properly here. Accordingly, pursuant to  
25 Public Resources Code section 21168.9(a)(1) and (2), the Court  
26 grants the petition for writ of mandate as to the findings described  
27 under headings II.D.3. (a) [Establishment of a Fifth Rare Plant  
28 Preserve], (b) [Establishment of a Scenic Corridor Combining Zone],  
(c) [Contiguous Blocks of Habitat], (d) [Prohibition on Piping,  
Culverting or Lining of Streams] (e) [Street Standards], (g) [Lower  
Densities for Certain Land Use Designations], (h) [Oak Woodland  
Canopy Coverage Standards], (i) [Limiting Parcel Size in Areas of  
Deer Habitat], (k) [Mineral resource Land Parcel Size], (l) [Parcel  
Size Adjacent to Grazing Land], and (n) [Parks/Open Space  
Standard] of [the Court's] Ruling."

(Ruling, p. 113.)

**2.6.2 Direction to the County**

1 The County is directed that, in any reanalysis or supplemental analysis prepared by the  
 2 County in response to this writ and the related judgment, the County must "either take action to make  
 3 proper findings of infeasibility according to the standards set forth [in the Court's Ruling], adopt the  
 4 proposed mitigation measures, or otherwise comply with the requirements of CEQA." (Ruling, p.  
 5 113.)

6 **2.7 Point II(E) of the Ruling: "Adoption of 'Dubious' Mitigation Measures"**

7 **2.7.1 Court Finding and Decision**

8 "Petitioners' next challenge focuses on the adoption of several  
 9 mitigation measures, asserting that those measures are of dubious  
 10 efficacy and unsupported by substantial evidence. [¶] The first of  
 11 these measures is found in the General Plan as Policy 6.3.2.3. It calls  
 12 for an avalanche overlay zone to be established and applied to all  
 13 residential areas subject to avalanche. Petitioners complain  
 14 specifically about the second sentence of the policy: 'All new  
 15 structures located within avalanche susceptible areas shall be  
 16 designed to withstand the expected forces of such an event.'

17 "The Court concurs with petitioners that this policy seems to  
 18 be dubious on its face. There is no reference to any design standards  
 19 or other evidence that would establish that it is even possible to  
 20 design structures to withstand the expected forces of an avalanche. \*  
 21 \* \* Accordingly, the adoption of this measure violated CEQA."

22 (Ruling, p. 114.)

23 **2.7.2. Direction to County**

24 "[T]he County must void the adoption of this particular mitigation measure. Thereafter, ..  
 25 . the County may exercise its discretion with respect to mitigation measures in avalanche prone areas  
 26 in any manner consistent with [the Court's] Ruling and the provisions of CEQA." (Ruling, pp. 114-  
 27 115.)

28 **2.8 Point II(F) of the Ruling: "Environmental Review of Projected Water Supplies"**

**2.8.1 Court Finding and Decision**

"Petitioners challenge the environmental review of the General Plan  
 ... on ... grounds ... that the EIR fails to disclose or discuss the  
 impact that development of future water supplies will have ... on  
 Caples, Aloha and Silver Lakes.

"[T]he petition for writ of mandate is granted as to this issue."

(Ruling, pp. 116, 117, 122.)

1                   **2.8.2 Direction to the County**

2           The County is directed that, in any reanalysis or supplemental analysis prepared by the  
3 County in response to this writ and the related judgment, the County must "make findings, consistent  
4 with this Ruling and supported by substantial evidence, that the adoption of the General Plan will  
5 not result in any environmental impacts on Caples, Silver or Aloha Lakes, or, in the alternative,  
6 perform a full environmental review of such impacts pursuant to CEQA." (Ruling, p. 122.)

7           **2.9 Point II(G)(1) of the Ruling: "Findings Regarding Insignificant  
8 Environmental Impacts; Impact on Wastewater Collection and  
9 Treatment Facilities"**

10           **2.9.1 Court Finding and Decision**

11           "Given the lack of evidence that expansion [by the El Dorado  
12 Irrigation District] of the [wastewater treatment] system is actually  
13 likely to occur, and evidence that shows that the system may be  
14 creating an adverse impact on the environment now, the finding of  
15 insignificance was not supported by substantial evidence. The  
16 petition for writ of mandate is granted on this issue."

17           (Ruling, p. 124.)

18           **2.9.2 Direction to the County**

19           The County is directed that, in any reanalysis or supplemental analysis prepared by the  
20 County in response to this writ and the related judgment, the County must "make a finding regarding  
21 the impact on wastewater treatment and collection facilities that is based on substantial evidence  
22 regarding the realistic expansion potential and current performance of existing facilities, or []  
23 otherwise make a finding in compliance with CEQA." (Ruling, p. 124.)

24           **2.10 Point II(G)(2) of the Ruling: "Findings Regarding Insignificant  
25 Environmental Impacts; Impact on Hazardous Waste"**

26           **2.10.1 Court Finding and Decision**

27           "There is no estimate or quantification of the amount of illegal  
28 hazardous waste disposal occurring at the household level, how that  
will be impacted by future development, or any quantified discussion  
of the actual effect of the cited programs in reducing improper  
disposal. Some such analysis should have been provided to support  
the finding of insignificance. The petition for writ of mandate is  
granted on this issue."

(Ruling, p. 125.)

**2.10.2 Direction to the County**

1           The County is directed that, in any reanalysis or supplemental analysis prepared by the  
 2 County in response to this writ and the related judgment, the County must "make a finding regarding  
 3 the impact on hazardous waste that is based on substantial evidence regarding the effect of existing  
 4 programs on the illegal disposal of household hazardous waste and discloses the analytic route by  
 5 which it was reached, or [] otherwise make a finding in compliance with CEQA." (Ruling, p. 125.)

6           **2.11 Point II(H) of the Ruling: "Analysis of Cumulative Impacts"**

7           **2.11.1 Court Finding and Decision**

8           "[T]he Court finds that the County's 'achievable density' population  
 9 figure is not supported by substantial evidence. The use of that figure  
 10 as the basis for environmental review violated CEQA. [Fn. omitted.]  
 Accordingly, the petition for writ of mandate is granted as to this  
 issue."

11           (Ruling, p. 127 (footnote omitted).)

12           **2.11.2 Direction to the County**

13           The County is directed that, in any reanalysis or supplemental analysis prepared by the  
 14 County in response to this writ and the related judgment, the County must "perform an analysis of  
 15 the cumulative effects of the General Plan based on assumptions regarding future County population  
 16 that are supported by substantial evidence." (Ruling, p. 128.)

17           **2.12 Point II(J) of the Ruling: "Statement of Overriding Considerations"**

18           **2.12.1 Court Finding and Decision**

19           "[T]he Court notes that the Statement of Overriding Considerations  
 20 here has been undermined and, to some extent, invalidated by the  
 21 Court's findings that the environmental review process was defective  
 22 as set forth [elsewhere in the Court's Ruling]. [T] Thus, the Court  
 grants the petition for writ of mandate to require the County to void  
 the existing Statement of Overriding Considerations pursuant to  
 Public Resources Code section 21168.9(a)."

23           (Ruling, pp. 134-135.)

24           **2.12.2 Direction to the County**

25           The County is directed that, in any reanalysis or supplemental analysis prepared by the  
 26 County in response to this writ and the related judgment, the County must "consider and adopt a new  
 27 Statement of Overriding Considerations based on the final environmental review of the General  
 28



1 Plan." (Ruling, pp. 134-135.) The County is further directed to use as guidance the Court's analysis  
 2 of Petitioners' specific challenges to the present Statement of Overriding Considerations. (Ruling,  
 3 pp. 135-137.)

4 3. Under Public Resources Code section 21168.9, subdivision (c), this Court does not  
 5 direct the County to exercise its lawful discretion in any particular way.

6 4. Under Public Resources Code section 21168.9, subdivision (b), this Court will retain  
 7 jurisdiction over the County's proceedings by way of a return to this writ of mandate. The County  
 8 shall accomplish the return to the writ of mandate in two steps. First, the County shall make and file  
 9 a return to this writ within 70 days after entry of judgment either by tendering evidence that it has  
 10 rescinded Resolution Nos. 7-96 and 10-96 or by filing a notice of appeal. Second, if the County does  
 11 not appeal or is unsuccessful on appeal in avoiding the issuance of a peremptory writ of mandate,  
 12 and the County proceeds to re-approve a General Plan, the County must prepare an environmental  
 13 document to remedy the CEQA deficiencies identified above and in the Court's Ruling. The Court  
 14 retains jurisdiction over the second step of the return to entertain any timely objections filed by  
 15 Petitioners challenging the adequacy of the County's efforts to comply with CEQA taken pursuant  
 16 to this writ, as well as any other issues relative to the adoption of a General Plan as are timely raised  
 17 and are determined by the Court to be appropriate for review. Petitioners may undertake such a  
 18 challenge by filing a motion with a memorandum of points and authorities of no more than 40 pages  
 19 (absent court permission) within 30 days from the date of the posting by the County Clerk of El  
 20 Dorado County of a Notice of Determination evidencing the County's action in approving a general  
 21 plan in conformance with this writ. If Petitioners file such a motion and memorandum, Respondents  
 22 shall file a responsive memorandum of points and authorities of no more than 40 pages (absent court  
 23 permission) within 30 days of receiving Petitioners' documents. *Petitioners shall file a*  
 24 *Reply Memoranda of no more than 20 pages within 15 days of receipt of*  
 25 *County's responsive Memoranda.*  
 26 ~~If Petitioners do not object within~~  
 27 ~~the aforementioned period, the Court will deem the County's compliance with this writ satisfactory.~~

25 5. Until the County makes a return to this writ that is deemed satisfactory by the Court  
 26 after a challenge or by the absence of a timely challenge as described above (the "Interim Period"),  
 27 the Court determines that it is appropriate to curtail the County's authority to approve or undertake  
 28 land use and development projects. Public Resources Code section 21168.9, subdivision (c),

1 provides that, in fashioning relief in a CEQA case, a court enjoys broad equitable discretion, except  
 2 to the extent that the statute itself limits that discretion. (See also *Laurel Heights Improvement*  
 3 *Association v. Regents of University of California* (1988) 47 Cal.3d 376, 422-425; *City of Santee v.*  
 4 *County of San Diego* (1989) 214 Cal.App.3d 1438, 1455-1457.) In the instant case, the Court relies  
 5 on that discretion in order to fashion a remedy that serves the ends of justice. Unlike the typical case,  
 6 in which a writ requiring the voiding of a specific project approval will return the parties to a legally  
 7 and environmentally acceptable status quo and will not have severe jurisdiction-wide consequences,  
 8 this case is different. Setting aside approval of a general plan affects not only the general plan itself,  
 9 but also affects secondarily a wide range of building and planning approvals and other projects which  
 10 are required to be consistent with the general plan. To set aside a general plan without providing  
 11 judicial guidance as to the nature of land use activities which may or may not be approved or  
 12 undertaken during the Interim Period would have widespread, deleterious impacts on the County,  
 13 its economy and its citizens.

14 Every county must have a general plan. (Gov. Code, § 65300.) Various types of land use  
 15 approvals, and other projects undertaken by the County, must be consistent with the general plan.  
 16 In every county, routine planning and building approvals permit homeowners, businesses, and other  
 17 persons and entities to improve or use their properties in ways that generally do not lead to  
 18 significant county-wide environmental effects, or that merely contribute to a small degree to larger  
 19 significant effects attributable to planning decisions addressing much larger geographic areas than  
 20 are implicated by the approvals themselves. Many such projects would not significantly impact the  
 21 ability of the County to otherwise comply with this writ and adopt a new General Plan in a manner  
 22 consistent with the Court's Ruling. The Court therefore is unwilling to impose a remedy that would  
 23 leave El Dorado County without the ability to approve or undertake projects which would not have  
 24 such adverse impacts on compliance with this writ. In setting forth the guidance below, this Court  
 25 has endeavored to place the greatest restrictions on those categories of projects which, based on the  
 26 allegations in this case and on the conclusions in the Court's Ruling, may have more pervasive  
 27 County-wide impacts and impacts upon the County's ability to comply with this writ and adopt a

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1 General Plan consistent with the Court's Ruling, while allowing the County broader discretion with  
2 respect to other categories of projects.

3 The Planning and Zoning Law (Gov. Code, § 65000 et seq.) recognizes these realities and  
4 dilemmas, and thus provides courts with different options for fashioning relief in cases in which  
5 courts find general plans to violate some provision of that Act. In this case, though the Court found  
6 no violations of the Planning and Zoning Law, the Court finds that section 65755 provides guidance  
7 by analogy regarding how the Court may exercise its discretion in fashioning relief pursuant to  
8 CEQA. In light of all of these considerations, the Court determines that, while the County takes the  
9 necessary steps to comply with CEQA prior to adopting a new General Plan, permissible  
10 development approvals shall be limited as follows:

- 11 (1) Except as may be otherwise allowed by subparagraphs (2) through (7) below, the
- 12 Court suspends the County's authority to issue any discretionary land use approvals
- 13 or entitlements for residential housing development, including (i) general plan
- 14 amendments, (ii) specific plans authorized by Government Code section 65450 et
- 15 seq., (iii) rezones, (iv) development agreements authorized by Government Code
- 16 section 65864 et seq., (v) tentative subdivision and tentative parcel maps or
- 17 extensions thereof, and (vi) planned development or design review. For purposes
- 18 of this writ, the term "residential housing development" means the construction of
- 19 buildings which contain one or more dwelling units and which have as their primary
- 20 purpose providing housing for individuals. The term "residential housing
- 21 development" does not include commercial establishments which provide for
- 22 transient occupancy, such as hotels and motels, nor does it include otherwise non-
- 23 residential uses, such as churches, schools or commercial establishments, because of
- 24 the inclusion of residential facilities for a caretaker, manager or similar personnel.

19 Notwithstanding the foregoing, the Court permits the County to issue any  
20 discretionary approvals, permits and entitlements for residential development if: (1)  
21 pursuant to a development agreement authorized by Government Code Sections  
22 65864 et seq., or a vesting tentative map pursuant to Government Code Sections  
23 66498.1 et seq., which was approved by the County before February 5, 1999, if the  
24 development agreement or vesting map (i) provides, expressly or by operation of law,  
25 that subsequent project approvals shall be evaluated for consistency with a general  
26 plan in effect on a specified date, whether or not that General Plan was later affected  
27 by the judgment of this Court in this matter, or (ii) otherwise vests in the applicant  
28 the right to subsequent approvals notwithstanding changes in the General Plan; and,  
(2) the discretionary approvals, permits and entitlements comply with subparagraph  
(8) below, where applicable in accordance with the terms of that subparagraph. In  
making this order, the Court is cognizant of the fact that several development projects  
with development agreements were approved pursuant to the 1996 General Plan and  
are the subject of currently pending litigation. In some instances, that litigation  
involves allegations to the effect that project approvals were invalid due to the  
assertion that the 1996 General Plan was invalid. The outcome of that litigation may  
affect the status of those development agreements. Nevertheless, this writ does not  
distinguish among projects depending upon whether litigation against such projects  
is pending. It is the conclusion of this Court that those courts in which the project-

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specific litigation is pending are the most appropriate forums in which to determine whether preliminary relief affecting those projects' ability to move forward, if sought by petitioners in those cases, should be granted.

(2) The Court permits the County to issue any approvals, permits or entitlements which are ministerial in nature, including, but not limited to, building permits, grading permits, final subdivision maps and parcel maps, and certificates of compliance; and to issue any approvals, permits or entitlements which do not require, by statute, ordinance or case law, a finding of consistency with the general plan.

(3) The Court permits the County to issue any approvals, permits or entitlements, whether or not discretionary, for non-residential development; provided, that such approvals, permits, or entitlements comply with subparagraph (8) below, where applicable in accordance with the terms of that subparagraph, and the property on which such development is proposed meets any one of the following criteria: (i) the property is currently zoned for the proposed use; or, (ii) the property is designated for the proposed use on both the 1996 General Plan which is the subject of this litigation, as adopted and amended to February 5, 1999, and the proposed project would have been consistent with the Public Review Draft General Plan utilized pursuant to the extension granted by the Office of Planning and Research which governed land use approvals prior to the adoption of the 1996 General Plan.

Notwithstanding any other provisions of this writ, County shall not approve any application for a permit or entitlement, whether discretionary or ministerial, for any use, facility or structure if the primary purpose of the use, facility or structure is to serve, provide access to or otherwise accommodate a non-residential use which is not located in an area which meets the criteria set forth above in this subparagraph (3).

(4) Notwithstanding the prohibition contained in subparagraph (1), and in addition to the authority conferred in subparagraphs (2) and (3), above, the Court permits the County to issue any approvals, permits or entitlements, whether or not discretionary, and whether for residential or non-residential development, which comply with subparagraph (8) below, where applicable in accordance with the terms of that subparagraph, and which constitute any of the following:

(a) Authority for the repair, remodel, reconstruction or replacement of existing structures, or for a change in the form of ownership of an existing structure such as a condominium conversion, which does not expand or increase the intensity of the use of the structure;

(b) Modifications of previously issued approvals; provided, that the modifications do not expand the use, or increase the intensity of the use, as originally approved;

(c) Minor approvals which do not have any significant environmental impacts and do not represent any significant change to nature, extent or intensity of use, including, but not limited to, (i) projects subject to categorical exemption under the California Environmental Quality Act, (ii) lot line adjustments, (iii) lot mergers, (iv) acceptance or abandonment of easements, (v) temporary use permits, (vi) variances, (vii) approval of architectural features, signs, accessory structures, (viii) rezones which consist of the application of Planned Development or design review overlays which establish additional regulatory control by the County, and (viii) any approvals which do not have the effect of allowing the commencement, expansion or intensification of any new use

on property, and do not result in a significant increase in traffic or water consumption;

(d) Approvals or regulatory actions taken to comply with federal or state law, or to provide for the protection or enhancement of the environment or natural resources, including, but not limited to, approval of mine reclamation plans under the Surface Mining and Reclamation Act, establishment of agricultural preserves, approval of Williamson Act contracts and Timber Preservation Zone contracts, and approval of resource management plans such as the County's proposed River Management Plan update;

(e) Projects submitted to the County for review by government agencies other than the County pursuant to requirements of law, including, but not limited to, capital projects, mitigation fee programs and annual fee reviews, as well as the adoption or modification of fees by County for agencies on whose behalf the County acts;

(f) Approvals for replacement of existing uses within an existing facility which do not intensify the nature of the use in the structure and do not expand the area of the facility being used;

(g) Any approvals, permits or entitlements within the South Lake Tahoe watershed within El Dorado County, as delineated on the official maps of the Tahoe Regional Planning Agency, in light of regulatory and environmental control exercised by the Tahoe Regional Planning Agency;

(h) Any project statutorily exempt from CEQA.

(5) The Court permits the County to approve and execute any acquisition or disposition of property by the County which complies with subparagraph (8) below in accordance with the terms of that subparagraph, where applicable; provided, that development of such property shall otherwise be subject to the provisions of this writ.

(6) The Court permits the County to process, approve and carry out any capital improvement projects of the County which comply with subparagraph (6) below, where applicable in accordance with the terms of that subparagraph, except any projects which are for the sole or primary purpose of serving future development which would require approvals which are prohibited by the terms of this writ. Capital improvement projects shall not be deemed to be for the primary purpose of serving future, yet to be approved development, if the County finds, based on substantial evidence, that such improvement would be warranted in the absence of such future development. Capital improvements may be for any purpose other than those expressly prohibited by this paragraph, including, but not limited to, preservation of the public health and safety, hazard elimination, serving existing needs and those anticipated as a result of approved development or development not requiring discretionary approval, and improving operating efficiency of existing facilities.

(7) The Court permits the County to process, approve and carry out any actions which comply with subparagraph (8) below, where applicable in accordance with the terms of that subparagraph, and are ancillary to, but do not constitute final approval, or actual performance, of development projects; provided, that the actual development shall be subject to the requirements of this writ. Such ancillary actions include, but are not limited to, matters such as submission of grant applications, establishment of financing districts or mechanisms, preparation for issuance of debt financing, conduct

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of planning studies, and joint or regional planning and coordination efforts and agreements between County and other public entities, which may be necessary to the accomplishment of coordinated planning efforts and of development projects but do not themselves commit the County to a particular course of action with respect to such development inconsistent with the terms of this writ.

(8) In approving or carrying out any project allowed pursuant to this paragraph 5, which action requires a finding of consistency with the general plan, the County shall not approve or undertake any such project unless it finds, on substantial evidence, that:

- (a) The approval or project will not significantly impair the County's ability to adopt and implement a new General Plan after complying with CEQA;
- (b) The approval or project complies with all other requirements of law; and,
- (c) The approval or project is consistent with the text and maps of the 1996 General Plan as amended through February 4, 1999, or such other general plan text and maps as may be vested through a development agreement or vesting tentative map, though in all other respects that General Plan will cease to have legal standing after the Board of Supervisors, pursuant to this Writ, sets aside its approval thereof.

For purposes of applying subparagraph (8)(a), above, an approval or project shall be deemed to significantly impair the County's ability to adopt and implement a new General Plan after complying with CEQA if it would (1) prejudice the consideration or implementation of those particular mitigation measures identified in Points II(D)(3)-D(4) of the Court's Ruling as set forth in subparagraph 2.6.1, above, or (2) otherwise prevents the County from carrying out the directions of the Court set forth in paragraph 2 of this Writ with respect to curing specific determinations of noncompliance with CEQA as described in paragraph 2, above. In making the determinations required under subparagraph (8)(a), the County shall be guided by the following principles:

- (d) An approval or project shall be deemed to prejudice the consideration or implementation of a mitigation measure if the impacts of the approval or project would prevent or substantially reduce the effectiveness of the mitigation measure in achieving its purposes;
- (e) Impacts of an approval or project shall be evaluated in the context of their significance on a County-wide basis over the life of the future general plan;
- (f) Impacts of an approval or project shall be evaluated in the context of the anticipated cumulative effects, over the life of the future general plan, of the approval or project and other development previously approved under this Writ or its predecessor Interim Order; and,
- (g) An approval or project shall not be deemed to significantly impair the ability of the County to adopt a new general plan after complying with CEQA if the subject project has vested rights to development pursuant to a development agreement or vesting tentative map, or otherwise, and the mitigation measures, alternatives, policies or regulations under consideration could not be applied to the project by reason of those vested rights.

To facilitate a process for conducting these evaluations of project impacts, the County shall provide to petitioners, on a quarterly basis, the following information

1 about projects approved since April 22, 1999 which are subject to the requirements  
2 of subparagraph (8) of paragraph 5 of this Writ:

- 3 (h) Acreage of lands approved for residential, commercial and industrial  
4 development;
- 5 (i) Floor area (square footage) of commercial space approved;
- 6 (j) Number of dwelling units of residential use approved;
- 7 (k) Miles of new public County roads, or of new lanes added to existing public  
8 County roads, approved;
- 9 (l) Vehicle trips anticipated from approved development.

10 6. The provisions of paragraph 5, above, are intended to curtail the County's authority  
11 in the areas of land use control, property development and construction. The County is not  
12 prevented from approving or undertaking other categories of actions, programs, or projects;  
13 provided, that, with respect to any actions which otherwise require findings of consistency with a  
14 general plan, such actions shall not be undertaken unless the findings contained in paragraph 5  
15 subparagraph (8) are made on substantial evidence. Nothing in this writ shall be deemed to prevent  
16 the County from taking any action determined by the County, based on substantial evidence and  
17 consistent with otherwise applicable law, to be necessary for the immediate preservation of public  
18 health or safety, or to prevent immediate threat to property.

19 7. The development approvals described in paragraph 5 are not "project activities"  
20 within the meaning of Public Resources Code section 21168.9, subdivision (b), in that they are not  
21 components of the challenged General Plan, but rather constitute the kinds of routine building and  
22 planning approvals that must occur in every county if homeowners and businesses are to avoid  
23 needless hardship as they improve their properties.

24 8. For the period commencing February 5, 1999, and continuing until County has made  
25 a satisfactory return to this writ, any time periods within which the County is required to act on any  
26 land use application, including, but not limited to, time limits contained in the Subdivision Map Act  
27 and the Permit Streamlining Act, shall be tolled. In addition, any time periods established within  
28 which an individual having development approvals or entitlements is required to, or may, take any

1 actions, shall be tolled for that same period if the action required or allowed is prohibited by this  
2 writ.

3 9. Recognizing the wide range of applications and projects which are addressed or  
4 executed by the County, and the potential that this writ may not explicitly address some such  
5 applications or projects, County or Petitioners may at any time move this Court for further  
6 clarification or direction with respect to the County's discretion to act on applications or projects not  
7 falling within the categories set forth herein, or with respect to any disputes regarding whether or not  
8 a particular proposal falls within any specified categories.

9 Approved as to Form:

*Handwritten:* CJD  
7/19/99

10  
11 ~~Stephan C. Volker~~  
12 ~~Attorney for Petitioners~~

Dated: \_\_\_\_\_

14 Dated: July 19, 1999

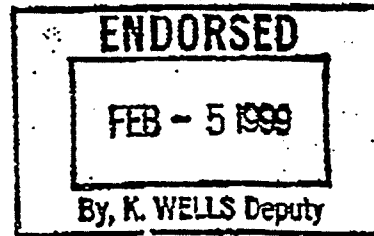
Michael Roddy  
Clerk of the Superior Court,  
Sacramento County, California

By *[Signature]*  
Deputy Clerk

19 THE FOREGOING WRIT SHALL ISSUE BY ORDER OF THE HONORABLE CECILY  
20 BOND.



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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO

No. 96CS01290 Dept. 45

EL DORADO COUNTY TAXPAYERS FOR  
QUALITY GROWTH, LEAGUE TO SAVE  
SIERRA LAKES, ENVIRONMENTAL  
PLANNING AND INFORMATION COUNCIL  
OF WESTERN EL DORADO COUNTY, INC.,  
FRIENDS AWARE OF WILDLIFE NEEDS,  
SAFEGROW, CALIFORNIA NATIVE PLANT  
SOCIETY, PLASSE HOMESTEAD HOMEOWNERS'  
ASSOCIATION, CAPLES LAKE HOMEOWNERS  
ASSOCIATION, KIT CARSON LODGE,  
PLASSE'S RESORT, CAPLES LAKE RESORT,  
SORENSEN'S RESORT, KIRKWOOD MEADOWS  
PUBLIC UTILITIES DISTRICT, NORTHERN  
SIERRA SUMMER HOMEOWNERS'  
ASSOCIATION, SOUTH SILVER LAKE  
HOMEOWNERS' ASSOCIATION, ALPINE  
COUNTY, CALIFORNIA SPORTFISHING  
PROTECTION ALLIANCE, and SIERRA CLUB,

RULING ON SUBMITTED  
MATTER: PETITION  
FOR WRIT OF MANDATE

Petitioners,

v.

EL DORADO COUNTY BOARD OF SUPERVISORS,  
the governing body of El Dorado County,  
California, and EL DORADO COUNTY,

Respondents.

Introduction

This matter involves a comprehensive challenge to the  
adoption of the new El Dorado County General Plan. Petitioners

1 have framed this challenge in the form of three  
2 The First Cause of Action focuses on the General  
3 alleges that numerous facets of the Plan violate  
4 Zoning Law, Government Code sections 65000 et  
5 Cause of Action focuses on the process of enacting  
6 the proposed General Plan, and alleges that  
7 that process violated the California Environmental  
8 ("CEQA"), Public Resources Code sections 21000  
9 Cause of Action focuses on the specific issue  
10 alleging that the level of future development  
11 General Plan would require diversions of water  
12 bodies of water in violation of the non-statutory  
13 Doctrine.

14 The preparation and adoption of a new General  
15 major event in the life of a county. The Plan  
16 virtually every aspect of the county's future  
17 development. The range of topics it must cover  
18 detail demanded to accomplish the task adequately.  
19 As is apparent from the extraordinarily voluminous  
20 in connection with this petition, vast amounts  
21 thought have been expended in the preparation  
22 review of this particular plan.

23 An equally impressive effort has been  
24 in this proceeding to marshal the record evidence  
25 authorities and arguments which have been  
26 Petitioners have raised a plethora of specific  
27 general framework of their three causes of action  
28 has not neglected to respond in detail to

1 to analyze and resolve the myriad of issues raised here,  
2 individually and in intelligible detail, has necessitated a  
3 lengthy ruling. For the convenience of the parties, the Court's  
4 rulings may be summarized here:

5 1. First Cause of Action: Petitioners have not established  
6 that the adoption of the General Plan violated the Planning and  
7 Zoning Law. The petition for writ of mandate is denied as to all  
8 claims raised in the first cause of action.

9 2. Second Cause of Action: Petitioners have established  
10 that the process of environmental review violated CEQA in some,  
11 but not all, of the respects alleged. The petition for writ of  
12 mandate is granted in part and denied in part as set forth in  
13 detail below.

14 3. Third Cause of Action: Petitioners have not established  
15 a violation of the Public Trust Doctrine, and the petition for  
16 writ of mandate is denied on that issue.

17 The Court's discussion of, and rulings on, the various  
18 claims are set forth under individual headings below.

19 Discussion and Court's Rulings

20 I. First Cause of Action: Inadequate General Plan

21 The first cause of action alleges that many aspects of the  
22 General Plan violate specific requirements of the Planning and  
23 Zoning Law, Government Code sections 65000 et seq. In resolving  
24 petitioners' numerous claims, the Court has been guided by  
25 certain general principles regarding general plans and the  
26 standards under which they must be reviewed. It is useful to set  
27 forth those principles in some detail before proceeding to the  
28 resolution of each of petitioners' claims.

1 The general plan sits atop the hierarchy of local gov  
 2 law regulating land use and has been analogized to "a  
 3 constitution for all future development". (See Neighborhood  
 4 Action Group v. County of Calaveras (1984) 156 Cal.App.3d  
 5 1183.) It has been described as a statement of policy that  
 6 serves to provide a standing, consistent answer to recurr  
 7 questions and to act as a guide for specific plans or pro  
 8 (See Bownds v. City of Glendale (1980) 113 Cal.App.3d 875

9 The adoption of a general plan is a legislative act.  
 10 Selby Realty Co. v. City of San Buenaventura (1973) 10 Ca  
 11 110, 118; Gov. Code, § 55301.5.) Review of the adoption  
 12 general plan or any part or element thereof is pursuant to  
 13 of Civil Procedure section 1085. (Gov. Code, §§ 65301.5  
 14 Judicial review is limited "to an examination of the pr  
 15 before the agency to determine whether its action has be  
 16 arbitrary or capricious, or entirely lacking in evidenti  
 17 support, or whether it has failed to follow the procedur  
 18 give the notices required by law." (Twain Harte Homeown  
 19 Association v. County of Tuolumne (1982) 138 Cal.App.3d  
 20 674.)

21 Where the claim is that the County has failed to f  
 22 requirements of state statutes, the Court reviews the C  
 23 action for substantial compliance with those statutes.  
 24 Concerned Citizens of Calaveras County v. Board of Supe  
 25 (1985) 166 Cal.App.3d 90, 96; Gov. Code, § 65751.) The  
 26 the reviewing court is "...whether there has been 'actual  
 27 compliance in respect to the substance essential to eve  
 28 reasonable objective of the statute', as distinguished

1 technical imperfections of form'." (Garat v. City of Riverside  
 2 (1991) 2 Cal.App.4<sup>th</sup> 259, 292-293.) (Emphasis in original.) The  
 3 actions of the County are presumed to be valid and a regular  
 4 performance of official duty; petitioners have the burden of  
 5 demonstrating that the County failed to perform a specific duty  
 6 mandated by law. (See Bownds v. City of Glendale (1980) 113  
 7 Cal.App.3d 875, 883.)

8 The Planning and Zoning Law provides a general framework for  
 9 the structure and content of a general plan, while leaving much  
 10 to the discretion of the county, including many of the basic  
 11 policy choices which underlie the specifics of the plan. The  
 12 Supreme Court has stated that the law incorporates the state's  
 13 interest in placing "some minimal regulation on what remains  
 14 essentially locally determined land use decisions" while leaving  
 15 "wide discretion...a local government...to determine the contents of  
 16 its land use plans." (See DeVita v. County of Napa (1995) 9  
 17 Cal.4<sup>th</sup> 763, 782-783.)

18 The Planning and Zoning Law makes this explicit. Government  
 19 Code section 65300.7 states: "The Legislature finds that the  
 20 diversity of the state's communities and their residents requires  
 21 planning agencies and legislative bodies to implement this  
 22 article in ways that accommodate local conditions and  
 23 circumstances, while meeting its minimum requirements."<sup>1</sup> Thus,  
 24 the Planning and Zoning Law sets out a structure for general  
 25 plans and mandates the consideration of certain factors, but it  
 26 does not prescribe particular outcomes.

<sup>1</sup> See also Government Code sections 65030.1 and 65301(c).

1 The Planning and Zoning Law's general lack of prescri  
 2 outcomes represents a recognition that the planning proces  
 3 more one of politics than law. A general plan for any cou  
 4 must take into account, and try to strike a balance among,  
 5 competing interests such as economic development and  
 6 environmental protection. (See Garat v. County of Rivers  
 7 (1991) 2 Cal.App.4<sup>th</sup> 259, 300.) This balancing of interes  
 8 political, not a judicial function. The political nature  
 9 planning process is revealed by the Planning and Zoning L  
 10 repeated emphasis on "...the importance of public participa  
 11 every level of the planning process." (Gov. Code, § 6503  
 12 the Supreme Court has stated: "[T]he Legislature has deci  
 13 rejected the Standard Planning Act's model of planning as  
 14 something distinct from the local legislative function,  
 15 performed by an apolitical planning commission. Instead  
 16 current planning law recognizes unequivocally that plann  
 17 legislative undertaking..." (DeVita v. County of Napa (1  
 18 Cal.4<sup>th</sup> 763, 773, fn. 3.) (Emphasis in original.)

19 The Legislative declaration of intent underlying th  
 20 Planning and Zoning Law makes it clear that the purpose  
 21 law is to promote the public interest. (See Gov. Code,  
 22 65034.)<sup>2</sup> Courts are reluctant to "...probe into the rela  
 23 merits of what is or is not in the public interest... W  
 24 that decision to the discretion of the locally elected  
 25 legislative body." (Environmental Council v. Board of  
 26 Supervisors (1982) 135 Cal.App.3d 428, 440.) The Supr  
 27

28 <sup>2</sup> See also Government Code sections 63331, 63333, 63337.  
<sup>3</sup> See also Government Code section 65101(a) (members of a local planning commission "public interest").

1 has said explicitly that "...the wisdom of the plan is within the  
2 legislative and not the judicial sphere..." (Selby Realty Co. v.  
3 City of San Buenaventura (1973) 10 Cal.3d 110, 118.) As long as  
4 reasonable minds can differ as to the necessity or propriety of  
5 the enactment, the legislative body's determination of policy  
6 must be upheld: "...any judicial review must not become an  
7 impermissible study of the plan's merits." (Garat v. City of  
8 Riverside (1991) 2 Cal.App.4<sup>th</sup> 259, 292-293.)

9 For this reason, the Court should not become involved in  
10 resolving disputes regarding the accuracy of the factual  
11 assumptions underlying the General Plan. Where the claim is that  
12 the factual assumptions are wrong, or they do not support the  
13 General Plan, judicial review is limited and the legislative  
14 body's action must be upheld unless it is entirely without  
15 evidentiary support. (Twain Harte Homeowners Association v.  
16 County of Tuolumne (1982) 138 Cal.App.3d 664, 674.)  
17 Taken together, these principles call upon a court to exercise  
18 caution in reviewing a general plan. The Court should not  
19 hesitate to enforce the clear mandates of the Planning and Zoning  
20 Law, especially where those mandates go to the required elements  
21 of the general plan or the process of its development. The Court  
22 should be hesitant, however, to find such mandates absent a clear  
23 expression thereof, and should be particularly hesitant to use  
24 the Planning and Zoning Law to review the policy choices which  
25 have been embodied in the general plan. One court has expressed  
26 this caution as follows: "Absent a complete failure or at least a  
27 substantial failure on the part of a local government agency to  
28 adopt a plan which approximates the Legislature's expressed

1 desires, the courts are ill-equipped to determine whether the  
 2 language used in a local plan is 'adequate' to achieve the  
 3 general goals of the Legislature. In short, while a court  
 4 conclude that in form and general content, a local plan fails  
 5 meet the general requirements of the statute, a court cannot  
 6 should not involve itself in a detailed analysis of whether  
 7 elements of the plan are adequate to achieve its purpose. It  
 8 so would involve the court in the writing of the plan. This  
 9 issue is one for determination by the political process and  
 10 by the judicial process." (See Bownds v. City of Glendale  
 11 113 Cal.App.3d 875, 884.)<sup>4</sup>

12 It is with these principles in mind that the Court proceeds  
 13 to a discussion of each of petitioners' claims under the Planning  
 14 and Zoning Law.

15 A. The Land Use Element Does Not Violate the Planning and  
 16 Zoning Law

17 1. Designation of Open Space Lands for Parks and Scenic  
 18 Corridors

19 Government Code section 65302(a) requires the General Plan  
 20 contain a land use element which designates the "proposed  
 21 distribution and general location and extent of the uses of  
 22 for, among other things, "open space", including "recreational  
 23 enjoyment of scenic beauty". Petitioners allege that the  
 24 use element of the General Plan violates this statute because  
 25 it does not designate land for parks and scenic corridors.

26 <sup>4</sup> The specific holding of Bownds dealt with the adequacy of a housing element of a particular general plan.  
 27 Although subsequent Legislative enactment of specific requirements for housing elements has saved  
 28 of some of its validity as authority on the standard of review of housing elements, it "retains its  
 extent it prohibits a court from examining the 'merits' of an element." (See Buena Vista Garden  
 Association v. City of San Diego Planning Department (1985) 175 Cal.App.3d 289, 298.) Bownds  
 by the Supreme Court in its discussion of the Planning and Zoning law's function as a general guide for  
 local land use decisions in DeVita v. County of Napa (1995) 9 Cal.4<sup>th</sup> 763, 782-783.



1 In fact, however, the County has designated areas for  
 2 recreation and enjoyment of scenic beauty within the "Open Space"  
 3 and "Public Facilities" designations.<sup>5</sup> The General Plan also  
 4 sets forth a plan for future park acquisition and development.<sup>6</sup>  
 5 Thus, petitioners' complaint, rather than being about the  
 6 designations as such, actually appears to be with the amount of  
 7 land potentially designated for parks, and with the County's  
 8 failure to adopt an ordinance protecting "scenic corridors".<sup>7</sup> In  
 9 other words, petitioners seek to enforce a particular outcome  
 10 (more parks in certain areas; protection of certain scenic  
 11 areas).

12 This claim fails, because section 65302(a) does not mandate  
 13 such an outcome. It does not require the specific designation of  
 14 particular parcels of land for parks or scenic corridors, and it  
 15 does not require that any particular quantity of land be  
 16 designated for these uses. Nothing in section 65302(a), in fact,  
 17 requires that the land use element must include each of the uses  
 18 listed in the statute. Section 65302(a) "...is not a mandate to  
 19 create sufficient districts so that each use named may be enjoyed  
 20 within the territory embraced by any municipality." (Town of Los  
 21 Altos Hills v. Adobe Creek Properties, Inc. (1973) 32 Cal.App.3d  
 22 488, 501.)

23 Indeed, imposing such a requirement would conflict with the  
 24 general approach of the Planning and Zoning Law, which, as noted  
 25 above, is to set forth a general framework that continues to  
 26

27 <sup>5</sup> See Land Use Element, AR 73:38807.

28 <sup>6</sup> See Parks and Recreation Element, AR 73:38935-38937.

<sup>7</sup> Thus, petitioners cite extensive excerpts from the General Plan Update Draft Environmental Impact Report (AR 540:12100-12102; 12112-12115; 12117-12123) and the Board's Findings of Fact (AR 539:17196-17205) to demonstrate that there is, and will be, a significant "deficit" of parkland in the County.

1 permit local control of planning decisions. Accordingly, the land  
 2 use element does not violate the Planning and Zoning Law in this  
 3 respect. Similarly, the land use element does not, in this  
 4 respect, violate the Open Space Lands Act (Gov. Code, §§ 65560-  
 5 65570), since that Act contains no quantified standards for  
 6 parkland or protection of scenic corridors.<sup>8</sup>

### 7 2. Designation of Land for Educational Facilities

8 The Land Use Element of the General Plan contains a general  
 9 "Public Facilities" designation that includes lands used for  
 10 schools.<sup>9</sup> There is no separate designation for schools within  
 11 the General Plan, or any specific indication of potential school  
 12 sites on the General Plan maps. Petitioners allege that the  
 13 failure to designate schools specifically violates the Planning  
 14 and Zoning Law.

15 For reasons similar to those set forth above, this contention  
 16 fails. Although Government Code section 65302(a) mentions land  
 17 used for "education" as one of the items that may be included in  
 18 the land use element, the statute does not require the  
 19 designation of specific areas for each use listed therein.  
 20 Petitioners have not shown that the use of a general "Public  
 21 Facilities" designation violates the Planning and Zoning Law.

### 22 3. Designation of Sewage and Waste Treatment Facilities

23 For similar reasons, the Court finds that the General Plan is  
 24 not invalid because it does not specifically designate the  
 25 location of sewage and waste treatment facilities. The County's  
 26 use of a general "Public Facilities" designation<sup>10</sup> to cover such  
 27

28 <sup>8</sup> Petitioners' other argument based on the Open Space Lands Act is dealt with in Section C below.

<sup>9</sup> AR 73:38807.

<sup>10</sup> See AR 73:38807.

1 facilities is not forbidden by the Planning and Zoning Law.  
 2 Also, the Court finds that the fact that a waste treatment plant  
 3 was proposed at one time for a particular location in the  
 4 County<sup>11</sup> does not mandate the designation of that location for  
 5 such use in the General Plan. Petitioners have not shown that  
 6 the proposal was approved or was in any other respect  
 7 sufficiently definite to require its inclusion in the General  
 8 Plan.

9 4. Identification of Lands Subject to Flooding

10 In many respects, as shown in the preceding sections of this  
 11 Ruling, the Planning and Zoning law sets forth a general  
 12 framework for local planning decisions while leaving the details  
 13 to the discretion of the County. In a few respects, however, the  
 14 Law imposes firmer mandates. One of those mandates is found in  
 15 Government Code section 65302(a): "The land use element shall  
 16 identify areas covered by the plan which are subject to flooding  
 17 and shall be reviewed annually with respect to those areas."  
 18 Petitioners contend that the land use element in the General Plan  
 19 violates that mandate, because the County's identification of  
 20 flood prone areas is not based on current information.

21 The Court finds this contention to be unpersuasive. The  
 22 General Plan identifies areas subject to flooding<sup>12</sup>. Petitioners  
 23 argue that the list of flood prone areas is inaccurate.  
 24 Petitioners accordingly have challenged one of the factual  
 25 assumptions upon which the General Plan is based, and may prevail.

26 <sup>11</sup> See the evidence regarding a study for location of such a facility cited by petitioners at AR 209:80490  
 80501; 80514-80516; 80526-80529.

<sup>12</sup> See El Dorado County General Plan, Volume II, Background Information, page 6-13. "Location of Flood  
 Hazard Areas" (AR 80:41317) and Figure 6-2, "Flood Hazards" (AR 80:41319).

1 in this challenge only if they can show that the listing of flood  
 2 prone areas is entirely without evidentiary support. (See Twain  
 3 Harte Homeowners Association v. County of Tuolumne (1982) 138  
 4 Cal.App.3d 664, 674.)

5 In fact, there is evidentiary support for the listing of  
 6 flood prone areas, in the form of Federal Emergency Management  
 7 Agency Flood Insurance Rate Maps.<sup>13</sup> Petitioners assert that  
 8 these maps are inaccurate because the last flood hazard boundary  
 9 map revisions took place in November 1977, and there is evidence  
 10 that flooding has occurred in areas not identified on the maps.<sup>14</sup>  
 11 Such facts may demonstrate a conflict in the evidence, but do not  
 12 show that the County's determination was entirely without  
 13 evidentiary support.

14 Moreover, petitioners have not demonstrated that the County  
 15 has violated the second mandate of the statute, regarding annual  
 16 review of flood prone areas. The General Plan contains a two-  
 17 fold mechanism thorough which such annual review may be  
 18 accomplished. Policy 6.4.1.2 states that the County "...shall  
 19 identify and delineate flood prone study areas discovered during  
 20 the completion of the master drainage studies or plans."<sup>15</sup>  
 21 Policy 6.4.1.5 insures that the County will receive additional  
 22 updated information regarding areas proposed for development:  
 23 "Discretionary applications shall be required to determine the  
 24 location of the designated 100-year floodplain on the subject  
 25 property."<sup>16</sup> To the extent that the County does not, in fact,  
 26

27  
 28 <sup>13</sup> AR 000875-000893.

<sup>14</sup> See, for example, AR 178:70374-70375; 179:71300; and 000276 and 000877 as annotated by petition

<sup>15</sup> See Public Health, Safety and Noise Element, Policy 6.4.1.2 (AR 73:38893).

<sup>16</sup> See Public Health, Safety and Noise Element, Policy 6.4.1.5 (AR 73:38893).

1 perform an annual review of flood prone areas based on such  
2 information, a claim for violation of the Planning and Zoning Law  
3 may arise in the future, but petitioners have not established  
4 such a claim now.

5 B. The Circulation Element Does Not Violate Statutory  
6 Requirements

7 Government Code section 65302(b) requires a general plan to  
8 have a "...circulation element consisting of the general location  
9 and extent of existing and proposed major thoroughfares,  
10 transportation routes, terminals, and other local public  
11 utilities and facilities, all correlated with the land use  
12 element of the plan." Petitioners allege that the General Plan  
13 violates this statute because the circulation element is not in  
14 fact "correlated" with the land use element, and because the Plan  
15 fails to show the general location and extent of public  
16 utilities. The Court finds that neither contention is borne out  
17 by the record.

18 1. The Circulation Element is Adequately Correlated with the  
19 Land Use Element

20 Petitioners' argument here focuses on the level of traffic  
21 congestion that future development will create; it may be  
22 summarized as follows. The land use element presupposes a  
23 certain level of development. This future development will  
24 increase traffic, resulting in congestion during certain periods  
25 which may be described in terms of declining "levels of service"  
26 for certain county roads. The circulation element does not make  
27 adequate provision for the level of development projected in the  
28 land use element in that it does not contain a plan to prevent or

1 reverse the anticipated declines in levels of service; in f  
 2 the circulation element explicitly recognizes and accepts t  
 3 declines.<sup>17</sup>

4 It is this explicit recognition of the trade-off betw  
 5 growth and traffic congestion that defeats petitioners' cla  
 6 No provision of the Planning and Zoning Law prohibits the C  
 7 from making the choice to promote growth at the expense of  
 8 traffic congestion, and petitioners have cited no other  
 9 provisions of law that would do so. In fact, such a decis  
 10 appears to this Court to be an inherently political one.  
 11 challenge to that decision is really a challenge to the wis  
 12 the County's choice. As noted above, it is a settled prin  
 13 that the wisdom of a general plan's policy choices is with  
 14 legislative and not the judicial sphere. (See Selby Realt  
 15 v. City of San Buenaventura (1973) 10 Cal.3d 110, 118.)  
 16 Accordingly, the Planning and Zoning Law does not provide  
 17 remedy here.

18 Petitioners rely on Concerned Citizens of Calaveras C  
 19 v. Board of Supervisors (1985) 166 Cal.App.3d 90 for their  
 20 implicit, if not explicit, proposition that the only way t  
 21 circulation element can be correlated with the land use el  
 22 is by "...plan[ning] for a level of service commensurate wit  
 23 projected development".<sup>18</sup> However, the case does not go s  
 24 as petitioners suggest. Calaveras prohibits a county from  
 25 attempting to evade the clear traffic consequences of its  
 26

27  
 28 <sup>17</sup> See, in particular, Circulation Element Policy 3.5.1.6 (AR 73:38840). See also, Plan Assum  
 regarding Traffic Levels of Service (AR 73:38789), Land Use Element, Policies 2.1.2.7 and 2.1  
 73:38798).

<sup>18</sup> See Governor's Office of Planning and Research, Planning Law Analysis and Test Organiz

1 development plan by proposing a completely ineffective solution.  
2 As the Court stated: "[T]he general plan cannot identify  
3 substantial problems that will emerge with its state highway  
4 system, further report that no known funding sources are  
5 available for improvements necessary to remedy the problems, and  
6 achieve statutorily mandated correlation with its land use  
7 element (which provides for substantial population increases)  
8 simply by stating that the county will solve its problems by  
9 asking other agencies of government for money. To sanction such  
10 a device would be to provide counties with an abracadabra by  
11 which all substance in section 65302's correlation requirement  
12 would be made to disappear. Indeed, all conflicts between the  
13 various items of a general plan—no matter how obvious, severe or  
14 dramatic—could be made magically to disappear..."<sup>19</sup>

15 Here, by contrast, the County has not attempted to make the  
16 consequences of development "magically...disappear". Quite the  
17 contrary—it explicitly has recognized and described them. Doing  
18 so is sufficient to "correlate" the circulation element with the  
19 land use element.

20 This conclusion is supported by the holding in Twain Harte  
21 Homeowners Association v. County of Tuolumne (1982) 138  
22 Cal.App.3d 664. In that case, the Court found that a county's  
23 circulation element was not "in any substantial way" correlated  
24 with the land use element, because it did not "...attempt to  
25 describe or discuss the changes or increases in demands on the  
26 various roadways or transportation facilities of the County as a  
27 result of changes in uses of land which will or may result from  
28

<sup>19</sup> Concerned Citizens of Calaveras County v. Board of Supervisors, supra, 166 Cal App 3d at 103.

1 implementation of...the general plan."<sup>20</sup> The Court rejected the  
 2 position petitioners advance here, that the circulation element  
 3 must plan to absorb and alleviate projected increases in traffic  
 4 without significant declines in levels of service: "...the  
 5 Government Code does not explicitly require that a circulation  
 6 element contain an inventory and data analysis followed by a  
 7 locally derived program to solve problems identified in the  
 8 inventory, and we do not so hold..."<sup>21</sup>

9 Moreover, the circulation element here is correlated with  
 10 the land use element not only by recognizing the consequences of  
 11 growth, but also by providing some mechanisms for adjusting  
 12 growth to infrastructure. See, for example: Policy 3.1.2.3,  
 13 which calls for directing discretionary residential development  
 14 to areas where the County road Level of Service is acceptable<sup>22</sup>;  
 15 Concurrency Objective 3.2.1 and its implementing Policies, which  
 16 may result in denial of land development projects where no  
 17 improvement or other mitigation measures are proposed to  
 18 alleviate project-induced traffic impacts concurrent with the  
 19 development<sup>23</sup>; and Policy 3.5.1.7, which permits the County to  
 20 condition projects to eliminate traffic impacts or deny them  
 21 "...until such time as the circulation system can absorb the  
 22 traffic from the project without suffering non-peak period  
 23 traffic congestion below the Level of Service specified in Policy  
 24 3.5.1.1."<sup>24</sup> Petitioners may quarrel with the wisdom or  
 25 effectiveness of these measures, but the Court finds that they  
 26

27 <sup>20</sup> Twain Hart Homeowners Association v. County of Tuolumne (1992) 13S Cal.App.3d 664, 701.

28 <sup>21</sup> Id. (Emphasis added.)

<sup>22</sup> AR 73:38835.

<sup>23</sup> AR 73:38836.

<sup>24</sup> AR 73:38841.



1 meet the legal requirement for "correlation" of the land use and  
2 circulation elements.

3 2. The Circulation Element Is Not Invalid for Failure to Show  
4 the General Location of Public Utilities

5 Petitioners assert that the General Plan violates Government  
6 Code section 65302(b) because it does not adequately address the  
7 general location and extent of local public utilities and  
8 facilities. Here, petitioners refer specifically to utilities  
9 such as electric, gas, water and sewer systems.

10 Initially, the Court notes that petitioners have cited no  
11 case authority in which a general plan's circulation element was  
12 held invalid because it did not give adequate treatment to  
13 utilities of this type. The case upon which petitioners rely,  
14 Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d  
15 692, did hold that a circulation element in a general plan, among  
16 others, was invalid. The Court did so on the ground that  
17 information "critical to an adequate discussion of statutory  
18 criteria..." was missing from those elements and had to be supplied  
19 through documents outside the general plan, but that there was no  
20 clear reference to those documents in the plan itself. The  
21 Court's opinion did not describe, however (at least in its  
22 published portion), exactly what the alleged deficiencies in the  
23 circulation element were. Thus, it is unclear the extent to which  
24 alleged deficiencies in the treatment of electric, gas, water and  
25 sewer systems may serve as the basis for invalidating the  
26 circulation element.

27 In any case, the circulation element in this General Plan  
28 appears to meet the requirements of the statute. Volume II of

1 the General Plan, entitled "Background Information", contains  
 2 relatively detailed discussion of water and sewer systems.<sup>25</sup>  
 3 This discussion indicates the general location and extent of  
 4 existing and proposed facilities. In some places, there are  
 5 references to maps or documents outside the actual general  
 6 plan.<sup>26</sup> This is permissible provided the reference is clear,  
 7 it is here. (See Kings County Farm Bureau v. City of Hanford  
 8 supra, 221 Cal.App.3d 692, 744.) Although the background vo  
 9 gives merely summary treatment to other utilities, such as  
 10 "electricity, gas, cable television and communications  
 11 facilities",<sup>27</sup> petitioners have not shown that such treatment  
 12 should invalidate the circulation element. Presumably much,  
 13 not most, of what pertains to these utilities consists of  
 14 delivery lines extending into and through developed areas.  
 15 Petitioners have identified no legal authority holding that  
 16 lines must be shown in a general plan. Similarly, petitioners  
 17 have not shown any evidence of other, larger facilities, such  
 18 power generating plants, which would be large enough to require  
 19 separate mention. Accordingly, the Court does not find the  
 20 circulation element invalid on this ground.

21 C. The Conservation and Open Space Element Does Not Violate  
 22 Statutory Requirements

23 Petitioners next assert a number of objections to the  
 24 Conservation and Open Space Element of the General Plan. First,  
 25 petitioners assert that the Conservation and Open Space element  
 26

27 <sup>25</sup> AR 80:41240-41265.

28 <sup>26</sup> See, for example, AR 80:41244. "The primary water transmission and distribution system is a large-scale map available for review at the El Dorado County Planning Department."

<sup>27</sup> AR 80:41271.

1 violates the requirements of the Open Space Lands Act, Government  
2 Code sections 65560-65570. Those statutes contain a Legislative  
3 declaration of the importance of preserving open-space land<sup>28</sup> and  
4 a requirement that every city and county prepare and adopt "...a  
5 local open-space plan for the comprehensive and long-range  
6 preservation and conservation of open-space land within its  
7 jurisdiction".<sup>29</sup> The open-space plan is required to contain "...an  
8 action program consisting of specific programs which the  
9 legislative body intends to pursue in implementing its open-space  
10 plan".<sup>30</sup> Petitioners allege that the open space preservation  
11 element of the General Plan, which is only three pages long,<sup>31</sup>  
12 does not contain an action plan as required by statute, and that  
13 it does not adequately provide for the conservation of certain  
14 types of open space resources present in the county.

15 The Court has reviewed the General Plan element relating to  
16 preservation of open space and finds that, while it is short, it  
17 does not violate statutory requirements. The open space element  
18 does appear to contain an action plan consisting of specific  
19 programs which the County intends to pursue for the comprehensive  
20 and long-range preservation and conservation of open-space land.  
21 The specific elements of those programs are found in Policies  
22 7.6.1.1 through 7.6.1.3, where the County proposes to provide for  
23 open-space lands in a number of ways. For example, open space  
24 will be identified and preserved through several land use  
25 designations, including Open Space, Rural Residential and Natural  
26

27  
28 <sup>28</sup> Government Code section 65561.

<sup>29</sup> Government Code section 65563.

<sup>30</sup> Government Code section 65564.

<sup>31</sup> AR 73:38915-38917.

1 Resources.<sup>32</sup> The County also proposes to preserve open space  
 2 through, among other things, zoning regulations in areas zoned  
 3 for agriculture and timberland production and zoning regulations  
 4 providing for setbacks from streams, lakes and other bodies of  
 5 water.<sup>33</sup> These elements are sufficient to constitute the open-  
 6 space plan required by statute. Thus, this case is easily  
 7 distinguishable from Save El Toro Association v. Daves (1977). 74  
 8 Cal.App.3d 64, in which a city had not even enacted a proper  
 9 general plan and had made no effort to identify open space within  
 10 its jurisdiction.

11 Petitioners' real complaint appears to be with the scope of  
 12 the open-space plan, in that it does not protect as much open  
 13 space as they would prefer, and does not protect the types of  
 14 open space they would prefer. Thus, petitioners challenge the  
 15 open space element on the following grounds: it does not protect  
 16 oak woodlands; it does not identify and assure preservation of  
 17 gabbro soils required for rare plant habitat; it does not  
 18 identify the general location of needed future parks, scenic  
 19 corridors and areas that link major open space reservations; it  
 20 fails to conserve open space lands sufficient to provide critical  
 21 habitat for the Pacific and Grizzly Flat deer herds; it fails to  
 22 protect residents from unreasonable risks associated with wild  
 23 fires<sup>34</sup>; and it fails to provide specific setbacks as required  
 24 for the protection of streams and rivers.

25 / / /

26

27

<sup>32</sup> Policy 7.6.1.2 (AR 73:38916).

<sup>33</sup> Policy 7.6.1.3 (AR 73:30216-30217).

<sup>34</sup> This argument is also raised in connection with petitioners' challenge to the Safety Element of the General Plan, which is dealt with in Section D below.

1 None of these alleged defects in the open space plan, even  
2 if present, provides a basis for invalidating the General Plan or  
3 any part of it. Petitioners' argument suffers from a fundamental  
4 flaw: the statutes regarding open-space lands do not contain any  
5 requirement that a particular quantity, or a particular type, of  
6 open-space lands must be preserved. The statutes, rather than  
7 setting forth precise standards, leave much to the discretion of  
8 the County. The statutory definition of "open-space lands" is  
9 broad and embraces a diverse range of uses, such as "areas  
10 required for the preservation of plant and animal life", "forest  
11 lands, rangeland, agricultural lands and areas of economic  
12 importance for the production of food or fiber" and "areas  
13 particularly suited for park and recreation purposes".<sup>35</sup> There  
14 is no requirement, however, that some land which falls within  
15 each of the statutory definitions must be protected. The  
16 statutes appear to contain nothing that would prohibit a county,  
17 for example, from choosing to preserve only agricultural land  
18 under its open-space plan. Thus, although each of the types of  
19 land petitioners allege should have been protected falls within a  
20 statutory definition of open space lands, petitioners have not  
21 shown that the alleged failure to protect them, or to protect a  
22 sufficient quantity of them, violates the law.<sup>36</sup>

23 Finally, petitioners allege that the County's deletion of  
24 the words "preserve" or "preservation" from the open space  
25

26 <sup>35</sup> Government Code section 65560(b).  
27 <sup>36</sup> For the same reason, the Court finds that Policy 2.2.5.15 (AR 73:38825), which states that imposition of  
28 National Recreational Area or Wild and Scenic River designations on lands within the County shall be deemed  
inconsistent with the General Plan, does not violate the open-space statutes in particular or the Planning and  
Zoning Law in general. The issue of what validity and effect this Policy may have under federal law is not  
presented in this proceeding.

1 element, and their replacement with the words "conserve" or  
2 "conservation", violate the open space statutes. Petitioners  
3 allege that these revisions demonstrate that the County  
4 unlawfully has chosen to preserve open space lands only for  
5 commodity production.

6 The Court finds no violation of the open space statutes.  
7 First, the statutes themselves call for an open-space plan for  
8 the "preservation and conservation" of open-space land.<sup>37</sup> This  
9 in itself is some indication that the County's choice of  
10 terminology does not violate the statutes. Moreover, as noted  
11 above, the statutes designate a diverse range of land uses within  
12 the scope of "open-space lands". Lands for the "managed  
13 production of resources", i.e., commodity production, are  
14 specifically included.<sup>38</sup> This is entirely consistent with the  
15 Legislative declaration that the preservation of open-space land  
16 is necessary for, among other things, "...the assurance of the  
17 continued availability of land for the production of food and  
18 fiber, for the enjoyment of scenic beauty, for recreation and for  
19 the use of natural resources."<sup>39</sup> The assertion that the County  
20 has favored economic uses of land over scenic or recreational  
21 uses in its open-space plan, even if true, provides no basis for  
22 the invalidation of the plan.

23 Petitioners next focus on the Conservation Element of the  
24 General Plan. They allege that it violates the Planning and  
25 Zoning Law because it does not discuss areas to be targeted for  
26 conservation or future mineral extraction. This argument is  
27

28 <sup>37</sup> Government Code section 65565.

<sup>38</sup> Government Code section 65566(b)(2).

<sup>39</sup> Government Code section 65561(a).

1 based on the contention that the General Plan does not adequately  
2 segregate mining and residential uses. Because there is a County  
3 Ordinance restricting surface mining within a specified distance  
4 of a residence, petitioners allege that the Plan does not protect  
5 mineral resources from incompatible development, and thus does  
6 not provide for "conservation" of those resources.

7 The Planning and Zoning law requires a general plan to  
8 contain a "conservation element for the conservation,  
9 development, and utilization of natural resources  
10 including minerals..."<sup>40</sup> The General Plan contains such an  
11 element. Objectives 7.2.2 and 7.2.3, along with their  
12 implementing policies<sup>41</sup>, address the potential conflict between  
13 mining and residential uses and provide means for resolving it.  
14 Accordingly, the General Plan does not violate the Planning and  
15 Zoning law by omitting a mandatory element.

16 D. The Safety Element is not Legally Inadequate

17 Government Code section 65302(g) requires the General Plan to  
18 include a safety element for protection of the community from  
19 "unreasonable risks" associated with wild land or urban fires.  
20 Petitioners challenge the safety element of the General Plan,  
21 alleging that it does not adequately address the danger of fire  
22 in certain parts of the County.

23 In support of their argument, petitioners cite to evidence in  
24 the record that shows that the General Plan proposes residential  
25 development in areas of the County which are designated as "high  
26 fire risk" areas. For example, a comparison of a map showing  
27

28  
<sup>40</sup> Government Code section 65302(d).  
<sup>41</sup> AR 73:38904-38905.

1 areas of high fire hazard in western areas of the County<sup>42</sup>  
 2 the map showing areas designated for development as Commu  
 3 Regions and Rural Centers<sup>43</sup>, shows that certain of those  
 4 development areas have been designated in areas with "high  
 5 "very high" fire danger.<sup>44</sup> To demonstrate that the impos  
 6 this kind of residential development into fire-prone areas  
 7 creates an "unreasonable" risk, petitioners cite to mater:  
 8 the record which argues that a so-called "intermix" betwee  
 9 land and urban uses increases the risk of catastrophic fi  
 10 Petitioners have a difficult burden to carry on this i  
 11 Because the language of Government Code section 65302(g) c  
 12 for a safety element that protects the community against  
 13 "unreasonable" risks, it is clear that the County has sign  
 14 discretion in designing that element. Petitioners can pre  
 15 only if they can show that the County abused its discretio  
 16 designing the safety element, either by failing to consid  
 17 risks of fire at all, or by adopting measures to mitigate  
 18 risks which clearly do not work.

19 The Court finds that petitioners have failed to carry  
 20 burden on this issue. A review of the safety element show  
 21 the County did not fail to consider the risk of fire. In  
 22 the safety element contains a number of measures that addr  
 23 attempt to mitigate that risk in areas of residential  
 24 development. For example, all new development and structu  
 25

26 <sup>42</sup> AR 540:11966.

27 <sup>43</sup> AR 00816.

28 <sup>44</sup> The affected Community Regions and Rural Centers include Georgetown, Garden Valley, El Dorado/Diamond Springs, Camino/Pollock Pines, Rescuc and a portion of Placerville. (See AR and 00816.)

<sup>45</sup> See, for example, AR 369:140783; AR 37:28723; AR 33:27527; AR 185:73385; AR 184:7293



1 to meet so-called "defensible space" requirements<sup>46</sup>. Fire Hazard  
2 Severity Zone Maps must be consulted in the review of all  
3 projects so that appropriate standards and mitigation measures  
4 may be imposed, including limits on density and intensity of  
5 use<sup>47</sup>. Applicants for new development must show that adequate  
6 emergency water flow, fire access and fire fighting personnel and  
7 equipment will be available or provided to service the new  
8 development<sup>48</sup>. Fuel break zones must be designated prior to  
9 approval of discretionary development with high and very high  
10 fire risk zones.<sup>49</sup> Although petitioners obviously disagree with  
11 the County regarding the effectiveness of these measures, they  
12 have not shown that they clearly do not work. Nor have  
13 petitioners succeeded in demonstrating that the risk of fire is  
14 unreasonable.

15 As is true of much of petitioners' challenge to the General  
16 Plan, this argument is in reality an argument about the level of  
17 development contemplated in the Plan. Petitioners are not so  
18 much concerned with the actual components of the Safety Element  
19 as they are with the fact that the County chose to permit higher-  
20 density development in larger areas than petitioners would have  
21 preferred. In effect, the argument about the adequacy of the  
22 Safety Element is an argument for a different approach to  
23 planning, as is evident from the primary fire risk mitigation  
24 measure petitioners allege should have been adopted: requiring  
25 low-density land use designations in areas of high fire risk.<sup>50</sup>  
26

27 <sup>46</sup> Objective 6.2.1, AR 73:38890.

28 <sup>47</sup> Objective 6.2.2, AR 73:38891.

<sup>48</sup> Objective 6.2.3, AR 73:38891.

<sup>49</sup> Objective 6.2.4, AR 73:38891.

<sup>50</sup> See, for example, the proposed mitigation measures at AR 539:17150-17151.

1 Such an argument goes to the political issues that are at the  
 2 heart of the General Plan adoption process; as noted above, these  
 3 are issues that the Court cannot reach under the Planning and  
 4 Zoning Law.

5  
 6 E. The General Plan is not Invalid for Lack of Specific and  
 7 Measurable Objectives

8 Petitioners' next challenge to the General Plan asserts that  
 9 it is invalid because it fails to include specific and measurable  
 10 standards. In support of their argument, petitioners cite to  
 11 certain Plan objectives that they contend are unlawfully vague  
 12 because they could have been stated in terms of measurable  
 13 quantities, or with target dates, but were not.<sup>51</sup>

14 The Plan is not invalid on this ground. Of course it is  
 15 true, as petitioners point out, that Government Code section  
 16 65302 states that the Plan shall set forth "...objectives,  
 17 principles, standards and plan proposals..." and that the purpose  
 18 of a General Plan is to provide enforceable standards by which  
 19 the administering agency must measure applications for  
 20 discretionary development approvals. (See Neighborhood Action  
 21 Group v. County of Calaveras (1984) 156 Cal.App.3d 1176, 1186.)  
 22 But this does not, as petitioners suggest, imply that each and  
 23 every objective must be set forth in a quantified or time-  
 24 specific manner. The Court concurs with respondent that nothing  
 25 in the Planning and Zoning law or elsewhere creates a legal  
 26 obligation to set numerical standards or targets. Accordingly.

27  
 28 <sup>51</sup> See, for example, Objective 2.2.4 (AR 73:38819), which permits a developer to receive a "density bonus" in  
 exchange for setting aside otherwise developable land for public use, and Objective 7.6.1 (AR 73:38915),  
 which calls for the conservation of open space.

1 the Court finds no abuse of discretion in the manner in which the  
2 County has set forth its Plan objectives.

3 F. The General Plan does not Lack Clear Policy Direction

4 The alleged vagueness of the General Plan's numerous policies  
5 is the focus of petitioners' next challenge. Those policies are  
6 unlawful, petitioners assert, because they provide no clear  
7 direction for future land use decisions. The principal flaw of  
8 the General Plan, in this view, is that it relies too much on  
9 terminology such as "should", "may" and "should encourage" in  
10 stating its policies. The use of such words, petitioners assert,  
11 removes all "backbone" from the Plan.

12 In support of this argument, petitioners have cited to at  
13 least forty policies that they claim are unlawfully vague for  
14 these reasons. Without discussing each of those policies in  
15 detail, the Court states that it has reviewed them individually  
16 and finds that petitioners have not carried their burden of  
17 showing that the adoption of these policies as they stand, "words  
18 of equivocation" and all, amounts to an abuse of discretion.

19 Initially, petitioners have cited no binding legal authority  
20 for the proposition that a General Plan may be invalid because  
21 some of its policies use what petitioners describe as "words of  
22 equivocation." The Planning and Zoning Law itself does not  
23 forbid this. And while the Office of Planning Research General  
24 Plan Guidelines clearly encourage policies with "backbone"<sup>52</sup>,  
25 they do not absolutely forbid the use of policies that are stated  
26 as "...less rigid directive[s], to be honored in the absence of  
27  
28

<sup>52</sup> See Office of Planning Research General Plan Guidelines 1990

1 compelling or contravening considerations."<sup>53</sup> Moreover, case  
 2 suggests that General Plan policies that are not mandatory  
 3 not necessarily invalid. (See for example, Corona-Norco Uni-  
 4 School District v. City of Corona (1993) 17 Cal.App.4<sup>th</sup> 985,  
 5 fn. 8; Seguovah Hills Homeowners Association v. City of Oakl  
 6 (1993) 23 Cal.App.4<sup>th</sup> 704, 719.)

7 Additionally, the Court finds that petitioners' contentions  
 8 that the policies lack "backbone" is not borne out by a review  
 9 of the policies themselves. In many cases, the use of "should"  
 10 "may" or "should encourage" does not make a particular policy  
 11 vague or equivocal. For example, some of the challenged policies  
 12 represent a limiting condition rather than an open-ended  
 13 permission<sup>54</sup>, others establish a range of acceptable  
 14 alternatives<sup>55</sup>, some appear in reality to be more mandatory than  
 15 optional<sup>56</sup>, others indicate that the County intends to pursue  
 16 particular policy goal while leaving actual implementation  
 17 standards flexible<sup>57</sup>, still more indicate the general course of  
 18 future action<sup>58</sup>, and others indicate a general need to coordinate  
 19 with other agencies as to matters not entirely within the scope  
 20 of the County's authority.<sup>59</sup> The Court does not find that the  
 21 County abused its discretion or failed to act in the manner  
 22 required by law by stating many of its General Plan policies in  
 23 this manner.

24  
 25  
 26 <sup>53</sup> Id. In any event, the Guidelines are "...merely advisory and not mandatory." (Twain Harte Home  
Association v. County of Tuolumne (1982) 138 Cal.App.3d 664, 702.)

27 <sup>54</sup> Policies 5.2.1.5, 5.2.1.4, 7.2.3.11.

28 <sup>55</sup> Policies 5.2.2.1, 5.3.1.3, 5.3.1.4, 7.3.3.2.

<sup>56</sup> Policies 5.2.3.6, 5.5.1, 6.4.2.2, 7.2.3.2, 7.4.5.1, 7.4.2.7, 7.6.1.3(c), 8.1.3.3.

<sup>57</sup> Policies 2.3.1.2, 3.10.3, 6.3.1, 6.7.1, 6.7.5, 7.4.4.2.

<sup>58</sup> Policies 5.2.1.1, 6.5.1.10, 6.7.8.1, 7.4.2.7, 9.3.1, 9.3.2, 9.3.3, 9.3.5, 9.3.7, 9.3.8.

<sup>59</sup> Policies 6.9.2, 7.4.3.

1 G. The General Plan Does Not Lack Implementation Measures

2 Next, petitioners assert that the General Plan is invalid  
3 because certain of its elements lack implementation measures. In  
4 particular, petitioners claim that the Noise Element as a whole  
5 contains no implementation measures, while a number of policies  
6 in the Land Use and Conservation elements also lack  
7 implementation measures. The lack of implementation measures  
8 itself violates the law, in petitioners' view. In addition, they  
9 allege that the lack of such measures makes the General Plan  
10 unlawfully unbalanced. Certain elements, notably the Economic  
11 Development and Housing elements, which do contain implementation  
12 measures, are effectively given precedence over other elements  
13 which do not. The Court finds that both claims are without  
14 merit.

15 The primary authority petitioners cite in support of their  
16 argument that all elements of the General Plan must have  
17 implementation measures is the following statement in the Office  
18 of Planning and Research General Plan Guidelines: "An  
19 implementation measure is an action, procedure, program or  
20 technique that carries out general plan policy. Each policy must  
21 have at least one corresponding implementation measure."<sup>60</sup> As  
22 noted above, however, the General Plan Guidelines are advisory  
23 rather than mandatory. The statement petitioners cite thus  
24 cannot be read as a legal requirement that every policy within  
25 the General Plan must have a corresponding implementation  
26 measure.

27

28

<sup>60</sup> Office of Planning and Research General Plan Guidelines

1 Moreover, the statutes of the Planning and Zoning  
 2 themselves impose no such requirement. Under those stat  
 3 only three of the elements of the General Plan are speci  
 4 required to have implementation measures: the noise elem  
 5 which must include "...implementation measures and possibl  
 6 solutions that address existing and foreseeable noise  
 7 problems..."<sup>61</sup>; the open space element, which must have  
 8 implementation measures in the form of an "action program  
 9 consisting of specific programs..."<sup>62</sup>; and the housing elem  
 10 The Planning Law Analysis and Test Organizer, which petit  
 11 cite frequently in this matter, confirms this: "Only the  
 12 space, noise, and housing elements are statutorily requir  
 13 discuss proposed implementation measures."<sup>64</sup>

14 Those three elements of the General Plan at issue he  
 15 contain the required implementation measures. The Noise  
 16 contains "implementation measures and possible solutions"  
 17 form of Policies 6.5.1.1 6.5.2.3.<sup>65</sup> The Open Space Element  
 18 the Court previously found, contains the required "action  
 19 program" setting forth the manner in which the County will  
 20 provide for open space through land-use designations and  
 21 regulations.<sup>66</sup> Petitioners concede that the Housing Element  
 22 contains numerous implementation measures.<sup>67</sup> Accordingly,  
 23

24  
 25 <sup>61</sup> Government Code section 65302(f)(6).

<sup>62</sup> Government Code section 65564.

<sup>63</sup> Government Code section 65583.

<sup>64</sup> Governor's Office of Planning and Research, Planning Law Analysis and Test Organizer, pag  
 27 document goes on to state: "Nevertheless, it is prudent to include implementation programs for  
 28 elements of the local general plan in order to demonstrate the feasibility of proposed goals, polic  
 principles."

<sup>65</sup> AK 73:38894-38897.

<sup>66</sup> See Section C above.

<sup>67</sup> See Petitioners Revised Opening Trial Memorandum, page 35. See also, Housing Element (A)

1 petitioners have not shown a violation of the Planning and Zoning  
2 Law arising from the mere lack of implementation measures in  
3 certain other elements.<sup>63</sup>

4 Petitioners argue more broadly that the lack of specific  
5 implementation measures in certain elements, coupled with the  
6 presence of such measures in the Housing and Economic Development  
7 Elements, unlawfully skews the plan towards the latter elements.  
8 In support of that contention, petitioners cite Sierra Club v.  
9 Board of Supervisors (1991) 126 Cal.App.3d 698, which held that  
10 it was unlawful to give one element, such as land use, precedence  
11 over another (such as open space) in the event of conflict  
12 between the two.

13 Sierra Club v. Board of Supervisors is distinguishable from  
14 the present case. In Sierra Club, the County had enacted a  
15 general plan in which the land use and open space/conservation  
16 elements were directly in conflict, specifically because the maps  
17 which were a part of each element were inconsistent in some  
18 areas. To resolve this conflict, the Board of Supervisors simply  
19 enacted a "precedence clause" which declared that, in the event  
20 of conflict between the two elements, the land use element should  
21 take precedence. The Court found that the use of this  
22 "precedence clause" violated the implied requirement of  
23 Government Code section 65302 that all elements of the general  
24 plan have equal status, and frustrated the Legislative intent  
25 behind the Open Space Lands Act.

26  
27  
28 58871).

<sup>63</sup> Indeed, certain statutes in the Planning and Zoning Law explicitly contemplate that implementation measures will be devised after adoption of the General Plan. (See Gov. Code, §§ 65103(b); 65400(a); 65450.

1           In this case, by contrast, there is no "precedence clause"  
2 or other explicit declaration in the General Plan that gives any  
3 particular element primacy over any other. Similarly, there does  
4 not appear to be the kind of direct conflict between different  
5 elements that was present in Sierra Club v. Board of Supervisors.  
6 The Court cannot find, based on its review of the General Plan,  
7 that the alleged imbalance in implementation measures between the  
8 Housing and Economic Development Elements and others such as  
9 Conservation/Open Space unlawfully gives the Housing and Economic  
10 Development Elements precedence. This is not to say that the  
11 General Plan may not represent a considered decision to promote  
12 housing and economic development more aggressively than  
13 conservation and open space. Such a decision, however, would be  
14 a political one and thus not a basis for invalidating the General  
15 Plan.

16 H.   The General Plan Is Not Invalid for Lack of Quantified  
17       Standards

18           In a similar vein, petitioners challenge the General Plan  
19 for its alleged lack of quantified standards. A proper plan,  
20 they assert, must tie its policies to such standards, or it will  
21 be unlawfully vague. This contention is likewise without merit.

22           Petitioners rely on the general language of Government Code  
23 section 65302 that a plan shall "include a diagram or diagrams  
24 and text setting forth objectives, principles, standards, and  
25 plan proposals." Such language does not appear to impose a  
26 requirement that all or most of the policies contained in the  
27 plan must be tied to specific quantified standards.

28       / / /



1 In effect, petitioners argue that the General Plan's  
 2 policies are illusory or unworkable without such standards. Thus  
 3 it is, in reality, an argument regarding whether the elements of  
 4 the plan are adequate to achieve its purpose. As stated above,  
 5 such an issue is primarily political, and not for the courts.  
 6 (See Bownds v. City of Glendale (1980) 113 Cal.App.3d 875, 884.)  
 7 In any event, the Court has reviewed the specific policies  
 8 petitioners cite in support of their argument, and finds that  
 9 petitioners have not met their burden of showing that such  
 10 policies are illusory or unworkable without quantified standards.  
 11 For example, delegating to local service purveyors the  
 12 responsibility for determining minimum acceptable levels of  
 13 service<sup>69</sup> does not mean that there will be no standards. The  
 14 fact that the size of streamside setbacks is not specifically  
 15 quantified does not make the policy of requiring them in the  
 16 Zoning Ordinance illusory.<sup>70</sup> And the policy of utilizing  
 17 clustering of development to retain the "largest contiguous areas  
 18 possible in wildland (undeveloped) status"<sup>71</sup> is not rendered  
 19 illusory simply because the General Plan does not state precisely  
 20 how much land should be so preserved. Accordingly, petitioners  
 21 have not shown that the General Plan should be invalidated for  
 22 lack of quantified standards.

23 I. The General Plan Does Not Rely on Baseless Assumptions  
 24 Regarding Water Supplies

25 Two of the assumptions underlying the General Plan, both of  
 26 which relate to the County's water supply, are the subject of  
 27

28 <sup>69</sup> Policy 5.1.2.2 and Table 5.1 (Minimum Levels of Service) AR 73:38874-38875.  
<sup>70</sup> Policy 7.4.2.5 (AR 73:38910).  
<sup>71</sup> Policy 7.4.4.3 (AR 73:38911).

1 petitioners' next challenge. The General Plan states: "The  
2 following assumptions were developed in consideration of the  
3 physical, economic, and political conditions of the past,  
4 present, and future. These assumptions provide a basis for the  
5 physical planning policies of the General Plan. ...An adequate  
6 supply of water will be available to serve the County's current  
7 population. ... Additional water supplies will be developed to  
8 support the projected growth."<sup>72</sup>

9       Petitioners allege that these assumptions are unfounded in  
10 that the water supplies upon which the Plan relies either are not  
11 or may not be, in fact, legally available to the County. Thus,  
12 using that water as the basis for the General Plan violates the  
13 law. In effect, petitioners argue that the adoption of the  
14 General Plan in this respect was arbitrary, capricious or  
15 entirely lacking in evidentiary support.

16       The Court finds that this claim is without merit. A review  
17 of the General Plan assumptions as a whole puts these particular  
18 assumptions into context and shows that the Plan is not based  
19 solely on unqualified assumptions regarding the availability of  
20 water. Instead, the General Plan explicitly recognizes, also as  
21 a "Plan Assumption", that "[l]ack of water availability may  
22 change the period of time over which this Plan remains valid."<sup>73</sup>  
23 Thus, the General Plan is not simply "locked in" to an assumption  
24 that a particular amount of water will be available for any given  
25 level of development. Instead, the Plan contains a number of  
26 policies which permit (or even require) the actual level of  
27

28

<sup>72</sup> AR 73:38788-38789.

<sup>73</sup> AR 73:38789.

1 development to be adjusted to the actual available water  
2 supply.<sup>74</sup> The presence of such policies indicates that the  
3 County explicitly has recognized that all projected and hoped-for  
4 sources of water may not be available. As the Board stated in  
5 its Findings of Fact for the General Plan: "The Draft and Final  
6 EIRs describe the long-term sources of additional water supply.  
7 The County recognizes, however, that these supplies may not  
8 materialize for legal, economic, or physical reasons. The  
9 Original Project Description therefore links growth to water  
10 supply. ... [The Plan's] policies and the County Ordinance ensure  
11 that the development of new supplies be [sic] assured prior to  
12 new growth creating additional water demand."<sup>75</sup> Accordingly, the  
13 County has not simply assumed that it will have as much water as  
14 it needs to support the level of development it has chosen. The  
15 Court thus finds no abuse of discretion in the plan assumptions.

16 Petitioners' claim fails for another reason. The Planning  
17 and Zoning Law does not require that the County enact a General  
18 Plan that assumes the availability only of such water supplies as  
19 are in existence as of the date of the plan or guaranteed to be  
20 in existence in the future. In fact, the statutes explicitly  
21 permit the Plan to assume the development of future water  
22 supplies. Government Code section 65352(a)(6) requires the  
23 county to refer the proposed general plan to certain public water  
24 systems for review and comment. Government Code section  
25 65352.5(c)(6) requires those public water systems to provide the  
26 county with "[a] description of all proposed additional sources  
27  
28

<sup>74</sup> See, for example, Objective 5.1.2 and Policies 5.1.2.1, 5.2.1.2 and 5.2.1.4 (AR 73:38874, 38877).  
<sup>75</sup> AR 539:17171.

1 of water supplies for the water supplier, including the estimated  
2 dates by which these additional sources should be available and  
3 the quantities of additional water supplies that are being  
4 proposed." Even if the Plan did not have the mechanism it does  
5 have for adjusting to shortfalls in projected water supplies,  
6 then, it would not necessarily be invalid simply because it  
7 assumed that future water supplies would be developed. It could  
8 be invalid only if those assumptions were shown to be baseless,  
9 that is, entirely without evidentiary support. (See Twain Harte  
10 Homeowners Association v. County of Tuolumne (1982) 138  
11 Cal.App.3d 664, 674.)

12 Petitioners attempt, but fail, to make such a showing here.  
13 The basis of this attempt is petitioners' argument that much of  
14 the County's actual and projected water supplies ultimately come  
15 in the form of diversions from Caples, Aloha and Silver Lakes.  
16 This water is delivered to the County water agency through what  
17 is known as the "El Dorado Project". Petitioners argue that  
18 diversions from the three lakes are, or will be found to be,  
19 illegal; thus, the water will be unavailable to the County. As  
20 proof of this illegality, petitioners offer evidence of a number  
21 of court and administrative agency actions, some of which post-  
22 date the adoption of the General Plan. Respondent challenges the  
23 admissibility of much of this evidence. Elsewhere, the Court has  
24 ruled on this issue<sup>76</sup>. For present purposes, however, the  
25 illegality of diversions from the lakes may be assumed, for the  
26 Court finds that, even if such an assumption is made, petitioners  
27  
28

<sup>76</sup> See Court's Ruling on Petitioners' Request for Judicial Notice, filed separately.

1 have not shown that the County's projections of future water  
2 supplies are entirely without evidentiary support.

3 All of the information upon which projections of future  
4 water supplies are based may be found in the Background  
5 Information Volume of the General Plan.<sup>77</sup> This information was  
6 put into the form of a table entitled "Water Supply and Demand  
7 Summary" in the Draft ETR.<sup>78</sup> The table reveals that the County's  
8 water supply projections do not rely solely on the El Dorado  
9 Project, but also on other future projects such as "Crawford  
10 Ditch", "Texas Hill" and "Small Alder".<sup>79</sup> The amount of  
11 additional water to be delivered through these projects is  
12 sufficient to service the projected level of development even if  
13 all water diversions from the three lakes through the El Dorado  
14 Project ultimately are found to be illegal.<sup>80</sup> Petitioners have  
15 not made, or attempted to make, any showing that these other  
16 future sources of water are illegal or otherwise unavailable.  
17 Accordingly, petitioners have not shown that the County's  
18 assumptions as to future water availability are entirely without  
19 evidentiary support.

20 / / /  
21 / / /  
22

<sup>77</sup> AR 80:41240-41258.

<sup>78</sup> AR 541:12579-12581.

<sup>79</sup> See AR 541:12580, Category VII ("Potential Supplies, acre-feet/year").

<sup>80</sup> For example, using the figures in the table, the entire anticipated future water supply assumed by the General Plan from all sources is 128,972 acre-feet/year. (Current supply of 65,171 acre-feet/year plus total additional supply of 63,801 acre-feet/year.) Total future need is 91,401 acre-feet/year. (Current demand of 52,910 acre-feet/year plus estimated potential water need, Categories II, III, IV and V of 31,224 acre-feet/year, plus estimated potential water need, Category VII of 7,270 acre-feet/year.) Subtracting estimated demand from estimated supply leaves a projected surplus of 36,321 acre-feet/year. The entire current and projected diversion from the lakes is 32,080 acre-feet/year. (Current entitlement of 15,080 acre-feet/year plus increased entitlement of 17,000 acre-feet/year.) Subtracting this amount from the projected overall surplus still leaves a surplus of 4,241 acre-feet/year. Similar computations using only the water actually or potentially available from the El Dorado Irrigation District also yields a future surplus of 871 acre-feet/year.

1 J.1. The General Plan Does Not Rely on the Unlawful Diversion of  
2 Water.

3 Petitioners' next challenge to the General Plan alleges that  
4 the Plan unlawfully fails to disclose that it is based on the  
5 illegal diversion of water from the South Fork of the American  
6 River. The Court finds this challenge to be without merit.  
7 Petitioners have cited no legal authority under the Planning and  
8 Zoning Law that requires a General Plan to analyze the potential  
9 legality or illegality of water supplies that may be used to  
10 support development contemplated by the Plan. Moreover,  
11 petitioners have not actually established that any diversion of  
12 water from the South Fork of the American River in El Dorado  
13 County is, or would be, illegal.

14 Petitioners rely on Article 10A, section 3 of the California  
15 Constitution to support their argument that diversions from the  
16 South Fork of the American River would be illegal. Article 10A,  
17 section 3 states: "No water shall be available for appropriation  
18 by storage in, or by direct diversion from, any of the components  
19 of the California Wild and Scenic River System where such  
20 appropriation is for export of water into another major  
21 hydrologic basin of the state."

22 To make out a potential violation of this constitutional  
23 provision, petitioners cite the following facts from the record:  
24 the General Plan relies on obtaining water diverted from the  
25 American River by PG&E in the so-called "Kyburz Reach"<sup>21</sup>; some of  
26 this water will be delivered to residential water users in areas  
27

28 <sup>21</sup> In fact, the record shows that diversions from the "Kyburz Reach" of the South Fork of the American River are occurring now. It is unclear, however, whether those diversions currently are resulting in the transfer of water from one hydrological basin to another as petitioners allege will happen under the General Plan.

1 of western El Dorado County which are located within the  
 2 hydrological basin of the Cosumnes River; wastewater resulting  
 3 from such use will be treated and discharged into creeks that  
 4 eventually drain into the Cosumnes River; the net effect of water  
 5 use contemplated by the General Plan, then, is to transfer water  
 6 from one major hydrologic basin to another. Finally, petitioners  
 7 cite the fact that the Lower American River, which is located  
 8 outside El Dorado County, is a component of the California Wild  
 9 and Scenic River system.

10 None of these facts are really disputed, and thus the Court  
 11 will, for the purpose of this analysis, assume that they are  
 12 true. The water use scenario established by those facts simply  
 13 would not amount to a violation of Article 10A, section 3 of the  
 14 state Constitution. Under the facts presented here, there would  
 15 not be a "direct diversion" from a component of the Wild and  
 16 Scenic River system for "export".

17 The terms "direct diversion" and "export" are not defined in  
 18 Article 10A, and neither party has cited any cases which have  
 19 interpreted or applied Article 10A or those particular terms.  
 20 Nevertheless, it is a familiar principle that "[a] constitutional  
 21 provision should be construed according to the natural and  
 22 ordinary meaning of its words." (City and County of San  
 23 Francisco v. County of San Mateo (1995) 10 Cal.4<sup>th</sup> 554, 562.)

24 The natural and ordinary meaning of the term "direct", as  
 25 established by standard reference works, is "stemming immediately  
 26 from a source".<sup>82</sup> Applying this meaning to Article 10A, section  
 27 3, the Court finds that the Constitution forbids the diversion of  
 28

<sup>82</sup> See, for example, Webster's Third New International Dictionary, "direct", second definition, number 2(2b).  
 79

1 water stemming immediately from a source that is a component of  
2 the Wild and Scenic River system. Under this interpretation, the  
3 scenario petitioners establish does not violate the Constitution.  
4 The actual diversion of water will not occur at a location that  
5 is a part of the river designated as a component of the Wild and  
6 Scenic River system. The area so designated is "...the Lower  
7 American River from Nimbus Dam to its junction with the  
8 Sacramento River." (Public Resources Code section 5093.54(e).)  
9 It is undisputed that this portion of the river is outside El  
10 Dorado County, while the "Kyburz Reach", where the actual  
11 diversion is to occur, is located in El Dorado County, many miles  
12 upstream. Thus, no actual diversion is to take place on the  
13 Lower American River. At most, then, there is an "indirect"  
14 diversion of water. The terms of the Constitution do not appear  
15 to prohibit this.

16 The statutes implementing the Wild and Scenic Rivers program  
17 provide additional support for this conclusion. Public Resources  
18 Code section 5093.55(a) states: "...no dam, reservoir, diversion,  
19 or other water impoundment facility shall be constructed on any  
20 river and segment thereof designated in section 5093.54; nor  
21 shall any water diversion facility be constructed on the river  
22 and segment..." The statute makes clear reference to those rivers  
23 and segments that have been designated as components of the  
24 system. It does not appear to restrict diversion on rivers and  
25 segments not so designated.

26 Similarly, the Court finds that the facts presented here do  
27 not constitute the "export" of water into another major  
28 hydrologic basin under Article 10A, section 3. Once again, the



1 parties have cited no definitional or case law construing the  
 2 word "export". The natural and ordinary meaning of that word,  
 3 however, is "to carry or send (a commodity) to some other country  
 4 or place."<sup>83</sup> The Court is not persuaded that the diversion of  
 5 water by a county water agency for use by that agency's customers  
 6 would be an "export" under this definition, even if some of the  
 7 customers are physically located in another hydrologic basin.  
 8 Article 10A, section 3 appears to relate to the sale of water to  
 9 a water agency in another basin, rather than to the use of water  
 10 by customers of the agency which diverted it.

11 Some support for this construction can be found, again, in  
 12 the statutes implementing the Wild and Scenic Rivers program.  
 13 Public Resources Code section 5093.55(a) provides that the  
 14 Secretary of the Resources Agency may permit a water diversion  
 15 facility to be constructed on a component of the system when he  
 16 or she determines that "...the facility is needed to supply  
 17 domestic water to the residents of the county or counties through  
 18 which the river and segment flows, and the facility will not  
 19 adversely affect the free flowing condition and natural character  
 20 of the river and segment." Thus, the statute appears to permit  
 21 even direct diversions from a Wild and Scenic river (where  
 22 certain findings are made) if the water is to be used within the  
 23 county through which the river flows. This is a clear indication  
 24 that use of the water within the county is not considered to be  
 25 "export".

26 / / /  
 27  
 28

<sup>83</sup> See, for example, Webster's Third New International Dictionary, "export", first definition, number 2a.

1 The history of the various Constitutional and statutory  
 2 provisions involved here supports this conclusion. Public  
 3 Resources Code section 5093.55 was originally enacted in 19  
 4 was, in relevant substantive part, closely similar to its c  
 5 form. Article 10A of the Constitution was enacted in 1980.  
 6 Subsequently, in 1982, 1986 and 1993, the Legislature amend  
 7 Public Resources Code section 5093.55 without affecting the  
 8 portions relevant to this case. These amendments may be se  
 9 Legislative construction of the term "export" as used in Ar  
 10 10A, section 3 as not including the supplying of water to  
 11 residents of the county through which the river flows. Suc  
 12 Legislative construction of a Constitutional provision has  
 13 persuasive force and will ordinarily be followed. (See Woo  
 14 v. Dick (1950) 36 Cal.2d 146, 148.) Accordingly, the Court  
 15 that Article 10A, section 3 does not provide a basis for  
 16 invalidating the General Plan.

17 **J.2. The General Plan Does Not Erroneously Assume that Exis  
 18 Water Supplies are Lawful and Adequate**

19 Petitioners further challenge the General Plan by alle  
 20 that is unlawful because it is based on the erroneous assum  
 21 that existing water supplies are lawful and adequate, when  
 22 fact they are not. In making this argument, petitioners fo  
 23 the County's existing use of water diverted from the South  
 24 of the American River by PG&E in the "Kyburz Reach".<sup>84</sup> AS r  
 25 above, petitioners allege that much, if not all, of this wa  
 26 originates in Caples, Silver and Aloha Lakes, and that neitl  
 27

28

<sup>84</sup> This argument focuses on the 15,080-acre feet per year which the El Dorado Irrigation District c  
 PG&E under a contract dating back to 1919.

1 the El Dorado Irrigation District nor the El Dorado County Water  
 2 Agency has any consumptive rights to water from these lakes.  
 3 Thus, petitioners contend, the General Plan should have  
 4 recognized that a substantial portion of the County's existing  
 5 water supplies were being obtained without any legal right; and  
 6 should have scaled back potential development in recognition of  
 7 that fact.

8 Because this challenge to on the General Plan goes to the  
 9 factual assumptions upon which the Plan is based, petitioners can  
 10 prevail only if they can show that the adoption of the Plan was,  
 11 in this particular respect, entirely without evidentiary support.  
 12 (See Twain Harte Homeowners Association v. County of Tuolumne  
 13 (1982) 138 Cal.App.3d 664, 674.) The Court finds that  
 14 petitioners have not met this burden. First, there is  
 15 substantial evidence in the record that the water in question  
 16 actually was being delivered to the County by PG&E at the time of  
 17 adoption of the General Plan, and, apparently, had been delivered  
 18 for many years. Moreover, there is no evidence, either in the  
 19 record or in anything offered by petitioners, that establishes  
 20 that any final adjudication or other decision had been made as of  
 21 the time of adoption of the General Plan to the effect that the  
 22 existing water diversions were illegal.

23 While petitioners cite to testimony in the record that they  
 24 claim is an "admission" that the El Dorado Irrigation District  
 25 and the County Water Agency do not have consumptive rights to the  
 26 water at issue, the cited testimony is only part of the picture.  
 27 The same testimony also shows that those agencies obtain the  
 28 water from PG&E pursuant to contract, rather than under any

1 consumptive water rights pertaining to the agencies themselves.<sup>85</sup>  
2 Petitioners have failed to establish that, at the time of  
3 adoption of the General Plan, PG&E did not have the right to  
4 divert the water it delivered to the County agencies, that PG&E  
5 did not have the right to sell that water to the County agencies  
6 under contract, or that the County agencies did not have the  
7 right to purchase water under contract even though they  
8 themselves did not have consumptive rights to the water in the  
9 first instance. Accordingly, petitioners have failed to show  
10 that the County agencies' lack of consumptive water rights is a  
11 basis for invalidating the General Plan.

12 J.3. The General Plan is not based on Fallacious Assumptions  
13 Regarding the Future Availability of Water

14 Petitioners continue their broad assault on the factual  
15 assumptions underlying the General Plan by alleging that the Plan  
16 makes erroneous assumptions regarding the future availability of  
17 water. This portion of the argument focuses on the data  
18 contained in the El Dorado County Water Agency's hydrologic  
19 report, which projects water demand and supply into the future.<sup>86</sup>

20 In particular, petitioners challenge the data found in Table  
21 7.5 of the report,<sup>87</sup> which purports to demonstrate that  
22 sufficient supplies of water will be available to support  
23 projected growth even in a critically dry year such as 1977.  
24 Petitioners assert that a close reading of the data contained in  
25 the table reveal that there will not be sufficient flow in the  
26 South Fork of the American River (the primary source of water)

27  
28 <sup>85</sup> See AR 50:32343.

<sup>86</sup> The complete hydrologic report is found at AR 564:214178-214215.

<sup>87</sup> AR 564:214212.

1 during the summer of such a year to meet the projected level of  
 2 demand in the year 2013. Petitioners further assert that the  
 3 table reveals a fundamental error, in that it demonstrates that  
 4 the County would be taking more water in October of a dry year  
 5 than the entire flow of the river.

6 Once again, petitioners' challenge is to the factual  
 7 assumptions underlying the adoption of the General Plan, and thus  
 8 they bear the burden of showing that such adoption was, in this  
 9 respect, entirely without evidentiary support. (See Twain Harte  
 10 Homeowners Association v. County of Tuolumne (1982) 136  
 11 Cal.App.3d 664, 674.) Petitioners have failed to carry their  
 12 burden. Respondent persuasively demonstrates that the apparent  
 13 water supply shortfalls---which only appear in a few months  
 14 during a "critically dry year"<sup>88</sup>---can be eliminated through use  
 15 of the temporary reservoir storage technique referred to as  
 16 "reregulation". The hydrologic report explicitly states that it  
 17 assumes the use of reregulation as one of its strategies.<sup>89</sup>  
 18 Thus, there is substantial evidence to support the assumptions of  
 19 future water availability upon which the General Plan is based.

20 K. The Elements of the General Plan are not Inconsistent With  
 21 Each Other

22 Petitioners argue that various elements of the General Plan  
 23 are inconsistent and that such inconsistency must result in the  
 24 invalidation of the Plan. This argument has two elements, both of  
 25 which the Court finds to be unpersuasive.

26 / / /

27

28 <sup>88</sup> No such shortfalls are apparent in Table 7.2, which sets forth supply and demand projections for a  
 "representative year". (AR 564:214209.)  
<sup>89</sup> AR 564:214195.

1 First, petitioners allege again that the circulation element  
2 is not correlated with the land use element, thus causing a fatal  
3 inconsistency in the Plan. The Court previously considered and  
4 rejected this argument above<sup>90</sup>, and will not address it further  
5 here.

6 Second, petitioners argue that the Natural Resources (NR)  
7 designation in the Land Use Element<sup>91</sup> is inconsistent with  
8 certain policies in the Conservation and Land Use Element  
9 relating to Conservation of Biological Resources (specifically,  
10 Policies 7.4.1.5, 7.4.2.1 and 7.4.2.4).<sup>92</sup> Those policies call  
11 for the use of the Natural Resources land designation, in certain  
12 cases, to protect biological resources. The basic purpose of the  
13 Natural Resources designation, though, as stated in the General  
14 Plan, is to "identify areas that contain economically viable  
15 natural resources and protect the economic viability of those  
16 resources and those engaged in harvesting/processing of those  
17 resources...from interests that are in opposition to the managed  
18 conservation and economic, beneficial use of those resources."<sup>93</sup>  
19 Petitioners assert that these purposes are fundamentally in  
20 conflict.

21 The Court has reviewed the policies cited by petitioners, as  
22 well as the Natural Resources land use designation, and finds no  
23 necessary conflict between them. Certainly, the Court finds no  
24 conflict between them such as would require invalidating the  
25 General Plan. In fact, these different elements of the Plan can  
26

27  
28 <sup>90</sup> Section B.1, above.

<sup>91</sup> See AR 73:38806.

<sup>92</sup> The cited policies can be found at AR 73:38909-38910.

<sup>93</sup> AR 73:38806.

1 be harmonized. For example, Policy 7.4.1.5 raises the  
2 possibility of protecting special status species and natural  
3 communities where they are present on private lands designated as  
4 Natural Resources lands. This implies that some extra  
5 restrictions might be put on the use of particular Natural  
6 Resources lands, or a portion thereof, if needed to protect such  
7 species or communities. Because this policy evidently only would  
8 apply to a limited and very specific set of circumstances, it is  
9 not necessarily inconsistent with the overall Natural Resources  
10 designation. A similar analysis applies to Policy 7.4.2.4, which  
11 deals with wildlife habitat corridors.

12 Similarly, Policy 7.4.3.1 contemplates the use of the  
13 Natural Resources designation as only one possible way of  
14 protecting critical fish and wildlife habitat. Protection of  
15 such habitat is not necessarily incompatible with the designation  
16 of certain areas as Natural Resources lands, such as important  
17 watershed, lakes and ponds and river corridors.

18 Since the Court finds that these cited elements of the  
19 General Plan are not fundamentally inconsistent, petitioners have  
20 failed to establish that respondent failed to act in the manner  
21 required by law.

22 L.1. The Elements of the General Plan are Not Internally  
23 Inconsistent

24 Continuing the theme of fatal inconsistency, petitioners  
25 assert that certain of the elements of the General Plan are  
26 internally inconsistent. First, petitioners cite alleged  
27 inconsistencies within the Land Use element that they assert  
28 cause the Plan to frustrate its own ostensible goals.

1 Specifically, petitioners point out that one goal of the Plan is  
2 "curtailment of urban/suburban sprawl"<sup>94</sup>, but that the Plan  
3 frustrates that goal by creating "large islands" of Low Density  
4 Residential lands, which petitioners allege will "induce sprawl  
5 by spreading projected growth over far more parcels than  
6 necessary."<sup>95</sup>

7       The Court finds this contention to be unpersuasive.  
8 Petitioners have not met their burden of showing that the General  
9 Plan violates the requirements of law, as the Court cannot find  
10 any fatal inconsistency on the basis advanced. Neither party  
11 defines, or has provided any authority defining, the term  
12 "urban/suburban sprawl" as used in the Plan. In the absence of  
13 such authority establishing just what "urban/suburban sprawl" is,  
14 the Court cannot find that a policy to "curtail" such sprawl is  
15 necessarily inconsistent with the designation of any particular  
16 amount of land as "low density residential". The Court notes  
17 that the "low density residential" designation provides for  
18 parcel sizes of 5-10 acres, with no more than one dwelling unit  
19 per five acres.<sup>96</sup> Whether an area developed in such a manner  
20 could be described as either "urban" or "suburban", and thus as  
21 "sprawl", cannot be determined on this record. Accordingly, the  
22 Court cannot find that this alleged inconsistency is any basis  
23 for invalidation of the General Plan.  
24

25       Second, petitioners allege that the creation or expansion of  
26 what they describe as "urban boundaries", or the inclusion within  
27

28 <sup>94</sup> AR 73:38796.

<sup>95</sup> Petitioners' Revised Opening Trial Memorandum, page 43.

<sup>96</sup> AR 73:38805.



1 such boundaries of some small amounts of territory which are  
 2 important for species conservation or designated as mineral  
 3 resources land, creates a fatal inconsistency in the General  
 4 Plan.<sup>97</sup> The Court finds this argument to be unpersuasive as  
 5 well. The inclusion of these small areas within the border of a  
 6 Community Region, even if the uses they represent are  
 7 inconsistent with the general course of Community Region  
 8 development in specific cases (a finding the Court cannot make on  
 9 this record) does not render the entire General Plan fatally  
 10 inconsistent. Petitioners have not established that the  
 11 designation of these community regions generally frustrates  
 12 General Plan policies or objectives regarding protection of  
 13 special status plants or mineral resources.

14 Finally, the inclusion of areas without a public sewer  
 15 system within the Georgetown Community Region does not provide a  
 16 basis for invalidation of the General Plan. The availability of  
 17 infrastructure such as sewer lines is only one factor to be  
 18 considered in designating Community Regions under Policy  
 19 2.1.1.2.<sup>98</sup> Nothing in that Policy indicates that the lack of a  
 20 sewer line, by itself, should bar designation of a particular  
 21 area as a Community Region.

22 **L.2. The General Plan Objectives are not Unlawfully Inconsistent**  
 23 **with Each Other**

24 Next, petitioners argue that the General Plan is fatally  
 25 inconsistent because many of the Plan's objectives are in  
 26 conflict. Here, petitioners focus on the alleged conflict  
 27

28 <sup>97</sup> Although petitioners use the term "urban boundaries", this term does not appear in the General Plan. Petitioners appear to be referring to the concept of "Community Regions" as set forth in Objective 2.1.1 of the Plan and in the Policies related to it. (See AR 73:38796.)  
<sup>98</sup> AR 73: 38796.

1 between objectives that accommodate or permit growth and those  
 2 that aim to foster a rural quality of life and sustain a quality  
 3 environment. In particular, petitioners cite, among other  
 4 things, the County's rejection of mitigation measures that would  
 5 reduce traffic congestion.

6 This argument is not persuasive. A General Plan for any  
 7 county has to take into account, and try to strike a balance  
 8 among, competing interests. (See Garat v. County of Riverside  
 9 (1991) 2 Cal.App.4<sup>th</sup> 259, 300.) This is particularly true of a  
 10 county such as El Dorado, which contains large rural areas as  
 11 well as areas adjacent to a fast-growing metropolitan area. The  
 12 fact that the Plan under review here recognizes and attempts to  
 13 balance goals which may be in tension with each other, and which  
 14 may even sharply conflict with each other at certain times and in  
 15 certain places, does not make the Plan fatally inconsistent. The  
 16 balancing of interests embodied in the General Plan represents a  
 17 decision which is fundamentally political, rather than legal.  
 18 The tension between those interests does not provide a basis for  
 19 invalidating the General Plan under the Planning and Zoning Law.

20 M. The General Plan is not Required to Be Consistent with the  
 21 Plans of Other Agencies

22 Petitioners' final challenge to the General Plan under the  
 23 Planning and Zoning Law is based on the Plan's alleged failure to  
 24 take into account, and be consistent with, the plans of other  
 25 governmental agencies. Petitioners allege specifically that the  
 26 Plan is unlawfully inconsistent with the following such plans:

27 / / /

28 / / /

- 1 1. the El Dorado County Air Pollution Control District's
- 2 California Clean Air Act Plan<sup>99</sup>;
- 3 2. the Sacramento Area Regional Ozone Attainment Plan;
- 4 3. Caltrans' Route 50 Draft Transportation Concept Report;
- 5 4. The California Transportation Plan, Policy 1, Objective
- 6 C100;
- 7 5. Department of Fish and Game Management Plans for
- 8 Pacific, Grizzly Flat and Mother Lode Deer Herds;
- 9 6. Sacramento County's General Plan as it relates to White
- 10 Rock Road;
- 11 7. The Regional Transportation Plan.

12 Even assuming that the General Plan is substantially inconsistent  
 13 with all of the above-listed plans, a finding the Court does not  
 14 make here, petitioners still have failed to show a violation of  
 15 the Planning and Zoning Law. Nothing in that Law imposes a  
 16 requirement on the County that it make its General Plan  
 17 consistent with the plans of other governmental agencies or  
 18 counties, and petitioners have cited no other provisions of law  
 19 relevant to this case that would do so.

20 In fact, the entire planning process under the Planning and  
 21 Zoning Law is one, which, as the Supreme Court has stated, shows  
 22 "deference to local autonomy." (See DeVita v. County of Napa

24 <sup>99</sup> Petitioners also state generally that the General Plan is inconsistent with the state Clean Air Act, but do not  
 25 identify any provision of that Act which could serve as the basis for invalidating the General Plan or any part  
 26 of it. Accordingly, the Court finds no violation of the Clean Air Act based on this record.

27 <sup>100</sup> Petitioners also contend that the General Plan conflicts with the statewide policy of Government Code  
 28 section 65089(b)(1)(B) regarding levels of service for counties which include an "urbanized area", as that term  
 is defined in Government Code section 65083.1(g). Petitioners concede, however, that El Dorado County is  
 not yet an urbanized area under the statute, and that the statute thus does not apply at this time. (And did not  
 at the time the General Plan was enacted.) (See Petitioners' Revised Opening Trial Memorandum, page 49.)  
 Nevertheless, petitioners urge the Court to find that the County had the obligation, in effect, voluntarily to  
 submit to the standards of Government Code section 65089(b)(1)(B) because it "may very well become" an  
 urbanized area in the future. The Court finds no such obligation in the statute.

1 (1995) 9 Cal.4<sup>th</sup> 763, 784.) The relevant provisions of the  
 2 Planning and Zoning law strongly indicate that consistency with  
 3 other plans is not required, although it may be encouraged. For  
 4 example, the Planning and Zoning Law calls upon a county to refer  
 5 its proposed General Plan to a number of other agencies for  
 6 review and comment prior to adoption<sup>101</sup>, but the County's failure  
 7 to do so does not affect the validity of the General Plan as  
 8 adopted.<sup>102</sup> Moreover, no provision of the Planning and Zoning  
 9 Law requires the County to accept or adopt any comments that may  
 10 be made. If the failure to solicit comments as required by law  
 11 cannot affect the validity of the General Plan, and there is no  
 12 duty to take any action in response to comments from other  
 13 agencies, it is difficult to find any express or implied duty in  
 14 the Planning and Zoning Law to ensure that the resulting General  
 15 Plan is consistent with other plans.

16 Additional support for the conclusion that the Planning and  
 17 Zoning Law does not require a General Plan to be consistent with  
 18 plans of other agencies is found within a chapter of the Law  
 19 which does address planning across jurisdictional boundaries, the  
 20 "Regional Planning Law".<sup>103</sup> This chapter provides for regional  
 21 planning districts in designated areas<sup>104</sup> and permits such a  
 22 district to prepare a regional plan.<sup>105</sup> It does not, however,  
 23 require that a County General Plan be consistent with other  
 24

25 <sup>101</sup> Government Code sections 65352(a); 65352.5.

26 <sup>102</sup> Government Code section 65352(c)(1): "This section is directory, not mandatory, and the failure to refer a  
 proposed action to the other entities specified in this section does not affect the validity of the action, if  
 adopted."

27 <sup>103</sup> Government Code sections 65060-65069.5. Petitioners do not contend that the Regional Planning Law  
 applies to this proceeding.

28 <sup>104</sup> Government Code section 65061.

<sup>105</sup> Government Code section 65065.1(a). The term "regional plan" is defined in Government Code section  
 65060.7.

1 county general plans, or even with the regional plan itself. In  
2 fact, the situation appears to be exactly the reverse: the  
3 statute requires the regional planning district to develop the  
4 regional plan on the basis of existing general plans. Government  
5 Code section 65065.1 states: "In preparing, adopting,  
6 maintaining, reviewing and revising the regional plan, the  
7 [Regional Planning Board] shall take account of and seek to  
8 harmonize, within the framework of the needs of the regional  
9 community as a whole, the master or general plans of cities and  
10 counties within the region..." Similarly, Government Code section  
11 65067.2 states that county legislative bodies "...may submit  
12 proposals for any master or general plan [or] the elements of any  
13 master or general plan prior to their adoption, to the regional  
14 planning board for its advice thereon, which advice the board  
15 shall give whenever in its opinion it is reasonably possible for  
16 it to do so. Such advice shall consist of a report as to the  
17 conformance of such proposals to the regional plan, the possible  
18 effect of such proposals on other portions of the region..." It  
19 is clear from these statutes that the power of the regional  
20 planning board over the county legislative body is advisory only.  
21 There is nothing in the statutes that gives a regional board the  
22 power to compel a county to conform its general plan to a  
23 regional plan, or to the plans of other counties or regional  
24 agencies. If even these provisions of the Planning and Zoning  
25 Law most oriented towards regional planning do not require a  
26 county general plan to conform to a regional plan, it is  
27 difficult to find any duty on the part of the County in other  
28 parts of the law to make its general plan conform to the types of

1 other agency plans cited here. Accordingly, petitioners have not  
2 established a violation of the Planning and Zoning Law based on  
3 the alleged inconsistency between the General Plan and the other  
4 enumerated plans.

5 Since the Court has found that the General Plan was not  
6 required to be consistent with the other enumerated plans, it is  
7 unnecessary to address the extent to which the General Plan  
8 actually is, or is not, consistent with such plans.

9 Conclusion: Petitioners' Planning and Zoning Law Claims

10 The Planning and Zoning Law, as noted above, provides a  
11 general framework for the writing of a General Plan without, in  
12 most respects, prescribing particular outcomes. Many of the  
13 claims raised here go to the wisdom of the Plan, or to the policy  
14 choices embodied in the Plan. Such claims do not establish any  
15 violation of the Planning and Zoning Law. All of the other  
16 claims raised here fail either because the Planning and Zoning  
17 Law does not contain the type of specific mandates petitioners  
18 assert, or because the County complied with such mandates as the  
19 statute does contain. Accordingly, the petition for writ of  
20 mandate is denied in its entirety to the extent that it asserts  
21 claims arising under the Planning and Zoning Law.

22 II. Second Cause of Action: Alleged Violation of California  
23 Environmental Quality Act (CEQA)

24 A. Introduction

25 The Second Cause of Action of the petition alleges that the  
26 County's environmental review of the proposed General Plan  
27 resulted in numerous violations of the California Environmental  
28 Quality Act (CEQA), Public Resources Code section 21000, et seq.

1 In their brief, petitioners discuss these alleged violations  
2 under various headings, some of which are duplicative. The Court  
3 has found that the alleged violations of CEQA can be grouped into  
4 a number of general areas, which are discussed under the  
5 following headings:

6 B) There was inadequate environmental review of the General  
7 Plan as ultimately enacted;

8 C) The County failed to consider a proper range of  
9 alternatives to the General Plan;

10 D) The County improperly rejected proposed mitigation  
11 measures;

12 E) The County adopted other mitigation measures, the  
13 effectiveness of which was not supported by substantial  
14 evidence;

15 F) The County failed to perform adequate review of the  
16 environmental impact of proposed water supplies;

17 G) The County's findings that certain environmental impacts  
18 were insignificant was not supported by substantial  
19 evidence;

20 H) There was inadequate analysis of cumulative impacts;

21 I) The County's responses to public comments were  
22 inadequate;

23 J) The Statement of Overriding Considerations was not  
24 supported by substantial evidence.

25 This Ruling will treat each of these general areas under a  
26 separate heading, setting forth the applicable legal principles,  
27 the facts, and the Court's analysis. Each of the identifiable  
28 separate, specific claims falling within one or another of these

1 areas will be dealt with in a separate subheading.  
2 become apparent, the Court finds that the County's  
3 review of the proposed General Plan violated CEQA in  
4 although not all, of the particulars alleged by the  
5 The remedy for such violations is set forth in Public  
6 Code section 21168.9(a)(1) and (3): a mandate that  
7 determination, finding or decision be voided by the  
8 agency, in whole or in part; and a mandate that the  
9 take specific action as may be necessary to bring the  
10 determination, finding or decision into compliance.  
11 The application of this statutory remedy to each of  
12 violations of CEQA found by the Court will be discussed  
13 individual headings below.

14 **B: There Was Inadequate Environmental Review of the  
15 Ultimately Enacted**

16 **1. Legal Standards and Factual Background**

17 Petitioners launch their challenge to the process of  
18 environmental review with two closely related claims.  
19 One of these is that the General Plan lacked a "clear and  
20 project description."<sup>106</sup> The second is that respondent  
21 failed to prepare and circulate a subsequent environmental impact  
22 statement for the General Plan as it ultimately was enacted. Taken  
23 together, these claims raise a single issue: whether respondent  
24 failed to prepare and circulate an impact statement for the  
25 General Plan after the initial environmental review which  
26 created significant environmental effects which were  
27 disclosed or evaluated in any subsequent environmental impact  
28 statement circulated to the public for review and comment.

<sup>106</sup> See Petitioners' Revised Opening Trial Memorandum, Heading II.B.



1 As petitioners point out, courts have held that an accurate  
2 description of the project is fundamental to meaningful  
3 environmental review. "A curtailed or distorted project  
4 description may stultify the objectives of the reporting process.  
5 Only through an accurate view of the project may affected  
6 outsiders and public decision-makers balance the proposal's  
7 benefit against its environmental cost, consider mitigation  
8 measures, assess the advantage of terminating the proposal (i.e.,  
9 the 'no project' alternative) and weigh other alternatives in the  
10 balance. An accurate, stable and finite project description is  
11 the *sine qua non* of an informative and legally sufficient EIR."  
12 (County of Inyo v. City of Los Angeles (1977) 71 Cal.App.3d 185,  
13 192-193.)

14 On the other hand, the law recognizes that projects can, and  
15 often do, change during the environmental review process. As the  
16 same court stated: "The CEQA reporting process is not designed to  
17 freeze the ultimate proposal in the precise mold of the initial  
18 project: indeed, new and unforeseen insights may emerge during  
19 investigation, evoking revision of the original proposal." (Id.,  
20 71 Cal.App.3d at 199.) Thus, a change in the project is not  
21 necessarily a violation of CEQA.

22 Nevertheless, CEQA itself provides that certain changes in a  
23 project, or the circumstances surrounding it, may require further  
24 environmental review. Public Resources Code section 21092.1  
25 states: "When significant new information is added to an  
26 environmental impact report after notice has been given and  
27 consultation has occurred, but prior to certification, the  
28

1 public agency shall give notice again...and consult a  
2 certifying the environmental impact report."

3 Courts have interpreted this mandate to mean t  
4 recirculation of an EIR is required when new inform  
5 the EIR in a way that deprives the public of a mean  
6 opportunity to comment upon a substantial adverse e  
7 effect of the project, or a feasible project altern  
8 mitigation measure that would clearly reduce such a  
9 that the project's proponents have declined to impl  
10 Laurel Heights Improvement Association v. Regents o  
11 University of California (1993) 6 Cal.4<sup>th</sup> 1112, 112  
12 statute also has been interpreted as requiring the  
13 and circulation of a supplemental EIR where there h  
14 substantial change in the project not considered in  
15 EIR. (See River Valley Preservation Project v. Met  
16 Transit Development Board (1995) 37 Cal.App.4<sup>th</sup> 154

17 The CEQA Guidelines amplify these requirements  
18 15088.5(a) of the Guidelines defines "information"  
19 the project or environmental setting", and states t  
20 "significant new information" includes both "[a] ne  
21 environmental impact [that] would result from the p  
22 "[a] substantial increase in the severity of an env  
23 impact [that] would result unless mitigation measur  
24 adopted..."<sup>107</sup>

25  
26 <sup>107</sup> All citations are to the CEQA Guidelines as they were in effect in January 1996, i  
27 the Final Environmental Impact Report. Respondent itself cited to section 15088.5 i  
28 Supplement to the Draft EIR dated September 1, 1995. (AR 124:52794.) The CEQA  
to great weight except when a provision is clearly unauthorized or erroneous under C  
Heights Improvement Association v. Regents of the University of California (1988) 4  
In light of Public Resources Code section 21092.1 and the cases cited in the following  
the Court does not find that section 15088.5 is clearly unauthorized or erroneous und

1 Although this particular provision of the CEQA Guidelines  
2 was not enacted until 1996, it accurately reflects CEQA as it had  
3 been interpreted by the courts prior to that date. For example,  
4 a change in an outdoor amphitheater project made after  
5 certification of the EIR, which increased the size of the project  
6 from 5 to 10 acres, increased seating capacity 200% and altered  
7 the orientation of the stadium to face nearby homes was  
8 significant, and making the change without further environmental  
9 review violated CEQA. (See Concerned Citizens of Costa Mesa,  
10 Inc. v. 32<sup>nd</sup> District Agricultural Association (1986) 42 Cal.3d  
11 929.)

12 Similarly, where a city certified an EIR which addressed the  
13 environmental consequences of constructing a new water system in  
14 a particular area, but did so based on the assumption that one  
15 water company would supply the water with its existing  
16 facilities, and the project later was changed to one in which the  
17 City would supply the water from new wells in an area already  
18 known to have underground contamination, the Court indicated that  
19 it "appears to be the case from the evidence in the record" that  
20 a supplemental or subsequent EIR would be required. (See City of  
21 San Jose v. Great Oaks Water Co. (1987) 192 Cal.App.3d 1005,  
22 1017.)

23 Obviously, changes in a project may or may not be  
24 "significant" enough to trigger further environmental review.  
25 Recirculation is not required where the new information "...merely  
26 clarifies or amplifies or makes insignificant modifications in an  
27 adequate EIR." CEQA Guidelines, section 15088.5(b). The lead  
28 agency accordingly has discretion to evaluate the changes and

1 determine whether recirculation or a supplemental EIR are  
 2 required in a particular case. The agency's decision not to  
 3 perform further environmental review, however, must be supported  
 4 by substantial evidence. (Laurel Heights Improvement Assoc  
 5 v. Regents of the University of California (1993) 6 Cal.4<sup>th</sup>  
 6 1120; CEQA Guidelines, § 15088.5(e).) Nevertheless, the Supreme  
 7 Court has stated that recirculation should be an exception,  
 8 rather than the general rule. (Id., 6 Cal.4<sup>th</sup> at 1132.)

9 In this case, the project was changed and some additional  
 10 environmental review was performed after the release of the  
 11 EIR. The Draft EIR, which contained the original Project  
 12 Description, was released in December 1994.<sup>108</sup> An "Annotated  
 13 Project Description", released on August 17, 1995, contained  
 14 "...changes made by the Planning Commission to the Original Project  
 15 Description land use map and textual changes to policies in  
 16 Original Project Description."<sup>109</sup> On September 1, 1995, a  
 17 Supplement to the Draft EIR was released, focusing on revised  
 18 General Plan objectives, some "additional information arguably  
 19 deserving of another round of public review", and analysis of a  
 20 new plan concept alternative<sup>110</sup>.

21 On September 18, 1995, the County Planning Department  
 22 produced a Memorandum entitled "Annotated Project Description  
 23 Thresholds Analysis" which included, among other things, a  
 24 "comparative study emphasizing the incremental differences of  
 25  
 26

27 <sup>108</sup> AR Volume 340. All dates in this chronology are found in Findings of Fact of the Board of Supervisors  
 28 El Dorado County for the El Dorado County General Plan, dated January 23, 1996. Drafted, pages  
 (AR 539:17018-17020.)

<sup>109</sup> AR 539:17018.

<sup>110</sup> El Dorado County General Plan Update, Supplement to the Draft EIR, Introduction. (AR 124:527)

1 Project Description policies...and the Annotated Project  
 2 Description policies" as well as a comparison of "...the population  
 3 and dwelling unit buildout potential of both plans at the Market  
 4 Area level to determine if and where significant changes in land  
 5 use intensity have occurred."<sup>111</sup> One expressed goal of the  
 6 Thresholds Analysis was "...to demonstrate that the Annotated  
 7 Project Description does not produce environmental impacts in  
 8 excess of those identified in the Draft EIR."<sup>112</sup> This document  
 9 concluded that the differences between the Original Project  
 10 Description and the Annotated Project Description were not so  
 11 significant as to require additional environmental review.<sup>113</sup>

12 On December 21, 1995, the County released the Final EIR for  
 13 the project; the Board certified the Final EIR on January 12,  
 14 1996. The Board adopted the General Plan on January 23, 1996.  
 15 In addition to the changes in the form of the General Plan  
 16 described generally above, petitioners have alleged other changes  
 17 which, they say, occurred up to and even on the date on which the  
 18 General Plan was adopted.

19 The chronology stated above is not disputed. The fact that  
 20 changes occurred in the shape of the General Plan after the  
 21 release of the Draft EIR is not seriously disputed either.  
 22 Accordingly, the Court finds that the issues presented by the  
 23 petition can be summarized as follows. With regard to each  
 24 change identified by petitioners, was it adequately reviewed in  
 25

26 <sup>111</sup> AR 54:33203.

27 <sup>112</sup> Id.

28 <sup>113</sup> See, for example, Thresholds Analysis, Section II: Buildout/Land Use Maps, page 8: "The changes in the land use maps and applicable policies of the Annotated Project Description, when considered in context of the upper limits of impacts assessment included in the Draft General Plan EIR, falls generally below the degree of impact described for the Project Description." (AR 54:33282.)

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1 the Supplement to the Draft EIR? If it was not, was it the  
2 subject of a finding, in the Thresholds Analysis or elsewhere,  
3 that it was not so significant as to require further  
4 environmental review? And finally, if such a finding was made,  
5 was it supported by substantial evidence?

## 6 2. Changes in Land Use Maps

7 Petitioners identify a number of changes that may be  
8 characterized, collectively, as changes in the land use maps.  
9 The first of these changes relates to the Low Density Residential  
10 land use designation. Petitioners allege that the description of  
11 that designation was changed after the issuance of the Draft EIR  
12 in a manner that permitted the Low Density Residential  
13 designation to be used in areas of the County previously reserved  
14 for the even lower-density Rural Residential land use  
15 designation, thus creating an environmental effect that was not  
16 discussed in an EIR.<sup>114</sup>

17 The record reveals that a change in the Low Density  
18 Residential land use designation did occur. The Original Project  
19 Description described the Low Density Residential designation, in  
20 pertinent part, as follows: "This designation shall provide a  
21 transition from Community Regions and Rural Centers into the  
22 agricultural and more rural areas of the County... The  
23 application of the LDR land use designation shall be further  
24 restricted to those lands contiguous to Community Regions and  
25

26 <sup>114</sup> The Low Density Residential designation provides for one dwelling unit per 5-10 acres. The Rural  
27 Residential designation provides for one dwelling unit per 10-160 acres. The minimum parcel size for these  
28 designations remained unchanged throughout the process of developing the General Plan. Compare the  
General Plan Draft EIR, Table II (Low Density Residential, 5-10 acres per dwelling unit; Rural Residential,  
10-40 acres per dwelling unit AR 540:11799), with the Land Use Element of the ultimate General Plan, pages  
21-22 (Low Density Residential, 5-10 acres per dwelling unit; Rural Residential, 10-160 acres per dwelling  
unit AR 73:38805-38806).

1 Rural Centers to provide for a transition of density into the  
 2 Rural Regions. This designation shall not be assigned to lands  
 3 which are separated from Community Regions or Rural Centers by  
 4 the Rural Residential land use designation.<sup>115</sup> In the  
 5 Annotated Project Description, released August 17, 1995,<sup>116</sup> and  
 6 in the final General Plan, this definition was altered. The  
 7 italicized limits on use of the Low Density Residential  
 8 designation cited above were dropped, and never restored.<sup>117</sup>

9 This change was significant, petitioners assert, because it  
 10 permitted the expansion of the Low Density Residential  
 11 designation into areas of the County in which it would not have  
 12 been appropriate under the original Project Description. In  
 13 particular, this designation, as altered, could be used in areas  
 14 not contiguous to an existing Rural Center or Community Region.  
 15 Petitioners have cited to evidence in the record, in the form of  
 16 maps comparing the extent of Low Density Residential lands under  
 17 the Draft EIR's Project Description with the extent of such lands  
 18 under the General Plan as enacted, which they contend show that a  
 19 significant expansion of such lands occurred.<sup>118</sup> The Court has  
 20 reviewed this evidence and finds that, although the evidence does  
 21 not readily lend itself to a precise quantification of the land  
 22 area involved, it does support petitioners' contention that an  
 23 expansion of Low Density Residential lands occurred. Simply by  
 24 comparing the allowable densities under each category, it is  
 25 apparent that a change from Rural Residential to Low Density  
 26

27 <sup>115</sup> AR 24:24572. (Emphasis supplied.)

28 <sup>116</sup> Issued, as noted above, after the issuance of the Draft EIR.

<sup>117</sup> See Annotated Project Description, page 17-18 (AR 114:49938-49959); final General Plan (AR 73:38805).

<sup>118</sup> See the maps at AR 000813, 000896, 000897, 000902, and 000903, as well as Petitioners' Exhibit 2 offered at the hearing on this matter.

1 Residential theoretically could result in an increase of density  
2 on the affected land on the order of two to sixteen times.<sup>119</sup>

3 In addition to this general, definitional change,  
4 petitioners have shown a number of other similar changes in the  
5 original scope of the land use designations. For example,  
6 petitioners have cited to evidence that a number of site-specific  
7 changes were made in land use designations, altering parcels of  
8 significant size from Rural Residential to potentially more  
9 intense designations such as Low Density Residential or Tourist  
10 Recreational.<sup>120</sup> In some cases, the Agricultural District  
11 overlay designation, which applied to lands that "...should be  
12 reserved primarily for agricultural uses" and was intended to  
13 "...discourage incompatible uses such as higher density residential  
14 use"<sup>121</sup>, was removed from rural lands.<sup>122</sup> The boundaries of  
15 certain Rural Centers and Community Regions were expanded, and  
16 one of the Planned Communities proposed in the original Project  
17 Description was eliminated.

18 Respondent, while it quarrels with petitioners' estimate of  
19 the size of the affected areas, does not dispute that the  
20 definition of Low Density Residential lands changed or that some  
21

22  
23 <sup>119</sup> Based on a comparison of the respective higher ranges of density (5 acres per dwelling unit as opposed to  
10) and the lower (10 acres per dwelling unit as opposed to 160).

24 <sup>120</sup> The Tourist Recreational designation permits such developments as campgrounds, recreational vehicle  
parks and golf courses. (AR 73:38808.) Evidence of the site-specific changes is found in a document entitled  
25 "Site Specific Request—Final Report" (AR 501:184675-184688). Some of the larger parcels changed in this  
26 fashion include: 580 acres owned by Frances Baer, changed from Rural Residential to Low Density Residential  
(AR 501:184684); 459.65 acres owned by Group Straza, changed from Rural Residential to Low Density  
Residential (AR 501:184687); and 640 acres owned by the Baachi Family Trust, changed from Rural  
Residential to Low Density Residential (AR 501:184688). See also, footnote 122 below.

27 <sup>121</sup> AR 73:38813.

28 <sup>122</sup> See, for example, AR 501:184686 (agricultural overlay removed from 278.57 acres owned by Francis and  
Betty Barchi when the designation of that land was changed from Rural Residential to Low Density  
Residential); AR 536:199024 (removal of agricultural overlay from lands designated Rural Residential south  
of Garden Valley).



1 expansion of such lands occurred. Nor does respondent dispute  
 2 that any of the other alleged changes actually were made.  
 3 Moreover, respondent appears to concede that these actions were  
 4 not analyzed in the Supplement to the Draft EIR or any other  
 5 environmental review document circulated to the public for review  
 6 and comment.<sup>123</sup> No such review was required, respondent  
 7 contends, because such changes did not so severely alter the  
 8 Project Description as to preclude meaningful environmental  
 9 review. In effect, respondent has argued that the changes did  
 10 not result in a "new significant environmental impact" or a  
 11 "substantial increase in the severity of an environmental  
 12 impact."<sup>124</sup>

13 The best statement of respondent's position on this issue is  
 14 found in the Thresholds Analysis dated September 18, 1995. That  
 15 document appears in the record as an Appendix to the Final EIR.  
 16 It contains a concise explanation of why respondent determined  
 17 that the changes in land use designations did not require formal  
 18 CEQA review: "The changes in the land use maps and applicable  
 19 policies of the Annotated Project Description, when considered in  
 20 context of the upper limits of impacts assessment included in the  
 21 Draft General Plan EIR, falls generally below the degree of  
 22 impact described for the Project Description. ... Facts supporting  
 23 this conclusion include reduced population and dwelling unit  
 24 holding capacities, a reduction in vehicle trips, and lower  
 25 emissions and noise effects. Each of these factors, as  
 26

27  
 28 <sup>123</sup> See Respondent's Memorandum of Points and Authorities in Opposition of Petition for Writ of Mandate, page 58, fn. 29 and pages 62-66. A review of the Supplement to the Draft EIR (AR Volume 124) reveals no obvious discussion of the above-described changes.

<sup>124</sup> CEQA Guidelines, section 15088.5(a).

1 indicators, is directly or indirectly related to all impacts  
 2 identified in the General Plan Draft EIR. A reduction in key  
 3 indicators is generally suggestive of reductions in the degree of  
 4 significance of other impacts."<sup>125</sup> The Board of Supervisors  
 5 ultimately adopted this analysis in its Findings of Fact.<sup>126</sup>

6 In its brief here, respondent concedes that there were what  
 7 it terms "...relatively minor changes in land use densities in some  
 8 locations that occurred after the Draft EIR was released."<sup>127</sup>

9 It argues, however, that there was no change in the general types  
 10 of impacts already identified in the Draft EIR, and the overall  
 11 effect of changes in the land use maps was to reduce  
 12 environmental impacts on a countywide basis. Respondent argues  
 13 that, since the General Plan covered the County as a whole, the  
 14 environmental review of the Plan was required to focus only on  
 15 the environmental impact of the Plan on the County as a whole.  
 16 Since the General Plan was altered "...in an environmentally benign  
 17 manner."<sup>128</sup>, no environmental review of the changes was required.

18 Respondent asserts that its finding to this effect is  
 19 supported by substantial evidence. Primarily, respondent points  
 20 to evidence showing that the changes in the General Plan reduced  
 21 the overall projected population of the County from 407,513 under  
 22 the Project Description to 360,676 under the ultimate General  
 23 Plan.<sup>129</sup> This reduction in population, respondent asserts,

24 / / /

25 \_\_\_\_\_  
 26 <sup>125</sup> AR 54:35282.  
 27 <sup>126</sup> AR 539:17444-17445.  
 28 <sup>127</sup> Respondent's Memorandum of Points and Authorities in Opposition to Petition for Writ of Mandate, page 60.  
<sup>128</sup> *Id.* at page 61.  
<sup>129</sup> Plan Comparison. AR 479:176322.

1 supports the finding that overall environmental impacts were  
2 reduced by the changes in the Plan.

3 Respondent's argument contains a fundamental flaw: it assumes  
4 that all areas and all environmental impacts are essentially  
5 equal, and that it is not necessary to analyze a possible  
6 increase in impacts in one area, because those impacts will be  
7 offset by a reduction of impacts in another area. This is not  
8 necessarily true as a matter of either law or logic.

9 On the legal side, respondent has cited no authority that  
10 permits it to evaluate the environmental impacts of changes in  
11 the General Plan in a gross, countywide manner. River Valley  
12 Preservation Project v. Metropolitan Transit Development Board  
13 (1995) 37 Cal.App.4<sup>th</sup> 154, 175, fn. 23, upon which respondent  
14 relies, only states that the size of a particular area under  
15 consideration in relation to the entire project is a factor to  
16 consider when deciding whether the addition of new information  
17 has a substantial environmental impact. It does not stand for  
18 the proposition that there is no need to identify or discuss  
19 potential significant impacts in one area of the County simply  
20 because other impacts may have been reduced somewhere else.

21 In fact, such an approach would defy logic. Common sense,  
22 if not the detailed knowledge of the County that may be expected  
23 of professional planners, suggests that all land within a County  
24 the size of El Dorado is not alike. Different areas have  
25 different characteristics--topography, animal life, plant life,  
26 the presence or absence of wetlands, to name a few--that may lead  
27 to vastly different environmental impacts from the same level of  
28 development. Lowering the level of development on an area of

1 flat grassland near major roads, for example, would not seem  
2 absolutely and equally to offset the impact of increasing  
3 development in more remote areas which may be critical wildlife  
4 habitat.

5 The Thresholds Analysis itself seems to recognize this, only  
6 to discount it. In discussing the land use designation change  
7 from Natural Resources to Low Density Residential adjacent to  
8 Jenkinson Lake, the Thresholds Analysis states: "The affect [sic]  
9 of intensifying the land use designation is to increase the  
10 degree of habitat fragmentation associated with subdivision  
11 activities and to increase the exposure of people to fire  
12 risk."<sup>130</sup> Are these particular, possibly unique, impacts offset  
13 by changes in the land use maps in other, perhaps distant and  
14 quite different areas of the County? That cannot be assumed.  
15 And yet the approach of the Thresholds Analysis is simply to make  
16 such an assumption.

17 This is not to say that a finding that there are no  
18 significant new environmental impacts could not be made or  
19 supported. In this case, however, the finding that the changes  
20 in the land use maps did not require further environmental review  
21 was not supported by substantial evidence. Accordingly, the  
22 Court grants the petition for writ of mandate on this issue.  
23 Pursuant to Public Resources Code section 21168.9(a), the County  
24 must either make a finding, based on substantial evidence, that  
25 the changes in the land use maps did not result in a new  
26 significant environmental impact or a substantial increase in the  
27 / / /

28

<sup>130</sup> AR 54.33281-33282.

1 severity of an environmental impact, or it must review the  
2 environmental impacts of the changes pursuant to CEQA.

3 3. Addition of the Economic Development Element

4 The next change that petitioners allege resulted in a  
5 violation of CEQA was the addition to the General Plan of an  
6 entirely new "Economic Development Element". This element was  
7 not present in the original Project Description.<sup>131</sup> It appeared  
8 in the Annotated General Plan dated December 21, 1995,<sup>132</sup> and in  
9 the final General Plan.<sup>133</sup>

10 Unlike the changes in land use patterns described above, the  
11 addition of the Economic Development Element was addressed  
12 specifically in the Supplement to the Draft EIR. That document  
13 described the general outline and purpose of the new element and  
14 concluded: "The Economic Development Element has not resulted in  
15 any changes to the Land Use Map or other policies that would  
16 directly affect the environment. The inclusion of the Economic  
17 Development Element, by itself, would not cause any significant  
18 impact."<sup>134</sup> Since this change in the General Plan was disclosed  
19 in an environmental review document circulated to the public for  
20 review and comment, the only issue for the Court is whether the  
21 finding of no significant impact is supported by substantial  
22 evidence.

23 In this instance, the County's finding was proper. The  
24 substantial evidence in support of the finding is the content of  
25 the Economic Development Element. The Court has reviewed that  
26

27  
28 <sup>131</sup> See El Dorado County General Plan Project Description, Table of Contents (AR 24:24556).

<sup>132</sup> AR 74:39212-39229.

<sup>133</sup> AR 73:38945-38962,

<sup>134</sup> AR 124:52819-52820.

1 element and finds that respondent was correct in concluding that  
2 it would not, by itself, have any impact on the environment. The  
3 Economic Development Element does not direct or otherwise make  
4 any decisions about land use. All of its policies operate within  
5 the framework of the land use policies set forth elsewhere in the  
6 Plan. Accordingly, the Court finds no violation of CEQA with  
7 respect to the addition of the Economic Development Element, and  
8 the petition for writ of mandate is denied on this issue.

9 4. Change in Oak Woodland Canopy Coverage Policies

10 Petitioners' next argument focuses on a change in the  
11 policies regarding oak woodlands. The Draft EIR contained a  
12 policy, proposed as an "additional mitigation measure", that  
13 established "canopy cover retention standards" expressed as  
14 stated percentages of existing canopy cover that must be retained  
15 on sites under development.<sup>135</sup> This policy was added to the  
16 General Plan in the Annotated Project Description dated August  
17 17, 1995.<sup>136</sup> By the time the Final EIR and the Annotated General  
18 Plan were issued on December 21, 1995, however, this policy had  
19 been altered to establish "canopy coverage retention or  
20 replacement standards".<sup>137</sup> The policy was enacted in this form  
21 in the final General Plan.<sup>138</sup> Petitioners allege that this  
22 change was never discussed in any EIR.

23 Respondent concedes that this change was made after the  
24 release of the Draft EIR, and at least implicitly concedes that  
25 it was not disclosed and evaluated in any subsequent EIR. A  
26

27 <sup>135</sup> AR 540:12256.

28 <sup>136</sup> AR 114:30080-30081.

<sup>137</sup> AR 74:39165. (Emphasis added.)

<sup>138</sup> AR 73:38911.

1 review of the Supplement to the Draft EIR reveals no obvious  
2 discussion of the change. In fact, even the Thresholds Analysis  
3 appears to assume that the policy will call for retention alone,  
4 rather than retention or replacement.<sup>139</sup> Accordingly, it is  
5 clear from the record that there was no discussion of this issue  
6 in an EIR, and also that there was no explicit finding to the  
7 effect that the change was not significant.

8 Respondent argues, somewhat inconsistently, that the  
9 revision of the canopy coverage policy was not a change in the  
10 policy at all, or, if it was, it was not a change that had any  
11 impact on the General Plan for purposes of CEQA. Both arguments  
12 are unpersuasive.

13 The first argument is based on the contention that the  
14 General Plan always contemplated the replacement of trees.  
15 Respondent cites to the original version of the General Plan, the  
16 so-called "Project Description." Included in this early stage  
17 were Policies 7.4.4.2, which calls upon the County to "encourage  
18 the protection, planting, restoration and regeneration of native  
19 trees in new developments and within existing communities"<sup>140</sup>,  
20 and 7.4.5.1, which states that a "tree survey, preservation, and  
21 replacement plan shall be required to be filed with the County  
22 prior to issuance of a grading permit for discretionary permits  
23 on all high-density residential, multifamily residential,  
24 commercial and industrial projects."<sup>141</sup> These policies appeared,  
25 unchanged, in the final General Plan.<sup>142</sup>  
26

27 <sup>139</sup> Thresholds Analysis, Policies Analysis, page 41: "The minimum amounts of woodland canopy that are  
28 recommended to be retained during development are as follows...." (AR 54.33247).

<sup>140</sup> El Dorado General Plan, Project Description (December 1993), page 114 (AR 24:24671).

<sup>141</sup> El Dorado General Plan, Project Description (December 1993), page 114 (AR 24:24671).

<sup>142</sup> AR 73.38911-38912.

1       It is true that these policies were present in the original  
2 General Plan, but they simply are not relevant to the change in  
3 policy at issue here. Even the original canopy coverage policy  
4 permitted the removal of some trees, as it does now. The problem  
5 lies in what the General Plan proposed for the rest of the trees.  
6 In its original form, the Plan called for the retention of the  
7 rest of the trees; now it calls for their retention or  
8 replacement. It is unclear just how the other policies cited  
9 above can be read to transform the original canopy coverage  
10 policy, that explicitly called only for "retention" of a certain  
11 percentage of canopy coverage, into one that permits replacement  
12 of trees. The only way such an interpretation makes sense is if  
13 one accepts the somewhat counter-intuitive proposition that  
14 "retain" and "replace" mean the same thing.

15       In fact, this is the gist of respondent's second argument:  
16 that there is no essential difference between the retention and  
17 replacement of trees for the purpose of assessing environmental  
18 impacts. On its face, this proposition seems highly  
19 questionable, particularly as the stated purpose of the policy is  
20 maintaining given percentages of existing canopy coverage.  
21 Replacing a tree (i.e., cutting it down and planting a seedling  
22 or sapling) has, as a common sense proposition, a vastly  
23 different impact on existing canopy coverage than leaving the  
24 tree in place.

25       In the face of this common sense view, respondent offers no  
26 substantial evidence to show that there is no significant  
27 environmental impact stemming from the change. Accordingly, the  
28 failure to disclose and discuss this change in an EIR, or even to



1 make findings demonstrating that the change would have no  
2 significant environmental impact, was a violation of CEQA. The  
3 petition for writ of mandate is granted on this issue. Pursuant  
4 to Public Resources Code section 21168.9(a), the County must  
5 either: 1) readopt its original policy of retention of specified  
6 percentages of canopy coverage as proposed in the Annotated  
7 Project Description dated August 17, 1995; 2) make a finding,  
8 based on substantial evidence, that the change in the oak  
9 woodland canopy coverage policies did not result in a new  
10 significant environmental impact or a substantial increase in the  
11 severity of an environmental impact previously disclosed; or 3)  
12 review the environmental impacts of the change pursuant to CEQA.

13 5. Changes in Acceptable Levels of Traffic Congestion.

14 One of the most contentious issues in this case, as revealed  
15 in the discussion of petitioners' Planning and Zoning Law claims  
16 above, is the effect of the General Plan on traffic congestion.  
17 As part of their CEQA cause of action, petitioners allege that  
18 respondent changed the General Plan during the process of  
19 environmental review to permit a higher level of congestion and  
20 did so in a manner that evaded meaningful environmental review.

21 As was the case in the Planning and Zoning Law cause of  
22 action, this claim focuses on "levels of service", a measure of  
23 congestion on County roadways. Petitioners claim that changes in  
24 the Plan as outlined in the original Project Description lowered  
25 the Plan's targets for acceptable levels of service. Petitioners  
26 further claim that, although the County knew that this change  
27 represented acceptance of levels of congestion "well beyond that  
28

1 of the original Project Description",<sup>143</sup> it never reviewed this  
2 increased impact under CEQA.

3 Respondent does not dispute that the General Plan as enacted  
4 allows lower levels of service than provided for in the original  
5 Project Description. Instead, respondent argues that the traffic  
6 impacts of the General Plan were thoroughly described in the  
7 Draft EIR and again in the Supplement to the Draft EIR. Those  
8 two documents, respondent contends, "fully aired" the decision to  
9 permit lower levels of service; accordingly, the only issue for  
10 the Court is "...whether the Plan as adopted represented a radical  
11 change from what was revealed in the SDEIR."<sup>144</sup>

12 As ultimately enacted, the General Plan contains an  
13 objective calling for level of service "E" to be maintained on  
14 all County roads.<sup>145</sup> That objective is qualified, however, by  
15 Policy 3.5.1.6, which states that "...in certain situations it is  
16 not in the County's overall interest to develop a circulation  
17 system which is designed for a peak hour or peak period of  
18 traffic. ...The County therefore recognizes that under certain  
19 circumstances a Level of Service below that referenced in Policy  
20 3.5.1.1 may be acceptable."<sup>146</sup> The General Plan then lists  
21 fourteen road segments that are deemed to be acceptable at Level  
22 of Service "F".<sup>147</sup>

23 / / /

25 <sup>143</sup> Thresholds Analysis, Policies Analysis, page 45 (AR 54:33251)

26 <sup>144</sup> Respondent's Memorandum of Points and Authorities in Opposition to Petition for Writ of Mandate, pages 59-60.

27 <sup>145</sup> Objective 3.5.1 (AR 73:38839). Levels of Service are expressed using the letters A through F, with A representing the highest level of service (free flow) and F the worst (forced or breakdown conditions, i.e. gridlock). (See General Plan Draft EIR, page V.9-4 (AR 340:12269).)

28 <sup>146</sup> AR 73:38840.

<sup>147</sup> AR 73:38841.

1 The original Project Description did not include Policy  
 2 3.5.1.6; it was added to the Annotated Project Description dated  
 3 August 17, 1995.<sup>148</sup> Thus, the Draft EIR does not discuss Policy  
 4 3.5.1.6. The Draft EIR does, however, contain a discussion of  
 5 traffic impacts, in particular, Impact 9.2.1, entitled "Increase  
 6 in Roadway LOS Deficiencies".<sup>149</sup> This section analyzes the  
 7 Project Description impacts for the year 2015 "on the existing  
 8 1990 road network".<sup>150</sup> Table V-9-9 lists projected level of  
 9 service deficiencies by road segment. Most of the road segments  
 10 ultimately disclosed in the General Plan as having level of  
 11 service "F" are given level of service "F" in the table.<sup>151</sup>

12 If the Draft EIR stopped there, the Court would have little  
 13 difficulty concluding that traffic impacts had been adequately  
 14 disclosed. The Draft EIR goes on, however, to analyze traffic  
 15 congestion at buildout on what it termed "the 2015 network",  
 16 defined as "...the 1990 existing network with all the identified  
 17 improvements completed to bring the road system to LOS C or  
 18 D."<sup>152</sup> Those improvements are listed in Tables V-9-12 through V-  
 19 9-21.<sup>153</sup> Table V-9-10 lists the acceptable levels of service for  
 20 road segments after the proposed improvements have been made. In  
 21 this table, thirteen of the fourteen road segments identified in  
 22 the General Plan as declining to level of service "F" were shown  
 23 as maintaining levels of service "C" or "D".<sup>154</sup> Thus, the Draft  
 24

25  
 26 <sup>148</sup> El Dorado County General Plan, Annotated Project Description, page 54 (AR 114:49996).

<sup>149</sup> General Plan Draft EIR, page V.9-33-V.9-48 (AR 540:12299-12314).

<sup>150</sup> AR 540:12299.

<sup>151</sup> AR 540:12300-12305.

<sup>152</sup> AR 540:12306.

<sup>153</sup> General Plan Draft EIR, pages V.9-51-V.9-69 (AR 540:12318-12335).

<sup>154</sup> AR 540:12307-12314. The only one at level of service "F" is Missouri Flat Road from U.S. Highway 50 to Mother Lode Drive.

1 EIR at least strongly implies that road improvements will be made  
2 as part of the implementation of the General Plan and that the  
3 ultimate result will be to maintain at least these identified  
4 road segments at level of service "C" or "D".

5 As respondent points out, the Draft EIR does indicate in  
6 several places that all of the projected improvements might not  
7 be made. For example, the discussion of traffic levels of  
8 service states: "If improvements are not made to the road system  
9 the LOS will deteriorate below acceptable levels."<sup>155</sup> Another  
10 section of the Draft EIR entitled "Environmental Impacts and  
11 Policy Analysis" states: "...there are significant costs associated  
12 with implementing the needed road improvement plan for each  
13 plan... If funding or other factors do not result in the  
14 necessary road improvements to maintain the desired LOS, then  
15 there will be a general increase in congestion..."<sup>156</sup> These  
16 statements fall short, however, of revealing that the County had  
17 made a decision to accept level of service "F" on any particular  
18 road segments. In fact, the Draft EIR may be read to the  
19 contrary. In a section entitled "Policy Options", the Draft EIR  
20 discussed options which might be pursued if funding shortfalls  
21 made construction of road improvements impossible. One of those  
22 options was to "[l]ower the LOS (Level of Service) that is  
23 acceptable in the various planning areas from 'C' to 'D' in Rural  
24 Regions and from 'D' to 'E' in Community Regions."<sup>157</sup>

25 / / /  
26  
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28 <sup>155</sup> AR 540:12306.

<sup>156</sup> AR 540:12336.

<sup>157</sup> AR 540:12368.

1 The Draft EIR, then, never clearly indicated the possibility  
2 that any County road segments might deteriorate to Level of  
3 Service "F". Instead, it appeared to assume that road  
4 improvements would be made, and, if they were not, levels of  
5 service would stay above "F" on the "2015 network".

6 As noted above, the addition of a policy explicitly  
7 accepting Level of Service "F" occurred after the preparation of  
8 the Draft EIR. Respondent contends that the Supplement to the  
9 Draft EIR disclosed the change. The SDEIR contains a section  
10 entitled "Discussion of Circulation System"; the first part of  
11 that section is a paragraph describing a "Revised Highway  
12 System". In pertinent part, that discussion states: "The County-  
13 wide highway network is described as the Revised Transportation  
14 System of the Future. Since the completion of the General Plan  
15 DEIR, the Department of Transportation (DOT) has proceeded with  
16 further analysis of the data included in the Plan. DOT  
17 recognizes the infeasibility of the amount of mitigation listed  
18 in the DEIR."<sup>158</sup> The SDEIR then lists "Mitigation Measures that  
19 are not Considered Feasible". These are presented in the form of  
20 a table listing road segments, initial proposed improvements and  
21 revised proposed improvements.<sup>159</sup> Many, if not most, of the  
22 listings appear to show that proposed improvements have been  
23 downgraded or eliminated.<sup>160</sup>

24  
25 Nowhere in this discussion, however, is there any explicit  
26 disclosure that any of these changes will result in lower levels  
27

28 <sup>158</sup> Supplement to the Draft EIR, page II-14 (AR 124-52813).

<sup>159</sup> Supplement to the Draft EIR, pages II-14-II-18 (AR 124-52813-52817).

<sup>160</sup> For example, to take the first in order, Cambridge Road from Country Club Drive to Oxford Road has been changed from a proposed improvement to a four-lane undivided roadway to no proposed improvement.

1 of service on the listed roads. There is no discussion of the  
2 policy recently added to the Annotated Project Description  
3 accepting lower levels of service. There is no statement that the  
4 downgrading of improvements will result in level of service "F"  
5 on the fourteen road segments ultimately set at that level in the  
6 General Plan.

7 In fact, the term "level of service" does not appear in this  
8 discussion at all. The only statement in the SDEIR that remotely  
9 hints at the consequences of the reduction in proposed road  
10 improvements is the following item listed in another, completely  
11 separate, section of the SDEIR entitled "Summary of Areas of  
12 Controversy": "Decline in level of service as a result of  
13 projected growth."<sup>161</sup> The SDEIR's Summary of Mitigation Measures  
14 related to Impact 9.2.1 makes no mention of the intention to  
15 allow any roads to go to level of service "F". There appears to  
16 be only one way to determine that there has been a change in the  
17 plan resulting in level of service "F" on at least fourteen  
18 County road segments: a laborious and painstaking cross-  
19 referencing of the list of changed road improvements in the  
20 SDEIR, the table of levels of service (assuming improvements) in  
21 the DEIR, and the table of levels of service (without  
22 improvements) also in the DEIR. Along the way, the reader must  
23 avoid being misled by the statement in the DEIR that implies that  
24 failure to construct proposed improvements will result in  
25 lowering levels of service to "D" and "E", rather than "F".  
26  
27  
28

<sup>161</sup> Supplement to the Draft EIR, page II-56 (AR 124:52855).

1 It is significant to compare the SDEIR with the Final EIR in  
 2 this respect. In its discussion of mitigation of Impact 9.2.1,  
 3 the Final EIR states the following: "3. Add a new policy under  
 4 Objective 3.5.1 that allows 6 roads within Rural Regions to  
 5 operate at LOS D. DISCUSSION: All roads within the County are  
 6 allowed to operate at LOS E. Additionally 20 road segments are  
 7 deemed acceptable at LOS F to the year 2015 and 87 road segments  
 8 may operate at LOS F at buildout. As provided the General Plan  
 9 will accept considerable congestion on the road system. The  
 10 impacts of congestion projected go well beyond that of the  
 11 original Project Description."<sup>162</sup> The parallel discussion in the  
 12 SDEIR states only: "Add a new policy under Objective 3.5.1 that  
 13 allows the following roads within Rural Regions to function at  
 14 LOS D once needed safety improvements and needed shoulders and/or  
 15 pedestrian/bicycle improvements are installed. [A listing of six  
 16 roads follows.]"<sup>163</sup>

17 At the very least, the County's discussion of traffic  
 18 impacts was unnecessarily complex and obscure. The Court is  
 19 persuaded that it violated CEQA because it did not fairly  
 20 disclose one of the significant environmental impacts of the  
 21 General Plan. Thus, with regard to traffic impacts, the County's  
 22 environmental review failed to serve as an "environmental alarm  
 23 bell" or a "document of accountability", which the Supreme Court  
 24 has stated are two of the essential functions of CEQA. (See  
 25 Laurel Heights Improvement Association v. Regents of the  
 26 University of California (1988) 47 Cal.3d 376, 392.) The  
 27

162 AR 54:33251.  
 163 AR 124:32843.

1 petition for writ of mandate is granted on this issue. Since the  
 2 record demonstrates that the County failed to disclose this  
 3 significant impact, the County must, pursuant to Public Resources  
 4 Code section 21168.9(a)(3), perform a full environmental review  
 5 of the traffic impacts of the General Plan in compliance with the  
 6 provisions of CEQA.

7 6. Rejection of Mitigation Measures

8 Petitioners' next argument that the project description was  
 9 changed in a manner that violated CEQA relates to respondent's  
 10 rejection of mitigation measures proposed in the Draft EIR.  
 11 Petitioners identify seven such measures.<sup>164</sup> All of them were  
 12 rejected in the Final EIR.<sup>165</sup> Petitioners argue that the  
 13 inclusion of these measures in the Draft EIR "misled" the public  
 14 into believing that they would be adopted and the impacts they  
 15 addressed mitigated accordingly. The fact that rejection of such  
 16 measures was disclosed only in the Final EIR, petitioners  
 17 contend, deprived the public of the opportunity to review and  
 18 comment on numerous adverse impacts of the General Plan.

19 The Court finds this contention to be unpersuasive. Each  
 20 mitigation measure petitioners cite here was proposed in response  
 21 to an impact that was clearly identified in the Draft EIR.<sup>166</sup>

22

23 <sup>164</sup> In order to retain separation of communities between Diamond Springs and El Dorado, zoning between  
 24 these two communities shall be maintained, where feasible, at the lowest density range of Medium Density  
 25 Residential, and design standards shall be utilized that encourage clustering and greenbelts (AR 540:11881);  
 26 Modify the boundaries of the Placerville Community Region to conform to the boundaries of the Placerville  
 27 sphere of influence (AR 540:11882); Establish certain limits on home occupations (AR 540:11884); Utilize  
 28 lower-density land use designations in areas of high wildfire risk (AR 540:11992); Require 20-acre minimum  
 parcels within or adjacent to lands identified as Mineral Resource lands (AR 540:12163); Establish a fifth  
 ecological preserve in the Cameron Park area (AR 540:12244); Use the Natural Resources land use  
 designation and/or minimum 40-acre zoning to protect deer range and migration corridors (AR 540:12261).

<sup>165</sup> See AR 56:34032, 34033, 34042, 34058, 34063, and 34065.

<sup>166</sup> See AR 540:11879 (development could result in non-contiguous development patterns and urban/suburban  
 sprawl); AR 540:11883 (impact created by Plan Policy regarding home occupations), AR 540:11991  
 (additional residential development will occur in areas mapped as high or very high wildland fire hazard



1 CEQA does not require, however, that proposed mitigation measures  
 2 be adopted. Such measures are suggestions that may or may not be  
 3 adopted by the decision-makers based on findings regarding their  
 4 feasibility and practicality. (See Native Sun/Lyon Communities  
 5 v. City of Escondido (1993) 15 Cal.App.4<sup>th</sup> 892, 908; Pub.  
 6 Resources Code, § 21081(a)(3).) Such findings are subject to  
 7 review to determine whether they are based on substantial  
 8 evidence in the record. (Pub. Resources Code, § 21081.5.)

9 Accordingly, the rejection of proposed mitigation measures  
 10 does not constitute a change in the project description that  
 11 requires further environmental review. Accordingly, the petition  
 12 for writ of mandate is denied on this ground. The question of  
 13 whether such rejection is based on proper grounds and supported  
 14 by substantial evidence, of course, remains. Petitioners have  
 15 challenged the rejection of specific mitigation measures on that  
 16 basis. That challenge is dealt with under heading (D) below.

17 7. Disclosure of "Significant New Environmental Impacts"

18 In a similar vein, petitioners allege that the Final EIR  
 19 revealed five new significant unavoidable impacts not disclosed  
 20 in the environmental review of the original Project  
 21 Description.<sup>167</sup> One of these, the impact on traffic congestion,  
 22 has been dealt with above because of the unique facts it  
 23 presents. Each of the remaining impacts, however, was identified  
 24

25  
 26 areas); AR 540:12164 (additional development could result in reduction of the amount of land available for  
 27 mineral resource extraction); AR 540:12227 (elimination, disturbance or interruption of special status species  
 28 as a direct or indirect result of development); AR 540:12257 (disruption of deer migration patterns and critical  
 deer habitat).

<sup>167</sup> Agriculture, Forestry and Open Space, Impact 3.4.1 (AR 56:34037); Public Services and Infrastructure,  
 Impact 4.2.2 (AR 56:34042-34043); Soils, Geology and Mineral Resources, Impacts 7.2.6 and 7.2.7 (AR  
 56:34059-34060); Noise, Impact 11.3.2 (AR 56:34077); and Transportation, Impact 9.2.1 (AR 56:34067  
 34068).

1 clearly in the Draft EIR, either as a significant impact that  
2 could be reduced to a less than significant level through the  
3 adoption of mitigation measures<sup>168</sup>, or, in one case, as a less  
4 than significant impact.<sup>169</sup> The Final EIR upgraded these  
5 particular impacts to "significant" based on the rejection of  
6 proposed mitigation measures. Accordingly, any claim petitioners  
7 may have arises, if at all, not on any failure to disclose  
8 environmental impacts of the project, but from the decision to  
9 reject particular mitigation measures. As already noted, this  
10 issue will be dealt with elsewhere. Accordingly, the petition  
11 for writ of mandate is denied on this issue.

12 8. Changes Relating to the Addition of Revised Project  
13 Objectives

14 Petitioners raise several claims arising out of a revision  
15 of the General Plan Objectives that took place during the  
16 environmental review process. Petitioners allege that the change  
17 in the objectives was an improper change in the project  
18 description, that the revisions were not addressed in any  
19 environmental review document, and that the County improperly  
20 manipulated the objectives in order to avoid serious  
21 consideration of alternatives and mitigation measures.

22 The record shows that the County revised the General Plan  
23 Objectives during the environmental review process. An original  
24 set of objectives was set forth in the Project Description and  
25 discussed in the Draft EIR.<sup>170</sup> A revised set of objectives was  
26

27  
28 <sup>168</sup> See Draft EIR, AR 540:11932-11937 (Impact 3.4.1), AR 540:11991-11993 (Impact 4.2.2), AR 540:12164  
12169 (Impact 7.2.6), AR 541:12498-12499 (Impact 11.3.2).

<sup>169</sup> Impact 7.2.7. (AR 540:12169.)

<sup>170</sup> See AR 540:11792.

1 announced in the Supplement to the Draft EIR and eventually  
2 enacted in the final General Plan.<sup>171</sup> Several new objectives  
3 were added, including numbers 4 (accommodate the County's fair  
4 share of regional growth projections), 5 (oversupply residential  
5 and non-residential land use designations), 7 (recognize that  
6 lower levels of service will result from growth) and 11 (minimize  
7 down-planning and zoning). Petitioners have not shown, however,  
8 that the addition of these new objectives violated CEQA in any  
9 substantive or procedural respect.

10 As a substantive matter, nothing in CEQA appears to prohibit  
11 the County from adopting any objectives it desires for its  
12 General Plan, even if attaining those objectives may result in  
13 some environmental harm. CEQA does not, and cannot, guarantee  
14 that a local agency's decisions will always be those which favor  
15 environmental considerations. (See Laurel Heights Improvement  
16 Association v. Regents of the University of California (1988) 47  
17 Cal.3d 376, 393.) Similarly, CEQA does not provide a forum for  
18 attacking the policy choices involved in the decision to proceed  
19 with a project and, thus, no findings are required for such  
20 policy decisions. (See No SLO Transit, Inc. v. City of Long  
21 Beach (1987) 197 Cal.App.3d 241, 255-257.) In this case, the  
22 revised plan objectives embody the County's policy choices  
23 underlying the General Plan. Thus, the addition of the revised  
24 plan objectives does not constitute a substantive violation of  
25 CEQA.

26 Turning to the procedural aspects of petitioners' claim, the  
27 Court finds that the record demonstrates that the revised plan  
28

<sup>171</sup> See AR 124:52800-52801; AR 73:38791-38792.

1 objectives were disclosed in the Supplement to the Draft EIR, and  
2 circulated to the public for review and comment in that document.  
3 Accordingly, there was no procedural violation of CEQA in the  
4 adoption of the revised plan objectives. Thus, petitioners  
5 cannot show that the adoption of the revised plan objectives, by  
6 itself, violated CEQA. Accordingly, the petition for writ of  
7 mandate is denied on this issue. The claim that respondent  
8 improperly manipulated the plan objectives in order to reject  
9 project alternatives or mitigation measures as infeasible is  
10 really a claim that the rejection of such measures was not  
11 supported by substantial evidence. That claim is dealt with in  
12 detail below.

13 9. Unduly "Rosy" Project Description

14 As a kind of general "summing up" of their claims based on  
15 an invalid project description, petitioners allege that the EIR  
16 painted an unduly "rosy" picture of the General Plan by not  
17 disclosing its poor environmental performance. This rather broad  
18 argument appears to embrace virtually every claim petitioners  
19 make elsewhere. Accordingly, the Court finds that it does not  
20 present an independent basis for invalidating the EIR, as all of  
21 the claims subsumed within it are dealt with in other parts of  
22 this Ruling. Accordingly, the petition for writ of mandate is  
23 denied on this issue.

24 C. Consideration of Alternatives

25 1. Introduction

26 Petitioners raise several claims arising out of the County's  
27 consideration of alternatives to the General Plan. Petitioners  
28 contend that the County failed to consider an adequate range of

1 alternatives, failed to consider a true "no project" alternative,  
2 and relied on dubious assumptions to justify rejection of  
3 alternatives.

#### 4 2. Range of Alternatives Considered

5 First, petitioners assert that the environmental review of  
6 the General Plan was insufficient because the alternatives  
7 considered were too similar to each other in their environmental  
8 effects. Thus, they contend, the EIR failed to consider an  
9 adequate range of alternatives, including at least one which  
10 might have avoided or significantly lessened the effects of the  
11 General Plan.<sup>172</sup>

12 Public Resources Code section 21002 declares the importance  
13 of considering alternatives in the environmental review process:  
14 "It is the policy of the state that public agencies should not  
15 approve projects as proposed if there are feasible  
16 alternatives available which would substantially lessen the  
17 significant environmental effects of such projects, and that the  
18 procedures required by this division are intended to assist  
19 public agencies in systematically identifying both the  
20 significant effects of proposed projects and the feasible  
21 alternatives which will avoid or substantially lessen such  
22 significant effects."

23 As is the case generally with an EIR, the discussion of  
24 alternatives must be sufficient to inform the public and its  
25

26 <sup>172</sup> The Court concurs with Respondent's contention that petitioners have waived any argument that the so  
27 called "Quality Growth Alternative" should have been considered by the County as one of the alternatives, or  
28 that the "Quality Growth Alternative" was rejected based on improper findings, as petitioners have presented  
no argument in their opening brief based on that alternative. (See Respondent's Memorandum of Points and  
Authorities in Opposition to Petition for Writ of Mandate, page 71, footnote 36.) The Court has not based its  
analysis in this section on the existence or terms of the "Quality Growth Alternative", but has limited its  
analysis to the question of whether the alternatives actually considered were legally adequate.

1 responsible officials of the environmental consequences of their  
2 decisions before they are made. (Laurel Heights Improvement  
3 Association v. Regents of the University of California (1993) 6  
4 Cal.4<sup>th</sup> 1112, 1123.) The discussion must contain sufficient  
5 detail "...to ensure the integrity of the process of decisionmaking  
6 by precluding stubborn problems or serious criticism from being  
7 swept under the rug." (Kings County Farm Bureau v. City of  
8 Hanford (1990) 221 Cal.App.3d 692, 733.) The Supreme Court has  
9 stated that the analysis of alternatives serves the interest in  
10 informed public participation, an interest which "...is especially  
11 important when...the agency approving the proposed project is also  
12 its proponent..." (Laurel Heights Improvement Association v.  
13 Regents of the University of California (1988) 47 Cal.3d 376,  
14 406.) Accordingly, courts have stated that an inadequate  
15 discussion of alternatives constitutes an abuse of discretion.  
16 (Kings County Farm Bureau v. City of Hanford (1990) 221  
17 Cal.App.3d 692, 731.)

18 The CEQA Guidelines set forth the general framework of the  
19 alternatives analysis. Section 15126(d) states that the EIR  
20 shall "[d]escribe a range of reasonable alternatives to the  
21 project...which would feasibly attain most of the basic objectives  
22 of the project but would avoid or substantially lessen any of the  
23 significant effects of the project..." Section 15126(d) (2)  
24 restates this slightly, providing that the range of potential  
25 alternatives to the proposed project shall include those that  
26 could "...substantially lessen one or more of the significant  
27 effects."  
28

1           There does not appear to be any "hard and fast rule"  
2 regarding the number of alternatives that must be considered, or  
3 the range of development options those alternatives must cover.  
4 CEQA Guidelines Section 15126 (d) (5) states that the range of  
5 alternatives "...is governed by a 'rule of reason' that requires  
6 the EIR to set forth only those alternatives necessary to permit  
7 a reasoned choice." Thus, an EIR need not consider every  
8 conceivable alternative to a project. (Laurel Heights  
9 Improvement Association v. Regents of the University of  
10 California (1993) 6 Cal.4<sup>th</sup> 1112, 1142.) The Supreme Court has  
11 stated that "CEQA establishes no categorical legal imperative as  
12 to the scope of alternatives to be analyzed in an EIR. Each case  
13 must be evaluated on its facts, which in turn must be reviewed in  
14 light of the statutory purpose. ...[A]n EIR for any project subject  
15 to CEQA review must consider a reasonable range of alternatives  
16 to the project...which...offer substantial environmental advantages  
17 over the project proposal..." (Citizens of Goleta Valley v. Board  
18 of Supervisors (1990) 52 Cal.3d 553, 566.)

19           Accordingly, the issue presented by the petition here is  
20 whether the County considered alternatives to the General Plan  
21 during the environmental review process that offered substantial  
22 environmental advantages over the proposed General Plan by  
23 substantially lessening any of the significant effects of the  
24 Plan. The Court finds that the County's discussion of  
25 alternatives was inadequate, as it did not establish that even  
26 the alternative that would provide for the lowest level of growth  
27 would offer substantial environmental advantages over the  
28 proposed General Plan.

1 As petitioners have pointed out, the original environmental  
 2 review of the General Plan presented only three alternatives: the  
 3 General Plan itself, the so-called "General Plan Alternative"  
 4 providing for a lower level of growth, and the "No Project  
 5 Alternative."<sup>173</sup> In the Supplement to the Draft EIR, however,  
 6 the County presented another alternative that it termed the "Low  
 7 Growth Alternative".<sup>174</sup> The County explicitly presented this  
 8 alternative to "broaden the range of alternatives considered in  
 9 the General Plan EIR."<sup>175</sup>

10 The Low Growth Alternative does differ from the General Plan  
 11 in several respects. For example, while it maintains the same  
 12 general types of land use designations as the General Plan, it  
 13 provides for lower densities in some of those designations.<sup>176</sup>  
 14 Areas designated as "Low Density Residential" or "Community  
 15 Region" are somewhat reduced under the Low Growth Alternative as  
 16 opposed to the General Plan.<sup>177</sup> The Low Growth Alternative calls  
 17 for traffic levels of service "D" and "E" on county roads, as  
 18 opposed to the level of service "F" acceptable on some roads  
 19 under the General Plan.<sup>178</sup> The Low Growth Alternative places  
 20 lands contained within critical winter or summer deer habitat  
 21 within the Natural Resources land designation or areas of 40-acre  
 22 minimum zoning.<sup>179</sup> It includes a fifth ecological preserve.<sup>180</sup>  
 23

24 <sup>173</sup> El Dorado County General Plan Update Draft Environmental Impact Report, page II-2 (AR 540:11783).

25 <sup>174</sup> El Dorado County General Plan Update Supplement to the Draft EIR, pages III-1—III-59 (AR 124:52862  
 52970).

26 <sup>175</sup> AR 124:52862.

27 <sup>176</sup> El Dorado County General Plan Update Supplement to the Draft EIR, Table IV-1 (Revised) (AR  
 124:52865).

28 <sup>177</sup> Compare AR: 000937 (General Plan) with AR: 000940 (Low Growth Alternative).

<sup>178</sup> El Dorado County General Plan Update Supplement to the Draft EIR, page III-6 (AR 124:52867).

<sup>179</sup> El Dorado County General Plan Update Supplement to the Draft EIR, page III-7 (AR 124:52868).

<sup>180</sup> Id.



1 And a comparison of the four alternatives shows that the Low  
2 Growth Alternative was projected to result in a lower total  
3 population than any of the other alternatives.<sup>181</sup>

4 Despite these differences, petitioners assert that the  
5 actual environmental effects of the Low Growth Alternative are  
6 not significantly different from those of the General Plan. In  
7 particular, petitioners contend that the Low Growth Alternative  
8 continues to disperse development over a wide area of the County,  
9 albeit at a somewhat reduced density than the General Plan, thus  
10 creating many of the same environmental impacts as the General  
11 Plan. In other words, they argue that the Low Growth Alternative  
12 is only a modified version of the General Plan, rather than a  
13 true alternative.

14 To support their argument, petitioners point to the tables  
15 summarizing the impacts of the various alternatives in the Draft  
16 EIR<sup>182</sup> and the Supplement to the Draft EIR.<sup>183</sup> The table in the  
17 Draft EIR identifies 26 impacts that are described as  
18 "Significant Unavoidable Impacts" under the Project Description  
19 after mitigation.<sup>184</sup> In the Supplement to the Draft EIR, the  
20

21 <sup>181</sup> The County projected that the Low Growth Alternative would result in a population of 246,502, compared  
22 to 364,620 for the General Plan, 328,052 for the General Plan Alternative and 366,668 for the No Project  
Alternative. (See El Dorado County General Plan Update Supplement to the Draft EIR, Table V-1-7 (Revised)  
(AR 124:52812).

23 <sup>182</sup> AR 340:11806-11811.

24 <sup>183</sup> AR 124:52916-52919.

25 <sup>184</sup> These include: Impacts 1.3.1 (increase in population growth); 1.3.5 (alteration of existing patterns of  
26 development); 2.2.1 (jobs/housing balance is less than 1.0); 3.4.5 (conversion of open space into more  
27 intensive uses); 4.2.3 (development would require a substantial increase in the number of sheriff's officers);  
28 5.2.2 (additional growth will occur in areas which are dependent on private wells for water, potentially  
affecting the quality and quantity of groundwater); 5.2.3 (increase in surface water pollutants); 5.2.4 (increase  
in groundwater pollutants); 6.2.1 (insufficient parkland available to achieve standards); 7.2.1 (increased  
development in areas potentially subject to seismic hazards); 8.2.1 (elimination, disturbance, or interruption of  
special status species as a direct or indirect result of development); 8.2.2 (direct or indirect loss and  
fragmentation of wildlife habitat and/or degradation of habitat values); 8.2.3 (disruption of deer migration  
patterns and critical deer habitat); 9.2.2 (increase in vehicle miles traveled and average trip lengths); 9.2.3  
(increase in average daily traffic volumes); 9.2.4 (increase in required road sizes); 10.2.1 (increase in short

1 table summarizing the effects of the Low Growth Alternative after  
 2 mitigation shows 22 significant unavoidable impacts. The Low  
 3 Growth Alternative thus eliminates only four significant  
 4 unavoidable impacts.<sup>185</sup>

5 Under these circumstances, it is not clear how the Low  
 6 Growth Alternative offered "substantial environmental advantages  
 7 over the project proposal".<sup>186</sup> The County argues that it did,  
 8 but supports this argument only with conclusory statements to the  
 9 effect that the remaining significant impacts of the Low Growth  
 10 Alternative would be "less intensive" than those under the  
 11 Project Description<sup>187</sup>, or "less severe"<sup>188</sup>, statements that  
 12 concede that the impacts remain but which do not adequately  
 13 explain why or how the impacts are less severe or less intense.  
 14 Such a discussion does not satisfy the mandates of CEQA. While  
 15 CEQA does not, as the Supreme Court has said, impose a  
 16 "categorical legal imperative" as to the scope of

17  
 18  
 19 term emissions); 10.2.2 (increase in long-term emissions), 10.2.4 (exposure of sensitive receptors to  
 20 substantial pollutant concentrations), 10.2.5 (conflict with programs in APCD Air Quality Attainment Plan);  
 21 11.3.1 (increase in traffic noise); 11.4.4 (background noise levels will increase); 12.2.1 (disturbance or  
 22 destruction of prehistoric or historic sites, properties or areas of ethnic significance); 12.2.2 (indirect impacts  
 23 to cultural resources through an increase in human activity); 13.2.1 (physical changes of the existing  
 24 rural/natural lands to a built (urban) land use pattern/form); 13.2.2 (introduction of light and glare into the  
 25 newly established or expanded built (urban) communities). Of these, one (relating to the number of sheriff's  
 26 officers) appears to be more of a social impact than a truly "environmental" impact, while another (relating to  
 27 the jobs/housing ratio) also appears to be more of a socio-economic consequence of the plan rather than a  
 28 direct environmental effect. Thus, arguably the Plan actually has 24 significant environmental impacts, rather  
 than 26.

<sup>185</sup> Impact 2.2.1 (jobs/housing balance is less than 1.0); 4.3.2 (development will require a substantial increase  
 in the number of sheriff's officers); 5.2.2 (additional growth will occur in areas which are dependent on  
 private wells for water, potentially affecting the quality and quantity of groundwater); 8.2.1 (elimination,  
 disturbance or interruption of special status species as a direct or indirect result of development). As noted in  
 footnote 184 above, two of these impacts arguably are not true environmental impacts. Thus, it might even be  
 argued that the Low Growth Alternative only eliminates two such impacts, not four.

<sup>186</sup> Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 566.

<sup>187</sup> El Dorado County General Plan Update, Supplement to the Draft EIR, page III-55 (AR 124:52916).

<sup>188</sup> Findings of Fact of the Board of Supervisors of El Dorado County for the El Dorado County General Plan,  
 page 416 (AR 539:17431). See also the discussion of the Low Growth Alternative in the Supplement to the  
 Draft EIR, pages III-8—III-59 (AR 124:52869-52920).

1 alternatives<sup>169</sup>, its purposes can be served only where the  
2 discussion of alternatives effectively discloses to the public  
3 the analytic route the County traveled in arriving at its  
4 conclusion that an alternative would offer significant  
5 environmental advantages. (See Al Larson Boat Shop, Inc. v.  
6 Board of Harbor Commissioners (1993) 18 Cal.App.4<sup>th</sup> 729, 740,  
7 citing Topanga Association for a Scenic Community v. County of  
8 Los Angeles (1974) 11 Cal.3d 506, 515.)

9 Here, the County's discussion of alternatives failed to make  
10 that disclosure. Accordingly, the Court finds that the County's  
11 discussion of alternatives violated CEQA by failing to  
12 demonstrate that it had considered a reasonable range of  
13 alternatives. The petition for writ of mandate is granted as to  
14 this issue. Pursuant to Public Resources Code section  
15 21168.9(a), the County shall make a finding, supported by  
16 substantial evidence, which adequately discloses the analytic  
17 route it traveled in arriving at its conclusion that the "Low  
18 Growth Alternative" offered significant environmental advantages  
19 over the General Plan, or, in the alternative, the County shall  
20 consider at least one new alternative that does so.

### 21 3. Consideration of a "No Project" Alternative

22 Petitioners also challenge the EIR on the ground that it  
23 failed to include a true "No Project" alternative. The "No  
24 Project" alternative here was faulty, petitioners assert, because  
25 it was based on buildout under the existing area plans, and not  
26 on the current conditions in the County.  
27  
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<sup>169</sup> Citizens of Coleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 566.

1 In Environmental Planning & Information Council v. County of  
2 El Dorado (1982) 131 Cal.App.3d 350, the Third District Court of  
3 Appeal specifically posed the question of whether CEQA required  
4 an agency to assess environmental impacts of a proposed general  
5 plan amendment by comparing the proposal with the actual  
6 conditions in the area. The Court stated: "To ask the  
7 question is to answer it. CEQA nowhere calls for evaluation of  
8 the impacts of a proposed project on an existing general plan; it  
9 concerns itself with the impacts of the project on the  
10 environment, defined as the existing physical conditions in the  
11 affected area. The legislation evinces no interest in the  
12 effects of proposed general plan amendments on an existing  
13 general plan, but instead has clearly expressed concern with the  
14 effects of projects on the actual environment upon which the  
15 proposal will operate."<sup>190</sup> Even the dissenting opinion by  
16 Justice Puglia rested upon this principle, stating: "I concur  
17 with the majority's conclusion that an environmental impact  
18 report (EIR) as an informative document must include an appraisal  
19 of the impacts of the proposed plan upon present conditions in  
20 the plan area."<sup>191</sup>

21 Based upon these principles, the Court invalidated EIRs  
22 prepared for two amendments to the then-existing El Dorado County  
23 General Plan. The EIRs compared the projected population in the  
24 areas covered by the amendments to the projected population of  
25 those areas as they would eventually develop under the General  
26

27  
28 <sup>190</sup> Environmental Planning & Information Council v. County of El Dorado (1982) 131 Cal.App.3d 350, 354.  
<sup>191</sup> Justice Puglia dissented from the majority opinion based on his finding that the EIRs at issue actually  
complied with that mandate. (Environmental Planning & Information Council v. County of El Dorado (1982)  
131 Cal.App.3d 350, 358.)

1 Plan. The comparison showed a substantial reduction in projected  
2 population under the amendments. The Court, however, found the  
3 comparison to be "illusory", because the then-current populations  
4 of the areas covered by the amendments was substantially less  
5 than that projected under either the existing plan or the  
6 amendments. Thus, "[t]he proposed plans actually call[ed] for  
7 substantial increases in population in each area rather than the  
8 illusory decreases from the general plan. The comparisons  
9 utilized in the EIRs can only mislead the public as to the  
10 reality of the impacts and subvert full consideration of the  
11 actual environmental impacts that would result. Accordingly, the  
12 EIRs fail as informative documents."<sup>192</sup>

13 The approach articulated by the Court of Appeal accords well  
14 with CEQA's goal of fostering informed deliberation and public  
15 participation. For many members of the public, the potential  
16 population increase a new General Plan may bring about is the  
17 most dramatic and easily understood environmental effect of that  
18 Plan. Indeed, population growth may be a kind of "leading  
19 indicator" that alerts the public to the possibility of other  
20 environmental effects. Such future growth is best perceived when  
21 viewed against current conditions. Those conditions represent a  
22 state of actual fact that the public knows and can see. The  
23 level of growth that may be attained under an existing General  
24 Plan, on the other hand, is more hypothetical than actual. The  
25 level of growth envisioned in an existing plan, particularly one  
26 of some years' vintage, may no longer be a reasonable prediction  
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28

<sup>192</sup> Environmental Planning & Information Council v. County of El Dorado (1982) 131 Cal.App.3d 350, 358.

1 of the future given changes in society, the economy or even the  
2 environment since its enactment. In any event, few members of  
3 the public are likely to be familiar with the shape of the plan  
4 or to be in a position to assess realistically whether the level  
5 of development the existing plan might allow is actually likely  
6 to occur. Thus, a comparison that focuses solely on the  
7 difference between a proposed plan and an existing plan is likely  
8 to understate the effects of the new plan in the public mind and  
9 does not give a clear picture of potential population impacts.

10 In fact, the EIR here is based on precisely the type of  
11 comparison the Court criticized in Environmental Planning and  
12 Information Council v. County of El Dorado, supra. Although the  
13 EIR does discuss current environmental conditions in a number of  
14 areas<sup>193</sup>, it does not clearly address the issue of population  
15 growth. Instead, the EIR obscures that issue by focusing on a  
16 comparison between the projected population under the proposed  
17 General Plan and projected population under the existing plans,  
18 rather than basing the comparison on the current population of  
19 the County. The General Plan Draft EIR defined the "No Project"  
20 alternative as "...the continued use of the 24 Area Plans in  
21 combination with the other elements of the previously adopted El  
22 Dorado County General Plan."<sup>194</sup> In other words, the EIR compared  
23 the proposed General Plan with the existing plans, just as the  
24 EIRs did in the case discussed above. And just as in that case,  
25 the result is an illusory comparison which focuses on the  
26 decrease in population from the existing plans to the new plan,

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<sup>193</sup> See, for example, AR 540:11926 (analysis of existing open space setting), 12174 et seq. (discussion of biological resources in the County), AR 541:12444 et seq. (discussion of noise sources in the County).

<sup>194</sup> AR 540:11801.

1 rather than on the substantial increase in population from the  
2 existing setting to the new plan.

3 For example, the EIR contains tables setting forth the  
4 residential buildout by market area in terms of dwelling units  
5 under the project description, the general plan alternative, and  
6 the no project alternative.<sup>195</sup> These tables project 141,660  
7 dwelling units under the Project Description, as opposed to  
8 162,801 under the "No Project" alternative, making it appear as  
9 though the proposed General Plan represented a substantial  
10 reduction in units. Similarly, a table of Buildout Population by  
11 Market Area for the three alternatives shows a population of  
12 376,814 under the Project Description as opposed to 433,049 under  
13 the No Project Alternative<sup>196</sup>, which once again made it appear  
14 that the proposed General Plan offered a substantial reduction in  
15 population.

16 Nowhere, however, does the EIR directly compare the  
17 projected population under the proposed General Plan to the  
18 current population of the County. In fact, the new General Plan  
19 is projected to nearly triple the existing population of the  
20 County, but this information may be gleaned only by locating  
21 information on the current population of the County elsewhere in  
22 the EIR<sup>197</sup>, and comparing that to a description of the potential  
23 growth in various regions under the Project Description as set  
24 forth in the discussion of potential impacts.<sup>198</sup> The comparison  
25 of population impacts of the Project Description and No Project  
26

27 <sup>195</sup> El Dorado County General Plan Update Draft EIR, Tables IV-9, IV-10, IV-11 (AR 540:11832-11836).

28 <sup>196</sup> El Dorado County General Plan Update Draft EIR, Table IV-12 (AR 540:11837).

<sup>197</sup> For example, in the general description of the County found on page II-1 (AR 540:11787) and in Table IV  
4, entitled "Population Forecast: 1990 to 2015" (AR 540:11821).

<sup>198</sup> AR 540:11859-11860.

1 Alternative, where the relevant figures should be set forth,  
2 simply states: "The residential growth accommodated under this  
3 [No Project] Alternative at Buildout is higher than the Project  
4 Description by 18,448 units."<sup>199</sup> Accordingly, the EIR  
5 understates the actual effect of the General Plan on the current  
6 state of the County. That effect is never addressed directly and  
7 must, in the words of the Third District Court of Appeal, "...be  
8 painstakingly ferreted out of the reports".<sup>200</sup>

9 Respondent argues that its approach here was consistent with  
10 the mandate of CEQA Guidelines section 15126(d)(4), which  
11 provides, in pertinent part, that "[t]he 'no project' analysis  
12 shall discuss the existing conditions, as well as what would be  
13 reasonably expected to occur in the foreseeable future if the  
14 project were not approved, based on current plans and consistent  
15 with available infrastructure and community services." This  
16 argument ignores the fact that the Guideline required the County  
17 to discuss both existing conditions and what would reasonably be  
18 expected to occur under existing plans, for that is the meaning  
19 of the language "as well as" in the Guideline. The deficiency in  
20 Respondent's approach is that, at least with respect to  
21 population growth, it did only the latter and not the former.

22 An EIR that fails clearly to alert the public to the  
23 possibility of large population increases fails to serve its  
24 purpose as an "environmental alarm bell", the purpose of which is  
25 to alert the public and its responsible officials to  
26

27 <sup>199</sup> El Dorado County General Plan Update Draft EIR, page V.1-17 (AR 540:11860). The Court is aware that  
28 this figure is not what would be expected based on the numbers of dwelling units stated in the tables referred  
to above, but can find no apparent reason for the discrepancy. It does not appear to affect the analysis here.

<sup>200</sup> Environmental Planning & Information Council v. County of El Dorado (1982) 131 Cal.App.3d 350, 357.



1 environmental changes before they have reached ecological points  
2 of no return.<sup>201</sup> By failing to address the issue of population  
3 growth clearly, the EIR here failed to serve that essential  
4 purpose. Accordingly, the Court grants the petition for writ of  
5 mandate as to this issue. Pursuant to Public Resources Code  
6 section 21168.9(a), the County must analyze the "No Project"  
7 alternative in a manner that clearly discloses the population  
8 impacts of the General Plan in relation to current County  
9 population as well as in relation to what would be reasonably  
10 expected to occur in the foreseeable future if the General Plan  
11 were not approved, based on current plans and consistent with  
12 available infrastructure and community services.

#### 13 4. Reliance on Dubious Assumptions

14 Petitioners also claim that the EIR's consideration of  
15 alternatives was flawed because it rested upon dubious  
16 assumptions regarding population growth and water and  
17 infrastructure availability that virtually guaranteed elimination  
18 of any alternatives other than the one eventually chosen.

19 The Court finds that this argument does not provide an  
20 independent basis for invalidating the EIR. To the extent that  
21 this argument constitutes a challenge to the General Plan  
22 Objectives, which represent a policy decision to accept a higher  
23 level of growth than petitioners would prefer, the Court has  
24 ruled that the adoption of those Objectives, by itself, did not  
25 violate CEQA. To the extent that this argument represents a  
26 factual challenge to the above-described assumptions, the Court  
27  
28

<sup>201</sup> Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 Cal.3d 376, 392.

1 finds that they are supported by substantial evidence.  
 2 Assumptions regarding population growth are supported by the  
 3 Department of Finance projections<sup>202</sup>; petitioners' citation to  
 4 evidence that disagrees with or criticizes those projections<sup>203</sup>  
 5 does not mean they are not substantial evidence. As noted above  
 6 in the discussion of water-related challenges under the Planning  
 7 and Zoning Law, petitioners have not shown that the County's  
 8 assumptions regarding future water supplies are entirely without  
 9 evidentiary support. For that reason, and because the General  
 10 Plan contains concurrency policies that would restrain  
 11 development if water and infrastructure prove not to be  
 12 available, petitioners have not shown that the EIR should be  
 13 invalidated on this ground. Accordingly, the petition for writ  
 14 of mandate is denied on this issue.

15 D: Claims Arising Out of Rejection of Mitigation Measures

16 1. Introduction and Applicable Legal Standards

17 The next focus of petitioners' challenge to the  
 18 environmental review of the General Plan is the County's  
 19 rejection of (or failure to adopt) various measures that were  
 20 proposed to mitigate one or more environmental impacts of the  
 21 Plan. Petitioners allege that the County improperly rejected  
 22 such measures even though they were feasible.

23 CEQA requires a lead agency to consider measures to mitigate  
 24 environmental impacts of a project. Public Resources Code  
 25 section 21002 states: "The Legislature finds and declares that it  
 26 is the policy of the state that public agencies should not  
 27

28

<sup>202</sup> See AR 540:11821.

<sup>203</sup> See AR 502:185141; AR 49:31687.

1 approve projects as proposed if there are...feasible mitigation  
2 measures available which would substantially lessen the  
3 significant environmental effects of such projects."

4 CEQA does not, however, absolutely require the adoption of  
5 such measures. As Public Resources Code section 21002 provides:  
6 "The Legislature further finds and declares that in the event  
7 specific economic, social, or other conditions make infeasible  
8 such mitigation measures, individual projects may be approved in  
9 spite of one or more significant effects thereof." Public  
10 Resources Code section 21081(a)(3) permits a public agency to  
11 approve or carry out a project with one or more significant  
12 environmental effects where it makes a finding that "[s]pecific  
13 economic, legal, social, technological, or other considerations,  
14 including considerations for the provision of employment  
15 opportunities for highly trained workers, make infeasible the  
16 mitigation measures...identified in the environmental impact  
17 report." Thus, mitigation measures have been described as  
18 suggestions that may or may not be adopted by decisionmakers.

19 (See Native Sun/Lyon Communities v. City of Escondido (1993) 15  
20 Cal.App.4<sup>th</sup> 892, 908.)

21 The decision not to adopt a particular mitigation measure  
22 may not be arbitrary. Public Resources Code section 21081.5  
23 requires the public agency to base its findings regarding  
24 mitigation measures on substantial evidence in the record.  
25 Accordingly, the Court may review a public agency's findings  
26 regarding mitigation measures to determine whether they are, in  
27 fact, supported by substantial evidence. Moreover, the findings  
28 must contain facts and analysis, not just the agency's bare

1 conclusions or opinions, in order to "...effectively disclose to  
 2 the public the analytic route the agency traveled from evidence  
 3 to action". (Al Larson Boat Shop, Inc. v. Board of Harbor  
 4 Commissioners (1993) 18 Cal.App.4<sup>th</sup> 729, 740, citing Topanga  
 5 Association for a Scenic Community v. County of Los Angeles  
 6 (1974) 11 Cal.3d 506, 515.)

## 7 2. . Failure to Adopt Measures Utilized in Other Counties

8 Petitioners' first claim regarding mitigation measures  
 9 centers on specific measures that petitioners assert were adopted  
 10 in other counties, but were not adopted in El Dorado County.<sup>204</sup>  
 11 Petitioners assert that the fact that other counties adopted  
 12 these measures conclusively demonstrates that they are feasible.  
 13 Since such measures are feasible, petitioners contend, the County  
 14 was required to adopt them here.

15 The Court finds this argument to be unpersuasive. The fact  
 16 that one county's elected body finds a particular mitigation  
 17 measure to be feasible does not mean that every other county must  
 18 adopt the same measure, regardless of local conditions or the  
 19 policy choices of that county's elected representatives. Nothing  
 20 in CEQA demands that kind of uniformity among local agencies.  
 21 Instead, CEQA clearly permits each public agency to exercise its  
 22 own discretion in determining what mitigation measures are  
 23 feasible under local circumstances. Courts have recognized this  
 24 discretion, stating that "feasibility" under CEQA may encompass

25  
 26  
 27 <sup>204</sup> The measures cited by petitioners, and the Counties which adopted them, are as follows: a heritage oak  
 28 protection policy (Nevada County); specific quantified levels of public services (Nevada and Placer Counties);  
 specific minimum stream setbacks (Sacramento County); 40-acre minimum lot size in critical deer habitat  
 (Nevada County); maintaining traffic levels of service at levels higher than "F" (Nevada, Placer, Amador and  
 Sacramento Counties); designation of scenic corridors and development of regulations regarding appropriate  
 uses in such corridors (Amador County); a detailed open space plan (Sacramento County).

1 "desirability" to the extent that the decision to adopt or reject  
 2 a particular measure is based on a reasonable balancing of the  
 3 relevant economic, environmental, social and technological  
 4 factors. (See City of Del Mar v. City of San Diego (1982) 133  
 5 Cal.App.3d 401, 417.) Accordingly, the failure to adopt certain  
 6 measures adopted by other counties does not, by itself, violate  
 7 CEQA. Petitioners must show that specific measures were  
 8 proposed, considered, and rejected as infeasible, and that that  
 9 the rejection of such measures was not supported by substantial  
 10 evidence. Accordingly, the petition for writ of mandate is  
 11 denied on this issue.

### 12 3. Rejection of Specific Proposed Mitigation Measures

13 Petitioners have made several such claims.<sup>205</sup> In reviewing  
 14 them, the Court has been guided by the principle, often stated by  
 15 appellate courts, that its function is not to pass on the  
 16 correctness of the EIR's environmental conclusions, but only on  
 17 its sufficiency as an informational document. The Court may not  
 18 substitute its judgment for that of the County, or set aside any  
 19 of the County's findings on the basis that an opposite conclusion  
 20 would have been equally or more reasonable. (See Rio Vista Farm  
 21 Bureau Center v. County of Solano (1992) 5 Cal.App.4<sup>th</sup> 351, 369.)

22 Nevertheless, the County's findings are subject to certain  
 23 legal requirements. Those findings must set forth in meaningful  
 24 detail the basis for the conclusion reached. (See Laurel Heights  
 25

26  
 27 <sup>205</sup> Most of these claims are set forth in Section III of Petitioners' Revised Opening Trial Memorandum, entitled  
 28 "Lack of Substantial Evidence in the Record to Support the Findings". Several additional claims are set forth in  
 Section II.I, entitled "Failure to Mitigate the Growth Inducing Impacts and Cumulative Impacts of the Plan". This  
 is just one of several instances in which petitioners have placed claims based on similar legal theories under  
 different headings in their trial memorandum. Since the basis of the claims is clearly similar, the Court discusses  
 all of them here.

1 Improvement Association v. Regents of the University of  
2 California (1988) 47 Cal.3d 376, 405.) (See also Al Larson Boat  
3 Shoe, Inc. v. Board of Harbor Commissioners (1993) 18 Cal.App.4<sup>th</sup>  
4 729, 740, citing Topanga Association for a Scenic Community v.  
5 County of Los Angeles (1974) 11 Cal.3d 506, 515.) As noted  
6 above, the purpose of requiring such detail is to ensure the  
7 integrity of the process of decisionmaking by "...precluding  
8 stubborn problems or serious criticism from being swept under the  
9 rug." (Kings County Farm Bureau v. City of Hanford (1990) 221  
10 Cal.App.3d 692, 733.) "If CEQA is scrupulously followed, the  
11 public will know the basis on which its responsible officials  
12 either approve or reject environmentally significant action, and  
13 the public, being duly informed, can respond accordingly to  
14 action with which it disagrees." (Laurel Heights Improvement  
15 Association v. Regents of the University of California (1988) 47  
16 Cal.3d 376, 392.)

17 In this case, as will be set forth in more detail below,  
18 respondent rejected a number of proposed mitigation measures  
19 based on findings that those measures conflicted with one or more  
20 project objectives. Respondent argues that it is entitled to  
21 balance competing policy considerations, some of which are  
22 embodied in project objectives, in deciding whether to adopt  
23 certain mitigation measures. This much is true, and the  
24 rejection of mitigation measures based on their incompatibility  
25 with project objectives is not necessarily a violation of CEQA.  
26 Such a decision, however, must be set forth in adequate detail  
27 according to the standards cited above.

28

1 In this respect, Village Laguna of Laguna Beach, Inc. v.  
2 Board of Supervisors (1982) 134 Cal.App.3d 1022, is particularly  
3 instructive. In that case, the EIR contained a finding that the  
4 project would have significant adverse impacts on prime  
5 agricultural soils, energy resources and other nonrenewable  
6 resources. The EIR further stated that such impacts could be  
7 mitigated only through adoption of the "no development"  
8 alternative. The Board found that alternative to be infeasible  
9 based on the following finding: "The social benefits of the  
10 project which provide housing, employment and recreational  
11 opportunities override the plan's impact on non-renewable  
12 resources."<sup>206</sup>

13 The Court held that this finding was insufficient, as it did  
14 not explain the basis of the Board's finding of infeasibility.  
15 The Court stated: "It is not enough that the board found that  
16 '[t]he social benefits of the project which provide housing,  
17 employment and recreational opportunities override the plan's  
18 impact on non-renewable resources.' The statement is  
19 conclusionary and too general. This was sufficient to show which  
20 '[s]pecific...social...considerations' the board felt made the 'No  
21 Development' alternative infeasible, but it does not constitute  
22 'a statement of the facts supporting the finding. ...[E]ven though  
23 the board may have fully considered the EIR and made a wise and  
24 eminently rational decision in approving the proposed project,  
25 the board's thinking process, its 'analytic route', has not been  
26 revealed. Only by making this disclosure can others, be they  
27  
28

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<sup>206</sup> 134 Cal. App. 3d at 1034.

1 courts or constituents, intelligently analyze the logic of the  
2 board's decision."<sup>207</sup>

3 Accordingly, the Court will not invalidate respondent's  
4 findings that particular mitigation measures were infeasible  
5 simply because project objectives have been cited as the basis  
6 for that finding. Rather, the Court will review each of the  
7 findings challenged by the petitioners to determine whether it  
8 adequately sets forth the reasoning and the facts that support  
9 it. To the extent that any of the challenged findings fail to do  
10 so, respondent has failed to proceed in the manner required by  
11 law. Each of the challenged findings is analyzed in a separate  
12 heading set forth below.

13 a. Establishment of a Fifth Ecological Preserve: The first  
14 finding petitioners challenge relates to the County's rejection  
15 of a mitigation measure calling for the establishment of a fifth  
16 ecological preserve in the Cameron Park area.<sup>208</sup> The County  
17 rejected this mitigation measure as infeasible, stating that it  
18 would conflict with Project Objectives 1 (to develop a strong,  
19 diversified, sustainable local economy), 4 and 5 (to favor the  
20 creation of an oversupply of land designated for development in  
21 order to encourage the provision of affordable housing and cost-  
22 effective development) and 11 (to avoid down planning and/or down  
23 zoning where feasible).<sup>209</sup> The only explanation for the finding  
24 is the statement that adoption of the measure would reduce the  
25 acreage available for residential and commercial development in  
26

27 <sup>207</sup> 134 Cal. App. 3d at 1034-1035. (Emphasis in original.)

28 <sup>208</sup> Four other ecological preserves were adopted as part of the General Plan.

<sup>209</sup> Findings of Fact of the Board of Supervisors of El Dorado County for the El Dorado County General Plan, page 228 (AR 539.17243).



1 the western part of the County and would necessitate the down  
2 zoning of "a certain amount of acreage".

3 This explanation is conclusionary and too general; it does  
4 no more than state the obvious proposition that placing land in  
5 an ecological preserve means that the land cannot be developed.  
6 Whether such action really impedes the attainment of project  
7 objectives, however, is not necessarily a self-evident  
8 proposition. Such factors as the extent of the land involved,  
9 its realistic development potential, and the amount of comparable  
10 developable land available elsewhere are only a few of the  
11 factors which may be relevant to establishing this proposition as  
12 fact in a particular case. Nevertheless, no attempt was made  
13 here to analyze these factors or prove the point relied on by  
14 quantifying the amount of land needed for the proposed ecological  
15 preserve or analyzing how setting that land aside would affect  
16 the amount of land available for development. Indeed, the County  
17 appears to have made a purely mechanical application of the  
18 project objectives, one that would justify rejecting any  
19 mitigation measures. This is certainly not a result in harmony  
20 with the purposes of CEQA. The Board's approach failed to reveal  
21 its analytic route and thus violated CEQA.

22 b. Establishment of a Scenic Corridor Combining Zone: The  
23 second finding petitioners challenge relates to the rejection of  
24 a mitigation measure calling for a Scenic Corridor Combining Zone  
25 to be applied to all lands including the foreground areas in  
26 Community Regions and Rural Centers within an identified scenic  
27 corridor. The County rejected this mitigation measure as  
28 infeasible based on alleged conflicts with Project Objectives 1

1 (to develop a strong, diversified, sustainable local economy), 6  
 2 (to concentrate urban growth where infrastructure is present or  
 3 can be more feasibly provided), 9 (to encourage in-fill  
 4 development that effectively uses existing infrastructure) and 12  
 5 (to improve the jobs-to-housing ratio by giving preference to the  
 6 development of high technology and value-added employment  
 7 centers).<sup>210</sup> As was the case with the mitigation measure  
 8 discussed above, the only explanation the County gives for the  
 9 finding is the conclusory statement that the proposed measure  
 10 would limit development. No reasoned analysis of this self-  
 11 evident proposition is attempted.<sup>211</sup> As before, the County  
 12 appears to have rejected a proposed mitigation measure based  
 13 simply on the basis that it would have some effect on  
 14 development, without disclosing the analytic route it took to  
 15 reach that conclusion. This violates CEQA.

16 c. Contiguous Blocks of Habitat: Petitioners' next claim  
 17 focuses on the County's rejection of a proposed mitigation  
 18 measure which would call for it to use "plan amendments and  
 19 zoning ordinances to retain contiguous blocks of significant  
 20 plant and wildlife habitat and to protect these areas through  
 21 consultation with various state and federal resource agencies  
 22 during the land-use planning process."<sup>212</sup>

23 Initially, respondents assert that "it is by no means  
 24 certain" that the County was even required to address this  
 25

26  
 27 <sup>210</sup> Findings of Fact of the Board of Supervisors of El Dorado County for the El Dorado County General Plan,  
 pages 246-247 (AR 539:17361-17362).

28 <sup>211</sup> Moreover, a review of the terms of the proposed Scenic Highways Ordinance in the record does not  
 immediately reveal how it would limit development to an extent that would frustrate the attainment of project  
 objectives. See AR 367:140321-140325.

<sup>212</sup> AR 539:17378.

1 proposal, as it originated in a comment letter from a member of  
2 the public rather than from County staff.<sup>213</sup> The Court rejects  
3 this contention. CEQA clearly contemplates that mitigation  
4 measures may be suggested in public comments, and that the public  
5 agency is held to the same standard in responding to them that it  
6 must meet in discussing mitigation measures that originate with  
7 its staff. Public Resources Code section 21003.1(a) states:  
8 "Comments from the public...on the environmental effects of a  
9 project shall be made to lead agencies...in order to allow the lead  
10 agencies to identify, at the earliest possible time in the  
11 environmental review process...mitigation measures which would  
12 substantially reduce the effects." The CEQA Guidelines, section  
13 15088(b), provide that responses to comments must describe the  
14 disposition of significant issues raised, and where the agency  
15 disagrees with recommendations raised in comments, the response  
16 must give a good faith, reasoned analysis explaining why a  
17 suggestion was not accepted. Accordingly, the County's finding  
18 on this measure is subject to the same standards applied above.

19 With respect to the merits of the proposal, the County found  
20 it infeasible because it conflicted with project objectives 1, 4,  
21 5, 6, 9 and 12 (all of which were cited as reasons for rejecting  
22 the measures discussed above). The County's explanation of its  
23 reasons for rejecting the measure is very similar to those cited  
24 above: "The level of environmental protection apparently  
25 envisioned by the commenter could unduly limit economic  
26 activities, including both new development and resource  
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<sup>213</sup> See Respondent's Memorandum of Points and Authorities in Opposition to Petition for Writ of Mandate, page 89.

1 extraction...in large areas of the County, and could impose  
2 substantial additional new costs on such activities. Such a  
3 result could reduce the amount of land available for housing, and  
4 thus increase the cost of housing within the County and reduce  
5 the 'oversupply' of developable land intended to increase  
6 consumer choice and landowner flexibility."<sup>214</sup> As before, this  
7 finding is conclusory and unsupported by facts or reasoned  
8 analysis. As before, it violates CEQA.

9 d. Prohibition on Piping, Culverting or Lining of Streams.  
10 Next, petitioners challenge the County's rejection of a  
11 mitigation measure that would prohibit piping, culverting or  
12 lining of streams except at road crossings. The County rejected  
13 this measure as infeasible on the basis that "...applied  
14 mechanically on a Countywide basis, it would have unacceptable  
15 economic impacts, and thus would be inconsistent with Project  
16 Objectives 1 and 12, which seek to create a business and  
17 regulatory climate attractive to new and expanding  
18 businesses."<sup>215</sup> This finding is insufficient. Once again, the  
19 County mechanically applied project objectives to reject a  
20 proposed mitigation measure without any attempt to provide a  
21 factual, reasoned analysis of the actual effect of the measure.  
22 that violates CEQA.

23 e. Street Standards: The County's rejection of a proposal  
24 to revise street standards to allow or require narrower streets  
25 is the subject of petitioners' next claim. The County rejected  
26 this measure as infeasible at the General Plan level as well as  
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<sup>214</sup> AR 539:17378.

<sup>215</sup> AR 539:17379.

*Findings of Fact*

1 infeasible due to its inconsistency with project objective 1.  
2 The County's explanation for its finding was that "...the inclusion  
3 of such an inflexible policy into a General Plan for a county  
4 with widely varying conditions could result in needless economic  
5 impacts in particular areas..."<sup>216</sup> Again, the County failed to  
6 provide any reasoned analysis or facts to support this  
7 conclusion. The finding accordingly violates CEQA.

8 f. Density Bonuses: Petitioners next challenge the  
9 County's rejection of a mitigation measure designed to reduce to  
10 a less-than-significant level the impact resulting from  
11 inconsistency between the density bonus program and the land use  
12 designations established by the policy document and the land use  
13 map.<sup>217</sup> In this specific instance, the Court finds no violation  
14 of CEQA. Unlike the other measures discussed above, the County  
15 did not simply state that a perceived conflict with project  
16 objectives made the proposal infeasible. Instead, the County  
17 gave a relatively detailed response describing the reasoning  
18 behind its decision not to accept the measure as proposed.  
19 Moreover, the County discussed an alternative measure, which it  
20 did adopt, and stated the reasons why it did so. Such action  
21 satisfies CEQA.

22 g. Lower Densities for Certain Land Use Designations: Next,  
23 petitioners challenge the County's rejection of a mitigation  
24 measure that would have applied to the General Plan the land use  
25 designations of Rural Residential and Rural Residential Low  
26 Density as defined in the lower-density General Plan Alternative.  
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<sup>216</sup> AR 539:17385.

<sup>217</sup> AR 539:17053-17056.

1 AS was the case with the findings discussed under headings  
2 II.D.3(a) through (e) above, the County violated CEQA by making a  
3 finding that did no more than state that such a measure would  
4 conflict with certain project objectives, without attempting to  
5 provide any facts or analysis to support that conclusion.<sup>218</sup>

6       b. Oak Woodland Canopy Coverage Standards: Petitioners  
7 next turn to the change in the proposed policy regarding oak  
8 woodland canopy coverage standards. As noted above, the policy  
9 originally was proposed as one that called for stated percentages  
10 of canopy coverage to be retained during development. In its  
11 Findings of Fact, the County stated that it "has already adopted"  
12 this measure, but went on to state that it "...has determined that  
13 it will modify [the proposal] to replace the term 'retention' in  
14 the Policy and in the chart with the terms 'retention or  
15 replacement'."<sup>219</sup> The County never stated that it had found the  
16 original retention proposal to be infeasible, but its explanation  
17 of the reasons for the change may be interpreted as such a  
18 finding. This explanation presents two reasons: "The County has  
19 determined that, in some instances, replacing old trees, rather  
20 than retaining them, may provide more environmental protection in  
21 the long term. Such an approach also allows for greater  
22 flexibility in the planning process."<sup>220</sup>

23       This explanation does not meet the requirements of CEQA.  
24 The first statement is unsupported by any factual explanation or  
25 citation to evidence in the record. As for the second statement,  
26 even though the County attempted to support it with citations to  
27

28 <sup>218</sup> AR 539:17061-17062.

<sup>219</sup> AR 539:17258-17259.

<sup>220</sup> AR 539:17259.

1 the record, it really goes only to the desirability of the  
2 measure from the point of view of planners and developers and in  
3 no way explains why a retention-only policy for specified  
4 percentages of existing trees would be infeasible.

5 i. Limiting Parcel Size in Areas of Deer Habitat: The  
6 rejection of a mitigation measure calling for lands designated  
7 for parcel sizes less than 40 acres in critical summer and winter  
8 deer range, fawning areas and major migration corridors to be  
9 placed into a General Plan designation that establishes a 40-acre  
10 minimum lot size is the subject of petitioners' next challenge.  
11 Once again, the County's finding violated CEQA. The County  
12 simply stated that the measure was infeasible because it was in  
13 conflict with certain plan objectives without providing any facts  
14 or analysis to support that conclusion.<sup>221</sup>

15 j. Habitat Conservation Plan: Petitioners challenge the  
16 County's rejection of a mitigation measure calling for the  
17 implementation of a Habitat Conservation Plan.<sup>222</sup> The Court  
18 finds no violation of CEQA in this specific instance. The  
19 proposal, which originated in a public comment, gives absolutely  
20 no details as to the scope or terms of such a plan, making a  
21 specific response practically impossible. Moreover, as the  
22 County correctly points out, a Habitat Conservation Plan is a  
23 measure which must be developed under the Federal Endangered  
24 Species Act (16 U.S.C. section 1539(a)) in order to obtain a  
25 federal permit authorizing limited "take" of a protected species.  
26 It does not appear to be a measure appropriately directed towards  
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<sup>221</sup> AR 539:17267.

<sup>222</sup> AR 539:17371-17372.

1 a General Plan, which operates at a general level and does not  
2 approve any particular development plan or result in any "take".  
3 Accordingly, the County's rejection of this measure did not  
4 violate CEQA.

5 k. Mineral Resource Land Parcel Size: Petitioners  
6 challenge the County's rejection of a mitigation measure that  
7 would require 20-acre minimum parcels within, or adjacent to,  
8 certain lands identified as mineral resource lands. Again, the  
9 County's finding of infeasibility simply states that the policy  
10 would conflict with certain project objectives without providing  
11 any explanation.<sup>223</sup> For the reasons stated above, that violates  
12 CEQA.

13 l. Parcel Size Adjacent to Grazing Land: Similarly, the  
14 County's rejection of a mitigation measure calling for 20-acre  
15 minimum parcel size adjacent to grazing lands violated CEQA by  
16 failing to provide facts or reasoned analysis in support of the  
17 conclusion that the measure was infeasible.<sup>224</sup>

18 m. Natural Resources Land Designation for Habitat: The  
19 County's rejection of a mitigation measure that would have  
20 applied the Natural Resources land use designation to wildlife  
21 habitat, on the other hand, did not violate CEQA. The County's  
22 findings adequately explained that there was a conflict between  
23 the primary intent of the Natural Resource designation, which is  
24 to identify areas that contain economically viable natural  
25 resources, and protection of wildlife habitat.<sup>225</sup>

26  
27  
28 <sup>223</sup> AR 539:17064.

<sup>224</sup> AR 539:17066.

<sup>225</sup> AR 539:17241.



1 n. Parks/Open Space Standard: Finally, the County's  
2 finding that a 30 percent standard for parks and open space was  
3 infeasible violates CEQA. The finding does no more than express  
4 a preference for a lower standard and state that the proposed  
5 standard conflicts with project objectives without providing any  
6 reasoned analysis.<sup>226</sup>

7 4. Conclusion

8 As set forth specifically above, the Court has found that  
9 certain of the County's findings that proposed mitigation  
10 measures were infeasible based on incompatibility with project  
11 objectives violated CEQA because they did not set forth the facts  
12 and analysis supporting them. The Court's Ruling as to these  
13 findings should not be construed, however, as a ruling that no  
14 findings of infeasibility could be made, only that such findings  
15 were not made properly here. Accordingly, pursuant to Public  
16 Resources Code section 21168.9(a)(1) and (2), the Court grants  
17 the petition for writ of mandate as to the findings described  
18 under headings II.D.3. (a), (b), (c), (d), (e), (g), (h), (i),  
19 (k), (l), and (n) of this Ruling. The writ shall require that  
20 those findings be voided by respondent, and further require that  
21 respondent either take action to make proper findings of  
22 infeasibility according to the standards set forth above, adopt  
23 the proposed mitigation measures, or otherwise comply with the  
24 requirements of CEQA. The petition for writ of mandate is denied  
25 as to the findings described under headings II.D.3 (f), (j) and  
26 (m) of this Ruling.

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<sup>226</sup> AR 539.17237.

1 E: Adoption of "Dubious" Mitigation Measures

2 Petitioners' next challenge focuses on the adoption of  
3 several mitigation measures, asserting that those measures are of  
4 dubious efficacy and unsupported by substantial evidence.

5 The first of these measures is found in the General Plan as  
6 Policy 6.3.2.3. It calls for an avalanche overlay zone to be  
7 established and applied to all residential areas subject to  
8 avalanche. Petitioners complain specifically about the second  
9 sentence of the policy: "All new structures located within  
10 avalanche susceptible areas shall be designed to withstand the  
11 expected forces of such an event."<sup>227</sup>

12 The Court concurs with petitioners that this policy seems to  
13 be dubious on its face. There is no reference to any design  
14 standards or other evidence that would establish that it is even  
15 possible to design structures to withstand the expected forces of  
16 an avalanche. The only evidence respondent cites in support of  
17 this policy is the fact that it was proposed by County staff in  
18 the Draft EIR.<sup>228</sup> Even if, as a general proposition, the staff's  
19 expert view as to the effectiveness of a measure is substantial  
20 evidence in support of the adoption of that measure<sup>229</sup>, the  
21 evidence cited here does not pass muster. The Draft EIR does no  
22 more than set forth the measure without providing any staff  
23 expert opinion as to its effectiveness. Accordingly, the  
24 adoption of this measure violated CEQA. The petition for writ of  
25 mandate is granted on this issue. Pursuant to Public Resources  
26 Code section 21168.9(a), the County must void the adoption of  
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28 <sup>227</sup> AR 73,08892.

<sup>228</sup> AR 540:12163-12164.

<sup>229</sup> See Stanislaus Audubon Society, Inc. v. County of Stanislaus (1995) 33 Cal.App.4<sup>th</sup> 144, 153.

1 this particular mitigation measure. Thereafter, pursuant to  
2 Public Resources Code section 21168.9(c), the County may exercise  
3 its discretion with respect to mitigation measures in avalanche-  
4 prone areas in any manner consistent with this Ruling and the  
5 provisions of CEQA.

6 Next, petitioners challenge Policies 5.2.3.1 and 5.2.3.2,  
7 which rely on the County Well Ordinance to ensure a safe and  
8 reliable groundwater supply.<sup>230</sup> Petitioners have not carried  
9 their burden of showing a violation of CEQA on this issue. The  
10 record contains a County Well Ordinance.<sup>231</sup> Although petitioners  
11 refer to a modification to this ordinance that was never enacted,  
12 they fail to explain how the existing ordinance is so  
13 insufficient as to make the challenged policies ineffective. The  
14 petition for writ of mandate is denied as to this issue.

15 Next, petitioners challenge Policy 5.4.1.1, which states  
16 that storm drainage systems for discretionary development will be  
17 required to meet National Pollution Discharge Elimination System  
18 (NPDES) requirements.<sup>232</sup> Petitioners assert that this measure is  
19 of dubious value because the County has refused to comply with  
20 its obligations under its own storm water NPDES permit. The  
21 evidence cited in support of this point<sup>233</sup> falls short, however,  
22 of demonstrating the record of "prior environmental errors" that  
23 the Supreme Court referred to in Laurel Heights Improvement  
24 Association v. Regents of the University of California (1988) 47  
25 Cal.3d 376, 420. Accordingly, the Court does not find that the  
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28 <sup>230</sup> AR 73:38878.

<sup>231</sup> AR 236:128908-128920.

<sup>232</sup> AR 73:38880.

<sup>233</sup> AR 37:28628-28647.

1 adoption of this particular measure violated CEQA, and the  
2 petition for writ of mandate is denied on this issue.

3 As a final challenge to the County's actions with respect to  
4 mitigation measures, petitioners assert that the General Plan  
5 does not include an adequate mitigation monitoring and reporting  
6 program as required by Public Resources Code section 21081.6.  
7 Petitioners contend that Policy 2.9.1.5<sup>234</sup>, which is the only  
8 policy in the General Plan that provides for review of mitigation  
9 measures, is not sufficient.

10 The Court finds that petitioners have not established a  
11 violation of CEQA. Where the project under review is a plan to  
12 govern future action, and there has been no approval of a  
13 particular site or facility, "...most identified mitigation  
14 measures are incapable of being presently monitored or reported,  
15 except to the extent of being included in the policies,  
16 guidelines and siting criteria stated in the Plan, which will be  
17 considered in any future decisions." (See Rio Vista Farm Bureau  
18 Center v. County of Solano (1992) 5 Cal.App.4<sup>th</sup> 351, 380-381.)  
19 Here, the General Plan includes its mitigation measures in the  
20 policies, guidelines and other criteria stated in the Plan.  
21 Thus, there is no violation of CEQA, and the petition for writ of  
22 mandate is denied on this issue.

23 **F: Environmental Review of Projected Water Supplies**

24 Petitioners challenge the environmental review of the  
25 General Plan on two grounds relating to its treatment of future  
26 water supplies. Both of these grounds are similar to arguments  
27 raised in petitioners' cause of action arising under the Planning  
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<sup>234</sup> AR 73:08632.

1 and Zoning Law, discussed above. The first argument is that the  
2 EIR failed to disclose or discuss the possibility that the future  
3 water supplies upon which future development under the General  
4 Plan will be dependent either are, or may be found to be,  
5 illegal, and thus not available. The second argument is that the  
6 EIR fails to disclose or discuss the impact that development of  
7 future water supplies will have on the environment, particularly  
8 on Caples, Aloha and Silver Lakes.

9 The Court finds the first argument to be unpersuasive. As  
10 discussed above in connection with petitioners' Planning and  
11 Zoning Law claims, the General Plan itself recognizes that all of  
12 the projected water supplies may not materialize. Moreover, the  
13 General Plan contains policies designed to restrain growth in  
14 that event. The County addressed these points in its responses  
15 to comments on the Draft EIR.<sup>235</sup> In any event, the issue of  
16 whether or not the projected water supplies ever will be  
17 available, by itself, is not really an issue regarding a present  
18 environmental effect of the Plan. Accordingly, petitioners have  
19 not shown that the environmental review should be invalidated on  
20 this ground, and the petition for writ of mandate is denied on  
21 this issue.

22 Petitioners have a more persuasive argument on the second  
23 point, however. As discussed in detail above, implementation of  
24 the General Plan as written is, at least in part, dependent upon  
25 the development of additional water supplies through the so-  
26 called "El Dorado Project" under contract with PG&E. Indeed, the  
27 Draft EIR discloses that the El Dorado Project will be the source  
28

<sup>235</sup> See, AR 71:38240-38241.

1 of over 32,000 acre-feet per year of water for the County.<sup>236</sup>  
 2 The Draft EIR also mentions that water obtained from the El  
 3 Dorado Project comes from the above-mentioned lakes.<sup>237</sup>  
 4 Petitioners have cited evidence that operation of the El Dorado  
 5 Project has a significant effect on the level and surface extent  
 6 of the lakes.<sup>238</sup> None of these facts is disputed, yet the  
 7 section of the Draft EIR that discusses impacts on water  
 8 resources does not address the effect on the lakes at all.<sup>239</sup>

9 Respondent asserts that there was no need to discuss any  
 10 potential effect on the lakes because the development of future  
 11 water supplies to implement the General Plan, even through the El  
 12 Dorado Project, would not be the cause of any impact on the  
 13 lakes. The reason for this, the County asserts, is that the El  
 14 Dorado Project would continue to operate in the same manner as it  
 15 always had, with the County merely diverting water that PG&E  
 16 would have released from the lakes anyway.

17 The Court has not been cited to any document in the record  
 18 in which the County made this point directly in its environmental  
 19 review of the General Plan, but the County did at least imply as  
 20 much in its responses to public comments: "The El Dorado Project  
 21 already exists as a hydroelectric generation plant.  
 22 The diversion of water will not affect the operation of the plant  
 23 because water will be taken downstream of the plant..."<sup>240</sup> The  
 24 most direct statement of this point in the record comes from an  
 25 EIR generated for the El Dorado County Water Agency Water  
 26

27 <sup>236</sup> AR 540:12034; 12038-12039.

<sup>237</sup> AR 540:12028.

28 <sup>238</sup> See AR 544:114212.

<sup>239</sup> AR 540:12073-12096.

<sup>240</sup> AR 68:37202.

1 Program, which is contained in this record but is not related to  
2 the environmental review the General Plan, wherein it is stated:  
3 "No changes in the operation of Silver, Caples, or Medley (Aloha)  
4 Lakes would occur under the El Dorado Project."<sup>241</sup>

5 There are two flaws in the County's reasoning here. The  
6 first is that, even if it is true that the operation of the El  
7 Dorado Project will never change in any respect as the result of  
8 the County's taking of water from it, the County's water use  
9 nonetheless will become a concurrent cause of the impact of the  
10 Project on the lakes. The County will benefit from activities  
11 that create an effect on the environment, and should disclose the  
12 environmental burden associated with those activities. Such  
13 disclosure is essential in light of the EIR's function as a  
14 "document of accountability". (See Laurel Heights Improvement  
15 Association v. Regents of the University of California (1968) 47  
16 Cal.3d 376, 392.)

17 Respondent has not cited any authority for the proposition  
18 that it may avoid environmental review of its projected water use  
19 simply because it is only a concurrent cause of the effects of  
20 that use. Such a view, as noted above, would frustrate the  
21 purposes of CEQA by concealing the true environmental cost of the  
22 County's water use. Thus, for similar reasons the Court of  
23 Appeal invalidated an EIR for a proposed specific plan because  
24 the EIR did not discuss the effects of supplying water for later  
25 stages of the plan, stating: "Because the specific plan  
26 here...unquestionably and admittedly contemplate[s] the supplying  
27 of water to a large development, respondent County must attempt  
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<sup>241</sup> AR 214:82344.

1 in good faith to fulfill its obligation under CEQA to provide  
2 sufficient meaningful information regarding the types of activity  
3 and environmental effects that are reasonably foreseeable from  
4 that supplying of water. [Citation omitted.]" (Stanislaus  
5 Natural Heritage Project v. County of Stanislaus (1996) 48  
6 Cal.App.4<sup>th</sup> 192, 206.) Here, the General Plan "unquestionably  
7 and admittedly" contemplates the supplying of water to a greatly  
8 increased County population. The environmental effects of the  
9 County's proposed water use accordingly should have been  
10 discussed.

11 The second flaw in the County's reasoning is revealed by the  
12 first. It cannot be taken as a given that the County's reliance  
13 on water from the El Dorado Project will never result in any  
14 change in the operation of the Project. The demand of  
15 residential consumers for water seems quite different in nature,  
16 and possibly much less flexible, than the demand for water for  
17 hydroelectric power generation. The need for water to support an  
18 increased County population, for example, may well outlast the  
19 usefulness of the Project as a generator of hydroelectric power.  
20 The amount of water legitimately needed for power generation may  
21 fall short of the amount needed for consumptive use. Or the  
22 timing of consumptive water needs may be different from the  
23 timing of hydropower needs. Under any of these circumstances, it  
24 is at least conceivable that the operation of the Project could  
25 change, or even that the County's water use could become the sole  
26 reason for the Project's operation. While this may be  
27 speculation at this point, it was incumbent upon the County to  
28 base its conclusion that its water use would not result in any



1 impact on the lakes on some substantial evidence. In fact, there  
2 appears to be no such evidence in the record, as none of the  
3 evidence respondent cites in its Opposition Memorandum  
4 establishes that point.<sup>242</sup> Accordingly, the County's failure to  
5 discuss the impact of its future water needs on Caples, Silver  
6 and Aloha lakes violated CEQA.

7 The fact that the projected water supplies may not become  
8 available does not excuse the duty to perform an adequate  
9 environmental review of their effects at this stage. As the  
10 Court noted in Stanislaus Natural Heritage Project v. County of  
11 Stanislaus (1996) 48 Cal.App.4<sup>th</sup> 182, 205-206: "It is not  
12 mitigation of a significant environmental impact on a project to  
13 say that if the impact is not addressed then the project will not  
14 be built. The decision not to build may well rest upon the  
15 absence of a suitable or adequate water source. However, the  
16 decision to approve the EIR of this project does require  
17 recognition that water must be supplied, that it will come from a  
18 specific source or one of several possible sources, of what the  
19 impact will be if supplied from a particular source or possible  
20 sources and if that impact is adverse how it will be addressed.  
21 While it might be argued that not building a portion of the  
22 project is the ultimate mitigation, it must be borne in mind that  
23 the EIR must address the project and assumes the project will be  
24 built." Similarly, the decision to approve the General Plan here  
25

26 <sup>242</sup> See AR 68:37201-37202; 214:82344-82345, 82377, 82379; 216:83047-83051; 554:213982; 565:214371,  
27 214388; 567:214721-214723; 57:34172-34215. Much of this material consists of statements taken from the  
28 environmental impact reports for the El Dorado County Water Agency Water Program, responses to comments  
closing brief by the El Dorado County Water Agency and the El Dorado Irrigation District. None of these  
materials would be substantial evidence to support a finding. See Public Resources Code section 21032.2.  
The remainder of the material simply does not prove the point asserted.

1 was based at least in part on the recognition that water must be  
2 supplied and that such water would come from identified sources.  
3 The EIR must address the General Plan and assume that it will be  
4 implemented as adopted. The County violated CEQA by failing to  
5 do so here.

6 Accordingly, the petition for writ of mandate is granted as  
7 to this issue. Pursuant to Public Resources Code section  
8 21168.9(a), the County shall make findings, consistent with this  
9 Ruling and supported by substantial evidence, that the adoption  
10 of the General Plan will not result in any environmental impacts  
11 on Caples, Silver or Aloha Lakes, or, in the alternative, perform  
12 a full environmental review of such impacts pursuant to CEQA.

13 **G: Findings Regarding Insignificant Environmental Impacts**

14 In three instances, petitioners challenge the findings that  
15 certain environmental impacts were insignificant, claiming that  
16 the findings were not supported by substantial evidence. As set  
17 forth below, the challenges to two of those findings have merit.

18 **1. Impact on Wastewater Collection and Treatment**

19 **Facilities:** The first of these involves Impact 4.2.6, which  
20 states: "Additional development accommodated by the Project  
21 Description will increase the demand on EID wastewater collection  
22 and treatment facilities."<sup>243</sup> The EIR states that EID staff  
23 "...have indicated that programs to expand the treatment facilities  
24 are in progress. Their view is that if EID uses the growth  
25 projections for the General Plan that is finally adopted, the  
26 growth can be accommodated by expanded facilities, provided the  
27  
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<sup>243</sup> General Plan Draft EIR, page V.4-38 (AR 540:12000).

1 funding is available."<sup>244</sup> On this basis, the EIR concludes:  
2 "...there is a potential for impacting existing facilities.  
3 However, based on future expansion planned by EID, the impact is  
4 considered less than significant for the Project Description."<sup>245</sup>

5 This finding is insufficient. Although there is a  
6 discussion in the EIR of the planned improvements to the EID  
7 wastewater system<sup>246</sup>, there is no discussion anywhere of the  
8 likelihood of such improvements actually being built. In  
9 particular, there is no discussion of the cost of the  
10 improvements or the likelihood of obtaining funding for them.  
11 Thus, the effect of the EIR on this issue is simply to dismiss a  
12 potentially significant effect based on future contingencies,  
13 without informing the public about whether those contingencies  
14 are realistic.

15 The mere presence of contingency policies in the General  
16 Plan, such as Policy 5.1.2.1<sup>247</sup>, does not cure this defect. The  
17 EIR does not discuss the operation of this policy in relation to  
18 wastewater impacts in any detail, merely mentioning in passing  
19 that it, along with a number of other policies "...would reduce the  
20 magnitude of the impact to waste water collection facilities to a  
21 less than significant level."<sup>248</sup>

22 Moreover, petitioners demonstrate persuasively that the most  
23 significant assumption underlying this finding—that current  
24 treatment systems are working adequately to limit the impact on  
25 the environment—may not be entirely sound. Petitioners cite to  
26

27 <sup>244</sup> AR 540:12001.

28 <sup>245</sup> AR 540:12001. This view is reiterated in the Board's Findings of Fact page 146 (AR 539:17161).

<sup>246</sup> AR 540:11977-11978.

<sup>247</sup> AR 73:38874.

<sup>248</sup> AR 540:12003.

1 evidence in the record showing repeated incidents of improper  
2 operation and maintenance resulting in violations of waste  
3 discharge requirements at the Deer Creek Wastewater Treatment  
4 Plant. Among other things, this evidence tends to show that the  
5 general frequency of waste discharge requirement violations,  
6 particularly regarding coliform content, increased significantly  
7 between January 1991 and October 1994.<sup>249</sup> Given the lack of  
8 evidence that expansion of the system is actually likely to  
9 occur, and evidence that shows that the system may be creating an  
10 adverse impact on the environment now, the finding of  
11 insignificance was not supported by substantial evidence. The  
12 petition for writ of mandate is granted on this issue. Pursuant  
13 to Public Resources Code section 21168.9(a), the challenged  
14 finding shall be voided and the County shall be required to make  
15 a finding regarding the impact on wastewater treatment and  
16 collection facilities that is based on substantial evidence  
17 regarding the realistic expansion potential and current  
18 performance of existing facilities, or to otherwise make a  
19 finding in compliance with CEQA.

20 2. Impact on Hazardous Waste: Petitioners' next challenge  
21 focuses on the County's analysis of Impact 4.2.8: "Additional  
22 residential, commercial, industrial and agricultural development  
23 within the County will increase the use, storage, manufacture,  
24 transport, and disposal of hazardous materials."<sup>250</sup> Although the  
25 County recognized that "[t]he highest percentage of improper  
26 disposal may occur at the household level"<sup>251</sup>, it concluded in  
27

28 <sup>249</sup> See AR 37:28796-28802; 28809-28810.

<sup>250</sup> AR 540:12004-12005.

<sup>251</sup> General Plan Volume II, Background Information, page 6-50 (AR 80:41354).

1 the EIR that "[e]xisting programs for disposal of hazardous waste  
2 should continue to reduce the amount of illegal dumping at the  
3 household level. ...This impact is considered less than  
4 significant...due to planning and regulatory programs currently in  
5 place."<sup>252</sup>

6 This finding is insufficient. It contains no reasoned  
7 analysis or data to support its conclusion. There is no estimate  
8 or quantification of the amount of illegal hazardous waste  
9 disposal occurring at the household level, how that will be  
10 impacted by future development, or any quantified discussion of  
11 the actual effect of the cited programs in reducing improper  
12 disposal. Some such analysis should have been provided to  
13 support the finding of insignificance. The petition for writ or  
14 mandate is granted on this issue. Pursuant to Public Resources  
15 Code section 21168.9(a), the challenged finding shall be voided  
16 and the County shall be required to make a finding regarding the  
17 impact on hazardous waste that is based on substantial evidence  
18 regarding the effect of existing programs on the illegal disposal  
19 of household hazardous waste and discloses the analytic route by  
20 which it was reached, or to otherwise make a finding in  
21 compliance with CEQA.

22 3. Impact on Erosion and Sedimentation: Finally,  
23 petitioners challenge the County's finding regarding Impact  
24 7.2.2, regarding the potential for accelerated erosion and  
25 sedimentation.<sup>253</sup> This particular challenge fails. Petitioners  
26 have not demonstrated how reliance on the County's grading  
27  
28

<sup>252</sup> AR 540:12004-12005.

<sup>253</sup> AR 540:12153.

1 ordinance to mitigate erosion impacts was improper. The evidence  
2 petitioners cite does not demonstrate that current standards  
3 either are inadequate or are not being enforced. The petition  
4 for writ of mandate is denied on this issue.

5 H: Analysis of Cumulative Impacts

6 Petitioners raise three challenges based on the alleged  
7 failure of the County to consider the cumulative environmental  
8 impacts of the new General Plan. In the first of these,  
9 petitioners contend that the County used invalid projections of  
10 future County population as the basis of its analysis.  
11 Specifically, petitioners contend, the County used an inaccurate  
12 "achievable density" figure of 376,814<sup>254</sup> instead of something  
13 much closer to the "maximum development potential" population  
14 figure of 734,000 disclosed in the General Plan Background  
15 Information Volume.<sup>255</sup> This resulted, petitioners assert, in the  
16 County basing its analysis on a population figure that was  
17 unrealistically low.

18 Respondent argues that the "achievable density" figure was  
19 proper, because it represented a reasonable estimate of how  
20 development actually would occur in the County based on  
21 historical development patterns and pending and approved  
22 projects.<sup>256</sup> That estimate is expressed in Table IV-3 in the  
23 Draft EIR, entitled "Achievable Residential Density Assumptions",  
24 in terms of acres per dwelling unit and dwelling units per  
25 acre.<sup>257</sup> In the General Plan Background Volume, the County sets  
26

27  
28 <sup>254</sup> AR 540:11837.

<sup>255</sup> AR 80:41109.

<sup>256</sup> AR 540:11830.

<sup>257</sup> AR 540:11830.

1 forth in somewhat more detail why it believes these assumptions  
 2 to be reasonable; for example, because physical constraints of  
 3 individual parcels may prevent them from being developed to  
 4 maximum allowable density.<sup>258</sup>

5 The EIR does not, however, set forth or refer to any of the  
 6 empirical data upon which these assumptions rest. In its brief,  
 7 respondent cites to a number of documents in the record, but none  
 8 of these references appear to do any more than simply restate the  
 9 language in the Draft EIR. None of the cited evidence actually  
 10 contains the empirical data upon which the assumption was  
 11 based.<sup>259</sup>

12 In contrast, petitioners have cited to a calculation of  
 13 average density by land use for approved, pending and "finalized"  
 14 subdivisions that indicates that the County's figures may not  
 15 accurately reflect actual development.<sup>260</sup> The Court cannot  
 16 resolve the issue of whether the County's assumptions are  
 17 actually correct based on what has been cited to it. It is not  
 18 necessary to do so, however. Based on the record before it, the  
 19 Court finds that the County's "achievable density" population  
 20 figure is not supported by substantial evidence. The use of that  
 21 figure as the basis for environmental review violated CEQA.<sup>261</sup>  
 22 Accordingly, the petition for writ of mandate is granted as to  
 23 this issue. Pursuant to Public Resources Code section  
 24  
 25

<sup>258</sup> AR 80:41110.

<sup>259</sup> See AR 71:37968, 37977, 37983, 38011, 38036; AR 537:199477-199478; AR 540:11818, 11829-11838, 11858; AR 553:208931, 209077, 209078, 209087.

<sup>260</sup> AR 163:66319-66325. Respondent does not address this evidence in its Opposition.

<sup>261</sup> In making this finding, the Court does not intend to make any finding as to whether the figure may in fact be accurate. This ruling does not preclude the County from relying on an "achievable density" population figure in any subsequent environmental review provided that such figure is appropriately supported by substantial evidence.

1 21168.9(a), the County shall perform an analysis of the  
2 cumulative effects of the General Plan based on assumptions  
3 regarding future County population that are supported by  
4 substantial evidence.

5 Petitioners contend that the County violated CEQA by not  
6 addressing the fragmentation of oak woodlands.<sup>262</sup> The Court  
7 finds this contention to be unpersuasive. The Draft EIR clearly  
8 discloses potentially significant impacts to tree-dominated  
9 wildlife habitat, including oak woodlands.<sup>263</sup> One facet of those  
10 impacts that is discussed specifically is the potential  
11 fragmentation of wildlife habitat brought about by the loss of  
12 oak woodlands.<sup>264</sup> Accordingly, the County's treatment of this  
13 impact did not violate CEQA and the writ of mandate is denied on  
14 this issue.

15 The Court does not find that respondent's treatment of air  
16 quality impacts was defective. The Draft EIR discloses a  
17 significant impact based on carbon monoxide emissions at certain  
18 key intersections in the County.<sup>265</sup> Petitioners have not shown  
19 how that disclosure was invalid simply because the County did not  
20 list every intersection projected to be at level of service "F".  
21 Similarly, the Draft EIR discloses a significant impact arising  
22 out of conflict with programs in the APCD Air Quality Attainment  
23 Plan.<sup>266</sup> The petition for writ of mandate is denied as to this  
24 issue.

25

26 <sup>262</sup> This issue is distinct from the issue regarding the change in the oak woodland canopy coverage policy,  
discussed above.

27 <sup>263</sup> General Plan Draft EIR, Biological Resources, Impact 8.2.2: "Direct or indirect loss and fragmentation of  
wildlife habitat and/or degradation of habitat values." (AR 540:1224412255.)

28 <sup>264</sup> See particularly, AR 540:12250-12251.

<sup>265</sup> See AR 541:12428-12432.

<sup>266</sup> AR 540:12432-12433.



1 Finally, petitioners challenge the County's analysis of  
2 cumulative traffic impacts, specifically because it failed to  
3 disclose traffic effects that would be experienced outside the  
4 County. As the Court has ruled above, the traffic impacts of the  
5 General Plan were not adequately addressed under CEQA.  
6 Accordingly, the environmental review of traffic impacts will  
7 have to be re-done. Under those circumstances, the Court  
8 observes that an analysis that clearly discloses traffic impacts  
9 on roads leading into and out of the County would be sufficient  
10 to serve the EIR's function as an informational document. The  
11 petition for writ of mandate is denied on this issue.

12 I: Respondent's Responses to Public Comments Are Not Inadequate

13 Petitioners allege that respondent violated CEQA by  
14 providing inadequate responses to certain comments offered by the  
15 public during the environmental review process.

16 The lead agency does not need to respond to every comment  
17 made during the review process, but it must respond to the most  
18 significant environmental questions presented. The sufficiency  
19 of the responses is evaluated in relation to the scope of the  
20 question; where a general comment is made, a general response is  
21 sufficient. (Browning-Ferris Industries v. City Council (1986)  
22 181 Cal.App.3d 852, 862.) Where the agency disagrees with  
23 recommendations or objections raised in comments, the response  
24 must give detailed reasons why specific comments and suggestions  
25 were not accepted. There must be good faith, reasoned analysis.  
26 Conclusory responses unsupported by factual information are not  
27 sufficient. CEQA Guidelines, section 15088(b). Conclusory  
28 responses "...fail to crystallize issues, and afford no basis for a

1 comparison of the problems caused by the project and the  
2 difficulties involved in the alternatives." (Environmental  
3 Protection Information Center, Inc. v. Johnson (1985) 170  
4 Cal.App.3d 604, 628.)

5 The Court has reviewed the specific comments cited by  
6 petitioners and the responses thereto, and finds that the  
7 responses are adequate under the standards set forth above.  
8 Accordingly, the responses to comments do not violate CEQA, and  
9 the petition for writ of mandate is denied as to this issue. A  
10 brief review of the responses follows.

11 Comment LU-173: Respondent did not refuse to respond  
12 regarding the number of units contemplated in the Development  
13 Agreement. The response referred the commenter to the Planning  
14 Department for specific information. Since petitioners have not  
15 shown that the information was not available there, they have not  
16 shown that the response was inadequate.

17 Comment LU-200: The response adequately discloses the  
18 methodology the County used in analyzing the Low Growth  
19 Alternative, i.e., a countywide analysis. That methodology may  
20 be open to challenge, but that is a matter beyond the adequacy of  
21 the response.

22 Comment LU-111: The response is quite detailed and appears  
23 to address each of the measures the commenter proposes. The  
24 response indicates that those proposals will be passed on to the  
25 Planning Commission for review. Since there is no requirement  
26 that the response commit to adoption of any suggestions, the  
27 response is adequate.

28

1           Comment LU-176: The commenter proposes that the land use  
2 designations for certain areas be changed to a reduced level of  
3 density in the Low Growth Alternative. The response states that  
4 the Board will consider those changes. Again, there is no  
5 requirement that the response adopt the suggestions. The shape  
6 of the Low Growth Alternative is a matter within the discretion  
7 of the County. Although that discretion may be abused, that is a  
8 matter beyond the adequacy of the response, and is dealt with  
9 elsewhere in this Ruling.

10           Comment WA-254: The response appropriately points out that  
11 the specific terms of an urban runoff ordinance will be worked  
12 out as part of the implementation of the General Plan policies,  
13 and not at the stage of the General Plan level EIR. Accordingly,  
14 the response is adequate.

15           Comment LU-36: The response explains in sufficient detail  
16 why a planned development has not been considered for the Pilot  
17 Hill Rural Center.

18           Comment LU-110: The commenter seeks a fundamental change in  
19 the nature of the General Plan. Since this is a general issue,  
20 the level of detail in the response is adequate.

21           Comment LU-126: The response adequately explains that the  
22 difficulties of monitoring a mitigation measure such as the one  
23 proposed may make it infeasible.

24           Comment LU-184: The response is adequate, since the general  
25 scope of differences between the Project Description and the Low  
26 Growth Alternative can be determined by comparing them directly.  
27 Specific quantification of the acreage of vacant or agricultural  
28 land that may be converted to urban uses does not seem reasonably

1 possible given that a General Plan, or an alternative plan, is a  
2 general guide to future development rather than a precise  
3 indicator of how much development will occur.

4       Comment LU-202: Petitioners may have shown some  
5 inconsistency between the response and the impacts of the Project  
6 Description and the Low Growth Alternative as disclosed in the  
7 Draft EIR and its Supplement (i.e., there would be insufficient  
8 parkland). The fact that those impacts were disclosed, however,  
9 suggests that the response to this comment did not frustrate the  
10 informative purposes of CEQA.

11       Comment LU-216: Petitioners have not shown how the response  
12 to this comment regarding the separation of community centers is  
13 inconsistent with the Supplement to the Draft EIR's disclosure of  
14 impacts within Community Regions.

15       Comment WA-266: Petitioners have not made clear how the  
16 response to a comment regarding a particular type of septic  
17 system is necessarily inconsistent with the Draft EIR's general  
18 findings regarding groundwater impacts from septic systems.

19       Comment LU-207: The response is adequate in that it states  
20 the basis for not adopting a suggested mitigation measure.  
21 Petitioners may disagree with the decision, but that disagreement  
22 does not provide a basis for finding the answer insufficient.

23       Comment BIO-138: The response adequately addresses the  
24 commenter's suggestion that setbacks from aquatic resources  
25 should be increased over those recommended in the General Plan  
26 and the EIR. It is unclear how the response could have disclosed  
27 that the County ultimately adopted no quantitative standards,  
28

1 when such adoption was not to take place at the General Plan  
2 stage.

3 Comments WA-203 and WA-242: The responses make adequate  
4 reference to the location of public information.

5 Comment BIO-125: The response seems reasonably adequate in  
6 that the specific degree of fragmentation cannot be determined  
7 until specific development proposals are made.

8 J: Statement of Overriding Considerations

9 Rounding out their CEQA challenges to the adoption of the  
10 General Plan, petitioners assert that the County's Statement of  
11 Overriding Considerations is unsupported by substantial evidence.  
12 Public Resources Code section 21081(b) permits a public agency to  
13 approve a project with significant environmental effects if it  
14 finds that "specific overriding economic, legal, social,  
15 technological, or other benefits of the project outweigh the  
16 significant effects on the environment." CEQA Guidelines section  
17 15093 explains that the decision maker must balance the benefits  
18 of a proposed project against its unavoidable environmental  
19 effects, and may find that the adverse environmental effects are  
20 "acceptable" if the benefits of the project outweigh them. The  
21 public agency must state in writing its specific reasons to  
22 support its action based on the final EIR and/or other  
23 information in the record.<sup>267</sup>

24 The Statement of Overriding Considerations occupies a unique  
25 place in the CEQA process. It might be described as a hybrid  
26 between a general statement of the public agency's policy choices  
27 (something that at first glance seems unsuitable for substantial  
28

<sup>267</sup> CEQA Guidelines, section 15093(b).

1 evidence review) and specific findings of fact (which are well  
2 suited to such review). Courts have recognized the dual nature  
3 of such statements, but have found that they must be supported by  
4 substantial evidence in the record, at least where they make  
5 specific factual claims in support of their policy conclusions.  
6 (See Sierra Club v. Contra Costa County (1992) 10 Cal.App.4<sup>th</sup>  
7 1212, 1223; Towards Responsibility in Planning v. City Council  
8 (1988) 200 Cal.App.3d 671, 684.)

9 Before turning to the specifics of petitioners' claim, the  
10 Court notes that the Statement of Overriding Considerations here  
11 has been undermined and, to some extent, invalidated by the  
12 Court's findings that the environmental review process was  
13 defective as set forth above. As the final summing up of a  
14 decision maker's findings and policy choices with regard to a  
15 project, the Statement of Overriding Considerations relies and is  
16 dependent upon all aspects of the environmental review process.  
17 If, as the Court has found here, there have been, among other  
18 things, inadequate findings and/or environmental review of the  
19 effects of the project as actually adopted, inadequate findings  
20 regarding alternatives, and inadequate findings regarding the  
21 feasibility of mitigation measures, the Statement of Overriding  
22 Considerations rests upon an infirm base. It must fall with the  
23 environmental review as a whole. At a minimum, the Statement of  
24 Overriding Considerations must be redrafted to take into account  
25 any changes made in the environmental review of the General Plan  
26 that are made to bring that review into compliance with CEQA.  
27 Accordingly, in this case the Court finds that the County  
28 will be required to consider and adopt a new Statement of

1 Overriding Considerations based on the final environmental review  
2 of the General Plan. Thus, the Court grants the petition for  
3 writ of mandate to require the County to void the existing  
4 Statement of Overriding Considerations pursuant to Public  
5 Resources Code section 21168.9(a). To provide some guidance to  
6 the parties in the ultimate process of adopting a new Statement,  
7 the Court will address petitioner's specific claims regarding the  
8 present Statement.

9 In this case, the County's Statement of Overriding  
10 Considerations states generally that "[t]he remaining  
11 significant, unavoidable impacts of the Final General Plan are  
12 acceptable in light of the social, economic, and other  
13 considerations set forth herein because the benefits of the Final  
14 General Plan outweigh the significant and unavoidable impacts of  
15 the Plan."<sup>268</sup> The statement then discusses a number of specific  
16 economic and social benefits that will flow from adoption of the  
17 Plan. Petitioners assert that several of these items are  
18 unsupported by evidence in the record: 1) that the Plan balances  
19 growth with the need to protect the environment; 2) that the Plan  
20 will increase expenditures by local residents at local  
21 businesses, thereby increasing the County's revenues; 3) that the  
22 Plan provides for resource conservation, habitat protection, and  
23 recreation; 4) that the oversupply of land use designations the  
24 Plan provides offers flexibility to landowners and project  
25 proponents; and 5) that the Plan will let the market and other  
26  
27  
28

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<sup>268</sup> AR 539.17443.

1 constraints direct the type, location and size of new  
2 development.<sup>269</sup>

3 With one exception, the challenged statements either express  
4 general policy goals, and thus are not particularly susceptible  
5 to proof by evidence in the record, or are in fact supported by  
6 the record. For example, it is clear from a review of the  
7 General Plan that it does make some effort to balance growth with  
8 environmental protection, although perhaps not to the extent  
9 petitioners would prefer. The existence of numerous mitigation  
10 measures designed to cope with some of the consequences of growth  
11 is sufficient proof of that. Similarly, a review of the Plan's  
12 policies shows that it does provide for some level of resource  
13 conservation, habitat protection and recreation, although, again,  
14 petitioners wish there was more. The County's findings that the  
15 Plan promotes flexibility and permits the market and other  
16 constraints to direct development, on the other hand, are less  
17 statements of fact than descriptions of the policy approach the  
18 County took in developing the Plan. Such statements are not  
19 particularly susceptible to empirical proof. Accordingly, the  
20 Court does not find that these statements are invalid.

21 The remaining finding, however, regarding County revenues,  
22 is a statement of fact that may be tested against the record.  
23 Petitioners have cited to evidence in the record that tends to  
24 undercut the implication in the statement that the Plan will  
25 result in a positive effect on County revenues.<sup>270</sup> Respondent  
26 has not cited any evidence in support of this statement, other  
27

<sup>269</sup> All of these statements are found on AR 339:17449.

<sup>270</sup> "[U]nder the General Plan Project Description, the County's General Purpose Fund would experience a fiscal deficit or funding shortfall in all three time periods analyzed. ... These fiscal results imply that new development would not generate sufficient revenues to fund required services." (AR 38:28994.)



1 than to provisions of the Plan itself. The Court finds,  
2 accordingly, that this particular assertion in the Statement of  
3 Overriding Considerations is not supported by substantial  
4 evidence.

5 K. Conclusion Regarding CEQA Issues

6 As set forth in detail above, the Court has found several  
7 instances in which the County's environmental review of the  
8 General Plan violated CEQA. In each instance, the Court has set  
9 forth the action that must be taken to address the specific  
10 violation of CEQA pursuant to Public Resources Code section  
11 21168.9(a).

12 In addition to the specific orders set forth under the  
13 individual headings above, the Court grants the petition for writ  
14 of mandate to require that the County's certification of the  
15 Environmental Impact Report for the General Plan, and the  
16 approval of the General Plan based on such certification, be  
17 vacated as a whole pursuant to that statute. (See Laurel Heights  
18 Improvement Association v. Regents of the University of  
19 California (1988) 47 Cal.3d 376, 428.) Public Resources Code  
20 section 21168.9(b) states that the Court's order "...shall be  
21 limited to that portion of a determination, finding, or decision  
22 or the specific project activities found to be in noncompliance  
23 only if a court finds that (1) the portion or specific project  
24 activity or activities are severable..." The Court finds that the  
25 specific violations of CEQA set forth above are not severable  
26 from the environmental review of the General Plan as a whole, and  
27 that an Environmental Impact Report cannot be certified in  
28 compliance with CEQA until such violations are corrected.

1 This ruling does not mean, however, that the County must  
2 rewrite the Environmental Impact Report as a whole. Many  
3 sections of that Report were not challenged in this proceeding,  
4 and a number of the challenges that were made to other sections  
5 of the Report failed. Respondent does not need to re-do its work  
6 on those sections, unless something in the work the County does  
7 to comply with this Ruling affects the validity of what is  
8 contained in those sections in some way that cannot be  
9 anticipated here. Nor does this Ruling require the County to  
10 rewrite the General Plan. This Ruling merely requires the County  
11 to correct the violations of CEQA that occurred during the  
12 environmental review process, either by making proper findings or  
13 by performing a proper environmental review of certain aspects of  
14 the Plan as set forth above.

15 The result of that process may well be that there are no  
16 changes in the General Plan whatsoever. The goal of CEQA,  
17 however, is not necessarily to force changes in a project to make  
18 it more environmentally benign. Instead, the goal of the law is  
19 to promote full disclosure and public discussion of the  
20 environmental costs of a project and to require decision makers  
21 to set forth the full basis of actions that affect the  
22 environment so that the public will be able "to determine the  
23 environmental and economic values of their elected and appointed  
24 officials, thus allowing for appropriate action come election day  
25 should a majority of the voters disagree." (People v. County of  
26 Kern (1974) 39 Cal.App.3d 830, 842.) Only when those goals have  
27 been achieved through full compliance with CEQA will the County  
28

1 be able to certify the Environmental Impact Report and approve  
2 the General Plan.

3 III. Application of the Public Trust Doctrine

4 Petitioners' third cause of action alleges a violation of  
5 the so-called public trust doctrine. Once again, petitioners  
6 focus on water, alleging that the water diversions necessary to  
7 support development that will occur under the General Plan will  
8 have an adverse effect on several bodies of water protected by  
9 the public trust doctrine: the South Fork of the American River  
10 and Silver, Caples and Aloha Lakes. Petitioners' claim has two  
11 apparent aspects: first, that the adoption of the General Plan in  
12 its final form was a per se violation of public trust rights; and  
13 second, that the County failed to consider public trust rights in  
14 the development and environmental review of the Plan.

15 The public trust doctrine is one of ancient origin. As  
16 incorporated into California law, it establishes that the State  
17 holds title to all of its navigable waterways as a trustee of a  
18 public trust for the benefit of the people. See Colberg, Inc. v.  
19 State of California (1967) 67 Cal.2d 408, 416.<sup>271</sup> In National  
20 Audubon Society v. Superior Court (1983) 33 Cal.3d 419, the  
21 Supreme Court discussed the application of the doctrine to the  
22 California water rights system. The Court found that the "core  
23 of the public trust doctrine is the state's authority as  
24 sovereign to exercise a continuous supervision and control over  
25 the navigable waters of the state and the lands underlying those  
26

27 <sup>271</sup> Respondent does not argue that the above-mentioned bodies of water are not navigable waterways subject to  
28 the public trust doctrine. Petitioners have cited authority for the proposition that they are. Petitioners'  
Revised Opening Trial Memorandum, page 92 and fn. 21. For the purposes of this discussion, the Court finds  
that the South Fork of the American River and Silver, Caples and Aloha Lakes are navigable waterways  
subject to the public trust doctrine.

1 waters.<sup>272</sup> Given the realities of California's need for water,  
2 however, the Court found that the doctrine did not absolutely  
3 prohibit the State from granting the right to divert water from  
4 navigable bodies. "The state must have the power to grant  
5 nonvested usufructuary rights to appropriate water even if  
6 diversions harm public trust uses. Approval of such diversion  
7 without considering public trust values, however, may result in  
8 needless destruction of those values. Accordingly, we believe  
9 that before state courts and agencies approve water diversions  
10 they should consider the effect of such diversions on interests  
11 protected by the public trust, and attempt, so far as feasible,  
12 to avoid or minimize any harm to those interests."<sup>273</sup>

13 From this holding, it is clear that the County's adoption of  
14 the General Plan did not violate the public trust doctrine. As  
15 the Supreme Court emphasized, it is the State that has the power  
16 to grant water rights.<sup>274</sup> The General Plan may, as petitioners  
17 contend, depend upon the granting of rights to divert water from  
18 the above-named bodies, but it does not actually grant such  
19 rights. The County does not have the power to do so, and its  
20 expressed desire to plan on the basis of such rights does not  
21 guarantee that such rights ever will be granted. When and if  
22 applications are made for such water rights, the State will have  
23 the duty to consider public trust rights in deciding whether to  
24 grant them. Accordingly, the public trust doctrine does not  
25 serve as a basis for invalidation of the General Plan, or for  
26

27 <sup>272</sup> 33 Cal. 3d at 423.

28 <sup>273</sup> 33 Cal. 3d at 426.

<sup>274</sup> See 33 Cal. 3d at 446: "As a matter of current and historical necessity, the Legislature, acting directly or through an authorized agency such as the Water Board, has the power to grant usufructuary licenses that will permit an appropriation to take water from flowing streams...."

1 requiring the County to adopt a plan that does not rely on  
2 diversions from navigable waters.

3 Petitioners are on firmer ground, however, when they contend  
4 that the doctrine required the County to consider the effect of  
5 its proposed water use on public trust waters. In effect,  
6 petitioners' public trust claim is, to this extent, merely a  
7 restatement of its CEQA claim. The Supreme Court recognized that  
8 the public trust doctrine and CEQA impose parallel obligations.  
9 Although the Court in National Audubon Society relied primarily  
10 on the public trust doctrine in holding that the State had a duty  
11 to consider the effect on navigable waters in the planning and  
12 allocation of water resources, and to protect public trust uses  
13 of such waters wherever feasible, the Court pointed out that  
14 "[t]he requirements of the California Environmental Quality  
15 Act impose a similar obligation."<sup>275</sup>

16 This Court already has found that respondent violated CEQA  
17 by failing to make proper findings regarding, or perform an  
18 adequate review of, the effect of its proposed water diversions  
19 on Silver, Caples and Aloha Lakes. Petitioners' public trust  
20 argument is just another way of making that point. Accordingly,  
21 the Court finds no independent violation of the Public Trust  
22 Doctrine and denies the petition for writ of mandate on that  
23 issue.

#### 24 Conclusion

25 The form and content of the El Dorado County General Plan do  
26 not violate the Planning and Zoning Law, and the Court does not  
27 invalidate the Plan on that basis. Similarly, the water use  
28

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<sup>275</sup> 33 Cal. 3d at 446, fn. 27.

1 projected under the Plan does not violate the Public Trust  
2 Doctrine. The petition for writ of mandate accordingly is denied  
3 as to the First and Third Causes of Action. Several aspects of  
4 the environmental review of the General Plan, however, violated  
5 the provisions of the California Environmental Quality Act as set  
6 forth in the Second Cause of Action, and the Court grants the  
7 petition for writ of mandate as to those violations and voids the  
8 County's certification of the Environmental Impact Report on the  
9 Plan on that basis.

10 The Court directs respondent to prepare a writ of mandate  
11 and a judgment in accordance with the rulings stated herein, to  
12 present those documents to counsel for petitioners for approval  
13 as to form, and to present the approved documents to the Court  
14 for signature and filing.

15  
16 DATED: FEB - 5 1999

CECILY BOND

JUDGE OF THE SUPERIOR COURT

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## **Appendix F. Letter of Concurrence from USFWS**







United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Sacramento Fish and Wildlife Office  
2800 Cottage Way, Room West 2605  
Sacramento, California 95825

IN REPLY REFER TO:  
1-1-00-I-1408

April 4, 2000

John D. Webb, Chief  
Office of Environmental Management, Sacramento  
California Department of Transportation  
2800 Gateway Oaks, Suite 100  
Sacramento, California 95833

Subject: Informal Endangered Species Consultation on the U.S. Highway 50/El  
Dorado Hills Boulevard-Latrobe Road Interchange Project,  
El Dorado County, California

Dear Mr. Webb:

This is in response to your letter dated May 21, 1999, requesting concurrence with the determination that the proposed action, the construction of the U.S. Highway 50/El Dorado Hills Boulevard-Latrobe Road Interchange Project, is not likely to adversely affect the federally-listed threatened California red-legged frog (*Rana aurora draytonii*). Based on a review of the site assessment and the natural environmental study transmitted with your correspondence, the U.S. Fish and Wildlife Service concurs with the determination that the construction of this project will not adversely affect the California red-legged frog or any other federally-listed threatened or endangered species. Therefore, unless new information reveals that the proposed action may affect listed species in a manner or to an extent not considered, or a new species or critical habitat is designated that may be affected by the proposed action, no further action pursuant to the Endangered Species Act of 1973, as amended, is necessary.

Please contact Jason Davis or Maria Boroja of my staff at (916) 414-6600, if you have questions regarding this response.

Sincerely,

Karen J. Miller  
Chief, Endangered Species Division

