Comment Letter No. 23

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Subject: Comments on the DEIR for the City of Tracy/Surland Companies Development Agreement and Ellis Specific Plan Applications

Dear Mr. Dean,

CAlifornians for Renewable Energy ("CARE") hereby submits their **Comments on the Revised Draft EIR for the City of Tracy/Surland Companys Ellis Specific Plan Applications**.

By:

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Comments on the REVISED DRAFT EIR for the City of Tracy/Surland Companies Development Agreement and Ellis Specific Plan Applications

September 13, 2012

Dear Mr. Dean,

Thank you for the opportunity to comment on the City of Tracy/Surland Companies development agreement (DA) and Ellis Specific Plan Application. (DREIR) The notice of preparation states that, *"A revised Ellis EIR ("Revised Ellis EIR" or "Draft Revised EIR") has been prepared pursuant to the California Environmental Quality Act (CEQA) and the CEQA Guidelines in response to the trial judge's Statement of Decision and Judgment, addressing and remedying those issues that the trial judge found objectionable."* CARE finds it perplexing that the City is seeking to overturn the trial judge's decision in court while at the same time revising the original application to conform to the judges ruling.

Unfortunately this latest modified EIR does little to correct the deficiencies identified by the public and the judge in the original EIR. The revised EIR does not mitigate the traffic impacts, fails to identify and mitigate hazardous materials impacts, does not quantify the GHG impacts related to the various alternatives and contains numerous CEQA violations. In the following we outline the deficiencies and propose corrective measures so that the EIR can comply with CEQA.

Ellis Specific Plan

Air Quality

The EIR correctly determines that the project will have a significant and unavoidable impact on regional air quality. The project then fails to provide adequate mitigation for the impacts. The project can improve its impacts to air quality by first choosing an alternative site that is closer to the cities core services and commercial districts. The proposed project only has development on one side and creates another county island along Corral Hollow Road. The project also contains traffic circulation patterns that are inefficient and cause additional Vehicle Miles Traveled (VMT). The project should be laid out in a concentric grid pattern to reduce VMT within the project. Additional access points to the development connected to these concentric grid patterns could reduce criteria pollutants and GHG emissions at little cost to the developer. The project does not conform to the following General Plan Policies for air quality:

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City General Plan Air quality Goal AQ-1: Improved air quality and reduced greenhouse gas emission states, "The City shall promote land use patterns that reduce the number and length of motor vehicle trips." Because the project does not contain an organized grid pattern vehicle trips will be considerably longer within the proposed project. The project also is not concentric to other city development and is located far from the city core which will create additional criteria air pollution and GHG emissions. The project needs more access points to reduce driving within the development to reach the major arterials. Other alternative sites have better access to city services and shopping and these alternatives would mitigate the significant and unavoidable impact. 23.2

Policy # P2 states, "To the extent feasible, the City shall maintain a balance and match between jobs and housing." The project has the potential to add several thousand residents but provides no meaningful job opportunities in violation of AQ-1 Policy #2. 23.3

Policy # P3 requires that, "Higher density residential and mixed-use development shall be encouraged adjacent to commercial centers and transit corridors." The Ellis development would be located far from commercial centers and would result in additional vehicle miles traveled for shopping and other services. The alternative sites are more concentric and closer to shops, services and restaurants. 23.4

Policy P10 requires that, "Stationary air pollutant emission sources (e.g. factories) shall be located an appropriate distance away and downwind from residential areas and other sensitive receptors." The Ellis project is locating directly downwind form the Tracy combined cycle Project, the Owens Illinois Glass Plant, and the Tracy Biomass Plant. The EIR must contain an analysis of the impacts of these facilities and the project emissions of criteria pollutants and greenhouse gases. 23.5

P12. New sources of toxic air pollutants shall prepare a Health Risk Assessment as required under the Air Toxics "Hot Spots" Act and, based on the results of the Assessment, establish appropriate land use buffer zones around those areas posing substantial health risks. Since the project is choosing to locate near Tracy's major industrial facilities and air toxics hotspot analysis is necessary and the EIR must present one. 23.6

P14. Developments that significantly impact air quality shall only be approved if all feasible mitigation measures to avoid, minimize or offset the impact are implemented. All mitigation measures have not been provided so the Ellis Project conflicts with this policy. 23.7

Traffic and Transportation

The traffic and Transportation analysis relies on a 2006 traffic study. The study has not been updated for individual roads and intersections. The EIR states that through some mechanism the City has determined that Tracy's traffic levels have decreased by 2% so the 2006 study is valid. That assumption ignores future projects and projects that have been completed since the 2006 study was conducted that impact individual roadways and intersections. One of the major intersections which has been determined to 23.8

have significant impacts from the Ellis Project is Corral Hollow and Valpico Road. Since 2006 St. Bernard's Catholic Church has constructed its Holy Family Center which serves the Saint Bernard Parish of more than 5,00 parishioners. The presence of the new church center has created greatly increased traffic which is not captured in the 2006 study. In fact the opening day of the family center two accidents occurred outside the gate. As mitigation the EIR proposes to have the developers of the individual projects within Ellis to pay their fair share of proposed road improvements. The road improvements cannot be implemented until the finance and implementation plans have been funded. The leapfrog development pattern common on Corral Hollow Road which this development represents prevents the funding of individual road segment and intersections.

The EIR states that the significant impacts to the Corral Hollow and Valpico Road intersection "would be reduced to less than significant levels by adding these improvements to the intersection through implementation of Mitigation Measure 4.13-5. As identified in Mitigation 4.13-5, the Project Applicant shall pay their fair share contribution towards the implementation of this improvement. Signalizing the intersection and widening the southbound approach to provide two lanes would raise the level of service to C. Implementation of this improvement shall be assured through the Applicant's (and/or future developers) participation in and the commitment to the Modified ESP Finance and Improvement Plan (FIP)." 23.9

The EIR provides no analysis of the 2012 existing conditions at the intersection and consequently the dated 2006 traffic analysis and the EIR cannot possibly discern what mitigation measures are appropriate since they have not analyzed the proper baseline conditions. The traffic analysis must be updated to reflect the impacts of the project in conjunction with the new traffic generated by the St Bernard's Holy Family Center to determine appropriate mitigation measures to implement to mitigate the significant impacts.

The other intersection that the Ellis Projects traffic has been determine to have a significant impact is the Lammers Road/Schulte road intersection which is also has been heavily impacted by the construction of Kimball High School. The 2006 traffic study does not reflect the traffic impacts of this 2,000 student high school facility. The proposed mitigation is "signalizing the intersection through implementation of Mitigation Measure 4.13-5. As identified in Mitigation 4.13-5, the Project Applicant shall pay their fair share contribution towards the implementation of this improvement. City of Tracy Modified Ellis." The inadequate 2006 Traffic study cannot possibly determine the baseline levels of service since the addition of Kimball High School in conjunction with the impacts of the Ellis Project. Adequate mitigation for the significant impact of this 2,250 home project and the 2,000 plus high school generated daily trips on the intersections of Lammers and Schulte Road is going to require additional lanes to mitigate these impacts.

The EIR on page 4.13-46 states that, "The Corral Hollow Road/Schulte Road intersection may have right-of-way constraints that preclude it from further at-grade physical improvements. As an alternative to additional physical improvements at this location, the City may exempt this location under policy P2 of Objective CIR-1.3 of the General Plan.[1] This intersection is the next major intersection after Corral Hollow/Valpico. The area between the Corral Hollow Road/ Linne Road intersections 23.10

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and the Corral Hollow/Schulte Road intersections is already one of the most dangerous stretches of road in Tracy. This has occurred because of the cities propensity to create county islands with leapfrog development patterns exactly like the Ellis Project. Since development is not concentric the funding for the road improvements is inadequate and the improvements do not occur. Tracy has added thousand of homes along Corral Hollow road without any improvements to the road between the Corral Hollow Road/ Linne Road intersections and the Corral Hollow/Schulte Road intersections. The DREIR now proposes to increase those daily traffic impacts by up to 2,000 trips a day on an already severely degraded stretch of road with no sidewalks for pedestrians or bicycle lanes. This has created a dangerous situation with frequently occurring tragic traffic accidents. 23.10 cont

The Grantline Road/ Byron Highway intersection is considered to have significant traffic impacts from the proposed project. Since the 2006 traffic study was conducted additional retail stores like Winco and additional restaurants and shops have been constructed which are not accounted for in the 2006 traffic study. Future additions to the area like the Super Wallmart project are not considered in the traffic analysis. The two lane section of Grantline Road between Costco and Byron highway is also impacted without any significant analysis or appropriate mitigation measures including the Lammers Road/Grantline Road intersection which has already taken lives due to the city's propensity to build first and provide infrastructure later. 23.11

The two main roads which will incur significant impacts from the Ellis Project Corral Hollow and Grantline Road already have the highest traffic incident rates in the city. The Draft Revised EIR ignores the mayhem that is occurring on these two streets from the already unacceptable road conditions. The original EIR for the Ellis Project listed these impacts as significant and unavoidable. As stated in the original EIR;

"Currently, all study intersections operate acceptably during the morning peak hour except Byron Road/ Grantline Road, and all except for two (Corral Hollow Road/ Valpico Road and Byron Road/ Grant Line Road) operate acceptably during the evening peak hour. "The intersection of Corral Hollow Road/Valpico Road is not located within the City, and is under the control of the County. The financing and construction of roadway improvements is, in part, contingent upon the City collecting enough fees from various applicants to fully fund the improvements. In addition to securing funding, the improvements need to be planned through the development of Finance and Implementation Plans (FIP) and incorporated into the City's Capital Improvement Program. "Due to the uncertainty of the collection of fees to fully fund required improvements, it is not possible to guarantee that the improvements will be completed in a time frame necessary to mitigate the impacts of the ESP. Until such time as the improvements are constructed, impacts would be significant and unavoidable." (ESP EIR page 3B.3-28) 23.12

Alternatives

The EIR dismisses all considered alternatives without comparison of the impacts of each proposed alternative to the proposed project. The EIR merely assumes that the project applicants have no site control and do not meet the projects objective of developing the Ellis Specific Plan. The projects objective of developing the Ellis specific plan limits all other alternatives without further consideration and is contrary to CEQA's requirements of a meaningful and complete analysis of a full range of alternatives. 23.13

OFF-SITE LOCATIONS

Keenan Saddlebrook Development Area

The EIR states that, *"CEQA Guidelines Section 15126.6(f) (1) establishes that one of the factors to take into consideration when determining the feasibility of an alternative is "whether the proponent can reasonably acquire, control, or otherwise access the alternative site." UR 9 is not owned or controlled by the Project Applicant and therefore, it is both unrealistic and infeasible for the Project Applicant to propose a specific project on property not under its control or with a feasible option to control it in the future."* **The EIR is factually incorrect. The project developer Keenan Land has a 15 year option on the land with 9 years remaining.** 23.14

The EIR states that, "*One of the primary Modified ESP project objectives of the City is to implement the General Plan's policies and vision for TR-Ellis.* ***This objective can only be accomplished by developing the Modified Project site with the Modified ESP****. Thus, developing an alternative site, such as UR 9 with the Modified ESP would not meet the City's objective of implementing the General Plan's policies and vision for TR-Ellis".* Obviously no other site alternative option could satisfy the requirement of development of the Ellis Project. Under CEQA, a lead agency may not approve a project if there are feasible alternatives that would avoid or lessen its significant environmental effects. (§§ 21002, 21002.1(b).) To this end, an EIR is required to consider a range of potentially feasible alternatives to a project, or to the location of a project, that would feasibly attain most of the project's basic objectives while avoiding or substantially lessening any of the project's significant environmental impacts. (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1456.) The discussion of alternatives must be sufficiently detailed to foster informed decision-making and public participation, not simply vague and conclusory. (*Id.* at pp. 1456, 1460.) The EIR has limited all alternative sites by imposing a requirement as a qualifying factor for an alternative site that it meets the projects objective of developing the Ellis project. This requirement in the EIR impermissibly limits the alternatives analysis and does not comply with CEQA. 23.15

The EIR also states that, "Moreover, the City's other primary objective is to obtain significant funding for, or develop a public-private partnership for the construction of, a family-oriented swim center that is economically viable and sited in a central location, with easy and safe access for pedestrians and bicyclists. Kennan Land has 23.16

previously offered the city land and money to construct a Ball Park or an aquatic facility at their site so the EIR again is inaccurate. 23.16 cont

The Saddlebrook Project could provide economic development also although it would be on a smaller scale. The smaller scale retail development would allow other commercial and retail establishment to proceed to construction in other areas so this is not a valid reason to reject the Saddlebrook alternative. Another reason provided by the EIR to reject Saddlebrook is that it is not sited in a central location, with easy and safe access for pedestrians and bicyclists. First the Saddlebrook Project is in a more central location than the ESP. Further the EIR specifically notes that one of the factors that favors not locating the aquatic center at Ellis is the, **"Limited accessibility and safety for pedestrians and bicycles and that the Ellis Project is not a central location."**[2] 23.17

Lastly the EIR rejects the Saddlebrook proposal by stating that, *"Saddlebrook is already contemplated by the General Plan for other uses; thus, it would likely be developed in addition to Ellis, and therefore should not be presumed to be an alternative location."* Ironically the EIR rejects the Plan B/Moitoso property because it is not in the general plan. If the project were not in the general plan it could not be considered an alternative to begin with. 23.18

The fact is the Saddlebrook project would eliminate and reduce some of the significant impacts of the Ellis Project. The Saddlebrook Project is not located next to the airport so it eliminates aviation noise and traffic impacts. The project is closer to the City's core and services so the significant and unavoidable GHG and air quality impacts would be substantially reduced. The Saddlebrook Project is not adjacent to the railroad tracks so train noise would not be a significant impact. The project does not have three pipelines running through it. The Saddlebrook alternative is clearly the superior alternative. 23.19

Moitoso/Plan B Development Area

The EIR rejects the Plan B option because it claims the land is not controlled by the project applicant. The land is more than controlled it is outright owned by the Moitoso extended family. Once again the EIR impermissibly requires that the proposed alternative meet the objective of developing the ESP. As discussed above CEQA does not allow such a requirement in an EIR. The EIR rejects the Saddlebrook Project because it is in the general plan and then rejects the Plan B alternative because it's not in the general plan. The EIR also rejects the Plan B alternative stating that it is not centrally located and does not provide safe access for pedestrian and bicyclists. This not a reason to reject the alternative as the EIR specifically notes that one of the factors that favors not locating the aquatic center at Ellis is the, *"Limited accessibility and safety for pedestrians and bicycles and that the Ellis Project is not a central location."*[3] The EIR also states that funding and land for the aquatic center would bed lost if the Plan B alternative were adopted. There is plenty of evidence in the administrative record of this project that Mabel Moitoso has offered to dedicate 50 acres of land for a sports Facility. 23.20

[2] RDEIR Page 6-12
[3] RDEIR Page 6-12 Page 97-102

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Again Plan B eliminates or minimizes some of the significant impacts of the ESP because it is more central it eliminates some of the GHG and air pollution impacts that were identified in the Ellis RDEIR. It is not next o the airport or active train tracks so train noise is not a consideration. It has no pipelines on it. It is superior location to the Ellis Project. 23.20 cont

Alvarez Family Option

The EIR again rejects this alternative on the premise the project proponent lacks site control. The land is owned by the Alvarez Family and is currently used for farming. There is ample evidence in the cites administrative record for this project that this alternative proposal has come before the city council by the Alvarez family who owns and controls the property. It is untrue that the Alvarez site has not offered land and money for development of the aquatic center or ball parks. The letter offering the land for sports activities is in the 2008 Final Ellis EIR. [4] 23.21

The EIR is factually incorrect and fails to discuss how significant impacts from the development of the proposed Ellis Project are mitigated by the use of alternative sites. Railroad noise and airport impacts are avoided by all of the proposed alternatives. All three alternatives are closer to the city core and commercial development and will reduce criteria air pollutant and GHG emissions both significant and unavoidable impacts. All three proposed alternatives do not have a 36 inch natural gas line and a 24 inch natural gas line and a petroleum pipeline onsite. The alternatives analysis fails to comply with CEQA. 23.22

Noise

General Plan policy P. 1 requires that noise sensitive land uses shall not be located in areas with noise levels that exceed those normally acceptable for each land use unless measures can be implemented to reduce noise to acceptable levels. The Tracy Municipal Airport is located southeast of the ESP site bordering Corral Hollow Road and Linne Road. The General Plan Noise Element states within Objective N-1.1 Policy 5 and Policy 7 that "All new residential land uses shall maintain a standard of 45 Ldn in building interiors" and that "New residential development affected by noise from railroads or aircraft operations shall be designated to limit typical maximum instantaneous noise levels to 50 dBA in bed rooms and 55 dBA in other rooms," respectively. The recommended mitigation measures in the EIR require Focused Acoustical Studies for areas within the Acoustical Impact Zones but even with these mitigation measures the EIR states that a potentially significant impact could still occur. Therefore, it is anticipated that with further acoustical analyses and implementation of recommended design features, on-site noise levels would be significant and unavoidable. (ESP DEIR page 3B.5-32) General Plan policy P2 states the City shall ensure that significant noise impacts are mitigated as a condition of project approval. The ESP does not comply with the general plan policies P1 and P2. Appendix G of the State CEQA 23.23

[4] (http://www.ci.tracy.ca.us/documents/Ellis_Specific_Plan_Final_EIR_December_2008.pdf

Guidelines requires that development cannot expose persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance. CEQA also requires that a project located within an airport land use plan may not expose people residing or working in the Project site to excessive noise levels. The ESP violates both CEQA and the general plan policies related to airport noise. The EIR also needs to discus the existence of the Acrobatic Box near the Tracy airport as it has already generated numerous noise complaints form residents of Edgewood.[5] (http://tracypress.com/content/view/12284/2244/) 23.23 cont

The EIR states that, "railroad train noise would remain significant and unavoidable, as there are no detailed site plans available at this time to determine specific noise impacts to future residential uses. Thus, at this time, noise impacts to future residential uses along the Union Pacific Railroad are considered to be significant"[6]. A portion of the Ellis project lies next to the Union Pacific Train Tracks. The Federal Railroad Administration and California Public Utilities Commission rules currently require that all trains approaching roadway-rail grade crossings blow their horns for one quarter of a mile prior to reaching the grade crossing. Modeling for train horn noise in the EIR has estimated the impacted area would extend approximately 955 feet on either side of the railroad right-of-way at the Corral Hollow Road crossing. The severe impact distance at the crossing would be 550 feet. The nearest proposed residential uses would be within 300 feet of the crossing. As a result, proposed residential uses would be within the severe impact area for freight trains. The impact distance at 660 feet from the crossing would extend 728 feet on either side of the railroad right-of-way and the severe impact distance would extend 388 feet on either side of the railroad right-of-way. The nearest proposed residential uses would be within 150 feet of this zone. As a result, proposed residential uses would be within the severe impact area for freight trains. Even with the proposed mitigation it is anticipated on-site noise levels would be significant and unavoidable. 23.24

The city needs to inform residents of these potential significant impacts. Residents at Edgewood already write letters to the editor about train and airport noise. Greater buffer zones or development which is not as sensitive to noise impacts like open space and commercial areas should be centered in the areas where train noise and airport noise will create a significant impact. These are prudent, feasible and cost effective mitigation measures and as such are required by CEQA and the General Plan policies for noise. 23.25

Public Services

Fire Department

According to the South County Fire Authority, the proposed ESP site is located outside of the response goal of five-minute response times. The South County Fire Authority is currently working to address these deficient standards of cover. The South County Fire Authority is currently critically reviewing fire response times and the 23.26

[5] (http://tracypress.com/content/view/12284/2244/)
[6] Draft Revised EIR Page 4.10-24

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standards for evaluating response times. Following that review, the South County Fire Authority will then conduct an analysis to identify solutions, such as a new fire station, to alleviate deficient response times. A program to implement a preferred solution would then be developed and implemented. The Kirchoff Report is the review that the ESP EIR refers to. The Kirchoff report finding number 8 on page 33 states that there is no formal method for assuring that new development pays its way." The Tracy rural fire department needs a rational way to asses the impacts of new growth on the fire department." Recommendation number 8 on page 33 states that there needs to be a formal way to asses impacts from new growth and to mitigate the costs of development on the fire department. Finding number 32 of the Kirchoff report states that growth in the Southwest portion of town particularly the proposed Ellis project requires a new station. Recommendation number 32 states that a new fire station should be sited at the Ellis project and the department will need to acquire land and equipment and personnel. The projects mitigation measures only include the usual wording that the project applicant will "Prior to the issuance of Building Permits, the Project Applicant shall work with the City and the South County Fire Authority to establish adequate emergency response services to the ESP site through the construction of a new fire sub-station." The Kirchoff report identifies Ellis as an impact to the fire department and recommends a new fire station. This has been a problem for development in Tracy has not paid its way and the Kirchoff report identifies the shortage of fire stations and the need for a new one at Ellis. A new fire station should be located at Ellis and the property and equipment should be provided by the applicant as a condition of project approval.

23.26

Schools

The city council's current mechanism to insure adequate high school facilities, Council Resolution 99-198, has proved to be a dismal failure in providing adequate high school facilities for the city of Tracy. West High designed for 2,000 students has over 3,000 students. Tracy high designed for 2,000 students has over 2,800 students. Ellis will generate 505 high school students according to the DEIR page 3B.9-9. The MOU between Tracy Unified and the project applicant provides for a fee of $3,951 dollars per student generated. (Appendix G page 2) The EIR should provide an analysis to determine if the mitigation fee is adequate to support the 505 students from the ESP considering the school districts past failure to provide adequate high school facilities in Tracy. At 505 students at $3,951 per student the high school fee will be approximately 2 million dollars. The new John Kimball high School will house 1200 students at a cost of 55 million dollars. It's easy to see that 2 million dollars provided by the MOU with TUSD will not cover the cost for the facilities for these new students. The EIR contains no information about any agreement between the applicant and the Jefferson School District and this information should be provided for the EIR. This is a significant impact that through these comments the city has been made aware of and even though mitigation has been negotiated with the school district it is the responsibility of the city council to ensure that adequate public facilities are provided by new development.

23.27

Police Services

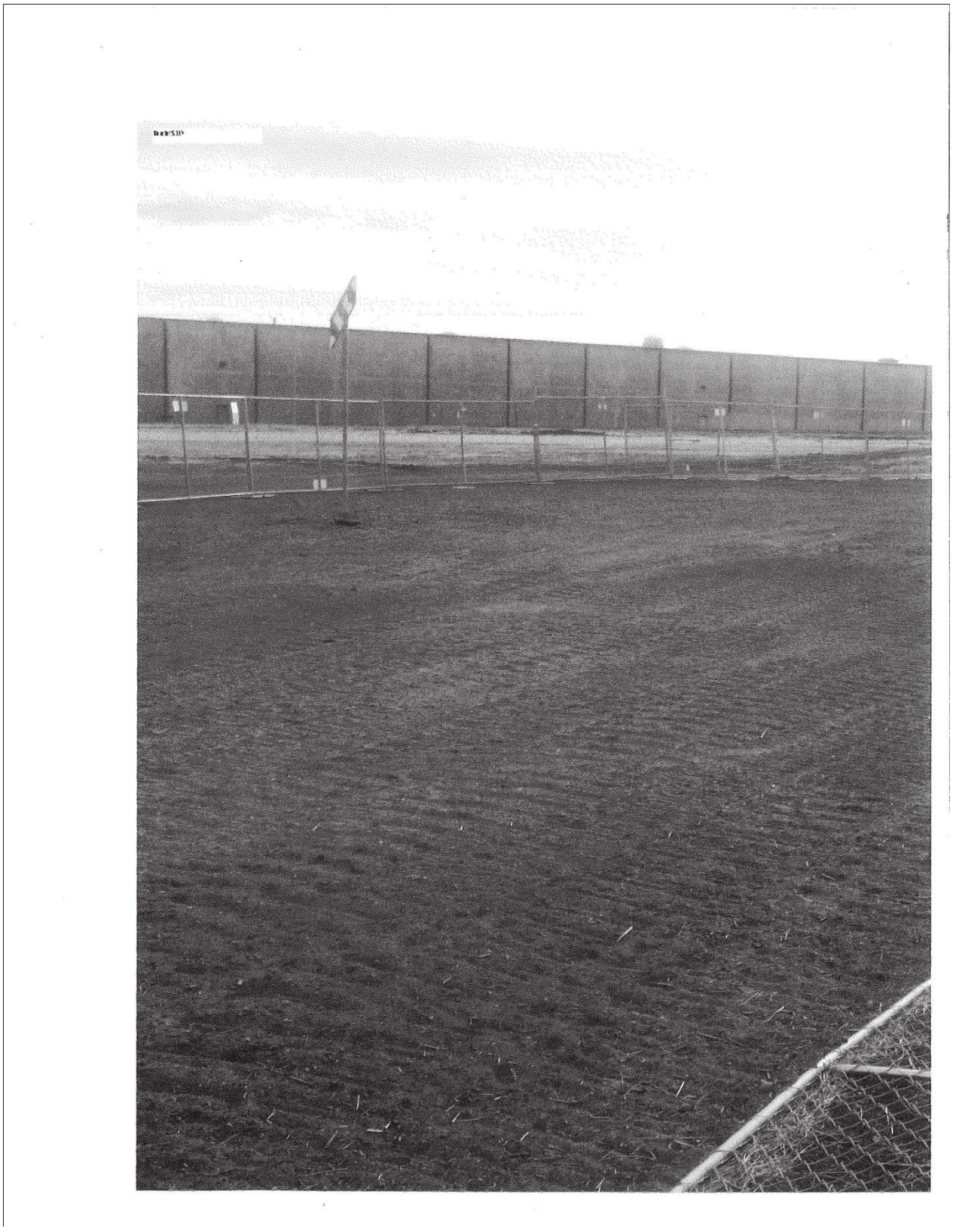
According to the Police Department, the approximate response time (for emergency and non emergency calls) to the ESP site is currently 9 minutes. This exceeds the City's goal of a 5 minute response time for Priority 1 calls (life threatening situations). The proposed ESP would require additional police staff and potentially more building space for those staff to meet the City's goal for police protection services. The City requires the payment of Public Facilities Impact fees to offset the cost of additional facilities. The EIR must provide an analysis that the proposed public facilities fee is adequate to provide 7.4 full time officers with support personnel and equipment and additional space. The current public facilities fee is inadequate as the police cannot meet their goal of a 5 minute response for a priority 1 call. The city needs more police and new development must meet their obligation. Prior development impact fees have been inadequate as response times have increased and the Kirchoff report reveals that the department is understaffed. This is a significant impact under CEQA. The developer should provide a substation for the seven additional police officers and a funding mechanism to support operations including equipment and personnel. It is time for Tracy to make new development pay for itself. 23.28

Wastewater Treatment

The RDEIR states that, *"Currently, the WWTP is operating below its permitted treatment capacity of 10.8 mgd. At present capacity, it would provide sufficient treatment capacity for 800 residential units of the initial Modified ESP buildout. For ultimate buildout, the Modified ESP would have an average daily sewage generation of 547,148 gpd (0.55 mgd) and would also be served by the City's WWTP. The City's identified improvements and expansions to the existing WWTP would provide sufficient capacity to treat sewage generated by the Modified ESP at build out. As previously identified, the City's plans to expand and improve the WWTP will be completed over time as the City's Sphere of Influence is built out".* The DREIR proposes to commit the last wastewater sewage capacity left at the wastewater treatment plant to the Ellis Project. The DREIR should analyze which commercial, industrial, and residential projects will be placed on hold due to lack of wastewater treatment capacity. The projects that provide the most economic development opportunities for the City should receive sewage allotments ahead of the Ellis Project. Without wastewater treatment capacity the city could be forced to forgo significant economic development opportunities which are a primary goal of the General Plan. 23.29

Hazards and Hazardous Materials

The EIR concludes that here is no significant impact from locating residents less than 100 feet from two large diameter natural gas pipelines and one crude oil pipeline. The only mitigation proposed is mitigation measure 4, 7-2 which requires that, " Prior to issuance of grading permits, the Project Applicant shall work with PG&E and Chevron to implement and observe a site damage-prevention plan." The results of the last safety plan that the City of Tracy and PG&E developed at the antenna farm resulted in the picture below. 23.30



As one can clearly see the safety plan employed at the antenna farm was a complete failure as the fence that was supposed to protect the pipelines fell down and the city's contractors ran repeatedly over the natural gas and oil lines. The safety plan and the fence were designed just to prevent that form happening. 23.30 cont

For this Revised EIR the city contracted with Kiefner and Associates to provide a risk analysis for the Draft Revised EIR. The Kiefner report is ill informed and not well researched. The Kiefner report and the EIR fail to discuss the fact that Line 002 has had three leaks two of them less than 3,000 feet from the project. The Kiefner report concludes that the 18 inch standard oil pipeline that transverses' the property has only had two leaks in its history. The Kiefner analysis reports only two incidents with the Chevron Pipeline one on March 11, 1995 near Huron, CA, about 135 miles from Tracy, CA. and other reportable incident that may have been associated with the KLM pipeline due to excavator damage in Fresno County in 1988. The Draft EIR and the Kiefner report fail to include several more leaks that occurred on the Chevron Oil Line just in the Tracy Area.[7]

On December 4, 2003 at 23577 Mountain House Parkway, Agricultural plowing incident released 750 barrels of crude oil. The pipeline was struck nine times without release, tenth strike ruptured pipeline. Depth of cover was 28 inches. Smart pigging on September 23, 2003 did not call out the old scrapes on the pipeline for repairs.

On December 4, 1997 in Tracy a Pin hole leak was caused by external corrosion. A similar leak occurred in Firebaugh on December 5, 1997. In line inspection was performed in September 1997 did not identify this problem. Property damage was in excess of $100,000. 23.31

On December 20, 1985 Granite construction employee struck the pipeline just south of Tracy airport. The leak involved 2,889 barrels of oil. Cover over the pipeline was only 18 inches.

CARE included all the State Fire Marshall Reports on these incidents in our comment letter filed on June 12, 2008 for the original EIR. The oil pipeline incident reports are located in your Final EIR for your 2008 approval of the Ellis project.[8]

The EIR and the Kiefner correctly understand that, the concept of "risk" encompasses both the likelihood (probability) that an event will occur and the consequences. Risk is formally computed as a product of these two values. A scenario having high likelihood but low consequences may have a similar risk level as another scenario having low likelihood but large consequences. Thus any discussion of risk has to consider both aspects. Since the EIR and the Kiefner Report both fail to disclose and discuss previous leaks and ruptures on the three pipelines the probability of a pipeline rupture on any of the three pipelines is not properly analyzed in the baseline to determine the probability of a pipeline failure at the Ellis site.

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[7] The following incident reports are included in Appendix A of our comments.

[8] http://www.ci.tracy.ca.us/documents/Ellis_Specific_Plan_Final_EIR_December_2008.pdf Pages 168-207.

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While the probability of failure is not properly analyzed the consequences of a pipeline rupture are defined in the Kiefner report As the Kiefner report states on Page 13 the Potential Impact Radius for Lines 002 and 401 are 579 ft and 741 ft, respectively. The radius corresponds to an estimate for a specific intensity of heat in the event that the pipeline was to rupture and the released gas was to ignite. The Potential Impact Radius heat intensity, 5,000 *Btu/hr-fe,* corresponds to a 99 % survival rate for persons exposed for 30 seconds without moving away from the source of heat, and to the lower limit for piloted ignition of wood affording protection indefinitely for persons located indoors." This means that anyone located within 741 feet of line 401 will not survive the initial heat for more than 30 seconds. Obviously a setback of 100 feet form the centerline of the pipeline right of way does not provide adequate protection for the residents. 23.32

The city's consultant states that on page 14 of his report that, *"the PIR is not intended to define minimum setback distances inside of which development should be prohibited. In the words of the Transportation Research Board, using the PIR as a setback criterion only "considers the consequences of an event without accounting for its probability ... and does not attempt to weigh the risk-reduction benefits of such a measure against the considerable cost that such a provision would entail."* In this case adequate setback could be provided as feasible mitigation by utilizing the projects 4 acre park requirement per 1,000 residents and create a adequate buffer zone around the pipeline corridor. 23.33

The Kiefner and the EIR report fails to analyze the additional risk of collocating three pipelines in the same 50 foot corridor. The Kiefner report states that Studies have determined that spacing pipelines 25 feet apart provides adequate protection against the effects of an adjacent pipeline rupture, which is generally supported by experience. Unfortunately as stated in the Kiefner report on page 6, **"The Chevron line is located between the two gas lines separated 26 ft from one and 6 ft from the other.** Then the Kiefner report admits that, **"the Chevron line does lie close to one of the PG&E lines, and could be exposed by a rupture of that line**." 23.34

The EIR and the Kiefner Report recognize that the probability of a pipeline incident occurring as the major driving factor for risk but fails to analyze that probability and therefore improperly concludes that the pipeline corridor does not present a significant impact under CEQA.

Attached to our comments[9] is a detailed risk report specifically created for these three pipelines performed by Dr, Alvin Greenberg a noted risk management expert. This report analyzes the past leaks and failures on these three pipelines and concludes that the risk of injury is 0.70 injuries per 1000 miles per year or a risk of 700 in one million per mile per year of being injured. These risks would be at least tripled to reflect the cumulative risk imposed by all three pipelines, thus resulting in a cumulative risk of fatality of 120 in a million per mile per year and of injury of 2100 in a million per mile per year. These risks far exceed the risk range found to be acceptable in California by a number of agencies and under CEQA of 1 or 10 in one million." Appendix G of the CEQA guidelines define a significant impact as one that would create a significant hazard to the public or the environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment." Dr Greenberg's findings require a thorough examination of all three pipelines and the 23.35

[9] Attachment 1

13

associated risks of locating homes within 100 feet of this pipeline to comply with CEQA requirements. 23.35 cont

As we adequately document above in the picture of the City's previous safety plan at the antenna farm the EIR's sole mitigation measure a coordinated safety plan with PG&E and Chevron has already failed in its only attempt at implementation.

While the EIR and the Kiefner Report state that PG&E expects to replace line 401 throughout the Ellis Project it does not address the two more significantly dangerous and older pipelines Line 002 and the Chevron Oil Line. The EIR and the Kiefner report recognize that Line 002 presents "a potential threat associated with stress-corrosion cracking (SCC), as a result of characteristics of the tape coating." The DREIR and the Kiefner Report also report that the oil pipeline the Chevron pipeline, "consists of line pipe manufactured using electric-resistance welded (ERW) seams. Nationwide, there are 8,012 miles of ERW pipe of the vintage of the KLM line. ERW seams of this vintage are generally reliable but are known to have susceptibility to unique degradation mechanisms." Despite these revelations no probability of risk is presented in the EIR or the consultants report. 23.36

The EIR and the consultants report downplay the discovered corrosion in the pipelines that was revealed in the 2006 pigging. The Kiefner report states that, *"Minor corrosion is not at all unusual in a buried pipeline that has been in service for many years. The corrosion in Line 002 would have to be more than 3 times more severe than it currently is to cause a pipeline failure, while the corrosion in Line 401 would have to be more than 5 times more severe than it currently is to cause a pipeline failure."* The consultant has obviously not reviewed the pigging reports or inline inspection videos. The pipeline inspection report drafted by GE in July of 2005 for line 401 which covered 111 miles of the pipeline reports, ***"A total of 2611 metal loss features with the deepest being 64%".*** (Attachment 2 to these comments) The In Line Inspection was performed on July 20, 2005 over 7 years ago. The pipeline inspection report for Line 002 covered only 36 miles of line 002 and ***"reported 1,431 metal loss features with the deepest wall loss was 44%".*** (Attachment 3 to our comments) The inline inspection of Line 002 occurred on August 30, 2006 about six years ago. No further inspections have occurred. CARE can make the pipeline videos available to the city's consultant on request. CARE's expert consultant Dr. Robert Curry has reviewed the inline inspection videos and has expressed deep concern over the metal loss features and extensive corrosion on both pipelines. 23.37

The Kiefner report states, "While some corrosion has occurred on both pipelines as discussed earlier, this is not necessarily unusual, and having performed ILl, PG&E is in a good position to monitor and evaluate the condition of the lines. As stated above no in line inspections have occurred since 2005 and 2006. 23.38

The EIR states that, *"The key to providing pipeline safety is not the establishment large building setback requirements, but instead the establishment of a meaningful and effective setback coupled with the adoption and effective implementation of an Integrity Management Plan by the developer and land owner in conjunction with the appropriate utility."*[10] PG&E's Integrity Management procedures and its pipeline records are not consistent with Federal or State Guidelines for integrity management. The NTSB report on the San Bruno Tragedy states, ***"The investigation also determined that the*** 23.39

[10] Draft Revised EIR Page 4.7-15

California Public Utilities Commission, the pipeline safety regulator within the state of California, failed to detect the inadequacies in PG&E's integrity management program and that the Pipeline and Hazardous Materials Safety Administration integrity management inspection protocols need improvement. Because the Pipeline and Hazardous Materials Safety Administration has not incorporated the use of effective and meaningful metrics as part of its guidance for performance-based management pipeline safety programs, its oversight of state public utility commissions regulating gas transmission and hazardous liquid pipelines could be improved. Without effective and meaningful metrics in performance-based pipeline safety management programs, neither PG&E nor the California Public Utilities Commission was able to effectively evaluate or assess PG&E's pipeline system."[11] The San Bruno incident and the NTSB investigation should provide adequate evidence that caution and additional mitigation is necessary for these pipelines that run through the Ellis Property. The lone mitigation measure the pipeline safety plan has failed in previous projects in Tracy as demonstrated above. 23.39 cont

The consultants report also reveals that, "while ILl is capable of finding latent damage on a pipeline, **approximately 90% of damage related pipeline failures occur at the time that a pipeline has been struck, and running Ill provides no protection against a random event occurring afterward.** (Kiefner Page 15) It is also well known that many pipelines have failed subsequent to in line inspections which revealed little damage. The pipeline in Carlsbad New Mexico which failed and resulted in significant fatalities was inspected by a smart pig just a year before its failure. 23.40

Additional hazards to the pipelines are also not discussed in the EIR. The pipelines are intersected by the railroad tracks. Any derailment in the vicinity of the pipelines could cause damage to the pipelines and an associated leak and possibly and explosion. On May 12, 1989 in San Bernadino a train derailed along a petroleum pipeline. The pipeline was buried six feet underground alongside the railroad right-of-way. The pipeline was a 14" high pressure petroleum transit pipeline operated by Calnev Pipeline. The pipeline was marked with stakes during cleanup to avoid the risk of it being accidentally damaged. Service on the track where the derailment happened was restored four days after the crash. Thirteen days after the train wreck on May 25, 1989, at 8:05 a.m., shortly after eyewitnesses heard a train pass through the derailment site, the pipeline burst at a point on the curve where the derailment happened, showering the neighborhood with what appeared to be a peculiar vapor, which ignited into a large fire that burned for close to seven hours and emitted a plume of smoke three hundred feet into the air. By the time the fire was out, it had fatally burned two people alive, and destroyed eleven more houses and 21 cars.[12] 23.41

The City of Tracy General plan policy safety element number P1 requires adequate separation shall be provided between areas where hazardous materials are present and sensitive uses such as schools, residents and public facilities. The ESP proposes a 100 foot buffer zone between the centerline of the pipeline right of way which places homes and residents as close a 75 feet from the pipeline. The impacts zone of a 36 inch gas pipeline is 660 feet to 1,000 feet. General plan safety element P3 requires that 23.42

[11] http://www.ntsb.gov/investigations/summary/PAR1101.html
[12] http://en.wikipedia.org/wiki/San_Bernardino_train_disaster

new pipelines carrying hazardous materials avoid residential areas. The ESP setbacks do not comply with General Plan Policies P1 or P3. 23.42 cont

Railroad Hazards

The EIR for the ESP should describe the mitigation measures that will be used to prevent youth from encroaching on the railroad right of way ad getting hit by the train. In California alone 86 deaths occurred from trespassers on train tracks in 2006. Nationwide 518 deaths occurred form trespassers. Will a fence be utilized to separate the development form the tracks. Mitigation measures need to be provided in the Final EIR. 23.43

The railroad routinely transports large quantities of hazardous materials. The FEIR should discuss mitigation measures for the safe evacuation of residents in case of derailment or leaks of hazardous materials.

16

Attachment 1

Risk Science Associates
Risk Assessment
Toxicology
Occupational Health
Hazardous Materials Management
Vulnerability Assessments
Infrastructure Security

Tracy Sports Field Appeal before the CPUC

Technical Analysis by
Alvin Greenberg, Ph.D., QEP, REA

September 1, 2007
(revised October 10, 2007)

Tracy Sports Field
Appeal before the CPUC

Technical Analysis by
Alvin Greenberg, Ph.D., QEP, REA
September 1, 2007
(revised October 10, 2007)

Summary

The granting of a waiver to PG&E regarding natural gas pipeline L-401 was ill-advised and contrary to sound public safety. The placement of a youth sports complex over the three buried pipelines represents a safety hazard and significant risk to the children and adults who visit the field. All three pipelines (two natural gas and one liquid petroleum fuel) pose a significant risk of failure. Smart Pigging demonstrated that the section of Line 401 located within the waiver area (sports field) contained two of the largest anomalies found in a total of 110 miles of pipeline assessed. The potential for failure of the second natural gas pipeline (L-002) was never addressed in the waiver and yet, it poses an even greater risk of failure and subsequent catastrophic impacts to children and adults playing at the sports field. Line L-002, constructed in 1972, would not even meet current code requirements for pipe coating and the pipe thickness and is certainly not adequate to meet Class 3 standards. Regarding the third pipeline, liquid petroleum pipelines have leaked many times in the Tracy area with the latest being the Shell Oil pipeline (one that is similar to the Chevron pipeline located at the sports field site) that ruptured and closed down I-580 on April 16 of this year. Given these significant risks, the waiver should not have been granted and the sports field should not be built on this parcel. The significant risk posed to users of the park cannot be mitigated and thus safer alternative locations should be assessed and selected.

Analysis

On August 19, 2000, in an area along the Pecos River near Carlsbad, NM, 12 people were killed in the early morning hours when a natural gas pipeline

ruptured and the gas caught fire. The victims were camping approximately 675 feet from the point of the pipeline rupture. The causes of death were thermal burns, carbon monoxide poisoning, and smoke inhalation, all due to the natural gas pipeline fire located a considerable distance away. The area had been posted with warning signs that gas pipelines were buried in the area. The area where the people were camping was privately owned. After the incident, El Paso Natural Gas (EPNG) purchased the property and installed fencing to restrict access to the area. A hard yet very important lesson was learned by EPNG but apparently not learned by PG&E, the CPUC, or the City of Tracy. It is clear that in order to provide safety to the public, the area around three pipelines at the Tracy Field parcel should be kept free from human presence.

The request by PG&E should not have been a test case of this type of waiver. The set-backs were established for a reason. In a search of the U.S. DOT Office of Pipeline Safety database, no evidence could be found that a waiver has ever been granted for a pipeline changing to a Class 3 location involving a recreation field where hundreds of children will be present. PG&E, in response to Robert Sarvey's data request number 4, has confirmed that they have never had a class location waiver at any location, let alone for a sports or recreation field destined to attracts hundreds of visitors. The Tracy Sports Field is a Class 3 location and thus would have been the first. The CPUC should note that U.S. Department of Transportation (DOT) Office of Pipeline Safety (OPS) regulations do not allow a waiver when changing to a Class 4 location. Furthermore, although the CPUC was aware that a second natural gas pipeline and a liquid fuel pipeline share the same utility corridor, it appears that the added risks were not considered in the CPUC's decision. On April 17, 2007, an underground fuel pipeline ruptured and leaked near Interstate-580 near Tracy. This resulted in the partial closure of I-580 and significant soil contamination. A similar underground fuel pipeline shares the utility corridor with the two natural gas pipelines. Imagine the catastrophe if one of these three pipelines ruptures, catches fire, causes a rupture of the other pipelines, and a three-pipeline fire burns within feet of

hundreds of children and adults at the Tracy Sports Field. A natural gas fire has a thermal radiation significant impact zone of hundreds of feet based upon a human exposure criteria of 1.4 kW/m^2 (450 BTU/ft^2/hr). Thus, a gas pipeline leak and subsequent fire would impact every person at the sports field and cause significant morbidity and mortality.

Although not within the CPUC's jurisdiction, the CPUC should be aware that another state agency (the California Energy Commission) has designated Schulte Road as the only approved hazardous materials transportation route to the GWF Energy power plant (Commission Decision on the Tracy Peaker Project, July 18, 2002. Condition of Certification HAZ-6). That agency would not have approved that route if there were a recreational field along Schulte Road because increased traffic on the road and the presence of children at a sports field would create a significant risk of accident and subsequent hazardous material spill that could be avoided. The CPUC should have taken this into consideration when granting a variance. The City of Tracy should have assessed this in the EIR and now must consider this issue.

While the HRA was adequate to describe the impacts – or lack of impacts – due to routine emissions from the industries located immediately adjacent to and nearby the site of the Tracy Sports Field, no analysis has been conducted to assess the risk of a catastrophic accidental release of hazardous materials from these facilities. There are four industrial facilities in the immediate area (less than 1500 feet from the sports field) that use and store large volumes of hazardous materials. These include Wiltel, Thermal Energy, Owens Brockway, and GWF Energy. A review of the history of these industrial facilities shows several fires and hazardous materials releases that would or could pose an unacceptable risk of harm to children and adults frequenting a sports field at the proposed location.

Detailed Analysis of Pipelines L-401 and L-002

The City of Tracy's proposal to develop a youth sports facility at a location where it would be directly over a major transmission pipeline right-of-way has not been adequately studied. This right-of-way passes through the proposed facility and contains two natural gas transmission lines and a hazardous liquids pipeline. The proposal to develop a public sports facility at this location has not been appropriately analyzed on the basis of potential public risk. A recent report prepared by the Transportation Research Board (TRB) for the U.S. DOT makes it clear that a risk-based decision making process should be used in making decisions regarding public use of lands that are near natural gas and hazardous liquids transmission line right-of-ways (TRB 2004). The report makes the point that authority for land use decisions and development of set back requirements are usually controlled by local governments. It goes on to state that local governments seldom have the capability, data, or resources to use a risk-based decision process when considering land use near transmission pipelines.

In general, the level of public safety associated with transmission pipelines is largely governed by design requirement, testing and maintenance requirements, and control of excavation in pipeline rights-of-way. Because the proposed facility will significantly increase the population near a section of a pipeline right-of-way its classification will change from Class 1 to Class 3. As a result, 49 CFR 192.611 requires that the margin of safety between the design pressure and maximum operating pressure for the natural gas pipelines in the right-of-way be upgraded to comply with the requirements for a Class 3 designation by either replacing the section of pipeline with pipe that will handle a higher operating pressure or reduction of the operating pressure to achieve a equivalent safety margin between the design pressure and the operating pressure. Replacement can be avoided by pressure testing the existing pipeline to show that its actual test pressure is high enough to provide the required margin of safety between the actual tested pressure and the existing operating pressure. Title 49 also allows the pipeline operator to request a wavier based on achieving a similar level of risk reduction (public safety) through use of other methods. It was this

provision that led to the decision to pursue a waiver instead of replacing the pipeline.

PG&E operates two natural gas pipelines in this right of way; a 36 inch diameter transmission line designated as L-401 and a 26 inch diameter transmission line designated as L-002. This right –of-way also includes an 18 inch petroleum pipeline operated by Chevron. PG&E requested a waiver for L-401 but did not do so for L-002 because of a claim that a hydrostatic test conducted in 1972 exempted L-002 from replacement even though the pipeline's thickness does not qualify for a Class 3 location. The coating on L-002 is a tape wrapped coating which is no longer allowed because it is prone to corrosion. Recent pipe-to-soil data have indicated corrosion on both pipelines within the Tracy Field waiver area. A 2001 smart pig inspection of
L-002 confirmed that maximum wall loss was 61% on line L-002. And yet, the waiver request for L-401 was predicated on a qualitative assertion that better testing and oversight of the right-of-way at the sports field location would produce a greater risk reduction (improvement in public safety) than replacement.

While it is generally accepted that damage caused by excavation in pipeline right-of-ways is the leading cause of accidental releases from pipelines, it is inappropriate to assume that replacement is without benefit in this regard. In the absence of the waiver, the L-401 pipeline segment would be replaced with pipe of greater wall thickness and/or greater yield strength. Replacing the existing pipe with new pipe having increased wall thickness and/or yield strength would improve the intrinsic resistance of the pipe to puncture by excavating equipment. Replacement would also reduce the risk associated with degradation of the existing pipeline that could result in failure. It is not clear, based on the information provided by PG&E and the CPUC, that the proposed waiver measures were superior to replacement in reducing public risk. Communication between PG&E's pipeline experts reveals that PG&E's safety plan leaves much

to be desired in the area of additional mitigation for third party damage (PG&E 2007).

Operations of transmission pipelines pose significant public risks when they are operated in close proximity to areas that are heavily occupied by the public. Significant failures of transmission pipelines can and have result in loss of life, personal injury, property damage, and environmental damage. According to the TRB, *"In the last 3 years, hazardous liquids pipeline incidents have resulted in an average of 2 deaths, 11 injuries, and $97 million in property damage each year; natural gas transmission pipeline incidents have resulted in an annual average of 6 deaths, 10 injuries, and $20 million in property damage."* A report by the California State Fire Marshal (CSFM) concludes that the risk of fatality for transmission pipeline is between 0.02 and 0.04 fatalities per 1000 miles per year which is equivalent to a risk of 20-40 in a million per mile of pipeline each year for fatalities (CSFM 1993). This same report also concludes that the risk of injury is 0.70 injuries per 1000 miles per years or a risk of 700 in one million per mile per year of being injured. These risks would be at least tripled to reflect the cumulative risk imposed by all three pipelines, thus resulting in a cumulative risk of fatality of 120 in a million per mile per year and of injury of 2100 in a million per mile per year. These risks far exceed the risk range found to be acceptable in California by a number of agencies and under CEQA of 1 or 10 in one million.

Recent incidents involving natural gas and hazardous liquids pipelines demonstrate the magnitude of the potential impact that can result from a major pipeline incident. On July 30, 2004, the rupture and subsequent explosion of a major high pressure natural gas pipeline in Belgium resulted in 24 deaths and over 120 injuries. On October 17, 1998, the rupture and subsequent explosion of a petroleum pipeline killed 1200 in Jesse, Nigeria. On May 12, 2006, the rupture of a petroleum pipeline in Lagos, Nigeria killed more than 150 people. On December 26, 2006, an intentional release in Lagos, Nigeria killed about 500 people. On June 10, 1999, a gas line in Bellingham Washington leaked and the

ensuing fire killed three children. These incidents clearly demonstrate the potential magnitude for loss of life and injury that can be associated with releases from pipelines such as those that exist at the Tracy sports field site. These events demonstrate the potential to cause between 100 and 1000 fatalities in a heavily occupied public area such as would exist if the proposed sports field is permitted and constructed. This potential magnitude of these impacts would appear to strongly suggest that the risk (or probability) of such an incident occurring at the Tracy site would have to be estimated at being below one in ten million - or more likely, below one in one million - to be considered an insignificant risk.

It should be noted that current regulations or industry standards fail to address the mechanisms of failure that caused these events. In the case of the Belgium event, the pipe appears to have failed as a result of brittle fracture resulting from cooling of the pipe during depressurization post puncture (Mahgereftech and Atti 2006) while the Nigerian incidents were caused by perpetrated events (intentional puncture for purposes of theft or sabotage). Failure by low temperature-induced brittle fracture is catastrophic in nature and it appears to be a fairly common and credible mode of failure based on review of pipeline incidents worldwide (Mahgereftech and Atti 2006). Use of steels with higher resistance to brittle fracture at cold temperatures could reduce the risk of such catastrophic failure and resulting loss of life, but to what extent is not known. However, this mitigating effect can only occur if the risk of such a failure scenario is understood and if the pipeline segment is replaced with a brittle fracture resistant material. This information on low temperature induced brittle failure as a credible failure scenario for natural gas pipeline failure calls into serious question the CPUC waiver for L-401 and the pressure testing provision of Section 192.611 that exempted replacement of L-002. The existing codes also fail to address control of perpetrated events such as those that occurred in Nigeria. Further, it is not apparent that there is any requirement to upgrade the existing Chevron petroleum pipeline.

A preliminary consideration of this information suggests that the risks associated with the proposed Tracy Field project are not insignificant and that further mitigation must be considered. The only mitigation measure that would reduce the risk below the level of significance would be consideration of alternative locations. Even if the natural gas pipelines could be replaced with pipe that is resistant to brittle fracture and greater setbacks from the pipeline right-of-way are required, the remaining area for sports would be severely limited and the pipelines would continue to be susceptible to corrosion, physical attack, and cold fracture. Furthermore, there are several aspects of the Belgium event that are not reflected in current code that question the efficacy of reliance on compliance with design codes to protect public safety. The Belgium event also challenges the generally held belief that unconfined natural gas clouds do not detonate. In addition, data from this incident provides some information about the setback distances that may be necessary to preclude public injury and fatalities in the event of an accident. In the Belgium event, the property damage and burning of vegetation extended as far as 500 to 600 meters (1968 feet) from the point of gas release. It is clear from this data that the setbacks associated with any buried natural gas pipeline should be reconsidered. The use of a 1900-foot setback would eliminate this site as a sports field site. It is thus clear that alternative sites must be considered.

The typical practice used to control the risk poses to the public associated with proximity to major transmission pipelines is to rely on "actions taken by pipeline operators to create, inspect, and enforce their own pipeline rights-of-way". That is the approach being used in development of the proposed Tracy Youth Sports Facility. According to the TRB *"Land use measures can further reduce the risk of disturbing the pipelines by keeping human activity away from the immediate vicinity of the pipelines and minimizing the exposure of those living and working near a transmission pipeline in the event of an incident. At present, local governments employ building standards, site design requirements, land use*

controls, and public awareness measures to reduce losses due to natural hazards (such as earthquakes and floods.). However, state and local officials lack guidance for pipelines, other than rules of thumb and existing practice concerning appropriate setbacks." The findings of the TRB regarding land use and risk are as follows:

1. Pipeline incidents have the potential for significant impact on life, property, and the environment.
2. Just as transmission pipelines pose a risk to their surroundings, so does human activity in the vicinity of pipelines pose a risk to pipelines. These risks increase with growth in population, urban areas, and pipeline capacity and network.
3. Land use decisions can affect the risk associated with increased human activity in the vicinity of transmission pipelines.
4. Pipeline safety and environmental regulation have generally focused on (a) the design, operation, and maintenance of pipelines and (b) incident response. They have not directed significant attention to the manner in which land use decisions can affect public safety and the environment.
5. For the most part, state and local governments have not systematically considered risk to the public from transmission pipeline incidents in regulating land use.
6. Risk informed approaches are being used effectively in other domains (e.g. natural hazards mitigation, industrial hazard mitigation, nuclear reactor and waste disposal programs, tanker safety). These techniques are also being used to address other aspects of pipeline safety (e.g. pipeline integrity), but they have not been used to make informed land use decisions.
7. Currently, decision makers lack adequate tools and information to make effective land use decisions concerning transmission pipelines.
8. Many different forms of pipeline easements are in effect, and the terms and conditions vary widely. To the extent that an easement lacks clarity,

enforcement of right-of-way is more difficult.

9. Encroachments and inappropriate human activity within the right-of-way can adversely affect pipeline safety. There appears to be variability in the quality and extent of inspection, maintenance, and enforcement of right-of-way.

The TRB report goes on to conclude that:

- Judicious land use decisions can reduce the risk associated with transmission pipelines by reducing the probabilities and the consequences of incidents.
- It is feasible to use risk-informed approaches to establish land use guidelines for application by local governments.

The questions regarding the waiver for line L-401 and the fact that no upgrade of line L-002 will be required emphatically demonstrates the limitation of existing regulations to adequately consider public risk. And, it is not apparent that any significant analysis of risk or mitigation was undertaken regarding the hazardous liquids pipeline operated by Chevron. The decision to use land containing this transmission pipeline right of way would be questionable if only **one** of these pipelines were present. The presence of **three** pipelines that pose a significant risk clearly indicates that the change in land use to allow a sport field was not only inappropriate but ill-advised and lacked an adequate risk assessment. In my opinion, as a professional with 27 years in the field of risk assessment, it is clear that the proposed land use change will impose significant risks on those use the facilities and that thee risks should be carefully evaluated using both quantitative and qualitative risk assessment methods.

The judicious and appropriate land use decision in this matter would be to consider development of other parcels that do not encroach on a pipeline right-of-way or similar hazards. The set back distances that would be required to ensure safety of the public at this location would make development of the

proposed youth sports center infeasible. However, if this parcel is used, the pipelines should be upgraded in a manner that addresses cold brittle fracture and perpetrated releases. This could be accomplished by use of alloy pipe that maintains its toughness a low temperatures. The risk of perpetrated release can be better controlled by using a reinforced concrete cover over the pipeline in this area.

Conclusion

The EIR for the Tracy Sports Field is defective and the safety plan should be altered to address the significant risks all three pipelines present to the sports field users. The significant risk posed to users of the park cannot be adequately mitigated and thus safer alternative locations should be assessed and chosen.

References

CSFM (California State Fire Marshal), 1993. Hazardous liquid Pipeline Risk Assessment, March 1993.

H. Mahgerefteh and O. Atti, 2006 Modeling Low-temperature-Induced Brittle Fracture of Pressurized Pipelines, American Institute of Chemical Engineers, AIChE J, 52: 000-000, 2006.

PG&E 2007. Email from Chris Warner to Dave Germann dated March 7.

TRB (Transportation Research Board), 2004 Transmission Pipeline and Land Use, A Risk Informed Approach, Transportation Research Board, Washington, D.C. 2004.

Attachment 2

PIPELINE INSPECTION REPORT

105389_36A
Draft: September
Final: March 200
Part 1 of 2
Issue 1

MP 317.23 to MP 428.06 (Line 401)
Pacific Gas and Electric Company
36 Inch Natural Gas Pipeline

GE
Oil & Gas
PII Pipeline Solutions

Inspection Summary

This section presents a summary of inspection operation 105389_36A which was conducted by GE for Pacific Gas and Electric Company in the MP 317.23 to MP 428.06 (Line 401), 36 inch nominal diameter, 110.0 miles, Natural Gas pipeline.

The pipeline was inspected by the GE magnetic inspection vehicle on 20 July 2005.

1.1. Metal Loss

A total of 2611 metal loss features have been detected on the inspection survey of which the deepest was 62%. These are distributed throughout the pipeline. Approximately 12% of the total number of spools have metal loss reported within them.

The majority of these are external and have the appearance of metal loss.

Mill/manufacturing faults will have been present in the pipeline since it was commissioned. It can be difficult to achieve the normal sizing accuracy for mill/manufacturing faults depending on whether these metal loss features are the result of hot working or cold working of the pipe steel. Consequently, it should be noted that the sizing accuracy specified for corrosion in the Inspection System Performance Specification (Appendix G) contained in the contract may not be applicable to mill/manufacturing faults.

Detailed inspection sheets for 15 of these metal loss features are provided in Section 2. Summaries of all the metal loss features are presented in Section 3.1.

1.2. Pipeline Anomalies

The following is a summary of any pipeline anomalies which have been detected on the inspection survey:

ferrous metal objects:	231
eccentric pipeline casings:	9
dents:	9
girth weld anomalies:	7
shell repairs:	0
patch repaired spools:	0

More information on pipeline anomalies is given in the anomaly reports presented in Sections 3.2.2 to 3.2.6.

Executive Summary

A full survey of the Pacific Gas and Electric Company MP 317.23 to MP 428.06 (Line 401) pipeline was successfully completed by GE on 20 July 2005.

A total of 2611 metal loss features have been detected on the inspection survey of which the deepest was 62%. These are distributed throughout the pipeline. Approximately 12% of the total number of spools have metal loss reported within them.

The majority of these are external and have the appearance of metal loss.

A Geometry inspection of the pipeline was completed by GE on 19 July 2005. The Geometry survey information is included in this report and details of the dents identified in both inspection surveys can be found in the dent report section.

The data in this report was processed in accordance with GE work instruction no W102.

We should hereby like to express our appreciation for the assistance and co-operation which we received from Pacific Gas and Electric Company in the course of this project.

Analysis Manager:	**Tony Wright**	**Data Analyst:**	**Jason Zhang**
Report Approved by:	**Bruce Hagerman** **Analysis Team Leader**	**Draft Date:** **Final Date:**	**09/19/2005** **03/10/2006**
Project Manager:	**Bryan Pinkerton**	**Telephone:**	**403-298-0241**

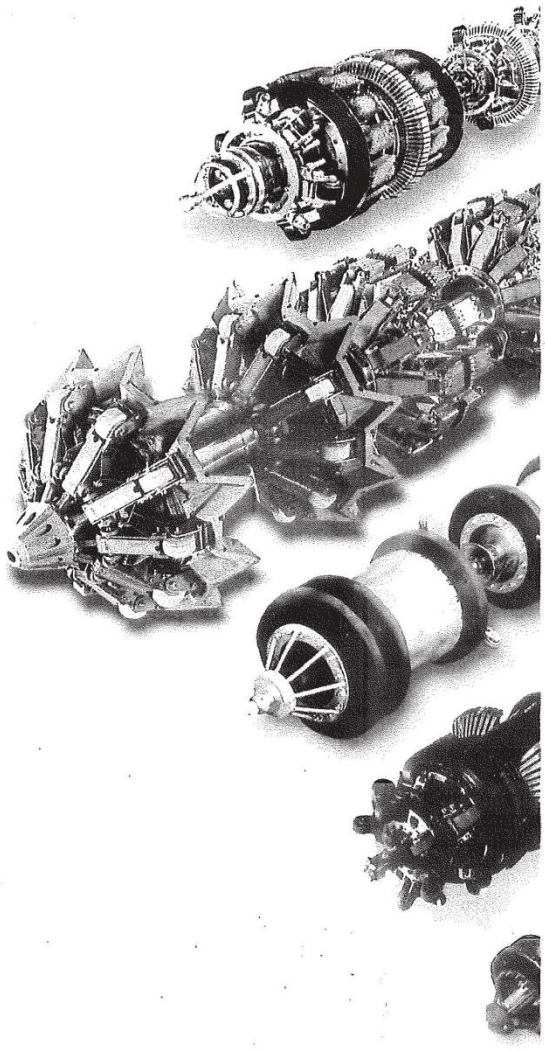
105389_36A
Issue 1

(i)

Attachment 3

ɔeline Solutions

ıeScan™
ction Report for 26 inch
ral Gas Pipeline



ıcific Gas and
ectric Company

2 MP 158.00 to MP 122.18
Date: August 30, 2006
Issue Date: September 29, 2006
Issue Date: January 23, 2007

_26A

of 1

imagination at work

Inspection Summary

This section presents a summary of inspection operation 107153_26A which was conducted for Pacific Gas and Electric Company in the Line 2 MP 158.00 to MP 122.18, 26 inch nominal diameter, 36.598 miles, natural gas pipeline.

The pipeline was inspected by the GE Oil & Gas, PII Pipeline Solutions magnetic inspection vehicle on the 30th of August 2006.

1.1. Metal Loss

A total of 1431 metal loss features have been detected on the inspection survey of which the deepest was 44%. These are distributed throughout the pipeline. Approximately 14% of the total number of spools have metal loss reported within them.

The majority of these are external and are characteristic of corrosion.

Mill/manufacturing faults will have been present in the pipeline since it was commissioned. It can be difficult to achieve the normal sizing accuracy for mill/manufacturing faults depending on whether these metal loss features are the result of hot working or cold working of the pipe steel. Consequently, it should be noted that the sizing accuracy specified for corrosion in the Inspection System Performance Specification (Appendix G) contained in the contract may not be applicable to mill/manufacturing faults.

Detailed inspection sheets for 5 of these metal loss features are provided in Section 2. Summaries of all the metal loss features are presented in Section 3.1.

1.2. Pipeline Anomalies

The following is a summary of any pipeline anomalies which have been detected on the inspection survey:

ferrous metal objects:	109
eccentric pipeline casings:	5
dents:	21
girth weld anomalies:	1
shell repairs:	13
patch repaired spools:	0

More information on pipeline anomalies is given in the anomaly reports presented in Sections 3.2.5 to 3.2.9.

1.3. Inspection Quality

Inspection data was obtained for the full length (36.598 miles) of the pipeline.

The quality of the inspection data is satisfactory and this has enabled a comprehensive assessment of the pipeline to be carried out.

For more information about the inspection regarding field operations and the data collected please refer to the Run Report located in section 3.2.1 of this report.

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Response to Letter No. 23
CARE- Michael Boyd

23.1 As noted in the comment, the Draft Revised EIR found that long-term operational project emissions would exceed SJVAPCD thresholds and would result in a significant impact. As a result, the Draft Revised EIR included Mitigation Measures 4.3-2a and 4.3-2b. Mitigation Measure 4.3-2a requires the proposed project to meet LEED certified criteria, and includes various measures to improve energy efficiency. Mitigation Measure 4.3-2b requires the project applicant to comply with SJVAPCD Rule 9510, Indirect Source Review (ISR). SJVAPCD Rule 9510 (ISR) requires developers of large residential, commercial, and industrial projects to reduce ozone precursor emissions (NO_X) and particulate (PM_{10}) emissions generated by their projects. Under the ISR, the Modified Project would be required to reduce operational NO_X emissions by 33 percent and operational PM_{10} emissions by 50 percent over 10 years. The Modified Project's impact to air quality with respect to PM_{10} would be reduced further than the levels reported in the Draft Revised EIR through application of the ISR. When a development project cannot reduce its emissions to the level required by the ISR, the SJVAPCD requires the difference to be mitigated through the payment of a fee. The fee is used by the SJVAPCD to reduce emissions in the San Joaquin Valley on behalf of the project, with the goal of offsetting the emissions increase from the project by decreasing emissions elsewhere.

As noted in Response 8.3, above, page 4.3-20 of the Draft Revised EIR will be revised in the Final EIR to clarify Mitigation Measure 4.3-2b to include a Voluntary Emission Reduction Agreement (VERA) as requested by the SJVAPCD; refer to Section 3, Revisions to the Draft Revised EIR. Implementation of both Rule 9510 and VERA require extensive coordination with the SJVAPCD to determine the nature and reduction potential any applicable measures. It should be noted that any emissions reductions associated with SJVAPCD Rule 9510 or VERA cannot be quantified at this time, as the actual reduction measures have not been identified. Additionally, implementation of a VERA agreement would have the objective of reducing emissions below the SJVAPCD thresholds, and the project would not be required to reduce emissions to a net zero level.

In response to the Statement of Decision, the Draft Revised EIR includes a detailed 21-page analysis of the feasibility of off-site alternatives, both for the swim center itself and for the Project as a whole, including specific analysis of each of the three sites referenced in the Statement of Decision (Keenan Saddlebrook Development /UR17, Moitoso/Plan B area, and Alvarez/UR1 Development Area), as well as specific analysis of locations more contiguous to the City core and locations outside the airport flight path. As described in Chapter 6 (Alternatives) of the Draft Revised Ellis EIR, several locations closer to the City core were determined to be infeasible alternative sites for the Original ESP or the Modified ESP and were rejected from further consideration as off-site alternatives for the Project for the following reasons:

They were either:
Not under the control of the Project Applicant
Failed to meet basic objectives of the Modified Project; or,
Not in the Secondary Residential Growth Area.

Mobile source GHG emissions are reduced through project location and design elements that reduce vehicle miles traveled (VMT), promote pedestrian access, and promote the use of public transportation. The Modified ESP provides a site for the relocation of the existing Tracy Altamont Commuter Express (ACE) train station should the ACE Rail Agency select this site. Relocation of this train station would reduce vehicle trips and emission of criteria pollutants and GHGs associated with the Modified Project. The SJVAPCD standards require projects to reduce their GHG emissions through the application of Best Performance Standards (BPS) or through mitigation measures. As described in the Draft Revised EIR, the proposed project would reduce VMT and mobile source emissions with various design features including increased density, land use diversity, transit accessibility, walkability design/pedestrian network improvements, trip reduction and ride sharing programs, and traffic calming measures. These VMT reduction measures are included in Mitigation Measure 4.6-1a.

23.2 The Modified ESP establishes a mix of uses that includes a range of residential housing types, a limited amount of local-serving retail commercial with some office uses a range of active and passive parks, and open space; and includes new infrastructure and utilities to serve the new uses. The proposed mix of land uses would include pedestrian-friendly streets that would provide connections from housing to the village center, neighborhood retail area, and the various parks throughout the Modified ESP site. All amenities would be located within a 20-minute walk to residences, which would reduce the number and length of vehicle trips, thereby reducing emissions of criteria pollutants and GHGs. The Modified ESP accommodates pedestrians, bicyclists, and automobiles. The proposed grid system provides various direct routes from one area to another. In addition, the Modified ESP includes a Pedestrian and Trail Systems Plan and a Bicycle Plan (refer to Figure 3-9 of the Draft Revised EIR) in order to facilitate both bicycle and pedestrian use. Also, refer to Response 23-1, above, regarding alternative sites.

23.3 Refer to Response 23.2, above. The proposed project would include a mix of uses, including a range of residential housing types, local-serving retail, commercial, office uses, and open space. The Modified ESP is intended to meet the General Plan goals, objectives, policies, and actions related to the balanced and orderly pattern of growth, the maintenance of the small-town character, and the planned growth within the Sphere of Influence (SOI). The amount of new residential growth facilitated by the Modified ESP would be within the range of housing development planned for in the General Plan. Additionally, a discussion of the jobs-housing balance related to the proposed Project was included in the Original Ellis EIR, and is incorporated by reference into the Revised Ellis EIR. Page 3B.2-4 of the Original Ellis EIR includes a discussion of jobs-housing balance and is incorporated as follows:

> *"The jobs-housing balance is a ratio between the number of jobs and the number of housing units within a city. A jobs-housing ratio that is less than 1.0 indicates that the community has more homes than jobs; residents in these communities generally commute to other communities for work. A jobs-housing ratio that is higher than 1.0 indicates that the community has more jobs than homes; employees from other areas commute into these cities for work.*
>
> *Ideally, the jobs-housing ratio is close to 1.0, with one job for every household. When the jobs-housing ratios in a region are substantially less or more than 1.0, many residents are required to commute to other communities. These commuting patterns contribute to*

regional traffic problems and increased vehicle air pollutant emissions and related air quality problems.

As previously mentioned, according to SJCOG, the City of Tracy had approximately 17,998 jobs and 22,987 housing units in 2005[1]. This represents a jobs-housing ratio of approximately 1.3, which indicated that there are more jobs than homes in the City. According to the Draft General Plan EIR, the California Department of Housing and Community Development (HCD) provides a target goal of 1.5 jobs per housing unit[2]. Although the job-housing ratio is relatively close to balanced, 45% of the workforce commutes outside of the City. This creates a commuting pattern that points toward a jobs-housing match that is less than ideal. According to the General Plan EIR, it is estimated that over 70 percent of Tracy's employed residents commute outside of the City to work, as compared to only 17 percent of workers statewide, and the numbers of employees commuting into Tracy from neighboring counties has also increased.[3]

According to the US Census, the percentage of Tracy residents commuting over 45 minutes to reach their workplace increased by 155 percent between 1990 and 2000. Table 3B.2-3 outlines employment numbers by workplace location and average commuting times for Tracy residents. According to the 2006 State of the City report, 42% of Tracy's residents work in Alameda County[4], which may explain the high percentage of residents who commute over 45 minutes to work."

23.4 Refer to Response 23.2, above. The proposed project would provide a mix of uses including local-serving retail and other commercial uses. These uses would be within walking distance of each other.

23.5 Impacts associated with stationary and toxic air contaminants are addressed on page 4.3-19 of the Draft Revised EIR. The analysis indicated that implementation of the Modified Project would not result in the long-term operation of any major on-site stationary sources of air toxics. In addition, no major stationary sources of air toxics have been identified in the vicinity of the Modified Project site. The uses identified in the comment are located more than one mile (5,280 feet) northwest of the proposed project. The SJVAPCD recommends a radius of one mile for air toxics screening. The project site would be outside of the area of influence for these sources.

23.6 Refer to Response 23.5, above. The proposed project would not result in any on-site stationary sources of air toxics. Additionally, the project is located a sufficient distance away from the City's major industrial facilities.

23.7 Refer to Response 23.1, above. The Draft Revised EIR includes mitigation measures to reduce project impacts to the extent feasible.

23.8 Refer to Response 22.4.

23.9 RBF conducted updated traffic counts at the intersection of Lammers Road / Schulte Road and re-evaluated the previously stated impact and identified mitigation measure as part of this Final Revised EIR process. The 2012 traffic volumes increased in both the

[1] California Department of Finance 2006. City/County Population and Housing Estimates, 1/1/2006

[2] *City of Tracy General Plan Draft EIR* (2006)

[3] *City of Tracy General Plan EIR* (2006). US Census 2000

[4] State of the City Report 2006

AM and the PM peak hour and the delay subsequently increased by 12.8 seconds per vehicle in the AM peak hour and 0.4 seconds per vehicle in the PM peak hour. Under the Existing 2012 conditions, the intersection operates at an acceptable LOS D during the AM peak hour and LOS B during the PM peak hour. Based on this updated analysis, we have validated that even under the updated conditions, though the LOS increases to an acceptable LOS D during the AM peak hour and remains at LOS B during the PM peak hour, and the threshold (LOS E or worse) for triggering a new impact under CEQA did not occur. Further, the proposed mitigation measure will remain unchanged and the intersection will continue to operate at acceptable LOS conditions.

As identified in the Draft Revised EIR, under the Existing plus Project conditions, the LOS will deteriorate to LOS F during the AM peak hour and LOS E during the PM peak hour. Upon implementation of the proposed mitigation measure, the LOS will improve to LOS B in the AM and PM peak hours. The Draft Revised EIR indicates that the developer will either pay a fair share toward the proposed improvement, as required by AB1600, or implement the improvement if the City does not have the necessary funding to implement the improvement, as required by CEQA, to mitigate the impact.

Existing AM and PM Peak Hour Intersection Traffic Volumes
Lammers Road / Schulte Road

Study Intersection	Year	AM PEAK HOUR												
		NBL	NBT	NBR	SBL	SBT	SBR	EBL	EBT	EBR	WBL	WBT	WBR	TOTAL
6 Lammers / Shulte	2006 (DEIR)	*431*	*106*	*0*	*0*	*104*	*119*	*28*	*0*	*46*	*0*	*0*	*0*	*834*
	2012	*189*	*502*	*0*	*0*	*209*	*71*	*77*	*0*	*43*	*0*	*0*	*0*	*1025*
	Growth (+,-)	*-242*	*396*	*0*	*0*	*105*	*-48*	*49*	*0*	*-3*	*0*	*0*	*0*	*191*
Study Intersection	**Year**	**PM PEAK HOUR**												
		NBL	NBT	NBR	SBL	SBT	SBR	EBL	EBT	EBR	WBL	WBT	WBR	TOTAL
6 Lammers / Shulte	2006 (DEIR)	*61*	*114*	*0*	*0*	*171*	*24*	*129*	*0*	*409*	*0*	*0*	*0*	*908*
	2012	*71*	*156*	*0*	*0*	*166*	*17*	*130*	*0*	*399*	*0*	*0*	*0*	*939*
	Growth (+,-)	*10*	*42*	*0*	*0*	*-5*	*-7*	*1*	*0*	*-10*	*0*	*0*	*0*	*31*

Source: Fehr & Peers, 2007. Validated by RBF Consulting, April 2012, October 2012
*2012 traffic counts conducted 9/27/2012

Existing AM and PM Peak Hour Intersection Level of Service
Lammers Road / Schulte Road

	Study Intersection	Jurisdiction / LOS Threshold	Type of Control		AM PEAK HOUR				PM PEAK HOUR			
					DEIR (2006)		Revised per DEIR Comments*		DEIR (2006)		Revised per DEIR Comments*	
					Delay (Sec)	LOS	Delay (Sec)	LOS	Delay (Sec)	LOS	Delay (Sec)	LOS
6	Lammers / Shulte	Tracy / D	AWS	Overall	13.9	B	26.7	D	14.4	B	14.8	B

Source: Fehr & Peers, 2007. Validated by RBF Consulting, April 2012, October 2012
*Revised traffic counts conducted 9/27/2012
Notes: Shading indicates LOS threshold is exceeded.
AWS = all-way stop-controlled intersection

Existing plus Modified ESP AM and PM Peak Hour Intersection Level of Service
Lammers Road / Schulte Road

	Study Intersection	Jurisdiction / LOS Threshold	Type of Control		AM PEAK HOUR				PM PEAK HOUR			
					DEIR (2006)		Revised per DEIR Comments		DEIR (2006)		Revised per DEIR Comments	
					Delay (Sec)	LOS	Delay (Sec)	LOS	Delay (Sec)	LOS	Delay (Sec)	LOS
6	Lammers / Shulte	Tracy / D	AWS	Overall	**54.3**	**F**	**120.9**	**F**	**38.1**	**E**	**40.0**	**E**

Source: Fehr & Peers, 2007. Validated by RBF Consulting, April 2012, October 2012
*Revised traffic counts conducted 9/27/2012
Notes: Shading indicates LOS threshold is exceeded.
AWS = all-way stop-controlled intersection

Intersection Mitigations based on 2012 Traffic Count Data
Lammers Road / Schulte Road

	Study Intersection	Existing LOS				Existing Plus Project LOS				Intersection Improvement	Mitigated LOS			
		AM Pk. Hr.		PM Pk. Hr.		AM Pk. Hr.		PM Pk. Hr.			AM Pk. Hr.		PM Pk. Hr.	
		Delay (Sec)	LOS	Delay (Sec)	LOS	Delay (Sec)	LOS	Delay (Sec)	LOS		Delay (Sec)	LOS	Delay (Sec)	LOS
6	Lammers / Shulte (CIP 72PP-012)	26.7	D	14.8	B	**120.9**	**F**	**40.0**	**E**	Signalize	16.4	B	10.2	B

Source: Fehr & Peers, 2007. Validated by RBF Consulting, April 2012, October 2012
Notes: SB = Southbound

As identified in the table below, the mitigation to the intersection of Lammers Road and Schulte Road would be triggered when the proposed project generates 58 trips during the PM peak hour. If the development identified in the first building permit or any subsequent building permits generates a total equal to or more than the 58 trip threshold, the project sponsor shall provide the appropriate funding to mitigate the project impact at the intersection of Corral Hollow Road / Valpico Road. The Draft Revised EIR indicates that the developer will either pay a fair share toward the proposed improvement, as required by AB1600, or implement the improvement if the City does not have the necessary funding to implement the improvement, as required by CEQA, to mitigate the impact.

A trip generation study shall be submitted with building permit application to determine if the 58 peak hour trip threshold would be exceeded.

Project Trip Generation Thresholds That Triggers Mitigation: Lammers Road / Schulte Road

Study Intersection		Number of Peak Hour Project Trips Added that Initiate Mitigation (Worst Peak Hour LOS)	Assumed Land Use
6	Lammers / Shulte	58 (PM Peak Hour)	Single Family Dwelling Units: 235 or Multi-Family Dwelling Units: 250

Source: RBF Consulting October 2012
Note: The land use quantities presented in this table are potential land uses and for reference pruposes only. Prior to issuance of the first and subsequent building permits, a formal Trip Generation Study should be submitted to the City for review.
Added peak hour trips indicated above is based upon worst peak hour (peak hour that first exceeds LOS threshold).

The City is pursing construction of improvements at the Lammers Road/ Schulte Road intersection located next to West Side Irrigation District canal and the existing Red bridge subdivision. The preparation of project improvement plans and construction bid documents is in progress. The intersection of Lammers Road and Schulte Road immediately north of Union Pacific Rail Road is outside the City limits and within San Joaquin County's jurisdiction. The project will pay a fair share contribution towards the Lammers Road / Schulte Road intersection improvements as indicted in the DREIR.

23.10 The Draft Revised EIR indicates that the proposed project will either pay a fair share or implement the improvement, if the addition of the project causes an impact and the City does not have the funding to implement the improvement.

23.11 The Draft Revised EIR indicates that the proposed project may either pay a fair share or implement the improvement, if the addition of the project causes an impact and the City does not have the funding to implement the improvement.

23.12 The Draft Revised EIR identifies that the County is currently designing and funding an improvements at this intersection. RBF conducted new traffic counts at the intersection of Lammers Road / Schulte Road and reevaluated the potential impacts and mitigation and are discussed in the Response 22.4.

The intersection of Corral Hollow Road / Valpico Road is located within the San Joaquin County's jurisdiction outside the existing City limits. However, the proposed intersection mitigations are included in the City CIP (Project #72PP-053) and are scheduled for completion when this intersection is annexed in to the City limits. The project applicant will pay a fair share towards this improvement.

23.13 Refer to Response 20.14, above.

23.14 The Revised Draft EIR correctly stated that the Project Applicant does not have control of the Keenan Saddlebrook site. According to the commenter, he current owners of the Keenan Saddlebrook site have nine years remaining to develop the site. The Project Applicant is looking to develop a property prior to nine years, thus making the Keenan Saddlebrook an infeasible option. Addditionally, the Keenan Saddlebrook site is already contemplated by the General Plan for other uses, and thus it would be likely developed in addition to Ellis, and therefore was not presumed to be an alternative location to the proposed Project.

The Keenan site was further rejected as not feasible for the following reasons:

The City has a Growth Management Ordinance that limits the rate of residential growth, and creates a requirement to first obtain a Residential Growth Allotment (RGA) prior to obtaining a building permit for a residential unit. The GMO was the subject of a ballot initiative and therefore cannot be changed without a vote of the citizenry. The Ordinance also requires GMO implementation Guidelines (GMO Guidelines), which, together with the foundational growth management policies contained within the City's General Plan (Objective LU 1.4) are the City's principal policies related to sequencing and managing residential growth. The GMO Guidelines establish where residential growth will occur as a matter of priority between the residential areas identified in the General Plan. The GMO Guidelines are periodically updated following public input. The recent GMO Guidelines were adopted by City Council on October 16, 2012 by resolution number 2012-214. These were adopted after a workshop with City Council on October 1, 2012 where property owners and the public commented on the proposed Guidelines prior to them being finalized for CC adoption.

The recently adopted GMO Guidelines establish that the City will prioritize residential growth to several projects including as follows:

- Vested projects: residential projects vested to "older" versions of the GMO Guidelines;
- Primary Growth Areas: these are defined by geographic area in an exhibit to the GMO Guidelines, which also create numeric allocation parameters to these areas;
- Development Agreements: projects with DAs may receive allocations in accordance with the DA provisions. A total of 225 RGAs can be issued under DAs.
- Tracy Hills and Ellis Specific Plan areas: these projects most remaining RGAS
- "Other Projects": these areas are specifically called out in the GMO Guidelines and include opportunity for Keenan property and other to sequence in once all of the other areas have first obtained their RGAs and building permits.

At both the workshop and the hearing to adopt, the Keenan project proponents expressed an understanding of the policies and a desire to work with the City in the future, understanding that the sequencing policies in the GMO Guidelines may mean that they cannot begin development for several, or many years.

At the GMO Guidelines workshop on October 1, 2012, City Council, as part of the same published agenda as the GMO Guidelines, conducted a workshop on funding alternatives for a Swim Center. At the workshop staff was directed to complete the GMO Guidelines (as described above) as pursue ongoing DA discussions with the Ellis project team (affirming that Ellis DA was a preferred approach) and to have discussions specifically with the other projects that were intended to begin the next residential development sequence, which did not include Keenan, to see if additional swim center funding could be negotiated with those projects. Staff was also directed to pursue an "at permit fee" to help fund the swim center.

At no point in the workshop or otherwise did City Council make any decision or provide any direction that would have further prioritized the Keenan project. Since that workshop and the hearing, no application submittals have been received by Keenan.

23.15 Refer to Response 23.14, above.

23.16 Refer to Response 23.17. The Keenan Saddlebrook site was rejected for many reasons, including the lack of a potential site for a Swim Center. Refer to Response 23.14, above.

23.17 The commenter asserts that the Keenan Saddlebrook alternative was rejected because "it is not sited in a central location, with easy and safe access for pedestrians and bicyclists." The Revised Draft EIR does not reject this site on such a basis. Insofar as the Revised Draft EIR makes reference to a swim center site at a "central location," the analysis did not focus on the "centrality" of any location but pointed out that the Saddlebrook alternative is not feasible because the City would lose financial assistance from the applicant should the swim center be developed outside the Modified ESP site. (Revised Draft EIR, p. 6-19.)

The commenter also asserts that the City improperly rejected the Keenan Saddlebrook alternative insofar as the City claimed that buildout of this alternative site would permit

only reduced commercial development. One of the main project objectives is to create a *range* of job and economic development opportunities and, as the Revised Draft EIR says on page 6-19, the Saddlebrook site has acreage that is 40 percent less than the Modified ESP site acreage. A development footprint that is nearly half the size of the Modified ESP site would severely hamper the ability of the project to offer a diversity of commercial opportunities in the City. Insofar as the commenter asserts that additional commercial and retail establishments could be developed in addition to commercial buildout of the Saddlebrook site, the establishment of commercial areas through different and competing development proposals would operate to encourage competition among similar businesses. By contrast, clustering businesses in a single area, and as part of a single development proposal, discourages competition and encourages a range of diverse, complementary economic opportunities.

Further, the commenter fails to address the fact that the Keenan Saddlebrook site is not, in fact, designated for intense commercial or mixed-use development in the General Plan, but is designated to accommodate predominantly residential uses with some neighborhood park uses. The City's land use designations were formed as part of a comprehensive blueprint for the City, incorporating such principles as smart growth and proper distribution of uses, thereby indicating that the Keenan Saddlebrook area already is saturated with sufficient commercial use, and that its development into a commercial center would upset the balance of commercial and non-commercial uses accomplished by the proposed project. To this end, development of the Saddlebrook site with commercial development would fail to satisfy the project objective of providing a mix of uses in close proximity, and at the maximum density feasible within ranges established by the General Plan, as indicated in the Revised Draft EIR.

The EIR properly explains that the Keenan Saddlebrook site would not meet either of the City's primary project objectives. Implementation of the City's General Plan policies for UR 10/TR-Ellis is a legitimate objective. While the comment letter refers to a "proposal," it is important to note that there never has been such a proposal. No applicant has come forward with any proposal to develop Saddlebrook and specifically no proposal to provide any funding or support for a swim center. By comparison, the present applicant has come forward and invested significant expense and resources and many years of time in developing and presenting a proposal for TR-Ellis that accomplishes the City's objectives. Given that no other applicant has come forward with a real proposal for Saddlebrook, and that the applicant in this case has no ownership or control over the Saddlebrook site, there is sound basis for the City's determination that the Saddlebrook site is not a feasible off-site alternative, for all of the reasons further explained in more detail on pages 6-17 through 6-19 of the Revised Draft EIR as amended in this Final EIR. See also Response to Comment 23.14 and 23.20.

23.18 The Plan B/Moistoso alternative location was rejected for further analysis for many reasons, including that is is located outside the City's SOI, it is not controlled by the Project Applicant, and it fails to meet the basic project objectives as stated in Chapters 3 and 6 of the Draft Revised EIR.

23.19 Refer to Response 23.14, above.

23.20 The Plan B/Moistoso site is not within the City's SOI. Subsequent to the Original Ellis Entitlement approvals in 2008/2009, extensive outreach was conducted by the City through public hearings at both the Planning Commission and City Council to identify

new growth areas as part of re-establishing the City SOI, in response to new LAFCo policies adopted in 2008. As a result of the public process, the Plan B/Moistoso site was identified for removal from the City's SOI after extensive public input. The Plan B/Moistoso site was removed from the City's SOI with an Amendment to the City's General Plan. Potential environmental impacts resulting from the identified SOI changes were analyzed in an EIR. At no point in the City's process of determining how to re-establish the City SOI, did the City receive any public comments or formal letters contesting the removal of the Plan B/Moistoso site from the City's SOI.

Subsequent to the City's process for determining how to re-establish the City SOI, LAFCo conducted their own public process to study the City's proposed changed SOI. This formal process included a public workshop, followed by a public hearing that concluded with the approval of the City's new SOI. At no point was any objection raised by property owners concerning the removal of the Plan B/Moistoso site from the City's SOI. Additionally, the City conducted approximately four or five public meeting after the Original Ellis Entitlement approvals in years 2009, 2010, and 2011 to discuss various options for creating and designing a Swim Center. At no point in those public meetings were there any discussions raised about re-locating a swim center to another site, including Keenan or the Plan B/Moistoso site.

23.21 As stated on page 6-21 of the Draft Revised EIR, the Alvarez/UR1 was rejected for many reasons, including the fact that it is not in a Secondary Residential Growth Area, is not under control of the Project Applicant, it fails to meet the basic project objectives, and it is already contemplated by the General Plan for other uses.

23.22 Refer to Responses 23.13 through 23.21, above.

23.23 As noted in the Draft Revised EIR, a Limited Use designation encompasses the Tracy Airport Outer Approach Zone in the southeast corner of the ESP site. This designation would restrict uses to include low intensity active recreation, agricultural production and sales, construction business, nurseries, storage units and art studios. The *San Joaquin County Airport Land Use Compatibility Plan Update* (ALUCP) and City's noise standards for these types of uses are 70 dBA, and therefore do not require further study or mitigation. However, noise impacts to future residential uses within the 60 to 65 dBA CNEL contour are considered to be potentially significant. Therefore, implementation of Mitigation Measure 4.10-1h would require future residential uses proposed within the 60 to 65 dBA CNEL airport noise contour to adhere to the ALUCP, which requires residential uses to incorporate sound insulation to reduce exterior-to-interior noise levels by at least 25 dBA[5], and also requires an avigation easement and a fair disclosure

[5] According to *The Noise Guidebook* (updated February 2009), prepared by the United States Department of Housing and Urban Development, a typical building can reduce noise levels by 20 dBA with the windows closed. *The Noise Guidebook* states that additional construction measures such as increasing the width of airspace, increasing the spacing between studs, using staggered studs, using resilient materials to hold studs and panels together, using dissimilar layers in walls, adding acoustical blankets, and sealing cracks and edges can each reduce sound transmission up to an additional 10 dB. Furthermore, in 1979, the U.S. Congress authorized the Federal Aviation Administration to devise technology and programs to attempt to insulate homes near airports (Aviation Safety and Noise Abatement Act of 1979). The program has been effective for residential and school interiors, and some of the first airports at which the technology was applied were San Francisco International Airport, Seattle-Tacoma International Airport, and San Jose International Airport. Some of the methods that have been used to reduce aircraft noise under this program have been building retrofit strategies such as roof upgrading, window glazing improvement, fireplace baffling, and caulking construction seams. Many existing airports also have voluntary residential noise mitigation

statement as conditions of development approval. Implementation of Mitigation Measure 4.10-1h would ensure both the ALUCP and City noise standards are achieved. Thus, impacts from airport noise to future on-site sensitive uses would be less than significant with implementation of Mitigation Measure 4.10-1h.

23.24 A train noise analysis was prepared for the proposed project and incorporated into the Draft Revised EIR; refer to page 4.10-21 of the Draft Revised EIR. The analysis determined that residential buildings within 260 feet of the railroad tracks would require an analysis of interior noise levels and the incorporation of the measures necessary to attenuate interior noise to acceptable levels established in General Plan Policy P7. The residential interior noise standards would apply to all units located where the noise exposure is 60 dBA or greater for dwelling units located within approximately 260 feet of the railroad corridor. The residential buildings would be exposed to a day/night noise level of about 65 Ldn at a building setback about 110 to 120 feet from the railroad tracks.[6] Mitigation Measure 4.10-1g would be required to ensure that subsequent noise studies are prepared for proposed development within 260 feet of the Union Pacific Railroad to ensure that residences are adequately shielded and/or located at an adequate distance from railroad noise sources.

23.25 Refer to Response 23.24, above. The proposed project would be required to mitigate train and airport related noise impacts to a less than significant level, using sound insulation and building location and orientation. Additionally, Mitigation Measure 4.10-1h requires a fair disclosure statement as a condition of development approval or building permit issuance.

23.26 As distance to existing fire stations is largely the limiting factor for meeting response times to the ESP site, it is expected that the South County Fire Authority would have to construct a new fire station in the vicinity of the ESP site in order to meet response time standards and comply with General Plan Policy PF-1.2 P4, which states, "Fire substations shall be constructed in new development areas in order to meet the City's response time requirements." The ESP allows public facilities within all land use designations except Commercial and Limited Use and the Project Applicant is proposing the dedication of land to the City for a Swim Center and Community Park. Thus, if the South County Fire Authority's Station Siting Study determines that locating a fire station within the ESP would alleviate deficient response times, such a use would be permitted and land would be available. Construction of a fire station within the ESP boundaries would create similar impacts to those of the overall development of the ESP site discussed within this EIR, although there would be periodic, temporary noise and light impacts associated with emergency response activities and the mobilization of emergency response vehicles.

Many variables are considered in determining the site of a fire station and the ideal location for serving this portion of the City of Tracy may not be within the ESP site. Additionally, land and funding may not be available within the time frame of initiating the development of the ESP site. For these reasons, the City cannot conclusively determine the location of a new station and associated impacts or whether a station may be

programs which provide building retrofits for sensitive uses in areas with high levels of aircraft noise (i.e., Los Angeles International Airport [http://www.lawa.org/welcome_LAWA.aspx?id=1092]).

[6] Illingworth and Rodkin, Inc., *Ellis Property, Tracy, CA – Updated Railroad Train Noise and Vibration Mitigation Study*, May 25, 2012.

operational at the time. Similarly, given that the South County Fire Authority is changing their standards of coverage, the City cannot conclusively determine the level of responsiveness and service the ESP site would receive. There are two possible, feasible mitigation measures available to reduce impacts to less than significant levels: provide emergency response service in the vicinity of the ESP site or limit the construction of new residential units until such time adequate emergency response service can be provided.

Mitigation measure 3B.9-5a of the Draft Revised EIR states that the Project Applicant shall work with the City and South County Fire Authority to help identify a possible location for a future fire station to serve the Project site. Additionally, mitigation measure 3B.9-5b states that prior to the issuance of building permits, the Project Applicant shall work with the City and South County Fire Authority to establish adequate emergency response services to the site through the construction of a new fire sub-station, temporarily stationed emergency response personnel, or other means as reviewed and approved by the South County Fire Authority. Additionally, the Project FIP shall include a Public Buildings Fee. According to the South County Fire Authority, implementation of the proposed ESP might affect service delivery capabilities, although at this time, the South County Fire Authority cannot conclude to what degree service would be affected.

23.27 The Project Applicant has entered into a Memorandum of Understanding (MOU) with Tracy Unified School District. The MOU requires that the Project Applicant mitigate the impact of the ESP upon the District by paying the greater of (i) Level II Fees as authorized by Government Code 65995.5 (allows the School District to impose a fee on residential construction that is higher than the Level I fee limit set forth in Government Code 65995 if the District is eligible pursuant to Education Code 17071.10-17078.10, and a timely application is made to the State Allocation Board) or Level III Fees as authorized by Government Code 65995.7 (if state funding becomes unavailable, 65995.7 authorizes the District that is eligible to receive the Level II funding the authority levy a still higher fee on residential construction) or (ii) Mitigation Fees paid either at the time of certificate of compliance or at close of escrow.[7]

The City requires that all new development pay Public Facilities Impact Fees in order to offset impacts associated with increasing the City's demand for public services.

City Council Resolution 99-198, adopted on June 1, 1999, requires that the Project Applicant meet and confer with the Tracy Unified School District to ensure adequate mitigation of impacts. Under Resolution 99-198, the Project Applicant is strongly encouraged to fully comply with the mitigation measures required under the Comprehensive School Facilities Capital Improvement and Finance Plan so the Tracy Unified School District can effectively plan and meet the demands of new development on school facilities and services. Similarly, City Council Resolution 99-480, adopted on December 21, 1999, requires that the Project Applicant meet and confer with the Jefferson School District to ensure adequate mitigation of impacts.

The MOU between TUSD and Western Corral, LLC (assigned to the Project Applicant) stipulates the Project Applicant would pay the Level II or Level III school mitigation fees for the proposed ESP as appropriate.[8] Pursuant to Section 65995(3)(h) of the California

[7] Memorandum of Understanding, Tracy Joint Unified School District, December 2005.

[8] Ohm, 2006.

Government Code (SB 50), "the payment of statutory fees is deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use or development of real property...." Therefore, with payment of statutory fees, school impacts would be considered less than significant and no additional mitigation measures would be required.

23.28 According to the Police Department, the approximate response time (for emergency and non emergency calls) to the ESP site is currently 9 minutes.[9] This exceeds the City's goal of a 5-minute response time for Priority 1 calls (life threatening situations). Therefore, implementation of the proposed ESP would exacerbate an existing problem, not create a deficiency. Also, the resulting increase in traffic congestion (as identified in Section 3B.3, Transportation) from implementation of the ESP could inhibit the Police Department's ability to meet its response time goals.[10] According to the *General Plan*, the City would continue to provide law enforcement for property within the City limits, which would eventually adjust to include land annexed from the Sphere of Influence in preparation for development. To continue to provide the current level of police service, approximately 35 additional sworn officers would eventually need to be added to the Tracy Police Department in the Sphere of Influence. This is based on the current staffing level of approximately one sworn officer per 1,000 residents, which is a level deemed appropriate for the City by the Police Department. The proposed ESP would require additional police staff and potentially more building space for those staff to meet the City's goal for police protection services. The City requires the payment of Public Facilities Impact fees to offset the cost of additional facilities. In addition, Mitigation Measure 3B.9-4 of the Original Ellis EIR states that individual project applicants within the ESP site shall consult with the Police Department during preliminary stages of site design to review safety features, determine their adequacy, and suggest design and/or physical improvements to the proposed site plan and/or to police facilities and equipment to ensure adequate service is maintained.

23.29 The Development Agreement prepared for the proposed Project identifies that there will be sufficient wastewater treatment and conveyance capacity available to the ESP site for the first 800 single-family units. Subsequent units will be serviced with additional capacity coming from the City's existing capacity and/or expansion of the existing wastewater treatment plant. The expansion may occur over time, and would be constructed using funds placed in the FIP paid by the Project Applicant.

It should be noted that the issue the commenter raises is a policy and economic issue, and not a CEQA issue.

It also should be noted that it is not the purpose of the EIR to analyze economic or social issues. Rather, the purpose of the EIR is to analyze a project's impact on the existing environment. The comment's speculation that the Project may somehow limit other future development, even if true, does not raise an environmental issue within the scope of CEQA. If future development is delayed or prevented, that would constitute a maintenance of the existing status quo and not result in any change in the existing environment. To the extent that the comment raises a policy argument unrelated to actual environmental impacts, it is included in the record for the City Council's consideration.

[9] Ibid.

[10] Ibid.

23.30 There are no CEQA impacts raised by the commenter with respect to hazards associated with on-site pipelines. For informational purposes only, the viability of the safety plan, as contemplated in Mitigation Measure 4.7-2, is addressed below.

The commenter has submitted a picture that, it purports, accurately depicts a buffer zone over a pipe alignment during a construction activity. While site markers in that photograph appear not to have been diligently maintained, there is no evidence that any pipelines were damaged. There are numerous responses to the assertion that this project will not properly implement safety procedures. First, this project will be undertaken by contractors that are different from those involved in the project cited by commenter, and will be supervised by a developer different from the entity involved in the project cited by commenter. Further, the jurisdictions in which each project is sited are different. It is improper to attribute the practices occurring on a different project to the practices that will occur during construction of the project evaluated here; conversely, it is appropriate to assume the relevant parties here will comply with all adopted measures. Adherence to those measures recommended in the Pipeline Safety Report, prepared by Kiefner & Associates on May 1, 2012, and those measures constituting Mitigation Measure 4.7-2 on page 4.7-33 of the Draft Revised EIR, would prevent the risks identified by commenter. Such measures include, without limitation, the designation of areas where construction equipment may cross over pipelines (e.g., where vertical clearance between a pipeline and the ground surface is at its maximum), the provision of temporary fill or other protection over lines where necessary, and the generous construction setbacks.

As a threshold matter, it must be clarified that information provided in the Draft Revised EIR about any pipeline-related risks that may be experienced by future project users and occupants was provided for information only, and not as part of any analysis mandated by CEQA. The pipelines already exist, and are operated and maintained by their operators as part of the existing environment. Insofar as the project may place future project users or occupants in proximity to such existing pipelines, recent court decisions have clarified that CEQA review does not require discussion of the impacts of the existing environment (i.e., the pipelines) on such persons or on the project. Even if project construction or operation had the effect of increasing the existing probability of a pipeline leak or other failure, the appropriate scope of environmental review under CEQA would be limited to analyzing the project's impacts on the existing environment. As discussed in more detail below, however, the proposed project will actually decrease, rather than increase, the existing probability of pipeline failures and, from a practical perspective, future project users and occupants will have notice of all applicable risks. Notice will occur by means of the inclusion of the location of pipelines within the project and surrounding area in the real estate sales disclosure documents for all prospective and eventual homebuyers, as well as inclusion of the location of pipelines within the project in all contractor agreements. For instance, as discussed on 4.7-21 of the Draft Revised EIR, recent enacted legislation (AB 1511) will require that all contracts for the sale of residential real property entered into on or after July 1, 2013 contain specified notice pertaining to gas and hazardous liquid transmission pipelines. In addition, the pipeline easement area will be clearly marked on maps and at their physical location, per federal and state regulations. Further, though not mandated by CEQA, the project does incorporate design elements and adopt measures that would minimize hazard risks experienced by future project users and occupants to levels considered acceptable.

As noted above, and as a preliminary matter, it must be clarified that both construction and operation of the project would, in fact, lead to lesser probabilities of pipeline failure, when compared to the probability of damage associated with activities that historically have occurred on site and would be expected to occur in the absence of the project. The reduction in the likelihood of damage results from the opportunity to better monitor and control activities that involve excavating or working in the soil around the pipelines than is the case with the current land use.

The major causes of pipeline failure, as identified by both the City and the commenter, are corrosion and mechanical damage. Regarding corrosion, neither construction nor operation of the project would, in any way, exacerbate the rate of corrosion, as the project would not entail disruption or exposure of a pipeline to any sources of corrosion that do not currently exist, and would not otherwise increase the rate of pipeline corrosion. Nor does the project involve the installation of additional pipelines. In summary, none of the gas lines on the project site have shown any indication of significant damage from corrosion (as detailed, for example, on pages 4.7-11 through 4.7-14 and pages 4.7-27 through 4.7-29), and nothing about implementation of the project would increase the rate of corrosion or interfere with the regulatory monitoring programs and other safety rules that exist.[11] In fact, the two natural gas pipelines[12] and Chevron's oil pipeline would, upon implementation of the project, and to the extent they are not already, become designated as High Consequence Areas ("HCAs").[13] Special rules apply to the operation of pipelines within HCAs, as contained in 49 CFR Subpart O for gas pipelines, and 49 CFR 195.452 for liquid pipelines. These rules provide for a higher standard of care through what is referred to as an Integrity Management Plan ("IMP"). The regulations require, among other things, that the operator identify the specific lengths of pipeline that could affect the HCA; identify threats to the integrity of the pipelines; perform a risk assessment in order to prioritize condition assessments; perform assessments capable of evaluating the condition of the pipeline with respect to the integrity threats on a specified maximum reassessment interval; respond to the condition assessments based on the severity of the conditions, and according to

[11] The Revised Draft EIR discussed, in great detail, the existing regulatory environment and inspection processes that ensure pipelines are designed, constructed, operated, and maintained in a safe manner. As disclosed on pages 4.7-26 through 4.7-28, the on-site natural gas pipelines are protected against deterioration by high integrity coatings and a cathodic protection system. PG&E has pressure tested its pipes and periodically surveys them using electrical measurements that detect coating damage, as discussed on pages 4.7-13, 4.7-14, and 4.7-25 et seq. PG&E also regularly checks the functioning of the cathodic protection system, and conducts periodic in-line inspections of its pipes. The last inspections occurred in 2005 and 2006 and disclosed only superficial to minor corrosion.

[12] Note, to the extent the commenter and consultant assert the PG&E gas lines contain features, such as tape wrapped coating, that no longer are permitted, that assertion is incorrect. Tape coating is not prohibited by 49 CFR Part 192.

[13] It must be noted that the pipelines traversing the project site pass through an HCA wherever they pass through a suburb, town, rural school site, or recreational area, including areas in Mountain House and Antioch. The upshot is that federal requirements already apply to portions of the pipelines involved and, from a practice perspective, many of the requirements mandate procedures, such as inline inspections, that cannot be limited to discrete pipeline segments, thus benefiting other areas. For example, as discussed on page 4.7-12 of the Draft Revised EIR, Line 401 already lies adjacent to approximately 22.2 miles of areas designated as HCA's. Additionally, in-line inspections ("ILIs") performed on pipelines traversing the project site occurred as a result of HCAs in other areas and, regarding the PG&E gas lines on the project site, resulted in inspections covering more than 100 miles between the two pipelines, within those specific tool runs alone. Thus the pipelines crossing the planned development area have already benefited from assessments performed to meet requirements that apply to HCAs located elsewhere.

specified schedules; avoid or prevent recurrence of the conditions pursuant to regulation; measure the effectiveness of the IMP pursuant to criteria set forth in regulation; and incorporate steps for management of the IMP. The IMP must specify in detail how each of these key elements is to be carried out, and is subject to detailed regulatory requirements and agency approvals. Safety requirements that apply to all pipelines include a damage prevention program and regular auditing by the California State Fire Marshall (for liquid lines) and the Consumer Product Safety Division of the California Public Utility Commission (for gas pipelines). Damage prevention programs include, without limitation, many elements such as public education campaigns, stakeholder outreach, and participation in one-call programs for marking buried utilities.[14] Additionally, standards concerning leak detection capabilities govern liquid pipelines. Therefore, implementation of the project would lead to greater oversight, reducing the probability of a leak or other pipeline failure.

In terms of mechanical damage, both construction and operation of the project would reduce the probability of an incident. The project site historically has been used for agricultural production, with different portions of the project site having been involved in crop production at periodic intervals (including the land on top of, and in the vicinity of, the gas and oil pipeline alignments). These farming operations have entailed plowing and other activities that make use of heavy machinery, which has occurred without any stringent regulatory oversight. It is reasonably foreseeable that these same agricultural activities would occur at periodic intervals without implementation of the Project.

During construction of the project, there would be a negligible risk to pipeline integrity, as the project would incorporate generous construction setbacks, and would site residential and commercial uses (and, by extension, the construction activities associated with them) away from the existing pipe alignments. Specifically, for all construction activities excepted limited roadway and utility installation (discussed below), the project would implement 100-foot buffer setbacks upon implementation of certain construction activities, including site grading, operation of heavy equipment, and other practices, as discussed on pages 4.7-31 and 4.7-33 of the Draft Revised EIR. This 100-foot distance is four times greater than standard practice, as identified on page 4.7-30 of the Draft Revised EIR.[15] Similarly, the project would include a setback to habitable structures of 100 feet on either side of the center line of the existing 50-foot wide pipeline easement. Accordingly, the Modified ESP would locate the pipelines within a public space that does not include any homes, and is not within the control of a multitude of individual homeowners, thereby ensuring the majority of project construction occurs a significant distance from the pipeline alignments. The project would involve the construction of seven roadways that traverse over the pipeline alignments and various utility conduits

[14] In addition, during construction, the public, including contractors and excavators, are required by state law to make a toll-free call (8-1-1) to request marking of all buried utilities before they dig. The pipeline operator must respond by marking their facility within specified time limits.

[15] Federal pipeline safety regulations, including the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, and industry codes and standards, establish no minimum setback requirements from natural gas or hazardous liquid underground pipeline. Right-of-way width varies with terrain, land use, and the negotiated easement. An easement extending 25 ft from the center of the pipeline is common, but it can be much narrower or wider. (Hosmanek, M., *Pipe Line Construction*, Petroleum Extension Service, The Univ. of Texas at Austin, 1984; http://www.pipeline101.com/pipelinesyou/landowner.html.) Here, the project site is generally flat and has no unique features; thus, though project contractors would observe a 100-foot setback, a 25-foot setback would satisfy industry standards.

that include: three water pipeline crossings; two sanitary sewer crossings; and three storm drain crossings. The utility infrastructure could be co-located into a few as three joint trenches. To the extent feasible, the project applicant will consolidate utilities in order to implement Mitigation Measure 4.7-2, which requires, in part, the minimization of "installations of new buried utilities and services across existing pipelines."

All the aforementioned construction activities would not pose any significant risk to the on-site gas and oil pipelines. First, the installation of roadways and utilities that traverse gas and liquid pipeline alignments is a common activity, and subject to design criteria set forth by PG&E and Chevron, as well subject to monitoring, inspection, and approval by the pipeline operators. Per industry practice, preserving a vertical clearance of at least 3 feet between the surface of gas pipelines and either utilities or road subgrades is considered conservative. Meanwhile, preserving at least 2 feet of soil between the surface of oil pipelines and utilities, and preserving at least 3 feet of soil between the surface of oil pipelines and road subgrades is considered conservative. Here, surveys have disclosed that the PG&E gas pipelines are located at least 4.5 feet below grade, and in many cases lie significantly deeper, whereas the Chevron oil pipeline is located approximately 3 feet below grade.

The project would not require any significant disturbance to the existing grade, as green space over pipeline alignments would be substantially maintained; therefore, the project would not significantly disturb the existing loads on the oil and gas pipelines or the existing vertical clearances between the pipelines and the surface. Accordingly, neither the installation of utilities nor roads would entail encroachment into acceptable vertical buffer zones. Regarding road construction, installation of a road subgrade could be entrenched up to one foot below grade or lie on the surface of the existing grade, leaving at least 4.5 feet of vertical clearance between the bottom of the road subgrade and the gas pipelines, and about 3 feet of vertical clearance between the bottom of the road subgrade and the oil pipeline. Further, the road would be subject to wheel loading requirements, or design parameters, that ensure there would be no disruption to facilities lying underneath. If, during the preliminary design process, the contractor, PG&E officials, or Chevron officials discovered vertical clearance over pipelines did not meet minimum acceptable standards for some unforeseen reason, project engineers would implement special design methods, including the installation of a thicker section of roadway or a concrete slab bridging the pipeline alignments. Such methods are commonly employed in development, and are used successfully to protect shallow pipelines. Regarding utilities, where existing vertical clearance between the oil and gas pipelines and ground service are such that minimum vertical clearances could not be maintained between both (1) the existing pipelines and utility lines and (2) utility lines and the ground surface, new utilities would be routed at appropriate distances *beneath* the existing oil and gas pipelines using well-known, standard construction practices such as jack and bore installation. If PG&E or Chevron officials desired further protection of their pipelines from future operation of project utility lines, construction methods are available to satisfy such demands, such as sheathing new utility lines in metal.

Second, any construction activity occurring within the vicinity of a pipeline would be regulated under a site damage-prevention plan, as identified on page 4.7-33 of the Draft Revised EIR, and conform with recommendations of the Pipeline Informed Planning

Alliance ("PIPA") to the extent feasible.[16] In addition, and as mentioned above, officials from both PG&E and Chevron would be on-site during construction to ensure the pipelines are properly protected, and that standard construction practices are being maintained. The temporary duration of the construction activity, coupled with the degree of oversight occurring pursuant to applicable regulations and the adopted damage-prevention program, render the probability of a pipeline incident less than if the existing agricultural activities continued to exist indefinitely.

In terms of operation of the project, there would be limited to no activities that would threaten mechanical damage to pipelines. As stated previously in this Response to Comment, the surface areas above the alignments would be utilized as public open space and a handful of intersecting roadway segments. Locating the pipelines within a public space that is not under the control of a multitude of individual homeowners minimizes the incidence of project excavations (i.e., since there would be limited project facilities in the vicinity of pipelines requiring excavation) or future excavations by project users, and all excavations that may occur would be supervised. In terms of roadways, the majority of these would serve residential development situated in cul-de-sacs that generates little traffic, the weight of which would be accommodated through design of the roads. Except for the infrequent necessity of repairing project roadways, roadway uses do not require the involvement of heavy mechanical equipment. In terms of frequency, roadways typically require a "slurry seal," or a superficial repaving, about once every 5 years, and project roadways would be designed to support any equipment necessary to complete this process. A more intensive procedure known as an "overlay," which entails the replacement of about ½ inch of asphalt, would occur approximately every 20 years but, as with the slurry seal, no excavation would be required, and the project roadways would be designed to support the equipment necessary to complete this process. Thus, compared to the frequency of unsupervised excavations that presently occur on the site as an incident of agricultural activity (e.g., plowing and other uses of heavy machinery on unpaved land), activity associated with the operation of the project would reduce the probability of a pipeline incident occurring.

23.31 The commenter suggests that the Draft Revised EIR did not take account of various incidents concerning pipeline leaks and, therefore, the Draft Revised EIR's significance conclusions are invalid. Specifically, the commenter asserts that risk is a function of the probability that an event will occur and the magnitude of the consequences, and that a failure to acknowledge a small number of incidents means the probability of an event has been miscalculated.

As discussed in Response to Comment 23.30, there are no CEQA impacts raised by the commenter with respect to hazards associated with on-site pipelines. The potential impacts of the existing pipelines on future project users or occupants do not qualify as cognizable impacts under CEQA and, regardless, the project in fact reduces the probability of harm. For informational purposes only, particular incidents raised in the comment letter are further addressed below.

[16]One measure included in Mitigation Measure 4.7-2 provides that "existing lines should be lowered to increase vertical separation between the pipelines and new surface features." (Draft Revised EIR, p. 4.7-33.) In fact, upon further review by project engineers, and in accordance with the discussion above, it has been determined that the project would not necessitate the lowering of existing gas or oil pipelines.

The Draft Revised EIR did not specifically mention the incidents identified by the commenter because their mention was not necessary in light of the approach the Draft Revised EIR took in identifying risks of harm and minimizing such risks. Rather than calculating significance by evaluating the probability of an event occurring within a narrow geographic area based on specific, past incidents, the Draft Revised EIR did the following: identified a series of threats that may cause a pipeline leak (e.g., *see* Table 4.7-4, on page 4.7-20); identified what threats posed the greatest risk to project site pipelines based on statistics drawn from a larger subset of data (i.e., national data), which in fact *identified the same categories of threats articulated by the commenter* (*see* pages 4.7-27 and 4.7-28 [identifying corrosion and mechanical damage as significant threats]); assumed that any pipeline leak is a very serious event; and identified applicable regulations, industry practices, project elements, and measures that specifically addressed each of the risks to pipeline safety that were identified as significant. Though less mechanical than the commenter's approach, the adopted approach nevertheless addresses each of the risks (e.g., corrosion, mechanical damage) identified by the commenter. (*See, e.g.,* Draft Revised EIR, page 4.7-28 ["approximately 90 percent of damage related pipeline failures occur at the time that a pipeline has been struck …."].)

The above notwithstanding, some of the incidents cited by the commenter are irrelevant to the condition of on-site pipelines because those incidents occurred on different pipelines, or occurred many years ago when different practices regarding damage prevention were in place. For instance, the Pipeline Safety Report prepared by Kiefner & Associates on May 1, 2012, did not identify the excavator-caused damage reported to have occurred in 1985 because the search for incidents made by its authors was reasonably limited to 1986 and later. Regulations, methods, and technologies for managing pipeline integrity have changed to a significant degree in the past 25 years such that earlier data is not reliable for evaluating current conditions.[17] It is noted that this incident pre-dated federal requirements for one-call notification systems. The California requirement that excavators contact a regional notification center to request the marking of buried facilities prior to excavating (as embodied in California Government Code section 4216 et seq, enacted in 1983) was still relatively new at the time of the 1985 incident, and was not a uniformly observed or enforced practice to the extent that it is today. Also, the 1985 incident is not listed in United States Department of Transportation's ("DOT's") reportable incident database, and could even have occurred on a different pipeline since the National Pipeline Mapping System ("NPMS") shows a Shell crude oil pipeline on the other side of the Delta Mendoza canal. The 1997 incident reported by CARE occurred on a different pipeline than the one crossing the project development, at a location on the opposite end of town. (Incident report ID No. 19980008 reports that it occurred 0.3 miles south of Byrd Road, which is in the northeast corner of the Tracy area.) Thus, even assuming, for the sake of argument, that the mechanical risk assessment approach proposed by the commenter was required to be adopted, many of the cited incidents are not relevant in predicting future risk focused at this site beyond what can be inferred from the general industry data.

Regarding leaks from PG&E Line 002 as close as 3,000 ft from the project site, interviews with PG&E personnel revealed no recent leaks *in the vicinity of the proposed project*. The United States Department of Transportation's reportable incident data base

[17] The United States Department of Transportation changed its reporting criteria in 1985, and segregates its data accordingly. It should be noted that IMP requirements also did not apply in 1985.

from 1986 through 2010 revealed no leaks from gas transmission pipelines in San Joaquin County, which means that the commenter is mistaken, or that the purported leaks did not exceed the severity threshold for reporting, or that the leaks occurred elsewhere. Regardless, a leak typically does not constitute a hazard to a location 3,000 ft away, and it is unclear what relevance such leaks have where data specifically concerning the pipeline segments traversing the project site have been reviewed and analyzed, as discussed in both the Draft Revised EIR and in the Responses to Comments below (*see, e.g.,* Response to Comment 23.37, discussing variances in pipeline segments).

In summary, the handful of alleged incidences that the commenter raises are not relevant to the assessment of probability because (assuming they occurred) those incidences concern different pipelines or pipeline segments, or occurred under regulatory frameworks that no longer exist. Even if those incidences were relevant, the analytical approach adopted in the Draft Revised EIR identified the same risks raised by the commenter.

23.32 The commenter suggests that the Draft Revised EIR failed to account for the consequence of a pipeline rupture by not recognizing that the Potential Impact Radii ("PIR") for the various on-site pipelines are as great as 741 feet,[18] and that there would be a 99 percent mortality rate for persons exposed for 30 seconds. The commenter suggests the construction setbacks of 100 feet are not adequate.

As discussed in Response to Comment 23.30, there are no CEQA impacts raised by the commenter with respect to hazards associated with on-site pipelines. The impacts of existing environmental features on a proposed project and future project users or occupants do not qualify as cognizable impacts under CEQA and, regardless, the project in fact reduces the probability of harm. For informational purposes only, the risk of harm from pipeline rupture is addressed below.

First, the commenter misunderstands the purpose of the construction and operational setbacks. These setbacks are not designed to minimize harm after a rupture has occurred, but (1) as a method of identifying the specific segments of pipelines and their lengths that must receive a higher standard of care with respect to assuring the integrity of the pipeline, and (2) to minimize, in the first place, the chance that a rupture or leak occurs as a result of construction activity or excavation during project operation. Moreover, the commenter fails to acknowledge that Mitigation Measure 4.7-2 discusses the incorporation of escape routes from areas within the PIR (p. 4.7-33) during construction. Regardless, an overriding point is that setbacks are not a primary method for minimizing the risks of hazards associated with pipeline operation. As explained on pages 4.7-14, 4.7-15, and 4.7-17 through 4.7-21 of the Draft Revised EIR, reducing "transmission pipeline risk and enhancing safety is best achieved through proper pipeline operation and maintenance," design criteria, public awareness, damage-prevention programs, effective regulatory oversight, and other measures. For instance, federal regulations impose more stringent requirements where a transmission pipeline is located in a more densely populated area. The commenter's focus on setback distances is misplaced in managing risks. As stated in the Draft Revised EIR on page 4.7-19, the "PIR is not intended to define minimum setback distances inside of which development

[18] In fact, the PIR for Line 002 and Line 401 were incorrectly calculated. The PIR for Line 002 is 535 feet, and the PIR for Line 401 is 801 feet. However, the commenters assertions are misplaced for the reasons set forth below.

should be prohibited … using the PIR as a setback criterion only 'considers the consequences of an event without accounting for probability ….'"

Accordingly, whereas the commenter identifies a worst-case scenario in terms of consequence, the commenter fails to address the probability of its occurrence. It is factually correct that if a rupture were to occur and ignite, as distinguished from a minor leak, a large incident could ensue. However, the likelihood of such an event is extremely low. Insofar as the commenter's concern is based on the Risk Science Associates report attached to its public comment letter, that report fails to distinguish clearly between pipeline leaks and ruptures and, to the extent it discusses ruptures, relies on irrelevant events, such as incidents occurring in Nigeria and Belgium. (*See* Risk Science Associates Study, pp. 685-686 of Final EIR.) Nigeria has a history of corruption, political and ethnic strife, and massive poverty, and has not demonstrated success in implementing and enforcing effective rules for managing infrastructure. (*See* http://www.cia.gov/library/publications/the-world-factbook; http://www.state.gov/r/pa/ei/bgn; Johnson, E., "Nigerian Country Analysis Briefs", Nigeria Monthly Energy Chronology [2002-2004], 2004.) Those large incidents cited to by commenter's consultant resulted from people committing sabotage and vandalism either for the purpose of siphoning fuel or claiming damages. Many such instances have involved illegal taps into the pipelines using crude and dangerous practices to steal product, which drew crowds of bystanders and others attempting to also engage in theft. (Achebe, C.H., et al, "Analysis of Oil Pipeline Failures in the Oil and Gas Industries in the Niger Delta Area of Nigeria", Proc. Intl. Multiconf. of Engrs. and Comp. Sci., IMECS 2012 Vol. II, Hong Kong, March 14-16, 2012; Aroh, K.N., et al, "Oil Spill Incidents and Pipeline Vandalization in Nigeria", Dis. Prev. and Mgmt., vol. 19, no. 1, 2010; Nwilo, P.C. and Badejo, O.T., "Impacts and Management of Oil Spill Incidents Along the Nigerian Coastal Areas", Electronic Conf. on Sust. Dev. of Info. Sys., Taipei, 2000) No such circumstances exist with respect to the project site. The Belgian accident, meanwhile, involved a pipeline that traversed through a crowded industrial facility, and resulted from failure by the gas company to properly mark the line location, protect the pipeline during construction activities, manage the pressure while emergency personnel were working around the line, and evacuate bystanders, all of which contributed to the serious consequences. (Hazards Intelligence Dossiers, http://www.saunalahti.fi/ility/IncidentHistory.htm.) Additionally, the apparent circumstance of a stable leak followed by an unstable rupture was unique to that incident (contrary to what was stated in the commenter's cited reference) and was due to physical characteristics of the highly enriched nature of the gas, which is not the type of gas transported by PG&E. These conditions greatly differ with respect to the pipelines crossing the proposed project development site, which would lie in open space and away from habitable structures. Regarding the claim that there is a potential to cause between 100 and 1,000 fatalities in a location such as the Modified ESP, fatalities in even the worst accidents in the United States were two orders of magnitude below those levels. (Carlsbad, NM, 12 fatalities, 2000; San Bruno, CA, 8 fatalities, 2010.) The upshot is that the probability of the worst-case scenario occurring on the project site, as suggested by the commenter, is extremely low, and has never happened before in United States history.

The commenter's consultant further asserted that it is common for gas leaks to induce ruptures in a pipeline; specifically, the consultant alleged that leaks commonly cause a

temperature drop in the pipeline's metal, leading to fractures.[19] This assertion was based on an academic research document (Mahgerefteh, H. and Att, O., "Modeling Low-Temperature-Induced Failure of Pressurized Pipelines", AIChE J., vol. 52, no. 3, March 2006) that incorrectly attributes that same mechanism to several pipeline failures. It was a suspected, though unproven, factor in the Belgian incident only, and was not a factor in the cited TransCanada incidents.[20]

Contrary to the commenter's assertion, the causal mechanism associated with cooling effects from a gas leak cited is not a common occurrence. Natural gas pipelines of all sizes experience thousands of leaks at pinhole corrosion, threaded connections, or other damage. If this phenomenon were a common cause of accidents, then the large number of leaks would produce a large number of ruptures by brittle fracture, which is not the case. High-strength low-alloy steels (as installed in gas pipelines of the modern era, including both PG&E pipelines) will not exhibit brittle initiation of a fracture at temperatures expected in operation, even with a temperature drop associated with leakage of normal natural gas. Moreover, a key distinction between the Belgian event and PG&E's pipelines is that the Belgian pipeline was transporting natural gas enriched with a significant proportion of heavy hydrocarbons that do introduce an important thermal effect on decompression. PG&E transports lean dry natural gas that would not create the thermal condition cited. Also, the cited issue is not at all relevant to the Chevron oil pipeline. Such thermal effects do not occur in the event of a leak involving crude oil, and liquid pipelines decompress too rapidly to support long propagating fractures.

23.33 As discussed in Response to Comment 23.30, there are no CEQA impacts raised by the commenter with respect to hazards associated with existing on-site pipelines. The impacts on future project users or occupants do not qualify as cognizable impacts under CEQA and, regardless, the project in fact reduces the probability of harm. Nonetheless, for informational purposes only, the comment is addressed substantively.

The commenter proposes a larger setback than that identified in the EIR, but misunderstands the purpose of the setback, as explained in Response to Comment 23.32, which is incorporated here by reference. Given the extremely low probability of a pipeline rupturing and causing major harm, the selected construction setback, and the buffer already incorporated as an element of project design, is sufficient to minimize risks of harm. To the extent the commenter suggests additional mitigation is necessary, it should be clarified that there is not a cognizable CEQA impact at issue and that, even if such an impact was present, the existing measures suggested in Mitigation Measure 4.7-2 are sufficient to reduce risks to a level of acceptability, or level of insignificance.

23.34 The commenter asserts that a buffer between co-located pipelines is necessary to minimize damage to one pipe as a result of rupture from another and that, here, the on-site pipelines lie in proximity as close as six feet.

[19] Risk Science Associates refer to the Joule-Thompson effect, where expansion of a gas through a small opening induces a drop in temperature potentially below the ductile-to-brittle fracture transition temperature.

[20] The cited incidents attributed to TransCanada were discussed with a technical specialist at TransCanada familiar with the circumstances of those incidents. The Mahgerefteh & Atti reference has incorrectly attributed the nature of the fracture to these incidents. The TransCanada system transports very lean and dry natural gas which is incapable of supporting the phase change associated with the decompression, which contributed to the unstable leak in the Belgian incident.

As discussed in Response to Comment 23.30, there are no CEQA impacts raised by the commenter with respect to hazards associated with on-site pipelines. The impacts of the existing environmental on the project and/or future project users or occupants do not qualify as cognizable impacts under CEQA and, regardless, the project in fact reduces the probability of harm. It bears mention that the project is not further increasing the probability of a compound incident because the project is not altering the alignment of the pipes (e.g., moving them closer to one another). In fact, in the absence of alterations to the pipeline alignments, the probability of a compound incident (i.e., a chain reaction) is wholly a function of the probability of a single incidence occurring with implementation of the project. Therefore, the project would decrease the probability of a compound event, as explained in Response to Comment 23.30.

The Kiefner & Associates Pipeline Safety Report points out that there is only one incident on record where one pipeline caused another pipeline to fail despite numerous instances of multiple pipelines in shared corridors. The Kiefner report also discussed how circumstances in that singular incident differed from conditions present at Ellis. The co-location of pipelines is a prevalent practice and, in some instances (e.g., in Houston, Texas), there exist as many as a dozen (or more) closely-spaced pipelines which are able to coexist safely.

23.35 The commenter asserts the risk of fatality per year occurring as a result of a pipeline incident exceeds acceptable thresholds. These assertions appear to be based on statistics compiled by Risk Sciences Associates. As discussed in Response to Comment 23.30, there are no CEQA impacts raised by the commenter with respect to hazards associated with existing on-site pipelines. The impacts on future project users or occupants do not qualify as cognizable impacts under CEQA and, regardless, the project in fact reduces the probability of harm. For information purposes only, commenter's assertions and the consultant reports upon which they are based are addressed below.

The risk thresholds identified by commenter are incorrectly reported. In *some* instances, a lead agency evaluating the health impacts resulting from a project's generation of toxic air contaminants will adopt risk thresholds of 10 fatalities per million. (*See, e.g.,* thresholds suggested by Bay Area Air Quality Management District.) It should be noted that the 10-deaths-per-million numerical threshold is utilized to evaluate a project's contribution to an existing risk, and not the combined risk of existing threats and project risks. Even assuming a cognizable CEQA impact did exist here, a lead agency retains the discretion to adopt whatever risk threshold it desires so long as this election is based on substantial evidence, and there is no law compelling the City to adopt an air quality threshold used in some jurisdictions to evaluate acceptable risks associated with pipeline failure.

The commenter and its consultant assert there is a risk of 120 fatalities in a million per mile of pipeline annually, and a risk of 2100 injuries in a million per mile of pipeline annually. These risks are grossly overstated, and the commenter's assertions are based upon faulty logic.

The commenter relies upon a report indicating there exist 0.04 fatalities per 1,000 miles of pipeline and, without explanation or identifying the population at risk, declares the fatality risk of 40 in a million per mile of pipeline annually. This translation is without support. More importantly, the report cited, prepared by the California State Fire Marshal ("CSFM"), relies on data collected between 1980 and 1990, which is 20 to 30

years old. Regulatory and technical factors that affect pipeline safety have changed significantly since then. Simply put, the CSFM report has exceeded its shelf life.

An appropriate way to estimate risk would be to use the largest and most recent data set possible, specifically the United States Department of Transportation's national reportable incident data for the 300,000 miles of gas transmission pipelines and 180,000 miles of hazardous liquid transmission pipelines operating in the United States, compiled over a 10-year period from 2002 through 2011. The average annual number of fatalities is 1.7 and 2.0 for the respective categories of service, resulting in fatality rates of 5.67×10^{-6} per mile per year and 1.11×10^{-5} per mile per year, respectively. There are two natural gas pipelines and one crude oil pipeline at issue here, each extending about 3,800 feet across the development. Conservatively extending the potential incident zone 1,000 feet upstream and downstream for each pipeline (which, in fact, significantly exceeds the potential impact radii) results in an aggregate risk from all three pipelines of:

$$[2 \times (5.67 \times 10^{-6}) \times (5{,}800/5{,}280)] + [(1.11 \times 10^{-5}) \times (5{,}800/5{,}280)] = 2.47 \times 10^{-5} \text{ per year.}$$

The National Safety Foundation ("NSF") compiles data for all causes of fatal accidents. The table below lists risks for several accident causes, using NSF statistics from 2005 which is in the middle of the pipeline sample period, and a US census 2005 population estimate of 296,410,404.

Accident Cause	2005 Fatalities	Risk	Acc. Risk/Ellis PL Risk
Motor vehicles	45,343	1.530×10^{-4}	6.2
Falls	19,656	6.631×10^{-5}	2.7
Drowning	3,582	1.208×10^{-5}	0.5
Choking, food/objects	4,053	1.367×10^{-5}	0.6
Smoke, fire, flames	3,197	1.079×10^{-5}	0.4
Natural events	2,179	7.351×10^{-6}	0.3
Food poisoning	3,240	1.093×10^{-5}	0.4
Medical care/surgery	2,653	8.950×10^{-6}	0.4
Assault by firearm	12,352	4.167×10^{-5}	1.7
All accidents	176,406	5.951×10^{-4}	24.1

The table shows that the pipelines present an aggregate risk of a magnitude similar to many other fatal accident causes. The pipelines therefore do not introduce or represent an extreme hazard. Notably, a future project user or occupant is more likely to die as a result of a fall, and there exists about a 6 times higher likelihood of having a fatal automobile accident. Overall, it is 24 times more likely that a project resident will have a fatal accident from any cause other than a pipeline failure. Thus, even if the risk of fatality for project users or occupants from failure of the existing pipelines constituted a cognizable CEQA impact, the small likelihood of this event would render the risk acceptable in light of the above facts.

23.36 The commenter asserts that PG&E Line 002 and the Chevron pipeline are more dangerous than described due to tape coating and electric-resistance welded seams, and no probability of risk is identified with such features. The impacts on future project

users or occupants do not qualify as cognizable impacts under CEQA and, regardless, the project in fact reduces the probability of harm. It should also be stressed that the project entails no alteration to the pipelines, much less any that would introduce any of the features discussed by the commenter. For information purposes only, the commenter's assertions are addressed below.

To the extent the commenter and consultant assert the PG&E gas lines contain features, such as tape wrapped coating, that no longer are permitted, that assertion is incorrect. Tape coating is not prohibited by 49 CFR Part 192 and continues to be installed on new and existing pipelines. Here, Line 002 is in fact double wrapped, which enhances the gas line's durability. Regarding the seams identified by the commenter, the commenter neglects to include citations to the EIR that say "[n]o failure associated with seam-related conditions have been reported in this pipeline, which is consistent with either a low inherent susceptibility to this problem, or with any problem having been eliminated in the past." (Draft Revised EIR, p. 4.7-29.) In addition, implementation of the project would result in the area being designated as an HCA, if it is not so designated already, thus subjecting the oil pipeline to additional regulations and testing procedures. Finally, IMP requirements in both Part 192 and Part 195 require that operators identify integrity threats associated with attributes such as coating type or seam type and account for them in their risk-based prioritization and integrity assessments where the pipelines could affect HCAs. In any case, the risk probabilities associated with these features have been considered in light of the above facts and have subsumed within broader risk calculations.

23.37 The commenter asserts the corrosion identified in pigging reports, which presumably refers to pipeline in-line inspection ("ILI") reports, has been downplayed, and suggests the inspections in 2005 and 2006 of various pipelines are too old to be valuable. The commenter also offers to make "pipeline videos" available to the City for review. As discussed in Response to Comment 23.30, there are no CEQA impacts raised by the commenter with respect to hazards associated with on-site pipelines. The impacts of the existing environment on future project users or occupants do not qualify as cognizable impacts under CEQA and, regardless, the project in fact reduces the probability of harm. For information purposes only, the commenter's issues are addressed below.

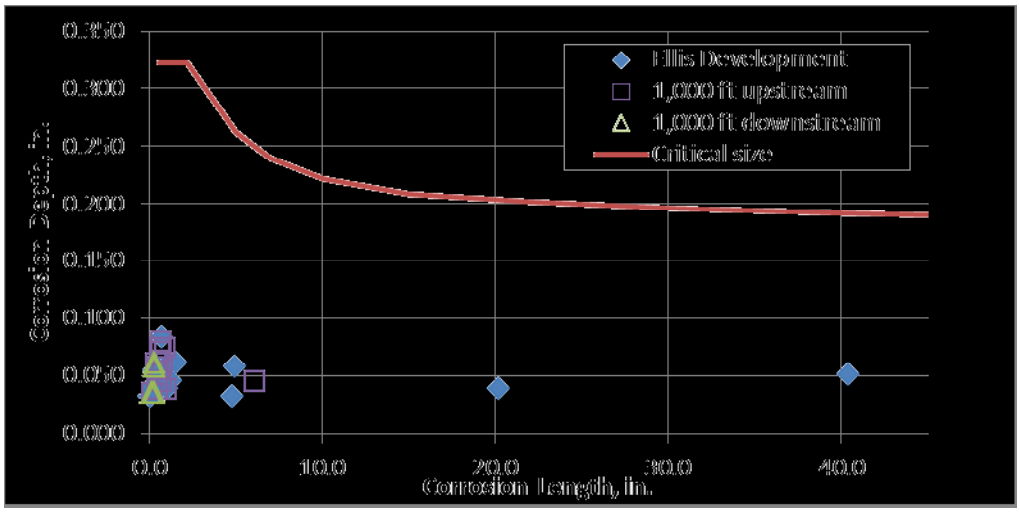
PG&E reported to expert consultant Kiefner & Associates that these gas lines were investigated by PG&E and certain significant looking indications (44 and 64 percent metal loss) reported by the ILIs, and cited by the commenter as representing severe corrosion, were determined to represent non-threatening conditions that were not related to corrosion.[21] Numerous indications of minor corrosion were detected in both gas pipelines over their 26-mile and 111-mile inspections. The commenter states that Kiefner & Associates "downplayed" the severity of the corrosion. On the contrary, Kiefner & Associates reviewed the data and performed a rational analysis — and concluded that the corrosion condition is, in fact, not currently a significant problem, for several reasons which are explained below. First, the maximum metal losses reported

[21] It should be recognized that ILI detects magnetic anomalies in the pipe which are produced by a variety of conditions, including but not limited to corrosion. The recorded signal is interpreted by pattern recognition algorithms. Various conditions may produce signals that resemble those from significant metal loss caused by corrosion. If there is uncertainty about what condition the signal represents, the pipeline operator investigates the anomaly in the field. PG&E reported that the magnetic anomalies representing significant metal loss were investigated and determined to be minor and unrelated to corrosion.

by the commenter, and identified in ILI reports, is not necessarily indicative of the metal loss occurring on the project site. Corrosion located 20 miles away or even 1/4 mile away is of little, if any, relevance because (a) what happens at a site reasonably removed from another site is not a direct threat to the latter site, (b) factors that affect corrosion[22] vary along the pipeline such that each location must be considered based on its own attributes, and (c) it is not necessary to assume that what could happen somewhere else is happening at a site of interest when there is actual inspection information available for the location of interest. In summary, discovery of corrosion in one segment may not be a meaningful indicator of the condition of the line in another segment. (Without ILI, one may have to presume it is indicative, but with ILI it is possible to accurately know the condition at any location.) Therefore, the important factor is the reported condition of the pipeline specifically in the vicinity of the Ellis development.

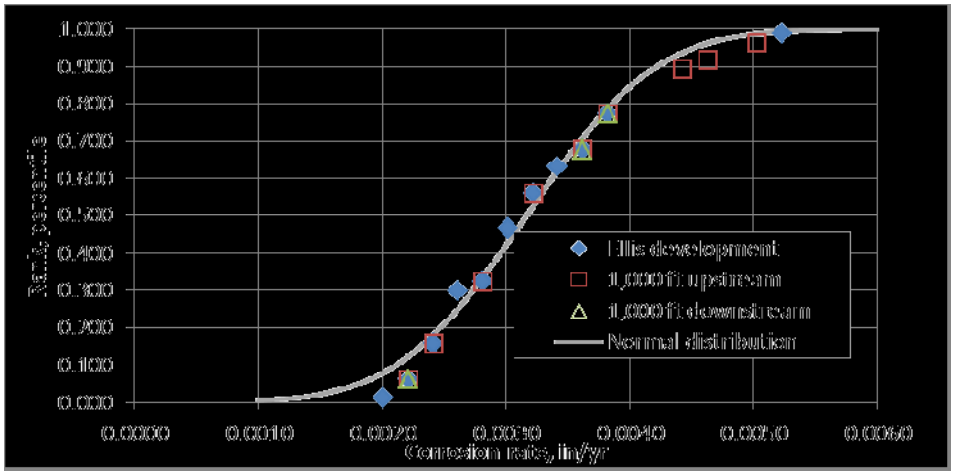
As set forth below, it is possible and reasonable to extrapolate present corrosion levels on Line 002 and Line 401 from data sets obtained during the last ILI inspections. The information from 2005 and 2006 is relevant and still very useful.

The severity of the indications in Line 002 were evaluated by Kiefner using a standard assessment method (the Modified ASME B31G method) at the time of the study, and were determined to be much smaller than a critical size, as shown in the chart below. The red line shows the size of defect that would theoretically cause Line 002 to fail at its operating pressure (and ignoring some mitigating factors such as the fact that pipe is generally stronger than its minimum specified strength). The external metal loss due to corrosion indicated by the ILI is also shown. Those corrosion flaws within the boundary of the proposed project site are shown by the solid blue symbols, while those outside the boundary of project site, but within 1,000 feet upstream or downstream, are represented by open symbols. Symbols that lie below the red line are safe at the operating pressure. It is apparent that all of the indicated corrosion flaws within the project site, and within 1,000 feet of the project site, are well below the red line.

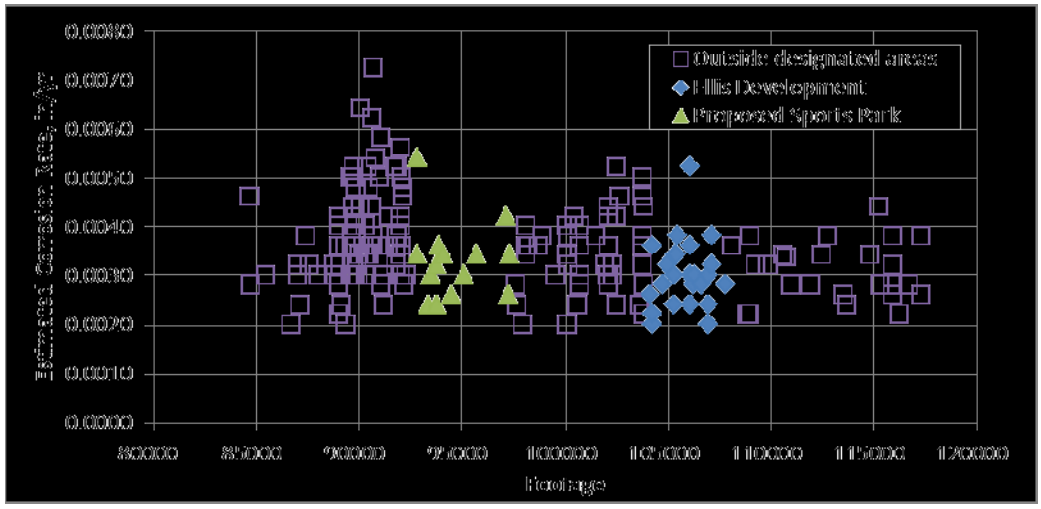


[22] Many factors affect whether corrosion occurs in a particular portion of a pipeline, and can vary significantly along the pipeline. These include: coating type, coating initial installed quality, soil electrical resistivity, soil chemistry, soil drainage, distance from cathodic protection ("CP") anode beds or rectifiers, and presence of external sources of ground current or other interferences with CP.

The sizes of the corrosion flaws can be used to estimate the corrosion rate, until a subsequent in-line inspection is performed to evaluate changes in size, if any. (A reassessment would be performed at least every 7 years, although the interval can be extended to 10 years if a confirmatory direct assessment is performed by year 7 for a gas pipeline, in accordance with 49 CFR 192.939. The intervals are a maximum of 5 years for petroleum pipelines, per 49 CFR 195.452(j)(3).) A common method of estimating corrosion rates is to consider that the coating remained intact and effective for about half the past service life. This gives a higher estimated corrosion rate than would the assumption that corrosion has been occurring over the full life of the pipeline. The average estimated corrosion rate was 0.0032 inch/year, standard deviation was 0.0008 inch/yr, and the maximum observed was 0.0052 inch/yr. The chart below shows that the estimated corrosion rates were normally distributed, and that there is only a very low probability (0.2%) of corrosion occurring faster than 0.0055 inch/yr. These rates are consistent with a pipeline of this age with generally effective corrosion protection.



These rates do not distribute uniformly along the pipeline. The figure below show estimated corrosion rates along several miles of Line 002. Rates tend to be somewhat greater upstream of the project site. This difference could be for a variety of possible reasons, as were suggested in the footnote discussion about what factors affect the occurrence of corrosion along a pipeline.



The sizes of the corrosion flaws and the estimated corrosion rate(s) can be used to estimate the time to failure. The time to failure is the time necessary for the flaws to enlarge to a critical size (indicated by the red line in the chart presented earlier). Using individual anomaly-specific corrosion rates, times to failure ranged from 43 years to 144 years. Applying the single highest corrosion rate estimated to have occurred anywhere within 1,000 feet of Ellis resulted in a minimum time to failure for all anomalies within that zone of 26.8 years. The estimate times to failure are from 2006.

Finally, Kiefner & Associates calculated the probability of failure in any of the indicated corrosion features accounting for ILI tool error. The standard performance level for measuring metal loss using magnetic ILI tools is ±10% of the wall thickness 80% of the time. This performance standard allows some probability that an indicated corrosion flaw is deeper and more severe than indicated. The probability that an uninvestigated flaw is actually severe enough to cause a leak (i.e., has a depth greater than 80% of the wall) or is severe enough to cause the pipe to fail (i.e. lies above the red line shown in the prior figure above)[23] can be estimated based on this performance level. The probability of a leak or a failure can be estimated for a later time considering a corrosion rate. The probability of a leak or a failure in the corrosion indications as reported in 2006, and considering the 0.0055 inch/yr enveloping corrosion rate extrapolated to 2012 are summarized below. These probabilities of failure range from very low to negligible.

Line 002	**2006 reported size**		**2012 extrapolated size**	
Location	**Leak**	**Failure**	**Leak**	**Failure**
1000 ft upstream	$9.6x10^{-13}$	$9.6x10^{-15}$	$5.1x10^{-9}$	$1.2x10^{-12}$
Ellis crossing	$2.4x10^{-12}$	$4.3x10^{-12}$	$1.1x10^{-8}$	$1.3x10^{-8}$
1000 ft downstream	$2.9x10^{-15}$	$3.4x10^{-17}$	$4.1x10^{-11}$	$3.6x10^{-17}$

The probabilities of leaks or ruptures due to external corrosion are seen to be very low. If corrosion rates are slower, or the indicated corrosion features are old corrosion that is now inactive, the 2006 probabilities of failure still apply. Note also that the flaws having the highest probability of leaking are not the same flaws having the highest probability of failure (e.g., a rupture).[24]

It is evident from the above analysis that the corrosion of Line 002 does not pose a present safety threat and is unlikely to prior to the next ILI, which should occur in 2013

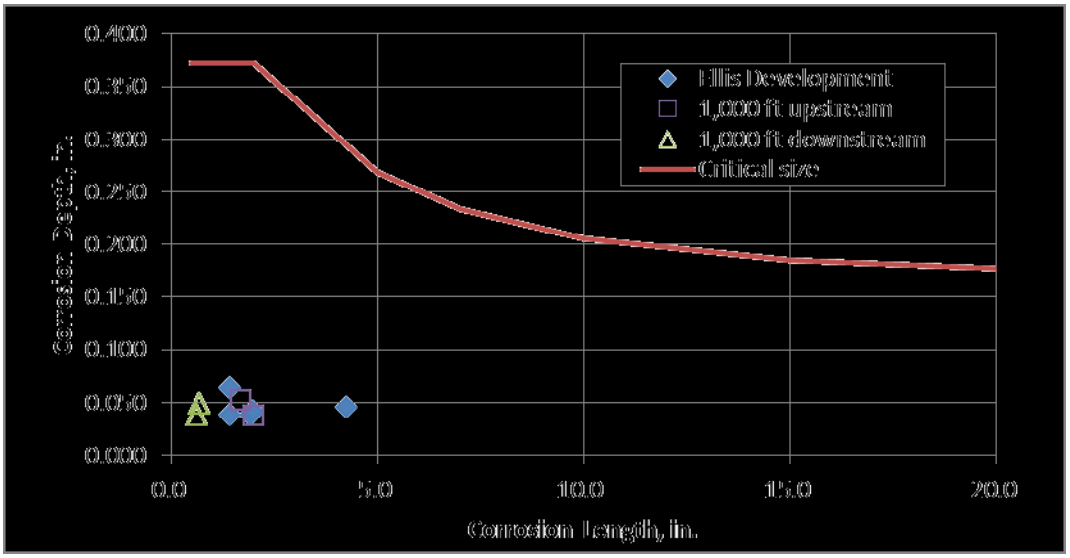
[23] The analysis further contemplated a 10% overpressure condition in accordance with 49 CFR 192.201, resulting in artificially higher probabilities of failure than would be the case considering failure at the maximum allowed operating pressure.

[24] Gas may escape from the pipe either as a leak — for example, from a small corrosion pit that grows through the pipe wall to become a small hole but does not involve a material failure, or as a rupture due to a fracture originating in a corroded area. The Kiefner & Associates analysis contemplates both failure modes. The probability of a leak is estimated from the likelihood that the corrosion pit depth (as indicated by the ILI tool) is actually greater than 80% of the pipe wall thickness representing imminent leakage; the probability of a failure is estimated from the likelihood that the length and depth indicated by the ILI tool, taken together, result in a predicted failure pressure less than the maximum allowable operating pressure. In general, the highest probabilities of a leak and of a rupture will not occur in the same corrosion flaw, since leakage is governed by depth of metal loss only while fracture is governed by the combination of length and depth.

(or direct assessment in 2013).[25] That subsequent inspection will indicate whether the condition has become worse or is stable.

An assessment similar to the above was performed for Line 401, even though PG&E has stated that it plans to replace the line because of the change in Location Class.[26] If PG&E elects this course of action, the line would have to be replaced within 18 months of the class change occurring.[27]

The figure below shows the external corrosion anomalies indicated by the 2005 in-line inspection of Line 401 adjacent to or within 1,000 feet of the Ellis development. There were only 8 external metal loss anomalies in that segment of the line. The anomalies are well below a critical size, as indicated by the red line in the figure.



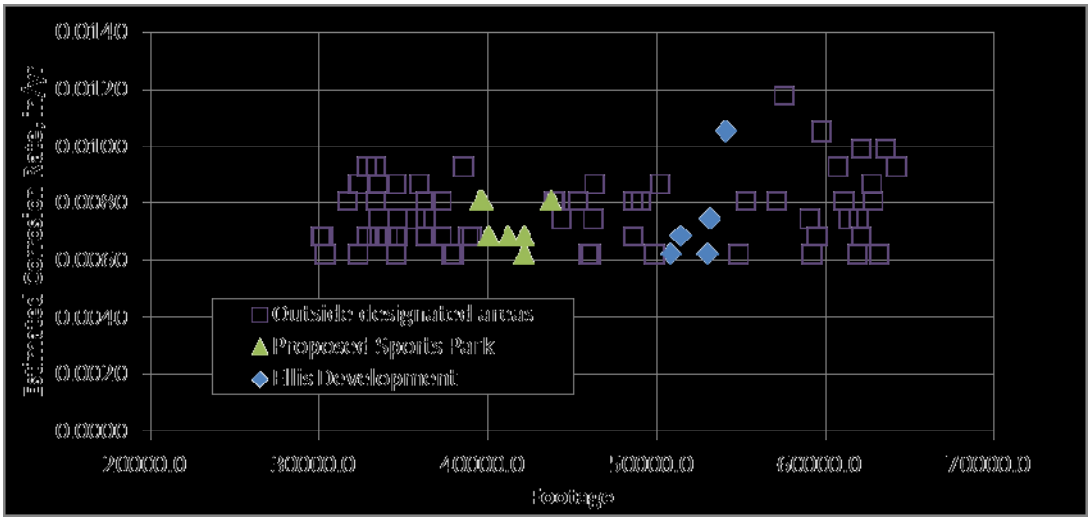
Effective corrosion rates based on the reported metal loss depth and age of Line 401 was determined. The apparent corrosion rate was relatively uniform across several

[25] 49 CFR 192.939 allows a gas pipeline operator to extend the ILI reassessment interval to a maximum of 7 years provided a confirmatory "Direct Assessment" (DA) is performed by year 7. DA for external corrosion is a structured process for detecting and assessing corrosion activity using two or more above-ground methods for detecting and evaluating the electrochemical environment around the buried pipeline, along with validation and verification steps.

[26] Though PG&E has not so indicated, it could instead elect to apply for a special permit waiving pipe replacement. Line 401 could be a suitable candidate for such a permit based on its age, condition, and attributes.

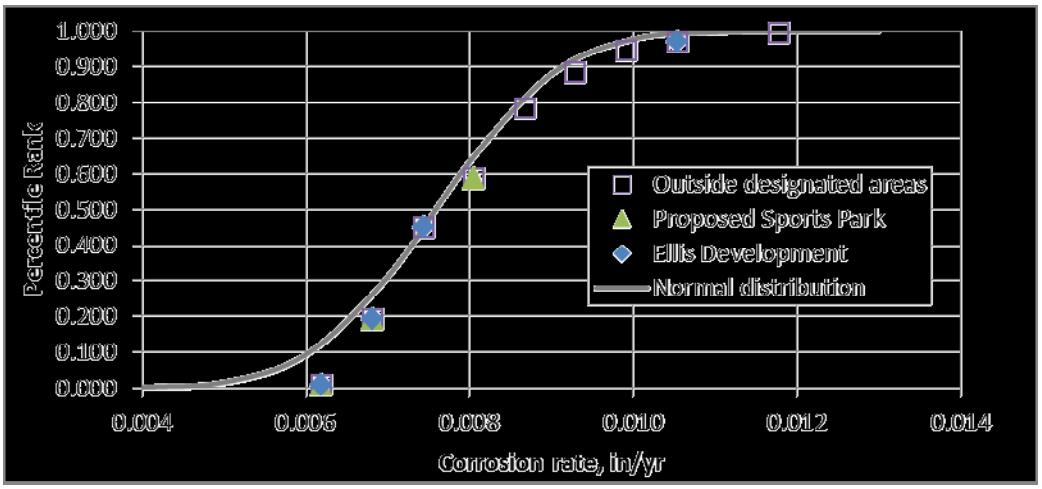
[27] The commenter and its consultant, Risk Science Associates, make incorrect statements about the regulations governing changes in Location Classes. An operator does not have to change a pipeline if the original hydrotest meets the requirement for new construction, or if there is one class change and a specified pressure test margin was achieved. A waiver with offsetting risk mitigations would be required for a two-class change (e.g. Class 1 to Class 3). The two-class change would occur for Line 401 where it traverses the proposed project site and PG&E has stated they will not seek a waiver, in which case the pipe will be changed. Line 002 was designed and constructed to meet Class 2 so development of the project site would constitute only a single Class change. Since the hydrotest of Line 002 was sufficiently high, under the regulations no change in the pipe is necessary for Line 002 and no waiver is necessary. Further discussions in that report about the waiver for the Tracy Sports Complex are not relevant to the project site. As discussed above, the condition of one pipeline segment is irrelevant in predicting the condition of another pipeline segment, especially where ILIs have been run on the relevant pipeline segments.

miles of pipeline including the project site, as shown in the figure below. This larger population of anomalies was used to estimate average and upper bound corrosion rates due to the small number of anomalies reported adjacent to or near the project site. The average rate and standard deviation was 0.0076 in/yr and 0.0012 in/yr, respectively.[28]



The corrosion rates are seen to approximately fit a normal distribution truncated at the lowest rates. (This is not inconsistent with corrosion having occurred prior to the installation of CP rather than initiating continuously over a long period of time.) For estimating the probability of failure due to corrosion, a corrosion rate of 0.011 in/yr was used. There is only 0.2% probability of corrosion occurring at a higher rate, if in fact corrosion is still active. Using anomaly-specific corrosion rates, the estimated time to failure of the 8 anomalies within 1,000 ft of the project site ranged from 29 to 54 years starting in 2005. Using the upper bound rate of 0.011 in/yr, the times to failure were 23 to 30 years.

[28] 49 CFR 192.455(a)(2) allows up to 1 year to install cathodic protection and place it in operation after completion of the pipeline construction. Considering the age of Line 401 and the typical performance characteristics of fusion-bonded epoxy coating, these rates may be consistent with corrosion having occurred prior to the installation of the cathodic protection at spots where coating was damaged during the construction process. If so, then the corrosion activity probably ceased once the CP was operative. The expected corrosion rate under effective cathodic protection is zero or close to zero.



The probability of failure in the 8 anomalies, considering standard ILI tool error, was calculated for the flaws as indicated in 2005, and as extrapolated to 2012 using the corrosion rate of 0.011 in/y discussed above. The results are given below.

Line 401	**2005 reported size**		**2012 extrapolated size**	
Location	**Leak**	**Failure**	**Leak**	**Failure**
1000 ft upstream	$1.5x10^{-17}$	$3.2x10^{-9}$	$3.3x10^{-9}$	$1.6x10^{-8}$
Ellis crossing	$3.7x10^{-17}$	$1.8x10^{-8}$	$3.1x10^{-8}$	$2.6x10^{-6}$
1000 ft downstream	$1.6x10^{-19}$	$1.8x10^{-9}$	$1.4x10^{-10}$	$2.2x10^{-9}$

The probabilities of leakage or failure due to external corrosion, extrapolated at the upper-bound corrosion rate to 2012, are low and, moreover, are conservative because the analysis contemplated a 10% overpressure condition.[29] The probability of failure would be below $1x10^{-6}$ considering operation at the maximum allowed operating pressure.

The probabilistic analysis only addresses the corrosion integrity threat. Other integrity threats will have lower actual probabilities. The threat of seam defects is negligible because both pipelines have already undergone two pressure tests (once at the pipe mill and again after construction) that prove the integrity of the seams. The threat from old mechanical damage can be eliminated because such damage would have been identified by the in-line inspections. The threat from future mechanical damage can be controlled by appropriate project planning and consultation between the developer and the pipeline operators, as discussed extensively in the Draft Revised EIR and these Responses to Comments.

Finally, the commenter also suggests the analysis is deficient because the City failed to review "pipeline videos" or "inline inspection videos" that commenter claims to possess. The commenter has provided the City with such data; Kiefner & Associates reviewed the data discs from the in-line inspections and concluded that the summary spreadsheets provided initially by PG&E were representative of what the data provided by the commenter indicated. That is, the data discs contained no new information that Kiefner

[29] Federal regulations specify maximum allowed overpressure of 10%, but also with hoop stress levels not to exceed 75% of specified minimum yield strength. Line 401 would therefore only be allowed a 3% overpressure.

& Associates did not previously consider in evaluating risks associated with pipelines on the project site.

Prior submittals by the commenter have expressed alarm concerning indicated defects of 44% of the wall in Line 002 and 62% of the wall in Line 401. The Line 002 anomaly is 2.3 miles away from the project site and presents no threat to it or to sites near the anomaly. PG&E reported that it was excavated and examined, and determined to be smaller than what was indicated by the ILI.[30] PG&E reported that field investigation of the Line 401 anomaly has determined by nondestructive examination that the flaw was smaller than indicated, and most likely an internal manufacturing imperfection. Kiefner examined the ILI signal and independently concluded that it most likely represented a manufacturing imperfection such as a small lamination. Since the pipe withstood two pressure tests to 90% of specified minimum yield strength ("SMYS") (once at the pipe mill and then again in the field after construction), this feature has been proven to be benign. Moreover, it is located 65 miles from the proposed development site.

23.38 The commenter suggests the inspections in 2005 and 2006 of various pipelines are too old to be valuable. As discussed in Response to Comment 23.30, there are no CEQA impacts raised by the commenter with respect to potential hazards associated with existing on-site pipelines. The impacts of existing environmental features on future project users or occupants do not qualify as cognizable impacts under CEQA and, regardless, the project in fact reduces the probability of harm. For information purposes only, the commenter's assertions were addressed substantively in Response to Comment 23.37, indicating it is possible and reasonable to extrapolate corrosion from data sets obtained during the last ILI inspections.

23.39 The commenter asserts the rupture of a PG&E pipeline in San Bruno, and an investigation of that incident showing deficient oversight, demonstrate that caution and additional mitigation is necessary. The commenter also asserts PG&E's procedures and pipeline records are not consistent with federal or state guidelines for integrity management.

As discussed in Response to Comment 23.30, there are no CEQA impacts raised by the commenter with respect to hazards associated with existing on-site pipelines. The impacts on future project users or occupants do not qualify as cognizable impacts under CEQA and, regardless, the project in fact reduces the probability of harm. Measures were identified to minimize risks of harm to project users, but not for purposes of satisfying CEQA. To the extent commenter suggests additional mitigation is necessary, again, there is no cognizable CEQA impact raised and, even if such an impact was present, the existing measures suggested in Mitigation Measure 4.7-2 are sufficient to reduce risks to a level of acceptability, or level of insignificance. For informational purposes only, commenter's assertions are addressed below.

It is incorrect to state the National Transportation Safety Board ("NTSB") report on the San Bruno incident implies that additional mitigation measures are necessary for the proposed project. (Safety Recommendation P-10-2, to Pacific Gas and Electric, National Transportation Safety Board, January 3, 2011) NTSB recommendations were

[30] A corrosion flaw of the indicated size would not require a repair based on the safe operating pressure calculated in accordance with ASME B31G-2010. After examining it in the field, recoating the examined section of pipe would be sufficient. The recoating would halt any further corrosion, assuming the corrosion was active until then.

aimed at "grandfathered" gas pipelines that were not required to comply with requirements for pressure testing after construction, or where documents were insufficiently complete to confirm that they were so tested. The Kiefner & Associates report discussed why the conditions surrounding the *cause* of the San Bruno incident are not present at the project site, and this incident also was discussed on pages 4.7-12 of the Draft Revised EIR. Both gas pipelines on the project site were built in the modern regulatory era that requires hydrostatic pressure testing after construction. PG&E reported in discussions that they have confirmed documentation of hydrostatic pressure tests of the lines. The lines are capable of being inspected in-line, while the San Bruno line was not. Moreover, the San Bruno incident did not occur because PG&E operated a defective integrity management program or did not adhere to it; rather, PG&E had incorrect information about a very old pipeline. Execution of the IMP relies on records and data. In some cases, gaps in record completeness can occur, especially with older facilities, which was the case with the pipeline that failed at San Bruno. That pipeline was incapable of being in-line inspected ("smart pigged") due to physical characteristics, which limited the operator's ability to ascertain certain things about the pipeline. An in-line inspection may have indicated irregularities in the pipe that may have then led to an inspection and repair.

It is noted that PG&E and CPUC are both now under greater public scrutiny (e.g., PG&E's efforts to revalidate the integrity of the line that failed at San Bruno have been extensively reported in the press, and all gas pipeline operators in the State of California have been ordered[31] to submit Pipeline Safety Enhancement Plans ("PSEPs") which have been extensively discussed in public hearings and in the press). Regarding the commenter's recommendation for supplemental testing, the gas pipelines of interest do not fall within the scope of concern addressed by the NTSB findings nor proposed rulemaking, owing to the line's modernity. Regarding the commenter's assertions that PG&E procedures do not comply with federal and state guidelines, these assertions appear to be wholly based on the San Bruno incident, which is not relevant for the reasons discussed above.

With regard to maintenance of the pipelines existing on the project site and the construction practices that would occur under the project development, it is wholly reasonable to assume a project applicant and a utility will comply with existing law.

Finally, insofar as the commenter makes assertion about construction safety practices, these comments are addressed in Response to Comment 23.30.

23.40 The commenter asserts 90 percent of damage related pipeline failures occur when a pipeline has been struck, and running ILIs provide no protection against these events. The commenter also alleges a pipeline in Carlsbad, New Mexico failed after a recent inline inspection.

As discussed in Response to Comment 23.30, there are no CEQA impacts raised by the commenter with respect to hazards associated with existing on-site pipelines. The potential impacts of the existing environment on future project users or occupants do not qualify as cognizable impacts under CEQA and, regardless, the project in fact reduces

[31] California Public Utilities Commission, "Decision Determining Maximum Allowable Operating Pressure Methodology and requiring Filing of Natural Gas Transmission Pipeline Replacement or Testing Implementation Plans", Rulemaking 11-02-019, Issued 06/16/11

the probability of mechanical damage from a collision, both during construction and operation of the project. For informational purposes only, commenter's assertions are addressed below.

The commenter is correct that an inline inspection does not prevent mechanical damage. However, the commenter has incorrectly reported that the Carlsbad failure occurred after in-line inspection. That pipeline segment had never been in-line inspected prior to the incident and was incapable of being pigged for cleaning or inspection purposes. (NTSB, "Natural Gas Pipeline Rupture and Fire Near Carlsbad, New Mexico, August 19, 2000", PAR-03-01, Feb. 11, 2003.)

23.41 The commenter asserts the Draft Revised EIR is deficient because it did not assess the risk of railroad derailment.

There are no CEQA impacts raised by the commenter with respect to hazards associated with railroad derailment. The pipes and the railroad are part of the existing environment. The potential impacts of the existing environment on future project users or occupants do not qualify as cognizable impacts under CEQA and, the project does not involve any change to the existing environment (e.g., railroad alignments) that would increase the risk of derailment or derailment near a pipeline alignment. For information purposes only, commenter's assertions are addressed below.

The pipeline failure in San Bernardino cited by commenter was not caused by the train wreck, but rather by damage from heavy equipment used in the clean-up effort. (NTSB, "Derailment of Southern Pacific Transportation Company Freight Train and Subsequent Rupture of Calney Petroleum Pipeline," RAR-90-02, June 19, 1990.) The DOT's Pipeline and Hazardous Materials Safety Administration ("PHMSA") issued an Advisory Bulletin (ADB-94-03) in 1994, informing pipeline operators of the potential risk of damage to buried facilities from impingement by rail vehicles associated with a rail incident or equipment used in the clean-up afterward, and recommending coordination of rail incident responses between rail and pipeline operators. It is noted that there already exist a number of crossing and parallel encroachments between rail and pipeline alignments in and around the City of Tracy, and no incidents that the commenter has identified have occurred in or around the City. The commenter therefore has failed to identify any substantial risk levels associated with a pipeline rupture occurring as a result of a train derailment.

23.42 The commenter asserts the County's General Plan requires more space between residential uses and the pipelines than is provided by the project, but the commenter misreads the City's land use policies.

The project is consistent with the General Plan. Policy P1 (General Plan, p. 8-19) reads: "Adequate separation shall be provided between areas where hazardous materials are present and sensitive uses such as schools, residences and public facilities." The City is entitled to deference in interpreting a piece of legislation it enacted, such as a General Plan, and the City interprets the buffer existing between the on-site pipelines and proposed residences to suffice as "adequate separation." Here, the nearest residence to the pipeline alignments will be at least 100 feet away from the center of the present pipeline easement. The City does not require as a policy that new residences be sited outside impact zones in light of the minimal risk of an incident, coupled with emergency evacuation plans set forth in the City of Tracy Comprehensive Emergency Management

Plan. Annex B of the City of Tracy Comprehensive Emergency Management Plan identifies evacuation measures in the event that a disaster (including pipeline rupture) should occur. It should be noted that federal and state pipeline regulations require operators to have procedures and means to respond to calls from the public regarding leaks or emergencies. Among other things, this includes providing information to nearby residents about how the public can contact the operator. Moreover, this policy is intended to protect residents and, as explained in Response to Comment 23.30, impacts on future project users is outside the scope of CEQA review. Meanwhile, safety element P3 is not relevant. That policy requires that "new pipelines" carrying hazardous materials avoid residential areas. The project does not propose any new pipelines.

23.43 The commenter asserts the Draft Revised EIR must discuss risks to residents from the railroad tracks near the project site. There are no CEQA impacts raised by the commenter with respect to such hazards. Impacts on future project users or occupants do not qualify as cognizable impacts under CEQA, as explained in Response to Comment 23.30. For information purposes only, it bears mention that the commenter fails to acknowledge that the Project includes a boundary wall that borders the site along the Union Pacific Railroad right-of-way where required. (Modified Ellis Specific Plan, § 4.7.8, p. 82.)

Agency Comment Letter No. 24

September 13, 2012

Mr. Bill Dean
Assistant Development and Engineering Services Director
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

william.dean@ci.tracy.ca.us
209-831-6400

Subject: Ellis 2012 Specific Plan Project documents/DEIR Comments

Mr. Bill Dean,

Califirnia Pilots Association (CalPilots) is a CA 510c3 nonprofit Corporation with a mission is to promote and preserve the State's airports. As a statewide volunteer organization, we work to maintain the State's airports in the best possible condition.

The California Pilots Association requests you find the Ellis Project an incompatible land use. The impacts of placing this project near the Airport have not been adequately heard. CalPilots views the Ellis project as incompatible with airport planning guidelines as well as the Deeds and Restrictions that came with the Government allowance of the City of Tracy to operate and protect the airport from encroachment. It is not advisable to allow either housing or recreational uses at this location. 24.1

We herby submit and support Tracy Airport Association comments in the attached email dated September 12, 2012 with all attachments. We also submit and make reference to all comments by Tracy Airport Associatiion and the City of Tracy, CA during the last five years and the Public Records Requests that have been submitted by the Tracy Airport Association and the responses by the City of Tracy, CA .to such requests including but not limited to those requests that have not been answred or documents in the process of being located and transmitted.

Hard Copy to Follow.

Regards,

Andy Wilson

CalPilots Director

www.calpilots.org

C 510-303-9027

CC: CalPilots File

From: Dave & Trina Anderson <dntanderson@yahoo.com>
To: "william.dean@ci.tracy.ca.us" <william.dean@ci.tracy.ca.us>
Sent: Thu, September 13, 2012 2:10:51 AM
Subject: Ellis 2012 Specific Plan Project documents/DEIR Comments

September 12, 1012
Mr. Bill Dean,
Assistant Development and Engineering Services Director
City of Tracy
333 Civic Center Plaza, Tracy, CA 95376,
william.dean@ci.tracy.ca.us
209-831-6400

Mr. Bill Dean,
Attached you should find comments (DEIRcommentsTAA.pdf) regarding the Ellis 2012 Specific Plan Project documents/DEIR.
Also there should be four additional attachments.
Hard copy to follow.

David Anderson
Vice President Tracy Airport Association
A Chapter of the California Pilots Association

ATTACHMENTS:
Tracy Municipal Airport Instrument of Transfer
Title 49, United States Code subtitle VII – FAA Grant Assurances
North Las Vegas Airport SJR-3 Flight Safety Review and Recommendations
AAR73-06 AIRCRAFT ACCIDENT REPORT File No. 3-1191

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Response to Letter No. 24
CalPilots – Andy Wilson

24.1 Please refer to Master Response 2.0-1 (Master Airport Compatibility Response).

Agency Comment Letter No. 25

2012-Sep-13 04:51 PM AOPA - Govt Affairs ASN 301-695-2000 1/3

421 Aviation Way
Frederick, Maryland 21701

T. 301-695-2000
F. 301-695-2375

www.aopa.org

September 13, 2012

Mr. William Dean
Assistant Development and Engineering Services Director
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

Re: Modified Ellis Project Draft Revised EIR

Dear Mr. Dean:

The Aircraft Owners and Pilots Association (AOPA) is a not-for-profit individual membership organization of almost 400,000 pilots and aircraft owners including 44,161 members in California. On behalf of our membership, AOPA is committed to ensuring the future viability and development of general aviation airports and their facilities as part of a national transportation system. We are writing to you today concerning the Ellis Project Draft Revised EIR.

In 2008, we wrote to the City expressing our concerns with the proposed Ellis Project as proposed at that time, and we note that those concerns were not substantially addressed. That letter is enclosed for your reference. While there have been some changes in the interim, notably the 2009 Airport Land Use Compatibility Plan (ALUCP), we are still very concerned that the City is contemplating allowing significant residential development within the airport traffic pattern and safety zones. Additionally we still oppose the creation of a place of public assembly by putting the proposed Water Park within the traffic pattern under the base leg to Runway 12. 25.1

The City, in accepting airport improvement funds from the FAA, agreed to protect the airport and its approaches by implementing compatible land use measures. AOPA contends that the Ellis Project does not comply with the spirit of that agreement and will significantly cause further encroachment northwest of the airport. Further, we continue to oppose the construction of a water park under in the turning zone of Runway 12 as it constitutes a public gathering place in an area that should not have one per the ALUCP.

AOPA respectfully requests that the City not allow this project to continue forward, especially the eastern portions of it closest to the airport. Thank you for your consideration of our views on this matter. If we can be of further assistance, please contact us at 301-695-2200.

Sincerely,

John L. Collins
Manager
Airport Policy

Enclosure

AIRCRAFT OWNERS AND PILOTS ASSOCIATION

2012-Sep-13 04:51 PM AOPA - Govt Affairs ASN 301-695-2000 2/3

421 Aviation Way
Frederick, Maryland 21701

T. 301-695-2000
F. 301-695-2375

www.aopa.org

September 10, 2008

Mr. Mark Shishido
City of Tracy
Development and Engineering Planning Services Division
333 Civic Center Plaza
Tracy, California 95376

RE: Proposed Surland Development and Ellis Specific Plan

Mr. Shishido:

The Aircraft Owners and Pilots Association (AOPA), represents the general aviation interests of more than 413,000 members, including more than 50,000 of our members in the state of California. On behalf of our membership, AOPA is committed to ensuring the future viability and development of general aviation airports and their facilities as part of a national transportation system.

The purpose of this letter is to share AOPA's concerns with the proposed development known as the Surland's Subdivision/Ellis Project, located within one mile northwest of the Tracy Municipal Airport (TCY), and the possible significant impacts it will have.

25.2

According to the Ellis Specific Plan, the proposed Aquatics Center, commercial center and most dense residential portion of the Ellis project lie within the protected zone of the Tracy Municipal Airport. In addition, critical portions of the project, including the Swim Center are located in the Outer Approach Zone.

Based on the current State of California Airport Land Use Planning Handbook, residential densities within the Outer Approach Zone are limited to very low densities at approximately one dwelling unit per two to five acres. The purpose of this designation is to limit the area from large gatherings but the current planned densities of the Ellis project within this zone exceed acceptable safety standards. Residential development this close to an airport is a matter of poor public policy and we strongly encourage the City of Tracy to not allow residential development so close to TCY.

The City of Tracy executed grant assurances with the Federal Aviation Administration (FAA) when they accepted Airport Improvement Program funds for various development projects at the airport. Two of those grant assurances require that the airport sponsor take appropriate actions to:

AIRCRAFT OWNERS AND PILOTS ASSOCIATION

1. "...assure that such terminal airspace as is required to protect instrument and visual operations to the airport will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards."[1]
2. "...take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft."[2]

25.2 cont

The Association believes that compatible land use around airports should be a high priority for airport sponsors in order to adequately provide for the health, welfare and safety of its citizens both on the ground and in the air. Allowing residential development under the aircraft approach and departure operations for two runways will diminish the existing protection and safety of the airport and create additional noise concerns in the future.

Since Tracy is an active general aviation airport with more than 60,000 operations annually and 120 based aircraft, residential units in close proximity to the airport simply are not in the best interest of the airport or local residents who would be living near it.

AOPA respectfully requests that the City of Tracy not allow this proposed development to continue. We appreciate your prompt action to stop an incompatible land use in such close proximity to this viable transportation asset.

Sincerely,

Heidi J Williams
Senior Director
Airports

[1] FAA Airport Sponsor Assurances #20 Hazard Removal and Mitigation, http://www.faa.gov/arp/financial/aip/airport_sponsor_assurances.pdf
[2] FAA Airport Sponsor Assurances #21 Compatible Land Use, http://www.faa.gov/arp/financial/aip/airport_sponsor_assurances.pdf

Response to Letter No. 25
Heidi J. Williams

25.1 Please refer to Master Response 2.0-1 (Master Airport Compatibility Response).

25.2 Please refer to Master Response 2.0-1 (Master Airport Compatibility Response).

Agency Comment Letter No. 26

MINUTES
TRACY CITY PLANNING COMMISSION
AUGUST 22, 2012
7:00 P.M.
TRACY COUNCIL CHAMBERS
333 CIVIC CENTER PLAZA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

MINUTE APPROVAL

DIRECTOR'S REPORT REGARDING THIS AGENDA:

ITEMS FROM THE AUDIENCE

In accordance with Procedures for Preparation, Posting and Distribution of Agendas and the Conduct of Public Meetings, adopted by Resolution 2008-140 any item not on the agenda brought up by the public at a meeting, shall be automatically referred to staff. If staff is not able to resolve the matter satisfactorily, the member of the public may request a Planning Commission Member *to sponsor the item for discussion at a future meeting.*

1. OLD BUSINESS

2. NEW BUSINESS

   A. PUBLIC HEARING TO CONSIDER AN APPLICATION FOR AN AMENDMENT TO A PRELIMINARY AND FINAL DEVELOPMENT PLAN FOR BUILDING FAÇADE MODIFICATIONS AND ADDITIONS AT 2790 NAGLEE ROAD, ASSESSOR'S PARCEL NUMBER 212-050-60. APPLICANT IS BLAZIN WINGS, INCORPORATED C/O GOLDEN PROPERTY DEVELOPMENT, LLC AND PROPERTY OWNER TRACY MALL PARTNERS, LP. APPLICATION NUMBER D12-0005

   B. PUBLIC HEARING TO RECEIVE COMMENTS ON THE MODIFIED ELLIS PROJECT DRAFT REVISED ENVIRONMENTAL IMPACT REPORT, AND TO DISCUSS AND RECEIVE COMMENTS ON THE MODIFIED ELLIS SPECIFIC PLAN, RELATED GENERAL PLAN AMENDMENT, AND RELATED AMENDED AND RESTATED TRACY ELLIS DEVELOPMENT AGREEMENT

3. ITEMS FROM THE AUDIENCE

4. DIRECTOR'S REPORT

   A. DISCUSS PLANNING COMMISSION'S AVAILABILITY FOR A SPECIAL MEETING ON OCTOBER 3, 2012

Planning Commission Minutes
August 22, 2012
Page 2

5. ITEMS FROM THE COMMISSION

6. ADJOURNMENT

* * * * *

The Planning Commission meeting was called to order by Chair Ransom at 7:00 p.m.

The pledge of allegiance was led by Chair Ransom.

ROLL CALL: Roll call found Commissioner Johnson, Commissioner Manne, Commissioner Mitracos, Vice Chair Sangha, and Chair Ransom present. Also present were staff members Kimberly Matlock, Assistant Planner; Bill Dean, Assistant Director of Development Services; Andrew Malik, Director of Development Services; Bill Sartor, Assistant City Attorney; and Elizabeth Silva, Recording Secretary.

MINUTES

It was moved by Commissioner Johnson and seconded by Commissioner Sangha that the Planning Commission approve the minutes of March 14, 2012 and March 28, 2012 as written. Voice vote found all in favor; passed 5-0-0-0.

DIRECTOR'S REPORT REGARDING THIS AGENDA – None

ITEMS FROM THE AUDIENCE – None

1. OLD BUSINESS – None

2. NEW BUSINESS

A. PUBLIC HEARING TO CONSIDER AN APPLICATION FOR AN AMENDMENT TO A PRELIMINARY AND FINAL DEVELOPMENT PLAN FOR BUILDING FAÇADE MODIFICATIONS AND ADDITIONS AT 2790 NAGLEE ROAD, ASSESSOR'S PARCEL NUMBER 212-050-60. APPLICANT IS BLAZIN WINGS, INCORPORATED C/O GOLDEN PROPERTY DEVELOPMENT, LLC AND PROPERTY OWNER TRACY MALL PARTNERS, LP. APPLICATION NUMBER D12-0005

The staff report was provided by Kimberly Matlock, Assistant Planner. Mrs. Matlock stated this item was an amendment to the approved Preliminary and Final Development Plan for the previous Pier One Imports building. Mrs. Matlock indicated the applicant was Buffalo Wild Wings, who was proposing to occupy a portion of the building, modify the exterior of the building and construct an outdoor patio for their restaurant. Mrs. Matlock indicated the applicant would add new plants and canopies and to keep the existing brick façade. Mrs. Matlock stated the parking was adequate for the proposed use, and the use was a permitted use in the I-205 Specific Plan. Mrs. Matlock indicated staff recommended approval of the project.

Chair Ransom asked if there would be modifications to the remaining portion of the building. Mrs. Matlock answered there would not be with this application, however there could be in the

future. Chair Ransom asked how the building would be divided for an additional tenant. Mrs. Matlock stated the provided proposed floor plan showed how the applicant anticipated it to be divided. Chair Ransom asked if the additional portion would be retained until a future tenant was located. Mrs. Matlock answered that was correct.

Commissioner Mitracos asked if the World Market store was on the same lot or just next door to Best Buy. Mrs. Matlock stated she believed it was a separate parcel.

Chair Ransom opened the public hearing. As there was no one to speak to the item the public hearing was closed.

It was moved by Commissioner Mitracos and Seconded by Commissioner Manne that the Planning Commission recommend that the City Council approve an amendment to the Preliminary and Final Development Plan for building façade modifications and additions located at 2790 Naglee Road, Application Number D12-0005, subject to the conditions and based on the findings contained in the Planning Commission Resolution dated August 22, 2012. Voice vote found all in favor; passed 5-0-0-0.

B. PUBLIC HEARING TO RECEIVE COMMENTS ON THE MODIFIED ELLIS PROJECT DRAFT REVISED ENVIRONMENTAL IMPACT REPORT, AND TO DISCUSS AND RECEIVE COMMENTS ON THE MODIFIED ELLIS SPECIFIC PLAN, RELATED GENERAL PLAN AMENDMENT, AND RELATED AMENDED AND RESTATED TRACY ELLIS DEVELOPMENT AGREEMENT

The staff report was provided by Bill Dean, Assistant Director of Development Services. Mr. Dean stated the purpose of this item was to receive comments on the Modified Ellis Draft Revised Environmental Impact Report (EIR) which had been prepared and made available for a 45 day public review period, concluding on September 13, 2012. Mr. Dean stated staff would not be asking the Commission to make a recommendation this evening, and that staff was not in a position to answer all the questions raised at the microphone. Mr. Dean stated this was an opportunity to receive the comments and compile them in the Final EIR. Mr. Dean further stated the item had been agendized in such a way to have some discussion on the item as well.

Chair Ransom stated for clarification, first the presentations from the consultants would be heard, and then the Commission would hear public comments on the EIR, and following that there would be discussion regarding the project.

Commissioner Mitracos asked how the fact that the Development Agreement (DA) had not been approved would affect the EIR, due to the fact it had one of the issues in the previous approval that the DA was completed after, and it redefined the project description. Mr. Dean stated when the EIR was created; it was made for the project; which included the General Plan Amendment, the Specific Plan, and the DA. Mr. Dean added that in order to assess the impacts of the project there needed to be an understanding of the basics of the projects and the details. Mr. Dean indicated the DA had a lot of legal language and terms that was not related to the environmental impacts, but to the contract. Mr. Dean stated that when going through the negotiations, if there was something that was incongruent with the analysis, it would have to be accounted for.

Rick Jarvis stated it was the nature of the changes that the Trial Court determined triggered the need to recirculate the EIR, and whether a particular change requires a recirculation or further environmental review is a very fact-specific question, and in this particular case the trial court

did make the finding that changes were made at the end of the process which should have required the EIR to recirculate. Mr. Jarvis added the determination was under appeal. Commissioner Mitracos asked if typically the DA would come before the EIR. Mr. Jarvis stated typically the DA negotiations take until the very end of the process. Mr. Jarvis stated most of the time those changes don't require a recirculation of the EIR; however in this case the court had found that the changes should have triggered the recirculation.

Chair Ransom asked if the list of negotiation points were the terms that the Commission should be expecting to see, and, if some of them were changed would it trigger a recirculation. Mr. Jarvis answered the one page bullet points were the deal terms that had been negotiated between City Staff and the applicant, and the Commission and the Council could decide that they do not like a term and request a change.

Les Serpa of Surland, 1024 Central Avenue addressed the Commission. Mr. Serpa stated the Ellis Project had been approved by Planning Commission and City Council in 2008, and had been in process for more than a decade. Mr. Serpa stated the project was challenged by TRAQC, represented by Mark Connelly, and they did prevail on certain issues. Mr. Serpa stated they had made a business decision in addressing the Courts issues. Mr. Serpa stated he wanted to give the public a vision of what Surland was trying to create in Ellis. Mr. Serpa further stated they had used the same planning principles as the Redbridge community. Mr. Serpa indicated they were trying to get the project started to create a great place to live and a better community to be a part of. Mr. Serpa introduced Barry Long to provide a brief overview of the Specific Plan.

Barry Long of Urban Design and Associates provided an electronic presentation regarding the update to the Specific Plan. Mr. Long stated it was an overview, and would highlight what had changed and what would remain the same. Mr. Long stated the site was the same, as was the historical tributes, and local context. Mr. Long indicated they had studied the City's architecture and urban design. Mr. Long indicated Redbridge was used as the model. Mr. Long indicated the vision was a mixed-use, walkable development. Mr. Long stated there would still be three neighborhoods; the Village, the Garden, and the Town and Country. Mr. Long further stated there would still be a wide range of housing opportunities available.

Mr. Long stated one of the things that had changed included the San Joaquin County Airport Land Use Compatibility Plan (ALUCP) had changed and the Modified Ellis Specific Plan was now in compliance with the new 2009 ALUCP. Commissioner Mitracos asked for information on the uses which had been changed. Mr. Long stated the uses were very specifically listed in Section 3 of the Modified Ellis Specific Plan.

Mr. Long stated the Family Swim Center had been refined, and the Village Center had to be refined in response as the two were interlinked. Mr. Long stated the Specific Plan and the pattern book had minor modifications in consistency, and in design to widen the opportunities of the development.

Commissioner Mitracos asked for information on the range of maximum units, which was 1000-2250. Mr. Long stated the density would change. Commissioner Mitracos asked if the streets would stay the same, and the lots would just be larger if the development used the lower number of units. Mr. Long answered that it was meant to provide flexibility between the different neighborhoods and types of uses. Mr. Long stated there were a lot of constraints on the site

which would limit the number of units that could be built, such as the new ALUCP, and if the swim center would be built on site.

Commissioner Manne asked if the EIR was crafted using the maximum range. Mr. Long answered it was.

Mr. Long stated the potential non-residential uses such as a possible school site and the swim center would change the number of units significantly.

Commissioner Johnson asked for information on the transit center. Mr. Barry indicated the Transit center would be along the rail line, and would be a relocation of the Tracy Transit Station if it was desirable to do so.

Commissioner Manne asked what the likelihood was that the Transit Station or a new school be located in the development. Mr. Serpa stated they had worked with the School District to help with the design, possible sites, lay-outs and it would be their determination if they want the school located there or not. Mr. Serpa indicated it was the same situation with the ACE Train station.

Commissioner Sangha asked what the chances were that the swim center would stay on the site and who would make the decision. Mr. Serpa indicated they had offered the site, and it was at the sole discretion of the City as to what site would be chosen.

Laura Worthington-Forbes of RBF Consulting addressed the Commission and provided an electronic presentation regarding the Modified Ellis Project Draft Environmental Impact Report (DEIR). Mrs. Worthington-Forbes provided a brief overview of the history of the project's environmental review process. Mrs. Worthington-Forbes stated the Modified DEIR was revised in response to the Trial Judge's decision. Mrs. Worthington-Forbes provided a brief description of the DEIR topics of study. Mrs. Worthington-Forbes stated the intent of the item tonight was to solicit comments on the Revised DEIR, as well as accept written comments. Mrs. Worthington-Forbes stated they would be receiving comments up to September 13, 2012 and then they would prepare responses to the comments and compile the Final EIR.

Commissioner Mitracos asked if the General Plan Traditional Residential (TR) was negated by the lawsuit. Mr. Dean answered the City had adopted the TRLs as part of the February 2001 adoption, which was subsequent to the lawsuit and was still in effect.

Chair Ransom opened the public hearing.

Dave Anderson, Vice President of the Tracy Airport Association addressed the Commission. Mr. Anderson stated one of the alternatives, Alternative 10, was inaccurate and probably illegal. Mr. Anderson stated the runway lengths were wrong and City Council had directed staff to fix the runway lengths and maintain them in excess of 4000 feet. Mr. Anderson provided the official FFA Master Record for the Tracy Airport and stated it lists the length for Runway 268 at 4005 feet and Runway 3012 at 4002 feet. Mr. Anderson stated Council had directed staff to maintain the runway lengths. Mr. Anderson stated the City was obligated to maintain the Airport, and not restrict its use. Mr. Anderson further stated at one point the City allowed houses to be built across the street from the airport and now the residents of those houses call the FAA and complain that the planes fly over their homes. Mr. Anderson stated in Las Vegas in 2008 there were two incidents where planes landed in the houses built near the airport. Mr. Anderson

26.1

stated a Commissioner had asked what would be in the runway protection zone and no one had answered the question. Mr. Anderson indicated on the initial 1994 Airport Master Plan and Drawings showed the City would buy the land with available federal funds and leave it as an open runway protection zone. Mr. Anderson stated since the last time the Ellis item was heard there had been a major pipeline explosion and it had demonstrated the setbacks were not adequate to avoid a pipeline explosion. 26.1 cont

Mark Connolly addressed the Commission on behalf of TRAQC. Mr. Connolly stated TRAQC would be submitting written comments and this was in no way all of the comments. Mr. Connolly stated when the project had originally come before the Commission Surland did not own any of the land in the project site. Mr. Connolly stated when the DA went before Council they had represented that they had an interest in the site and that was false. Mr. Connolly stated by the time the DA went to Council it was significantly changed from what the Planning Commission had seen. Mr. Connolly stated the Commission needed to see the DA before they tried to analyze the environmental impacts of the project. Mr. Connolly stated in the original EIR, alternative 6 which was the lower density alternative, was thrown out because City Council wanted the project to be built out at 2250 units. Mr. Connolly stated the current proposal allows for an even lower density, and the reason Surland would want to reduce the density is because it would reduce the number of RGAs used for the development. Mr. Connolly stated if they higher number of RGAs is allocated, and the number of units built is the lowest density, the other RGAs could be transferred. Mr. Connolly stated staff was actively working to reduce the runway length, effectively chocking down the airport to allow the development of the Ellis project. Mr. Connolly further stated there was no benefit to this project; it would not result in the building of any aquatic center on the site, and would result in smaller runways at the airport as documented in the EIR. 26.2

Michel Bazinet, 1005 Mabel Josephine addressed the Commission. Mr. Bazinet stated the purpose of this item was to look at the EIR, and if there was any impact of the DA to the EIR that was significant, the EIR would need to be revised and recirculated. Mr. Bazinet further stated the requirement to see the EIR before approving the DA was not necessary. 26.3

Chair Ransom invited comments on the project.

Steve Nicolaou of 445 West Eleventh Street addressed the Commission. Mr. Nicolaou stated in Attachment A there were bullet-points of the modified Ellis project. Mr. Nicolaou further stated there was a statement that the decision on the DA is on appeal, and at the same time there is a modified DA. Mr. Nicolaou asked which DA would be in effect if the Court threw out the original judgment. Mr. Nicolaou stated there was no language of which DA would control. Mr. Nicolaou indicated the cart was being put before the horse by reviewing the EIR and the Modified Ellis Specific Plan with only key bullet-points of the DA; and depending on the details of the final DA, staff may have to go through this whole process all over again. 26.4 Mr. Nicolaou stated he agreed with the comments that if the project were to get approved, the airport would be thrown under the bus. Mr. Nicolaou stated the Council had committed to keeping the runways above 4000 feet, but staff had provided an alternative where the runway would be less than 4000 square feet. Mr. Nicolaou indicated there had been a contractor error for the runway, and the statute of limitations may have run out on getting the contractor to fix his mistake. Mr. Nicolaou stated there were no Federal funds available to fix the mistake, and the runways would stay at less than 400 feet for some time, and if this development was built it would be too late to fix the runway. Mr. Nicolaou indicated on June 19, 2012 City Council had asked for certain steps to be taken before Ellis would be taken into consideration: First, an updated financial impact report of 26.5

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the cost of the swim center; Second, an exploration of other funding options for a swim center; And third, the updated GMO guidelines. 26.5 cont

Commissioner Mitracos asked Mr. Nicolaou if there was anything that stated the DA could not include language regarding the possibility of the appeal would win. Mr. Nicolaou stated that should have been disclosed in the key points of the DA. Commissioner Mitracos stated his understanding at the June 19, 2012 meeting, Council directed staff to move forward with all four items concurrently.

Chair Ransom asked for clarification on the current runway length. Mr. Dean stated he would have to defer the question to Rod Buchannan, the Parks and Community Services Director. Commissioner Mitracos stated he remembered the runway was short by four feet. Mr. Dean stated Mr. Buchannan was in the process of clarifying the length.

Commissioner Manne asked when the Commission would see the DA. Mr. Dean stated staff was currently in ongoing negotiations, and the Commissioners would see the DA before they would be asked to make any decisions.

Mr. Bazinet addressed the Commission again, and stated this project has been planned for seven years, and all of the pipeline requirements, and airport requirements were being met, and if there all regulations were being met there was no reason to delay

George Riddle, 1850 Harvest Landing Lane addressed the Commission. Mr. Riddle stated the reason the runway was short was due to a contractor error, and if you were looking at the FAA documents it was either 4001 feet, or 4002 feet, and it that is how it should remain. Mr. Riddle asked what the square on the map was, on the southeast corner of the project near the northwest corner of the Airport. Mr. Long stated it was an existing communication sub-station, and was outside the project. 26.6

Marsh McCray of 560 Schulte Road addressed the Commission. Mrs. McCray stated seven years ago she had become involved in getting a swim center in Tracy, when he children were in middle school and they were in college now. Mrs. McCray indicated this was about the 80,000 residents in the City. Mrs. McCray stated the only public pool available in the City was available from after Memorial Day until prior to Labor Day, and as only available to the public for 3 hours a day. Mrs. McCray stated the facility was not sufficient to the needs of the community. 26.7

Sue Rainey addressed the Commission. Mrs. Rainey stated she lived in Redbridge and she was proud to live there. Mrs. Rainey stated in her opinion the Ellis project was even nicer than Redbridge. Mrs. Rainey stated this project and the swim center would be an amenity and a benefit to Tracy and its residents. 26.8

Dave Helm addressed the Commission. Mr. Helm provided a document to the Commission. Mr. Helm stated he had heard a lot of conflicting information regarding this project. Mr. Helm stated the DA decision was being appealed, yet the DA was being modified. Mr. Helm read a letter addressed to the Commission, which was attached to the document he had provided. Mr. Helm stated if the City wanted a pool, it should look at a way to pay for a pool, and build a pool, not build a swim center when the City has no experience operating one, and no idea how much it would cost to operate. Mr. Helm further stated the swim center would not be a gift; it would cost about $35 million and Mr. Serpa had graciously offered to give $10 million. Mr. Helm stated previously Mr. Connolly said he would sue the City, which he did and had won, and would win 26.9

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again. Mr. Helm stated the City should let Surland build the homes, and do away with the DA; because the time for DAs had passed. Mr. Helm indicated he had heard developers come to Council meetings and state it was a pay-to-play operation, and that didn't seem to be good governance, or fair, or honest. 26.9 cont.

Chair Ransom called for a five minute recess at 8:57 p.m. to reconvene at 9:02 p.m.

Mr. Connolly readdressed the Commission on behalf TRAQC. Mr. Connolly stated the DA was relevant because the DA was not tied to any particular developer, and anyone could build the project out. Mr. Connolly indicated the reality was you had to throw out the notion that Les Serpa had done a great job in another place. Mr. Connolly stated this deal was a terrible deal in terms of what the contract actually provided. Mr. Connolly stated the comments that a pool should have been built ten years ago were absolutely correct; however the idea that this project was going to bring a swim center in the near future was a fantasy. Mr. Connolly indicated the DA was a 25 year agreement. Mr. Connolly stated if this DA happened on a reasonable schedule, then in 5 years they would start the project, and two years after that date the City would get $2 million, and wouldn't have enough to even start construction on the $20 million swim center. Mr. Connolly further stated there was no requirement that the money be given in any particular time, or that the project be annexed in any particular time. Mr. Connolly stated the City was lobbying the FAA to reduce the runway of the Tracy Airport to under 4000 feet, and read a portion of the Draft EIR regarding the runway length. Mr. Connolly indicated Surland had stated they had addressed the issues which were raised in the judge's decision; however that was not the same as meeting the requirements the judge had said should be imposed. Mr. Connolly stated Surland does not have an adequate analysis of alternative sites. Mr. Connolly further stated the Commission should ask for communications with the FAA concerning Tracy Airport, particularly concerning runway length. Mr. Connolly stated the Commission needed the financial reports to see if the project was feasible. Mr. Connolly indicated the Commission would need the Growth Management information, as well as the water supply report. Mr. Connolly stated the most important piece of information was the DA, rather than just bullet-points. Mr. Connolly indicated he believed this was an attempt to build 1000 units, and transfer the remaining RGAs to someone else. Mr. Connolly further indicated the reason he believed this was when he was before the court with Rick Jarvis, it was stated that this was really a sale of RGAs: Surland gives the City $10 million, and the City gives them RGAs. 26.10, 26.11, 26.12, 26.13, 26.14

Chair Ransom closed the public hearing.

Chair Ransom asked if by the second meeting in September the Commission would see the documents requested by Council. Mr. Dean answered there was a team of staff members working on all three of those items. Commission Manne asked if they would come before the Commission. Mr. Dean stated it would not come before the Commission; they were documents that City Council had requested specifically. Chair Ransom asked when the Commission would be privy to the information. Mr. Dean answered the information would be made public when the City Council Agenda is published. Mr. Dean stated after it was provided to City Council and they had provided direction to staff, he would be happy to report back to the Commission what Council had said. Chair Ransom asked if staff could make sure the Commissioners see the documents once they had been made public.

Chair Ransom stated that, for the purpose of the public, no decision was being made at that time, and even if there were to be a recommendation tonight, the Commission could recommend amendments to the project.

Chair Ransom asked Bill Sartor, Assistant City Attorney if it was unusual for developers to have other partners, or have permission to speak for other partners. Mr. Sartor deferred to Mr. Jarvis. Mr. Jarvis stated he did not see anything uncommon in this case, and it certainly was not uncommon for a developer to secure entitlements before completing a purchase of property.

Commissioner Mitracos stated there were a lot pieces the Commission would need to have before they could make a recommendation to City Council. Commissioner Mitracos further stated even though the documents were under the Council's purview, they fed into the decision the Commission had to make. Commissioner Mitracos stated he would like to see the GMO, the feasibility analysis, the aquatics alternatives study and DA before he was asked to make any decision.

Mr. Dean stated they were tentatively looking at bringing the GMO to City Council on September 18, 2012, and in terms of the feasibility analysis, and alternatives on October 2, 2012.

3. ITEMS FROM THE AUDIENCE- None

4. DIRECTOR'S REPORT

A. DISCUSS PLANNING COMMISSION'S AVAILABILITY FOR A SPECIAL MEETING ON OCTOBER 3, 2012.

Mr. Dean stated there was a request by Surland Companies to see the availability of the Commission for a possible special meeting on October 3, 2012. Mr. Dean indicated this was not the time to schedule the meeting, but to discuss possible availability. Commissioner Mitracos, Commissioner Johnson and Chair Ransom stated they would be available on that date and there would be a quorum available. Commissioner Sangha stated she would not be able to attend.

Mr. Connolly re-addressed the Commission on behalf of TRAQC, and stated he felt this item was important enough that there should be more than a quorum; and secondly, if City Council reviewed the item on October 2, it would not be sufficient time for the Planning Commission to review and analyze the item before the special meeting the following night.

Dave Anderson re-addressed the Commission and stated he did not feel that a special meeting was necessary and it should be discussed at a regular meeting.

Commissioner Manne stated the special meeting would be "a hearing", and the Commission and the public did not know the specifics of the meeting. Mr. Dean stated the request had been to see if there was availability for a special meeting, and it would only be for the Ellis project. Mr. Dean further stated the purpose of the meeting would be to discuss the Ellis item and make a possible recommendation to Council. Mr. Dean added there was work to be done, and it wasn't known yet if staff would make that date.

Commissioner Mitracos stated even there was a hearing on that date; if the Commission did not feel comfortable to review all the items, the item could be continued to a later date. Mr. Dean stated that was correct and it was in the Commission's hands, and was their decision.

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Chair Ransom stated if a meeting was scheduled and the Commission was not prepared, it reserved the right to continue the item. Vice Chair Ransom stated hopefully the items could be expedited so the Commission would have an opportunity to analyze them and make an informed decision.

5. ITEMS FROM THE COMMISSION – None

6. ADJOURNMENT

It was moved by Commissioner Manne and seconded by Commissioner Mitracos to adjourn.

Time: 9:37 p.m.

_____ _____

CHAIR STAFF LIAISON

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Response to Letter No. 26
Verbal Comments

26.1 Please refer to the Master Airport Compatibility Response and the Master Alternative 10 Response regarding comments on the airport and Alternative 10. Please refer to Response to Comments 23.30 through 23.43 regarding pipeline setbacks.

26.2 Refer to the Responses to Comment Letter 20 (Kari to fill in number for Mark Connolly letter).

26.3 Refer to Response 14-1. The Draft Revised Ellis EIR analyzed the potential impacts of implementation of the Modified Ellis Project, which includes the execution of an Amended and Restated Development Agreement. As stated in the Project Description of the Draft Revised Ellis EIR (Chapter 3), the Modified Ellis Project consists of the following:

1. A modification and amendment to the Original Ellis DA ("Amended and Restated Ellis DA") (Application Number DA11-0002);
2. A modification and amendment to the Original Ellis Specific Plan ("Modified Ellis Specific Plan or Modified ESP") (Application Number SP11-0002);
3. Petition for Annexation and Pre-Zoning (Application Number A/P11-0002) and General Plan Amendment (Application Number GPA11-0005) (collectively referred to as the "Modified Project").

As indicated in the Executive Summary of the Draft Revised Ellis EIR (Chapter 1), the Modified Ellis Project would result in a variety of potentially significant, but mitigable impacts in the areas of agricultural resources, public utilities, public services, hydrology, drainage, and water quality, geology and soil hazards, air quality, biological resources, greenhouse gas emissions, hazards and hazardous materials, noise, traffic and circulation, while significant and unavoidable impacts were identified in the areas of air quality, greenhouse gas emissions, noise, traffic and circulation, aesthetics, and agricultural resources.

26.4 Refer to Response 14.1.

26.5 Please refer to the Master Airport Compatibility Response and the Master Alternative 10 Response. Although the comment regarding the June 19, 2012 City Council direction does not address the adequacy of the Draft Revised Ellis EIR, it is noted and included in the record for consideration by the public and decisions makers.

26.6 The result of a recent survey had concluded that Runway 12-30 was shorter (3,996 feet) than the documented 4,002 feet identified in the 2009 San Joaquin County Airport Land Use Compatibility Plan (2009 ALUCP). The City officially notified the Federal Aviation Administration (FAA) of the change in runway length by filing a NOTAM (Notice to Airmen), which is a notice containing information concerning the establishment, condition, or change in any aeronautical facilities, services, procedures, or hazard, which is essential to personnel concerned with flight operations. Subsequent to the initial preparation of the Draft Revised EIR, on May 1, 2012, City Council provided direction to

City staff to work with the FAA to pursue funding for runway repairs and restriping to restore the runway length to 4,000 feet. Runway repairs have been completed as of October 15, 2012. As of the writing of this Final Revised Ellis EIR, City Staff is in the process of filing a new NOTAM to notify the FAA of the new runway length of 4,000 feet.

26.7 Although this comment does not address the adequacy of the Draft Revised Ellis EIR, it is noted and included in the record for consideration by the public and decisions makers. As described in Chapter 6 (Alternatives) of the Draft Revised Ellis EIR, the consideration by the City of a new Swim Center and its potential location has been underway for more than 11 years. If approved the Modified Ellis Project would provide an opportunity to include a Family-Oriented Swim Center in Tracy.

26.8 Although this comment does not address the adequacy of the Draft Revised Ellis EIR, it is noted and included in the record for consideration by the public and decisions makers. All project merits will be considered by the City Council in their decision to approve or deny the project.

26.9 Although this comment does not address the adequacy of the Draft Revised Ellis EIR, it is noted and included in the record for consideration by the public and decisions makers. The Draft Revised Ellis EIR the analyzed the potential impacts of implementation of the Modified Ellis Project, which includes the execution of an Amended and Restated Development Agreement. Chapter 6 (Alternatives) of the Draft Revised Ellis EIR includes a description of the process undertaken by the City to create a Community Swim Center. The City Council will take into consideration the merits of the Amended and Restated Development Agreement in their decision on whether to approve or deny the Agreement.

26.10 Refer to the Response to Comment Letter 20.

26.11 Although this comment does not address the adequacy of the Draft Revised Ellis EIR, it is noted and included in the record for consideration by the public and decisions makers. The City Council will take into consideration the merits of the Amended and Restated Development Agreement in their decision on whether to approve or deny the Agreement.

26.12 Please refer to the Master Alternative 10 Response.

26.13 Refer to the Response to Comment Letter 20.

26.14 Refer to the Response to Comment Letter 20.

Comment Letter No. 27

THOMAS M. GAU
DIRECTOR

FRITZ BUCHMAN
DEPUTY DIRECTOR

MICHAEL SELLING
DEPUTY DIRECTOR

ROGER JANES
BUSINESS ADMINISTRATOR

Public Works
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DATE: November 13, 2012

TO: Mr. Bill Dean
City of Tracy
City Hall Annex
520 Tracy Boulevard
Tracy, CA 95376

SUBJECT: **The Modified Ellis Specific Plan (ESP) Final Revised EIR**

Dear Mr. Dean,

The San Joaquin County (County) Department of Public Works has reviewed the above referenced document and has the following concerns or comments:

1) The proposed annexation, of the properties that is the Modified Ellis Specific Plan, will create short roadway segments between the City and the County; the City should annex all boundary roadways to create contiguous jurisdiction. 27.1
2) The County is concerned with the impacts to the north-south connector roadways: Corral Hollow Road and Lammers Road, which are 2 lane segments in the County jurisdiction bounded by City segments of 4-6 lanes, creating a bottleneck. If our recommendation in comment one above is implemented this concern is remedied, if not the City and County needs to develop a mutually agreeable solution for future improvements on Corral Hollow Road and Lammers Road. 27.2
3) Impact 4.13-7 refers to Tesla Road, this is within Alameda County. The document needs better clarification between Corral Hollow Road in San Joaquin County and Tesla Road in Alameda County. 27.3
4) The County is concerned with the proposed mitigation 4.13-7 regarding Tesla Road and Patterson Pass Road. The mitigation states "Prior to issuance of building permits for residential units, applicants of individual projects within the Modified ESP site shall be required to pay Regional Transportation Impact Fees (RTIF)." These two roads are not on the RTIF list, but rather collect the Traffic Impact Mitigation Fees (TIMF) administered by the County; since the TIMF is not applicable to this project, fair share fees should be collected. The City should collect a specific mitigation amount to be forwarded to the County (or used by the City in the event of annexation) at the time of construction of an actual project. Attached is a copy of the County's TIMF schedule to help provide adequate reference amount for the fair share fees. Please contact the County to discuss fair share fees. 27.4

Thank you, should you have any question please contact me at mhopkins@sjgov.org or 468-3085.

Mark Hopkins
Senior Planner
San Joaquin County Public Works

TRAFFIC IMPACT MITIGATION FEE SCHEDULE BY USE TYPE
Effective July 1, 2012

New Fee at 2.6% Area		Single Family (DUE)	Multi Family (DUE)	Office (1KSF)	Retail Service (1KSF)	Ware-house (1KSF)	Service Comm. (1KSF)	Manufac-turing (1KSF)
1	DELTA THORNTON	1,422.90	873.53	1,364.89	2,641.06	706.33	2,478.41	898.55
2	LOCKEFORD LODI STOCKTON	1,773.22	1,088.49	1,700.42	3,291.64	880.35	3,088.06	1,119.20
3	ESCALON LINDEN RIPON	1,004.32	616.47	963.38	1,864.20	498.19	1,749.33	633.53
4	LATHROP MANTECA TRACY	1,016.84	630.13	1,515.02	3,813.71	599.42	2,751.37	763.20
5	MOUNTAIN HOUSE	1341.00	901.00	1280.00	2999.00	651.00	929.00	513.00

TRAFFIC IMPACT MITIGATION FEE TRIP END RATES
Effective July 1, 2012

New Fee at 2.6% Area		Regional Cost Per DUE	Local Cost Per DUE	Alternative Modes	Admini-stration Fee	Total TIMF Per DUE	Trips Per DUE	TIMF Per Trip
1	DELTA THORNTON	1,528.33	0.00	84.91	84.91	1,698.15	9.57	177.45
2	LOCKEFORD LODI STOCKTON	396.36	1,225.12	90.08	90.08	1,801.64	9.57	188.26
3	LINDEN ESCALON RIPON	450.12	411.81	47.88	47.88	957.69	9.57	100.07
4	LATHROP MANTECA TRACY	19.81	871.80	49.54	49.54	990.69	9.57	103.52

REGIONAL TRANSPORTATION IMPACT FEE SCHEDULE BY USE TYPE
Effective July 1, 2012

Land Use Type	New Fee At .914%
Residential (Single Family (DUE)	$3,014.38
Residential (Multi-Family DUE)	$1,808.63
Retail (Sq. Ft.)	$1.20
Office/Service Commercial (Sq. Ft.)	$1.51
Manufacturing/Industrial (Sq. Ft.)	$0.91
Warehouse (Sq. Ft.)	$0.38

Response to Letter No. 27
Mark Hopkins
San Joaquin County Public Works

27.1 It is unclear what the commenter means by "boundary roadways" or creating "contiguous jurisdiction." All roadway segments within the approximately 321-acre Ellis Specific Plan area will be annexed into the City, along with the rest of that area which is to be developed as part of this project. Regarding roadways outside of the Ellis Specific Plan area that will remain in the unincorporated County, the City typically would annex the portions of Corral Hollow Road and Lammers Road leading into the City if and as future development of other projects on sites annexed into the City occurs along and adjacent to these roads, and as improvements are required to accommodate such future development. However, such future development is not presently proposed or contemplated as part of this project. Further, the annexations of lands in itself does not concern or address environmental impacts. Nonetheless, each of the roads impacts particularly raised by the commenter has been evaluated fully and, where appropriate and feasible, effective mitigation measures have been identified. Refer to Response to Comment 27.2, below.

27.2 The Draft Revised EIR analyzed pertinent intersections and roadway segments concerning Lammers Road and Corral Hollow Road as they lie in both City and County jurisdictions. With regard to intersections, the Draft Revised EIR identified significant impacts and effective mitigation measures. (*See* Draft Revised EIR, p. 4.13-40, Mitigation Measure 4.13-5.) With regard to roadway segments, the Draft Revised EIR analyzed all pertinent segments of Lammers Road and Corral Hollow Road, including segments lying within the County, and determined that all roadways would operate at acceptable levels of service or better. (See Draft Revised EIR, p. 4.13-50, Table 4.13-22.) Insofar as the commenter asserts potential "bottleneck" on roadway segments lying in the unincorporated County may constitute significant unanalyzed or unmitigated traffic impacts of the project, these assertions do not appear to account for the existing expert analysis in the Draft Revised EIR, are not supported by any technical analysis.

27.3 The segments of Tesla Road and Patterson Pass immediately west of I/580 are both in San Joaquin County as presented in the EIR. Further west, both roads cross into Alameda County.

27.4 The project will pay regional traffic impact fees towards the Traffic Impact Mitigation Fee Schedule, and the Regional Transportation Impact Fee Schedule. Tesla Road and Patterson Pass Road have no improvements identified or planned and thus no fair share calculations can be calculated.

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