



FINAL SUBSEQUENT
ENVIRONMENTAL IMPACT REPORT FOR THE

River Islands at Lathrop Phase 2 Project

State Clearinghouse No. 1993112027



Prepared for:



City of Lathrop
Community Development
Department/Planning Division

May 5, 2021

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Prepared for:

City of Lathrop
Community Development Department/Planning Division
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Contact:

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May 5, 2021

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LIST OF ABBREVIATIONS

CEQA	California Environmental Quality Act
City	City of Lathrop
CWA	Clean Water Act
Draft SEIR	draft subsequent environmental impact report
DWQ	Division of Water Quality
ESA	federal Endangered Species Act
Final SEIR	final subsequent environmental impact report
eTRIP	Employer Trip Reduction Implementation Plan
I-5	Interstate 5
ITMM	Incidental Take Minimization Measures
MS4	Municipal Separate Storm Sewer System
NO _x	oxides of nitrogen
NPDES	National Pollutant Discharge Elimination System
Phase 2 area	Phase 2 area of the River Islands Project
PM	particular matter
PRC	Public Resources Code
RID Area	River Islands Development Area
RWQCB	regional water quality control board
SJCOG	San Joaquin Council of Governments
SJMSCP	<i>San Joaquin County Multi-Species Habitat Conservation & Open Space Plan</i>
SJVAB	San Joaquin Valley Air Basin
SJVACPD	San Joaquin Valley Unified Air Pollution Control District
SR	State Route 120
SWPPP	storm water pollution prevention plan
USACE	U.S. Army Corps of Engineers
VERA	Voluntary Emissions Reduction Agreement
VMT	vehicle miles traveled
VOC	volatile organic compounds
WDR	Waste Discharge Requirement
WLSP	West Lathrop Specific Plan

1 INTRODUCTION

This final subsequent environmental impact report (Final SEIR) has been prepared by the City of Lathrop (City), as lead agency, in accordance with the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines (CCR Section 15132). This Final SEIR contains responses to comments received on the draft subsequent environmental impact report (Draft SEIR) for the River Islands at Lathrop Phase 2 Project (modified Phase 2 Project or project). The Final SEIR consists of the Draft SEIR and this document (response to comments document), which includes comments on the Draft SEIR, responses to those comments, and revisions to the Draft SEIR.

1.1 PURPOSE AND INTENDED USES OF THIS FINAL SEIR

CEQA requires a lead agency that has prepared a Draft EIR (or SEIR) to consult with and obtain comments from responsible and trustee agencies that have jurisdiction by law with respect to the project, and to provide the public with an opportunity to comment on the Draft EIR. The Final EIR (or SEIR) is the mechanism for responding to these comments. This Final SEIR has been prepared to respond to comments received on the Draft SEIR, which are reproduced in this document; and to present corrections, revisions, and other clarifications and amplifications to the Draft SEIR, including project updates, made in response to these comments and as a result of the applicant's ongoing planning and design efforts. The Final SEIR will be used to support the City's decision regarding whether to approve the River Islands at Lathrop Phase 2 Project.

This Final SEIR will also be used by CEQA responsible and trustee agencies to ensure that they have met their requirements under CEQA before deciding whether to approve or permit project elements over which they have jurisdiction. It may also be used by other state, regional, and local agencies that may have an interest in resources that could be affected by the project or that have jurisdiction over portions of the project.

Responsible, trustee, and interested agencies may include:

- ▶ California Department of Transportation
- ▶ California Department of Education
- ▶ Central Valley Regional Water Quality Control Board
- ▶ San Joaquin County
- ▶ Banta Elementary School District
- ▶ Tracy Unified School District
- ▶ Tri-Valley - San Joaquin Valley Regional Rail Authority (Valley Link)

1.2 PROJECT LOCATION

The project is located in the city of Lathrop, San Joaquin County, California. Lathrop is situated in the San Joaquin Valley, at the junction of Interstate 5 (I-5), I-205, and State Route 120 (SR 120), approximately 65 miles east of San Francisco and 55 miles south of Sacramento.

Development of the currently approved River Islands Project is split among two primary development phases—Phase 1 and Phase 2. The project site evaluated in this SEIR is the Phase 2 area of the River Islands Project (Phase 2 area), located on Stewart Tract and Paradise Cut within the 2002 West Lathrop Specific Plan (WLSP) area in the city of Lathrop. The Phase 2 area includes approximately 3,434 acres of land and open space, with 2,730 acres located on Stewart Tract (an inland island bounded by Paradise Cut, the San Joaquin River, and Old River) and 704 acres located in Paradise Cut (a flood control bypass that receives water from the San Joaquin River when there are sufficient flows and connects downstream to Old River). The River Islands Development Area (RID Area) designates all portions of the

project site on Stewart Tract, both Phase 1 and Phase 2. The Paradise Cut portion of the project site may be referred to as the Paradise Cut Conservation Area. Local access is currently provided by River Islands Parkway, Paradise Road, and Manthey Road.

The project site (Phase 2 development area and Paradise Cut Conservation Area) is mostly undeveloped and/or agricultural land. The exception is the Old River District (also known as "Stage 2B"), which is an area originally slated for development within Phase 1 of the RID Area, where extension of utilities and the Phase 1 roadway network has been completed under Phase 1 Project approvals. Development of single family and multi-family units in the Old River District requires the City's approval of the proposed Phase 2 modifications. For the balance of the project area, a few single-family residences, a horse ranch, and related agriculture-related buildings are located in discrete portions of the Phase 2 development area. The project site also contains the Central Drainage Ditch (also known as "Stewart Canal"), a long agricultural ditch that bisects Stewart Tract, along with a small pond located on Stewart Tract near Paradise Cut. Both areas are designated as waters of the U.S. by the U.S. Army Corps of Engineers (USACE). As development occurs within the Phase 2 area, these waters of the U.S. will be avoided. Flood protection improvements consisting of levees surrounding both the Phase 1 area and Phase 2 development area have been completed, consistent with plans and entitlements.

1.3 PROJECT OBJECTIVES

The overall objective of the River Islands Project is the orderly and systematic development of an integrated, mixed-use community in the City of Lathrop generally consistent with goals and policies of the City's adopted General Plan and the WLSP. The specific project objectives for the modified Phase 2 Project, listed below, borrow from, and update the objectives originally identified in the 2003 SEIR:

- ▶ Provide to Lathrop (and the surrounding region) long-term community benefits, including generation of substantial permanent employment opportunities.
- ▶ Reinforce and enhance the City's positive image.
- ▶ Contribute a new variety of mixed-use/commercial land uses that could become a citywide and regional focal point.
- ▶ Continue to create a community that is consistent with many of the original goals of the Lathrop General Plan and WLSP including employment generation.
- ▶ Develop a well-integrated and harmonious pattern of resident-oriented and visitor-oriented land uses in West Lathrop that provides local jobs, homes, and revenue-generating uses that complement other Lathrop development.
- ▶ Arrange phases of development to allow ongoing agricultural operations in the plan area to continue as long as feasible while allowing initial phases to act as catalysts for subsequent development.
- ▶ Incorporate water in its many forms throughout the project area to reinforce the area's Delta setting.
- ▶ Phase the provision of habitat preservation areas with overall development phases.
- ▶ Provide a wide range of housing types that could accommodate most income levels.
- ▶ Provide a variety of recreational opportunities focused on outdoor uses.
- ▶ Provide a high-density Transit Oriented Development in the vicinity of the planned Valley Link commuter rail station on the project site.

1.4 SUMMARY DESCRIPTION OF THE PROJECT

The River Islands Project is a mixed-use, water-oriented master planned community, on approximately 4,905 acres on Stewart Tract and Paradise Cut. Project construction is split among two primary development phases, following an approximately 20-year buildout schedule. Phase 1, currently under construction, includes 4,284 residential dwelling units, a Town Center, a portion of a Business Park (Employment Center), lakes, parks, schools, and other open space.

Much of the Phase 1 area has already been completed. As evaluated in the 2003 SEIR (State Clearinghouse No. 1993112027, City of Lathrop 2003), Phase 2 includes 6,716 dwelling units, the balance of the Business Park, a neighborhood commercial area, lakes, parks, golf courses, schools, and additional open space areas.

In 2003, the City certified the SEIR for the River Islands Project and approved various entitlements, including amendments to the General Plan, WLSF, a Vesting Tentative Map for Phase 1, and an Amended and Restated Development Agreement.

The 2003 SEIR included a project-level analysis for Phase 1 as well as a project-level analysis for Phase 2 with the exception of the issue of recycled water storage and disposal during Phase 2, which was evaluated at a program-level. Since certification of the SEIR in 2003, the City has prepared various addenda to evaluate modifications to the River Islands project and confirm that the modifications were covered by the SEIR and that there would be no new significant or substantially more severe environmental impacts under CEQA resulting from the project modifications. These addenda and the modifications they evaluate are described further below.

The project applicant (Califia, LLC) proposes to modify the approved project by densifying proposed residential development within the Phase 2 area, including additional retail and commercial development, and adding a mixed-use Transit Oriented Development area to an area north of a site proposed for a Valley Link commuter rail station in the Employment Center District. The project modifications will include these changes, as well as other project refinements and updates proposed to accommodate changes in the transportation and circulation system, changes in school construction, and other similar issues. The overall project boundary of the River Islands Project would not change from that analyzed in the 2003 SEIR.

The applicant has applied to the City for a number of related project-level entitlements that will update the land use program for Phase 2, including the following:

- ▶ City of Lathrop General Plan Amendments for Land Use and Circulation,
- ▶ WLSF Amendment,
- ▶ Zoning Map and Text Amendment,
- ▶ Urban Design Concept,
- ▶ Vesting Tentative Map, and
- ▶ Potential Development Agreement Amendment.

1.5 MAJOR CONCLUSIONS OF THE ENVIRONMENTAL ANALYSIS

1.5.1 Project Specific Impacts

The SEIR has been prepared pursuant to the CEQA (Public Resources Code [PRC] Section 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, Section 1500, et seq.) to evaluate the physical environmental effects of the modified Phase 2 Project. The City of Lathrop is the lead agency for the project. The City has the principal responsibility for approving and carrying out the project and for ensuring that the requirements of CEQA have been met. After the Final SEIR is prepared and the SEIR public review process is complete, the Lathrop City Council is the party responsible for certifying that the SEIR adequately evaluates the impacts of the project.

As summarized in Table 2-3, "Summary of Impacts and Mitigation Measures," in the "Executive Summary" chapter of the Draft SEIR, construction and/or operation of the modified Phase 2 Project would have the potential to cause the following significant environmental impacts.

LESS-THAN-SIGNIFICANT AFTER MITIGATION IMPACTS

The modified Phase 2 Project would have the potential to cause the following potentially significant and significant but mitigable environmental impacts. After mitigation, these listed impacts would be reduced to a less-than-significant level.

- ▶ **Traffic and Transportation:** Construction Related Transportation Impacts
- ▶ **Air Quality:** Increases in Regional Criteria Pollutants during Construction; Increases in Mobile Source Toxic Air Contaminants
- ▶ **Noise and Vibration:** Increase in Short-Term Construction Generated Noise; Stationary Source Noise Generated by Onsite Land Uses; Generation of Excessive Groundborne Vibration
- ▶ **Geology, Soils, and Mineral Resources:** Loss, Injury, or Death Resulting from Seismic Hazards; Loss, Injury, or Death Resulting from Liquefaction; Expansive or Otherwise Unstable Soils; Exposure of Subsurface Facilities to the Effects of Corrosive Soils
- ▶ **Hydrology and Water Quality:** River Islands Area Construction Sediment and Water Quality Contamination; Earth Moving in or Adjacent to Water Bodies; In-Water Project Features; Groundwater Quality During Construction
- ▶ **Hazardous Materials and Public Health:** Hazardous Materials Sites; Interfere with Implementation of an Emergency Response Plan
- ▶ **Public Services:** Obstruction of Roadways during Construction; Increased Demand for Fire Protection Facilities and Services; Increased Demand for Fire Flow; Increased Demand for Police Protection Facilities and Services; Demand for Animal Control Facilities and Services; Increased Demand for Public School Facilities and Services; Demand for Potable Water; Demand for Wastewater Treatment Capacity for Phase 2; Demand for Recycled Water Storage and Disposal Capacity for Phase 2
- ▶ **Agricultural Resources:** Adjacent Landowner/User Conflicts
- ▶ **Terrestrial Biology:** Special-Status Plants; Valley Elderberry Longhorn Beetle; Giant Garter Snake; Western Pond Turtle; Swainson's Hawk; Burrowing Owl; Ground-Nesting or Streamside/Lakeside-Nesting Birds; Birds Nesting in Isolated Trees or Shrubs Outside of Riparian Habitat; Birds Nesting along Riparian Corridors; Common Tree-Nesting Raptors; Riparian Brush Rabbit; Jurisdictional Waters of the United States and Riparian Habitat; Biological Resources Associated with Offsite Facilities
- ▶ **Fisheries:** Levee Breaching; Bridge and Utility Crossings; Paradise Cut Bridge
- ▶ **Cultural and Tribal Cultural Resources:** Cause a Substantial Adverse Change in the Significance of a Listed Archaeological Site; Cause a Substantial Adverse Change in the Significance of Unique Archaeological Resources; Disturb Human Remains; Cause a Substantial Adverse Change in Offsite Resources; Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource
- ▶ **Aesthetics:** Design and Function of Walls and Fences/Consistency with the WLSP
- ▶ **Wildfire:** Impair an Adopted Emergency Response Plan or Emergency Evacuation Plan

SIGNIFICANT AND UNAVOIDABLE IMPACTS

The modified Phase 2 Project would result in the following significant and unavoidable impacts; that is, no feasible mitigation is available to reduce the project's impacts to a less-than-significant level.

- ▶ **Air Quality:** Increases in Long-Term Regional Emissions
- ▶ **Noise and Vibration:** Increases in Existing Traffic Noise Levels (project and cumulative)
- ▶ **Noise and Vibration:** Compatibility of the Proposed Land Uses with Projected Onsite Noise Levels
- ▶ **Agricultural Resources:** Conversion of Important Farmland (project and cumulative)

- ▶ **Agricultural Resources:** Potential Williamson Act Contract Cancellations (only if Paradise Road Widening triggers a cancellation)
- ▶ **Greenhouse Gas Emissions and Climate Change:** Project-Generated GHG Emissions (project and cumulative)

1.5.2 Alternatives to the Project

The State CEQA Guidelines Section 15126.6 mandates that all EIRs include a comparative evaluation of the proposed project with alternatives to the project that are capable of attaining most of the plan's basic objectives but that would avoid or substantially lessen any of the significant effects of the project. CEQA requires an evaluation of a "range of reasonable" alternatives, including the "no project" alternative. The following alternatives are evaluated in the Draft SEIR. Table 1-1 presents a comparison of the environmental impacts between the alternatives and the project.

- ▶ **No Project—No Development Alternative**, which assumes no new development occurs on the project site beyond the Phase 1 Project, which is in progress; and
- ▶ **No Project—WLSP Development Alternative**, which assumes that the proposed Phase 2 modifications are not approved and that development occurs consistent with the approved WSLP as described in the 2003 SEIR (as amended), with up to 11,000 residences at buildout.

Table 1-1 Summary of Environmental Effects of the Alternatives Relative to the Modified Phase 2 Project

Environmental Topic	Modified Phase 2 Project	No Project—No Development Alternative	No Project—WLSP Development Alternative
Land Use	LTS	Similar	Similar
Population, Employment, and Housing	LTS	Less	Similar
Traffic and Transportation	LTS/M	Less	Greater
Air Quality	SU	Less	Similar
Noise and Vibration	SU	Less	Less
Geology, Soils, and Mineral Resources	LTS/M	Less	Similar
Hydrology and Water Quality	LTS/M	Less	Similar
Hazardous Materials and Public Health	LTS/M	Less	Similar
Public Services	LTS/M	Less	Less
Public Utilities	LTS/M	Less	Similar
Recreation	LTS	Less	Less
Agricultural Resources	SU	Less	Similar
Terrestrial Biology	LTS/M	Less	Similar
Fisheries	LTS/M	Less	Similar
Cultural and Tribal Cultural Resources	LTS/M	Less	Similar
Aesthetics	LTS/M	Less	Similar
Energy	LTS	Less	Greater
Greenhouse Gas Emissions and Climate Change	SU	Less	Greater
Wildfire	LTS/M	Less	Similar

Notes: LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

Source: Data compiled by Ascent Environmental in 2021

In addition, the evaluation of alternatives included in the 2003 SEIR is incorporated by reference into the current SEIR and is part of the range of reasonable alternatives included in the CEQA analysis for the project (see Draft SEIR Section 8.3).

ENVIRONMENTALLY SUPERIOR ALTERNATIVE

For the modified Phase 2 Project, the No Project–No Development Alternative would avoid all adverse impacts resulting from construction and operation of the modified Phase 2 Project analyzed in Chapter 4 of the Draft SEIR; therefore, it is the environmentally superior alternative. However, the No Project–No Development Alternative would not meet the project objectives.

When the environmentally superior alternative is the No Project Alternative, the State CEQA Guidelines (Section 15126[d][2]) require selection of an environmentally superior alternative other than the No Project Alternative from among the other action alternatives evaluated. As illustrated in Table 1-1, the No Project–WLSP Development Alternative does not avoid or even reduce significant and unavoidable impacts. The No Project–WLSP Development Alternative would have greater impacts than the modified Phase 2 Project in three issue areas, less impacts in three issue areas, and similar impacts in 13 issue areas. Therefore, the No Project–WLSP Development Alternative is not superior to the proposed project.

As stated above, the full alternatives analysis from the 2003 SEIR is considered to be part of the text of this SEIR, and the analysis of alternatives from the 2003 SEIR is part of the “range of reasonable alternatives” to be considered per State CEQA Guidelines Section 15126.6(a). Although the Phase 1 Project is being developed consistent with the currently approved WLSP, if the principals of the Environmental Constraints (50% Development) Alternative were applied to the remaining Phase 2 area, the same types of reductions in impacts would be expected. Therefore, similar to what was identified in the 2003 SEIR, the Environmental Constraints (50% Development) Alternative would remain the environmentally superior alternative because it would have the highest ratio of less to greater impacts among the alternatives and would have lesser impacts than the modified Phase 2 Project. However, as discussed in the 2003 SEIR, the Environmental Constraints (50% Development) Alternative would result in significant unavoidable impacts related to traffic, air quality, noise, and agricultural resources. Although this alternative includes substantially less development than the modified Phase 2 Project, these significant unavoidable impacts would still occur. Further, given the large scale of the modified Phase 2 Project and the extensive infrastructure needed to support the project, it is unknown whether this substantially reduced development scenario would be financially feasible or could be effectively integrated into the City's planning goals. Also, it is uncertain if this alternative could attain most of the basic project objectives, including providing substantial employment opportunities and a harmonious mix of land uses. However, as mentioned above, CEQA does not permit the identification of the No Project Alternative as the environmentally superior alternative. Therefore, the Environmental Constraints (50% Development) Alternative is identified as the environmentally superior alternative.

1.6 CEQA PUBLIC REVIEW PROCESS

A notice of preparation (NOP) was distributed for the modified Phase 2 Project on March 6, 2020, to responsible agencies, interested parties, and organizations, as well as private organizations and individuals that may have an interest in the project. The NOP was circulated for 34 days, through April 8, 2020. A public scoping meeting was held on April 1, 2020. The purpose of the NOP and the scoping meeting was to provide notification that an SEIR for the modified Phase 2 Project was being prepared and to solicit input on the scope and content of the environmental document. The NOP and comments received during the scoping period are included in Appendix A of the Draft SEIR.

On February 12, 2021, the City released the Draft SEIR for a 45-day public review and comment period. The Draft SEIR was submitted to the State Clearinghouse for distribution to reviewing agencies and posted on the City's website (<https://www.ci.lathrop.ca.us/com-dev/page/public-review-documents>). To prevent the spread of COVID-19, printed copies of the Draft SEIR were not available for review at public buildings or libraries. Individuals that were unable to access the Draft SEIR at the website listed above or would require a computer disk or thumb drive containing a copy

of the document were directed to contact Mark Meissner at planning@ci.lathrop.ca.us or 209-941-7290 to obtain a copy. A notice of availability of the Draft SEIR was published in the Manteca Bulletin on February 12, 2021.

A public meeting was held on March 16, 2021, to receive input from agencies and the public on the Draft SEIR. The meeting was hosted online via Webex from 5:30 p.m. to 6:30 p.m. The hearing was recorded but no comments were received during the meeting.

As a result of these notification efforts, written comments were received from four agencies. No comments were received from organizations or individuals on the content of the Draft SEIR. Chapter 2, "Responses to Comments," identifies these commenting parties, their respective comments, and responses to these comments. None of the comments received, or the responses provided, constitute "significant new information" by CEQA standards (State CEQA Guidelines CCR Section 15088.5).

1.7 ORGANIZATION OF THE FINAL SEIR

This Final EIR is organized as follows:

Chapter 1, "Introduction," describes the purpose of the Final SEIR, summarizes the River Islands at Lathrop Phase 2 Project and the major conclusions of the Draft SEIR, provides an overview of the CEQA public review process, and describes the content of the Final SEIR.

Chapter 2, "Responses to Comments," contains a list of all parties who submitted comments on the Draft SEIR, copies of the comment letters received, and responses to the comments.

Chapter 3, "Revisions to the Draft SEIR," presents revisions to the Draft SEIR text made in response to comments, or to amplify, clarify, or make minor modifications or corrections. Changes in the text are signified by ~~strikeouts~~ where text is removed and by underline where text is added. As indicated throughout the Draft SEIR, where mitigation measures from the 2003 SEIR were used in the current SEIR, but modified or edited, those changes were also shown in ~~striketrough~~ and underline. To distinguish between these Draft SEIR edits and the edits provided in this Final SEIR, where a mitigation measure is edited in the Final SEIR, text deletions are shown in ~~double-strikethrough~~, and text additions are shown in double-underline.

Chapter 4, "References," identifies the documents used as sources for the analysis.

Chapter 5, "List of Preparers," identifies the lead agency contacts as well as the preparers of this Final SEIR.

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2 RESPONSES TO COMMENTS

This chapter contains comment letters received during the public review period for the Draft SEIR, which concluded on March 29, 2021, as well as all other written comments received prior to publication of this Final SEIR. In conformance with Section 15088(a) of the State CEQA Guidelines, written responses were prepared addressing comments on environmental issues received from reviewers of the Draft SEIR.

A public meeting was held on March 16, 2021, to receive input from agencies and the public on the Draft SEIR. The meeting was hosted online via Webex from 5:30 p.m. to 6:30 p.m. The meeting was recorded but no comments were received during the meeting.

2.1 LIST OF COMMENTERS ON THE DRAFT SEIR

Table 2-1 presents the list of commenters, including the numerical designation for each comment letter received, the author of the comment letter, and the date of the comment letter.

Table 2-1 List of Commenters

Letter No.	Commenter	Date
1	San Joaquin Council of Governments (SJCOG) Laurel K Boyd, Associate Habitat Planner	February 16, 2021
2	South San Joaquin Irrigation District Forrest Killingsworth, Engineering Dept. Manager	February 22, 2021
3	San Joaquin Council of Governments (SJCOG) Laurel K Boyd, Associate Habitat Planner	February 25, 2021
4	Central Valley Water Quality Control Board (Central Valley RWQCB) Nicholas White, Water Resource Control Engineer	March 29, 2021
5	San Joaquin Valley Unified Air Pollution Control District (SJVAPCD) Brian Clements, Director of Permit Services	April 5, 2021*

*Received after the close of the public comment period.

2.2 COMMENTS AND RESPONSES

The comments received on the Draft SEIR and the responses to those comments are provided below. The comment letters are reproduced in their entirety and are followed by the response(s). Where a commenter has provided multiple comments, each comment is indicated by a line bracket and an identifying number in the margin of the comment letter.

Where text deletions are included in a response to a comment they are shown in ~~strikethrough~~, and text additions are shown in underline. As indicated throughout the Draft SEIR, where mitigation measures from the 2003 SEIR were used in the current SEIR, but modified or edited, those changes were also shown in ~~strikethrough~~ and underline. To distinguish between these Draft SEIR edits and the edits provided in responses to comments in this Final SEIR, where a mitigation measure is edited in this Final SEIR, text deletions are shown in ~~double-strikethrough~~, and text additions are shown in double-underline.

From: Laurel Boyd [mailto:boyd@sjcog.org]
Sent: Tuesday, February 16, 2021 4:25 PM
To: Maria Hermosilla <mhermosilla@ci.lathrop.ca.us>
Cc: David Niskanen <planningconsultant@ci.lathrop.ca.us>; Mark Meissner <mmeissner@ci.lathrop.ca.us>
Subject: RE: Project Referral - River Islands Phase 2

Letter
1

Hi Maria,

The River Islands, Phase 2 Project already participated in the HCP (see attached signed ITMM and Certificate of Payment). SJCOG, Inc. will not be responding to this phase of the River Islands Project, unless you need it for the file.] 1-1

Sincerely,

Laurel K Boyd
Associate Habitat Planner
SJCOG, Inc.
555 E. Weber Avenue
Stockton, CA 95202
Phone: (209) 235-0600
Fax: (209) 235-0438
Email: boyd@sjcog.org

From: Maria Hermosilla <mhermosilla@ci.lathrop.ca.us>
Sent: Friday, February 12, 2021 11:33 AM
To: Maria Hermosilla <mhermosilla@ci.lathrop.ca.us>
Cc: David Niskanen <planningconsultant@ci.lathrop.ca.us>; Mark Meissner <mmeissner@ci.lathrop.ca.us>
Subject: Project Referral - River Islands Phase 2

External Email:

Good morning:

Please see attached project referral for River Islands Phase 2 (General Plan Amendment (GPA-20-33), Rezone (REZ-20-35), West Lathrop Specific Plan Amendment (SPA-20-34), Urban Design Concept Amendment (UDCA-20-37), Development Agreement Amendment (DAA-20-39), and Vesting Tentative Subdivision Map (VTM-20-38)). If you have any comments on this project, please submit them to the City of Lathrop Community Development Department, Planning Division no later than March 29, 2021

The Draft Subsequent Environmental Impact Report (Draft SEIR) (State Clearinghouse # 1993112027) for the River Islands at Lathrop Phase 2 Project is now available for review. Public review and comment on this document is invited for a 45-day period extending from February 12, 2021 through March 29, 2021. A copy of the Draft SEIR is available for viewing and download on the City's website at <https://www.ci.lathrop.ca.us/com-dev/page/public-review-documents>.

A copy of the Project Files is available for viewing and download on the City's website at <https://www.ci.lathrop.ca.us/planning/page/river-islands-phase-2-public-review-page>.

Please contact David Niskanen at (209) 941-7297 or planningconsultant@ci.lathrop.ca.us if you have any questions. Alternative phone number and email is (209) 599-8377 or david@jbandersonplanning.com.

Thank you,

Maria Hermosilla

City of Lathrop Planning Department
Direct Line: (209)941-7278
Department Line: (209)941-7260
Email: mhermosilla@ci.lathrop.ca.us
Department email: Planning@ci.lathrop.ca.us



S J C O G, Inc.

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0600 • FAX (209) 235-0600

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)

River Islands, Phase 2, West Lake Village Project SJMSCP Incidental Take Minimization Measures (APN: 213-210-02, -03, -04, -05, -06, -07; 213-220-04, -05, -06, -07)

Date: December 22, 2020

Findings: Potential habitat for Swainson's hawk, western burrowing owl, covered nesting birds (Tricolored Blackbird, Northern Harrier, Loggerhead Shrike, Cooper's hawk, White-tailed Kite), giant garter snake, western pond turtle, covered plants (Delta button-celery and slough thistle)

Potential nesting habitat for common birds (Migratory Bird Treaty Act)

Total Disturbed Acres Anticipated: 488.0 acres

Habitat Types to be Disturbed: Agricultural (C34) Habitat Land (City of Lathrop Compensation Map)

Project Jurisdiction: City of Lathrop

Advisory Statements

After inspecting the project site, and project site conditions, the San Joaquin Council of Governments (SJCOG) provides the following *advisory statements* to the applicant. No further action is required with the SJCOG with respect to the following statements. SJCOG does not accept any liability for the accuracy of these statements since each regulatory agency discussed below must determine the extent of its own regulatory authority with respect to the proposed project.

It should be noted that two important federal and state agencies (U.S. Army Corps of Engineers and the California Regional Water Quality Control Board) and California Department of Fish and Wildlife Streambed Alteration requirements have not issued permits to the SJCOG and so payment of the fee to use the SJMSCP will not modify requirements (1600/1602) now imposed by these agencies. **If potential waters of the United States [pursuant to Section 404 Clean Water Act] may occur on the project site**, it therefore may be prudent to obtain a preliminary wetlands map from a qualified consultant. If waters of the United States are confirmed on the project site, the Corps and the Regional Water Quality Control Board (RWQCB) would have regulatory authority over those mapped areas [pursuant to Section 404 and 401 of the Clean Water Act respectively] and permits would likely be required from each of these resource agencies prior to impacting these features on the project site.

The SJMSCP covers lawful activities which must comply with all federal, state and local laws for coverage. The **Migratory Bird Treaty Act (MBTA)** is a federal act which protects many birds and their habitats. Those species go beyond the listed SJMSCP species but are included as

protective measures for compliance with the federal MBTA measures. The measures will be stated under **MBTA Compliance** in the prescribed ITMM.

The ITMM is not deemed complete until finalized by SJCOG, Inc. staff and provided back to the project.

Conditions

Prior to ground disturbance:

1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.
2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
 - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
 - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
 - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - d. Purchase approved mitigation bank credits.
4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
 - a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
 - b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - c. Purchase approved mitigation bank credits.

Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.

Pay appropriate SJMSCP 2020 fees based on habitat categories and rates to **SJCOG, Inc.:**

- Agricultural (C34) Habitat – 488.0 acres x \$12,822 per acre = \$6,257,136.00

Total Fee due: \$6,257,136.00

Note: If fees are not paid prior to January 1, 2021 this project will be subject to the subsequent fee change, and the fee above will no longer be applicable.

Project Proponent Must Initial Here As to Understanding the Note Above: 

Pay appropriate SJMSCP **2021** fees based on habitat categories and rates to **SJCOG, Inc.:**

- Agricultural (C34) Habitat – 488.0 acres x \$17,363 per acre = \$8,473,144.00

Total Fee due: \$8,473,144.00

Prior to commencing ground disturbance:Surveys

An initial preconstruction survey and/or follow up surveys shall be conducted no greater than 14 days and 24 hours prior to construction for Western Burrowing Owl; and 14 days prior to construction for Swainson's Hawk, Tricolored Blackbird, Northern Harrier, Loggerhead Shrike, Cooper's Hawk, White-tailed Kite, Song Sparrow (Modesto population), and common bird species covered explicitly by the SJMSCP and/or protected under the Migratory Bird Treaty Act (MBTA). Additionally, follow up surveys shall be conducted for giant garter snake, western pond turtle and the following plant species: Delta button-celery and slough thistle. If these species are observed nesting on the project site, the following Incidental Take Minimization Measures, below, shall be implemented

5.2.4.15 Western Burrowing Owl

During initial site surveys in December 2020, Burrowing Owl WAS NOT identified on the project site. However, potential habitat for this species exists on the project site in the form of bare (unvegetated) elevated dirt mounds and California ground squirrel (*Otospermophilus beecheyi*) burrows.

A pre-construction nesting survey will be conducted within 14 days prior to any construction activities occurring between February 1st and August 31st. If active nests are found, the following ITMMs will be implemented:

"The presence of ground squirrels and squirrel burrows are attractive to **burrowing owls**. **Burrowing owls** may therefore be discouraged from entering or occupying construction areas by discouraging the presence of ground squirrels. To accomplish this, the Project Proponent should prevent ground squirrels from occupying the project site early in the planning process by employing one of the following practices:

A. The Project Proponent may plant new vegetation or retain existing vegetation entirely covering the site at a height of approximately 36" above the ground. Vegetation should be retained until construction begins. Vegetation will discourage both ground squirrel and owl use of the site.

B. Alternatively, if burrowing owls are not known or suspected on a project site and the area is an unlikely occupation site for red-legged frogs, San Joaquin kit fox, or tiger salamanders:

The Project Proponent may disc or plow the entire project site to destroy any ground squirrel burrows. At the same time burrows are destroyed, ground squirrels should be removed through one of the following approved methods to prevent reoccupation of the project site. Detailed descriptions of these methods are included in Appendix A, Protecting Endangered Species, Interim Measures for Use of Pesticides in San Joaquin County, dated March, 2000:

1. **Anticoagulants.** Establish bait stations using the approved rodenticide anticoagulants Chlorophacinone or Diphacinone. Rodenticides shall be used in compliance with U.S. Environmental Protection Agency label standards and as directed by the San Joaquin County Agricultural Commissioner.

2. **Zinc Phosphide.** Establish bait stations with non-treated grain 5-7 calendar days

in advance of rodenticide application, and then apply Zinc Phosphide to bait stations. Rodenticides shall be used in compliance with U.S. Environmental Protection Agency label standards and as directed by the San Joaquin County Agricultural Commissioner.

3. **Fumigants.** Use below-ground gas cartridges or pellets and seal burrows. Approved fumigants include Aluminum Phosphide (Fumitoxin, Phostoxin) and gas cartridges sold by the local Agricultural Commissioner's office. NOTE: Crumpled newspaper covered with soil is often an effective seal for burrows when fumigants are used. Fumigants shall be used in compliance with U.S. Environmental Protection Agency label standards and as directed by the San Joaquin County Agricultural Commissioner.

4. **Traps.** For areas with minimal rodent populations, traps may be effective for eliminating rodents. If trapping activities are required, the use of traps shall be consistent with all applicable laws and regulations.

If the measures described above were not attempted or were attempted but failed, and burrowing owls are known to occupy the project site, then the following measures shall be implemented:

- C. **Breeding season (February 1 through August 31):** Pre-construction surveys for burrowing owls [following the Staff Report on Burrowing Owls (CDFG 2012)] will be performed no less than 14 days prior and again 24-hours prior to initial ground disturbance activities.
1. Any occupied burrows shall not be disturbed and shall be provided with a 75 meter protective buffer until and unless the TAC, with the concurrence of the Permitting Agencies (representatives on the TAC); or unless a qualified biologist approved by the Permitting Agencies verifies through non-invasive means that either: 1) the birds have not begun egg laying, or 2) juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Once the fledglings are capable of independent survival, a Burrowing Owl Exclusion Plan (BOEP) is developed and approved by the applicable Department of Fish and Wildlife SJMSCP representative/office, and habitat is mitigated in accordance with the Staff Report (CDFG 2012), then the burrow can be destroyed. Pre-construction surveys following destruction of burrows and prior to initial construction activities are required (24-hours prior) to ensure owls do not re-colonize the Project Area.
 2. If Project activities are delayed or suspended for more than 15 days during the breeding season, surveys will be repeated.
- D. **Non-breeding season (September 1 through January 31):** Pre-construction surveys following the Staff Report on Burrowing Owls (CDFG 2012) will be conducted prior (no less than 14 days and again 24-hours prior) to initial ground disturbance activities. Burrowing owls may be evicted after a Burrowing Owl Exclusion Plan is developed and approved by the applicable Department of Fish and Wildlife SJMSCP

representative/office and habitat is mitigated in accordance with the Staff Report (CDFG 2012).

Pre-construction surveys following destruction of burrows and prior to initial construction activities are required (24-hours prior) to ensure owls do not re-colonize the Project Area. If owls are found within 50 meters of the Project Area, it is recommended that visual screens or other measures are implemented to limit disturbance of the owls without evicting them from the occupied burrows.”

5.2.4.11 Swainson's Hawk

During initial site surveys in December 2020, Swainson's Hawk was NOT identified on the project site. It should be noted that these surveys took place during the non-breeding season, when Swainson's Hawks are not expected to occupy breeding habitat. However, potential nesting habitat exists on the project site in the form of mature native oak trees growing along riparian corridors and adjacent open fields. Further, CNDDDB records for breeding Swainson's Hawks exist from the project site as recently as 2008, and previous field surveys conducted by M&A biologists in 2019 identified Swainson's Hawks nesting on parcels adjacent to the current project site.

A pre-construction nesting survey will be conducted within 14 days prior to any construction activities occurring between February 1st and August 31st. If active nests are found, the following ITMMs will be implemented:

“The Project Proponent has the option of retaining known or potential **Swainson's hawk** nest trees (i.e., trees that hawks are known to have nested in within the past three years or trees, such as large oaks, which the hawks prefer for nesting) or removing the nest trees.

If the Project Proponent elects to retain a nest tree, and in order to encourage tree retention, the following Incidental Take Minimization Measure shall be implemented during construction activities:

If a nest tree becomes occupied during construction activities, the Project Proponent has the option of either keeping all construction activities a distance of 300 feet from the tree, measured by the nest, OR keeping all construction activities a distance of two times the dripline of the tree and having a qualified biologist present during activities less than 300 feet from the nest to monitor nesting Swainson's hawk behavior and provide guidance to construction workers if any signs of disturbance are noted (for example, the birds appear agitated and may abandon the nest). It is recommended that the project be strategically phased to minimize work in these sensitive areas as late in the nesting cycle as possible (that is, start work as far away from potential nest trees or known nest sites as possible to delay working close to the nest tree(s).

If the Project Proponent elects to remove a nest tree, then nest trees may be removed between September 1 and February 15, when the nests are unoccupied.

These Incidental Take Minimization Measures are consistent with the provisions of the **Migratory Bird Treaty Act** as described in Section 5.2.3.1(G).”

5.2.4.16 Colonial Nesting Birds (Tricolored Blackbird)

During initial site surveys in December 2020, Tricolored Blackbird WAS NOT identified on the project site. However, suitable nesting habitat exists on the project site in the form of riparian and

emergent plants including: *Typha* (cattail), *Schoenoplectus* (bulrush), *Salix* (willow), *Rubus* (blackberry), *Cirsium* (thistle), *Silybum marianum* (milk thistle), and *Brassica nigra* (black mustard). Although no CNDDB breeding records exist from the project site, this species has been previously observed within a 2-mile radius of the project site.

During initial site surveys in December 2020, Great Blue Heron (an SJMSCP covered species) WAS identified on the project site using non-breeding habitat. However, suitable colony nesting habitat does not occur on the project site.

A pre-construction nesting survey will be conducted within 14 days prior to any construction activities occurring between February 1st and August 31st. If active nests are found, the following ITMMs will be implemented:

“Acquisition of colonial nesting sites for the tricolored blackbird is a high priority of the SJMSCP. Project Proponents shall be informed of avoidance measures which eliminate compensation requirements for disturbance of colonial nesting areas in project design, as described in Section 5.5.9. If the Project Proponent rejects acquisition and avoidance, pursuant to Section 5.5.9, then the following Incidental Take Minimization Measure shall apply:

A setback of 500 feet from colonial nesting areas shall be established and maintained during the nesting season for the period encompassing nest building and continuing until fledglings leave nests. This setback applies whenever construction or other ground-disturbing activities must begin during the nesting season in the presence of nests which are known to be occupied. Setbacks shall be marked by brightly colored temporary fencing.

These Incidental Take Minimization Measures are consistent with the provisions of the Migratory Bird Treaty Act as described in Section 5.2.3.1(G).”

5.2.4.17 Ground Nesting or Streamside/Lakeside Nesting Birds (Northern Harrier)

During initial site surveys in December 2020, Northern Harrier WAS identified on the project site in non-breeding habitat. Potential nesting habitat of grassy, open fields exists on the project site.

A pre-construction nesting survey will be conducted within 14 days prior to any construction activities occurring between February 1st and August 31st. If active nests are found, the following ITMMs will be implemented:

“A setback of 500 feet from nesting areas shall be established and maintained during the nesting season for the period encompassing nest building and continuing until fledglings leave nests. This setback applies whenever construction or other ground-disturbing activities must begin during the nesting season in the presence of nests which are known to be occupied. Setbacks shall be marked by brightly colored temporary fencing.

These Incidental Take Minimization Measures are consistent with the provisions of the Migratory Bird Treaty Act as described in Section 5.2.3.1(G).”

5.2.4.18 Birds Nesting in Isolated Trees or Shrubs Outside of Riparian Areas (Loggerhead Shrike)

During initial site surveys in December 2020, Loggerhead Shrike WAS identified on the project site in non-breeding habitat. Potential nesting habitat exists on the project site in the form of bushes and trees.

A pre-construction nesting survey will be conducted within 14 days prior to any construction activities occurring between March 1st and August 31st. If active nests are found, the following setbacks will be implemented.

“A setback of 100 feet from nesting areas shall be established and maintained during the nesting season for the period encompassing nest building and continuing until fledglings leave nests. This setback applies whenever construction or other ground-disturbing activities must begin during the nesting season in the presence of nests which are known to be occupied. Setbacks shall be marked by brightly colored temporary fencing.

These Incidental Take Minimization Measures are consistent with the provisions of the Migratory Bird Treaty Act as described in Section 5.2.3.1(G).”

5.2.4.19 Birds Nesting Along Riparian Corridors (Cooper’s Hawk, White-Tailed Kite)

During initial site surveys in December 2020, Cooper’s Hawk WAS identified on the project site in non-breeding habitat. Potential nesting habitat exists on the project site as mature riparian canopy (native willow and oak trees) growing around a large pond.

During initial site surveys in December 2020, White-tailed Kite WAS identified on the project site in non-breeding habitat. Suitable nesting habitat exists on the project site as mature trees adjacent to open fields.

A pre-construction nesting survey will be conducted within 14 days prior to any construction activities occurring between March 1st and August 31st. If active nests are found, the following setbacks will be implemented.

“A. For white-tailed kites, preconstruction surveys shall investigate all potential nesting trees on the project site (e.g., especially tree tops 15-59 feet above the ground in oak, willow, eucalyptus, cottonwood, or other deciduous trees), during the nesting season (February 15 to September 15) whenever white-tailed kites are noted on site or within the vicinity of the project site during the nesting season.

B. For the Cooper’s hawk, yellow-breasted chat, osprey and white-tailed kite, a setback of 100 feet from nesting areas shall be established and maintained during the nesting season for the period encompassing nest building and continuing until fledglings leave nests. This setback applies whenever construction or other ground-disturbing activities must begin during the nesting season in the presence of nests which are known to be occupied. Setbacks shall be marked by brightly colored temporary fencing.

These Incidental Take Minimization Measures are consistent with the provisions of the Migratory Bird Treaty Act as described in Section 5.2.3.1(G).”

5.2.4.8 Giant Garter Snake

During initial site surveys in December 2020, giant garter snake WAS NOT identified on the project site. Suitable yet isolated habitat exists on the project site in the form of a mud-bottomed drainage canal adjacent to upland fields, being that the project site occurs in the historically-occupied region of the county between White Slough and Paradise Cut. While it is generally unlikely that giant garter snakes would have colonized the isolated canal located on the project site, we recommend the same precautionary ITMMs previously implemented for this project site with respect to the drainage canal.

Pre-construction surveys for giant garter snakes shall be conducted by a qualified biologist two weeks after the drainage canal is drained and at least 24 hours prior to ground disturbance activities. A qualified biologist will be present to monitor for giant garter snakes that may be found during earth-moving activities. If any giant garter snakes are identified on site, all work shall halt until the qualified biologist has conferred with the SJCOG, and the SJCOG has received guidance from the USFWS and the CDFW.

"A. Full avoidance of giant garter snake known occupied habitat is required in compliance with Section 5.5.9 (C) for the following SJMSCP Covered Activities with the potential to adversely affect the GGS and which have not been mapped: golf courses; religious assembly; communications services; funeral; internment services; public services - police, fire and similar; projects impacting channel or tule island habitat; major impact projects including landfills, hazardous waste facilities, correctional institutions and similar major impact projects; recreational trails and campgrounds, recreational outdoors sports clubs; utility services, museums and similar facilities. Known occupied habitat for the giant garter snake is that area west of I-5 on Terminous Tract, Shin Kee Tract, White Slough Wildlife Area, and Rio Blanco Tract. New sites identified during the life of the SJMSCP as confirmed habitat sites for the giant garter snake shall be considered known occupied sites for the purposes of this section.

B. For areas with potential giant garter snake habitat, the following is required. Potential GGS habitat elements are described in SJMSCP Section 2.2.2.2 and exist in the *Primary Zone of the Delta* and the Central Zone contiguous with known occupied habitat in the White Slough area north to the San Joaquin/Sacramento County line and south to Paradise Cut; in the Central Zone east of Stockton in Duck Creek, Mormon Slough, Stockton Diverting Canal, Little John's Creek, Lone Tree Creek, and French Camp Slough (wherever habitat elements are present); and the Southern Central Zone and Southwest/ Central Transition Zone including the area east of J4 from the Alameda-San Joaquin County Line to Tracy and area south of Tracy and east of Interstate 580 to the east edge of Agricultural Habitat Lands east of the San Joaquin River.

1. Construction shall occur during the active period for the snake, between May 1 and October 1. Between October 2nd and April 30th, the JPA, with the concurrence of the Permitting Agencies' representatives on the TAC, shall determine if additional measures are necessary to minimize and avoid take.

2. Limit vegetation clearing within 0 feet of the banks of potential giant garter snake aquatic habitat to the minimal area necessary.

3. Confine the movement of heavy equipment within 0 feet of the banks of potential giant garter snake aquatic habitat to existing roadways to minimize habitat disturbance.
4. Prior to ground disturbance, all on-site construction personnel shall be given instruction regarding the presence of SJMSCP Covered Species and the importance of avoiding impacts to these species and their habitats.
5. In areas where wetlands, irrigation ditches, marsh areas or other potential giant garter snake habitats are being retained on the site:
 - a. Install temporary fencing at the edge of the construction area and the adjacent wetland, marsh, or ditch;
 - b. Restrict working areas, spoils and equipment storage and other project activities to areas outside of marshes, wetlands and ditches; and
 - c. Maintain water quality and limit construction runoff into wetland areas through the use of hay bales, filter fences, vegetative buffer strips, or other accepted equivalents.
6. If on-site wetlands, irrigation ditches, marshes, etc. are being relocated in the vicinity: the newly created aquatic habitat shall be created and filled with water prior to dewatering and destroying the pre-existing aquatic habitat. In addition, non-predatory fish species that exist in the aquatic habitat and which are to be relocated shall be seined and transported to the new aquatic habitat as the old site is dewatered.
7. If wetlands, irrigation ditches, marshes, etc. will not be relocated in the vicinity, then the aquatic habitat shall be dewatered at least two weeks prior to commencing construction.
8. Pre-construction surveys for the giant garter snake (conducted after completion of environmental reviews and prior to ground disturbance) shall occur within 24 hours of ground disturbance.
9. Other provisions of the *USFWS Standard Avoidance and Minimization Measures during Construction Activities in Giant Garter Snake Habitat* shall be implemented (excluding programmatic mitigation ratios which are superseded by the SJMSCP's mitigation ratios)."

5.2.4.10 Western Pond Turtle

During initial site surveys in December 2020, western pond turtle WAS NOT identified on the project site. Although western pond turtles are largely extirpated from the Central Valley, suitable habitat exists on the project site in the form of a drainage canal and flooded, mud-bottomed borrow pits that support emergent vegetation. California ground squirrel (*Otospermophilus beecheyi*) burrows on the project site may serve as winter hibernacula for this species. Further, M&A biologists identified a western pond turtle during surveys conducted in April of 2019. Although the previously occupied habitat has been removed from the project site, this observation shows that western pond turtles are capable of dispersing to and using wetland habitats in the vicinity of the current project site.

Pre-construction surveys for adult and hatchling western pond turtles, and pond turtle nesting areas located in adjacent uplands, shall be conducted by a qualified biologist two weeks after wetland habitats are drained and at least 24 hours prior to ground disturbance activities. A

qualified biologist will be present to monitor for western pond turtles that may be found during earth-moving activities. Any adult or hatchling western pond turtles found shall be collected by the qualified biologist and safely moved to a suitable area within Paradise Cut outside the project site.

“When nesting areas for pond turtles are identified on the project site, a buffer area of 300 feet shall be established between the nesting site (which may be immediately adjacent to wetlands or extend up to 400 feet away from wetland areas in uplands) and the wetland located near the nesting site. These buffers shall be indicated by visible, temporary fencing if construction has or will begin before the nesting period ends (the period from egg laying to emergence of hatchlings is normally April to November).”

5.2.4.29 Delta button-celery and Slough thistle

During initial site surveys in December 2020, Delta button-celery WAS NOT identified on the project site, although December is not the correct time of year to survey for this plant. While populations in San Joaquin County are largely extirpated, suitable habitat exists in the form of a freshwater pond supporting riparian vegetation. The project site also occurs within 2 miles of known CNDDDB occurrences along the San Joaquin River.

During initial site surveys in December 2020, slough thistle WAS NOT identified on the project site, although December is not the correct time of year to survey for this plant. While few extant records remain from the Central Valley, suitable habitat exists in the form of a freshwater pond supporting riparian vegetation. The project site also occurs within 2 miles of known CNDDDB occurrences along the San Joaquin River.

Protocol-level rare plant surveys will be conducted by a qualified biologist during the blooming period for each species: slough thistle from May to August, and Delta button-celery from June to October. Surveys will take place prior to any ground disturbance activities. In accordance with the SJMSCP, if Delta button celery or slough thistle are found onsite, complete avoidance of these species is required.

“1. Complete avoidance of plant populations on site is required for the following plant species in accordance with the identified measures in Section 5.5.9(F): Large-flowered fiddleneck, succulent owl's clover, legenere, Greene's tuctoria, diamond-petaled poppy, Sanford's arrowhead, Hospital Canyon larkspur, showy madia, Delta button celery, Slough thistle.”

“All SJMSCP Covered [Plant] Species identified by the JPA shall be recorded on both California Natural Diversity Database (CNDDDB) and *SJMSCP GIS Database* forms, as needed.”

Migratory Bird Treaty Act (MBTA) Compliance:

The following applies to all common bird species, and is inclusive of the Song Sparrow (Modesto population) (*Melospiza melodia mailliardi*), which is not covered explicitly by the SJMSCP, but which is a California species of special concern.

Listed below are effective measures that should be employed at all project development sites nationwide with the goal of reducing impacts to birds and their habitats. A qualified biologist will be required to be on site as a biological monitor during these activities. These measures are grouped into three categories: General, Habitat Protection, and Stressor Management. These

measures may be updated through time. We recommend checking the MBTA Conservation Measures website regularly for the most up-to-date list.

1. General Measures

- a. Educate all employees, contractors, and/or site visitors of relevant rules and regulations that protect wildlife. See the Service webpage on [Regulations and Policies](#) for more information on regulations that protect migratory birds.
- b. Prior to removal of an inactive nest, ensure that the nest is not protected under the Endangered Species Act (ESA) or the Bald and Golden Eagle Protection Act (BGEPA). Nests protected under ESA or BGEPA cannot be removed without a valid permit.
 - i. See the [Service Nest Destruction Policy](#)
- c. Do not collect birds (live or dead) or their parts (e.g., feathers) or nests without a valid permit. Please visit the [Service permits page](#) for more information on permits and permit applications.
- d. Provide enclosed solid waste receptacles at all project areas. Non-hazardous solid waste (trash) would be collected and deposited in the on-site receptacles. Solid waste would be collected and disposed of by a local waste disposal contractor. For more information about solid waste and how to properly dispose of it, see the [EPA Non-Hazardous Waste](#) website.
- e. Report any incidental take of a migratory bird, to the [local Service Office of Law Enforcement](#).
- f. Consult and follow applicable [Service industry guidance](#).

2. Habitat Protection

- a. Minimize project creep by clearly delineating and maintaining project boundaries (including staging areas).
- b. Consult all local, State, and Federal regulations for the development of an appropriate buffer distance between development site and any wetland or waterway. For more information on wetland protection regulations see the Clean Water Act sections [401](#) and [404](#).
- c. Maximize use of disturbed land for all project activities (i.e., siting, lay-down areas, and construction).
- d. Implement standard soil erosion and dust control measures. For example:
 - i. Establish vegetation cover to stabilize soil
 - ii. Use erosion blankets to prevent soil loss
 - iii. Water bare soil to prevent wind erosion and dust issues

3. Stressor Management

Stressor: Vegetation Removal

Conservation Goal: Avoid direct take of adults, chicks, or eggs.

Conservation Measure 1: Schedule all vegetation removal, trimming, and grading of vegetated areas outside of the peak bird breeding season to the maximum extent practicable. Use available resources, such as internet-based tools (e.g., the FWS's Information, Planning and Conservation system and Avian Knowledge Network) to identify peak breeding months for local bird species; or, contact local Service Migratory Bird Program Office for breeding bird information.

Conservation Measure 2: When project activities cannot occur outside the bird nesting season, conduct surveys prior to scheduled activity to determine if active nests are present within the area of impact and buffer any nesting locations found during surveys.

- 1) Generally, the surveys should be conducted no more than five days prior to scheduled activity.
- 2) Timing and dimensions of the area to be surveyed vary and will depend on the nature of the project, location, and expected level of vegetation disturbance.
- 3) If active nests or breeding behavior (e.g., courtship, nest building, territorial defense, etc.) are detected during these surveys, no vegetation removal activities should be conducted until nestlings have fledged or the nest fails or breeding behaviors are no longer observed. If the activity must occur, establish a buffer zone (100-foot minimum) around the nest and no activities will occur within that buffer zone until nestlings have fledged and left the nest area. The dimension of the buffer zone may need to be expanded depending on the proposed activity, habitat type, and species present and should be coordinated with the biologist on site and/or SJMSCP.
- 4) When establishing the buffer zone, construct a barrier (e.g., plastic fencing) to protect the area. If the fence is knocked down or destroyed, work will suspend wholly, or in part, until the fence is satisfactorily repaired.
- 5) When establishing a buffer zone, a qualified biologist will be present onsite to serve as a biological monitor during vegetation clearing and grading activities to ensure no take of migratory birds occurs. Prior to vegetation clearing, the monitor will ensure that the limits of construction have been properly staked and are readily identifiable. Any associated project activities that are inconsistent with the applicable conservation measures, and activities that may result in the 'take of migratory birds' will be immediately halted and reported to the SJMSCP and the appropriate Service office within 24 hours.
- 6) If establishing a buffer zone of a minimum of 100-feet is not feasible, contact the Service for guidance to minimize impacts to migratory birds associated with the proposed project or removal of an active nest. Active nests may only be removed if you receive a permit from your local Migratory Bird Permit Office. A permit may authorize active nest removal by a qualified biologist with bird handling experience or by a permitted bird rehabilitator.

Conservation Measure 3: Prepare a vegetation maintenance plan that outlines vegetation maintenance activities and schedules so that direct bird impacts do not occur.

Stressor: Invasive Species Introduction

Conservation Goal: Prevent the introduction of invasive plants.

Conservation Measure 1: Prepare a weed abatement plan that outlines the areas where weed abatement is required and the schedule and method of activities to ensure bird impacts are avoided.

Conservation Measure 2: For temporary and permanent habitat restoration/enhancement, use only native and local (when possible) seed and plant stock.

Conservation Measure 3: Consider creating vehicle wash stations prior to entering sensitive habitat areas to prevent accidental introduction of non-native plants.

Conservation Measure 4: Remove invasive/exotic species that pose an attractive nuisance to migratory birds.

Stressor: Artificial Lighting

Conservation Goal: Prevent increase in lighting of native habitats during the bird breeding season.

Conservation Measure 1: To the maximum extent practicable, limit construction activities to the time between dawn and dusk to avoid the illumination of adjacent habitat areas.

Conservation Measure 2: If construction activity time restrictions are not possible, use down shielding or directional lighting to avoid light trespass into bird habitat (i.e., use a 'Cobra' style light rather than an omnidirectional light system to direct light down to the roadbed). To the maximum extent practicable, while allowing for public safety, low intensity energy saving lighting (e.g. low pressure sodium lamps) will be used.

Conservation Measure 3: Minimize illumination of lighting on associated construction or operation structures by using motion sensors or heat sensors.

Conservation Measure 5: Bright white light, such as metal halide, halogen, fluorescent, mercury vapor and incandescent lamps should not be used.

Stressor: Human Disturbance

Conservation Goal: Minimize prolonged human presence near nesting birds during construction and maintenance actions.

Conservation Measure 1: Restrict unauthorized access to natural areas adjacent to the project site by erecting a barrier and/or avoidance buffers (e.g., gate, fence, wall) to minimize foot traffic and off-road vehicle uses.

Stressor: Collision

Conservation Goal: Minimize collision risk with project infrastructure and vehicles.

Conservation Measure 1: Minimize collision risk with project infrastructure (e.g., temporary and permanent) by increasing visibility through appropriate marking and design features (e.g., lighting, wire marking, etc.).

Conservation Measure 2: On bridge crossing areas with adjacent riparian, beach, estuary, or other bird habitat, use fencing or metal bridge poles (Sebastian Poles) that extend to the height of the tallest vehicles that will use the structure.

Conservation Measure 3: Install wildlife friendly culverts so rodents and small mammals can travel under any new roadways instead of over them. This may help reduce raptor deaths associated with being struck while tracking prey or scavenging road kill on the roadway.

Conservation Measure 4: Remove road-kill carcasses regularly to prevent scavenging and bird congregations along roadways.

Conservation Measure 5: Avoid planting "desirable" fruited or preferred nesting vegetation in medians or Rights of Way.

Conservation Measure 6: Eliminate use of steady burning lights on tall structures (e.g., >200 ft).

Stressor: Entrapment

Conservation Goal: Prevent birds from becoming trapped in project structures or perching and nesting in project areas that may endanger them.

Conservation Measure 1: Minimize entrapment and entanglement hazards through project design measures that may include:

1. Installing anti-perching devices on facilities/equipment where birds may commonly nest or perch
2. Covering or enclosing all potential nesting surfaces on the structure with mesh netting, chicken wire fencing, or other suitable exclusion material prior to the nesting season to prevent birds from establishing new nests. The netting, fencing, or other material must have no opening or mesh size greater than 19 mm and must be maintained until the structure is removed.
3. Cap pipes and cover/seal all small dark spaces where birds may enter and become trapped.

Conservation Measure 2: Use the appropriate deterrents to prevent birds from nesting on structures where they cause conflicts, may endanger themselves, or create a human health and safety hazard.

1. During the time that the birds are trying to build or occupy their nests (generally, between April and August, depending on the geographic location), potential nesting surfaces should be monitored at least once every three days for any nesting activity, especially where bird use of structures is likely to cause take. It is permissible to remove non-active nests (without birds or eggs), partially completed nests, or new nests as they are built (prior to occupation). If birds have started to build any nests, the nests shall be removed before they are completed. Water shall not be used to remove the nests if nests are located within 50 feet of any surface waters.
2. If an active nest becomes established (i.e., there are eggs or young in the nest), all work that could result in abandonment or destruction of the nest shall be avoided until the young have fledged or the nest is unoccupied. Construction activities that may displace birds after they have laid their eggs and before the young have fledged should not be permitted. If the project continues into the following spring, this cycle shall be repeated. When work on the structure is complete, all netting shall be removed and properly disposed of.

Stressor: Noise

Conservation Goal: Prevent the increase in noise above ambient levels during the nesting bird breeding season.

Conservation Measure 1: Minimize an increase in noise above ambient levels during project construction by installing temporary structural barriers such as sand bags

Conservation Measure 2: Avoid permanent additions to ambient noise levels from the proposed project by using baffle boxes or sound walls.

Stressor: Chemical Contamination

Conservation Goal: Prevent the introduction of chemicals contaminants into the environment.

Conservation Measure 1: Avoid chemical contamination of the project area by implementing a Hazardous Materials Plan. For more information on hazardous waste and how to properly manage hazardous waste, see the [EPA Hazardous Waste](#) website.

Conservation Measure 2: Avoid soil contamination by using drip pans underneath equipment and containment zones at construction sites and when refueling vehicles or equipment.

Conservation Measure 3: Avoid contaminating natural aquatic and wetland systems with runoff by limiting all equipment maintenance, staging laydown, and dispensing of fuel, oil, etc., to designated upland areas.

Conservation Measure 4: Any use of pesticides or rodenticides shall comply with the applicable [Federal and State laws](#).

1. Choose [non-chemical](#) alternatives when appropriate
2. Pesticides shall be used only in accordance with their registered uses and in accordance with the manufacturer's instructions to limit access to non-target species.
3. For general measures to reducing wildlife exposure to pesticides, see EPA's [Pesticides: Environmental Effects](#) website.

Stressor: Fire

Conservation Goal: Minimize fire potential from project-related activities.

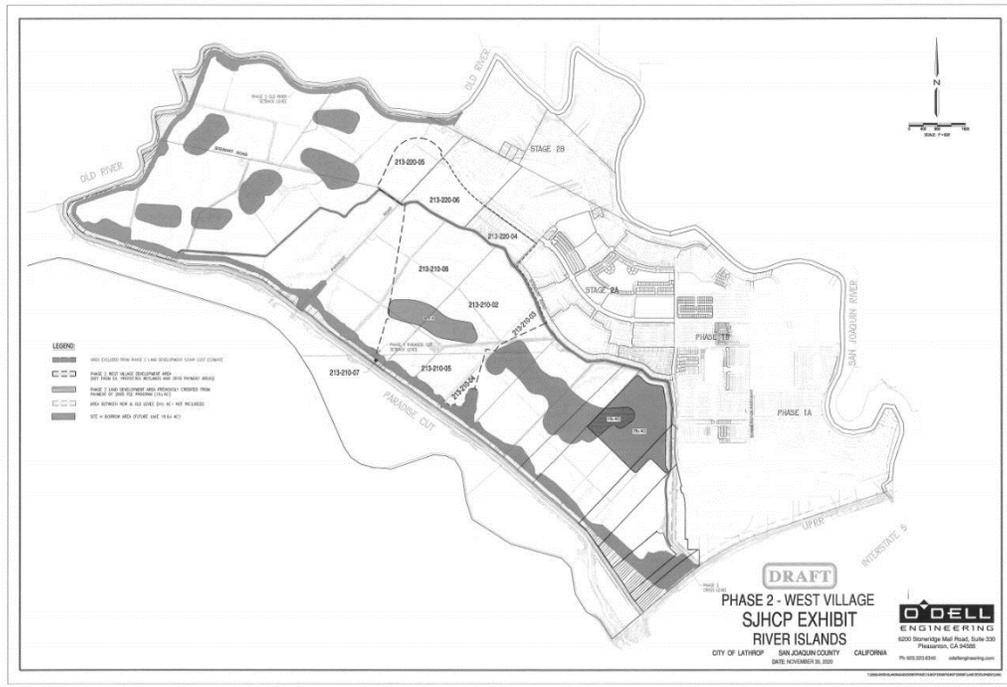
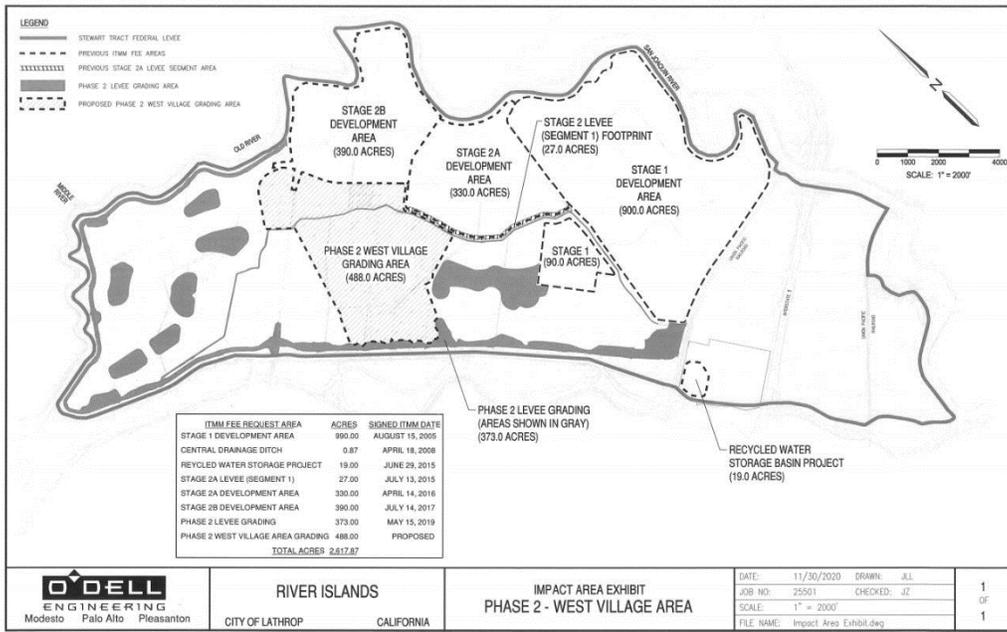
Conservation Measure 1: Reduce fire hazards from vehicles and human activities (e.g., use spark arrestors on power equipment, avoid driving vehicles off road).

Conservation Measure 2: Consider fire potential when developing vegetation management plans by planting temporary impact areas with a palette of low-growing, sparse, fire resistant native species that meet with the approval of the County Fire Department and local FWS Office.

During project construction:

All food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in closed containers and removed at least once a week from the construction site.

In reliance on the Section 10(a)(1)(B) Permit issued by the United States Fish and Wildlife Service and the Section 208(b) Incidental Take Permit issued by the California Department of Fish and Wildlife, the City of Lathrop has consulted with and agreed to allow coverage pursuant to the SJMSCP for the *River Islands, Phase 2, West Lake Village Project* its successors, agents and assigns pursuant to the "Implementation Agreement for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan" which will allow the *River Islands, Phase 2, West Lake Village Project*, its successors, agents and assigns to construct, operate and maintain the Project commonly known as the *River Islands, Phase 2, West Lake Village Project* and located on *Assessor Parcel Numbers 213-210-04 to -07; 213-220-04 to -06* which





S J C O G, Inc.

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0600 • FAX (209) 235-0438

*San Joaquin County Multi-Species Habitat Conservation &
Open Space Plan (SJMSCP)*

Certificate of Payment CP-20-153

This Certificate of Payment serves as acknowledgement for payment of development fees pursuant to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan. The project and fee amount paid are provided below.

Project: River Islands, Phase 2, West Lake Villages Project

Project Jurisdiction: City of Lathrop

Assessor Parcel Number(s): 213-210-02 to -07; 213-220-04 to -06

Project Impact(s): 488.0 acres of Agricultural (C34) Habitat
(City of Lathrop Compensation Map)

Payment Date: December 28, 2020

Fee Amount: 488.0 acres x \$12,822 per acre = \$6,257,136.00
(Wire Transfer)

Total Amount Paid= \$6,257,136.00

Certificate Prepared By: Laurel Boyd

Payment Received By Signature: _____

Print Name: Laurel K Boyd **Date:** December 28, 2020

Letter 1 San Joaquin Council of Governments (SJCOG)

Laurel K Boyd, Associate Habitat Planner

February 16, 2021

1-1

This comment letter (provided via e-mail) begins with a statement from San Joaquin Council of Governments (SJCOG) that the River Islands Project already participated in the *San Joaquin County Multi-Species Habitat Conservation & Open Space Plan* (SJMSCP) and, therefore, SJCOG, Inc. will not be responding to the Phase 2 Project Draft SEIR. The second page of the comment letter is an e-mail from the City of Lathrop notifying recipients of the planned Phase 2 Project and availability of the Draft SEIR for review and comment. The final component of this comment letter is a copy of the SJMSCP Incidental Take Minimization Measures (ITMM) (dated December 22, 2020) and certificate of payment (dated December 28, 2020) for the West Lake Village Project Grading Area. As identified in these documents, the West Lake Village Project Grading Area is 488 acres within the Phase 2 area of the overall River Islands Project. These documents show SJMSCP participation and compliance for the 488-acre West Lake Village Project Grading Area. However, this does not cover the entirety of the Phase 2 area. The comment does not raise any issues related to the content or adequacy of the Draft SEIR. No further response is necessary. A second letter was subsequently submitted by SJCOG (Letter 3) and a response is provided below.



SOUTH SAN JOAQUIN
IRRIGATION DISTRICT

Letter
2

February 22, 2021

David Niskanen, Contract Planner
City of Lathrop
390 Towne Centre Drive
Lathrop, CA 95330

Re: River Islands Phase 2

Dear Mr. Niskanen:

Based upon review of the above referenced site plan, there does not appear to be any District facilities located within the proposed site.

Thank you for the opportunity to review and comment on this matter.

Sincerely,

Forrest Killingsworth
Engineering Dept. Manager

2-1

*P.O. Box 747, Ripon, CA 95366-0747 (Mailing)
11011 E. Highway 120, Manteca, CA 95336-9750
(209) 249-4600*

Letter 2 South San Joaquin Irrigation District

Forrest Killingsworth, Engineering Dept. Manager

February 22, 2021

2-1

The comment states that there does not appear to be any District facilities located within the proposed project site. No specific comment on the adequacy, accuracy, or completeness of the Draft SEIR is provided; therefore, no further response is necessary.

Letter
3



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San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)

**SJMSCP RESPONSE TO LOCAL JURISDICTION (RTLJ)
ADVISORY AGENCY NOTICE TO SJCOG, Inc.**

To: David Niskanen, City of Lathrop, Community Development Department

From: Laurel Boyd, SJCOG, Inc.

Date: February 25, 2021

-Local Jurisdiction Project Title: River Islands, Phase 2 (General Plan Amendment (GPA 20-33), Rezone (REZ 20-35), West Lathrop Specific Plan Amendment (SPA-20-34), Urban Design Concept Amendment (UDCA-20-37), Development Agreement Amendment (DAA-20-39) and Vesting Tentative Subdivision Map (VTM-20-38)

Assessor Parcel Number(s): Multiple

Local Jurisdiction Project Number: GPA-20-33, REZ-20-35, SPA-20-34, UDCA-20-37, DAA-20-39, VTM-20-38

Total Acres to be converted from Open Space Use: Unknown

Habitat Types to be Disturbed: Agricultural, Natural and Urban Habitat Land

Species Impact Findings: Findings to be determined by SJMSCP biologist.

Dear Mr. Niskanen:

SJCOG, Inc. has reviewed the project referral for the River Islands, Phase 2 (General Plan Amendment (GPA 20-33), Rezone (REZ 20-35), West Lathrop Specific Plan Amendment (SPA-20-34), Urban Design Concept Amendment (UDCA-20-37), Development Agreement Amendment (DAA-20-39) and Vesting Tentative Subdivision Map (VTM-20-38) Project. The project applicant proposes to modify the approved phase 2 project. The overall project boundary of the River Islands Project would not change from that analyzed in the 2003 SEIR. The proposed changes would include densification of a portion of the Phase 2 area with additional multi-family units as well as additional attached single-family units, the creation of a 'Town Center' mixed-use area at Paradise Road, the addition of a mixed-use Transit Oriented Development area to complement the future planned Valley Link transit station, and changes in the circulation pattern. The project also includes an amendment to the existing 2002 West Lathrop Specific Plan (WLSP) and Lathrop General Plan to reflect these changes. It is anticipated that traffic generated by the River Islands Project will eventually increase traffic volumes sufficiently on Paradise Road that criteria will be triggered for widening of the road. The widening of Paradise Road is considered in the SEIR. Construction in the Phase 2 area would likely begin in 2021, with buildout expected to be complete by December 2040. The project site is located at the junction of Interstate 5, Interstate 205 and State Route 120, Lathrop.

3-1

The City of Lathrop is a signatory to San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Participation in the SJMSCP satisfies requirements of both the state and federal endangered species acts, and ensures that the impacts are mitigated below a level of significance in compliance with the California Environmental Quality Act (CEQA). The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measure are properly implemented and monitored and that appropriate fees are paid in compliance with the SJMSCP. Although participation in the SJMSCP is voluntary, Local Jurisdiction/Lead Agencies should be aware that if project applicants choose against participating in the SJMSCP, they will be required to provide alternative mitigation in an amount and kind equal to that provided in the SJMSCP.

3-2

This Project is subject to the SJMSCP. This can be up to a 30 day process and it is recommended that the project applicant contact SJMSCP staff as early as possible. It is also recommended that the project applicant obtain an information package. <http://www.sicog.org>

3-3

Please contact SJMSCP staff regarding completing the following steps to satisfy SJMSCP requirements:

- Schedule a SJMSCP Biologist to perform a pre-construction survey **prior to any ground disturbance**
- SJMSCP Incidental take Minimization Measures and mitigation requirement:
 1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant

3-4

2 | S J C O G , I n c .

must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.

- 2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
- 3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
 - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
 - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
 - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - d. Purchase approved mitigation bank credits.
- 4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
 - a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
 - b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - c. Purchase approved mitigation bank credits.

3-4
cont.

Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.

- Receive your Certificate of Payment and release the required permit

It should be noted that if this project has any potential impacts to waters of the United States [pursuant to Section 404 Clean Water Act], it would require the project to seek voluntary coverage through the unmapped process under the SJMSCP which could take up to 90 days. It may be prudent to obtain a preliminary wetlands map from a qualified consultant. If waters of the United States are confirmed on the project site, the Corps and the Regional Water Quality Control Board (RWQCB) would have regulatory authority over those mapped areas [pursuant to Section 404 and 401 of the Clean Water Act respectively] and permits would be required from each of these resource agencies prior to grading the project site.

3-5

If you have any questions, please call (209) 235-0600.

3 | S J C O G , I n c .



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San Joaquin County Multi-Species Habitat Conservation & Open Space Plan

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SJMSCP HOLD

TO: Local Jurisdiction: Community Development Department, Planning Department, Building Department, Engineering Department, Survey Department, Transportation Department,
Other: _____

FROM: Laurel Boyd, SJCOG, Inc.

**DO NOT AUTHORIZE SITE DISTURBANCE
DO NOT ISSUE A BUILDING PERMIT
DO NOT ISSUE _____ FOR THIS PROJECT**

The landowner/developer for this site has requested coverage pursuant to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). In accordance with that agreement, the Applicant has agreed to:

- 1) SJMSCP Incidental Take Minimization Measures and mitigation requirement:
 - 1. Incidental Take Minimization Measures (ITMMs) will be issued to the project and must be signed by the project applicant prior to any ground disturbance but no later than six (6) months from receipt of the ITMMs. If ITMMs are not signed within six months, the applicant must reapply for SJMSCP Coverage. Upon receipt of signed ITMMs from project applicant, SJCOG, Inc. staff will sign the ITMMs. This is the effective date of the ITMMs.
 - 2. Under no circumstance shall ground disturbance occur without compliance and satisfaction of the ITMMs.
 - 3. Upon issuance of fully executed ITMMs and prior to any ground disturbance, the project applicant must:
 - a. Post a bond for payment of the applicable SJMSCP fee covering the entirety of the project acreage being covered (the bond should be valid for no longer than a 6 month period); or
 - b. Pay the appropriate SJMSCP fee for the entirety of the project acreage being covered; or
 - c. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - d. Purchase approved mitigation bank credits.
 - 4. Within 6 months from the effective date of the ITMMs or issuance of a building permit, whichever occurs first, the project applicant must:
 - a. Pay the appropriate SJMSCP for the entirety of the project acreage being covered; or
 - b. Dedicate land in-lieu of fees, either as conservation easements or fee title; or
 - c. Purchase approved mitigation bank credits.
- Failure to satisfy the obligations of the mitigation fee shall subject the bond to be called.

Project Title: River Islands, Phase 2 General Plan Amendment, Rezone, West Lathrop
Specific Plan Amendment, Urban Design Concept Amendment, Development Agreement Amendment
and Vesting Tentative Subdivision Map

Assessor Parcel #: Multiple

T _____, R _____, Section(s): _____

Local Jurisdiction Contact: David Niskanen

The LOCAL JURISDICTION retains responsibility for ensuring that the appropriate Incidental Take Minimization Measures are properly implemented and monitored and that appropriate fees are paid in compliance with the SJMSCP.

Letter 3 San Joaquin Council of Governments

Laurel K Boyd, Associate Habitat Planner
February 25, 2021

- 3-1 The comment is an introductory statement and does not address the adequacy of the Draft SEIR. The comment accurately summarizes the characteristics of the proposed project. No further response is necessary.
- 3-2 The comment describes the SJMSCP and its purpose and discusses the responsibilities of the local jurisdiction with regard to participation in the SJMSCP. Because the comment does not address the adequacy of the Draft SEIR, no further response is necessary.
- The City is an SJMSCP signatory and would participate in the plan to obtain federal Endangered Species Act (ESA) take coverage for project impacts on SJMSCP covered species as identified in SEIR Mitigation Measures 4.14-b through 4.14-h, Mitigation Measures 4.14-j through 4.14-l, and Mitigation Measure 4.14-t.
- Implementation of the modified Phase 2 Project could affect occupied habitat for riparian brush rabbit during the construction of bridges over Paradise Cut. However, these effects are no different from those identified in the 2003 SEIR and mitigation approaches and the ESA take authorization implemented since the 2003 SEIR would continue to be implemented for Phase 2.
- The City acknowledges that, as the local planning jurisdiction, it is responsible for ensuring that applicable ITMMs are properly implemented and monitored and that the applicable fees are paid in compliance with the SJMSCP. The City would collect the applicable mitigation fees on a per-acre basis, as established by the Joint Powers Authority according to the measures to mitigate project impacts on the various habitat and biological resources. As identified above in response to comment 1-1, the ITMMs have been identified and SJMSCP fees have been paid for a portion of the modified Phase 2 Project site identified as the West Lake Village Project Grading Area. The River Islands project applicant and the City of Lathrop have been implementing the SJMSCP in partnership with SJCOG for the overall River Islands project for many years and will continue to do so as the River Islands Project proceeds.
- 3-3 The comment notes that the project is subject to the SJMSCP and that the SJMSCP review process can take up to 30 days. Thus, the comment recommends that the project applicant contact SJMSCP staff as soon as possible. The comment also recommends that the applicant obtain an information package. The City is an SJMSCP signatory, and the project will participate in the SJMSCP, as discussed in response to comments 1-1 and 3-2. The City and the project applicant have maintained contact with SJMSCP staff regarding the project's participation in the SJMSCP as project implementation has progressed and will continue to do so as Phase 2 development proceeds.
- 3-4 The comment outlines the process by which SJMSCP approves the ITMM's applied to the project under the SJMSCP. This comment is acknowledged and has been done for past River Islands Project activities, the City will contact SJMSCP staff before project implementation to discuss project participation in the SJMSCP, implementation of mitigation measures contained in the SEIR that are consistent with SJMSCP ITMMs (as discussed in response to comment 3-2), and any additional ITMMs that may be required. The City will collect and pay the applicable habitat mitigation fees to SJCOG to mitigate project impacts.
- 3-5 The comment notes that if the project would have potential impacts on waters of the United States, it would be required to seek voluntary coverage through the unmapped process under the SJMSCP, which could take up to 90 days. The comment further notes that it may be prudent to have a preliminary wetlands map produced for the project and that if waters are confirmed on the project site, USACE, and regional water quality control board (RWQCB) would have jurisdiction of those mapped areas and permits from those agencies would be required. The comment also provides a

contact number for questions. Implementation of River Islands Project activities has avoided effects on waters of the United States and wetlands (i.e., jurisdictional features) and no Clean Water Act (CWA) Section 404 authorizations have been required. As identified in the current Draft SEIR, construction of bridges occurring during Phase 2 of project implementation will likely affect jurisdictional features and the agency/entity implementing the bridge construction will be required to obtain CWA Section 404 authorization. In the future, when planning and design for these bridge projects is initiated, the agency/entity implementing bridge construction will complete the steps identified in the comment and coordinate with SJCOG, USACE, and the RWQCB to identify and obtain all necessary authorizations. Because the comment does not address the adequacy of the Draft SEIR, no further response is necessary.



GAVIN NEWSOM
GOVERNOR



JARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION



Central Valley Regional Water Quality Control Board

29 March 2021

Mark Meissner
City of Lathrop Community Development
390 Towne Centre Drive
Lathrop, CA 95330

COMMENTS TO REQUEST FOR REVIEW FOR THE SUBSEQUENT ENVIRONMENTAL IMPACT REPORT, RIVER ISLANDS AT LATHROP PHASE 2 PROJECT, SCH#1993112027, SAN JOAQUIN COUNTY

Pursuant to the State Clearinghouse's 12 February 2021 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Subsequent Environmental Impact Report* for the River Islands at Lathrop Phase 2 Project, located in San Joaquin County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

4-1

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

4-2

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental

KARL E. LONGLEY ScD, P.E., CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

11020 Sun Center Drive #200, Rancho Cordova, CA 95670 | www.waterboards.ca.gov/centralvalley

River Islands at Lathrop Phase 2 Project - 2 -
San Joaquin County

29 March 2021

Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:
http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/

4-2
cont.

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:
https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2018_05.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

4-3

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

4-4

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

River Islands at Lathrop Phase 2 Project - 3 -
 San Joaquin County

29 March 2021

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

4-5

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ. For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml

4-6

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

4-7

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic

4-8

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

River Islands at Lathrop Phase 2 Project - 4 -
San Joaquin County

29 March 2021

General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

4-8
cont.

Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/

4-9

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at:
https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board’s Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

4-10

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

River Islands at Lathrop Phase 2 Project - 5 -
San Joaquin County

29 March 2021

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:
https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

4-10
cont.

Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

4-11

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

4-12

If you have questions regarding these comments, please contact me at (916) 464-4856 or Nicholas.White@waterboards.ca.gov.

4-13



Nicholas White
Water Resource Control Engineer

cc: State Clearinghouse unit, Governor’s Office of Planning and Research,
Sacramento

Letter 4 Central Valley Water Quality Control Board

Nicholas White, Water Resource Control Engineer
March 29, 2021

- 4-1 The comment provides an introduction to the letter and provides background on the commenter's authority to protect the quality of surface water and groundwater of the state. No specific comment on the adequacy, accuracy, or completeness of the Draft SEIR is provided; therefore, no further response is necessary.
- 4-2 The comment provides background on the Basin Plan for the Central Valley region. No specific comment on the adequacy, accuracy, or completeness of the Draft SEIR is provided; therefore, no further response is necessary.
- 4-3 The comment provides information regarding "antidegradation considerations," including the Basin Plan's policy and analysis requirements for National Pollutant Discharge Elimination System (NPDES) and Waste Discharge Requirement (WDR) permitting. Project impacts on groundwater and surface water quality are addressed in Section 4.8, "Hydrology and Water Quality," of the Draft SEIR. Impacts were determined to be less than significant. The Draft SEIR adequately analyzes the potential impacts on groundwater and surface water quality and does not conflict with these requirements. As required by Modified Mitigation Measure 4.8-a, the project proponent is required to obtain all necessary permits and meet all requirements specified by local, state, or federal agencies in whole or in part responsible for water quality protection prior to conducting any activities within the applicable jurisdiction, including, but not limited to: RWQCB Section 401 certification and/or waiver of WDRs; and NPDES Storm Water Pollution Prevention Permit for General Construction.
- 4-4 The comment notes that all land-disturbing construction projects that would involve disturbance of 1 or more acres of soil, or projects that disturb less than 1 acre but are part of a larger common plan of development that in total disturbs 1 or more acres, are required to obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction and Land Disturbance Activities (Construction General Permit Order 2009-0009-Division of Water Quality [DWQ]). Construction activities associated with the proposed project would disturb more than 1 acre of soils, exposing the project site to possible wind and water erosion. As described in Modified Mitigation Measure 4.8-a, the project proponent will be required to prepare and implement a storm water pollution prevention plan (SWPPP) (including an erosion control and construction plan) and an environmental monitoring and mitigation compliance and reporting program.
- 4-5 The comment provides information regarding Phase I and II Municipal Separate Storm Sewer System (MS4) Permits. Information about the Municipal Stormwater Permitting Program is included on page 4.8-5 of the Draft SEIR. As discussed in Impacts 4.8-h and 4.8-I of the Draft SEIR, project stormwater discharge to Paradise Cut is covered under the City's current MS4 permit and would comply with all applicable discharge standards and requirements.
- 4-6 The comment states that stormwater discharges associated with industrial sites must comply with Industrial Storm Water General Permit Order No. 2014-0057-DWQ. There are no heavy industrial uses planned for the River Islands modified Phase 2 Project. However, if any light industrial uses are developed, the industrial facility operator will coordinate with the Central Valley RWQCB regarding the need for, and compliance with the Industrial Storm Water General Permit.
- 4-7 The comment summarizes the requirements to obtain a permit pursuant to Section 404 of the CWA. As discussed in Modified Mitigation Measure 4.8-a, the project proponent will be required to obtain all necessary permits and meet all requirements related to water quality, including seeking Clean Water Act Section 404 and Rivers and Harbors Act Section 10 compliance through the USACE.

- 4-8 The comment summarizes the requirements to obtain a CWA Section 401 WQC. As discussed in Modified Mitigation Measure 4.8-a, the project proponent will be required to obtain RWQCB Section 401 certification and/or waiver of WDRs.
- 4-9 The comment summarizes WDR requirements for discharges to waters of the state. Pursuant to Modified Mitigation Measure 4.8-a, the project proponent is required to obtain all necessary permits and meet all requirements specified by local, state, or federal agencies including USACE Clean Water Act Section 404 and Rivers and Harbors Act Section 10 authorization for work within areas subject to agency jurisdiction.
- 4-10 The comment summarizes requirements for a dewatering permit. As described in Modified Mitigation Measure 4.8-a, the project proponent will be required to prepare and implement a SWPPP which would include information on dewatering and treatment and disposal of groundwater removed from excavations.
- 4-11 The comment summarizes the requirements to obtain a Limited Threat General NPDES permit. As described in Modified Mitigation Measure 4.8-a, the project proponent will be required to prepare and implement a SWPPP, which would include information on dewatering and treatment and disposal of groundwater removed from excavations as well as discharges. Further, the project proponent will be required to obtain all necessary permits and meet all applicable requirements specified by local, state, or federal agencies in whole or in part responsible for water quality protection prior to conducting any activities within the applicable jurisdiction, including an NPDES Storm Water Pollution Prevention Permit for General Construction.
- 4-12 The comment summarizes the requirements to obtain an NPDES permit. Pursuant to Modified Mitigation Measure 4.8-a, the project proponent will obtain all necessary permits and meet all requirements specified by local, state, or federal agencies in whole or in part responsible for water quality protection prior to conducting any activities within the applicable jurisdiction, including an NPDES Storm Water Pollution Prevention Permit for General Construction.
- 4-13 The comment provides a closing to the letter and contact information. No specific comment on the adequacy, accuracy, or completeness of the Draft SEIR is provided; therefore, no further response is necessary.

2.2.1 Late Comments Received After the Close of the Comment Period



April 5, 2021

Mark Meissner
City of Lathrop
Community Development Department/Planning Division
390 Towne Centre Drive
Lathrop, CA 95330

Project: Draft Subsequent Environmental Impact Report-River Islands at Lathrop Phase 2

District CEQA Reference No: 20210153

Dear Mr. Meissner:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the Draft Subsequent Environmental Impact Report (DSEIR) for the project referenced above from the City of Lathrop (City). The project consists of a revision to Phase Two (2) of the River Island mixed-use development (Project). The Project is located at the junction of Interstate 5, Interstate 205, and State Route 120 in Lathrop, CA. The District offers the following comments:

5-1

Project Scope

The Project consists of a revision to Phase Two (2) of the River Island mixed-use development. The revision includes approximately 4,000 additional multi-family and attached single-family dwelling units, the creation of a "town center", the addition of a mixed-use Transit Oriented Development (TOD), road expansion and road improvements, and a reduction of non-residential floor space of 142,500 square-feet. For this Project, an amendment to the existing 2002 West Lathrop Specific Plan (WLSP) and an amendment to the 2004 City of Lathrop General Plan are required by the City.

5-2

1) Voluntary Emissions Reduction Agreement (VERA)

Per the Draft SEIR, the City recognizes that a Voluntary Emission Reduction Agreement (VERA) is a method available for projects to mitigate a project's pollutant

5-3

Samir Sheikh
Executive Director/Air Pollution Control Officer

<p>Northern Region 4800 Enterprise Way Modesto, CA 95356-8718 Tel: (209) 557-6400 FAX: (209) 557-6475</p>	<p>Central Region (Main Office) 1990 E. Gattysburg Avenue Fresno, CA 93726-0244 Tel: (559) 230-6000 FAX: (559) 230-6061</p>	<p>Southern Region 34946 Flyover Court Bakersfield, CA 93308-8725 Tel: (661) 392-5500 FAX: (661) 392-5585</p>
www.valleyair.org	www.healthyairliving.com	

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impacts. The District supports the City's acknowledgment that a VERA should be considered for projects with significant air impacts.

On page 2-19 of the Draft SEIR Mitigation Measure (MM) 4.5-a(2), states that the project applicant may enter into a VERA to reduce emissions to below 100 lbs./day for any pollutant that exceed 100 lbs./day. While the implementation of a VERA may contribute toward reducing pollutants exceeding 100 lbs./day, a VERA is a tool for reducing project's related construction and/or operational criteria pollutant emissions that are determined to exceed District significance thresholds which are: 100 tons per year of carbon monoxide (CO), 10 tons per year of oxides of nitrogen (NOx), 10 tons per year of reactive organic gases (ROG), 27 tons per year of oxides of sulfur (SOx), 15 tons per year of particulate matter of 10 microns or less in size (PM10), or 15 tons per year of particulate matter of 2.5 microns or less in size (PM2.5). The District recommends that MM 4.5-a(2) be revised to reflect that a VERA is designed demonstrate a pound for pound reduction of criteria pollutants exceeding significance thresholds and remove the statement that a VERA shall demonstrate a pound for pound reduction in emissions that exceed 100 pounds per day. Nonetheless, the District looks forward to discussing a VERA specific to the emission reduction needs of this project.

**5-3
cont.**

A VERA is a mitigation measure by which the project proponent provides pound-for-pound mitigation of emissions increases through a process that develops, funds, and implements emission reduction projects, with the District serving a role of administrator of the emissions reduction projects and verifier of the successful mitigation effort. To implement a VERA, the project proponent and the District enter into a contractual agreement in which the project proponent agrees to mitigate Project specific emissions by providing funds for the District's incentives programs. The funds are disbursed by the District in the form of grants for projects that achieve emission reductions. Thus, project-specific regional impacts on air quality can be fully mitigated. Types of emission reduction projects that have been funded in the past include electrification of stationary internal combustion engines (such as agricultural irrigation pumps), replacing old heavy-duty trucks with new, cleaner, more efficient heavy-duty trucks, and replacement of old farm tractors.

In implementing a VERA, the District verifies the actual emission reductions that have been achieved as a result of completed grant contracts, monitors the emission reduction projects, and ensures the enforceability of achieved reductions. After the project is mitigated, the District certifies to the Lead Agency that the mitigation is completed, providing the Lead Agency with an enforceable mitigation measure demonstrating that project-specific regional emissions have been mitigated to less than significant. To assist the Lead Agency and project proponent in ensuring that the environmental document is compliant with CEQA, the District recommends the Draft EIR includes an assessment of the feasibility of implementing a VERA.

Additional information on implementing a VERA can be obtained by contacting District CEQA staff at by email at CEQA@valleyair.org or by phone at (559) 230-6000.

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2) Reducing Air Quality Impacts from Construction Activities

To further reduce impacts from construction-related exhaust emissions and activities, the District recommends using the cleanest reasonably available off-road construction practices (i.e. eliminating unnecessary idling) and fleets, as set forth in §2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 Code of Federal Regulations be used to reduce Project related impacts from construction related exhaust emissions.

5-4

3) District Rules and Regulation

The District issues permits for many types of air pollution sources and regulates some activities not requiring permits. A project subject to District rules and regulation would reduce its impacts on air quality through compliance with regulatory requirements. In general, a regulation is a collection of rules, each of which deals with a specific topic. Here are a couple of example, Regulation II (Permits) deals with permitting emission sources and includes rules such as District permit requirements (Rule 2010), New and Modified Stationary Source Review (Rule 2201), and implementation of Emission Reduction Credit Banking (Rule 2301).

5-5

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. To identify other District rules or regulations that apply to this Project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

3a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 requires that new and modified stationary sources of emissions mitigate their emissions using best available control technology (BACT).

5-6

This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits.

Prior to commencing construction on any permit-required equipment or process, a finalized Authority to Construct (ATC) must be issued to the Project proponent by the District. For further information or assistance, the project proponent may contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

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3b) District Rule 9510 (Indirect Source Review)

The purpose of District Rule 9510 (Indirect Source Review) is to reduce the growth in both NOx and PM10 emissions associated with development and transportation projects from mobile and area sources associated with construction and operation of development projects. The rule encourages clean air design elements to be incorporated into the development project. In case the proposed project clean air design elements are insufficient to meet the targeted emission reductions, the rule requires developers to pay a fee used to fund projects to achieve off-site emissions reductions.

The proposed Project is subject to District Rule 9510 because it will receive a project-level discretionary approval from a public agency and will equal or exceed 9,000 square feet. When subject to the rule, an Air Impact Assessment (AIA) application is required prior to applying for project-level approval from a public agency. In this case, if not already done, please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510.

An AIA application is required and the District recommends that demonstration of compliance with District Rule 9510, before issuance of the first building permit, be made a condition of Project approval.

Information about how to comply with District Rule 9510 can be found online at: <http://www.valleyair.org/ISR/ISRHome.htm>.

The AIA application form can be found online at: <http://www.valleyair.org/ISR/ISRFormsAndApplications.htm>.

5-7

3c) District Rule 9410 (Employer Based Trip Reduction)

The Project may be subject to District Rule 9410 (Employer Based Trip Reduction) if the Project would result in employment of 100 or more “eligible” employees. District Rule 9410 requires employers with 100 or more “eligible” employees at a worksite to establish an Employer Trip Reduction Implementation Plan (eTRIP) that encourages employees to reduce single-occupancy vehicle trips, thus reducing pollutant emissions associated with work commutes. Under an eTRIP plan, employers have the flexibility to select the options that work best for their worksites and their employees.

Information about how District Rule 9410 can be found online at: www.valleyair.org/tripreduction.htm.

For additional information, you can contact the District by phone at 559-230-6000 or by e-mail at etrip@valleyair.org

5-8

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3d) Operational Related Emissions – Under-fired Charbroilers

Future development projects for restaurants with under-fired charbroilers may pose the potential for immediate health risk, particularly when located in densely developed locations near sensitive receptors. Since the cooking of meat can release carcinogenic PM2.5 species like polycyclic aromatic hydrocarbons, controlling emissions from new under-fired charbroilers will have a substantial positive impact on public health. The air quality impacts on neighborhoods near restaurants with under-fired charbroilers can be significant on days when meteorological conditions are stable, when dispersion is limited and emissions are trapped near the surface within the surrounding neighborhoods. This potential for neighborhood-level concentration of emissions during evening or multi-day stagnation events raises environmental concerns.

5-9

Furthermore, reducing commercial charbroiling emissions is essential to achieving attainment of multiple federal PM2.5 standards and associated health benefits in the Valley. Therefore, the District recommends that the General Plan include a measure requiring the assessment and potential installation, as technologically feasible, of particulate matter emission control systems for new large restaurants operating under-fired charbroilers. The District is available to assist the City and project proponents with this assessment. Additionally, to ease the financial burden for Valley businesses, the District is currently offering substantial incentive funding that covers the full cost of purchasing, installing, and maintaining the system for up to two years. Please contact the District at (559) 230-5800 or technology@valleyair.org for more information.

3e) Other District Rules and Regulations

Future development projects may also be subject to the following District rules: Regulation VIII, (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants).

5-10

The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to future project or to obtain information about District permit requirements, project applicants are strongly encouraged to contact the District's Small Business Assistance Office at (559) 230-5888.

Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm.

3f) Referral Documents.

Referral documents provided to the District for review for new development projects should include a project summary detailing, at a minimum, the land use

5-11

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designation, project size, and proximity to sensitive receptors and existing emission sources.

5-11
cont.

4) District Comment Letter

The District recommends that a copy of the District's comments be provided to the Project proponent.

5-12

If you have any questions or require further information, please contact Cherie Clark by e-mail at Cherie.Clark@valleyair.org or by phone at (559) 230-5940.

Sincerely,

Brian Clements
Director of Permit Services



For John Stagnaro
Program Manager

BC: cc

Letter 5 San Joaquin Valley Unified Air Pollution Control District

Brian Clements, Director of Permit Services

April 5, 2021 (This comment was received after the close of the Draft SEIR public comment period. The City of Lathrop, as CEQA lead agency, has chosen to provide responses to these comments.)

- 5-1 The comment is an introductory statement and does not address the adequacy or content of the Draft SEIR. The comment accurately summarizes characteristics of the proposed project. No further response is necessary.
- 5-2 The comment describes the project scope. The comment accurately summarizes characteristics of the proposed project. Because the comment does not address the adequacy or content of the Draft SEIR, no further response is necessary.
- 5-3 The comment summarizes San Joaquin Valley Unified Air Pollution Control District's (SJVAPCD) Voluntary Emissions Reduction Agreement (VERA) process and its use in mitigating project-level emissions of criteria air pollutants under CEQA. The comment then cites language from New Mitigation Measure 4.5-a(2) and states that the VERA is intended for use not only when project emissions exceed daily thresholds, but also when project emissions exceed SJVAPCD's annual mass emissions thresholds. In response to this comment, the language of New Mitigation Measure 4.5-a(2) on page 4.5-22 of the Draft SEIR is revised as follows:

New Mitigation Measure 4.5-a(2): Preparation of an Ambient Air Quality Analysis

SJVAPCD recommends that construction and operational emissions that exceed 100 lb/day prepare an AAQA to assess whether a project would violate an AAQS. Prior to the approval of a Final Map, the project applicant shall prepare a project-level analysis of emissions for development in the Map area that is subject to SJVAPCD oversight to confirm whether the particular land use development under the modified Phase 2 Project would result in emissions that exceed this 100 lb/day screening criterion. In cases where project activity would generate emissions above this screening criterion, the project applicant shall prepare an AAQA. Additionally, while this project-level analysis of daily emissions is conducted, the project applicant shall simultaneously produce annual emissions estimates using project-level detail. If, following the preparation of an AAQA, emissions are found to contribute to an exceedance of an AAQS or annual emissions would exceed SJVAPCD's mass emissions thresholds, the project applicant shall either implement additional emission reduction measures as part of the project or, once all feasible on-site reduction measures have been exhausted, engage in regional programs that serve to reduce air pollution in the San Joaquin Valley. An example of a potential program includes the Valley Clean Air Now (Valley CAN) organization, which improves public health through investments in vehicle repair and replacement programs. Emissions reduction programs must demonstrate a quantifiable reduction and must be located within the SJVAB so air pollution reductions are realized in the basin. Alternatively, if regional air pollution reduction programs are unavailable, the project applicant may enter into a Voluntary Emission Reduction Agreement (VERA) with SJVAPCD to reduce emissions to below ~~100 lb/day~~ SJVAPCD's applicable emissions thresholds of significance for any pollutant that exceeds the screening criteria. If conditions warrant participation in a VERA, the VERA shall demonstrate a pound-for-pound reduction in emissions that exceed ~~100 lb/day~~ the applicable emissions threshold through a process that funds and implements emissions reduction projects within the SJVAB. The types of emission reduction projects that could be funded include electrification of stationary internal combustion engines (such as well pumps), replacing old heavy-duty trucks with cleaner, more efficient heavy-duty trucks, and replacement of old farm tractors. If a VERA is found to be required, and the applicant elects to enter into one, the project applicant shall engage in

a discussion with SJVAPCD prior to the adoption of the VERA to ensure that feasible mitigation has been identified to reduce emissions to a less-than-significant level.

The above text changes do not alter the significance determinations made in the Draft SEIR and would not result in new information warranting recirculation of the EIR. As stated on page 4.5-22 of the Draft SEIR under the heading, "Significance Determination," the modified Phase 2 Project's construction emissions would be reduced through the use of recognized construction emissions control practices and potential execution of a VERA, which would require coordination and verification through SJVAPCD to ensure that any impacts resulting from increases in project emissions would be reduced to less-than-significant levels.

- 5-4 This comment recommends that the project applicant use the cleanest reasonably available off-road construction practices as set forth in Section 2423 of Title 13 of the California Code of Regulations (CCR) and Part 89 of Title 40 Code of Federal Regulations (FR) to reduce construction related exhaust emissions. Section 2423 of Title 13 of the CCR sets forth regulatory requirements for new heavy-duty off-road compression-ignition engines produced on or after January 1, 1996, and all other new 2000 and later model year off-road compression-ignition engines. Additionally, Part 89 of Title 40 also applies to off-road compression-ignition engines. Both CCR Section 2324 and FR Part 89 are regulatory mechanisms that would apply to applicable construction equipment used in California, and it would be expected that construction equipment used for the modified Phase 2 Project would also comply with the emissions standards set forth by the regulations. However, to provide clarity and ensure that the construction fleet used for the modified Phase 2 Project is consistent with these regulations, the following text has been added to Modified Mitigation Measure 4.5-a on page 4.5-21 of the Draft SEIR:

Modified Mitigation Measure 4.5-a: Increases in Regional Criteria Pollutants during Construction

...

In accordance with SJVAPCD guidelines (~~SJVAPCD 1998~~), the following mitigation, which includes SJVAPCD Basic, Enhanced, and Additional Control Measures, shall be incorporated and implemented (~~SJVAPCD 2015a~~). Fugitive dust emissions generated by the project shall be reduced through application of air pollution control measures consistent with SJVAPCD Regulation VIII. In addition to the mitigation measures identified below, construction of the proposed project is required to comply with applicable SJVAPCD rules and regulations; Section 2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 of the Code of Federal Regulations related to off-road construction vehicles and operating practices; and including the requirements of a California Occupational Safety and Health Administration-qualified asbestos survey before demolition.

...

The above text changes do not alter the significance determinations made in the Draft SEIR and would not result in new information warranting recirculation of the EIR. As stated on page 4.5-22 of the Draft SEIR under the heading, "Significance Determination," the modified Phase 2 Project's construction emissions would be reduced through the use of recognized construction emissions control practices, which would require coordination and verification through SJVAPCD to ensure that emissions would be reduced to less-than-significant impact levels.

- 5-5 The comment introduces SJVAPCD's Regulation II, Rule 2010, Rule 2201, and Rule 2301. The comment is introductory in nature. No response is necessary.
- 5-6 The comment summarizes Rule 2010, "Permits Required," and Rule 2201, "Modified Stationary Source Review," and indicates that the project may be subject to these rules. Rules 2010 and 2201 are

summarized on page 4.5-5 in the Draft SEIR in the discussion of local regulations, and a discussion of the project's compliance with SJVAPCD's Rules 2010 and 2201 is provided on page 4.5-24 of the Draft SEIR. The project would be required to comply with all applicable permitting requirements as conditions of project approval.

5-7 The comment summarizes the purpose of SJVAPCD's Rule 9510, "Indirect Source Review," which is to reduce both construction and operational emissions of oxides of nitrogen (NO_x) and PM₁₀ associated with development and transportation projects from mobile and area sources. The comment states that the project is subject to Rule 9510 because it would receive a project-level discretionary approval from a public agency and would involve more than 9,000 feet of construction. Rule 9510 is summarized on page 4.5-6 in the Draft SEIR in the discussion of local regulations, and a discussion of the project's compliance with SJVAPCD's Rule 9510 is provided on pages 4.5-20 and 4.5-29 of the Draft SEIR. The project would be required to comply with all applicable permitting requirements as conditions of project approval.

5-8 The comment states that the modified Phase 2 Project may be subject to SJVAPCD's Rule 9410, "Employer Based Trip Reduction." Rule 9410 applies to each employer in the San Joaquin Valley Air Basin (SJVAB) that hires at least 100 eligible employees at a worksite for at least 16 consecutive weeks during the employer's previous fiscal year. Rule 9410 requires these employers to establish an Employer Trip Reduction Implementation Plan (eTRIP) that encourages employees to reduce single-occupancy vehicle trips to reduce emissions associated with worker commute trips. In response to this comment, the following text has been added to page 4.5-6 of the Draft SEIR following the bullet point that summarizes Rule 4641 and preceding the bullet point that summarizes Rule 9510:

- ▶ **Rule 4641—Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations...**
- ▶ **Rule 9410—Employer Based Trip Reduction:** The purpose of this rule is to reduce vehicle miles traveled (VMT) from private vehicles used by employees to commute to and from their worksites to reduce emissions of oxides of nitrogen (NO_x), volatile organic compounds (VOC) and particulate matter (PM) through the establishment of an Employer Trip Reduction Implementation Plan (eTRIP). This rule applies to each employer in the San Joaquin Valley Air Basin with at least 100 Eligible Employees at a worksite for at least 16 consecutive weeks during the employer's previous fiscal year, that is located either incorporated or unincorporated areas of a county. The modified Phase 2 project includes commercial land uses that could generate employees to the degree that compliance with this rule would be required.
- ▶ **Rule 9510—Indirect Source Review...**

The above text does not alter the significance determinations made in the Draft SEIR. Development under the modified Phase 2 Project would be required to comply with the applicable rules and regulations established and enforced by SJVAPCD as conditions of project approval.

5-9 The comment "recommends that the General Plan include a measure requiring the assessment and potential installation, as technologically feasible, of particulate matter emission control systems for new large restaurants operating under-fired charbroilers." The City of Lathrop appreciates the recommendation from SJVAPCD. The City will seek the assistance offered by the SJVAPCD regarding assessments for particulate matter emission control systems for under-fire charbroilers when specific large restaurant projects approach the City for permits. During this coordination, either the City or the SJVAPCD can make project applicants aware of the incentive funding referenced in the comment. The comment does not make any specific reference to the modified Phase 2 Project or the content, analysis, or conclusions in the Draft SEIR. No modifications to the SEIR are required.

- 5-10 The comment states that the proposed project may be subject to the following rules: Regulation VIII, "Fugitive PM₁₀ Prohibitions"; Rule 4102, "Nuisance"; Rule 4601, "Architectural Coatings"; and Rule 4641, "Cutback, Slow Cure, and Emulsified Asphalt, Paving, and Maintenance Operations." The comment also states that if a project involves renovating, partially demolishing, or removing a building, it may be subject to District Rule 4002, "National Emission Standards for Hazardous Air Pollutants."
- Regulation VIII, Rule 4002, Rule 4102, Rule 4601, and Rule 4641 are summarized on page 4.5-6 of the Draft SEIR in the discussion of local regulations. The project would be required to comply with all applicable permitting requirements as conditions of project approval.
- 5-11 The comment states that referral documents provided to SJVAPCD for review for new development projects should include a project summary detailing the land use designation, project size, and proximity to sensitive receptors and existing emission sources. This comment is acknowledged. The City and the project applicant will include the requested information in applicable referral documents.
- 5-12 The comment recommends that a copy of SJVAPCD's comment letter should be provided to the project proponent. The City has provided of this comment letter to Califia, LLC, the project applicant. Further, the comment provides the preferred contact for SJVAPCD. The City has noted the information for future reference.

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3 REVISIONS TO THE DRAFT SEIR

This chapter presents specific text changes made to the Draft SEIR since its publication and public review. The changes are presented in the order in which they appear in the Draft SEIR and are identified by the Draft SEIR page number. Text deletions are shown in ~~strikethrough~~, and text additions are shown in underline. As indicated throughout the Draft SEIR, where mitigation measures from the 2003 SEIR were used in the current SEIR, but they were modified or edited, those changes were also shown in ~~strikethrough~~ and underline. To distinguish between these Draft SEIR edits and the edits provided in this Final SEIR, where a mitigation measure is edited in this Final SEIR chapter, text deletions are shown in ~~double-strikethrough~~, and text additions are shown in double-underline.

The information contained within this chapter clarifies and expands on information in the Draft SEIR and does not constitute “significant new information” requiring recirculation. (See the Master Response regarding recirculation; see also Public Resources Code Section 21092.1; CEQA Guidelines Section 15088.5.)

3.1 REVISIONS TO CHAPTER 2, EXECUTIVE SUMMARY

Since publication of the Draft SEIR, the project applicant has prepared a final land use plan, which has resulted in a revised (smaller) total site acreage. Due to these project modifications, the third paragraph on page 2-1 of the Draft SEIR is revised as follows:

Development of the approved River Islands Project is split among two primary development phases—Phase 1 and Phase 2. The project site is the Phase 2 area of the River Islands Project (Phase 2 area), located on Stewart Tract and Paradise Cut within the West Lathrop Specific Plan (WLSP) in the city of Lathrop. The Phase 2 area includes approximately ~~3,434~~ 3,227 acres of land and open space, with ~~2,730~~ 2,523 acres located on Stewart Tract (an inland island bounded by Paradise Cut, the San Joaquin River, and Old River) and 704 acres located in Paradise Cut (a flood control bypass that receives water from the San Joaquin River when there are sufficient flows and connects downstream to Old River). Local access is currently provided by River Islands Parkway, Paradise Road (reopening after levee construction activities), and Manthey Road.

To update a reference to the final version of the *River Islands Phase 2 Parks and Open Space Master Plan*, the fifth paragraph on page 2-4 of the Draft SEIR is revised as follows:

Parks and Trails

Four primary categories of parks were originally proposed as part of the River Islands Project: community parks, river vista parks, lakefront parks, and neighborhood parks. A total of 265.3 acres of parks was proposed, with 98.6 acres of parkland proposed to be developed as part of Phase 1 and the remaining acreage proposed to be developed as part of Phase 2. The Phase 1 parks program was modified with City amendments to the Phase 1 entitlements in 2007 and 2015. Community parks, pocket parks, and neighborhoods parks are now proposed, with other open space and recreational facilities provided by RD 2062. The plan for parks is further altered by the modified Phase 2 Project and detailed in the *River Islands Phase 2 Parks and Open Space Master Plan* (River Islands ~~2020~~ 2021) under consideration by the City of Lathrop.

The project applicant has proposed several modifications to the project since publication of the Draft SEIR, including a revised mix of housing types, based on the final land use plan. The total unit count, however, would not change. Due to these project modifications, Table 2-1 on page 2-6 of the Draft SEIR is revised as follows:

Table 2-1 River Islands Modified Phase 2 Project Development Summary

General Plan Designation/ Land Use		Approved Phase 2 Project			Modified Phase 2 Project			Difference		
		Acres ¹	Dwelling Units ⁴	Non-Res. Floor Area (s.f.)	Acres ¹	Dwelling Units ⁴	Non-Res. Floor Area (s.f.)	Acres ¹	Dwelling Units ⁴	Non-Res. Floor Area (s.f.)
MU-RI	Mixed Use - (Paradise Cut Village Center)	0.0	0	0	154.8 <u>149.5</u>	2,439	360,000	154.8 <u>149.5</u>	2,439	360,000
CR-RI	Regional Commercial - (Employment Center)	125.0	0	1,800,000	61.9	0	1,035,000	(63.1)	0	(765,000)
TOD- RI	Transit Oriented Development ²	0.0	0	0	120.9 <u>116</u>	1,821	442,500	120.9 <u>116</u>	1,821	442,500
CN-RI	Neighborhood Commercial	17.7	0	180,000	0	0	0	(17.7)	0	(180,000)
RL-RI	Residential - Low	1,486.3	4,916	0	789.6 <u>797.3</u>	4,003 <u>4,064</u>	0	(696.7) <u>(689)</u>	(913) <u>(852)</u>	0
RM-RI	Residential - Medium	70.4	1,200	0	172.2 <u>161.3</u>	1,895 <u>1,704</u>	0	101.8 <u>90.9</u>	695 <u>504</u>	0
RH-RI	Residential - High	34.9	600	0	36.4 <u>32.7</u>	568 <u>698</u>	0	1.5 <u>(2.2)</u>	(32) <u>98</u>	0
RCO/ OS-RI	Resource Conservation - Open Space	703.8	0	0	703.8	0	0	0.0	0	0
—	Parks	155.4	0	0	234.2 <u>230.3</u>	0	0	78.8 <u>74.9</u>	0	0
—	Lakes	235.0	0	0	195.5 <u>194.3</u>	0	0	(39.5) <u>(40.7)</u>	0	0
—	Schools	106.4	0	0	108.6 <u>106.3</u>	0	0	2.2 <u>(0.1)</u>	0	0
—	Streets	382.3	0	0	198.6 <u>200.3</u>	0	0	(183.7) <u>(182)</u>	0	0
—	Other Open Space/ Public Uses ³	127.7	0	0	657.6 <u>472.9</u>	0	0	529.9 <u>345.2</u>	0	0
Total Land Use Parcels		3,444.9	6,716	1,980,000	3,434.1 <u>3,226.6</u>	10,726	1,837,500	(10.8) <u>(218.3)</u>	4,010	(142,500)

Notes: Non-Res. = non-residential; s.f. = square feet

¹ The acreage shown includes Paradise Cut and adjacent waterways that may not be evaluated in the SEIR.

² This area was identified as "transit village" in the 2003 SEIR project description. The new title as shown should be used to be consistent with the Valley Link Transit Project.

³ The acreage estimated includes public uses such as fire stations and other City facilities, as well as open space areas not included with other land use designations.

⁴ Dwelling units tabulated are shown as per the City's existing and proposed land use categories and not in their physical location (e.g., districts).

Source: Provided by River Islands in 2021

To update project parkland acreages as reflected in the final version of the *River Islands Phase 2 Parks and Open Space Master Plan*, the fifth full paragraph on page 2-7 of the Draft SEIR is revised as follows:

PARKS AND TRAILS

The approved Phase 2 Project included 166.7 acres of parkland. The proposed modifications to the Phase 2 Project would add ~~64.45~~ 63.59 acres of parkland for a total of ~~231.15~~ 230.29 acres of parkland in the Phase 2 area.

In response to comment 5-4, Modified Mitigation Measure 4.5-a on page 2-17 of the Draft SEIR is revised as follows:

Modified Mitigation Measure 4.5-a: Increases in Regional Criteria Pollutants during Construction

...

In accordance with SJVAPCD guidelines (~~SJVAPCD 1998~~), the following mitigation, which includes SJVAPCD Basic, Enhanced, and Additional Control Measures, shall be incorporated and implemented (SJVAPCD 2015a). Fugitive dust emissions generated by the project shall be reduced through application of air pollution control measures consistent with SJVAPCD Regulation VIII. In addition to the mitigation measures identified below, construction of the proposed project is required to comply with applicable SJVAPCD rules and regulations; Section 2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 of the Code of Federal Regulations related to off-road construction vehicles and operating practices; and including the requirements of a California Occupational Safety and Health Administration-qualified asbestos survey before demolition.

...

In response to comment 5-3, New Mitigation Measure 4.5-a(2) on page 2-19 of the Draft SEIR is revised as follows:

New Mitigation Measure 4.5-a(2): Preparation of an Ambient Air Quality Analysis

SJVAPCD recommends that construction and operational emissions that exceed 100 lb/day prepare an AAQA to assess whether a project would violate an AAQS. Prior to the approval of a Final Map, the project applicant shall prepare a project-level analysis of emissions for development in the Map area that is subject to SJVAPCD oversight to confirm whether the particular land use development under the modified Phase 2 Project would result in emissions that exceed this 100 lb/day screening criterion. In cases where project activity would generate emissions above this screening criterion, the project applicant shall prepare an AAQA. Additionally, while this project-level analysis of daily emissions is conducted, the project applicant shall simultaneously produce annual emissions estimates using project-level detail. If, following the preparation of an AAQA, emissions are found to contribute to an exceedance of an AAQS or annual emissions would exceed SJVAPCD's mass emissions thresholds, the project applicant shall either implement additional emission reduction measures as part of the project or, once all feasible on-site reduction measures have been exhausted, engage in regional programs that serve to reduce air pollution in the San Joaquin Valley. An example of a potential program includes the Valley Clean Air Now (Valley CAN) organization, which improves public health through investments in vehicle repair and replacement programs. Emissions reduction programs must demonstrate a quantifiable reduction and must be located within the SJVAB so air pollution reductions are realized in the basin. Alternatively, if regional air pollution reduction programs are unavailable, the project applicant may enter into a Voluntary Emission Reduction Agreement (VERA) with SJVAPCD to reduce emissions to below ~~100 lb/day~~ SJVAPCD's applicable emissions thresholds of significance for any pollutant that exceeds the screening criteria. If conditions warrant participation in a VERA, the VERA shall demonstrate a pound-for-pound reduction in emissions that exceed ~~100 lb/day~~ the applicable emissions threshold through a process that funds and implements emissions reduction projects within the SJVAB. The types of emission reduction projects that could be funded include electrification of stationary internal combustion engines (such as well pumps), replacing old heavy-duty trucks with cleaner, more efficient heavy-duty trucks, and replacement of old farm tractors. If a VERA is found to be required, and the applicant elects to enter into one, the project applicant shall engage in a discussion with SJVAPCD prior to the adoption of the VERA to ensure that feasible mitigation has been identified to reduce emissions to a less-than-significant level.

3.2 REVISIONS TO CHAPTER 3, “DESCRIPTION OF THE PROPOSED PROJECT”

Since publication of the Draft SEIR, the project applicant has prepared a final land use plan, which has resulted in a revised (smaller) total site acreage. Due to these project modifications, the fourth paragraph on page 2-1 of the Draft SEIR is revised as follows:

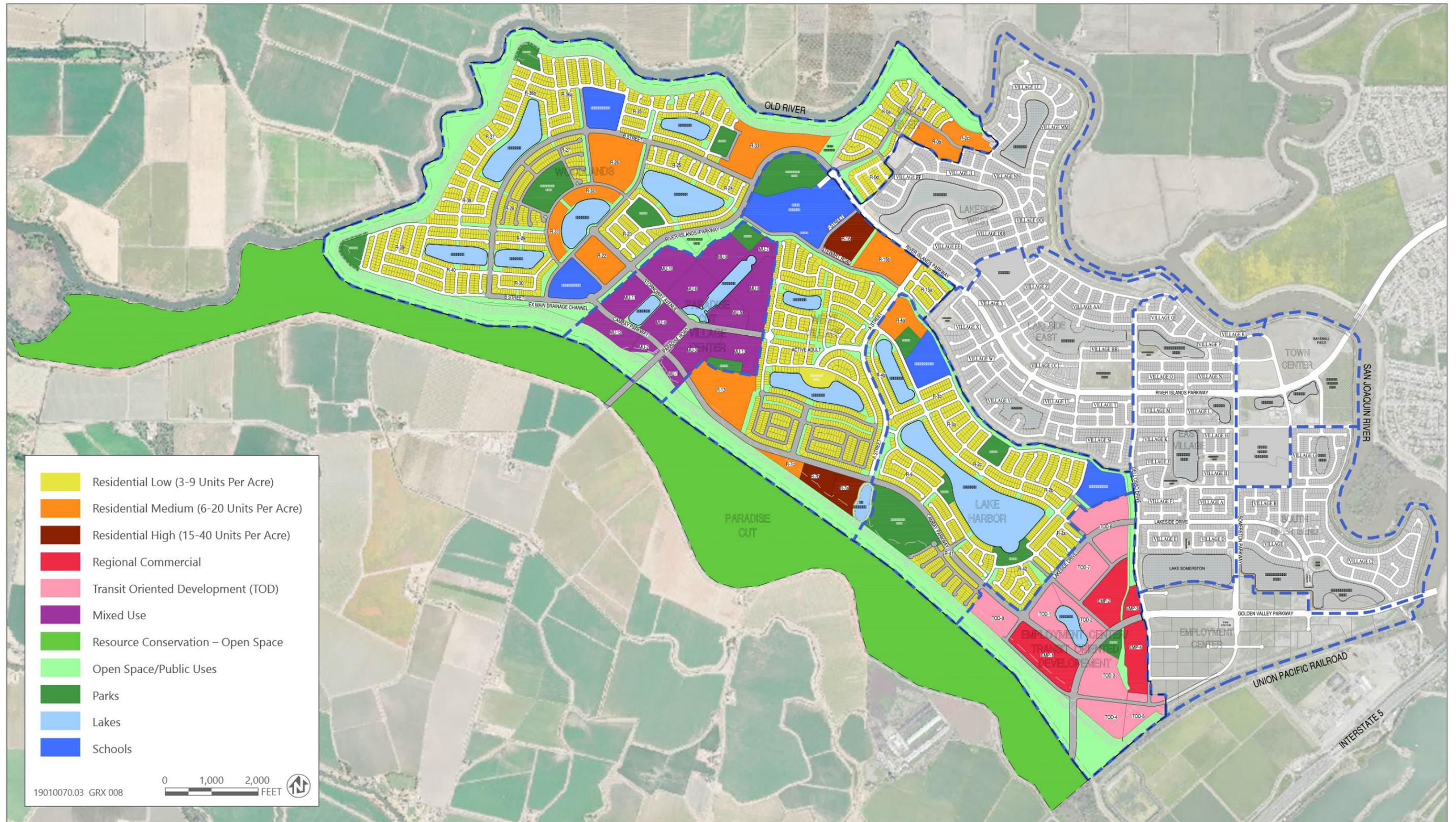
Development of the approved River Islands Project is split among two primary development phases—Phase 1 and Phase 2—as shown in Figure 3-1. The project site is the Phase 2 area of the River Islands Project (Phase 2 area), located on Stewart Tract and Paradise Cut within the WLSP in the city of Lathrop. The Phase 2 area includes approximately ~~3,434~~ 3,227 acres of land and open space, with ~~2,730~~ 2,523 acres located on Stewart Tract (an inland island bounded by Paradise Cut, the San Joaquin River, and Old River) and 704 acres located in Paradise Cut (a flood control bypass that receives water from the San Joaquin River when there are sufficient flows and connects downstream to Old River) (Figure 3-2). Throughout this SEIR, the portion of the Phase 2 area on Stewart Tract may be referred to as the Phase 2 development area, or as part of the River Islands Development (RID) Area. The RID Area designates all portions of the project site on Stewart Tract, both Phase 1 and Phase 2. The Paradise Cut portion of the project site may be referred to as the Paradise Cut Conservation Area. Local access is currently provided by River Islands Parkway, Paradise Road (reopening after levee construction activities), and Manthey Road.

The project applicant has proposed several modifications to the project since publication of the Draft SEIR, including revised park locations and acreages as reflected in the final version of the *River Islands Phase 2 Parks and Open Space Master Plan*. Due to these project modifications, Figure 3-2 on page 3-5 of the Draft SEIR is revised as follows:



Source: Image produced by O'Dell Engineering in 2021

Figure 3-2 River Islands Phase 2 Masterplan Concept [Old]



Source: Image produced by O'Dell Engineering in 2021

Figure 3-2 River Islands Phase 2 Masterplan Concept [Revised]

To update a reference to the final version of the *River Islands Phase 2 Parks and Open Space Master Plan*, the first paragraph on page 3-15 of the Draft SEIR is revised as follows:

PARKS AND TRAILS

Four primary categories of parks were originally proposed as part of the River Islands Project: community parks, river vista parks, lakefront parks, and neighborhood parks. A total of 265.3 acres of parks was proposed, with 98.6 acres of parkland proposed to be developed as part of Phase 1 and the remaining acreage proposed to be developed as part of Phase 2. The Phase 1 parks program was modified with City amendments to the Phase 1 entitlements in 2007 and 2015. Community parks, pocket parks, and neighborhoods parks are now proposed, with other open space and recreational facilities provided by RD 2062. The plan for parks is further altered by the modified Phase 2 Project and detailed in the *River Islands Phase 2 Parks and Open Space Master Plan* (River Islands ~~2020~~ 2021) under consideration by the City of Lathrop.

The project applicant has proposed several modifications to the project since publication of the Draft SEIR, including a revised mix of housing types, based on the final land use plan. The total unit count, however, would not change. Due to these project modifications, Table 3-1 on page 3-19 of the Draft SEIR is revised as follows:

Table 3-1 River Islands Modified Phase 2 Project Development Summary

General Plan Designation/Land Use		Approved Phase 2 Project			Modified Phase 2 Project			Difference		
		Acres ¹	Dwelling Units ⁴	Non-Res. Floor Area (s.f.)	Acres ¹	Dwelling Units ⁴	Non-Res. Floor Area (s.f.)	Acres ¹	Dwelling Units ⁴	Non-Res. Floor Area (s.f.)
MU-RI	Mixed Use - (Paradise Cut Village Center)	0.0	0	0	154.8 149.5	2,439	360,000	154.8 149.5	2,439	360,000
CR-RI	Regional Commercial - (Employment Center)	125.0	0	1,800,000	61.9	0	1,035,000	(63.1)	0	(765,000)
TOD-RI	Transit Oriented Development ²	0.0	0	0	120.9 116	1,821	442,500	120.9 116	1,821	442,500
CN-RI	Neighborhood Commercial	17.7	0	180,000	0	0	0	(17.7)	0	(180,000)
RL-RI	Residential - Low	1,486.3	4,916	0	789.6 797.3	4,003 4,064	0	(696.7) (689)	(913) (852)	0
RM-RI	Residential - Medium	70.4	1,200	0	172.2 161.3	1,895 1,704	0	101.8 90.9	695 504	0
RH-RI	Residential - High	34.9	600	0	36.4 32.7	568 698	0	1.5 (2.2)	(32) 98	0
RCO/OS-RI	Resource Conservation - Open Space	703.8	0	0	703.8	0	0	0.0	0	0
—	Parks	155.4	0	0	234.2 230.3	0	0	78.8 74.9	0	0
—	Lakes	235.0	0	0	195.5 194.3	0	0	(39.5) (40.7)	0	0
—	Schools	106.4	0	0	108.6 106.3	0	0	2.2 (0.1)	0	0
—	Streets	382.3	0	0	198.6 200.3	0	0	(183.7) (182)	0	0
—	Other Open Space/ Public Uses ³	127.7	0	0	657.6 472.9	0	0	529.9 345.2	0	0
Total Land Use Parcels		3,444.9	6,716	1,980,000	3,434.1 3,226.6	10,726	1,837,500	(10.8) (218.3)	4,010	(142,500)

Notes: Non-Res. = non-residential; s.f. = square feet

¹ The acreage shown includes Paradise Cut and adjacent waterways that may not be evaluated in the SEIR.

² This area was identified as "transit village" in the 2003 SEIR project description. The new title as shown should be used to be consistent with the Valley Link Transit Project.

³ The acreage estimated includes public uses such as fire stations and other City facilities, as well as open space areas not included with other land use designations.

⁴ Dwelling units tabulated are shown as per the City's existing and proposed land use categories and not in their physical location (e.g., districts).

Source: Provided by River Islands in 2021

The project applicant has proposed several modifications to the project since publication of the Draft SEIR, including a revised mix of housing types, based on the final land use plan. The total unit count, however, would not change. Due to these project modifications, the discussion on page 3-20 of the Draft SEIR is revised as follows:

PROPOSED DEVELOPMENT MODIFICATIONS

As described above, the approved River Islands Project includes a mix of housing types, ranging from single-family-detached homes to condominiums, townhouses, apartments, and active adult (senior-oriented) housing, for a total of 11,000 residences. These same housing types are retained in the modified Phase 2 Project, but with 4,010 units added to the Phase 2 area, resulting in 15,010 total housing units.

At buildout, the River Islands Project was expected to include an estimated 31,680 residents and 16,751 jobs as currently approved. With the proposed Phase 2 modifications, the River Islands Project is expected to generate a total (Phase 1 and 2) of 44,963 residents and 22,162 jobs.

The residential districts included in the modified Phase 2 Project are listed below, as well as the proposed modifications to the number and type of residential units in each district (also, see Figure 3-2 for the proposed locations of these districts). Residential density (i.e., low, medium, high) is defined in Table 3-2.

- ▶ The **Old River district**. Under the modified Phase 2 Project, this district would now include ~~740~~ 431 single-family and multi-family units ~~and a public park~~. With the construction of the Stage 2B and Phase 2 levees, this district would no longer be developed on a high-ground corridor as its already fully flood protected. This is considered an expansion of the Planning District being built within the Phase 1 area.
- ▶ The **Lake Harbor district**. Under the modified Phase 2 Project, this district would now include ~~1,444~~ 1,359 total residences, with ~~1,091~~ 1,120 low-density residences and ~~353~~ 239 medium-density residences.
- ▶ The **West Village district**. Under the modified Phase 2 Project, this district would now include ~~2,414~~ 2,171 total residences, with ~~937~~ 964 low-density residences, ~~465~~ 509 medium-density residences, and ~~712~~ 698 high-density residences. This district could also include an "active adult" community restricted to homeowners 55 years and older; these units would still be considered low-density units. The proposed River Islands High School would also be included in this district.
- ▶ The **Woodlands district**. Under the modified Phase 2 Project, this district would now include ~~2,574~~ 2,505 total residences, with ~~1,714~~ 1,719 low-density residences and ~~860~~ 786 medium-density residences.
- ▶ The **Employment Center district**. Under the modified Phase 2 Project, the proposed mixed-use TOD area is included in this district. This TOD area will include a proposed train station for Valley Link service. Under the modified Phase 2 Project, this district would now include 1,677 total residences, with 436 medium-density residences, and 1,241 high-density residences.
- ▶ The **Paradise Cut Village Center district**. New for the modified Phase 2 Project, the Paradise Cut Village Center district would occupy approximately 124 acres on land formerly identified as parts of the West Village and Woodlands districts. The Paradise Cut Village Center would provide the modified Phase 2 Project with a mixed use/commercial center as well as linear parks and other community-oriented spaces with higher density

housing. This district would include 2,439 total residences, with 877 medium-density residences, and 1,562 high-density residences.

The project applicant has proposed several modifications to the project since publication of the Draft SEIR, including a revised mix of housing types, based on the final land use plan. The total unit count, however, would not change. Due to these project modifications, Table 3-2 on page 3-21 of the Draft SEIR is revised as follows:

Table 3-2 River Islands Project Housing by Density

Residential Density	Estimated Number of Housing Units		
	Approved River Islands Project (Phase 1 and 2) ¹	Phase 1 and Proposed Phase 2 Modifications ²	Difference
Low-Density Residential (3-9 dwelling units per acre)	8,200	7,134 <u>7,195</u>	(1,066) <u>(1,005)</u>
Medium-Density Residential (6-20 dwelling units per acre)	1,600	3,694 <u>3,502</u>	-2,094 <u>1,902</u>
High-Density Residential (15-40 dwelling units per acre)	1,200	4,182 <u>4,313</u>	2,982 <u>3,113</u>
Total	11,000	15,010	4,010

¹ From Table 3-1 in the 2003 SEIR (City of Lathrop 2002).

² Data provided by project applicant in 2021.

Source: Compiled by Ascent Environmental in 2021 based on above data sources

To update project parkland acreages as reflected in the final version of the *River Islands Phase 2 Parks and Open Space Master Plan*, the second paragraph on page 3-21 of the Draft SEIR is revised as follows:

PARKS AND TRAILS

The approved Phase 2 Project included 166.7 acres of parkland. The proposed modifications to the Phase 2 Project would add ~~64.45~~ 63.59 acres of parkland for a total of ~~231.15~~ 230.29 acres of parkland in the Phase 2 area, as detailed in the *River Islands Phase 2 Parks and Open Space Master Plan* (River Islands ~~2020~~ 2021) under consideration by the City of Lathrop.

The project applicant has proposed several modifications to the project since publication of the Draft SEIR, including revised park locations and acreages as reflected in the final version of the *River Islands Phase 2 Parks and Open Space Master Plan*. Due to these project modifications, Figure 3-5 on page 3-23 of the Draft SEIR is revised as follows:

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Source: River Islands 2020

Figure 3-5 Phase 2 Proposed Parks [Old]



Source: River Islands 2021

Figure 3-5 Phase 2 Proposed Parks [Revised]

To update project parkland acreages as reflected in the final version of the *River Islands Phase 2 Parks and Open Space Master Plan*, Table 3-3 of the Draft SEIR is revised as follows:

Table 3-3 Modified Phase 2 Project Parkland

Park #	Park Name	Acreage	Miles	Quimby Act	Ownership
Neighborhood Parks					
N1	Neighborhood Park 1	5.97	—	X	RD 2062
N2	Neighborhood Park 2	6.02	—	X	City
N3	Neighborhood Park 3	6.07 4.55	—	X	RD 2062 City
N4	Neighborhood Park 4	4.01	—	X	City
N5	Neighborhood Park 5	5.39	—	X	City
N6	Neighborhood Park 6	7.10	—	X	City
N7	Neighborhood Park 7	5.12	—	X	City
N8	Neighborhood Park 8	5.28	—	X	RD 2062
N9	Neighborhood Park 9	4.19	—	X	RD 2062
N10	Neighborhood Park 10	2.73	—	X	RD 2062
N11	Neighborhood Park 11	4.0	—	X	City
School Sites	School Sites ¹	10.0	—	X	School
Subtotal		65.88 64.36			
Pocket Parks					
P1	Pocket Park 1	0.81	—	—	RD 2062
P2	Pocket Park 2	0.31	—	—	RD 2062
P3	Pocket Park 3	0.49	—	—	RD 2062
P4	Pocket Park 4	0.37	—	—	RD 2062
P5	Pocket Park 5	0.33	—	—	RD 2062
P6	Pocket Park 6	1.47	—	—	RD 2062
P7	Pocket Park 7	0.19	—	—	RD 2062
P8	Pocket Park 8	1.13	—	—	RD 2062
P9	Pocket Park 9	0.48	—	—	RD 2062
P10	Pocket Park 10	0.54	—	—	RD 2062
P11	Pocket Park 11	0.46	—	—	RD 2062
P12	Pocket Park 12	0.76	—	—	RD 2062
P13	Pocket Park 13	1.41	—	—	RD 2062
P14	Pocket Park 14	0.59 0.65	—	—	RD 2062
P15	Pocket Park 15	0.33	—	—	RD 2062
P16	Pocket Park 16	0.35	—	—	RD 2062
P17	Pocket Park 17	0.89	—	—	RD 2062
P18	Pocket Park 18	0.33	—	—	RD 2062
P19	Pocket Park 19	0.73	—	—	RD 2062
P20	Pocket Park 20	0.29	—	—	RD 2062
P21	Pocket Park 21	0.45	—	—	RD 2062
P22	Pocket Park 22	0.37	—	—	RD 2062
P23	Pocket Park 23	0.79	—	—	RD 2062
P24	Pocket Park 24	0.28	—	—	RD 2062
P25	Pocket Park 25	0.31	—	—	RD 2062

Park #	Park Name	Acreage	Miles	Quimby Act	Ownership
P26	Pocket Park 26	0.22	—	—	RD 2062
P27	Pocket Park 27	0.20	—	—	RD 2062
P28	Pocket Park 28	0.93	—	—	RD 2062
P29	Pocket Park 29	0.86	—	—	RD 2062
P30	Pocket Park 30	0.42	—	—	RD 2062
P31	Pocket Park 31	0.27	—	—	RD 2062
P32	Pocket Park 32	0.20	—	—	RD 2062
P33	Pocket Park 33	0.39	—	—	RD 2062
P34	Pocket Park 34	1.22	—	—	RD 2062
P35	Pocket Park 35	0.12	—	—	RD 2062
P36	Pocket Park 36	0.21	—	—	RD 2062
P37	Pocket Park 37	0.50	—	—	RD 2062
Subtotal		20.0 20.06			
Open Space					
—	—	274.02 272.48	—	—	—
Subtotal		274.02 272.48			
Community Parks					
C1	Community Park 1 ²	31.47 31.93	—	X	City
C2	Community Park 2	22.5	—	X	City
C3	Community Park 3	14.56 15.01	—	X	City
C4	Levee Trail ³	28.0	7.7	X	RD 2062
Subtotal		96.53 97.44			
Linear Parks					
LP1	Linear Park 1	16.65	1.99	—	RD 2062
LP2	Linear Park 2	2.59 2.56	0.28	—	RD 2062
LP3	Linear Park 3	1.36 1.39	0.19 0.18	—	RD 2062
LP4	Linear Park 4	0.74 0.35	0.14 0.04	—	RD 2062
LP5	Linear Park 5	5.68 5.63	0.48 0.46	—	RD 2062
LP6	Linear Park 6	0.90 0.94	0.14	—	RD 2062
LP7	Linear Park 7	0.75 0.72	0.10 0.09	—	RD 2062
LP8	Linear Park 8	1.19	0.16	—	RD 2062
LP9	Linear Park 9	16.61 16.7	1.24	—	RD 2062
LP10	Linear Park 10	2.29	0.18	—	RD 2062
Subtotal		48.74 48.43			

Notes: RD = Reclamation District

1 School sites calculation: Number of schools x 2.5 acres = total acres.

2 Community Park 1 acreage does not include wetland area.

3 Levee trail calculation: Total linear feet x 30-foot width = total square feet (43,560 square feet = 1 acre)

Total linear Feet = 40,656 linear feet

Total miles = 7.7 miles

Source: River Islands ~~2020~~ 2021 (Figure 4-3)

3.3 REVISIONS TO SECTION 4.5, “AIR QUALITY”

In response to comment 5-8, the bulleted list on page 4.5-6 of the Draft SEIR is revised as follows:

- ▶ **Rule 4641—Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations...**
- ▶ **Rule 9410—Employer Based Trip Reduction:** The purpose of this rule is to reduce vehicle miles traveled (VMT) from private vehicles used by employees to commute to and from their worksites to reduce emissions of oxides of nitrogen (NO_x), volatile organic compounds (VOC) and particulate matter (PM) through the establishment of an Employer Trip Reduction Implementation Plan (eTRIP). This rule applies to each employer in the San Joaquin Valley Air Basin with at least 100 Eligible Employees at a worksite for at least 16 consecutive weeks during the employer’s previous fiscal year, that is located either incorporated or unincorporated areas of a county. The modified Phase 2 project includes commercial land uses that could generate employees to the degree that compliance with this rule would be required.
- ▶ **Rule 9510—Indirect Source Review...**

Since publication of the Draft SEIR, the project applicant has prepared a final land use plan, which has resulted in a revised (smaller) total site acreage for Phase 2. Due to these project modifications (and to correct a previous error), the first full paragraph on page 4.5-20 of the Draft SEIR is revised as follows:

However, an AAQA is more appropriate for assessing single site, discrete project construction emissions. The modified Phase 2 Project, which would be constructed on approximately ~~3,445~~ 3,227 acres over the course of a 20-year construction period. The proposed land uses under the modified Phase 2 Project would be constructed incrementally with inherent uncertainty surrounding the schedule and location of where land uses would be constructed. Based on the modeling, as summarized in Table 4.5-5, the modified Phase 2 Project could generate emissions of NO_x and CO in exceedance of SJVAPCD’s 100 lb/day screening criteria. Given this uncertainty regarding the actual timing, intensity, and location of construction, however, the preparation of an AAQA at the time of this Draft SEIR would not generate a meaningful conclusion. because modeled worst-day emissions would exceed the daily screening levels, project-generated emissions would be considered significant and could contribute to a violation of an AAQS within the SJVAB.

In response to comment 5-4, Modified Mitigation Measure 4.5-a on page 4.5-21 of the Draft SEIR is revised as follows:

Modified Mitigation Measure 4.5-a: Increases in Regional Criteria Pollutants during Construction

...

In accordance with SJVAPCD guidelines (~~SJVAPCD 1998~~), the following mitigation, which includes SJVAPCD Basic, Enhanced, and Additional Control Measures, shall be incorporated and implemented (SJVAPCD 2015a). Fugitive dust emissions generated by the project shall be reduced through application of air pollution control measures consistent with SJVAPCD Regulation VIII. In addition to the mitigation measures identified below, construction of the proposed project is required to comply with applicable SJVAPCD rules and regulations; Section 2423 of Title 13 of the California Code of Regulations, and Part 89 of Title 40 of the Code of Federal Regulations related to off-road construction vehicles and operating practices; and including the requirements of a California Occupational Safety and Health Administration-qualified asbestos survey before demolition.

...

In response to comment 5-3, New Mitigation Measure 4.5-a(2) on page 4.5-22 of the Draft SEIR is revised as follows:

New Mitigation Measure 4.5-a(2): Preparation of an Ambient Air Quality Analysis

SJVACPD recommends that construction and operational emissions that exceed 100 lb/day prepare an AAQA to assess whether a project would violate an AAQS. Prior to the approval of a Final Map, the project applicant shall prepare a project-level analysis of emissions for development in the Map area that is subject to SJVAPCD oversight to confirm whether the particular land use development under the modified Phase 2 Project would result in emissions that exceed this 100 lb/day screening criterion. In cases where project activity would

generate emissions above this screening criterion, the project applicant shall prepare an AAQA. Additionally, while this project-level analysis of daily emissions is conducted, the project applicant shall simultaneously produce annual emissions estimates using project-level detail. If, following the preparation of an AAQA, emissions are found to contribute to an exceedance of an AAQS or annual emissions would exceed SJVAPCD's mass emissions thresholds, the project applicant shall either implement additional emission reduction measures as part of the project or, once all feasible on-site reduction measures have been exhausted, engage in regional programs that serve to reduce air pollution in the San Joaquin Valley. An example of a potential program includes the Valley Clean Air Now (Valley CAN) organization, which improves public health through investments in vehicle repair and replacement programs. Emissions reduction programs must demonstrate a quantifiable reduction and must be located within the SJVAB so air pollution reductions are realized in the basin. Alternatively, if regional air pollution reduction programs are unavailable, the project applicant may enter into a Voluntary Emission Reduction Agreement (VERA) with SJVAPCD to reduce emissions to below ~~100 lb/day~~ SJVAPCD's applicable emissions thresholds of significance for any pollutant that exceeds the screening criteria. If conditions warrant participation in a VERA, the VERA shall demonstrate a pound-for-pound reduction in emissions that exceed ~~100 lb/day~~ the applicable emissions threshold through a process that funds and implements emissions reduction projects within the SJVAB. The types of emission reduction projects that could be funded include electrification of stationary internal combustion engines (such as well pumps), replacing old heavy-duty trucks with cleaner, more efficient heavy-duty trucks, and replacement of old farm tractors. If a VERA is found to be required, and the applicant elects to enter into one, the project applicant shall engage in a discussion with SJVAPCD prior to the adoption of the VERA to ensure that feasible mitigation has been identified to reduce emissions to a less-than-significant level.

3.4 REVISIONS TO CHAPTER 4.7, "GEOLOGY, SOILS, AND MINERAL RESOURCES"

Since publication of the Draft SEIR, the project applicant has prepared a final land use plan, which has resulted in a revised (smaller) total site acreage for Phase 2. Due to these project modifications, the fifth paragraph on page 4.7-7 of the Draft SEIR is revised as follows:

The proposed Phase 2 modifications would result in development of the same footprint as evaluated in the 2003 SEIR; of the approximately ~~3,434~~ 3,227 acres in the Phase 2 area, approximately 704 acres would be set aside for Resource Conservation - Open Space, while the remainder would be developed (see Table 3-1 in Chapter 3, "Description of the Proposed Project"). Construction activities would involve excavating, moving, filling, and temporary stockpiling of soil in the Phase 2 area. The elevated risk of erosion associated with construction activity has long been acknowledged by regulators. Consequently, programs aimed at mitigating these effects are reflected in policies, laws, and regulations at various levels of government. Project proponents must comply with the CBC and the federal National Pollutant Discharge Elimination System (NPDES), which would require implementation of BMPs that reduce the potential for erosion and loss of topsoil. Because construction of the modified Phase 2 Project would disturb more than one acre of soil, construction would be subject to the Statewide Construction General NPDES Permit from Central Valley Regional Water Quality Control Board. Coverage under this permit requires preparation and implementation of a SWPPP, as discussed in Section 4.8, "Hydrology and Water Quality." SWPPPs would be required to identify temporary BMPs to prevent the transport of earthen materials from construction sites during periods of precipitation or runoff, and temporary BMPs would be required to prevent wind erosion of earthen materials.

3.5 REVISIONS TO SECTION 4.12, “RECREATION”

To update project parkland acreages as reflected in the final version of the *River Islands Phase 2 Parks and Open Space Master Plan*, the discussion of Impact 4.12-a on pages 4.12-5 through 4.12-7 of the Draft SEIR is revised as follows:

Impact 4.12-a: Demand for Neighborhood and Community Parks

The 2003 SEIR evaluated the potential for the River Islands Project to increase demand on existing neighborhood and community parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. Residential development proposed for the modified Phase 2 Project would require 160.89 acres of parkland to meet the General Plan standard of 5 acres of parkland (2 acres of neighborhood park and 3 acres of community park) per 1,000 residents. The modified Phase 2 Project would include ~~162.44~~ 161.8 acres of neighborhood and community parks as well as other parkland. As such, the modified Phase 2 Project would create parkland in excess of anticipated demand (by approximately ~~1.5~~ 0.9 acres), thus satisfying and exceeding the General Plan requirements for parkland. The modified Phase 2 Project, therefore, would be expected to alleviate the demand on, and therefore increase availability of, existing parkland in the City of Lathrop. No substantial physical deterioration of existing parkland would result. Therefore, there is no new significant impact and the impact is not substantially more severe than the impact identified in the 2003 SEIR. This impact would remain **beneficial** as identified in the 2003 SEIR.

Impact 4.12-a of the 2003 SEIR evaluated the potential for the River Islands Project to increase demand on existing neighborhood and community parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. As identified in the 2003 SEIR, the amount of parkland that would be developed would differ depending on the type of school system implemented, with a traditional school system requiring a larger footprint (thus, providing more parkland because some school acreage would share a dual use as parkland) and a nontraditional school system requiring a smaller footprint (thus, providing less parkland available for dual use). The analysis noted that, with a nontraditional school system, residential development proposed for Phase 1 would require 62 acres of parkland to meet the General Plan standard of 5 acres of parkland per 1,000 residents, and Phase 1 would provide 98.4 acres of parkland. Completion of Phase 2 would increase the total demand to 153.3 acres, and the overall River Islands Project (Phases 1 and 2) would provide 265.3 acres of parkland. As such, development of the River Islands Project with a nontraditional school system would create parkland in excess of anticipated demand. Development of the project with a traditional school system would result in 272.9 or more acres of parkland, which would also exceed demand established by the General Plan standards. In summary, more acres of parkland would be provided with a traditional school system than with a nontraditional school system, but development under either school system would satisfy and exceed the General Plan requirements for parkland. Therefore, the River Islands Project would alleviate the demand on existing neighborhood and community parks. No substantial physical deterioration of existing parkland would result. This impact was concluded to be beneficial, and no mitigation was required.

Since certification of the 2003 SEIR, there has been a minor redistribution in parkland acreages between the project phases to include 98.6 acres developed in Phase 1 and 166.7 acres to be developed in Phase 2. The total parkland acreage remained unchanged at 265.3 acres.

Table 4.12-2 presents the parkland calculations for the modified Phase 2 Project. The table identifies the amount of parkland that the project is required to provide to meet the Quimby Act and the City's General Plan standards, the amount of parkland proposed to be developed as part of the modified Phase 2 Project, and the difference between the two. The modified Phase 2 Project would include development of 10,726 dwelling units, which would generate 32,178 new residents based on a project average of 3 persons per house (PPH). On the basis of the City's General Plan standards of 5 acres of parkland (2 acres of neighborhood park and 3 acres of community park) per 1,000 residents, the new residents in Phase 2 would require 64.36 acres of neighborhood park and 96.53 acres of community park, for a total of 160.89 acres of parkland. The

modified Phase 2 Project would include ~~162.41~~ 161.8 acres of neighborhood and community parks. Thus, the modified Phase 2 Project would include neighborhood and community park acreage in excess of anticipated demand (by approximately ~~4.5~~ 0.9 acres), thus satisfying and exceeding the General Plan requirements for parkland. Further, the modified Phase 2 Project includes approximately ~~68.74~~ 68.49 acres of other parkland, including pocket parks, paseos, and linear parks. In the Phase 2 area, neighborhood parks are generally within 1/4 of the residences they serve, meeting or exceeding the General Plan guidance of neighborhood parks being within 1/3 to 1/2 mile of the residences they serve. Compared to the approved Phase 2 calculations presented in the 2003 SEIR, the modified Phase 2 Project would include an additional ~~65~~ 63.5 acres of parkland (or a 38 percent increase).

Table 4.12-2 Modified Phase 2 Project Parkland Calculations

	Standard	Requirement	Modified Phase 2 Calculations	Difference
Dwelling Units	—	—	10,726	—
Population	3.0 per dwelling unit	—	32,178	—
Community Parks	3 acres/1,000 people	96.53 acres	96.53 <u>97.44</u> acres	+ 0.00 <u>0.91</u> acre
Neighborhood Parks	2 acres/1,000 people	64.36 acres	65.88 <u>64.36</u> acres	+ 1.52 <u>0</u> acre
Subtotal Parks	5 acres/1,000 people	160.89 acres	162.41 <u>161.8</u> acres	+ 1.52 <u>0.91</u> acres
Other Parks	—	—	68.74 <u>68.49</u> acres	—
Total Parks	—	—	231.15 <u>230.29</u> acres	—

Note: Sizes and locations of parks subject to change through Neighborhood Development Plan process and subject to City review and approval.

Source: River Islands ~~2020~~ 2021 (Table 4-1)

Moreover, the proposed community parks would assist in fulfilling the existing deficit of this park type in the City (see Table 4.12-1, above). This would be expected to reduce demand on, and therefore increase availability of, existing parkland in the City of Lathrop. Although it is likely that River Islands residents would access parks in the City of Lathrop and vice versa, because sufficient park space would be provided and would be conveniently accessed by all River Islands Project residential districts, an imbalance in use between Phase 2 area parks and City parks would be unlikely. No substantial physical deterioration of existing parkland would result.

Construction and operation of parks and recreation facilities could result in physical impacts on the environment, including construction noise, generation of fugitive dust, and increased traffic. The physical impacts on the environment associated with providing recreation facilities in the Phase 2 area are addressed in the resource sections of this SEIR, including Section 4.4, "Traffic and Transportation"; Section 4.5, "Air Quality"; Section 4.6, "Noise and Vibration"; Section 4.8, "Hydrology and Water Quality"; and Section 4.17, "Aesthetics."

In summary, the amount of proposed parkland in the Phase 2 area would meet City requirements. Therefore, there is no new significant impact and the impact is not substantially more severe than the impact identified in the 2003 SEIR. Thus, implementing the modified Phase 2 Project would result in a **beneficial** impact as identified in the 2003 SEIR.

Mitigation Measures

No mitigation is required.

3.6 REVISIONS TO SECTION 4.16, “CULTURAL AND TRIBAL CULTURAL RESOURCES”

To update the status of Native American consultation activities that have occurred since publication of the Draft SEIR, Table 4.16-1 on pages 4.16-6 and 4.16-7 of the Draft SEIR is revised as follows:

Table 4.16-1 Summary of AB 52 Consultation

Native American Tribe and Contact	Date of Initial Contact	Follow-up Response(s)	Comment
Buena Vista Rancheria Me-Wuk Indians Mike Despian, Environmental Resources Director	March 25, 2020	April 16, 2020	Richard Hawkins, Tribal Historic Preservation Offices Coordinator, stated that no known resources were present in the Phase 2 area, but requested notification of any resources encountered during construction.
Northern Valley Yokuts Tribe Katherine Erolinda Perez, Chairperson	March 25, 2020	April 8, 2020	The Tribe requested consultation and asks for copies of reports and the records searches. The Tribe also provided potential language for mitigation measures.
		May 21, 2020	A consultation meeting was completed between Katherine Perez and the City of Lathrop.
		September 9, 2020	Representatives of the project applicant met separately with Katherine Perez, outside the AB 52 process, to discuss the project and mitigation approaches.
		September 23, 2020	City of Lathrop receives a letter from Katherine Perez of Nototomne Cultural Preservation, representing the Northern Valley Yokuts, suggesting various mitigation and study options for the project.
		November 10, 2020	A second consultation meeting was completed between Katherine Perez and the City of Lathrop.
		November 24, 2020	A third consultation meeting was completed between Katherine Perez and the City of Lathrop.
		November 25, 2020	The City of Lathrop sends an e-mail to Katherine Perez with suggested language for SEIR mitigation measure 4.16-d.
		<u>December 21, 2020</u>	<u>The City of Lathrop sends an e-mail to Katherine Perez inquiring whether there are comments or questions regarding the suggested language for SEIR mitigation measure 4.16-d provided on November 25, 2020. No reply is received.</u>
		<u>February 12, 2021</u> Draft SEIR Publication	<u>Consultation is ongoing. Draft SEIR is published with mitigation measure 4.16-d language reflected in the November 25, 2020 e-mail referenced above. No reply is received.</u>
		<u>February 16, 2021</u>	<u>The City of Lathrop sends another e-mail to Katherine Perez inquiring whether there are comments or questions regarding the suggested language for SEIR mitigation measure 4.16-d provided on November 25, 2020. No reply is received.</u>
<u>March 16, 2021</u>	<u>The City of Lathrop sends another e-mail to Katherine Perez inquiring whether there are comments or questions regarding the suggested language for SEIR mitigation measure 4.16-d provided on November 25, 2020. No reply is received.</u>		

Native American Tribe and Contact	Date of Initial Contact	Follow-up Response(s)	Comment
		<u>March 29, 2021</u>	<u>Close of Draft SEIR public comment period. No comments received from Northern Valley Yokuts or representatives</u>
		<u>April 6, 2021</u>	<u>The City of Lathrop sends a letter to Katherine Perez concluding consultation under AB 52 for the River Islands Phase 2 Project.</u>

Source: Data compiled by Ascent Environmental in 2020

3.7 REVISIONS TO CHAPTER 5, “CUMULATIVE IMPACTS”

To update project parkland acreages as reflected in the final version of the *River Islands Phase 2 Parks and Open Space Master Plan*, the discussion of cumulative recreation impacts on page 5-16 of the Draft SEIR is revised as follows:

PARKLAND

Planned residential development in the City of Lathrop and associated increases in population would result in a cumulative increase in the demand for parkland. Projects located in the surrounding region would result in growth that would place additional demand on existing parks and recreation facilities. However, these development projects would be required by their respective jurisdictions to construct parks and recreation facilities, pay in-lieu fees, contribute to regional recreational facilities, or dedicate parkland in accordance with standards established by the applicable jurisdiction that would support increased demand for parks and recreation facilities. Implementation of the modified Phase 2 Project could cumulatively combine with other projects to result in a significant cumulative impact on parks and recreation facilities. The modified Phase 2 Project would include ~~162.41~~ 161.8 acres of neighborhood and community parks, which would exceed the City of Lathrop General Plan requirements for parkland (by approximately ~~4.5~~ 0.9 acres); additionally, the modified Phase 2 Project would include ~~68.74~~ 68.49 acres of other parks, for a total of ~~231.15~~ 230.29 acres of parks. Because the City’s parkland standards would be met by future development in the project area through construction of park facilities, payment of in-lieu fees, contribution to regional recreation facilities, and dedication of land for parks, implementing the project would not result in a considerable contribution to a cumulative impact on parks and recreation facilities. This impact would be less than significant.

*Compliance with local standards that require projects to include adequate parkland would ensure that increased demand on existing parks and recreational facilities does not result in substantial physical deterioration of these facilities. As a result, the project would not contribute to cumulative impacts related to the provision of parkland. Therefore, cumulative impacts related to the provision of parkland would be **less than significant** because the required park acreage would be met.*

3.8 REVISIONS TO CHAPTER 8, “ALTERNATIVES ANALYSIS”

The project applicant has proposed several modifications to the project since publication of the Draft SEIR, including a revised mix of housing types, based on the final land use plan. The total unit count, however, would not change. Due to these project modifications, Table 8-1 on page 8-17 of the Draft SEIR is revised as follows:

Table 8-1 Summary Comparison of No Project—WLSP Development Alternative and the Modified Phase 2 Project

General Plan Designation/Land Use		Approved Phase 2 Project			Modified Phase 2 Project			Difference		
		Acres ¹	Dwelling Units ⁴	Non-Res. Floor Area (s.f.)	Acres ¹	Dwelling Units ⁴	Non-Res. Floor Area (s.f.)	Acres ¹	Dwelling Units ⁴	Non-Res. Floor Area (s.f.)
MU-RI	Mixed Use - (Paradise Cut Village Center)	0.0	0	0	154.8 <u>149.5</u>	2,439	360,000	154.8 <u>149.5</u>	2,439	360,000
CR-RI	Regional Commercial - (Employment Center)	125.0	0	1,800,000	61.9	0	1,035,000	(63.1)	0	(765,000)
TOD-RI	Transit Oriented Development ²	0.0	0	0	120.9 <u>116</u>	1,821	442,500	120.9 <u>116</u>	1,821	442,500
CN-RI	Neighborhood Commercial	17.7	0	180,000	0	0	0	(17.7)	0	(180,000)
RL-RI	Residential - Low	1,486.3	4,916	0	789.6 <u>797.3</u>	4,003 <u>4,064</u>	0	(696.7) <u>(689)</u>	(913) <u>(852)</u>	0
RM-RI	Residential - Medium	70.4	1,200	0	172.2 <u>161.3</u>	1,895 <u>1,704</u>	0	101.8 <u>90.9</u>	695 <u>504</u>	0
RH-RI	Residential - High	34.9	600	0	36.4 <u>32.7</u>	568 <u>698</u>	0	1.5 <u>(2.2)</u>	(32) <u>98</u>	0
RCO/OS-RI	Resource Conservation - Open Space	703.8	0	0	703.8	0	0	0.0	0	0
—	Parks	155.4	0	0	234.2 <u>230.3</u>	0	0	78.8 <u>74.9</u>	0	0
—	Lakes	235.0	0	0	195.5 <u>194.3</u>	0	0	(39.5) <u>(40.7)</u>	0	0
—	Schools	106.4	0	0	108.6 <u>106.3</u>	0	0	2.2 <u>(0.1)</u>	0	0
—	Streets	382.3	0	0	198.6 <u>200.3</u>	0	0	(183.7) <u>(182)</u>	0	0
—	Other Open Space/ Public Uses ³	127.7	0	0	657.6 <u>472.9</u>	0	0	529.9 <u>345.2</u>	0	0
Total Land Use Parcels		3,444.9	6,716	1,980,000	3,434.1 <u>3,226.6</u>	10,726	1,837,500	(10.8) <u>(218.3)</u>	4,010	(142,500)

Notes: Non-Res. = non-residential; s.f. = square feet

¹ The acreage shown includes Paradise Cut and adjacent waterways that may not be evaluated in the SEIR.

² This area was identified as "transit village" in the 2003 SEIR project description. The new title as shown should be used to be consistent with the Valley Link Transit Project.

³ The acreage estimated includes public uses such as fire stations and other City facilities, as well as open space areas not included with other land use designations.

⁴ Dwelling units tabulated are shown as per the City's existing and proposed land use categories and not in their physical location (e.g., districts).

Source: Provided by River Islands in 2021

3.9 REVISIONS TO CHAPTER 9, “REFERENCES”

To update a reference to the final version of the *River Islands Phase 2 Parks and Open Space Master Plan*, the reference on pages 9-1, 9-2, and 9-11 of the Draft SEIR is revised as follows:

Chapter 2, Executive Summary

River Islands. ~~2020~~ 2021 (~~December~~ April). *River Islands Phase 2 Parks and Open Space Master Plan*. Prepared by O'Dell Engineering, Modesto, CA.

Chapter 3, Description of the Proposed Project

River Islands. ~~2020~~ 2021 (~~December~~ April). *River Islands Phase 2 Parks and Open Space Master Plan*. Prepared by O'Dell Engineering, Modesto, CA.

Section 4.12, Recreation

River Islands. ~~2020~~ 2021 (~~December~~ April). *River Islands Phase 2 Parks and Open Space Master Plan*. Prepared by O'Dell Engineering, Modesto, CA.

4 REFERENCES

Chapter 1, Introduction

City of Lathrop. 2003 (January 22). *Final Subsequent Environmental Impact Report for the River Islands at Lathrop Project*. State Clearinghouse No. 1993112027. Lathrop, CA. Prepared by EDAW, Inc., Sacramento, CA.

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