

Draft Responses to Comment Letter GG

Shute, Mihaly and Weinberger LLP on behalf of the Cleveland National Forest Foundation

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March 18, 2013

	Comment	Response to Comment
GG -1	We submit this letter on behalf of the Cleveland National Forest Foundation ("CNFF" to provide comments on the proposed Forest Conservation Initiative Lands ("FCI Lands") General Plan Amendment 12-004 ("Project") and the accompanying draft Supplemental Environmental Impact Report ("DSEIR"). The purpose of this letter is to provide comments on the DSEIR for the proposed Project and to inform the County that the document fails to comply with the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code 21000 et seq., and the CEQA Guidelines, California Code of Regulations, title 14, 15000 et seq. ("Guidelines"). For the reasons set forth below, we request that the County delay further consideration of this Project until such time as a legally adequate EIR is prepared that fully complies with CEQA.	The County appreciates the commenter review of the Draft SEIR. The County does not agree that the Draft SEIR fails to comply with State law or is inconsistent with CEQA.
GG -2	CNFF and Save Our Forest and Ranchlands ("SOFAR") submitted comments to the County on the Draft EIR ("DEIR") for the General Plan Update, identifying legal inadequacies in that EIR. See letter from CNFF and SOFAR dated October 15, 2010, attached as Exhibit A. Those comments explained that the County's approach to land use in the County's back country would facilitate sprawling growth throughout the region; would undermine any attempt to ensure smart, city-centered growth; and would set the region on a course that is inconsistent with the State's climate objectives. CNFF's DEIR comment letter set forth a detailed infill development alternative ("Infill Alternative")	The Draft EIR for the General Plan Update was circulated for public review from July 1, 2009 through August 31, 2009. During that public review period, the County received a letter from Shute, Mihaly and Weinberger LLP on behalf of Save Our Forests and Ranchlands (SOFAR) dated August 31, 2009. County staff prepared detailed responses to each of the comments in that letter and included the comments and responses within the Final EIR (see comments and responses commencing on Page O14-1 available at: http://www.sdcounty.ca.gov/pds/gpupdate/docs/BOS_Aug2011/EIR/G3.07_Section_O_Organizations.pdf). Over a year later, the County received a joint letter from

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	that would have substantially reduced or avoided the significant impacts of the General Plan, yet the comments were dismissed out of hand. Because the County again failed to include analysis of an Infill Alternative in the DSEIR, the comments presented in the CNFF/SOFAR letter in 2010 are still relevant. For this reason, we incorporate those comments by reference and refer to those comments here and throughout this letter.	SOFAR and Cleveland National Forest Foundation (CNFF) dated October 15, 2010. The comments within this subsequent letter were not “dismissed out of hand.” While the County is not obligated to respond to comments provided long after the public review period, a detailed response was nonetheless prepared for the record. This response was labeled “Errata #1 Addition 2” and is available at http://www.sdcounty.ca.gov/pds/gpupdate/docs/BOS_Aug2011/Errata_8_3_2011.pdf . As provided in the record, the County carefully considered the alternative set forth in the joint letter and found it to be infeasible.
GG -3	As discussed in more detail below, the DSEIR perpetuates the failure of the General Plan EIR. The DSEIR identifies myriad unmitigable impacts, including significant/unavoidable impacts on aesthetics, agricultural resources, air quality, biological resources, wildland fire hazards, water quality, mineral resources, noise, school services, transportation, water supply, and landfill capacity. But rather than providing a meaningful analysis of alternatives for land uses on former FCI lands that would avoid or lessen these impacts, the DSEIR provides only a superficial alternatives analysis. In addition, the DSEIR presents a flawed analysis of the Project's contribution to climate change and fails to identify feasible mitigation measures for several significant impacts, including water supply and wildfire risk. In short, the DSEIR fails to remedy the General Plan EIR's deficiencies and fails to analyze alternatives that prevent sprawl and impacts associated with it. As a result, we conclude, once again, that the County would violate CEQA were it to certify this fatally flawed EIR.	<p>The County does not agree that the General Plan Final Program EIR is deficient and, therefore, does not agree that the Draft SEIR for the FCI Lands GPA perpetuates a failure or needs to remedy any deficiencies in the Program EIR.</p> <p>While analysis of project alternatives was not required for a Supplemental EIR based on CEQA statutes and guidelines, this Draft SEIR provides a meaningful analysis of a reasonable range of alternatives that would lessen significant impacts (see Chapter 4.0).</p>
GG -4	Every EIR must describe a range of alternatives to a proposed project, and to its location, that would feasibly	The County does not agree that a Supplemental EIR has to provide analysis of alternatives as described in CEQA

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	<p>attain most of the project's basic objectives while avoiding or substantially lessening the project's significant impacts. Pub. Res. Code 21100(b)(4), CEQA Guidelines 15126.6(c). A proper analysis of alternatives is essential for the County to comply with CEQA's mandate that significant environmental damage be avoided or substantially lessened where feasible. Pub. Res. Code S 21002; CEQA Guidelines 15002(a)(3), 15021(a)(2), 15126.6(a); see <i>Citizens of Goleta Valley v. Board of Supervisors</i> (1990) 52 Cal.3d 553, 564-65. As stated in <i>Laurel Heights Improvement Ass'n. v. Regents of the University of Cal.</i>, "[w]ithout meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process... [Courts will not] countenance a result that would require blind trust by the public, especially in light of CEQA's fundamental goal that the public be fully informed as to the consequences of action by their public officials." (1988) 47 Cal.3d 376,404. The DSEIR's discussion of alternatives fails to live up to these standards.</p>	<p>Guidelines Sections 15126.6(c). Under Section 15162, the CEQA Guidelines state that "the supplement to the EIR need contain only the information necessary to make the previous EIR adequate for the project as revised." Nonetheless, the County provided a reasonable range of alternatives in Chapter 4.0 of the SEIR that would meet most of the basic project objectives and that would substantially lessen significant impacts.</p>
<p>GG -5</p>	<p>The DSEIR does not comply with the requirements of CEQA because it fails to undertake a legally sufficient study of alternatives to the Project. CEQA provides that "public agencies should not approve projects as proposed if there are feasible alternatives...which would substantially lessen the significant environmental effects of such projects." Pub. Resources Code 21002. As such, a major function of the EIR" is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official." To fulfill this function, an EIR must consider a "reasonable range" of alternatives "that will foster informed decision making and public participation." Guidelines 15126.6(a). "An EIR which does not produce adequate information regarding alternatives cannot achieve the dual purpose</p>	<p>As noted above, a Supplemental EIR does not necessarily need all of the alternatives analysis quoted in this comment. However, the County has provided a reasonable range of reduced alternatives that are meant to foster informed decision making and public participation. Adequate information regarding alternatives has been provided within the SEIR.</p>

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	served by the EIR..." <i>Kings County Farm Bureau v. City of Hanford</i> (1990) 221 Cal. App. 3d 692, 733.	
GG -6	A reasonable range of alternatives includes options that will avoid or substantially lessen the Project's significant environmental impacts. In light of the Project's extensive significant and purportedly unavoidable impacts, it is incumbent on the County to carefully consider a range of feasible alternatives to the Project. The DSEIR fails to do so. In addition to the No Project alternative, which it claims will have <i>greater</i> impacts, the DSEIR offers only two alternatives: No New East Willows Village Alternative ("Alpine CPA" Alternative) and the Modified Project Alternative.	The County does not agree with this comment. See responses to comments GG-4 and GG-5.
GG -7	The DSEIR concedes that the Alpine CPA would have greater environmental impacts than the Project in the vast majority of impact categories. The DSEIR does not remotely suggest that the Alpine CPA Alternative will avoid or substantially reduce any significant environmental impacts. DSEIR at Table 4-1. Rather, Table 4-1 suggests that the Alpine CPA Alternative will result in fewer impacts to only 3 of roughly 60 impact categories: airport noise, parking and alternative transportation. Because the Project would not result in significant and unavoidable impacts in any of these three impact areas, the Alpine CPA Alternative does nothing to remedy the significant impacts of the Project. In short, the CPA Alternative fails to contribute to the DSEIR's "reasonable range."	The County generally agrees with this comment. The No New East Willows Village Alternative (Alpine CPA) would avoid expansion of the Village in Alpine to reduce significant traffic impacts. It is common and acceptable to have alternatives that focus on reducing impacts associated with one area of particular concern.
GG -8	The Modified Project Alternative incrementally reduces several of the Project's significant impacts, however, the Modified Project Alternative fails to "substantially reduce or avoid" a single one of the Project's significant and unavoidable impacts. The Modified Project alternative	The County agrees with this comment. Since the General Plan Update Program EIR and this SEIR both took the approach of analyzing impacts from a "plan-to-ground" perspective, the future development of 75,000 acres of land is going to result in significant unavoidable impacts as it relates

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	<p>would reduce densities on approximately 8,000 acres of FCI lands, which amounts to a mere 11 percent of all FCI lands.</p>	<p>to most subject areas. Only a widespread ban on development would be likely to result in determinations of less than significant for the identified impacts. While the Modified Project Alternative would only reduce densities on 11 percent of the project area, these reductions were based on County planning principles and consultations with stakeholders. Additional reductions would have appeared arbitrary based on the information available. However, it should be noted that the decision makers for the project may choose to further reduce densities throughout the project area.</p>
<p>GG -9</p>	<p>DSEIR at 4-25. The DSEIR's analysis of this alternative concludes that it would result in fewer impacts, but in most cases, the impacts of this alternative would still be significant and unavoidable. <i>See, e.g.</i>, SDEIR 4-27 through 4-48. As such, the DSEIR does not meet CEQA's mandate that an EIR "must consider a reasonable range of potentially feasible alternatives." Guidelines 15126.6(a). Such an approach violates the letter and spirit of CEQA. To ensure that the public and decision-makers have adequate information to consider the effects of the proposed Project, the County must prepare and recirculate a revised EIR that considers additional meaningful alternatives to the Project.</p> <p>The DSEIR must consider alternatives that actually avoid or substantially reduce the Project's significant environmental impacts. For instance, the County should consider an Infill Alternative that directs development to areas inside or immediately adjacent to the limits of the County's 18 incorporated cities. It cannot be seriously disputed that such an alternative would not substantially reduce the proposed Project's environmental impacts. For example, an Infill Alternative would: reduce the need for new infrastructure and associated costs because services can be provided more</p>	<p>The County does not agree that the Modified Project Alternative is insufficient or that the approach in the SEIR violates the letter and spirit of CEQA (see also responses to comments GG-4 and GG-5).</p> <p>The County acknowledges the recommendation for an "Infill Alternative", but does not agree that re-designating lands adjacent to incorporated areas is within the scope of this project. The primary purpose of this project is to appropriately re-designate the former FCI lands. These former FCI lands are not anywhere near the incorporated cities. Therefore, re-designating lands adjacent to cities would be out of scope for this project.</p>

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	efficiently to clustered development in areas that are already urbanized; reduce vehicle dependency, and in turn reduce air pollution and greenhouse gas emissions, by locating people in walkable and transit-oriented environments; reduce demand for water; conserve wildlife habitat and biodiversity; conserve agricultural lands; and protect water quality. Exhibit A at 7-16.	
GG-10	CNFF and SOFAR presented the County with an Infill Alternative, along with a study that confirmed the feasibility of such an alternative, more than two years ago, giving the County ample time to perform such an analysis. The DSEIR provides no reasonable explanation as to why the Infill Alternative and additional alternatives that offer features necessary to reduce the inevitable impacts from the proposed Project were not analyzed. Moreover, given that such an alternative is feasible, the DSEIR will remain inadequate if it is not carefully considered. <i>See San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino</i> (1984) 155 Cal. App. 3d 738,751; <i>Uphold Our Heritage v. Town of Woodside</i> (2007) 147 Cal. App. 4th 587,603.	The County General Plan was adopted in August 2011; therefore, there was no need to conduct additional analysis because, as discussed in comment GG-10 above, the areas where an Infill Alternative would be located are outside the scope of this project. See also response to comment GG-2 above.
GG-11	CEQA requires that an EIR evaluate a No-Project alternative that discusses the existing conditions as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved. Guidelines 15126.6(e)(2). The DSEIR's evaluation of the No Project Alternative erroneously assumes that the land designations on FCI lands would revert back to land use designations applicable under the pre-FCI General Plan. Based on this false assumption, the document concludes that the No Project Alternative would have greater impacts than the Project. There is no basis for the County's assumption or its false and misleading conclusion.	The County does not agree with the commenter's interpretation of the CEQA Guidelines. Specifically, Guidelines Section 15126.6(e)(2) states: The "no project" analysis shall discuss the existing conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services. If the environmentally superior alternative is the "no project" alternative, the EIR shall also identify an

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		<p>environmentally superior alternative among the other alternatives.</p> <p>In accordance with this Section, the SEIR discusses the existing conditions of the project area. These CEQA Guidelines also go on to say that the No Project Alternative may proceed along one of two lines. The County chose the option in Section 15126.6(e)(3)(A):</p> <p>When the project is the revision of an existing land use or regulatory plan, policy or ongoing operation, the “no project” alternative will be the continuation of the existing plan, policy or operation into the future. Typically this is a situation where other projects initiated under the existing plan will continue while the new plan is developed. Thus, the projected impacts of the proposed plan or alternative plans would be compared to the impacts that would occur under the existing plan.</p> <p>The No Project Alternative in this case would have greater impacts than the Project. This is because the General Plan land use designations reverted back to the Pre-FCI densities at the end of the year 2010. Those densities are much higher than what is proposed by the Project.</p>
GG-12	<p>Rather, as detailed in a letter from CNFF to the County Board of Supervisors in 2010, the Elections Code, the text of the initiative and the legislative history all dictate that the December 31, 2010 sunset date refers to the date that the County Board of Supervisors may amend the FCI designations without seeking voter approval. <i>See generally</i> letter from Shute, Mihaly & Weinberger on behalf of CNFF</p>	<p>The County has carefully reviewed this issue and does not agree with the commenter. Based on thorough review of the same materials cited in this comment, the County has determined that the sunset date refers to the initiative itself. Therefore, on December 31, 2010, these lands reverted back to the land use designation that was in effect prior to the Forest Conservation Initiative.</p>

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	<p>to the County Board of Supervisors, dated December 7, 2010, attached as Exhibit B.</p> <p>First, although the FCI Initiative does not state what will happen after 2010, the Elections Code fills the gap. Specifically, Elections Code section 9125 states: No ordinance proposed by initiative petition and adopted either by the board of supervisors without submission to the voters or adopted by the voters shall be repealed or amended except by a vote of the people, unless provision is otherwise made in the original ordinance. Absent a sunset clause, FCI's land use designations would continue eternally unless the voters enacted a change in the measure. The sunset clause simply "provides otherwise" for this default rule, specifying that the voter approval requirement will disappear in 2011.</p> <p>Second, the FCI expressly states that the former designations, to the extent they are inconsistent with "National Forest and State Parks (23)" designation, are "repealed". Courts refuse to read reversionary clauses into to statutes where they are not expressly stated in the text of the measure. <i>See, e.g., Stott Outdoor Advertising v. County of Monterey</i> (2009) 601 F.Supp.2d 1143, 1150-51 (finding no factual support for plaintiff's assertion that County would revert back to existing outdoor sign regulations following the expiration of a temporary interim urgency ordinance). Accordingly, rather than providing that the land use designations would be reinstated in 2011, FCI expressly provides that they are repealed.</p> <p>Third, FCI's legislative history confirms that the measure did not intend to reinstate the previous land use designations in 2011. County Counsel's Impartial Analysis states that the</p>	

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	<p>pre-FCI land use designations are "repealed", and does not suggest that this repeal would somehow be nullified after the Initiative sunsets. Even the opponents of the Initiative did not believe the land use designations would revert back in 2011. The "con" ballot argument states that FCI "is a dangerous precedent - wiping out careful planning guidelines." The voters who thought they were "wiping out" planning guidelines could not possibly have imagined that these planning guidelines would be reinstated. <i>See Robert L. v. Superior Court</i> (2003) 30 Cal.4th at 901 (the court's "task is simply to interpret and apply the initiative's language so as to effectuate the electorate's intent").</p> <p>Finally, the County's theory that the pre-FCI land use designations will be reinstated after FCI's sunset undermines the long-term purpose of land use planning and sound planning principles. General plans do not terminate when they reach their scheduled horizon year. <i>See Gov't Code 65300 et seq.</i> FCI's land use designations will simply continue until such time, if ever, that the County adopts new designations.</p> <p>In summary, there is nothing in the text of the FCI or the applicable statutes and case law that suggests that the land uses "reverted back" to pre-FCI designations on January 1, 2011. To the extent the County claims otherwise means it took a discretionary action to amend the General Plan without complying with CEQA.</p>	
GG-13	<p>The County must correct this flaw in a revised SEIR that properly describes and evaluates the No Project alternative as retaining FCI land use designations.</p>	<p>Since the County does not agree that there is a flaw in the Draft SEIR with regard to the expiration of the FCI Lands initiative, the County also disagrees that associated revisions are needed in the SEIR.</p>
GG-14	<p>If there is a feasible alternative to a project that meets most</p>	<p>The County agrees with the citations in this comment.</p>

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	<p>of the project objectives and would reduce or avoid significant impacts, then the lead agency may not approve the project as proposed. See <i>Uphold Our Heritage v. Town of Woodside</i> (2007) 747 Cal. App. 4th 587,603. To reject environmentally favorable alternatives, the agency must find that they either do not meet the project's objectives or that they are infeasible that is, they are not "capable of being accomplished in a successful manner... taking into account economic, environmental, social, and technological factors." Pub. Res. Code 21061.1. Such a conclusion must be supported by substantial evidence in the record.</p>	
<p>GG-15</p>	<p>The DSEIR dismisses the FCI Density Alternative without sufficient justification and therefore does not meet this standard.</p> <p>The DSEIR excludes the FCI Density Alternative despite the fact that this alternative would reduce impacts to many of the significant unavoidable impacts identified by the DSEIR. DSEIR at 4-3. The DSEIR concludes that the FCI Density Alternative would not fulfill the Project objectives. DSEIR at 4-4. However, the document provides no evidence to support this conclusion. Instead, it vaguely states that this Alternative would be inconsistent with the "Guiding Principles and Policies of the adopted General Plan." Id. The DSEIR fails to specify the particular principles and policies that would be violated.</p>	<p>While the FCI Density Alternative can be considered by the decision makers for this project, County staff's review indicates that this alternative would not meet the project objectives. A blanket 1:40 density over the entire project area would contradict the following project objectives:</p> <ol style="list-style-type: none"> 1. Support a reasonable share of projected regional population growth. 2. Promote sustainability by locating new development near existing infrastructure, services, and jobs. 3. Reinforce the vitality, local economy, and individual character of existing communities while balancing housing, employment, and recreational opportunities. 5. Ensure that development accounts for physical constraints and the natural hazards of the land. 10. Recognize community and stakeholder interests while striving for consensus.

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GG-16	To the contrary, our review of the General Plan Guiding Principles reveals that the opposite is true. For example, General Plan Guiding Principle 2 directs the County to “promote health and sustainability by locating new growth near existing and planned infrastructure, services, and jobs in compact patterns of development.” General Plan at 2-7. Retaining FCI Lands at current densities and directing growth into existing urbanized areas would be consistent with this principle by locating growth near existing infrastructure and jobs.	The County does not agree that the FCI density of 1:40 would better meet this Guiding Principle. The proposed Project would place village and semi-rural densities near existing and planned infrastructure, services and jobs in a compact manner in the Alpine CPA. The FCI Density Alternative would not accomplish this.
GG-17	Guiding Principle 5 directs the County to "ensure that development accounts for physical constraints and the natural hazards of the land." Maintaining current FCI densities would comply with this principle by locating growth in urbanized areas away from wildfire prone areas, thus reducing impacts related to wildland fire hazards.	The County does not agree with this comment. In many constrained areas, the County is placing a density of 1:80 to reduce fire hazards below FCI Density Alternative impacts. The proposed Project more closely accounts for physical constraints and places density in suitable areas.
GG-18	Guiding Principle 7 directs the County to "maintain environmentally sustainable communities and reduce greenhouse gas emissions that contribute to climate change." As discussed throughout this letter, maintaining FCI land use designations and directing new growth to existing urbanized areas would locate people to areas that are walkable and served by transit, thus reducing vehicle miles traveled and related greenhouse gas emissions.	The FCI density of 1:40 would likely reduce greenhouse gas emissions overall compared to the proposed Project. Therefore, the County generally agrees with this comment but still finds that the FCI Density Alternative would be infeasible (see response to comment GG-15).
GG-19	Guiding Principle 8 directs the County to "preserve agriculture as an integral component to the region's economy, character, and open space network." Given that the Project as proposed would result in a direct loss of 6,000	The FCI density of 1:40 would likely reduce impacts to existing agriculture overall compared to the proposed Project. Therefore, the County generally agrees with this comment but still finds that the FCI Density Alternative would be

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	acres of agricultural lands, retaining existing densities and preserving these agricultural lands would obviously be consistent with this principle.	infeasible (see response to comment GG-15).
GG-20	In fact, had the DSEIR conducted a proper analysis of this Alternative, it would likely have found that retaining FCI densities and locating growth to urbanized areas directly responds to and complies with all of the General Plan Guiding Principles.	The County does not agree that a detailed analysis of the FCI Density Alternative was needed (see response to comment GG-15).
GG-21	Having concluded, without supporting evidence, that the Alternative would not comply with the General Plan, the DSEIR then asserts that the Alternative would result in significant land use compatibility conflicts because several FCI parcels are located within urban areas and are better suited for intense development. DSEIR at 4-4. Once again, the DSEIR fails to provide any evidence to support this statement.	The cited land use compatibility conflicts have been identified through extensive meetings with community groups and property owners, site visits, and GIS analysis where former FCI Lands occur within or adjacent to urban areas (e.g., Willows Road in Alpine).
GG-22	In sum, the DSEIR offers only unsupported conclusions instead of any legitimate justification for rejecting the FCI Density Alternative. Under CEQA, an agency may not approve a proposed project if a feasible alternative exists that would meet most of the project's objectives and would diminish or avoid its significant environmental impacts. <i>See</i> Pub. Res. Code 21002; <i>Kings County</i> , 221 Cal.App.3d at 731.	The County acknowledges and appreciates this comment. Ultimately, the Board of Supervisors will determine how best to meet the objectives of the Project and CEQA findings will be prepared to support the Board's decision.
GG-23	Given the extensive environmental impacts this Project will have, the consideration of alternatives will not be complete until the County prepares a revised DSEIR that presents decision-makers and the public with a rigorous, good-faith assessment of options that reduce the environmental consequences of the Project.	The County does not agree with this comment (see also responses to comments GG-4 and GG-5).
GG-24	The DSEIR's evaluation of the Project's contribution toward climate change is severely flawed because it: (a) omits	As described in the Draft SEIR, the Project would comply with all applicable General Plan Update policies and

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	<p>consideration of the Plan's impacts beyond 2020; and, (b) obscures the Plan's dramatic conflict with both science and long-term climate policy. Consequently, the DSEIR fails to disclose information essential to intelligently evaluate the Plan's consequences for the climate.</p>	<p>mitigation measures as identified in the General Plan Update Program EIR to reduce GHG emissions in the County. In addition, all future development under the Project is required to comply with the County's Climate Action Plan (CAP) which was prepared to comply with the 2011 adopted County General Plan Environmental Impact Report (EIR) Mitigation Measure CC-1.2, Preparation of a Climate Action Plan. The CAP included a GHG reduction target for 2020. In addition, the County recognizes the goal established by Executive Order S-3-05, which calls for emissions reductions of 80% below 1990 levels by 2050. Therefore, the County developed emissions forecasts for 2035 and 2050 to demonstrate the business as usual (BAU) path for the County and the emissions reductions that would be needed to meet the 2050 goal. The CAP includes measures and actions that demonstrate how the County would achieve the 2020 reduction target and work toward the 2035 target. The CAP includes more aggressive GHG reduction goals for 2035 and as new regulations and technology provide for further reductions beyond 2020, the CAP will be revised to reflect additional reductions that can be achieved. The Project, through compliance with the CAP, would achieve reductions consistent with those outlined in the CAP for 2020 and 2035. The comment additionally states that the DraftSEIR obscures the Plan's conflict with science and long-term climate policy. However, no evidence or detail is provided in the comment as to how the DSEIR conflicts with the cited issue areas. The comment is noted.</p>
<p>GG-25</p>	<p>The FCI Project is a long-range planning document that addresses growth over the next forty or so years. Consequently, the DSEIR must identify and analyze the environmental impacts from the FCI Project over its entire expected timeframe. CEQA defines a "project" as "the whole</p>	<p>The County agrees with this comment. Draft SEIR evaluates potential impacts through "buildout" of the project area.</p>

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	<p>of an action, which has a potential for resulting in either a direct physical change" or "a reasonably foreseeable indirect change in the environment." Guidelines 15378(a) (emphasis added); see also Guidelines 15378(c) (term project" means the whole of the "activity which is being approved"). Thus, CEQA requires that an agency take an expansive view of any particular project as it conducts the environmental review for that project. See <i>McQueen v. Bd. of Directors</i> (1988) 202 Cal.App.3d 1136, 1143 (disapproved on other grounds in <i>Western States Petroleum Assn. v. Superior Court</i> (1995) 9 Cal.4th 559,570) (term "project" is interpreted so as to "maximize protection of the environment").</p>	
GG-26	<p>Furthermore, according to CEQA, evaluation of an impact's significance calls for "careful judgment... based to the extent possible on scientific and factual data" and must reflect the project's "setting." Guidelines 15064(b), 15064.4(a).</p>	<p>The County agrees with this comment.</p>
GG-27	<p>The DSEIR relies largely on the GHG emission inventory prepared as part of the GPU EIR for the years 1990, 2006, and 2020. DSEIR Climate Change Exhibit at 12. By the year 2020, GPU GHG emissions are projected to increase to 7.1 million metric tons carbon dioxide equivalent (MMT CO₂e) (from 5.3 MMT CO₂e in 1990) without incorporation of any GHG-reducing policies or mitigation measures. This amount represents an increase of 24 percent over 2006 levels, and a 36 percent increase from estimated 1990 levels. This is considered a potentially significant impact. Id.</p>	<p>The comment acknowledges the analysis from the Global Climate Change section of the Draft SEIR. No further response to this comment is necessary.</p>
GG-28	<p>The DSEIR explains that the proposed FCI Project would result in an increase in development that would further add to the GHG emissions projected for the region. The DSEIR appropriately determines that the proposed Project's contribution to this significant cumulative impact would be</p>	<p>The comment acknowledges the conclusions from the Global Climate Change section of the Draft SEIR. No further response to this comment is necessary.</p>

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	cumulatively considerable, prior to mitigation. <i>Id.</i>	
GG-29	<p>Critically, the GPU DEIR and the FCI DSEIR only analyze GHG emission levels through 2020 despite the fact that the horizon year for the GPU may be as far out as 2050. GPU DEIR at 2.17-13. By ignoring the Project's impacts between 2020 and 2050, the DSEIR improperly hides the Plan's climate impacts. This period is precisely when both climate science and California policy—specifically, Executive Order S-3-05—require emissions to decrease rapidly and remain low permanently to avoid unacceptable climate change.</p>	<p>The Climate Action Plan (CAP), which was prepared to comply with GHG mitigation measures in the GPU EIR, analyzes emissions levels for 2020 and beyond. The CAP included emissions projections for 2035 and 2050 to show the emissions trajectory required to achieve GHG reductions beyond 2020. The CAP also includes an emissions-reduction goal and additional measures for 2035 that would put the County on the path toward the 2050 goal. The County recognizes that climate change will need to be addressed beyond 2020 and has developed an aggressive scenario for achieving additional reductions beyond 2020.</p> <p>Also, the goal of reducing emissions 80 percent below 1990 levels by 2050 is contained in an Executive Order issued by the California Governor. An Executive Order does not have the force and effect of law. Nor is there law or guidance similar to that of AB 32 and its associated implementing legislation and reports for the 2050 target. Additionally, the Executive Order does not include any specific measures to achieve these reductions, and instead merely places oversight for reporting from all state agencies with CalEPA. Therefore, the County did not use the 2050 target in determining significance of impacts.</p> <p>AB 32 and the Scoping Plan—as informed but not mandated by Executive Order #S-3-05—establish the statewide standards and implementation measures for emissions reductions applicable to local agencies such as the County. It is anticipated, however, that additional measures for reducing GHG emissions, in all sectors, will be made beyond AB 32. As AB 32 states, the California Air Resources Board (ARB) can make recommendations to the Governor and the</p>

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		<p>Legislature on how to continue GHG reductions beyond 2020. The County is committed to meeting its legislative requirements and as additional requirements are set for years beyond 2020, the County will seek to meet those.</p>
<p>GG-30</p>	<p>Science establishes that in order to stabilize the climate and avoid the most catastrophic outcomes of climate change, we must substantially reduce our annual GHG emissions over time, achieving a low-carbon future by mid-century. See California Air Resources Board Scoping Plan at 4. California climate policy, as reflected in Executive Order S-3-05, requires reducing emissions 80 percent below 1990 levels by 2050 so as to avoid extreme climate impacts. The AB 32 Scoping Plan incorporates this goal, establishing a "trajectory" for reaching it over time. That trajectory requires continuing and steady annual reductions in both total and per capita emissions.</p>	<p>As stated in response to comment #GG-33, the County’s CAP includes measures to achieve reductions by 2035 to make progress towards the emissions trajectory necessary to meet the 2050 goal. The CAP presents a reduction goal for 2020, to correspond AB 32 target year, and acknowledges “the need to reduce GHG emissions will not end in 2020”; presenting reduction scenarios demonstrating the steps necessary to reduce emissions by 49% below 2005 levels, which would place the County on a trajectory to achieve emissions reductions by 2050 that are aligned with EO S-3-05.</p> <p>Because AB 32 and the Scoping Plan establish the statewide standards and implementation measures (including SB 375) for GHG emissions reductions, there is no statewide guidance on assumptions, strategies, or measures to calculate achievement of the Executive Order’s aspirational goal. As the California Energy Commission acknowledges, the primary strategies for achieving the Executive Order’s goal must come from the decarbonization of electricity supplies and fuels, and major improvements in energy efficiency. This demonstrates the challenges facing the state and County and the level of commitment needed at many levels to achieve these ambitious targets. As discussed throughout the CAP, the proposed measures will be monitored and the CAP will be updated to reflect changing conditions, which may make these goals achievable as 2035 approaches. Therefore, the CAP demonstrates how the County can achieve reductions through 2020 and beyond.</p>

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	Comment	Response to Comment
GG-31	<p>The Attorney General and air districts have also concluded that an assessment of GHG impacts from long-range planning documents such as the GPU or FCI Project should be based on whether the planning document functions to achieve reductions consistent with AB 32 and Executive Order S-3-05. For example, in "Climate Change, the California Environmental Quality Act, and General Plan Updates," the Attorney General stated: Governor Schwarzenegger's Executive Order S-3-05, which commits California to reducing its GHG emissions to 1990 levels by 2020 and to eighty percent below 1990 levels by 2050, is grounded in the science that tells us what we must do to achieve our long term climate stabilization objective. The Global Warming Solutions Act of 2006 (AB 32), which codifies the 2020 target and tasks ARB with developing a plan to achieve this target, is a necessary step toward stabilization. Accordingly, the targets set in AB 32 and Executive Order S-3-05 can inform the CEQA analysis.</p>	<p>See response to comment GG-34.</p>
GG-32	<p>One reasonable option for the lead agency is to create community-wide GHG emissions targets for the years governed by the general plan. The community-wide targets should align with an emissions trajectory that reflects aggressive GHG mitigation in the near term and California's interim (2020) and long-term (2050) GHG emissions limits set forth in AB 32 and the Executive Order.</p>	<p>The County's CAP developed GHG emissions inventories for 2020, 2035 and 2050, in addition to the baseline years. Additionally, GHG reduction targets were established for 2020 and 2035. The 2020 GHG reduction target is consistent with AB 32 while the 2035 target is based on emissions trajectory that could be potentially required to meet the 2050 goal in EO S-03-05.</p>
GG-33	<p>In developing GHG thresholds, the Bay Area Air Quality Management District similarly determined that when analyzing the impacts of long-range plans, significance criteria should be based on AB 32 for the 2020 planning year and that, given the additional reductions needed beyond 2020, lead agencies should look to the more aggressive reductions set forth in Executive Order S-3-05 for later planning horizons.</p>	<p>See response to comment GG-32.</p>

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	Comment	Response to Comment
GG-37	<p>A California court recently ruled on this exact issue. In <i>Cleveland National Forest Foundation, et. al., v San Diego Association of Governments</i> (Case No. 37-2011-00101593-CU-TT-CTL), the Court ruled that the San Diego Association of Governments ("SANDAG") impermissibly dismissed E-O S-03-05: This position [SANDAG's failure to identify its plan's inconsistency with the Executive Order as a significant effect] fails to recognize that Executive Order S-3-05 is an official policy of the State of California, established by a gubernatorial order in 2005, and not withdrawn or modified by a subsequent (and predecessor) governor. Quite obviously it was designed to address an environmental objective that is highly relevant under CEQA (climate stabilization)... SANDAG thus cannot simply ignore it. This is particularly true in a setting in which hundreds of thousands of people in the communities served by SANDAG live in low-lying areas near the coast, and is thus susceptible to rising sea levels associated with global climate change. The court in <i>Association of Irrigated Residents v. State Air Resources Board</i> (2012) 206 Cal. App. 4th 1487, 1492-93, recognized the importance of the Executive Order in upholding the ARB's Scoping Plan. The court agrees with petitioners that the failure of the EIR to cogently address the inconsistency between the dramatic increase in overall GHG emissions after 2020 contemplated by the RTP/SCS and the statewide policy of reducing same during the same three decades (2020-2050) constitutes a legally defective failure of the EIR to provide the SANDAG decision makers (and thus the public) with adequate information about the environmental impacts of the SCS/RTP." See Judgment, attached as Exhibit C.</p>	<p>See response to comment GG-32.</p>
GG-38	<p>In sum, because the DSEIR does not evaluate the FCI Project's impacts beyond 2020 and because it ignores the</p>	<p>See response to comments GG-31 and GG-32.</p>

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	Comment	Response to Comment
	Project's dramatic conflict with both science and long-term climate policy, it omits information essential to intelligently evaluate the Project's consequences for the climate. The DSEIR must be revised to examine the contribution to climate change throughout the entire period the Project is expected to be in effect.	
GG-39	Here, the DSEIR concedes that the Project will result in many significant unavoidable impacts, but then fails to identify feasible mitigation to reduce these impacts. DSEIR at Table S-2. In one of the more egregious examples, the DSEIR explains that the proposed Project would result in increases in population and housing in areas that may not have been accounted for in the most current water planning documents. DSEIR at 2.14-8. It goes on to state that there "may be uncertainties surrounding the implementation of future water supply projects, such as difficulty obtaining permits for desalination projects, unexpected water quality contamination of supply sources, erratic weather patterns associated with climate change, and competing demands for water supply." <i>Id.</i> The Project would also result in "groundwater dependent districts having inadequate water supply to serve the projected demand of the proposed Project." <i>Id.</i>	The County has included all feasible mitigation measures in the project to reduce potentially significant impacts. It is common, if not standard, for a land use plan for future development to precede any update to a water services plan. In other words, a water service plan is not going to plan for expansion of services until there is a land use plan in place that shows need for expansion. Under CEQA, this means that the land use plan will have to identify potentially significant environmental impacts associated with that expansion. The Draft SEIR accomplishes this goal and provides a meaningful overview of potential outcomes for future water supply.
GG-40	Based on this analysis, the DSEIR rightly concludes that implementation of the proposed Project would result in significant and unavoidable direct and cumulative impacts related to water supplies. DSEIR at 2.14-8.	The County agrees with this comment, which is not inconsistent with the existing content of the Draft SEIR.
GG-41	The DSEIR points to one mitigation measure to address impacts related to water supply; a Countywide moratorium on building permits and development applications in any areas of the County that would have an inadequate imported water supply to serve future development until adequate	The County agrees with this comment, which is not inconsistent with the existing content of the Draft SEIR.

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	Comment	Response to Comment
	supplies are procured. DSEIR at 2.14-17. However, the DSEIR claims implementation of this measure is not feasible because such a moratorium would conflict with the Project objective to support a reasonable share of projected regional population growth. <i>Id.</i>	
GG-42	As explained, throughout this letter, the County can, and should, consider mitigation measures and alternatives that retain FCI land designations and direct growth to infill areas in urbanized communities.	The County does not agree that the former FCI Density is a feasible alternative for this Project. However, the Board of Supervisors can choose the FCI Density alternative if it finds that such an alternative is feasible (i.e., that it best meets the project alternatives). Therefore, this information will be included in the Final SEIR for the Board’s consideration.
GG-43	As explained in Exhibit A, the Infill Scenario Study demonstrates that there is ample vacant land within the incorporated cities. The fact that implementation of such an alternatives would entail development in the incorporated cities, outside of the County's jurisdiction, does not render the alternative infeasible. See <i>Goleta v. Board of Supervisors</i> (1990) 52 Cal.3d at 576 n.7 (holding that “jurisdictional borders are simply a factor to be taken into account and do not establish an ironclad limit on the scope of reasonable alternatives.”); <i>Placer Ranch Partners v. County of Placer</i> (2001) 91 Cal App. 4th 1336, 1339-40 (upholding County's General Plan Update where the County analyzed a city-centered growth alternative similar to CNFF's Infill Alternative).	See response to comments GG-2, GG-9 and GG-10.
GG-44	For the foregoing reasons, CNFF urges the County to delay further consideration of this FCI General Plan Amendment unless and until the City prepares and recirculates a revised draft SEIR that fully complies with CEQA and the CEQA Guidelines.	The County appreciates this comment; however, County staff has found this Draft SEIR to be in conformance with CEQA Statutes and Guidelines.