

## 2 COMMENTS AND RESPONSES TO COMMENTS

This chapter contains comment letters received during the public review period for the draft EIR, which concluded on February 27, 2020. 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 EIR.

### 2.1 LIST OF COMMENTERS ON THE DRAFT EIR

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
<b>AGENCIES</b>		
A1	California Coastal Conservancy Christopher Kroll, Project Manager	February 27, 2020
A2	California Department of Conservation, Division of Mine Reclamation Carol E. Atkins, Manager, Environmental Services Unit Paul Fry, Manager, Engineering and Geology Unit	February 27, 2020
A3	California Department of Fish and Wildlife Erinn Wilson, Environmental Program Manager I	February 26, 2020
A4	California Department of Transportation, District 7 Alan Lin, P.E., Project Coordinator	February 25, 2020
A5	California Department of Transportation, District 7 Miya Edmonson, IGR/CEQA Branch Chief	February 27, 2020
A6	Calleguas Municipal Water District Dan Drugan, Manager of Resources	February 24, 2020
A7	City of Camarillo Dave Norman, City Manager	February 21, 2020
A8	City of Moorpark Douglas Spondello, Planning Manager	February 27, 2020
A9	City of Ojai James Vega, City Manager	February 26, 2020
A10	City of Oxnard Jeffrey Lambert, AICP, Community Development Director	February 27, 2020
A11	Santa Monica Mountains Conservancy Irma Munoz, Chairperson	February 24, 2020
A12	U.S. Department of the Navy, Naval Base Ventura County J.E. Chism, Captain, U.S. Navy Commanding Officer	February 27, 2020
A13	Ventura County Agricultural Policy Advisory Committee Sanger Hedrick, Chair Scott Deardorff, District 2 Patty Waters, District 4	February 27, 2020
A14	Ventura County Air Pollution Control District Dr. Laki Tisopulos, Air Pollution Control Officer	February 27, 2020

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<b>Letter No.</b>	<b>Commenter</b>	<b>Date</b>
A15	Ventura County Public Works James Maxwell, Groundwater Specialist	February 27, 2020
A16	Ventura County Public Works Sergio Vargas, Deputy Director, Watershed Protection District, PWA	February 27, 2020
A17	Ventura Water Susan Rungren, General Manager	February 27, 2020
<b>ORGANIZATIONS</b>		
O1	350 Ventura County Climate Hub Jan Dietrick and 204 Signatories	February 27, 2020
O2	ABA Energy Corporation Alan B. Adler, President	February 27, 2020
O3	Action for Change in Changing Times Frank C. Bognar	February 25, 2020
O4	Action for Change in Changing Times Cindy Piester, Carin Wofford, Jabbar Wofford, Leslie Purcell, Margo Davis, Gail Hodgson, Alan Hodgson, Carol Vasecky, Alex Uvari, Marisa Sanchez, Arturo Guido, Frank Bognar, Geoffrey Dann, Wendy Lofland, Rosyln Jean Scheuerman, Paul Benevidez, Nissa Benevidez, Ivsar Marina, Andrew Steel, Nancy Genevieve Oatway, Nicholas Oatway, Rev. Dr. Audrey Wise Vincent, Martin Jones, Susan Shamroy, Margaret Wilson, Nikki G. Alexander, Edward G. Alexander, Dianne Kenny, Judith Cuevas, Ray Cuevas, Gillian Dale, Nancy Shuman, Mark Shuman, Amelia Aparicio, Jeremy Kersch, Debra Myrent, Nick Corrett, Janet Murphy, Heidi Rosenfield, Sheila Williams, Lucy Duffy, Frank Peterson, Heidi Whelan, Sandy Beckner, Laura Schneider, Betsy Shipley, Gerald Schwanke, Angela Grismer, Julie Shaw, Diana Cooley, Pam Holley-Wilcox, Karen Trowbridge, Beverly Brovsky, and Arnett Smithson	February 27, 2020
O5	Aera Energy LLC Michael S. James, Senior Counsel	February 27, 2020
O6	Aera Energy LLC William J. Spear III, Ventura Manager of Operations	February 27, 2020
O7	Borchard Companies, Inc John W. Borchard, Jr., Chief Financial Officer	February 27, 2020
O8	Building Industry Legal Defense Foundation Adam S. Wood, Administrator	February 27, 2020
O9	California Construction and Industrial Materials Association Adam Harper, Director of Policy Analysis	February 27, 2020
O10	California Independent Petroleum Association Rock Zierman, Chief Executive Officer	February 27, 2020
O11	California Native Plant Society David L. Magney, CNPS Rare Plant Program Manager	February 24, 2020
O12	California Native Plant Society David L. Magney, CNPS Rare Plant Program Manager	February 27, 2020
O13	Alston & Bird Matthew C. Wickersham	February 26, 2020
O14	Camarillo Chamber of Commerce Gary Cushing, MPPA, CEO	February 27, 2020

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<b>Letter No.</b>	<b>Commenter</b>	<b>Date</b>
O15	Carbon California Company Neal Maguire	February 26, 2020
O16	Center for Biological Diversity J.P. Rose, Urban Wildlands Staff Attorney	February 24, 2020
O17	Channel Islands Bicycle Club Leslie Ogden, President	February 24, 2020
O18	Climate First: Replacing Oil & Gas John Brooks, President	February 25, 2020
O19	Climate First: Replacing Oil & Gas	February 26, 2020
O20	Climate First: Replacing Oil & Gas Kevin P. Bundy, Shute, Mihaly & Weinberger LLP	February 27, 2020
O21	Coast Ranch Family LLC Laura K. McAvoy, Musick, Peeler, & Garrett LLP	February 25, 2020
O22	Community Environmental Council Sigrid Wright, Executive Director	February 27, 2020
O23	Laborers' International Union of North America Martin Rodriguez, President, Tri-Counties Building & Construction Trades Council Tony Skinner, Executive Secretary-Treasurer, Tri-Counties Building & Construction Trades Council Jeff Bode, Business Manager, International Brotherhood of Electrical Workers Local 952 Anthony Mireles, Business Manager, LiUNA Laborers Local 585 Mercy Urrea, Southwest Regional Council of Carpenters	February 27, 2020
O24	Oxnard Chamber of Commerce Nancy Lindholm, President/CEO	February 24, 2020
O25	Port of Hueneme: Oxnard Harbor District Kristin Decas, CEO & Port Director	February 27, 2020
O26	Renaissance Petroleum, LLC Marc Wade Traut, President	February 26, 2020
O27	SoCalGas Jennifer Pezda, MESM, Environmental Policy Advisor	February 21, 2020
O28	SoCalGas Deanna Haines, Director Policy, Strategy and Environment	February 27, 2020
O29	Ventura Citizens for Hillside Preservation	February 26, 2020
O30	Ventura County Archaeological Society Julie Swift, President-Elect	February 27, 2020
O31	Ventura County Chamber of Commerce Stephanie Caldwell, President & CEO	February 26, 2020
O32	Ventura County Coalition of Labor, Agriculture and Business Louise Lampara, Executive Director	February 25, 2020
O33	Ventura County Economic Development Association Sandy E. Smith, VCEDA Policy Chair	February 27, 2020
O34	Ventura County Tax Payers Association David Grau, President	February 25, 2020
O35	Ventura County Transportation Commission Amanda Fagan, Director of Planning and Policy	February 27, 2020

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<b>Letter No.</b>	<b>Commenter</b>	<b>Date</b>
O36	Vertical Wellness Elyse Kaplan, Corporate Counsel	February 21, 2020
O37	Western States Petroleum Association Ben Oakley, California Coastal Region Manager	February 27, 2020
O38	Western States Petroleum Association and California Independent Petroleum Association Cathy Reheis-Boyd, President	February 27, 2020
O39	Wishtoyo Chumash Foundation Tevin Schmitt, Watershed Scientist	February 25, 2020
O40	The Wood-Claeysens Foundation Noelle C Burkey, Chief Executive Officer	February 21, 2020
<b>INDIVIDUALS</b>		
I1	Adam Vega	February 27, 2020
I2	Alda L Perry	February 26, 2020
I3	Ally Gialketsis	February 22, 2020
I4	Andy Ehrhart	February 25, 2020
I5	Ann C Cooluris	February 24, 2020
I6	Anna Chambers	February 27, 2020
I7	Anna Chambers	February 27, 2020
I8	Anna Chambers	February 27, 2020
I9	Anna Chambers	February 27, 2020
I10	Aubrey E Sloan	February 25, 2020
I11	Audrey H Fester	February 25, 2020
I12	Barb Miller	February 24, 2020
I13	Barbara Leighton	February 23, 2020
I14	Beverly Chambers de Nicola	February 25, 2020
I15	Beverly Chambers de Nicola	February 25, 2020
I16	Beverly Chambers de Nicola	February 25, 2020
I17	Beverly Chambers de Nicola	February 25, 2020
I18	Beverly Gutierrez	February 24, 2020
I19	Bruce Holley	February 23, 2020
I20	Bruce Smith, AICP	February 24, 2020
I21	Carol Holly	February 27, 2020
I22	Carolyn Diacos	February 24, 2020
I23	Chad Christensen	February 25, 2020
I24	Chris Raymond	February 26, 2020
I25	Christina Pasetta	February 24, 2020
I26	Christina Pasetta	February 20, 2020
I27	Christine Brennan	February 26, 2020
I28	Christopher Tull	February 19, 2020

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<b>Letter No.</b>	<b>Commenter</b>	<b>Date</b>
I29	Christopher Tull	February 27, 2020
I30	Christopher Tull	February 27, 2020
I31	Chuck Carmichael	February 25, 2020
I32	Clint Fultz	February 23, 2020
I33	Cynthia Thomas Dickson	February 27, 2020
I34	Daniel J Chambers	February 27, 2020
I35	Dario Grossberger	February 27, 2020
I36	Dave Chambers	February 25, 2020
I37	Dave Holroyd Chambers	February 25, 2020
I38	Dave Holroyd Chambers	February 25, 2020
I39	Dave Holroyd Chambers	February 27, 2020
I40	Dave Holroyd Chambers and Beverly Chambers de Nicola	February 25, 2020
I41	David S Armstrong	February 27, 2020
I42	David Czarnecki	February 27, 2020
I43	Dawn Kuznowski	February 27, 2020
I44	Dennis Reynolds	February 25, 2020
I45	Derek McLaughlin	February 25, 2020
I46	Diana Kubilos	February 27, 2020
I47	Diane Diedrich	February 24, 2020
I48	Dominick McCormick	February 24, 2020
I49	Donald Price	February 25, 2020
I50	Dulaine and Douglas La Barre	February 3, 2020
I51	Edward Chambers, MD	February 25, 2020
I52	Edward Michael McMonigle	February 27, 2020
I53	Elizabeth Chambers Martinez	February 25, 2020
I54	Elizabeth Chambers Martinez	February 27, 2020
I55	Elizabeth Chambers Martinez	February 27, 2020
I56	Elizabeth Siboldi	February 26, 2020
I57	Emily Hirsch	February 23, 2020
I58	Erik Fruth	February 27, 2020
I59	Fiona Bremner	February 21, 2020
I60	Fred J Ferro	February 26, 2020
I61	Gabriel R. Duarte	February 27, 2020
I62	Garry Star	February 24, 2020
I63	Gary L Wolfe	February 25, 2020
I64	Geoffrey Dann	February 25, 2020
I65	George A Graham	February 24, 2020
I66	Geraldine Gramckow	February 24, 2020

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<b>Letter No.</b>	<b>Commenter</b>	<b>Date</b>
I67	Gloria Valladolid	February 22, 2020
I68	Gordon Clint	February 23, 2020
I69	Gregory H Smith	February 25, 2020
I70	H Elaine Cavaletto	February 27, 2020
I71	Harmony Echberg	February 2, 2020
I72	Heather Gilchrist-Wise	February 27, 2020
I73	(illegible) C/O Hoffman, Vance, & Worthington	February 24, 2020
I74	James Brehm	February 26, 2020
I75	Jan Dietrick and Ron Whitehurst	February 27, 2020
I76	Jeannette Welling	February 9, 2020
I77	Jeffery P Smith	February 25, 2020
I78	Jenn Foster	February 27, 2020
I79	Jennifer Johnson	February 26, 2020
I80	Jim Whitney	February 19, 2020
I81	Jim Whitney	February 19, 2020
I82	Jim Whitney	February 19, 2020
I83	Jim Whitney	February 19, 2020
I84	Jimmy Young	February 26, 2020
I85	John Brooks	February 10, 2020
I86	John Brooks	February 17, 2020
I87	John Brooks	February 26, 2020
I88	John Brooks	February 27, 2020
I89	John Chambers	February 27, 2020
I90	John Cloonan	February 18, 2020
I91	John M Foster	February 27, 2020
I92	John Vanoni	February 27, 2020
I93	Joseph Lampara	February 26, 2020
I94	Josh Wells	February 25, 2020
I95	June Behar	February 26, 2020
I96	Jurgen Gramckow	February 24, 2020
I97	Karen Lindberg and John Tarascio	February 24, 2020
I98	Karen Socher	February 1, 2020
I99	Kari Aist	February 27, 2020
I100	Katharine S Simmons	February 27, 2020
I101	Katherine R Euylee	February 25, 2020
I102	Kathy Lottes	February 27, 2020
I103	Keelan Dann	February 26, 2020
I104	Keith Barrow	February 25, 2020

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<b>Letter No.</b>	<b>Commenter</b>	<b>Date</b>
I105	Kelley Raymond	February 27, 2020
I106	Kevin McAtee	February 24, 2020
I107	Kristen Kessler	February 28, 2020
I108	Kristen Kessler	February 26, 2020
I109	Kristin Viemeister	February 27, 2020
I110	Lara Shellenbarger and Brent Meeker	February 24, 2020
I111	Laura K. McAvoy	February 25, 2020
I112	Leah Kolt	February 20, 2020
I113	Leslie Purcell	February 27, 2020
I114	Linda Harmon	February 26, 2020
I115	Lisa Eklund	February 25, 2020
I116	Lisa Woodburn	February 26, 2020
I117	Lyle Neely	February 25, 2020
I118	Marcia Czarnecki	February 27, 2020
I119	Margaret Chambers McMonigle	February 27, 2020
I120	Margaret Chambers McMonigle	February 27, 2020
I121	Margaret Chambers McMonigle	February 27, 2020
I122	Margaret Kimball	February 27, 2020
I123	Margo Ferris	February 25, 2020
I124	Margot Davis	February 25, 2020
I125	Marianne McGrath	February 24, 2020
I126	Marie Taylor	February 27, 2020
I127	Marjie Bartels	February 27, 2020
I128	Mark Mendelsohn	February 21, 2020
I129	Marshall C Milligan	February 25, 2020
I130	Martha Brown	February 27, 2020
I131	Martina Gallegos	February 23, 2020
I132	Mary Chambers Moro	February 26, 2020
I133	Mary Chambers Moro	February 26, 2020
I134	Mary Ellen Gravel	February 25, 2020
I135	Mary Freed	February 26, 2020
I136	Mary Katherine Chambers McMonigle	February 27, 2020
I137	Mary Katherine Chambers McMonigle	February 27, 2020
I138	Mary Katherine Chambers McMonigle	February 27, 2020
I139	Mary Kathleen McGrath	February 24, 2020
I140	Mary Vanoni	February 26, 2020
I141	Mary Victoria Taylor	February 26, 2020
I142	Mary Volpe	February 22, 2020

**Table 2-1 List of Commenters**

<b>Letter No.</b>	<b>Commenter</b>	<b>Date</b>
I143	McLoughlin Family Committee	February 25, 2020
I144	Meghan McMonigle	February 27, 2020
I145	Meghan McMonigle	February 27, 2020
I146	Meghan McMonigle	February 27, 2020
I147	Melinda Ann Barrow	February 25, 2020
I148	Michael Diacos	February 24, 2020
I149	Michael Fairbanks	February 25, 2020
I150	Michael Hayes	February 27, 2020
I151	Michael L. Poland	February 25, 2020
I152	Michael Penrod	February 25, 2020
I153	Michael Shapiro	February 22, 2020
I154	Michele DuPratt	February 23, 2020
I155	Michelle Ellison	February 27, 2020
I156	Michelle Kenney	February 25, 2020
I157	Mike Maulhardt	February 25, 2020
I158	Molly Neely	February 25, 2020
I159	Monica Gray	February 26, 2020
I160	Nicole Zarate	February 25, 2020
I161	Nina Danza	February 21, 2020
I162	Noah Aist	February 22, 2020
I163	Noelle C Burkey	February 21, 2020
I164	Norene Charnofsky	February 24, 2020
I165	Nova Clite	February 24, 2020
I166	P. Lyn Middleton	February 23, 2020
I167	Pamela Holley-Wilcox	February 21, 2020
I168	Pamela Klieman	February 27, 2020
I169	Pat Peters	February 27, 2020
I170	Patrick Chambers de Nicola	February 27, 2020
I171	Patrick Chambers de Nicola	February 27, 2020
I172	Patrick de Nicola	February 27, 2020
I173	Patrick de Nicola	February 27, 2020
I174	Patsy Turner	February 25, 2020
I175	Paul Aist	February 27, 2020
I176	Phil White	February 20, 2020
I177	Phillip Fuess	February 27, 2020
I178	Polly Nelson	February 2, 2020
I179	R W Bowman	February 25, 2020
I180	Rain Perry	February 10, 2020



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<b>Letter No.</b>	<b>Commenter</b>	<b>Date</b>
I181	Rebecca Swift	February 14, 2020
I182	Richard Atchley	February 27, 2020
I183	Richard Gould	February 22, 2020
I184	Richard Gray	February 21, 2020
I185	Robert & Sandra Kurtz	February 25, 2020
I186	Robert M Chambers	February 26, 2020
I187	Robert M Chambers	February 26, 2020
I188	Robert M Chambers	February 27, 2020
I189	Robert M Chambers	February 27, 2020
I190	Robin Munson	February 26, 2020
I191	Scott Hirsch	February 27, 2020
I192	Sean McGrath	February 24, 2020
I193	Sherlayne Glenn	February 25, 2020
I194	Sophia Valentina Arce	February 27, 2020
I195	Stan Chambers	February 25, 2020
I196	Stanley Holroyd Chambers III	February 26, 2020
I197	Steve Nash	February 26, 2020
I198	Steven Colome	February 26, 2020
I199	Susan Chapman	February 14, 2020
I200	Susan Poland	February 25, 2020
I201	Teal Rowe	February 26, 2020
I202	Teresa Jordan	February 5, 2020
I203	Tessa Salzman	February 27, 2020
I204	Thomas L Erickson	February 25, 2020
I205	Thomas McCormick	February 23, 2020
I206	Timothy F. Malloy	February 27, 2020
I207	Timothy Shaw McGrath	February 24, 2020
I208	Tina Rasnow and Dr. Brian Rasnow	February 26, 2020
I209	Tom Erickson	February 22, 2020
I210	Toril Raymond	February 27, 2020
I211	Toril Raymond	February 27, 2020
I212	Walt Beil	February 27, 2020
I213	Wayne Morgan	February 27, 2020
I214	William B. Kendall	February 25, 2020
I215	William A Miller	February 26, 2020
I216	William Taylor and Kasey Taylor	February 27, 2020

## 2.2 MASTER RESPONSES

Several comments on the draft EIR raised similar issues. Rather than responding individually, master responses have been developed to address the comments comprehensively. Master responses are provided for the following topics: greenhouse gas emissions; 2040 General Plan land use, population projections and buildout assumptions; the 2020 Regional Housing Needs Allocation and 2021-2029 Housing Element Update; 2040 General Plan oil and gas policies; draft EIR Mitigation Measure AG-2 for loss of important farmland; the 2040 General Plan Background Report; and recirculation of the draft EIR. A reference to the master response is provided, where relevant, in responses to the individual comments.

### MR 1 Master Response 1: Greenhouse Gas Emissions Inventory and Forecast; Greenhouse Gas Reduction Targets; Policies, Implementation Programs, and Mitigation Measures to Reduce Greenhouse Gas Emissions

Several commenters raised concerns about the approach and adequacy of the greenhouse gas (GHG) reduction policies, programs, and mitigation measures analyzed in Section 4.8, “Greenhouse Gas Emissions,” of the draft EIR. This master comment response addresses recurring comments related to the GHG emissions inventory, forecast, targets, plans and programs to reduce GHG emissions included in the 2040 General Plan, and GHG mitigation measures identified in the draft EIR.

#### MR-1.A GREENHOUSE GAS INVENTORY AND FORECAST

Several commenters raised questions about the methodologies used for the County’s 2015 GHG inventory. This inventory set the baseline emissions for forecasting and identified the “gap” between the forecast emissions and targets set by the 2040 General Plan (i.e., the reductions in emissions needed to achieve the targets). The GHG emissions inventory was produced using the 2013 ICLEI U.S. Community Protocol for Accounting and Reporting of Greenhouse Gas Emissions, the latest version available at the time of publication. The U.S. Community Protocol is an industry standard protocol used by local governments throughout the United States for quantification of communitywide GHG emissions. The County followed this protocol in the preparation of the inventory with assistance from a team of external consultants with extensive project experience and post-secondary degrees in atmospheric science, engineering, sustainability planning and environmental science.

##### Global Warming Potential Values

The GHG inventory uses global warming potential (GWP) values consistent with the latest version of the Intergovernmental Panel on Climate Change Assessment Report 5 (IPCC AR5). Also, using GWP values for a 100-year time horizon is industry standard and is used in the CARB Statewide GHG inventory.

##### Industrial Sources

Comments were received about the exclusion of industrial sources from the inventory. Electricity related GHG emissions from industrial sources were not able to be quantified due to privacy rules set by the California Public Utilities Commission and enforced by Southern California Edison during the data request for the inventory. Although these emissions could not

be quantified, the draft EIR proposes Mitigation Measure GHG-2 which would create a new program for an energy savings ordinance specific to industrial facilities to reduce future GHG emissions occurring from these sources.

The GHG inventory prepared to characterize baseline emissions in the county is summarized in Table 4.8-1 of the draft EIR. This inventory provides estimates for stationary source emissions, which include oil and gas extraction activity within the unincorporated county.

#### Oil and Gas Production

Emissions associated with oil and gas wells were included in the inventory. Emissions resulting from uses of petroleum by activities within the county are also accounted for. Uses of oil and gas produced in Ventura County but consumed outside of the county are not included in the inventory because the County does not have authority to plan for emissions reductions outside of its own jurisdiction. In addition, the inclusion of these types of lifecycle emissions is not required for the California Environmental Quality Act (CEQA) analysis or GHG reduction planning.

#### Fugitive Methane Emissions

Several commenters also noted that a group of GHG emitting sources collectively known as “super emitters” were not included in the analysis. This category of fugitive methane emissions was not included because there is lack of consensus among scientific experts on a technical definition for “super emitter” sources. A 2019 publication from the United Nations on best practices for effective methane management acknowledges “. . .there is no single quantitative definition of a super-emitter, some consider them to be the top 5 percent of emissions sources while others consider them to be sources defined vis-a-vis an average emission factor (e.g. 5 times the average emission factor) or with the top 15 percent emission factors” (UNECE 2019). Fugitive emissions from stationary sources, including oil and gas extraction, were modeled following the California Air Resource Board’s recommended methodology. Refer to final EIR Attachment 2 for further explanation of the methodology used to quantify fugitive methane emissions from stationary sources. Also refer to Master Response MR-4 pertaining to oil and gas policies for additional information.

#### Summary of Revisions to the 2015 Greenhouse Gas Inventory and 2040 Forecast

Appendix D to the draft EIR has been revised in response to comments received on the draft EIR that expressed concern over the methodology used to quantify and forecast stationary source emissions and solid waste emissions. After reviewing the calculations behind the stationary source and solid waste emissions, calculation errors were discovered and have been corrected, and new data have been used to revise the GHG inventory and forecasts. These changes resulted in an overall reduction in total GHG emissions estimates compared to the total GHG emissions calculated in the draft EIR. Refer to Attachment 2 to this final EIR for a more detailed explanation of these changes.

The revised inventory would reduce the amount of emissions needed to meet the County’s GHG targets, which would result in minor modifications to the draft EIR analysis (as provided in Chapter 3, “Revisions to the Draft EIR”). These revisions clarify and support the analysis and conclusions in the draft EIR, and would not result in new or more severe significant impacts. The GHG reduction policies and programs of the 2040 General Plan identified in the draft EIR analysis would not be affected and forecasted GHG emissions would still result in significant and unavoidable impacts.

## Greenhouse Gas Inventory and Forecasting Methodology for Solid Waste and Stationary Source Emissions

### Solid Waste

Multiple comments received during the public review of the draft EIR addressed the methodology used to quantify emissions from the solid waste sector. Solid waste emissions consist of methane emissions generated by the anaerobic decay of organic material within a landfill. This sector consists of two types of emissions sources: waste generation and waste-in-place. The comments on the solid waste emissions methodology for the GHG inventory and GHG forecast are discussed further below.

Waste generation emissions refer to methane emissions related to the waste disposed in open landfills during the baseline year of emissions inventory. The inventory used Equation SW.4.1 from the ICLEI U.S. Communities Protocol (an emissions factor of 0.041 metric tons of CH<sub>4</sub> per ton) to quantify emissions from the disposal based on tonnage rates for each landfill in the county available from CalRecycle. This formula also accounts for landfills that have systems in place to capture fugitive methane emissions. Forecasted waste generation emissions were scaled from 2015 based on the anticipated change in the county's population.

Waste-in-place emissions refer to methane emissions from waste stored in place at a landfill since the landfill first accepted waste, excluding waste deposited in its first year. Emissions from "waste-in-place" can occur from both open and closed landfills, depending on how recently the landfills were closed. In the draft EIR, the 2015 waste-in-place emissions for two of the largest landfills in Ventura County (Simi Valley Landfill and Toland Road Landfill) were taken from the U.S. Environmental Protection Agency's (EPA) Facility Level Information on Greenhouse Gases Tool (FLIGHT) database (EPA 2016). The 2015 waste-in-place emissions inventory for other smaller landfills and forecasts of all waste-in-place emissions were based on landfill total tonnages and landfill open and past or anticipated closure dates. This information was input into CARB's Landfill Emissions Tool (LET) (November 2011 Version), assuming a constant rate of annual disposal, in order to estimate 2015 and post-2015 emissions.

Comments correctly pointed out inconsistencies for the GHG emission forecasts for Simi Valley Landfill and Toland Road Landfill in the solid waste emission calculations in Appendix D of the draft EIR. This inconsistency was due to the following errors. For Toland Road Landfill, the draft EIR incorrectly forecasted methane emissions by scaling the landfill's 2015 emissions by waste-in-place emissions for a landfill outside the county. For Simi Valley Landfill, forecasts were based on an annual decay rate of 0.059 percent per year which was incorrectly calculated from the LET. This low decay rate resulted in a much slower decay forecast for Simi Valley Landfill than Toland Road Landfill.

The methodology intended for forecasting waste-in-place emissions in the draft EIR and recalculated in the final EIR is as follows. For Simi Valley Landfill and Toland Road Landfill, waste-in-place emission forecasts were scaled from their FLIGHT 2015 emissions by the relative decay anticipated in CARB's LET based on the disposal rates and open and closure dates for those landfills. This method was used for consistency with landfill-specific emissions calculations from FLIGHT, which accounts for any landfill gas capture systems, and the anticipated decay rates in the LET model.

Table 2-2 compares the results for these two landfills between the draft EIR and final EIR. The revised forecast shows lower landfill emissions, consistent with the anticipated decay in organic waste at each landfill.

**Table 2-2 Comparison of GHG Emissions Forecasts (Business-as-Usual Scenario) for Toland Road Landfill and Simi Valley Landfill in the Draft EIR and Final EIR (Metric Tons of Carbon Dioxide Equivalent [MTCO<sub>2e</sub>])**

	2020	2030	2035	2040	2050
<b>Toland Road Landfill</b>					
Draft EIR	2,366	1,937	1,777	1,618	1,244
Final EIR	2,794	2,842	2,572	2,327	1,905
Difference	428	905	795	709	661
<b>% Difference</b>	<b>18%</b>	<b>47%</b>	<b>45%</b>	<b>44%</b>	<b>53%</b>
<b>Simi Valley Landfill</b>					
Draft EIR	6,127	6,091	6,073	6,055	6,019
Final EIR	6,437	6,548	5,925	5,361	4,389
Difference	310	457	-148	-694	-1,630
<b>% Difference</b>	<b>5%</b>	<b>8%</b>	<b>-2%</b>	<b>-11%</b>	<b>-27%</b>

Source: Ascent Environmental 2020

### Stationary Sources

The stationary sources sector is represented by emissions generated from fixed applications that are not related to electricity generation or consumer natural gas combustion, which are already accounted for in the building energy sector of the inventory. In the county, the major stationary sources are related to oil and gas production and processing. Emissions from oil and gas accounted for in this inventory include emissions from on-site combustion (e.g., flaring) of oil and associated gas (i.e., natural gas produced as a by-product from the processing of oil), as well as fugitive emissions from the processing and extraction of oil and gas. According to CARB, combustion sources are equipment burning fuel for energy; vented emissions are intentional releases of vapors to the atmosphere; and fugitive emissions are unintentional releases of vapors to the atmosphere (CARB 2013).

This inventory and forecast does not include emissions related to the combustion of oil and gas extracted in the county and sold by oil and gas producers, such as vehicular fuels or other petroleum products, nor does the inventory include supply chain-related emissions associated with oil and gas extracted in the county, such as the transport of oil via rail or maritime tankers. Emissions from combustion of vehicular fuels and rail and maritime activity are already captured in the transportation and off-road sectors where they pertain to activities within the jurisdictional boundary of the County. The process of organizing emissions this way is recommended by the ICLEI U.S. Communities Protocol (ICLEI 2013:12). Emissions occurring outside of the County's jurisdictional boundary are subject to inclusion the emissions inventory of the respective jurisdiction(s).

### Emissions Inventory

The estimates of the County's 2015 GHG emissions from stationary sources included in the draft EIR were based on scaling State-level emissions to the county based on the county's respective production of oil and gas. However, comments on the draft EIR raised concerns

about the appropriateness of using this method to estimate GHG emissions associated with oil and gas production in the county. In response to these comments, both the 2015 inventory and forecasted oil and gas emissions have been recalculated in the final EIR to reflect county-specific emissions. The methods used to recalculate GHG emissions from oil and gas production in the GHG inventory and forecast are described below.

In 2013, CARB published a report that measured the GHG emissions from “upstream crude oil and natural gas production, processing, and storage operations” based on survey results that captured 97 percent of the crude oil and natural gas production in the State (CARB 2013). According to this report, in 2007, 276,793 MTCO<sub>2e</sub> (adjusted for the Intergovernmental Panel on Climate Change’s Fifth Assessment Report’s global warming potential factors) were emitted within the jurisdiction of the Ventura County Air Pollution Control District (VCAPCD), which has the same geographic boundaries as Ventura County. For the purposes of this calculation the County has assumed that all oil and gas extraction within VCAPCD jurisdiction occurs in the unincorporated county. These emissions resulted from on-site combustion of fuels and fugitive (including vented) emissions generated during crude oil and gas production and processing. These 2007 emissions were scaled to 2015 levels based on the change in oil and gas production in the county between 2007 and 2015 according to the California Department of Conservation (California Department of Conservation 2020). From 2007 to 2015, oil production in the county increased slightly from 7.3 to 8.4 to million barrels, a 14.6 percent increase. Based on this change, the emissions were estimated to increase from 276,793 MTCO<sub>2e</sub> in 2007 to 317,222 MTCO<sub>2e</sub> in 2015. This scaling method is supported by CARB’s documentation of California’s GHG Inventory, where the emission factors for the oil and gas sector remained constant between 2007 and 2015, suggesting that emissions would change in proportion to oil production. See the Attachment 2 to this final EIR for additional calculation details.

Note that gas production is excluded from scaling of emissions because there is no reported natural gas production in the county. Additionally, associated gas production is gas produced as a byproduct of oil production.

### Forecasts

Commenters also raised concerns that the historical oil and gas production data in the county used in the draft EIR to forecast GHG emissions did not reflect the overall trends in production in the county, and cited the county’s historical production data dating back to 1980. In the draft EIR, the county’s historical production data starting from 2008 were originally intended to determine production trends for GHG forecasting. However, the formulas in the calculation spreadsheet were not tied to the calculated average annual growth rate from 2008 and, instead, forecasts for years after 2020 were incorrectly linked to other growth rates.

Notwithstanding the errors associated with the incorrectly linked growth rates, the County has reviewed the county’s historical oil and gas production data from the California Department of Conservation starting from 1980, and noted an anomalous spike in oil and gas production occurred between 2008 and 2018, likely due to the effects of the global recession at the start of that period. This spike occurred in contrast to the overall decline in oil and gas production in the county. Since 1980, oil and gas production in the county has decreased by approximately 60 percent, following an inverted growth curve pattern characteristic of oil production decline.

In the final EIR, the forecast was corrected to align with how trends in the county’s production from 1980 to 2018 would continue through 2050. The historical production values were plotted

and fitted based on an exponential function, consistent with a declining growth curve. This function was used to forecast production through 2050. The forecasted oil production values, relative to 2015 production values, were then used to scale the county's 2015 oil and gas emissions, estimated from CARB's 2013 oil and gas survey report, to future years in the GHG forecast. See Attachment 2 for additional description of the forecast methodology used in the final EIR.

Table 2-3 shows the difference in the 2015 inventory and forecasts for emissions from stationary sources between the draft EIR and final EIR. The revised emissions show higher estimates for 2015, but substantially lower forecasts through 2050 compared to the draft EIR estimates.

**Table 2-3 Comparison of GHG Emissions Inventory and Forecast (Business-as-Usual Scenario) for Stationary Sources in the Draft EIR and Final EIR (MTCO<sub>2e</sub>)**

Stationary Sources	2015	2020	2030	2040	2050
Draft EIR	275,096	287,845	314,526	343,679	375,535
Final EIR	317,222	245,340	198,432	160,660	130,212
Difference	42,126	-42,505	-116,094	-183,019	-245,323
%Difference	15%	-15%	-37%	-53%	-65%

A comparison of emissions estimates across all evaluated sectors between the draft and final EIRs is included in the Revised draft EIR Appendix D, Attachment 2 to the final EIR for additional calculation details.

## MR-1.B GHG REDUCTION TARGETS

Comments were received about how the GHG emission targets were set for the 2040 General Plan. As explained on page B-13 of Appendix B, "Climate Change," of the draft 2040 General Plan:

To meet the Scoping Plan recommendation, the GHG reduction targets included in the General Plan are based on local levels of GHG emissions that would be proportional to the statewide reductions needed to achieve GHG emissions by 40 and 80 percent below 1990 levels by 2030 and 2050, respectively. A target for 2040, consistent with the final year of the General Plan was developed by interpolating the GHG reductions need to place the county on a path between the 2030 and 2050 target.

While the County does not have a 1990 GHG inventory from which to estimate GHG reductions, equivalent targets and goals were calculated for the County relative to the State's 2020, 2030, and 2050 mass emissions goals relative to its 1990 inventory, from which specific percent reductions relative to 2015 were developed. Therefore, consistent with and proportional to the State's target and goals relative to 2015 levels, the County's targets are expressed according to the following percentage reductions in GHG emissions relative to the County's 2015 community-wide GHG emission levels.

While the targets were selected for alignment with State Reduction Targets & Goals, it is not a requirement of Senate Bill 32 or the 2017 Climate Change Scoping Plan for local governments to set 2030 targets in line with State policy in their planning related to GHG reduction. Also,

executive orders such as S-03-05 and B-55-18, which establish statewide GHG reduction and carbon neutrality goals, do not require local governments to establish targets aligned with these statewide goals.

The alignment of statewide GHG reduction targets with those in local planning documents specifically pertains to GHG reduction plans that were intended to qualify for the streamlining of future project-level CEQA analysis for GHG emissions pursuant to State CEQA Guidelines Section 15183.5(b). Even though the County's targets were selected to align with Statewide GHG targets and goals, note that the deletion of Implementation Program COS-EE through draft EIR Mitigation Measure GHG-3 would eliminate the 2040 General Plan's potential for streamlining of project-level CEQA analyses for future projects pursuant to State CEQA Guidelines Section 15183.5(b).

## **MR-1.C GREENHOUSE GAS REDUCTION POLICIES, PROGRAMS AND MITIGATION MEASURES**

### **Integrated Climate Action Planning**

The 2040 General Plan includes many of the typical components of a Climate Action Plan (CAP). These pieces of a CAP are integrated into the 2040 General Plan. The 2040 General Plan's policies and programs to reduce greenhouse gas emissions are not made less effective or enforceable by virtue of incorporation into the 2040 General Plan. Because the 2040 General Plan includes content that would similarly be contained in a standalone CAP, such as targets for GHG reductions aligned with State targets and goals and policies and implementation programs to achieve future GHG emissions reductions, the County has designed the 2040 General Plan to reduce countywide GHG emissions, similar to how other local jurisdictions have designed standalone CAPs. Note that there is no legal requirement for the local jurisdiction to prepare a standalone CAP or to include one in a General Plan. However, the State CEQA Guidelines do include provisions for tiering and streamlining the analysis of GHG emissions through a local jurisdictions voluntary decision to prepare a "plan for the reduction of greenhouse gas emissions" (Section 15183.5[b]). As explained further below, plans for the reduction of greenhouse gas emissions can allow lead agencies to streamline the project-level analysis of greenhouse gas emissions under CEQA but do not mandate that the County or any lead agency prepare a plan for the reduction of greenhouse emissions or a CAP.

In addition, the County acknowledges that the 2040 General Plan does not meet requirements for streamlining and tiering subsequent California Environmental Quality Act (CEQA) review of project-level greenhouse gas emissions pursuant to State CEQA Guidelines Section 15183.5. There is no requirement that the 2040 General Plan meet CEQA requirements for streamlined review. Moreover, Page 4.8-46 of the draft EIR recommends Mitigation Measure GHG-3, which would remove the CEQA streamlining provision proposed in Implementation Program COS-EE from the 2040 General Plan and specify that the potential greenhouse gas (GHG) emissions impacts of future, discretionary projects be reviewed in accordance with the most recently adopted version of the ISAG at the time of project-level environmental review. The draft EIR explains that Mitigation Measure GHG-3 could result in additional GHG emission reductions if improved technologies, design features, or the like that are infeasible or unavailable today become available and are included in future discretionary development projects or required as part of future project-level environmental reviews. To the extent this were to occur, this mitigation measure would improve progress toward meeting the 2030 and



post-2030 GHG reduction targets. However, it would be speculative to determine at this time whether and how Mitigation Measure GHG-3 would affect future GHG emissions in the county. Because GHG emissions impacts of the 2040 General Plan would remain significant and unavoidable with mitigation (i.e., there is not sufficient evidence available at this time to conclude that the policies and programs of the 2040 General Plan would, if implemented on a project-by-project basis, achieve the County's GHG reduction targets for 2030 or post-2030 per Section 15183.5[b][1][d]), the County does not intend to use the 2040 General Plan as a "plan for the reduction of greenhouse gas emissions" pursuant to Section 15183.5 and has removed such references from the 2040 General Plan as shown in the Ventura County Planning Commission hearing materials for July 16, 2020 (see exhibit for "Planning Division Recommended Revisions to the 2040 General Plan").

#### Analysis of Greenhouse Gas Emissions in the Draft EIR

The draft EIR includes a detailed quantitative and qualitative analysis of the 118 policies and 45 implementation programs included in the 2040 General Plan to reduce GHG emissions in the county (pages 4.8-37 to 4.8-45). Moreover, Section 4.8, "Greenhouse Gas Emissions," of the draft EIR includes seven feasible mitigation measures that meet CEQA requirements and address the potentially significant GHG emissions impacts of the 2040 General Plan (draft EIR pages 4.8-45 to 4.8-47). Thus, the draft EIR correctly identifies and considers 2040 General Plan policies and programs with respect to GHG emissions and correctly includes feasible and enforceable mitigation measures to reduce the emissions.

In preparing the GHG analysis provided in the draft EIR, the County considered, and included references to, the proposed 2040 General Plan policies and implementation programs most applicable to the analysis. As explained in the methodology subsection in Section 4.8, "Greenhouse Gas Emissions," (page 4.8-7), the analyses evaluate whether the GHG reduction benefits of these policies and programs are supported by substantial evidence. Substantial evidence leading to estimates of GHG emissions resulting from implementation of the 2040 General Plan include both qualitative and quantitative assessments.

Table 4.8-5 in the draft EIR summarizes the policies and programs that would have quantifiable GHG reductions by 2030 (page 4.8-39). Other policies and programs of the 2040 General Plan would also result in GHG reductions but specific amounts cannot be determined at this time, as described on pages 4.8-39. Qualitative analysis of the GHG reduction benefits of 43 programs included in the 2040 General Plan to reduce GHG emissions is provided in Table 4.8-6 (pages 4.8-40 to 4.8-43).

The draft EIR also includes seven feasible mitigation measures that address the potentially significant GHG emissions impacts of the 2040 General Plan (draft EIR pages 4.8-45 to 4.8-47). Thus, the draft EIR correctly identifies and considers 2040 General Plan policies and programs in the GHG emissions analysis conducted in the draft EIR and correctly includes feasible and enforceable mitigation measures in the draft EIR analysis of GHG emissions.

The draft EIR concludes, in its post-mitigation significance conclusion for Impact 4.8-1 (Generate GHG Emissions, Either Directly or Indirectly, That May Have a Significant Impact on the Environment), that the 2040 General Plan policies and recommended mitigation measures would not be sufficient to reduce GHG emissions to the established 2030 and 2040 reduction target because the policies, while supportive of future GHG reductions, do not contain enough specificity for their numeric contribution to the established 2030 and 2040 targets to be quantified. The draft EIR explains that:

No additional feasible mitigation has been identified at this time beyond the mitigation measures identified above and the policies and implementation programs of the 2040 General Plan. Under the 2040 General Plan future GHG emissions in the county would be on a downward trajectory compatible with State plans, policies, and regulations that would also result in GHG reductions in the county (page 4.8-52).

In Impact 4.8-2 (Conflict with an Applicable Plan, Policy, or Regulation for the Purpose of Reducing the Emissions of GHGs) beginning on page 4.8-49, the draft EIR explains that the 2040 General Plan includes several implementation programs with a quantifiable effect on future GHG emissions, and a substantial number of additional programs and policies in every GHG emission sector that would result in further GHG emissions, although their effect on GHG emissions cannot be quantified at this program level of analysis. The 2040 General Plan policies and programs complement the main area of local government influence over GHG emissions, including renewable energy and energy efficiency, land use decisions, and local transportation infrastructure and policy. The available information that can be quantified demonstrates that future emissions in the county would be on a downward trajectory through 2050. Qualitative evidence shows that the many policies and programs that cannot be quantified at this time would lead to further GHG reductions and additional progress toward State GHG reduction targets. However, for these reasons and those described in Impact 4.8-1, the County cannot meaningfully quantify the effect of all its 2040 General Plan policies and programs on future GHG emissions, and therefore, cannot conclude, at this program level of analysis, that future GHG emissions in the unincorporated county under the 2040 General Plan would be sufficiently reduced to meet the State's 2030 or post-2030 targets.

## MR-2 Master Response 2: 2040 General Plan Land Use Plan, Population Projections, and Buildout Assumptions

Several comments were submitted that requested additional information or clarification on the overall project description in the draft EIR. These comments fell under three key areas:

- **Project Description and Land Use Plan.** A number of comments were focused on a perceived lack of clarity regarding the description of the proposed project, including the 2040 General Plan's proposed land use designations.
- **Population and Growth Forecast Assumptions.** Comments were received requesting clarification on the methods used to develop population forecasts.
- **Buildout of the Land Use Plan.** Relative to the Public Review Draft 2040 General Plan and draft EIR, several comments questioned the development capacity assumptions used and where new development could occur under the 2040 General Plan. This response provides clarifying information related to population forecast data; number, compatibility, and density/intensity of the project's land use designations; differences between land use designations and area designations; and development capacity and growth assumptions.

To provide information relative to these comments, the following master response has been setup to answer these three main topic areas.

Relative to these topics, portions of the draft EIR rely on sources which are incorporated by reference, cited in the draft EIR, and identified in Section 8 *References* of the draft EIR, including:

- *Southern California Association of Governments. 2017. draft 2020 Regional Transportation Plan and Sustainable Communities Strategy: Local Input and Envisioning Process Data/Map Book for Unincorporated Ventura County.*
- *Ventura County. 2018 (July, November). 2040 General Plan Update Alternatives Report: Public Review Draft.*

Refer to Master Response 3 for discussion of why the draft EIR correctly excludes discussion and analysis of the County’s projected housing needs for the 2020 Regional Housing Needs Assessment allocation and 2021-2029 Housing Element update.

## MR-2.A PROJECT DESCRIPTION AND LAND USE PLAN

Relative to this topic area, several comments on the draft EIR asked about the level of detail provided in the project description, the development of the 2040 General Plan Land Use Diagram, and the development and use of the land use designations proposed in the 2040 General Plan.

### Project Description

Relative to the project description in the draft EIR, several comments requested that additional detail be provided.

The draft EIR contains a project description in Chapter 3. Chapter 3, “Project Description” provides an overview of the 2040 General Plan and the context for the environmental analysis in the draft EIR. Some of the comments on the draft EIR note that a specific aspect or policy in the 2040 General Plan is not documented or explained in Chapter 3 of the draft EIR. As the entire 2040 General Plan is the proposed project, and the plan itself contains hundreds of specific policies and programs, the 2040 General Plan provides the detailed information regarding what the project is proposing.

With respect to analysis and the level of detail provided in the draft EIR, the Governor’s Office of Planning and Research (OPR) General Plan Guidelines (2017) notes that the general plan EIR need not be as detailed as an EIR for the specific projects that will follow (State CEQA Guidelines Section 15146). Its level of detail should reflect the level contained in the plan or plan element being considered (*Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351). The State CEQA Guidelines further state that an EIR shall contain a project description that includes, in part, “A general description of the project’s technical, economic, and environmental characteristics...” (Section 15124(c)) and “should not supply extensive detail beyond that needed for evaluation of review” of environmental impacts (Section 15124(a)).

Section 15124 establishes the required components of the project description. These include:

- the precise location and boundaries of the project on regional and detailed maps; project objectives;

- a general description of the project’s technical, economic, and environmental characteristics; and
- a statement briefly describing the intended uses of the EIR.

These elements are all provided in Chapter 3, “Project Description,” in the draft EIR. As explained in detail below, the project description is complete, stable, and fully adequate as the bases of the draft EIR analysis.

The land use plan for the 2040 General Plan is located within its *Land Use and Community Character Element (LU)* and its Land Use Diagram. Portions of this element are described in the draft EIR Chapter 2, “Executive Summary” and Chapter 3, “Project Description.”

There is no requirement to list or describe individual policies proposed in the general plan as part of the project description (refer to the Section 15124 requirement for a “general description” of project elements). The complete draft 2040 General Plan was reviewed in preparation of the draft EIR. Note also that policies and programs relevant to each resource topic (specifically, those relevant to the impact analysis performed under the significance criteria for that topic) are identified throughout the draft EIR in Sections 4.1 through 4.17.

Each environmental resource topic section provided in the draft EIR (Sections 4.1 to 4.17) includes a subsection listing the 2040 General Plan policies and implementation programs related to that resource topic and, specifically, the thresholds of significance used to analyze the potential for significant impacts for that resource topic. In Chapter 4, “Approach to the Environmental Analysis,” the draft EIR explains that, “(m)any 2040 General Plan policies are intended to reduce the environmental impact of future development” and that the “relevant proposed policies in the 2040 General Plan are first applied” when analyzing its physical environmental impacts (page 4-3). In describing the types of physical environmental changes that could result from implementation of the 2040 General Plan, the draft EIR explains that, “(p)hysical changes could result from subsequent development pursuant to land use designations established in the 2040 General Plan, implementation of policies and implementation programs identified in the 2040 General Plan, and offsite and indirect development that is necessitated by the 2040 General Plan (e.g., new facilities, infrastructure upgrades) (page 4-3). The draft EIR explains that these, “types of actions that could result in physical changes to the environment under the 2040 General Plan are referred to collectively as ‘future development’” and are evaluated throughout the draft EIR (page 4-3).

#### 2040 General Plan Land Use Diagram

As part of several comments on the project description in the draft EIR, comments asserted that the 2040 Land Use Diagram was too small to provide a clear picture of what was being proposed.

The 2040 General Plan’s Land Use Diagram, which is described in the draft EIR’s *Executive Summary* and *Project Description*, is set forth in the 2040 General Plan’s *Land Use and Community Character Element (LU)* at Figures 2-4 and 2-5. The draft EIR provides 2040 General Plan Land Use for the Northern County and Southern County in Figures 3-2a and 3-2b, respectively. These draft EIR figures are accompanied by Table 3-2 (pages 3-14 and 3-15), which provides a description of each land use designation and the total acreage and percentage of county land covered by each designation, and a narrative describing the types of future development that would occur countywide under implementation of the 2040 General

Plan land use designations (pages 3-14 to 3-19). The discussion notes that, “the land use diagram of the 2040 General Plan would concentrate future development of relatively higher intensity residential, commercial, mixed use, and industrial land uses within the Existing Community area designation (boundary) and the Urban area designation (boundary)” (page 3-14), and that the land use designations allowing such relatively higher intensity development would apply to approximately 1.2 percent of land in the unincorporated county (page 3-19). The draft EIR presents discussion of “relatively higher intensity” development in contrast with lower intensity development allowed under land use designations that apply to approximately 98 percent of the county’s land area.

Under State law, a general plan’s land use element must designate the proposed general distribution, location, and extent of land uses, and shall include a diagram or diagrams. (Gov. Code § 65302.) However, State law does not specify the scale at which such diagrams must be displayed. OPR’s General Plan Guidelines (2017) note in this regard:

“As a general rule, a diagram or diagrams, along with the general plan’s text, should be detailed enough so that all users of the plan can reach the same conclusion on the appropriate use of any parcel of land at any particular phase in the physical development of a city or a county. Decision makers should also be able to use a general plan and its diagram(s) to make day-to-day land use and infrastructure decisions that are consistent with the future physical development scheme of a city or a county. Given the long-term nature of a general plan, however, its diagram(s) and text should be general enough to allow a degree of flexibility in decision-making as times change.”

In the case of the Land Use Diagram for this project, the County relies on parcel-based mapping data which is depicted in the 2040 General Plan as oversized pages which show both the County’s entire jurisdiction as well as the south half of the county where the majority of development has historically occurred. These maps provide an adequate overview of lands covered by the 2040 General Plan’s *Rural, Agricultural, and Open Space* land use designations (located outside of Existing Community area boundaries) that dominate the unincorporated county. For the developed portions of the unincorporated county, larger scale (more detailed) maps are provided in Appendix A, *Area Plan and Existing Community Land Use Maps*, of the 2040 General Plan. Additionally, more detailed mapping will be available after the Ventura County Board of Supervisor’s (Board) adoption of the 2040 General Plan in the form of electronic Geographic Information System (GIS) maps which will be available on the County Resource Management Agency, Planning Division’s website and downloadable as PDFs.

Although the County’s General Plan is distinct from its zoning ordinances, the 2040 General Plan’s proposed land use designations in the 2040 General Plan are, by design, compatible with the County’s existing, underlying zoning categories as depicted in Table 2-1 in the *Land Use and Community Character Element (LU)*. This table illustrates the compatibility between the 2040 General Plan land use designations and the County’s existing zoning categories.

#### Proposed Land Use Designations

Relative to the draft EIR project description, another item noted in several comments related to the development and use of the 2040 General Plan land use designations.

The *Existing Community* and *Urban* land use designations included in the existing General Plan do not distinguish between residential, commercial, and industrial uses at the general

plan level, nor do they provide guidance on the location, density, and/or intensity allowed within these designated areas. For parcels with these land use designations, the County's existing General Plan largely defers the land use regulations addressing distribution, density, and intensity that are set forth in the County Area Plan and/or zoning ordinance applicable to the parcels. During the 2040 General Plan policy and land use alternatives process, the Planning Division determined that, in accordance with State law, the 2040 General Plan itself should more specifically describe the land uses and density/intensity standards for areas which, under the current General Plan, are designated as *Existing Community* or *Urban*.

The process for providing more detail in the 2040 General Plan's land use designations was documented in the Planning Division's staff report for the joint Board and Planning Commission work session on November 6, 2018, and discussed in greater detail within the project's Alternatives Report (Ventura County 2018). The methodology used applied new General Plan land use designations based on the existing zoning categories within the *Existing Community* and *Urban* land use designations in the existing General Plan. The methodology included the following steps:

1. Parcels designated as Urban or Existing Community in the existing General Plan were identified;
2. The current zoning categories for these parcels were identified; and
3. The 2040 General Plan's proposed land use designations (draft EIR, Table 3-1, pages 3-5 and 3-6) were applied to existing zoning designations pursuant to the project's zoning compatibility matrix (2040 General Plan, Table 2-1).

By increasing the specificity of the land use designations within the existing General Plan's *Existing Community* and *Urban* land use designations, the 2040 General Plan provides clearer direction than the existing General Plan on the development that is allowed to occur in these areas. The 2040 General Plan land use designations are described in detail in the draft EIR (starting at page 3-4). The 2040 General Plan includes 19 separate land use designations, 14 of which apply to areas designated as either *Existing Community* or *Urban* under the existing General Plan. However, no changes were made to the existing *Rural (RUR)*, *Agriculture (AG)*, or *Open Space (OS)* designations; the same areas are covered by each respective designation, and the allowed land uses and development densities remain identical for each. The existing State or Federal Facility also remains the same, though it has been renamed to *State, Federal, Other Public Lands (P)*. In addition, at the Board's request, a new *Parks and Recreation (PR)* designation has been added to the 2040 General Plan, which could only be applied to areas identified under 2040 General Plan Policy LU-1.2, *Parks and Recreational Facilities*, which states: "The County shall support the development of parks and recreation facilities within areas designated as Existing Community, Area Plans, or Areas of Interest." The Board did not direct staff to apply this new land use designation to any parcels as part of the 2040 General Plan update process.

Unlike the existing General Plan, the project's 19 land use designations now state development potential for all unincorporated areas. This is done by establishing a maximum residential density (stated as the maximum number of units allowed per acre) for designations allowing residential uses and a maximum intensity (expressed as a maximum percent of a lot that can be covered by buildings) for non-residential designations for mixed use, commercial, and industrial uses (draft EIR, Table 3-1, pages 3-5 and 3-6; 2040 General Plan, Table 2-2).

Maximum lot coverage, in keeping with the existing General Plan, was also maintained for appropriate designations. The final change was to update to the Land Use Diagram. The Land Use Diagram provides the geographic location of each land use designation, as described earlier in this response.

In the 2040 General Plan, Existing Community and Urban are maintained only as area designations, and not land use designations (draft EIR page 3-5). These area designations define the geographic boundaries of these areas and were created to maintain consistency with other County planning documents, such as the Guidelines for Orderly Development and Save Open Space & Agricultural Resources (SOAR). The boundaries of these area designations match the areas defined as Existing Community and Urban in the existing General Plan. The draft EIR includes a detailed discussion of the 2040 General Plan's relationship to other plans and regulations, including zoning, Area Plans, Guidelines for Orderly Development, Greenbelt Agreements, and SOAR, starting at page 3-7.

The 2040 General Plan, as proposed, does not change, nor will it require subsequent changes to, the County's existing zoning designations. Consequently, the geographic siting of future development will not change from the current opportunities provided in the existing General Plan. As noted above, at the Board's request, a new Parks and Recreation (PR) General Plan designation has been included in the 2040 General Plan, and was described in the draft EIR (page 3-5). While the designation was included, the Board did not direct staff to apply this new land use designation to any parcels as part of the 2040 General Plan update process. Prior to, or at the same time as, applying this designation as a future General Plan Amendment, the County will need to also develop new zoning classification(s) and development standards, which can be done as a separate action or as part of the consistency update to the Non-Coastal Zoning Ordinance that is planned following adoption of the 2040 General Plan. Placeholders for two new zoning classifications are shown on Table 2-1 in the *Land Use and Community Character Element (LU)*. These include a *Recreation (REC)* zoning classification (for use inside *Existing Communities, Area Plans or Areas of Interest*) and an *Open Space-Recreation (OS-REC)* zoning classification that could be used inside an area with a General Plan land use designation of *Open Space (OS)*.

The proposed land use designations are explained in the draft EIR in Chapter 3 under the heading "Land Use Diagram," and depicted on Figure 3-2a and Figure 2-3b (refer to pages 3-12 through 3-19 of the draft EIR). For clarification, page 2-6 in Chapter 2, "Executive Summary," states "the 2040 General Plan would establish 15 land use designations...within areas currently designated as Existing Community and Urban land use designations." However, commenters identified a discrepancy in Section 4.11, "Land Use and Planning" under Impact 4.11-1: Result in Physical Development That is Incompatible With Land Uses, Architectural Form Or Style, Site Design/Layout, Or Density/Parcel Sizes Within Existing Communities (beginning on page 4.11-18). Under this subsection of the draft EIR, it is inaccurately stated that the 2040 General Plan would establish "13 new land use designations" within areas currently designated as Existing Community and Urban. Furthermore, Table 4.11-1 Existing General Plan Land Use Designations and Proposed New General Plan Land Use Designations failed to include two of the 2040 General Plan's proposed land use designations which are proposed to occur only in current Existing Community or Urban land use designations. The discrepancy identified by commenters is corrected with the following revisions in draft EIR Section 4.11, "Land Use and Planning" (pages 4.11-19 to 4.11-20):

The 2040 General Plan would accommodate future development primarily within existing unincorporated communities. By making refinements to the Existing Community and Urban land use designations of the existing general plan, the 2040 General Plan would more clearly distinguish among land uses allowed within each designation and set forth maximum development density and intensity standards. Specifically, the 2040 General Plan would establish ~~43~~15 new land use designations that provide more detailed information on the types of land uses (e.g., commercial, industrial, residential) that would be allowable within areas currently designated as Existing Community and Urban (Table 4.11-1). The refined land use designations of the 2040 General Plan would result in future development that is compatible with the land uses, densities, and parcel sizes of existing communities.

**Table 4.11-1 Existing General Plan Land Use Designations and Proposed New General Plan Land Use Designations**

Acronym	Land Use Designation	Max. Density/ Intensity	Min. Lot Size
<b>Existing General Plan Land Use Designations to Remain</b>			
RUR	Rural	1 du/2 ac (1 dwelling unit per each 2 acres)	2 acres
AG	Agricultural	1 du/40 ac	40 acres
OS	Open Space	1 du per parcel	10 acres, or 20 acres if contiguous w/Agricultural
P	State or Federal Facility (updated to State, Federal, and Other Public Lands)	N/A	None
<b>Proposed New Land Use Designations (to be applied only to areas with current Existing Community or Urban land use designations)</b>			
ECU-R	ECU-Rural	1 du/2 ac	2 acres
ECU-A	ECU-Agricultural	1 du/40 ac	40 acres
ECU-OS	ECU-Open Space	1 du per parcel	10 acres, or 20 acres if contiguous w/Agricultural
VLDR	Very Low Density Residential	3 du/ac	10,000 SF
LDR	Low-Density Residential	5 du/ac	6,000 SF
MDR	Medium-Density Residential	13 du/ac	3,000 SF
RHD	Residential High-Density	20 du/ac	No Minimum
RPD	Residential Planned Development	20 du/ac	No Minimum
<u>CRPD</u>	<u>Coastal Residential Planned Development</u>	<u>36 du/ac</u>	<u>No Minimum</u>
<u>RB</u>	<u>Residential Beach</u>	<u>36 du/ac</u>	<u>No Minimum</u>
MU	Mixed Use	20 du/ac; 60% coverage	No Minimum
C	Commercial	60% coverage	No Minimum
CPD	Commercial Planned Development	60% coverage	No Minimum
I	Industrial	50% coverage	10,000 SF
PR	Parks & Recreation	N/A	N/A



## MR-2.B POPULATION AND GROWTH FORECAST ASSUMPTIONS

Several comments on the draft EIR asked how the population and growth forecasts were developed as part of the 2040 General Plan process and their use in the draft EIR.

During the development of the project's Alternatives Report, which is described in the draft EIR (page 3-3), multiple population forecast data sources were evaluated, including those available from the Southern California Association of Governments (SCAG), California Department of Transportation (Caltrans), the California Department of Finance (DOF), and Woods & Poole, a national economic forecasting firm. As stated in the Planning Division's letter for the July 31, 2018, joint work session of the Board and Planning Commission, County staff and consultants considered these population forecasts, and the Board identified SCAG's draft 2020 Regional Transportation Plan and Sustainable Communities Strategy: Local Input and Envisioning Process Data/Map Book for Unincorporated Ventura County, as including the most appropriate data available for the preparation of the project's Alternatives Report, the 2040 General Plan, and the draft EIR.

The draft EIR's Table 3-3 identifies existing and anticipated growth projections for unincorporated Ventura County for population, employment, and households in 2015, 2020, 2030, and 2040 (page 3-20).

Historically, Existing Community and Urban designated parcels allow for higher-intensity residential development and a mixture of commercial and industrial uses and are located within the boundaries of Existing Community and Urban areas as these areas contain infrastructure and services most readily available to accommodate this type of growth. For example, at page 3-20 the draft EIR explains that between 2006 and 2018, an estimated 44 percent of new residential development occurred within areas designated as Existing *Community* or *Urban*. The remainder of the residential development during this period occurred in areas designated *Rural* (9 percent), *Agricultural* (23 percent), and *Open Space* (24 percent). Development trends in areas designated *Rural*, *Agriculture*, and *Open Space* are presumed to be based on numerous factors that vary from site to site, but include larger minimum lot sizes; lot coverage restrictions; limited access to water, utilities and infrastructure; fire code issues such as lack of secondary access; or a combination of these and other factors which can effectively prohibit or significantly increase the cost of new development in these areas.

## MR-2.C BUILDOUT OF THE LAND USE PLAN

Several comments on the draft EIR asked whether the 2040 General Plan proposes an increase in development density/intensity, how the buildout for the 2040 General Plan was estimated, and expressed confusion over the use of the various "buildout" terms used in the draft EIR. These topics are addressed in the following paragraphs.

**Development Potential under the 2040 General Plan and existing General Plan**  
Some comments on the draft EIR asked whether the 2040 General Plan would allow densities and intensities higher than those allowed today under the existing General Plan. The answer is "no." By design, the 2040 General Plan does not result in an increase in the density or intensity allowed on any parcel. This is described in the draft EIR in multiple places (e.g., pages 3-4 to 3-6; page 4-2).

First, parcels currently designated Rural (RUR), Open Space (OS), or Agriculture (AG) in the existing General Plan were not changed relative to location, density, or intensity in the 2040 General Plan. Second, for areas with existing General Plan designations of Existing Community and Urban, these lands have been assigned new General Plan land use designations that are consistent with the existing zoning designation of each parcel.

Although the County's General Plan is distinct from its zoning ordinances, the 2040 General Plan's proposed land use designations are compatible with the County's existing, underlying zoning categories as depicted by Table 2-1 in the Land Use and Community Character Element (LU). This table illustrates the compatibility relationship between the 2040 General Plan land use designations and the County's adopted zoning categories. The General Plan and zoning ordinances set forth separate but complementary land use regulations in that future discretionary development proposals will need to be consistent with the 2040 General Plan designation for the property as well as the requirements of the underlying zoning district.

#### Calculating Projected Buildout

Comments received on the draft EIR also requested clarification on the source of growth projections used and how these were developed. Draft EIR Chapter 4, "Environmental Impact Analysis," describes the draft EIR's approach to the analysis of environmental impacts of 2040 General Plan implementation, including the growth projections and buildout assumptions used in the analysis (pages 4-1 to 4-4). The factors and assumptions considered in the draft EIR impact analysis include:

- projections for growth in population, households, and jobs by 2040;
- buildout of the plan area, even though buildout is not anticipated to occur within the planning horizon of 2040;
- general plan implementation does not itself result in the growth of population, households, employment, or traffic, but would accommodate such growth;
- the 2040 General Plan encourages urban development in communities where housing, commercial uses, and employment are already concentrated, but does not discourage or prohibit new development in rural or less developed areas; and
- existing, local regulations address the location, type, and intensity of land use development patterns in the county, including the Guidelines for Orderly Development, voluntary greenbelt agreements among the County and several cities, and the County's SOAR initiative (which is part of the General Plan).

Additional description and context regarding the growth projections and buildout assumptions used in the draft EIR analysis are provided below.

As presented in the draft EIR, growth projections used to prepare the 2040 General Plan were estimated for 2020, 2030, and 2040 using county-specific demographic projections prepared by Southern California Association of Governments (SCAG) for the draft 2020 Regional Transportation Plan and Sustainable Communities Strategy (SCAG 2017). When discussing the future of the county, it is important to keep in mind the small amount of change in population that is projected for the unincorporated county by 2040. Between 2015 and 2040,

the unincorporated county is estimated to grow by 4,099 persons or 1,281 households (see Table 3-3 in draft EIR, page 3-20, and draft EIR page 4-1). (SCAG 2017)

In the draft EIR, future development under the proposed project is referred to using the SCAG growth projections and the term “buildout.” (pages 4-1 and 4-2). Several comments on the draft EIR stated confusion over how growth projections and buildout assumptions were applied in the draft EIR and whether either was adequate for the environmental analysis conducted.

The following are key terms that have been used to describe future development in the unincorporated county.

- **Holding Capacity.** At the April 17, 2018, Board and Planning Commission joint work session, the Board directed staff to evaluate development potential based on existing land use designations. To do this, the County evaluated the holding capacity or theoretical buildout of all parcels in the unincorporated county at their maximum allowed density or intensity pursuant to the existing General Plan and applicable zoning ordinance. This analysis was completed by multiplying the acres of vacant and underutilized lands by the maximum density and intensity for each land use/zone designation. This term, and resulting analysis, were used in the Alternatives Report (Chapters 4 and 5) as a first step to ascertain if the existing General Plan authorized adequate development to support the unincorporated county’s projected population growth. This analysis showed that the County’s current land use planning could support projected growth and supports the determination that no changes to the General Plan’s existing land use designations, and no increases to the allowable density or intensity of development within such existing land use designations, are needed in the 2040 General Plan to support projected population growth.
- **Development Potential.** As a next step in the Alternatives Report process conducted by the Planning Division in 2018, development potential was calculated. Development potential is the amount of development that could occur in the unincorporated county based on buildout under adopted land use plans and corresponding zoning on lands that are vacant or underutilized, and accounting for constraints on future development (e.g. physical and infrastructure).
- **Buildout.** Buildout (as used in the draft EIR, see page 4-2) is synonymous with the term Development Potential as used in the Alternatives Report. This looks at the development that could occur under the land use designations in the 2040 General Plan, which, as explained above, are consistent with the development allowed under the existing General Plan. The term “buildout” describes the potential development of all appropriately designated lands in the unincorporated county, even though much of this development would occur after 2040. By using this buildout assessment, the draft EIR accounts for all potential physical impacts. Analysis based on buildout reflects the understanding that given the small amount of growth anticipated by 2040, the location of the growth is very much dependent on individual landowner choice and can be on a parcel-by-parcel development as opposed to larger subdivisions. This approach recognizes the potential for development to be distributed throughout the county based on several factors. As growth can occur in the appropriately designated areas throughout the unincorporated county, the buildout approach allows for a conservative, worst-case assessment of environmental impacts where the impact is based on the location of future development in relation to the location of physical environmental resources.

- **Growth Projections.** Some aspects of the draft EIR are directly tied to the growth projections contained in the SCAG draft 2020 Regional Transportation Plan and Sustainable Communities Strategy (SCAG 2017). For instance, the Ventura County Transportation Commission (VCTC) traffic model that was used to calculate vehicle miles traveled (VMT) in Section 4.16 of the draft EIR incorporates the SCAG growth projections to 2040. The growth projections approach allows for a reasonably foreseeable analysis of future environmental changes where the impact is based on the amount of future growth that would be accommodated within the approximately 20-year planning period of the 2040 General Plan.
- **Use of Buildout and Growth Projections in the Draft EIR Impact Analysis.** The draft EIR uses the buildout approach for the analysis of impacts to aesthetics (Section 4.1), agricultural and forestry resources (Section 4.2), biological resources (Section 4.4.), cultural, tribal cultural, and paleontological resources (Section 4.5), geologic hazards (Section 4.7), hazards, hazardous materials, and wildfire (Section 4.9), hydrology and water quality (Section 4.10), land use and planning (Section 4.11), mineral and petroleum resources (Section 4.12), population and housing (Section 4.14), and public services and recreation (Section 4.15). Draft EIR analyses based on future growth projections under implementation of the 2040 General Plan include estimates of air quality emissions in Section 4.3, energy consumption estimates in Section 4.6, greenhouse gas emissions projections in Section 4.8, future traffic noise levels in Section 4.13, vehicle miles traveled in Section 4.16, and future demand for water in Section 4.17. Some draft EIR sections use both approaches depending the threshold of significance and impact analysis conducted. For example, Section 4.3, “Air Quality” uses the future growth projections to estimate future construction and operational air quality emissions in Impact 4.3-2 (starting at page 4.3-12) and Impact 4.3-3 (starting at page 4.3-17), while the analysis of exposure of sensitive receptors to substantial pollutant concentrations in Impact 4.3-5 (starting at page 4.3-20) uses the buildout approach to provide a conservative, worst-case analysis of locations where future development under the 2040 General Plan would be allowed that could result in exposure of sensitive receptors to substantial increases in toxic air contaminant emissions.

### MR-3 Master Response 3: 2020 Regional Housing Needs Assessment and 2021-2029 Housing Element Update

Several commenters expressed concern about accurately developing and analyzing a comprehensive update to the Ventura County General Plan (2040 General Plan) with respect to projected housing needs and the identification of sufficient sites and zoning before the 2020 Regional Housing Needs Assessment (RHNA) allocation and subsequent Housing Element Update. Commenters assert that the growth projections of the draft EIR are erroneous because they are “at odds” with the forthcoming housing numbers that will be allocated to the County at a future date through the RHNA process. Comments state that the County “must table consideration” of the 2040 General Plan until it can include the 6th cycle Housing Element Update (“2021-2029 Housing Element Update”), and that the County should then revise the draft EIR to reflect analysis of the 2021-2029 Housing Element as part of the 2040 General Plan.

Comments also assert that preparing a draft EIR for the 2040 General Plan results in improper CEQA piecemealing and project segmentation because the 2040 General Plan includes the County’s existing adopted Housing Element for the 5th cycle planning period from October

2013 to October 2021 (2014-2021 Housing Element) and does not include the future Housing Element Update for the 6th cycle planning period from October 2021 to October 2029. Comments also assert that the draft EIR analysis of consistency with the adopted 5th cycle RHNA is conclusory and not supported by substantial evidence.

To address these comments, this master response provides an overview of State RHNA and Housing Element requirements, describes the County's existing 2014-2021 Housing Element prepared for the 5th cycle planning period and the status of the ongoing 6th cycle RHNA Allocation Plan, and provides an overview of the process, substance, and timing of the County's future 2021-2029 Housing Element Update. This master response explains that the 2040 General Plan appropriately includes the County's existing 2014-2021 Housing Element, and then explains that State law allows the 2040 General Plan to be adopted independent of the 2021-2029 Housing Element Update.

The master response concludes by explaining that the draft EIR for the 2040 General Plan did not violate CEQA by not including the future 2021-2029 Housing Element Update as part of the draft EIR project description, nor did the County improperly engage in piecemealing or project segmentation in the draft EIR by not including the future 2021-2029 Housing Element Update as part of the draft EIR project description. This master response also explains that the draft EIR was not required to analyze consistency with the draft RHNA allocation plan for the 6th cycle and that it provided an adequate analysis of the consistency of the 2040 General Plan with RHNA requirements of State Housing Element law. The population and growth forecast assumptions used in the 2040 General Plan and the draft EIR are described in Master Response MR-2.

### **MR-3.A OVERVIEW OF THE REGIONAL HOUSING NEEDS ASSESSMENT AND STATE HOUSING ELEMENT LAW**

All cities and counties in California are required to adequately plan to meet the housing needs of everyone in the community. Local governments meet their housing need requirements by adopting housing plans as part of their general plans. The law mandating that housing be included as an element of each jurisdiction's general plan is known as "Housing Element law" (Gov. Code, §§ 65580-65589.11). A Housing Element must be revised periodically on a four-, five-, or eight-year cycle, depending on various factors (Gov. Code, § 65588).

This process begins with the California Department of Housing and Community Development (HCD) making a determination of the housing needs for each region of the State, called the Regional Housing Needs Determination (RHND). The RHND is determined in coordination with the region's planning body (known as a "council of governments" or COG). Each COG is then tasked with developing a methodology for allocating a portion of the RHND to each of the cities and counties within that region so that every jurisdiction is accommodating its "fair share" of the region's housing needs. This process of allocating housing needs is known as the Regional Housing Needs Assessment (RHNA). The Southern California Association of Governments (SCAG), the designated COG, develops a RHNA allocation plan for several Southern California counties, including Ventura County. This process is conducted by SCAG every eight (8) years.

Every jurisdiction must plan for its RHNA allocation in the Housing Element of its general plan by ensuring there are enough sites available with suitable zoning to accommodate their RHNA

allocation. Jurisdictions are required to plan for their RHNA allocation and there are penalties for not doing so, but there are no direct penalties for not building enough housing.

Pursuant to State law the Housing Element must, among other requirements:

- Identify, analyze, and make adequate provision for the existing and projected housing needs for all economic segments of the community;
- Include a statement of goals, policies, quantified objectives, financial resources, and scheduled programs to preserve, improve and develop housing;
- Identify adequate sites that are suitable and available for housing development within the housing cycle and sufficient to meet the county's fair share of the regional housing need at all income levels; and
- Be submitted to HCD for review and certification for state law compliance.

### **MR-3.B ADOPTED 5TH CYCLE RHNA ALLOCATION PLAN FOR THE COUNTY'S EXISTING 2014-2021 HOUSING ELEMENT**

The current (5th cycle) RHNA allocation plan for the SCAG region was adopted by SCAG in October 2012 and covers the Housing Element planning period October 2013 to October 2021. The County's existing adopted Housing Element is certified by HCD for the planning period of October 2013 to October 2021.

### **MR-3.C STATUS OF ONGOING 6TH CYCLE RHNA ALLOCATION PLAN**

On March 5, 2020, the SCAG Regional Council adopted the final RHNA allocation methodology. SCAG's RHNA Subcommittee is scheduled to conduct appeals hearings in mid-August 2020. The appeals hearings could potentially result in a redistribution of housing units among jurisdictions. Therefore, the County's RHNA numbers may change. The County's RHNA allocation for the 6th cycle will not be final until the final 6th cycle RHNA allocation plan is adopted by SCAG anticipated in October 2020. Because the 6th cycle is in process and in draft, and the 2040 General Plan process has been ongoing since 2015, it would not be possible to base the 2040 General Plan analysis on allocations that were not developed at the time the 2040 General Plan analysis began or that have not been finalized and adopted by HCD. As such, consistent with the requirements of CEQA, the 2040 General Plan properly relies upon data and information that was available and substantiated at the time the Notice of Preparation (NOP) for the 2040 General Plan was distributed.

### **MR-3.D OVERVIEW OF THE COUNTY'S FUTURE HOUSING ELEMENT UPDATE**

The statutory due date to adopt the 6th Cycle 2021-2029 Housing Element Update is October 15, 2021, for jurisdictions located within the SCAG region, including the unincorporated county. A jurisdiction that fails to adopt a Housing Element within 120 days (approximately 4 months) of this deadline must revise its Housing Element not less than every four years pursuant to Government Code section 65588(e)(4). County Planning staff initiated the process of conducting the housing needs analysis for the 6th Cycle Housing Element in Winter of 2019

and is planning to solicit public input during Summer 2020. As part of the 2021-2029 Housing Element Update, the goals, policies, and objectives and various accompanying analyses and text will be reviewed in the context of the other elements of the General Plan such as the land use, circulation, and open space elements (Gov. Code, § 65300.5). This will include a discussion of how internal consistency within the General Plan has been achieved and how internal consistency will be maintained throughout the planning period (Gov. Code, § 65583(c)(8)). If appropriate, other General Plan elements may need to be updated concurrently with the Housing Element. The draft Housing Element will be presented to County Board of Supervisors by the end of 2020 before it is submitted to HCD for its mandated preliminary review. The public adoption hearings for the final Housing Element are tentatively scheduled for Fall 2021, approximately one year after anticipated public adoption hearings for the 2040 General Plan in Fall 2020.

### **MR-3.E STATE LAW ALLOWS THE COUNTY TO PREPARE THE 2040 GENERAL PLAN INDEPENDENT OF THE 6TH CYCLE HOUSING ELEMENT**

The Housing Element is one of nine State-required components (Gov. Code, § 65302) of every jurisdiction's general plan. Unlike the other elements, the Housing Element is the only element with a separate statutory scheme (Gov. Code, §§ 65580-65589.11) which delineates its contents and the process for adoption in detail and requires certification by the State Department of Housing and Community Development (HCD). A Housing Element must be revised periodically on a four-, five-, or eight-year cycle, depending on various factors (Gov. Code, § 65588). Because of these mandated schedules, cities and counties across the State often update Housing Elements separately from updates to other elements of their general plans. The current Housing Element is certified by HCD for the planning period of October 2013 to October 2021. The next Housing Element planning period will be October 2021 to October 2029. Therefore, the current 2014-2021 Housing Element will remain effective for approximately the first year of the 2040 General Plan and all housing development applications and programs must rely upon the implementation requirements of the 2014-2021 Housing Element.

The Board of Supervisors (Board) commenced scoping exercises for the 2040 General Plan in 2015 as the existing General Plan has a planning horizon through 2020. In December 2015, the Board approved a consultant contract and scope of services for the preparation of the 2040 General Plan with an anticipated adoption date of March 2020, which has since been revised to Fall 2020. The 2040 General Plan scope of work specified that the Housing Element update would be a concurrent task to be completed based on the availability of data from the State's Department of Housing and Community Development (HCD) agency and State Housing Element certification schedule. On September 22, 2015, the Board approved the Ventura County General Plan Update Recommended Work Program which noted that the 2014-2021 Housing Element would likely require updating shortly after the completion of the comprehensive General Plan Update. Additionally, the Work Program noted that the Housing Element update should be addressed separately due to the scheduled availability of Regional Housing Needs Allocation (RHNA) data and the timing of the Housing Element certification process being outside of the County's control. Further, the Work Program indicated that the availability of RHNA numbers would need to be followed by a Housing Element project-related work effort including the need to conduct community engagement; draft housing goals, policies and programs; complete County decision-maker review; and submit the Housing Element for the required HCD preliminary review. Delaying the comprehensive update of the General Plan to accommodate the Housing Element update could have resulted in a planning gap of up to 4

years from the sunset of the planning horizon of the existing General Plan in 2020 to the adoption of the 2040 General Plan in 2024. In order to maintain a technically accurate General Plan with current planning information and projections (e.g., within the planning horizon of the document) the County initiated the General Plan update in 2015, thus enabling adoption of a General Plan with a planning horizon of 2020 through 2040.

Government Code section 65583(c)(8) requires that the Housing Element describe the means by which consistency will be achieved with other general plan elements. Additionally, the Housing Element must also meet State RHNA obligations (Gov. Code, § 65583) and meet other State requirements to obtain HCD certification. Every jurisdiction must plan for its RHNA allocation by ensuring there are enough sites available with suitable zoning to accommodate their RHNA allocation. Depending upon the final RHNA allocation, other elements in the 2040 General Plan may need to be updated subsequent to the anticipated 2040 General Plan adoption in Fall 2020 to provide adequate sites to meet the final RHNA allocation for the 6th cycle and maintain internal consistency between the 2021-2029 Housing Element and the 2040 General Plan. For this reason, State law provides local agencies the ability to amend their general plans up to four times per year (Gov. Code, § 65358(b)). Therefore, it is anticipated and appropriate that the 2021-2029 Housing Element Update may require amendments to the 2040 General Plan after it is adopted, subject to public engagement and environmental review under CEQA.

The remaining residential development potential as assessed in Table 3-22 in the 2040 General Plan Background Report shows capacity for approximately 28,228 units. This number far exceeds the current 2014-2021 Housing Element and associated 1,015-unit RHNA obligation as well as the draft 1,247-unit target distributed to the County through the forthcoming RHNA allocation (SCAG 2020). However, the historical construction completion averages are far lower than the theoretical capacity provided in the Background Report. The County reports on annual residential building permit trends in the General Plan Annual Progress Report (Ventura County 2020). To meet the State housing targets, a greater diversity of units to accommodate a wider range of residential housing demand through the next Housing Element planning period for 2021-2029 may be needed, especially in the County's existing communities where infrastructure to support the development of additional density exists. The supply of land to support the full range of residential development that will meet new stringent State requirements may require creating more land use opportunities for multi-family units as well as creating programs that help facilitate housing types geared towards lower-income households such as accessory dwelling units and farmworker dwelling units. It is unknown at this time if the County will need to modify the 2040 General Plan land uses to accommodate the RHNA allocation.

### **MR-3.F CEQA DEFINITION OF A PROJECT AND CEQA REQUIREMENTS FOR A PROJECT DESCRIPTION**

For purposes of CEQA, State CEQA Guidelines section 15378 defines a “project” as follows:

(a) “Project” means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is any of the following:



(1) An activity directly undertaken by any public agency including but not limited to...the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100-65700.

Because the Guidelines define a project as the “whole of an action” that may result in either direct or indirect physical changes in the environment, it is forbidden under CEQA to piecemeal or segment a project into two or more pieces and evaluate each piece in separate environmental documents.

The State CEQA Guidelines further state that an EIR shall contain a project description that includes, in part, “A general description of the project’s technical, economic, and environmental characteristics...” (§ 15124(c)) and “should not supply extensive detail beyond that needed for evaluation of review” of environmental impacts (§ 15124(a)).

### **MR-3.G THE DRAFT EIR FOR THE 2040 GENERAL PLAN APPROPRIATELY DESCRIBED THE COUNTY’S ADOPTED HOUSING ELEMENT AND ADEQUATELY ANALYZED CONFLICTS WITH RHNA REQUIREMENTS**

A description of the 2040 General Plan is provided in Chapter 3, Project Description, of the draft EIR, which explains that the, “2040 General Plan integrates the County’s current 2014-2021 Housing Element by formatting the document to be consistent with the 2040 General Plan” (p. 3-6). The draft EIR project description also includes a discussion of the County’s General Plan Update process for preparing the 2040 General Plan that commenced in 2015 and which included the preparation of an Alternatives Report in 2018 that led to the identification of a Preferred Land Use Alternative for the 2040 General Plan. It explains that the Preferred Land Use Alternative, “consists of two parts: Proposed 2040 General Plan Land Use Designations and the Regional Housing Needs Allocation (RHNA)” (p. 3-6). It further explains that the RHNA component of the preferred alternative “will be addressed as part of the Housing Element that will occur subsequent to the adoption of the 2040 General Plan” because RHNA allocations and Housing Element updates follow, “a planning cycle that is distinct from the 2040 General Plan” (p. 3-7).

Section 4.11 of the draft EIR analyzes the land use and planning impacts of the 2040 General Plan, including whether 2040 General Plan implementation would cause an environmental impact due to a conflict with RHNA requirements of State housing law (Impact 4.11-3, pp. 4.11-22 to 4.11-23). The draft EIR explains that the 2040 General Plan complies with RHNA requirements because the “current 2014-2021 Housing Element was certified by HCD on December 2013, which means that the County provided evidence of sufficient capacity to meet State requirements to accommodate housing needs” (p. 4.11-23). The draft EIR did not analyze the 2040 General Plan for conflicts with the County’s draft RHNA allocation for the 6th cycle for several reasons: it is not final and subject to change until its anticipated adoption in October 2020; a draft RHNA allocation was not publicly available on or before January 13, 2020, when the draft EIR was released for public review; and a draft RHNA allocation was not publicly available when the County commenced preparation of the draft EIR environmental analysis after publishing the Notice of Preparation on January 14, 2019.

The draft EIR also explains that RHNA and State housing law mandate periodic updates of general plan Housing Elements and that future development under the 2040 General Plan would be consistent with the RHNA for future Housing Element update cycles (p. 4.11-22).

Therefore, the draft EIR concludes that implementation of the 2040 General Plan would not cause a significant environmental impact due to a conflict with RHNA requirements.

For the reasons stated above and throughout this master response, the future 2021-2029 Housing Element Update is not part of the “whole of the action” of the 2040 General Plan. For one, State law does not prevent the County or any local jurisdiction from updating its general plan independent of its Housing Element. In addition, the County explained in the draft EIR project description that the 2040 General Plan included the existing 2014-2021 Housing Element and that the 2021-2029 Housing Element Update would be prepared subsequent to adoption of the 2040 General Plan. Moreover, State law requires the County to prepare a Housing Element update according to substantive, procedural, and temporal requirements that are completely separate from the County’s process for preparing the 2040 General Plan. The requirement to prepare the 2021-2029 Housing Element Update is not a consequence of the County’s decision and process to prepare the 2040 General Plan.

Therefore, for the above reasons, the draft EIR project description correctly described the “whole of the action” for the 2040 General Plan by describing the existing 2014-2021 Housing Element as one of the characteristics of the project analyzed in the draft EIR. As a result, not including the 2021-2029 Housing Element Update in the draft EIR project description and analysis does not violate CEQA’s prohibition against piecemealing or project segmentation. In addition, the draft EIR provides substantial evidence supporting its conclusion that implementation of the 2040 General Plan would not cause a significant environmental impact due to a conflict with RHNA requirements.

#### **MR-4 Master Response 4: 2040 General Plan Oil and Gas Policies**

Several commenters addressed the effects of oil and gas extraction in the County. Oil and gas extraction is an area of known controversy. On April 23, 2019, and June 4, 2019, the County Board of Supervisors (Board) approved and then extended an interim urgency ordinance prohibiting County approval of new oil wells that would utilize steam injection to extract shallow oil, and the re-drilling of such existing wells, on a portion of the Oxnard Plain overlying the Fox Canyon aquifer. This interim urgency ordinance was extended by the Board on November 5, 2019 and will remain in effect until December 7, 2020 unless terminated sooner by the Board. On September 10, 2019, the Board directed County staff to amend the Non-Coastal Zoning Ordinance and Coastal Zoning Ordinance to require discretionary approval of new oil and gas development under antiquated permits and require that oil and gas development standards from these ordinances apply to antiquated permits. Approval of oil and gas development permits in the County is also an area of known controversy. Between October 2015 and March 2020, approximately eight public hearings to consider de novo appeals of oil and gas development permit-related matters have been conducted by the Board.

From the outset of the General Plan Update project in 2016, the County has received a range of public comments recommending policies in support of, as well as and opposed to, oil and gas extraction in the 2040 General Plan. On January 14, 2019, a notice of preparation (NOP) for the draft EIR was circulated to the public in accordance with the State CEQA Guidelines, and a public scoping meeting was held on January 30, 2019. Key concerns and issues that were expressed during the scoping process included the effects of continued oil and gas extraction including secondary effects related to climate change, air quality, water quality, water supply, traffic, noise, odors, aesthetics, and hazards. The County received a total of 27

NOP comment letters. Of this total, 14 comment letters (52 percent), expressed such concerns related to continued oil and gas extraction. Finally, of the 273 comment letters received on the draft EIR, 83 (30 percent), addressed the topic of oil and gas extraction.

The Introduction to the draft EIR (page 1-4) clearly identifies the effects of continued oil and gas extraction to be a known area of controversy (including secondary effects related to climate change, air quality, water quality, water supply, traffic, noise, odors, aesthetics, and hazards). The range of issues related to continued oil and gas extraction were clearly addressed within the relevant environmental resource sections of the draft EIR (Sections 4.1 through 4.17), and most comprehensively in Section 4.12 (Mineral and Petroleum Resources) commencing on page 4.12-1. The following sections of this master response address groups of comments that express similar concerns related to the County's authority to regulate oil and gas development, antiquated permits and takings, underlying motives of the proposed oil and gas policies, mitigation measures and the role of the Board of Supervisors, applicability of reference studies for oil and gas operations, oil and gas flaring, pipeline requirements, new oil well setbacks (e.g. buffers), directional drilling, phasing out oil and gas operations, effects of proposed oil and gas policies outside of the 2040 General Plan planning area, and oil reserves.

#### **MR-4.A COUNTY'S AUTHORITY TO REGULATE OIL AND GAS DEVELOPMENT**

Some comments regard the County's legal authority to adopt and implement new General Plan policies regulating oil and gas operations. Other comments request that the County adopt additional, more stringent general plan policies to, among other things: prohibit new oil and gas development and phase out existing development; impose additional regulations on oil and gas operations; and prohibit specific activities such as hydraulic fracturing. These issues are addressed as follows.

The County's authority to allow, prohibit or otherwise regulate all land use matters, including oil and gas development, is derived from its "police power" set forth in Article XI, Section 7 of the California Constitution, which states: "A county or city may make and enforce within its limits all local police, sanitary, and other ordinances and regulations not in conflict with general laws." Within the unincorporated area of Ventura County, the County's general authority to regulate land uses, including oil and gas development, is, subject to general State laws, as broad as the State's authority to do so. (See also Gov. Code, § 65804 [expressing California Legislature's intent that counties maintain the maximum control over zoning matters].) However, once oil and gas development is constructed in accordance with County permitting and land use rules, the State preempts and overrides the County's authority to regulate certain aspects of the established oil and gas development. In this regard, given the State's pervasive regulation of subsurface wells and operations, the State has exclusive jurisdiction in the down-hole/subsurface realm, leaving the County unable to directly regulate activities such as well casing construction or hydraulic fracturing and other well stimulation treatments. (Pub. Res. Code, §§ 3106, 3150-3690; Cal. Code Regs., tit. 14, § 1712 et seq.; 59 Ops. Cal. Atty. Gen. 461 (1976).) In addition, the California Geologic Energy Management Division (CalGEM) is currently developing new regulations for surface aspects of oil and gas development to strengthen protections for public health and safety. Depending on the specific nature and language of these regulations, if and when adopted, they could preempt the County's authority to implement regulations addressing the same subject matter.

Commenters also claim the County is preempted from adopting land use regulations that prohibit or discourage the use of flares to dispose of gas produced during oil production based on the fact the Ventura County Air Pollution Control District regulates flares that are installed in accordance with a County land use entitlement. This claim lacks merit. The County has for decades discouraged the use of flares under the authority of its constitutional police powers. (See, e.g., Ventura County Non-Coastal Zoning Ordinance, § 8107-5.5.7.) The fact that a regulatory agency, such as VCAPCD, regulates equipment, such as flares, installed at an oil production facility does not preempt the County's authority to prohibit or discourage the equipment's installation and use in the first instance.

Based on the foregoing, in general, and subject to the vested rights and takings issues that are addressed separately below, the County has the legal authority to: (a) determine whether and where to authorize oil and gas development to occur; and (b) regulate surface (but not subsurface) aspects of oil and gas operations to the extent not preempted by State or federal law. The County has legal authority to adopt and implement General Plan Policies COS-7.2, COS-7.7, and COS-7.8, all of which regulate surface aspects of new oil and gas operations in regulatory areas that are not preempted by State or federal law.

#### **MR-4.B ANTIQUATED PERMITS AND TAKINGS**

Comments ask about the County's legal authority to adopt and apply new general plan policies related to oil and gas operations conducted pursuant to "antiquated" County oil and gas permits. Comments also suggest that the County's application of 2040 General Plan Policies COS-7.2, COS-7.7, and COS-7.8 would impair vested rights and constitute takings of private property without just compensation in violation of the U.S. Constitution. These issues are addressed below.

The oil and gas exploration and production land use has been subject to a discretionary permitting requirement since adoption of the County's first zoning ordinance in 1947. Over time, the County's zoning ordinances and standard permits have become more stringent and detailed in their regulation of this land use. From 1947 through approximately 1966, the County granted discretionary "special use permits" (the predecessor to the County's current "conditional use permits") authorizing oil and gas exploration and production. The oil and gas permits granted by the County during this era are referred to as "antiquated permits." Antiquated permits typically describe in very general terms the oil and gas-related activities and structures that are authorized within permit areas that are often large. The permits typically do not state the maximum number or exact location of allowable wells or other structures, nor do they contain expiration dates (i.e., dates by which the land use must end unless extended by the County). Because antiquated permits were granted before enactment of the California Environmental Quality Act (CEQA) in 1970, none of the projects underwent CEQA review prior to initial permitting.

Vested rights, which constitute a property interest, are based on a permittee's reasonable reliance on a government permit or approval describing a specific development project. Once a permittee has obtained the permit or approval and has performed substantial work on the development, the government is estopped (i.e., prohibited) from preventing completion of the work pursuant to subsequently enacted legislation. The seminal California case on vested rights is *Avco Community Developers, Inc. v. South Coast Regional Commission* (1976) 17 Cal.3d 785. A permittee has the legal burden of establishing the existence and scope of vested

rights. If a permittee establishes a vested right, the government may not, by virtue of a change in the laws, prohibit or impair the construction or use that is specifically authorized by the permit or approval, unless the development presents a threat of harm, danger, menace or nuisance. (*Davidson v. County of San Diego* (1996) 49 Cal.App.3d 639; *Stewart Enterprises, Inc. v City of Oakland* (2016) 248 Cal.App.4th 410.)

Holders of typical County antiquated permits generally do not have vested rights to engage in new oil and gas development based solely on the original antiquated permits. This is because of the typical antiquated permits' lack of specificity regarding the scope and composition of the authorized development. In addition, given that the antiquated permits were granted between approximately 53 and 72 years ago, permittees have had decades to build out the oil and gas projects under the initial approvals. To the extent antiquated permits confer any vested rights to construct new development, which the County disputes, such vested rights have likely lapsed through an unreasonable delay in their holders' completing the initially approved projects. (See *Lakeview Development Corp. v. City of South Lake Tahoe* (9th Cir. 1990) 915 F.2d 1290, 1298-1299.)

Even where a permittee possesses vested rights to develop and operate oil and gas facilities pursuant to a County permit, antiquated or otherwise, the County possesses constitutional land use authority to regulate the subject development and operations (subject to State and federal preemption), including by requiring compliance with General Plan policies and other County land use standards, so long as the vested rights in the permit are not impaired. (*Donlan v. Weaver* (1981) 118 Cal.App.3d 675, 684.) In general, a vested right is impaired if the new governmental regulation would prevent the completion of construction or use of facilities that are specifically described and authorized in an existing County permit. Vested rights claims are fact-specific and determined on a case-by-case basis.

2040 General Plan Policies COS-7.2, COS-7.7, and COS-7.8 would likely not implicate vested rights at all, let alone impair them, because the policies would only apply to new discretionary oil and gas wells, as opposed to existing wells, and thus the policies would not prevent the completion of construction or use of facilities that are specifically authorized by an existing County permit. If a vested right to construct new wells were nonetheless established by a permittee, and if any of the proposed 2040 General Plan policies were found to impair those vested rights, the 2040 General Plan policy or policies could not be applied to the new wells; the 2040 General Plan policy or policies, however, would remain in place. Property owners could potentially claim that 2040 General Plan Policy COS-7.2, COS-7.7, or COS-7.8, when applied to a specific project, constitutes a "regulatory taking" in violation of the Fifth Amendment to the U.S. Constitution. A regulatory taking occurs when a government regulation becomes so onerous that it has the practical effect of a direct appropriation of private property without just compensation. (*Lingle v. Chevron U.S.A.* (2005) 544 U.S. 528, 538.) A complex set of factors is applied on a case-by-case basis to determine whether a regulatory taking has occurred including the regulation's economic effect on the property owner, the extent to which the regulation interferes with reasonable investment-backed expectations, and the character of the government action. (*Penn Central Transp. Co. v. New York City* (1978) 438 U.S. 104, 124.)

The Fifth Amendment is often misconstrued as a prohibition against any regulation that decreases property value or interferes with an owner's preferred land use. But as the Second District Court of Appeal, Division Six, has stated, the "Fifth Amendment is not a panacea for less-than-perfect investment or business opportunities." (*Long Beach Equities, Inc. v. County of Ventura* (1991) 231 Cal.App.3d 1016, 1040; see also *Pennsylvania Coal Co. v. Mahon*

(1922) 260 U.S. 393, 413 [“Government hardly could go on if to some extent values incident to property could not be diminished without paying for every such change in the general law”].) A takings claim, which would seek monetary compensation from the County, would be decided based on the specific facts presented. Regardless of the outcome of any such claim, the 2040 General Plan policies themselves would remain in place.

One commenter asserts that General Plan Policies COS-7.7 and COS-7.8 are “infeasible” and “unconstitutional” based on language contained in a County Counsel memorandum from 2014 entitled “Legal Analysis on Antiquated Oilfield Conditional Use Permits.” County Counsel disagrees. The County’s position regarding antiquated permits and vested rights is summarized above, and is further addressed in the following County Counsel report that was publicly provided to the Board on September 10, 2019 (Ventura County 2019).

#### MR-4.C UNDERLYING MOTIVES OF THE PROPOSED OIL AND GAS POLICIES

Several commenters questioned the underlying motives of the proposed oil and gas policies in the 2040 General Plan. The 2040 General Plan does not ban new oil and gas activity or phase out existing oil and gas activity in the unincorporated county. Policies COS-7.2, COS-7.7, and COS-7.8 would reduce emissions of criteria air pollutants, toxic air contaminants, greenhouse-gas compounds, and decrease traffic safety risks associated with the transportation of oil and produced water. 2040 General Plan Policy COS-7.2 would require that new oil and gas wells be located a minimum of 1,500 feet from residential dwellings and 2,500 feet from any school. The draft EIR concluded that as proposed, Policy COS-7.2 would reduce the potential for sensitive receptors at residential dwellings and schools to be exposed to air pollutants including toxic air contaminants associated with new oil and gas wells (page 4.3-19). Policy COS-7.7 requires new discretionary oil wells to use pipelines to convey oil and produced water; oil and produced water shall not be allowed to be trucked for new discretionary oil wells. The draft EIR concluded that as proposed, Policy COS-7.7 would avoid air pollutant emissions that would otherwise result from trucking of oil and produced water from new discretionary oil wells (page 4.3-18). Additionally, COS-7.7 would result in the reduction of trucking of crude oil and produced water which could result in a potential reduction of Vehicle Miles Travelled (VMT) in the unincorporated county (page 4.16-23). The draft EIR also noted that greenhouse gas (GHG) emissions from vehicles are one of the largest sources of GHG emissions in the General Plan area (36 percent) (page 4.16-23). Finally, COS-7.8 requires that gases emitted from all new discretionary oil and gas wells shall be collected and used or removed for sale or proper disposal and flaring or venting of such gases shall not be allowed except in cases of emergency or for testing purposes. The draft EIR concluded that as proposed, Policy COS-7.8 would lessen air pollutant emissions that would otherwise result from flaring at new discretionary oil and gas wells (page 4.3-19). The draft EIR also concluded that these policies support attainment of the following 2040 General Plan Guiding Principles (page 4.12-23):

- **Hazards and Safety:** Minimize health and safety impacts to residents, businesses and visitors from human-caused hazards such as hazardous materials, noise, air, sea level rise, and water pollution, as well as managing lands to reduce the impacts of natural hazards such as flooding, wildland fires, and geologic events.
- **Climate Change and Resilience:** Reduce greenhouse gas emissions to achieve all adopted targets, proactively anticipate and mitigate the impacts of climate change,

promote employment opportunities in renewable energy and reducing greenhouse gases, and increase resilience to the effects of climate change.

- **Environmental Justice:** Commit to the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations and policies, protect disadvantaged communities from a disproportionate burden posed by toxic exposure and risk, and continue to promote civil engagement in the public decision-making process.

#### MR-4.D MITIGATION MEASURES AND THE ROLE OF THE BOARD OF SUPERVISORS

Some commenters disagree with the inclusion of mitigation measures related to the impacts of Policies COS-7.7 (pipelines) and COS-7.8 (flaring) in the draft EIR (refer to Impact 4.12-4 starting at page 4.12-22). However, CEQA requires that before a project that will cause significant environmental impacts can be approved, a lead agency must find that all feasible mitigation measures that would reduce or eliminate a project's impacts have been adopted. (CEQA Guidelines, §§ 15092(b), 15043.) The analysis concluded that there would be potentially significant impacts from the loss of availability of known petroleum resources of value to the region and residents of the State resulting from the implementation of these policies. The draft EIR identified potentially feasible mitigation, Mitigation Measures PR-2 and PR-3 (page 4.12-31), which the draft EIR concludes would reduce the potentially significant impact to loss of availability of a known petroleum resource that would be of value to the region and residents of the State to less than significant (page 4.12-32).

The draft EIR (page 1-7) describes the requirements of State CEQA Guidelines Section 15091, which state that when approving a project, for each significant impact of the project identified in the EIR, the lead or responsible agency must find, based on substantial evidence, that either: (a) the project has been changed to avoid or substantially reduce the magnitude of the impact; (b) changes to the project are within another agency's jurisdiction and such changes have or should be adopted; or (c) specific economic, social, or other considerations make the mitigation measures or project alternatives infeasible. Per Public Resources Code Section 21061.1, feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account, economic, environmental, legal, social, and technological factors. The ultimate decisions as to whether an environmental impact is significant and, separately, whether to adopt a proposed mitigation measure or a proposed project alternative included in a draft EIR to address a significant impact, are made by the decision-making body of the public agency conducting the CEQA review based on substantial evidence in the record. The public agency is not required to adopt every potential mitigation measure or alternative included in a draft EIR and may instead reject a mitigation measure or alternative if it is found to be infeasible based on substantial evidence in the record.

If a mitigation measure or alternative is rejected as infeasible, and a significant environmental impact would occur, the public agency may still approve the project by adopting a statement of overriding considerations based on a finding that the project's overall benefits outweigh the project's significant environmental impacts. The written statement of overriding considerations sets forth the specific social, economic, or other reasons supporting the agency's decision and explains why the project's benefits outweigh the significant environmental effects (State CEQA Guidelines Section 15093).

Here, the draft EIR includes County staff's determinations that Policy COS-7.2 would result in a potentially significant impact by hampering or precluding access to petroleum (Impact 4.12-3, starting at page 4.12-11), and that implementation of proposed Policies COS-7.7 and COS-7.8 would result in a potentially significant impact by resulting in the loss of availability of known petroleum resources that would be of value to the region and State (Impact 4.12-4). As a result of these significance determinations, and pursuant to the requirements of State CEQA Guidelines Section 15126.4, the draft EIR proposes Mitigation Measures PR-1 for Impact 4.12-3 (page 4.12-18), and Mitigation Measures PR-2 and PR-3 for Impact 4.12-4 (page 4.12-31) to minimize significant adverse impacts. Because the proposed project consists of the Board-proposed 2040 General Plan, including the subject oil and gas-related policies, County staff's proposed mitigation measures consist of potential revisions to the policies themselves in accordance with State CEQA Guidelines sections 15097(b) and 15126.4(a)(2). As explained above, in proposing that these policies may be revised to mitigate the potentially significant impact of the policies, County staff did not legislatively amend the draft policies themselves, but rather fulfilled CEQA's requirement to minimize significant adverse impacts. The ultimate decisions as to whether the environmental impacts of these policies are significant, and separately, whether to revise the policies in order to mitigate any potentially significant impacts, will be made by the Board based on substantial evidence in the record.

In this regard, the Board may conclude that any or all of the policy revisions/mitigations measures set forth in the draft EIR are infeasible and adopt a statement of overriding considerations concluding that the benefits of adopting the policies, as originally proposed by the Board, would outweigh any significant environmental impacts that would result from the policies. In particular, the Board may conclude that on balance, the environmental benefits of the Board-proposed policies – such as avoidance or mitigation of air pollutants and greenhouse gas emissions, health risks, hazards, traffic safety issues, biological impacts, and the existence of other environmental, social and/or economic factors – outweigh the policies' potential for hampering or precluding access to, or resulting in a loss of availability of, known petroleum resources.

The basic purposes of CEQA and the County's draft EIR are, in part, to inform the public and the County's decision-makers about the potential, significant environmental effects of the proposed 2040 General Plan and identify the ways that environmental damage can be avoided or significantly reduced (State CEQA Guidelines Section 15002(a)). The draft EIR does not make any legislative changes to the Board-proposed General Plan policies analyzed in the EIR.

#### **MR-4.E      APPLICABILITY OF REFERENCE STUDIES FOR OIL AND GAS OPERATIONS**

Some commenters were concerned about the applicability of the studies relied upon for the analysis of the impacts of Policy COS-7.2 (Well Distance Criteria), and that these studies did not meet the informational requirements of CEQA. The draft EIR relies on many cited sources, but for Policy COS-7.2 Well Distance Criteria, the draft EIR relied on analyses contained in the statewide publication of the California Council on Science and Technology (CCST), *Independent Scientific Assessment of Well Stimulation in California* (CCST 2015) required by SB-4 (Oil and Gas: Well Stimulation); *Public Health and Safety Risks of Oil and Gas Facilities in Los Angeles County*, (2018) prepared at the request of the Los Angeles County Board of Supervisors; and *Oil and Gas Health Report* (2019) prepared at the request of the Los Angeles



City Council, and prepared by the then-City's Oil Administrator, Joe Uduak, who is now the State Oil and Gas Supervisor of CalGEM. In particular, Mr. Uduak used Los Angeles County's 2018 *Public Health and Safety Risks* report, together with analysis of economic effects and the effects of increased oil imports, in forming his recommendations in the 2019 *Oil and Gas Health Report*.

All three publications note that there is a lack of data to definitively quantify the potential health risks of oil and gas development outlined in each report and used by each report to establish distance criteria between new wells and sensitive land uses. The CCST report recommended further study and that agencies with jurisdiction over oil and gas operations validate that their policies and regulations are protective of human health and the environment (page 4.12-20).

The 2018 *Public Health and Safety Risks* identified health risks but was unable to quantify those risks in the context of well distance criteria. The study acknowledged that some quantifications of public health risk had been completed and that the studies were not able to conclude whether or not living near oil and gas activities is associated with long-term health effects. The study applied the precautionary principle that until such risks are shown to be safe, they should be treated as an ongoing concern (*Public Health and Safety Risks*, page 17 draft EIR page 4.12-19 to 20).

The 2019 *Oil and Gas Health Report* further expressed concern regarding setting policy on well distance criteria in the face of limited data, citing in addition the economic impacts of reduced local oil and gas development, and the environmental consequences of increased importation of oil to meet the reduced local development (page 4.12-20 to 21).

However, the 2019 *Oil and Gas Health Report* still relied upon the 2018 *Public Health and Safety Risks* report to recommend new restrictions on well distance criteria in the City of Los Angeles, including increased setback distances (page 4.12- 19 to 20). To date, the City of Los Angeles has not developed policy or regulations in response to the 2019 *Oil and Gas Health Report*.

Taken together, these sources and their use meet CEQA's requirements (State CEQA Guidelines Section 15151) that an EIR be prepared with a sufficient degree of analysis to provide decision makers with information on potential health risks related to oil and gas and well distance criteria that enables them to make a decision that takes account of environmental consequences of the well distance criteria. This level of analysis is sufficient in light of what is reasonably feasible in studies of this type; and the analysis and supporting studies note that there is disagreement among experts on some topics.

The conclusions of the 2018 *Public Health and Safety Risks* recommend the following actions with respect to health risks and well distance criteria:

DPH determined that there is sufficient evidence to provide the following guidance for oil and gas facilities in order to protect health:

1. Los Angeles County and local jurisdictions within the County should expand the minimum setback distance beyond 300 feet, as currently specified in local zoning code, and apply these requirements to both the siting of new wells and to the development of sensitive land uses near existing operations. It is important to note that a setback distance is not an absolute measure of health protection and additional mitigation

measures must also be considered. For existing oil and gas operations, a site-specific assessment at each facility throughout the County is necessary to identify current distances to sensitive land uses and other site characteristics that can be used to inform whether further mitigation measures are warranted to reduce potential public health and safety risks.

Similarly, the 2019 *Oil and Gas Health Report* recommended an increase in the current 300-foot setback in the City of Los Angeles to 600 feet for existing operations, and 1,500 feet for future operations.

This is a topic where there is disagreement among experts, but for which there are applicable guidance documents and studies that note the disagreement among experts and the areas for which there is a lack of data. Both the 2018 *Public Health and Safety Risks* and the 2019 *Oil and Gas Health Report* make recommendations similar to those of the County in the draft EIR. From the perspective of the draft EIR, use of these documents and noting the controversy meets the standard of substantial evidence with a disagreement among experts. See above discussion on disagreement among experts noted in the draft EIR Section 4.12 Minerals and Petroleum. Section 15151 of the State CEQA Guidelines states that disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

#### MR-4.F FLARING

Policy COS-7.8 would avoid emissions of criteria air pollutants, toxic air contaminants, and greenhouse-gas compounds from flares used to dispose gas produced from new discretionary oil and gas wells. Policy COS-7.8 requires that gases emitted from all new discretionary oil and gas wells be collected and used or removed for sale or proper disposal and flaring or venting of such gases shall not be allowed except in cases of emergency or for testing purposes. The draft EIR concludes that as proposed, Policy COS-7.8 would lessen air pollutant emissions that would otherwise result from flaring at new discretionary oil and gas wells (page 4.3-19). Further, the draft EIR concludes that this policy supports attainment of 2040 General Plan Guiding Principles (page 4.12-23) for Hazards and Safety, Climate Change and Resilience, and Environmental Justice.

The commenters do not dispute the foregoing beneficial impacts of the policy. With respect to the draft EIR, the new policy only applies to “new discretionary oil and gas wells;” therefore the policy would not adversely affect existing oil and gas operations. The technical analysis in the draft EIR acknowledges what the commenters assert: producing oil from new wells without flaring the produced gas would likely be infeasible for operators in certain cases based on cost and/or technological limitations associated with alternative methods of disposing of the produced gas. The draft EIR proposes Mitigation Measure PR-3 (page 4.12-31), which adds that “Flaring or venting shall only be allowed if the proponent demonstrates that conducting operations without flaring or venting is infeasible. In addition, flaring or venting is allowed in cases of emergency or and for testing purposes consistent with federal, State, and local regulations.” This mitigation measure would reduce the potential impact of the policy on availability of petroleum resources to less than significant because it would authorize the County to allow flaring in situations where an operator established that it was not feasible to avoid flaring produced gases that would be produced by new wells. The County Board of

Supervisors will ultimately decide whether to adopt, perhaps as modified, Mitigation Measure PR-3 or Policy COS-7.8, as described above in Section MR-4.D..

#### **MR-4.G PIPELINE REQUIREMENTS**

Policy COS-7.7 would avoid emissions of criteria air pollutants, toxic air contaminants, and greenhouse-gas compounds resulting from the trucking of oil and produced water from new discretionary oil wells. The policy would also decrease traffic safety risks associated with the trucking oil and produced water from such new wells. Policy COS-7.7 requires new discretionary oil wells to use pipelines to convey oil and produced water; oil and produced water shall not be allowed to be trucked for new discretionary oil wells. The draft EIR concludes that as proposed, Policy COS-7.7 would avoid air pollutant emissions that would otherwise result from trucking of oil and produced water from new discretionary oil wells (page 4.3-18). Additionally, COS-7.7 would result in the reduction of trucking of crude oil and produced water which could result in a potential reduction of Vehicle Miles Travelled (VMT) in the unincorporated county (page 4.16-23). The draft EIR also noted that greenhouse gas (GHG) emissions from vehicles are one of the largest sources of GHG emissions in the General Plan area (36 percent) (page 4.16-23).

With respect to the draft EIR, the new policy only applies to “new discretionary oil and gas wells;” therefore the policy would not adversely affect existing oil and gas operations. The technical analysis in the draft EIR acknowledges what the commenters assert: eliminating trucking in certain cases would likely be infeasible for the operator based on cost and/or technological limitations, and that operations based on the new wells would be curtailed as a result of this policy. The draft EIR proposes Mitigation Measure PR-2 (page 4.12-31), which adds that “Trucking of crude oil and produced water may only be allowed if the proponent demonstrates that conveying the oil and produced water via pipeline is infeasible. In addition, trucking of crude oil and produced water is allowed in cases of emergency and for testing purposes consistent with federal, State and local regulations.” This mitigation measure would reduce the potential impact of the policy to availability of petroleum resources to less than significant because it would authorize the County to allow the trucking of oil and produced water in situations where an operator established that it was not feasible to avoid trucking of oil and produced water that would be produced by new wells. The County Board of Supervisors will ultimately decide whether to adopt, perhaps as modified, Mitigation Measure PR-2 or Policy COS-7.7, as described above in Section MR-4.D.

#### **MR-4.H BUFFERS (SETBACKS)**

Policy COS-7.2 would reduce the potential for sensitive receptors to be exposed to air pollutants including toxic air contaminants. Policy COS-7.2 would require that new discretionary oil and gas wells be located a minimum of 1,500 feet from residential dwellings and 2,500 feet from any school. The draft EIR concludes that as proposed, Policy COS-7.2 would reduce the potential for sensitive receptors at residential dwellings and schools to be exposed to air pollutants including toxic air contaminants associated with new oil and gas wells (page 4.3-19). Further, the draft EIR concludes that this policy supports attainment of 2040 General Plan Guiding Principles (page 4.12-23) for Hazards and Safety, and Environmental Justice.

The draft EIR relies on many cited sources, but for many of the oil and gas related analyses pertaining to setbacks, the draft EIR relies on analyses in the statewide publication of the California Council on Science and Technology (CCST), *Independent Scientific Assessment of Well Stimulation in California* (CCST 2015) required by SB-4 (Oil and Gas: Well Stimulation); *Public Health and Safety Risks of Oil and Gas Facilities in Los Angeles County*, (2018) prepared at the request of the Los Angeles County Board of Supervisors; and *Oil and Gas Health Report* (2019) prepared at the request of the Los Angeles City Council, and prepared by the then-City's Oil Administrator, Joe Uduak, who is now the State Oil and Gas Supervisor of CalGEM. In particular, Mr. Uduak used Los Angeles County's 2018 *Public Health and Safety Risks* report, together with analysis of economic effects and the effects of increased oil imports, in forming his recommendations in the 2019 *Oil and Gas Health Report*.

All three publications note that there is a lack of data to quantify the potential health risks of oil and gas development outlined in each report and used by each report to establish distance criteria between new wells and sensitive land uses. The CCST report recommended further study and that agencies with jurisdiction over oil and gas operations validate that their policies and regulations are protective of human health and the environment. The 2018 *Public Health and Safety Risks* identified risks but was unable to quantify public health risks. The study acknowledged that some quantifications of public health risk had been completed and determined that the risks were *de minimus* but applied the precautionary principle that until such risks are shown to be safe, they should be treated as a continuing concern. The 2019 *Oil and Gas Health Report* further expressed concern regarding setting policy in the face of limited data, citing in addition the economic impacts of reduced local oil and gas development, and the environmental consequences of increased importation of oil to meet the reduced local development. However, the 2019 *Oil and Gas Health Report* still relied upon the 2018 *Public Health and Safety Risks* report to recommend new restrictions on well distance criteria in the City of Los Angeles, including increased setback distances. To date, the City of Los Angeles has not developed policy or regulations in response to the 2019 *Oil and Gas Health Report*.

CEQA Guidelines section 15151 provides guidance for the preparation of an adequate EIR:

1. An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information that enables them to make a decision that intelligently takes account of environmental consequences.
2. An evaluation of the environmental impacts of a project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible.
3. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts.

Based on the foregoing, CEQA provides that EIR preparers should use a reasonable methodology upon which to estimate potential environmental impacts and make reasonable assumptions using the best information that is reasonably available.

Taken together, these sources and their use in the draft EIR meet CEQA's requirements to prepare an EIR with a sufficient degree of analysis to provide decision makers with information that enables them to make a decision that intelligently takes account of environmental consequences; a degree of analysis that is sufficient in light of what is reasonably feasible; and that the draft EIR summarizes the main points of disagreement among experts on some topics.

Some commenters imply that the setbacks may reduce or curtail existing oil and gas production operations, but Policy COS-7.2 applies only to new discretionary oil and gas wells; there is no proposed change to setbacks for existing operations. Other commenters object to Policy COS-7.2's setback requirement of 2,500 feet from schools. Note that Mitigation Measure PR-1 (page 4.12-18) would expand the list of sensitive uses requiring a setback but would reduce the setback distance from 2,500 to 1,500 feet, including for schools.

Some commenters request that Mitigation Measure PR-1 be revised to increase setback requirements to 2,500 feet from residences. The analysis of setback distances in the draft EIR was based on the best information available at the time, which is limited in terms of quantifying health risks, and subject to disagreement among experts. Mitigation Measure PR-1 is consistent with the setback distance recommended for new discretionary oil and gas operations to the City of Los Angeles by their then-Oil Administrator, now the State Oil and Gas Supervisor leading CalGEM. The County Board of Supervisors will ultimately decide whether to adopt, perhaps as modified, Mitigation Measure PR-1 or Policy COS-7.2, as described above in the section titled *Mitigation Measures and the role of the Board of Supervisors in considering their feasibility*.

Some commenters noted that Policy COS-7.2 lacks setback requirements applicable to new sensitive land uses, such as dwellings, being proposed for development near existing oil and gas facilities. The commenter also states that the draft EIR does not explain why the 2040 General Plan does not include a "similar prohibition" regarding location of new residential land uses adjacent to existing or likely future land dedicated to oil and gas use. Policies which require setbacks to new sensitive land uses near existing oil and gas facilities are not a component of the project under evaluation (i.e., the 2040 General Plan). CEQA requires evaluation of the environmental effects of a project; consequently, potential policies that are not a component of the project under evaluation are not required to be evaluated in the EIR.

#### **MR-4.I      DIRECTIONAL DRILLING**

A comment regarding Mitigation Measure PR-1 states that directional drilling could not be utilized at all potential drilling sites in the unincorporated county, although it could be utilized in many cases. This comment is consistent with the analysis of Policy COS-7.2 in the draft EIR. Note that Mitigation Measure PR-1 does not rely on directional drilling as a means of mitigating the significant impact identified with the implementation of Policy COS-7.2. Rather, the mitigation measure would expand the sensitive land uses subject to a standard 1,500-foot setback, while removing the 2,500-foot setback for schools. The draft EIR acknowledges that, even with the adoption of Mitigation Measure PR-1, the impact of Policy COS-7.2 would be significant and unavoidable based on its hampering or precluding access to subsurface petroleum resources.

#### **MR-4.J      POTENTIAL TO STOP ISSUING PERMITS FOR NEW WELLS (PHASE OUT OIL AND GAS OPERATIONS)**

Some commenters have requested mitigation measures in the form of new 2040 General Plan policies and programs to phase out existing oil and gas production facilities. As noted by the commenters, policies and programs which phase out existing oil and gas facilities would need to occur over an extended time period sufficient to amortize the vested rights that operators

have in their existing permitted operations, and also presumably to address the economic and social dislocation that the phase out could entail. Policies and programs requiring a phase out of existing oil and gas facilities are not a component of the project under evaluation (i.e., the 2040 General Plan). The existence of these facilities are part of the baseline as considered in the evaluation of environmental impacts in the draft EIR. Impacts resulting from the change that implementation of the 2040 General Plan would have on baseline conditions are evaluated in the draft EIR with corresponding mitigation measures to lessen significant environmental impacts, where applicable.

#### MR-4.K EFFECTS OUTSIDE THE STUDY AREA

Some commenters have questioned the environmental effects of oil importation from outside of the study area (e.g. the 2040 General Plan unincorporated area boundary). In the analysis of the potential impact of Policy COS-7.2 (and the potential impacts of Policies COS-7.7 and COS-7.8, if not mitigated), the draft EIR (page 4.12-22) explains that even if the potential impacts of this policy are mitigated, it could, in certain situations, hamper or preclude access to local oil and gas resources which, in turn, could increase the State's and county's reliance on foreign imports from outside of the 2040 General Plan area. The draft EIR clearly discloses the supply/demand outlook that led to this conclusion, the likely location from where increased exports could come, and the likelihood that such imports would be delivered by marine tankers. The analysis was supported by citations to work conducted by the City of Los Angeles in the 2019 *Oil and Gas Health Report*, the California Energy Commission, and the U.S. Energy Information Administration. The draft EIR then discloses that the increase in oil imports could have indirect environmental impacts such as those associated with transporting the oil and gas from outside of Ventura County (page 4.12-21).

Based in part on this analysis of impacts outside the 2040 General Plan project area, the draft EIR concludes that implementation of Policy COS-7.2 (and implementation of Policies COS-7.7 and COS-7.8, if their impacts are not mitigated) would have significant and unavoidable impacts.

The comments argue that this life cycle analysis should have been completed and a greater amount of quantification applied to the effects outside the 2040 General Plan project area. State CEQA Guidelines Section 15145 requires an EIR to clearly identify and describe the direct and indirect significant effects of proposed projects, giving due consideration to both the short-term and long-term effects. On the other hand, EIRs should not engage in speculation. Thus, an EIR must analyze reasonably foreseeable indirect physical changes, which are defined as a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment. Although the County considered reasonably foreseeable indirect effects, it did not attempt to undertake a "life cycle" analysis of the effects from potentially increased import or export of oil and gas that could possibly occur from implementation of the proposed project. Any such analysis would be speculative and would not change the impact determination of significant and unavoidable.

## MR-4.L OIL RESERVES

Some commenters indicate that the Background Report underestimates known oil reserves in the County and that Figure 8-10 (page 8-76) of that report does not indicate the known extent of recoverable sub-surface oil reserves which typically extend well beyond the lease boundaries of oil fields. Consequently, the commenters assert that this results in a potentially significant underestimating of the impact with regards to the “loss of availability of a known petroleum resource that would be of value to the region and residents of the State.” Chapter 8 Natural Resources, Section 8.4, Mineral Resources, of the Background Report states: “[t]he county’s oil reserves are estimated by the State Division of Oil and Gas and Geothermal Resources (DOGGR) at 246,141,000 barrels,” (page 8-74). In reviewing this comment, the County identified that the Background Report incorrectly reported the county’s estimated oil reserves as reported by State Division of Oil and Gas and Geothermal Resources (DOGGR), now called the California Geologic Energy Management Division (CalGEM). The most recent year for which CalGEM provided reserve estimates for California oil and gas fields is in its 2009 *Annual Report of the State Oil & Gas Supervisor* (Annual Report), at pages 83-112. The reserve figures estimated by CalGEM are forecasts of the proved developed producing portion of the spectrum of reserves categories and represent the most conservative estimate of the total hydrocarbon resource that may be recovered from a field or pool. Other types of reserve estimates would be higher, as summarized in the table below taken from the 2009 *Annual Report*:

Total Petroleum Initially-In-Place	Discovered in-Place	Commercial	<b>Production</b>		
			<b>Reserves</b>		
			<b>Proved</b>		<b>Proved + Probable</b>
		Dev.	Undev.		
		Sub-Com	<b>Contingent Resources</b>		
	Low Estimate		Best Estimate	High Estimate	
	Undiscover. In-Place	<b>Unrecoverable</b>			
		<b>Prospective Resources</b>			
		Low Estimate	Best Estimate	High Estimate	
	<b>Unrecoverable</b>				
Increasing Uncertainty →					

Petroleum resource classification chart. Used with permission of the *Journal of Petroleum Technology*.

The Annual Report indicates that, as of December 31, 2009, the total oil reserves in Ventura County as 143,969 Mbbl, or 143,969,000 barrels of oil. This value may underestimate the actual total reserve capacity because it is a conservative method using proven reserves and does not include probable or possible reserves, but the agency with authority for determining the State’s oil reserves selected the more conservative method, which this EIR follows. The value is also 10 years old but is the most recent data available from CalGEM.

In response to this comment, Chapter 8 Natural Resources, Section 8.4, Mineral Resources, of the Background Report (page 8-74) will be revised with the following information:

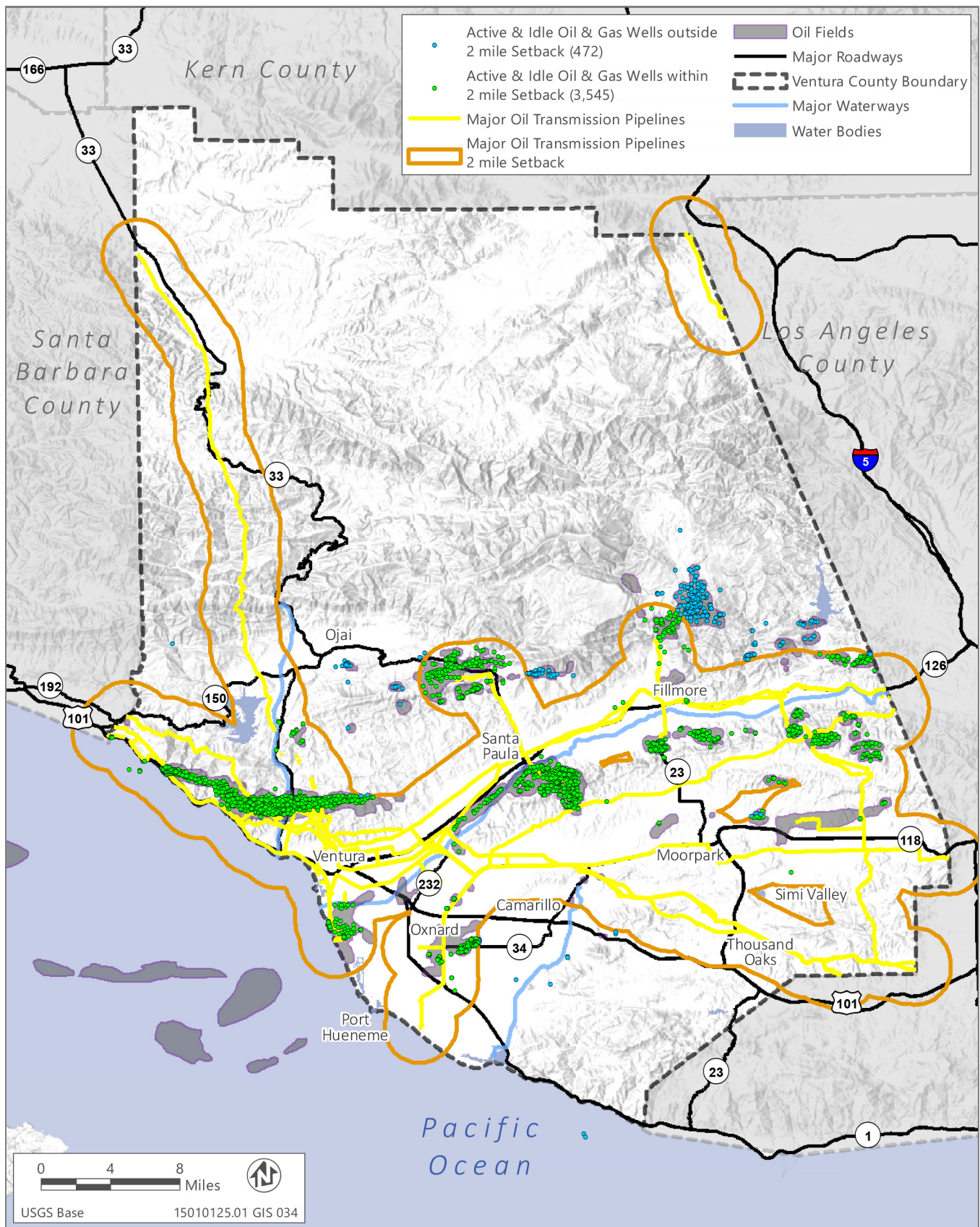
[t]he county's oil reserves are estimated by the California Geologic Energy Management Division (CalGEM) Annual Report indicates that, as of December 31, 2009, the total oil reserves in Ventura County as 143,969 Mbbl, or 143,969,000 barrels of oil. This value may underestimate the total reserve capacity because DOGGR (now CalGEM) chose to use a conservative method using proven reserves and does not include probable or possible reserves State Division of Oil and Gas and Geothermal Resources (DOGGR) at 246,141,000 barrels.

The commenters assertion that the underreporting of oil reserves results in underestimating the impacts of the draft EIR Impact 4.12-4: Result in the Loss of Availability of a Known Petroleum Resource That Would Be of Value to the Region and the Residents of the State (page 4-12-22) is inaccurate. The draft EIR uses a different method to determine which oil wells may be impacted by the policy, because the policy does not apply to the total reserve capacity in the county. The policy only applies to new oil wells which would be a small fraction of the total proven reserve capacity. The draft EIR presents Figure 4.12-4, Major Oil Transmission Pipelines Map (page 4.12-25), which illustrates that most oil wells in the county are clustered within approximately 2 miles of major oil transmission pipelines, which transport oil from local operators out of the county for processing. Because of this observed clustering, the draft EIR (pages 4.12-25 to 26) indicates that for purposes of analysis and based on the estimated per mile cost to install pipelines, it is assumed that any existing oil wells located within a 2-mile radius of a major oil or gas transmission pipeline are connected to these transmission lines through smaller gathering or minor pipelines. Furthermore, it is assumed these oil operators have the operational ability to meet the American Petroleum Institute gravity thresholds and standards required to convey their oil through a major oil transmission pipeline. For oil wells located beyond a 2-mile radius of a major transmission pipeline, the analysis assumes that they are not connected to these lines. Additionally, it is assumed that for oil wells outside the 2-mile radius, the operators may not have the operational ability to blend oils in order to meet the American Petroleum Institute gravity thresholds and standards required to convey their oil through a major oil transmission pipeline.

As depicted in the draft EIR Figure 4.12-4 (page 4.12-25), 472 active and idle oil wells are located outside of the 2-mile radius of a major oil transmission line, and in more remote locations, likely consist of smaller oil producing operations that are not extracting a large volume of oil. This Figure also depicts 3,545 current active and idle oil wells located within the 2-mile of a major oil transmission pipeline. The larger clustering of these operations is likely a function of greater opportunities for oil extraction and technological or economically feasible access to a major oil transmission line (page 4.12-25).

Therefore, the commenters assertion that the underestimation of reporting of oil reserves in the Background Report results in a potentially significant underestimating of the impact with regards to the "loss of availability of a known petroleum resource" is inaccurate because the method does not rely on the CalGEM estimate of total proven reserve capacity, and the Policy does not affect existing oil wells. In addition, the analysis concludes that the impact is potentially significant; a greater total proven reserve capacity would not affect this impact determination. As depicted in Figure 4.12-4 (Major Oil Transmission Pipeline Map) on page 4.12-25 of the draft EIR, regardless of the estimated oil reserves reported in the Background Report, the majority of active and idle oil and gas wells depicted in Figure 4.12-4 have access





**Revised Figure 4.12-4 Major Oil Transmission Pipeline**

to oil reserves within established oil fields, and the policy does not affect existing oil wells. Figure 4.12-4 has been revised to remove the incorporated cities layer that previously obscured the oil fields.

As indicated on page 4.12-26 of the draft EIR, Figure 4.12-4 depicts “3,545 current active and idle oil wells located within the 2-mile of a major oil transmission pipeline” and “472 active and idle oil wells located outside of the 2-mile radius of a major oil transmission line.” CalGEM requires that all permitted oil wells be connected to an existing oil field.

The draft EIR indicates that Policies COS-7.7 and COS-7.8 could result in the loss of known petroleum resources of value to the region and the State because Policies COS-7.7 and COS-7.8 would mandate infrastructure that may be technologically or economically infeasible to install. However, based on the EIR analysis, the volume of loss for this petroleum resource would likely be at a smaller scale and concentrated on oil operators located outside of a 2-mile radius of a major oil or gas transmission pipeline. The policies could nonetheless render a substantial quantity of petroleum resources inaccessible and result in the loss of availability of known petroleum resources of value to the region and the State in at least some parts of the plan area (page 4.12-31). However, Mitigation Measure PR-2: Revised Policy COS-7.7: Limited Conveyance for Oil and Produced Water and Mitigation Measure PR-3: Revised Policy COS-7.8: Limited Gas Collection, Use, and Disposal enable operators to demonstrate the infeasibility of complying with the parameters of these policies. If the County determines that compliance with these policies is infeasible for an oil operator for new discretionary oil and gas wells, then access to petroleum resources and reserves would be available.

Additionally, with Mitigation Measure PR-1: Revised Policy COS-7.2: Oil Well Distance Criteria, this setback criteria may also affect access to petroleum reserves if the parcel size is too small to accommodate providing the required setback (page 4.12-31). Policy COS 7.2 would only apply to new discretionary oil and gas wells within the subject distance from sensitive use structures. Furthermore, as shown in Figures 4.12-1 (page 4.12-15) and 4.12-2 (page 4.12-16), there are currently 23 active and idle oil wells within 2,500 feet of existing schools and 715 active and idle oil wells within 1,500 feet of existing dwellings in the unincorporated county. Future discretionary expansion of oil production within the setback distances depicted on Figures 4.12-1 and 4.12-2 would be prohibited pursuant to Policy COS-7.2. While Policy COS-7.2 could theoretically affect local oil and gas exports and increase the reliance on imports from outside of the 2040 General Plan area (page 4.12-22). However, as described in the draft EIR, with minimum parcel sizes ranging from one to forty acres, the Open Space/Coastal Open Space, Agricultural/Coastal Agricultural and Rural Agriculture zone classifications for which oil and gas exploration and production is allowed as a conditionally permitted land use that is potentially compatible with dwelling units and schools, would likely not hamper or preclude access to petroleum reserves in the vicinity of these uses (page 4.12-24).

The commenters contention that the total oil reserves are underreported in the draft EIR would not change the impact conclusions in the draft EIR. Therefore, the only revision to the draft EIR made in response to this comment are the addition of Figure 4.12-4 noted above and in the Background Report correcting the currently available data regarding oil reserves in Ventura County, also noted above.

## MR-5 Master Response 5: Comments Concerning Draft EIR Mitigation Measure AG-2 for Loss of Important Farmland

Several commenters expressed concern regarding Mitigation Measure AG-2, which would require discretionary projects that result in direct or indirect loss of Important Farmland in excess of specified thresholds to establish an offsite agricultural conservation easement on farmland of equal quality at a 2-to-1 mitigation ratio (acres preserved-to-acres converted) (draft EIR page 4.2-16). Comments assert that the measure's feasibility is "doubtful" since agricultural landowners would have to agree to encumber their land with conservation easements which could not be assured, and that this measure is not "economically feasible" and would be "cost prohibitive." Commenters ask for details about the measure's implementation such as the number of existing acres of agricultural lands by Important Farmland categories that will be needed for conservation easements and the "projected price per acre." Commenters also criticize the measure because it "does not result in any replacement of lost farmland," and assert that the draft EIR provides "no details on how the county will implement or monitor this program."

This master response provides a summary of the draft EIR's impact analysis, mitigation measures, and impact conclusions regarding loss of Important Farmland (Impact 4.2-1); summarizes CEQA requirements for mitigation measures, including as they relate to agricultural conservation easements; provides an overview of agricultural conservation easements under California law and as utilized as a mitigation by other cities and counties statewide; addresses commenters' assertions about the feasibility of Mitigation Measure AG-2, including specific assertions regarding Ventura Local Agency Formation Commission (LAFCo); and describes the consistency of this measure with the County's Non-Coastal Zoning Ordinance and minimum lot size requirements.

### DRAFT EIR IMPACT 4.2-1: LOSS OF PRIME FARMLAND, FARMLAND OF STATEWIDE IMPORTANCE, UNIQUE FARMLAND, AND FARMLAND OF LOCAL IMPORTANCE

Draft EIR Section 4.2, "Agriculture and Forestry Resources," considers whether future development under the 2040 General Plan could result in loss of agricultural resources or conversion of agricultural resources to non-agricultural uses by allowing for non-agricultural land uses to be located directly on existing designated farmland (Impact 4.2-1; pp. 4.2-9 to 4.2-17).

Impact 4.2-1 addresses the potential direct and indirect loss of Prime Farmland, Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance (collectively, "Important Farmland") as a result of 2040 General Plan implementation, and the draft EIR concludes this impact would be significant and unavoidable. After a discussion of agricultural preservation efforts, including the Save Open Space and Agricultural Resources (SOAR) initiative, the Ventura County Guidelines for Orderly Development, the County's zoning ordinances, and policies and programs in the 2040 General Plan, the significance conclusion for this impact is stated in the draft EIR at page 4.2-15:

[T]he planned land use designations of the 2040 General Plan would allow for future development that could result in the direct or indirect loss of Important Farmland (including Prime Farmland, Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance) that would exceed the County's established acreage limitation criteria for loss of farmland and result in the permanent loss of this valuable

resource. Any future development that causes the loss of Important Farmland that exceeds the County’s acreage limitation thresholds would be considered significant and the full extent of development and the potential for the direct or indirect loss of Important Farmland cannot be quantitatively determined at this time. Therefore, potential loss of Prime Farmland, Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance as a result of future development under the 2040 General Plan would be potentially significant.

The draft EIR proposes Mitigation Measure AG-1 and Mitigation Measure AG-2 to address the potential significant impact for Impact 4.2-1 (pages 4.2-16 to 4.2-17). The text of these measures from the draft EIR is provided in full below.

Mitigation Measure AG-1: New Policy AG-X Avoid Development on Agricultural Land  
 The County shall include the following new policy in the 2040 General Plan.

**Policy AG-X Avoid Development on Agricultural Land**

The County shall ensure that discretionary development located on land identified as Important Farmland on the State's Important Farmland Inventory shall be conditioned to avoid direct loss of Important Farmland as much as feasibly possible.

Mitigation Measure AG-2: New Implementation Program AG-X: Establish an Agricultural Conservation Easement

The County shall include the following new implementation program in the 2040 General Plan.

**Implementation Program AG-X: Establish an Agricultural Conservation Easement**

Applicants for discretionary projects that would result in direct or indirect loss of Important Farmland in exceedance of the acreage loss thresholds listed in the table below shall ensure the permanent protection of offsite farmland of equal quality at a 2:1 ratio (acres preserved: acres converted) through the establishment of an offsite agricultural conservation easement.

<b><u>General Plan Land Use Designation</u></b>	<b><u>Important Farmland Inventory Classification</u></b>	<b><u>Acres Lost</u></b>
<u>Agricultural</u>	<u>Prime/ Statewide</u>	<u>5</u>
	<u>Unique</u>	<u>10</u>
	<u>Local</u>	<u>15</u>
<u>Open Space/Rural</u>	<u>Prime/ Statewide</u>	<u>10</u>
	<u>Unique</u>	<u>15</u>
	<u>Local</u>	<u>20</u>
<u>All Land Use Designations</u>	<u>Prime/ Statewide</u>	<u>20</u>
	<u>Unique</u>	<u>30</u>
	<u>Local</u>	<u>40</u>

If the Planning Division, in consultation with the Agricultural Commissioner, determines that a discretionary project would result in direct or indirect loss of

Important Farmland in exceedance of the acreage loss thresholds listed in the table above, the project applicant shall prepare and submit a report for the review and approval of the Planning Division in consultation with the Agricultural Commissioner which identifies a minimum of one proposed potential mitigation site suitable for ensuring the permanent protection of offsite farmland of equal quality at a 2:1 ratio (acres preserved: acres converted) through the establishment of an offsite agricultural conservation easement. The contents of the report shall be determined, reviewed, and approved by the Planning Division in consultation with the Agricultural Commissioner (hereafter referred to as the “reviewing agencies”), and shall include information necessary for the reviewing agencies and a qualified entity responsible for holding the conservation easement to determine the viability of the proposed mitigation site for the establishment of a permanent agricultural conservation easement. Among the factors necessary for approval by the reviewing agencies, the proposed mitigation site shall be located in the County of Ventura unincorporated area, must not already have permanent protection, and must be equivalent to or greater than the type of Important Farmland (e.g., Unique farmland) that would be converted by the project. Among other terms that may be required by the reviewing agencies in consultation with a qualified entity, the terms of an agricultural conservation easement shall include a requirement that it run with the land. Project applicants are responsible for all costs incurred by the County and the qualified entity to successfully implement this mitigation measure. Proof of the successful establishment of an agricultural conservation easement shall be provided to the Planning Division prior to issuance of a zoning clearance.

The draft EIR explains that implementation of Mitigation Measures AG-1 and AG-2 would reduce impacts to Important Farmland to the extent feasible; however, any direct or indirect loss of Important Farmland greater than the threshold amounts would be considered a permanent loss of a valuable resource (page 4.2-17). Establishing agricultural conservation easements would conserve Important Farmland within the unincorporated county but would not prevent the permanent loss of existing Important Farmland.

#### Overview of Agricultural Conservation Easements

The California Department of Conservation defines an agricultural conservation easement as a voluntary, legally recorded deed restriction that is placed on a specific property used for agricultural production. The goal of an agricultural conservation easement is to maintain agricultural land in active production by removing the development pressures from the land. Such an easement prohibits practices that would damage or interfere with the agricultural use of the land. Because the easement is a restriction on the deed of the property, the easement remains in effect even when the land changes ownership (DOC 2019a).

Agricultural conservation easements are created specifically to support agriculture and prevent incompatible development on the subject parcels. While other benefits may accrue because the land is not developed (scenic and habitat values, for example), the primary use of the land is agricultural. Easements must be of a size and nature suitable for viable commercial agriculture.

Agricultural conservation easements are held by land trusts or local governments which are responsible for ensuring that the terms of the easement are upheld. The easement may be donated to the easement holder, purchased (if the easement holder can obtain funding), or a

combination of the two. Typically, the easement holder will conduct an annual visit to the property to verify that the uses of the property are consistent with the terms of the easement. Each agricultural conservation easement is negotiated between the landowner, the easement holder, and any funding sources.

According to the Department of Conservation, “(c)onservation easements are an available mitigation tool and considered a standard practice in many areas of the State. As such, the Department advises the use of permanent agricultural conservation easements on land of at least equal quality and size as partial compensation for the direct loss of agricultural land. Conservation easements will protect a portion of those remaining land resources and lessen project impacts in accordance with CEQA Guidelines § 15370. The Department highlights this measure because of its acceptance and use by lead agencies.” (DOC 2019b). California courts have likewise recognized agricultural conservation easements as an appropriate means of mitigating for the loss of agricultural soils under CEQA. (See, e.g., *Masonite v. County of Mendocino* (2013) 218 Cal.App.4th 230 [“We conclude that [agricultural conservation easements] may appropriately mitigate for the direct loss of farmland when a project converts agricultural land to a nonagricultural use, even though an [agricultural conservation easement] does not replace the onsite resources].)

As recognized by the Department of Conservation, agricultural conservation easements are a frequently used as mitigation measure statewide. Table 2-4 contains a sampling of existing programs in the State.

**Table 2-4 Example California Cities or Counties with Existing Agricultural Land Mitigation Policies or Programs**

Jurisdiction	Policy/Ordinance/Program	Date of Adoption or Most Recent Amendment	Mitigation Ratio
City of Brentwood	Municipal Code Section 17.730.030, “Agricultural Land Mitigation Requirements”	2010	1:1
City of Davis	Municipal Code Article 40A.03, “Farmland Preservation”	2007	2:1
City of Gilroy	Agricultural Mitigation Policy	2016	1:1
City of Hughson	Farmland Preservation Program	2013	2:1
City of Livermore	South Livermore Valley Specific Plan Section 6.3, “Agricultural Land”	2004	1:1
City of Morgan Hill	Agricultural Lands Preservation Program, Agricultural Mitigation Ordinance	2014, 2015	1:1
City of Dixon	Municipal Code Chapter 17.16A, “Agricultural Mitigation”	2020	1:1
San Joaquin County	Ordinance Code Chapter 9-1080, “Agricultural Mitigation”	2006	1:1
Stanislaus County	General Plan Agricultural Element Appendix B, “Farmland Mitigation Program Guidelines”	2016	1:1
Yolo County	Zoning Code Section 8-2.404, “Agricultural Conservation and Mitigation Program”	2015	1:1
El Dorado County	General Plan Agriculture and Forestry Element Policy 8.1.3.4	2015	1:1
Merced County	General Plan Policy AG-2.2, “Agricultural Land Mitigation,” County Code Chapter 9.30, “Agricultural Mitigation”	2013, 2016	1:1
Sacramento County	General Plan Agriculture Element	2017	1:1

## MR-5.A CEQA REQUIREMENTS FOR MITIGATION MEASURES

CEQA defines “mitigation” Guidelines Section 15370 as:

- (a) Avoiding the impacts altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree of magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments, including through the permanent protection of such resources in the form of conservation easements.

In addition, CEQA requires that an EIR “describe feasible measures which could minimize significant adverse impacts” (CEQA Guidelines, § 15126.4(a)(1)). Mitigation measures “shall not be deferred until some future time;” however, lead agencies are permitted to develop “(t)he specific details of a mitigation measure...after project approval when it is impractical or infeasible to include those details during the project’s environmental review” so long as the agency (1) commits itself to the mitigation, (2) adopts specific performance standards the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated into the mitigation measure.” (CEQA Guidelines, § 15126.4(a)(1)(B)).

Mitigation Measure AG-2 clearly meets CEQA requirements for describing feasible mitigation measures. For one, CEQA Guidelines Section 15370(e) specifically identifies “permanent protection of...resources in the form of conservation easements” as part of the definition of mitigation by compensating for impacts “by replacing or providing substitute resources or environments.”

Moreover, the draft EIR text of Mitigation Measure AG-2 (provided in full above) clearly demonstrates: the County’s commitment to require agricultural conservation easements for discretionary projects meeting the specified criteria for Important Farmland loss based on land use designation; the objective standard for preserving Important Farmland; and that the standard would be achieved through the use of agricultural conservation easements. Mitigation Measure AG-2 also sets forth the process through which the County would enforce and implement this measure at the project level.

### Feasibility of Mitigation Measure AG-2

Commenters assert that this mitigation measure would be infeasible for certain project types when sited on Important Farmland. To place this feasibility issue in perspective, based upon the County’s past experience in applying the County’s existing above-stated threshold of significance which would be carried forward in the 2040 General Plan, the County does not anticipate that many discretionary projects would be proposed that would result in a loss of acreage exceeding the thresholds of Mitigation Measure AG-2. Consequently, the County does



not anticipate that Mitigation Measure AG-2's agricultural conservation easement requirement would be commonly applied. This is because the 2040 General Plan, including its SOAR provisions, largely requires areas with Important Farmland to be used for agricultural purposes, thereby substantially limiting the potential for conversion of agricultural lands to non-agricultural development in these areas. And while commenters assert that Mitigation Measure AG-2 would impede the ability to develop agriculture-dependent/related development (e.g., farm stands, wineries, breweries, ag tourism facilities, and farmworker housing), habitat restoration projects, or other development that benefit the public and the environment, not all projects that result in the loss of Important Farmland would be subject to Mitigation Measure AG-2. Again, based on the County's past experience applying this threshold of significance, the vast majority of ancillary agricultural buildings and uses are unlikely to impact Important Farmland in acreages that would exceed the acreage thresholds of Mitigation Measure AG-2.

Most existing Important Farmland in the unincorporated county is protected from intensive non-agricultural related development by the 2040 General Plan policies, including its SOAR provisions, which apply land designated as Rural, Agricultural, and Open Space. The draft EIR explains how these land use designations, which cannot be amended without majority countywide approval, are compatible with agricultural uses (pp. 4.2-10 and 4.2-11). Approximately 97.1 percent of land in the unincorporated county would remain designated as Open Space or Agriculture under the 2040 General Plan, and an additional approximately 0.9 percent would retain the Rural land use designation. In contrast, Residential, Commercial, Mixed Use, and Industrial land use designations would apply to approximately 1.2 percent of land in the unincorporated county under the 2040 General Plan (page 4.2-10).

Of the approximately 110,154 acres of Important Farmland in the unincorporated county, approximately 109,578 acres (99 percent) are located within the Agricultural (81,512.8 acres, 74.0 percent), Open Space (26,617.9, 24.2 percent), and Rural (1,447.3, 1.3 percent) land use designations.<sup>1</sup> The densities allowed in these land use designations are 1 dwelling unit (du) per 40 acres in Agricultural, 1 du per parcel (minimum lot size of 10 acres) in Open Space, and 1 du per 2 acres in Rural (page 3-5). The remaining 576.0 acres (0.6 percent) of Important Farmland are located within Commercial Planned Development (3.7 acres), Industrial (94.3 acres), Low-Density Residential (2.5 acres), Residential Planned Development (78.2 acres), State or Federal Facility (280.0 acres), and Very Low Density Residential (117.2 acres), with small amounts in some other designations. There is no Important Farmland within Coastal Residential Planned Development, Mixed Use, Parks & Recreation, or Medium-Density Residential designations. As a result of the concentration of Important Farmland in land use designations that allow only limited density (refer to Table 2-5), substantial development and density would not occur on Important Farmland simply by way of the General Plan's land use designations and related policies.

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<sup>1</sup> These totals include lands designated as ECU-Agricultural, ECU-Rural, and ECU-Open Space.



**Table 2-5 Distribution of Important Farmland by 2040 General Plan Land Use Designation**

Acronym	Land Use Designation	Maximum Density / Intensity	Acres of Important Farmland in Unincorporated County	Percent of Important Farmland in Unincorporated County
<b>Rural, Agricultural, and Open Space Designations</b>				
RUR	Rural <sup>1</sup>	1 du/2 ac	1,395.4	1.3
ECU-R <sup>2</sup>	ECU-Rural	1 du/2 ac	51.9	<0.1
AG	Agricultural <sup>2</sup>	1 du/40 ac	81,450.5	73.9
ECU-A <sup>2</sup>	ECU-Agricultural	1 du/40 ac	62.3	0.1
OS	Open Space <sup>1</sup>	1 du/parcel	26,610.9	24.2
ECU-OS <sup>2</sup>	ECU-Open Space	1 du/parcel	7.0	<0.1
<b>Total</b>			<b>109,578</b>	<b>99.5</b>
<b>Residential Designations</b>				
VLDR	Very Low Density Residential	4 du/ac	117.2	0.1
LDR	Low-Density Residential	6 du/ac	2.5	<0.1
MDR	Medium-Density Residential	14 du/ac	0.0	0.0
RHD	Residential High-Density	20 du/ac	0.1	<0.1
RPD	Residential Planned Development	20 du/ac	78.2	0.1
CRPD	Coastal Residential Planned Development	36 du/ac	0.0	0.0
RB	Residential Beach	36 du/ac	<0.1	<0.1
<b>Total</b>			<b>198.0</b>	<b>0.2</b>
<b>Mixed Use, Commercial, and Industrial Designations</b>				
MU	Mixed Use	20 du/ac; 60% lot coverage	0.0	0.0
C	Commercial	60% lot coverage	<0.01	<0.1
CPD	Commercial Planned Development	60% lot coverage	3.7	<0.1
I	Industrial	50% lot coverage	94.3	0.1
<b>Total</b>			<b>98.0</b>	<b>0.1</b>
<b>Other Designations</b>				
PR	Parks & Recreation	n/a	0.0	0.0
P	State, Federal, Other Public Lands <sup>2</sup>	n/a	280.0	0.3
<b>Total</b>			<b>280.0</b>	<b>0.3</b>

Notes: ac = acre; du = dwelling unit; n/a = not applicable; SF = square foot.

<sup>1</sup> Existing General Plan land use designations that would be retained.

<sup>2</sup> The acronym "ECU-" preceding a designation name refers to land use designations that apply only within the boundaries of an Existing Community or Urban area designation (boundary) as defined in 2040 General Plan Policies LU-1.2 and LU-2.1.

For discretionary projects that are authorized on land containing Important Farmland, that would exceed the acreage loss thresholds of Mitigation Measure AG-2, and thus that would require acquisition of agricultural conservation easements, the unincorporated county contains an adequate area of available Important Farmland by category which could be protected by agricultural conservation easements. As stated above, there are approximately 110,154 acres of Important Farmland in the county, with the following breakdown by category:

- ▶ Prime Farmland: 38,570.5 acres
- ▶ Farmland of Statewide Importance: 30,756.6 acres
- ▶ Farmland of Local Importance: 13,213.9 acres
- ▶ Unique Farmland: 27,613.0 acres

The size of existing farms in the unincorporated area is also adequate to support the creation of agricultural conservation easements under Mitigation Measure AG-2. As described in the draft EIR (pp. 4.2-9 and 4.2-10), the average farm size in the county is 131 acres. The majority of farms are less than 50 acres and about half of farms are less than 10 acres. The minimum amount of offsite farmland that would be protected under Mitigation Measure AG-2 would be 10 acres with a 2:1 mitigation ratio, or would be 5 acres with a 1:1 mitigation ratio, based on the minimum of at least five acres of Important Farmland loss needed to trigger the need for a conservation easement. In addition, the measure requires that project applicants identify a “minimum of one proposed potential mitigation site” suitable for a conservation easement, so long as the project applicant demonstrates the viability of the proposed sites for establishment of permanent conservation easements to the satisfaction of the County.

Commenters also state that the draft EIR does not “provide evidence” of several costs, which are asserted as associated with Mitigation Measure AG-2, including costs of purchasing and establishing conservation easements on each Important Farmland category, costs of managing farmland under a conservation easement, and costs of monitoring farmland under conservation easements.

County staff has not been provided with or otherwise identified evidence establishing that the costs of establishing conservation easements render this mitigation measure infeasible. To the contrary, there is evidence that agricultural conservation easements in general are feasible from a cost perspective, based on the number of existing programs statewide as well as nonprofits that also administer and manage conservation easements, including monitoring compliance with the easement. For example, the Marin Agricultural Land Trust has protected 46,000 conservation easement acres, the California Farmland Trust has protected 15,741 conservation easement acres, and the San Benito Land Trust has protected 6,749 conservation easement acres (CCLT 2020a, CCLT 2020b, SBALT 2018).

The exact costs associated with implementing Mitigation Measure AG-2 are uncertain for the following reasons. This measure would apply to future discretionary projects that could occur during the planning horizon of the 2040 General Plan over an approximately 20-year period. The specific details of such projects, including their timing, location, size, acreage of impact on Important Farmland by category, are not known. For projects subject to this measure, it is not possible to know the location(s) or size(s) of site(s) that a project applicant would select to encumber with agricultural conservation easement(s). Many factors affect the value of farmland and it cannot be known at this time how these and other factors will affect the costs associated with specific farms or specific parcels in the county over the next 20 years. These factors include but are not limited to national, regional, and local economic conditions, interest rates, government policy, agricultural industry trends, soil quality, the presence of structures and other improvements, and urban proximity (USDA ERS 2020).

Commenters expressed concerns regarding the viability of developing farmworker housing projects after factoring in the costs of obtaining agricultural conservation easements pursuant to Mitigation Measure AG-2. By way of background, the County's 2040 General Plan, SOAR initiative measure, zoning ordinances and State law all consider and treat farmworker housing as being compatible with and accessory to the agricultural production land use. Farmworker housing projects are thus consistent with and authorized in every General Plan land use designation where agricultural production is allowed. And under the County's existing Non-Coastal Zoning Ordinance, farmworker housing projects are authorized in the Agricultural Exclusive (AE), Open Space (OS), and Rural Agriculture (RA) zoning designations, among others. In addition, both SOAR and the 2040 General Plan include provisions encouraging the development of farmworker housing as a means of maintaining the economic viability of the agricultural sector in Ventura County. In this regard, draft 2040 General Plan Policy LU-8.5, Farmworker Housing, states in part that "the County shall support the development of safe and quality farmworker housing that facilitates a reliable labor force and promotes efficient agricultural operations," and Policy AG-1.6, Support Economic Viability of Agriculture, states that "the County shall improve the economic viability of agriculture through policies that support agriculture as an integral business to the County."

As recognized by the 2040 General Plan and SOAR, the sustainability of the food and agricultural systems of Ventura County (and the State and nation) is highly dependent on the manual labor of farmworkers. However, crop labor is a low-paying, hazardous profession, and the supply of workers to fill these jobs is limited. Farmworkers are often socially and geographically isolated, and their unique health and safety needs are frequently overlooked. Migrant, seasonal, immigrant, and undocumented farmworkers lack suitable housing options. This housing shortage has negative effects on the health of workers, the rural communities where they live and work, and the viability of the farming sector that employs and feeds millions of people.

The development of farmworker housing may nonetheless result in a loss of Important Farmland exceeding the acreage thresholds of Mitigation Measure AG-2 thus requiring the establishment of agricultural conservation easements to preserve offsite Important Farmland in proportion to the projects' impacts pursuant to the mitigation measure.

Given the substantial costs of developing farmworker housing and the fact that such projects generate little, if any, return on investment, the additional costs associated with requiring proponents or farmworker housing projects to establish agricultural conservation easements could present an economic impediment to the development of this essential, much-needed housing. Consequently, imposing this mitigation requirement on farmworker housing projects may render some farmworker housing projects economically infeasible and thus may undermine the effectiveness of the aforementioned proposed 2040 General Plan policies encouraging the development of farmworker housing to support the economic viability of agriculture. Based on the foregoing, and as set forth below, Mitigation Measure AG-2 has been revised to except farmworker housing projects from its agricultural conservation easement acquisition requirement. Farmworker housing projects will still be subject to Mitigation Measure AG-1 which require such projects "to avoid direct loss of Important Farmland as much as feasibly possible." This revision to Mitigation Measure AG-2 is anticipated to result in the preservation of slightly less overall acreage of Important Farmland pursuant to agricultural conservation easements, although the exact amount of such acreage is not known and cannot be quantified at this time due to the uncertainty regarding the number, size and location of

farmworker housing projects that could be developed on Important Farmland during the 20-year planning horizon of the 2040 General Plan.

With respect to the comments asserting that Mitigation Measure AG-2 is economically infeasible outside the context of farmworker housing projects, it is true that in situations where an agricultural conservation easement would be required – which, as explained above, is not anticipated to be common – the 2:1 mitigation ratio required by Mitigation Measure AG-2 would make the mitigation measure costlier to implement as compared to a lower mitigation ratio such as 1:1. In evaluating the economic feasibility of Mitigation Measure AG-2, the County researched jurisdictions across the State which have adopted agricultural conservation easement requirements. Of the 13 jurisdictions identified in Table 2-1 (above), 11 have policies or programs requiring preservation of farmland at a 1:1 mitigation ratio, and 2 at a 2:1 ratio. The predominant use of a 1:1 ratio statewide suggests that a lower mitigation ratio may be more economically feasible.

In comparing a 1:1 ratio versus a 2:1 ratio for Mitigation Measure AG-2, both would lessen the impact related to the loss of Important Farmland. However, the impact would remain significant and unavoidable under either ratio because, as explained above and recognized by California courts, agricultural conservation easements do not replace the Important Farmland that is converted and permanently lost by projects that impact the soils, but rather are a means of preserving offsite Important Farmland to limit the further, subsequent loss of the resource. A reduction in the preservation ratio from 2:1 to 1:1 would presumably make this mitigation less costly to implement, but would result in the permanent preservation of fewer acres of Important Farmland. To address the commenters' concerns regarding economic feasibility, and to make the County's agricultural conservation easement requirement consistent with the majority of similar mitigation measures statewide that have been identified by County staff, Mitigation Measure AG-2 has been revised to reduce the mitigation ratio from 2:1 to 1:1.

#### Recent Ventura LAFCo Actions Do Not Support Commenters' Assertion of Mitigation Measure AG-2 Infeasibility

Some commenters reference the Ventura Local Agency Formation Commission's (LAFCo) previous discussion and action addressing the mitigation of agricultural land conversion impacts resulting from LAFCo-approved projects as evidence of the infeasibility of Mitigation Measure AG-2. One commenter cited LAFCo's consideration of agricultural conservation easements at a 1:1 ratio and then asserted that LAFCo "...eventually did not enact policies due to the inability to purchase development rights in an economically feasible manner." This comment is inaccurate, as explained below.

Following a series of public workshops and meetings that occurred between 2015 and 2017, the Ventura LAFCo took two actions with respect to agricultural mitigation measures. The first action was to revise Section 1.4.3.1.d. of LAFCo's *Administrative Supplement to the CEQA Guidelines* (Division 1, Chapter 4 of the Commissioner's Handbook) to add the following: "For projects that would result in the conversion of prime agricultural land to non-agricultural uses, the environmental document should consider mitigation measures to address the potential loss of the agricultural land, as provided for under Govt Code Section 65965 et al."

The second action was to prepare *Informational Guidelines for the Consideration of Agricultural Mitigation Measures* for CEQA lead agencies. The *Guidelines* include an excerpt of Section 1.4.3.1.d of the LAFCo Commission's *Administrative Supplement to the CEQA Guidelines* (Division 1, Chapter 4 of the Commissioner's Handbook). The approved

*Informational Guidelines* also include examples of mitigation measures that could be considered at the discretion of the lead agency, if feasible, including, but not limited to, agricultural conservation easements. Lastly, the approved *Informational Guidelines* include the following paragraph: “When considering such mitigation measures, lead agencies should consider related implementation factors, including, but not necessarily limited to” followed by a implementation factors such as “Permanent preservation of other prime agricultural land (such as in a 1:1 ratio, or greater, to that proposed to be converted).”

Another comment stated that “County Counsel [Ventura County Chief Assistant County Counsel, who also serves as legal counsel for the Ventura LAFCo] informed LAFCo at their March 24, 2016 hearing that a mitigation measure requiring the 1:1 mitigation of local farmland to replace farmland that would be removed by proposed development did not meet the standard for economic feasibility based on a legal decision in *City of Irvine v. County of Orange*” [*City of Irvine v. County of Orange* (2015) 238 Cal.App.4th 526 (“*City of Irvine*”)]. Contrary to this comment, the referenced County Counsel presentation merely provided a broad legal overview of the use of agricultural conservation easements as mitigation for the loss of agricultural resources; no specific feasibility analysis relating to the cost of establishing agricultural conservation easements in Ventura County was conducted by or presented to LAFCo. Moreover, the case cited by the commenter, *City of Irvine*, did not address the programmatic feasibility of requiring agricultural conservation easements statewide. Rather, the court upheld the County of Orange’s project-level finding that the use of an agricultural conservation easement to mitigate for the loss of agricultural resources was infeasible, and thus did not violate CEQA, based on the specific facts presented, including the overall scarcity of remaining farmland in Orange County, the high cost of remaining farmland in Orange County based on its non-agricultural development potential, and the fact that large-scale agriculture is no longer viable in Orange County. None of the factors currently exists in unincorporated Ventura County, as explained above.

Consistency with the Non-Coastal Zoning Ordinance and Minimum Lot Size Requirements Comments also assert that the draft EIR does not provide evidence of whether Mitigation Measure AG-2 is in conflict with the County Non-Coastal Zoning Ordinance (NCZO) or County’s other minimum lot size requirements such as found within the Coastal Zoning Ordinance (CZO). The County has reviewed this comment and determined there are no conflicts between Mitigation Measure AG-2 and the NCZO, including minimum lot size requirements. The minimum lot sizes identified in the County’s zoning ordinances, including NCZO (Article 3: Establishment of Zones Boundaries and Maps) and CZO (Section 8171-9 – Establishment of Use Zones), are independent of the of the minimum threshold acreages identified within Mitigation Measure AG-2 for evaluation of impacts to Important Farmland. Whereas the County’s NCZO zoning categories and their accompanying development standards (including minimum lot size) are land use designations which determine appropriate land uses under the County’s jurisdictional land use authority, Important Farmland designations identify land of statewide importance as identified by the State’s Farmland Mapping and Monitoring Program which is administered by the California Department of Conservation. Since the County’s zoning designations are independent of the State’s farmland designations, one cannot conflict with the other.

#### Revisions to Mitigation Measure AG-2

As stated above, this Mitigation Measure AG-2 has been revised to (1) except farmworker housing projects from the requirements Mitigation Measure AG-2; (2) reduce the farmland

mitigation ratio from 2:1 to 1:1, and (3) require the deposit of funds to the County to contract with a qualified third-party agricultural economic consultant to review and advise the Planning Division and Agricultural Commissioner regarding the establishment and implementation of the agricultural conservation easement(s). The term “offsite” has also been clarified in the mitigation measure. The revised mitigation measure is as follows:

**Implementation Program AG-X: Establish an Agricultural Conservation Easement**

Applicants for Discretionary projects that would result in direct or indirect loss of Important Farmland in exceedance of the acreage loss thresholds listed in the table below shall be required to ensure the permanent protection of offsite farmland of equal quality at a 2:1 1:1 ratio (acres preserved: acres converted) through the establishment of an offsite agricultural conservation easement. “Offsite” means an area that is outside of the project’s permit boundaries if applicable, would not be disturbed by the project with respect to agricultural soils or production, and that otherwise complies with the below-stated requirements. Discretionary projects to develop and provide housing for use by farmworkers and their families are not subject to this agricultural conservation easement requirement.

<u>General Plan Land Use Designation</u>	<u>Important Farmland Inventory Classification</u>	<u>Acres Lost</u>
<u>Agricultural</u>	<u>Prime/ Statewide</u>	<u>5</u>
	<u>Unique</u>	<u>10</u>
	<u>Local</u>	<u>15</u>
<u>Open Space/Rural</u>	<u>Prime/ Statewide</u>	<u>10</u>
	<u>Unique</u>	<u>15</u>
	<u>Local</u>	<u>20</u>
<u>All Land Use Designations</u>	<u>Prime/ Statewide</u>	<u>20</u>
	<u>Unique</u>	<u>30</u>
	<u>Local</u>	<u>40</u>

If the Planning Division, in consultation with the Agricultural Commissioner, determines that a discretionary project would result in direct or indirect loss of Important Farmland in exceedance of the acreage loss thresholds listed in the table above, the project applicant shall prepare and submit a report for the review and approval of the Planning Division in consultation with the Agricultural Commissioner which identifies a minimum of one proposed potential mitigation site suitable for ensuring the permanent protection of offsite farmland of equal quality at a 2:1 1:1 ratio (acres preserved: acres converted) through the establishment of an one or more offsite agricultural conservation easements. The preservation of more than one site agricultural conservation easement may be considered in order to meet the required number of acres. The applicant shall also deposit funds with the County to contract with a qualified third-party agricultural economic consultant to review and advise the Planning Division and Agricultural Commissioner regarding the establishment and implementation of the agricultural conservation easement(s). The contents of the report shall be determined, reviewed, and approved by the Planning Division in consultation with the Agricultural Commissioner (hereafter referred to as the “reviewing agencies”), and shall include information necessary for the reviewing agencies and a qualified entity responsible for

holding the conservation easement (e.g., a land trust organization) to determine the viability of the proposed mitigation site(s) for the establishment of a permanent agricultural conservation easement.

Among the factors necessary for approval by the reviewing agencies, the proposed mitigation site(s) shall be located in the County of Ventura unincorporated area, must not already have permanent protection, and must be equivalent to or greater than the type of Important Farmland (e.g., Unique farmland) that would be converted by the project, and must be of sufficient size to be viable for long term farming use as determined by the County. Among other terms that may be required by the reviewing agencies in consultation with a qualified entity, the terms of an agricultural conservation easement shall include a requirement that it run with the land. There must also be a provision for annual monitoring by the qualified entity or its representative to ensure adherence to the terms of the conservation easement. Project applicants are responsible for all costs incurred by the County and the qualified entity to successfully implement this mitigation measure. Proof of the successful establishment of an agricultural conservation easement shall be provided to the Planning Division prior to issuance of a zoning clearance for inauguration of the project.

## MR-6 Master Response 6: Background Report for the 2040 General Plan

The County received several comments from organizations and individuals that expressed concern about use of the Background Report as the basis for the discussion of the existing environmental setting in the draft EIR. These comments generally expressed two concerns: whether this approach violates CEQA requirements for an EIR and inhibits the public's ability to review and understand the draft EIR analysis and conclusions, and whether the data provided in the Background Report are sufficiently accurate to inform the EIR analysis.

This master response explains the County's approach to describing the existing environmental setting in the draft EIR and the rationale and basis for the approach, including the EIR's consistency with CEQA requirements for the description of the environmental setting. It also addresses the accuracy of the information provided in the Background Report.

The draft EIR appropriately uses the Background Report to describe the existing environmental setting. The draft EIR and Background Report each provide general discussion about the role of the Background Report in the draft EIR, the draft EIR provides cross references to the specific Background Report sections that contain the relevant details on the regulatory and physical environmental setting, and the draft EIR impact analysis sections describe the relevant existing environmental conditions and regulatory setting used to perform the EIR's impact analysis and support the impact conclusions. In addition, the County made the Background Report and draft EIR (and other project materials) available in print and electronic forms and on its Resource Management Agency (RMA) and General Plan Update websites, at the RMA Planning Division Counter (hard-copy), and in electronic format at 13 libraries throughout the unincorporated county to facilitate the accessibility of this information to the public and decision-makers. The County also included the entire 2020 Background Report in the draft EIR as Appendix B.

The information in the Background Report is accurate and provided at an appropriate scale and level of detail to inform the draft EIR's programmatic analysis of how 2040 General Plan implementation would affect physical environmental conditions. Overall, this approach to the draft EIR and Background Report allowed the County to make detailed, consistent environmental setting information available to decision-makers and the public in a manner consistent with CEQA while presenting a concise impact analysis supported by substantial evidence.

## **MR-6.A      EXISTING SETTING IN ENVIRONMENTAL IMPACT REPORTS**

Section 15125 of the State CEQA Guidelines requires that EIRs include “a description of the physical environmental conditions in the vicinity of the project” because “[k]nowledge of the regional setting is critical to the assessment of environmental impacts.” Moreover, “(t)he environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant” and its description “shall be no longer than is necessary to provide an understanding of the significant effects of the proposed project and its alternatives.” The purpose of describing existing environmental conditions, “is to give the public and decision makers the most accurate and understandable picture practically possible of the project’s likely near-term and long-term impacts.”

Generally, the lead agency should describe physical environmental conditions as they exist at the time the notice of preparation is published. The notice of preparation for the 2040 General Plan EIR was released on January 14, 2019.

The environmental setting relevant to EIR analyses includes both existing physical environmental conditions and the regulatory setting of federal, State, and local laws, regulations, policies, and ordinances. In practice, lead agencies have employed different approaches to describing the environmental setting in EIRs. Often, the discussion of existing conditions immediately precedes the impact analysis. The full discussion of the environmental setting is also frequently included as a standalone component or chapter of an EIR, separate from impact analysis chapters. CEQA does not prescribe a specific manner in which information should be presented.

## **MR-6.B      OTHER RELEVANT CEQA REQUIREMENTS**

In its definition of an “Environmental Impact Report,” CEQA explains that where “information or data relevant” to an EIR “is a matter of public record or generally available to the public (it) need not be repeated in its entirety” in an EIR “but may be specifically cited as the source for conclusions” so long as it is “briefly described,” its relationship to the EIR explained, and available for public inspection. (Pub. Res. Code, § 21061). In this instance, the information and data relied upon in the draft EIR are briefly described within the setting and impact analysis sections of the draft EIR, and the Background Report was made available in the draft EIR as Appendix B, on the same 2040 General Plan webpage where the draft EIR and other project materials were published, and as a component of every printed copy distributed for public review. Consistent with Section 15147 of the State CEQA Guidelines, the summarized information contained in the draft EIR is “sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public.”



Use of the Background Report as the basis of the setting in the draft EIR is also consistent with the State CEQA Guidelines which describe methods public agencies should employ to reduce delay and paperwork in the CEQA environmental review process. These include:

- ▶ Section 15006(l) states that lead agencies should combine environmental documents with other documents such as general plans pursuant Section 15166. In turn, Section 15166 states that CEQA requirements for an EIR “will be satisfied by using the general plan...as the EIR.” In this case, the County has used one component of the 2040 General Plan – the Background Report – to inform the draft EIR.
- ▶ Section 15006(n) by “reducing the length Environmental Impact Reports by means such as setting appropriate page limits (15141)”;
- ▶ Section 15006(o) by “preparing analytic rather than encyclopedic” EIRs (15142); and
- ▶ Section 15006(s) by “[e]mphasizing the portions of the Environmental Impact Report that are useful to decision makers and the public and reducing emphasis on background material” (15143).

By providing specific references to and summaries of relevant Background Report information in the draft EIR while including the full Background Report in the draft EIR as Appendix B, the County was able to substantially reduce the length of the draft EIR by reducing emphasis on non-essential background material and focus the draft EIR on analytic information useful to decision makers and the public (e.g., the significant environmental impacts of the 2040 General Plan and the mitigation measures and alternatives to avoid or substantially lessen those impacts).

Thus, the EIR sections and impact discussion not only discloses relevant information to provide substantial evidence in support of the draft EIR’s factual conclusions, the approach used in this draft EIR fulfills the essential function of an EIR by providing sufficient detail to enable those who did not participate in preparation of the document to understand, and consider meaningfully, the environmental issues raised by implementation of the 2040 General Plan.

## MR-6.C OVERVIEW OF THE GENERAL PLAN BACKGROUND REPORT AND ITS INCLUSION IN THE DRAFT EIR

A general plan is typically comprised of two primary documents: a background report and a policy document. To limit both duplication of effort and the potential for inconsistent use of data between the General Plan and its EIR, the County designed the Background Report to establish the physical environmental setting and regulatory setting for the 2040 General Plan EIR. The County has communicated its intention to use the Background Report as the “environmental setting” of the 2040 General Plan EIR since at least March 2017, when it first released the Background Report for public review (Ventura County 2017:1-7). In Chapter 4, “Environmental Impact Analysis” the draft EIR explains that, “(t)he existing conditions against which potential impacts are evaluated are based on the environmental and regulatory setting information published in the January 2020 Background Report, which is included in this draft EIR as Appendix B.” (page 4-1)

As further described in the draft EIR, the Background Report was released for public review in March 2017, followed by a revised public review draft in October 2017, and subsequent revisions in January 2018. The Background Report was received and filed by the Board of Supervisors on January 23, 2018. (page 4-1)

The draft EIR also explains that during the time between publication of the draft Background Report in January 2018 and completion of the draft EIR, some changes occurred relative to the environmental and regulatory environments (page 4-1). Where changes to the environmental or regulatory setting (e.g., new information, regulatory changes) occurred after publication of the January 2018 Background Report, and where these changes are relevant to understanding the 2040 General Plan's potential environmental impacts, additional background information was provided in the appropriate EIR resource section (Sections 4.1 through 4.17).

In addition, the following discrete updates were included in the January 2020 Background Report released in conjunction with the draft EIR. These revisions incorporate the Habitat Connectivity and Wildlife Corridors (HCWC) overlay zones adopted by the Board of Supervisors in March 2019 and a revised Wildfire History Map which includes the Thomas Fire burn area described below:

- ▶ Within Section 8.2, "Biological Resources," a map and description of regulations proscribing siting and permitting standards for certain new development in the Habitat Connectivity and Wildlife Corridors (HCWC) overlay zones was added to reflect amendments to the Non-Coastal Zoning Ordinance (Habitat Connectivity and Wildlife Corridor Ordinances (Ord. 4537 & Ord. 4539)) adopted by the County on March 12, 2019. These changes were added into the subsection on Habitat Connectivity/Wildlife Corridors in the January 2020 Background Report.
- ▶ Within Section 11.3, "Wildfire Hazards," the Wildfires History Map (Figure 11-10 of the January 2020 Background Report) was updated to reflect wildfires in the county through 2018, including the Thomas Fire that altered parts of Ventura and Santa Barbara counties in late 2017.

The Errata sheet included in the beginning of the January 2020 Background Report also includes the information above describing the Background Report and its relationship to the draft EIR.

As explained further below, although the introductions to the environmental analysis in the draft EIR and Background Report include general statements referring the reader to the Background Report for setting information, this explanation of approach is not the extent to which the relevant information in the Background Report is summarized. The reader is not, as asserted by commenters, responsible for searching through the entire Background Report to identify the pertinent information. In fact, the draft EIR environmental resource sections (4.1 to 4.17) provide cross references to the specific Background Report sections that contain the relevant details on the regulatory and physical environmental setting, and the draft EIR impact analysis sections describe the relevant existing environmental conditions and regulatory setting used to perform the impact analysis and support the impact conclusions. The reader is offered a clear roadmap and summary of relevant information used to complete the analysis and make impact determinations consistent with the requirements outlined in Section 15147 of the State CEQA Guidelines.

## **MR-6.D REFERENCE TO AND USE OF BACKGROUND REPORT INFORMATION IN DRAFT EIR IMPACT ANALYSIS**

The setting discussion of each environmental resource topic section of the draft EIR (Sections 4.1 to 4.17) includes specific cross references to the Background Report sections applicable to the environmental impact analysis. For example, Section 4.1, “Aesthetics, Scenic Resources, and Light Pollution,” in the draft EIR clearly refers the reader to Section 8.3, “Scenic Resources,” of the Background Report for details regarding the regulatory setting (page 4.1-1) and environmental setting (page 4.1-12) for the analysis of aesthetic impacts. Moreover, the draft EIR environmental impact analysis sections also include specific references to environmental and regulatory setting information used to perform the impact analysis and support the impact conclusions. For example, the draft EIR’s discussion of the impact assessment methodology for aesthetics and the impact analysis discussions include clear references to Figure 8-7 of the Background Report showing areas protected by the Scenic Resource Protection Overlay Zone, and summarize the information shown on this figure from the Background Report (draft EIR page 4.1-12; page 4.1-20; page 4.1-24).

## **MR-6.E AVAILABILITY OF THE BACKGROUND REPORT AND DRAFT EIR**

The draft EIR was available to the public in both print and electronic forms. On Ventura County’s General Plan website (<https://vc2040.org/review/documents>), reviewers can select links for both the draft EIR (as a complete document or by chapter and resource section) and the Background Report (as both a complete report and by chapter). The documents are easily navigable and can be searched electronically. The reviewer can access the appropriate chapter of the Background Report by selecting a hyperlink on the same webpage where all other components of the Draft EIR analysis are available and navigate directly to the applicable information. Further, as described above the entire January 2020 Background Report was included in the draft EIR as Appendix B.

## **MR-6.F BACKGROUND REPORT ACCURACY AND TIMELINESS**

Commenters expressed concern about the accuracy and timeliness of the Background Report used as the basis for the discussion of existing setting in the draft EIR. The Background Report is an objective assessment of current environmental and regulatory conditions in effect at the time of publication. Several iterations have been prepared and published for review by the public and decision-makers as described above and to reflect and keep up with changing conditions. The Background Report presents a “snapshot” of existing conditions and trends in Ventura County and establishes the conditions against which potential impacts are evaluated. Because the existing setting is used to describe current conditions and to frame and understand the magnitude of the change in physical environmental conditions that would result from implementation of the 2040 General Plan, only the information pertinent to the subsequent analysis, as dictated by the applicable thresholds of significance, need be included. There is no CEQA requirement for an EIR to disclose existing physical conditions or regulations that are not relevant to the environmental impact analysis provided in the EIR. Consistent with CEQA Guidelines Section 15143, this approach emphasizes information useful to decision makers and the public and reduces emphasis on background material. In addition, the countywide scale of the mapping and the level of detail provided in the EIR and Background Report for the environmental setting are appropriate and sufficient to perform the

programmatic evaluation of direct and indirect impacts that would result in the county under implementation of the 2040 General Plan. Specific issues raised by commenters regarding the accuracy of Background Report information or data are addressed in this chapter in the individual responses to those comments. Where applicable, the individual responses acknowledge any errors in Background Report data or information raised in public comments, and explain how and where those errors have been corrected in the final EIR.

## **MR-7 Master Response 7: Comments Regarding Recirculation of the Draft EIR**

The County received several comments asserting that the draft EIR should be revised and recirculated for public review before it can be certified. This master response provides a detailed discussion of CEQA requirements for recirculation of an EIR and explains that because none of the issues raised in public comments on the draft EIR meet CEQA requirements for recirculation, the County has not recirculated the EIR before presenting it to the County's decision-makers for review and certification.

### **MR-7.A CEQA REQUIREMENTS FOR RECIRCULATION OF AN EIR**

CEQA requires recirculation of a draft EIR when significant new information is added to the EIR after the EIR is released for public review and before certification that changes the EIR "in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse effect of the project or a feasible way to mitigate or avoid such an effect" or the draft EIR "was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded" (CEQA Guidelines, § 15088.5(a)). In this context "information" can include changes in the project or environmental setting as well as additional data or other information.

State CEQA Guidelines Section 15088.5(a) defines "significant new information" as a disclosure showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented;
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance;
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it; and
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Recirculation is not required where information is added to the EIR that merely clarifies, amplifies, or makes insignificant modifications in an adequate EIR (CEQA Guidelines, § 15088.5(b)).

State CEQA Guidelines Section 15088.5 was adopted by the California Natural Resources Agency to incorporate the California Supreme Court's decision in *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1993) 6 Cal.4th 1112 (*Laurel Heights II*) into the guidelines. According to the Supreme Court, the rules governing recirculation of a draft EIR are “not intend[ed] to promote endless rounds of revision and recirculation of EIRs” (*Laurel Heights II, supra*, 6 Cal.4th at p. 1132). Recirculation is “an exception, rather than the general rule” (*Mount Shasta Bioregional Ecology Center v. County of Siskiyou* (2012) 210 Cal.App.4th 184, 221).

## MR-7.B PUBLIC COMMENTS ON THE DRAFT EIR

The specific reasons for recirculation raised in public comments on the draft EIR are responded to throughout these responses to comments, including the master responses and responses to individual comments. Depending on the issue raised, the responses to comments do one or more of the following:

- ▶ describe how the significant environmental issues raised in the comment letters were adequately addressed and supported with substantial evidence in the draft EIR;
- ▶ provide new information or data or corrections to the text of the draft EIR, where such new information or revisions are warranted;
- ▶ expand on, or provide minor clarifications to, information already included in the draft EIR where comments question the accuracy or clarify of the information provided; and
- ▶ for alternatives and mitigation measures raised in the comments that are considerably different than those included in the draft EIR, either: (1) explain the reasons the alternative or mitigation measure is infeasible; or (2) explain that the alternative or mitigation measure is feasible, proposed to be implemented, and would not result in a new significant environmental impact.

After detailed review of the public comments and other evidence in the record, the County has determined that none of the issues raised in comments on the draft EIR, responses to comments on the draft EIR, or revisions made to the draft EIR constitute “significant new information” requiring recirculation. The County has also determined that the analysis and impact conclusions of the draft EIR are adequate and supported with substantial evidence. Moreover, the County has determined that there are no disclosures demonstrating that: a new significant environmental impact not included in the draft EIR would result, either from the 2040 General Plan or a new mitigation measure; a substantial increase in the severity of an environmental impact included in the draft EIR would result that cannot be mitigated to a less than significant level; or that the County has declined to adopt a feasible project alternative or mitigation measure that would clearly lessen the environmental impacts of the 2040 General Plan. The final EIR, including this master response, other master responses, responses to individual comments, revisions to the draft EIR, and other information in the record provide the substantial evidence supporting the County's decision not to recirculate the draft EIR.

## 2.3 COMMENTS AND RESPONSES

The written individual comments received on the draft EIR and the responses to those comments are provided below. The comment letters are reproduced and are followed by the response(s). Transmittal emails and letter attachments that do not either contain comment on the content or conclusions of the draft EIR or raise any significant environmental issues for which a response is required are provided in Attachment 1 to this final EIR. 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.

The County has included all comments on the draft EIR that were received or post marked by February 27, 2020. The County received 273 comment letters during the comment period for the draft EIR. Of these, the County determined that 31 were duplicative.