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determine if it will facilitate and encourage population growth, economic growth or changes in land use and development patterns.¹⁰⁵ Similarly, NEPA requires that agencies consider the indirect effects of a proposed action, such as growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate.¹⁰⁶

1. The DEIR/S Provides Inadequate Analysis Of Localized Rural Growth Patterns And Impacts

The growth-inducing analysis in the DEIR/S is too general to provide any meaningful analysis of the potential local growth-inducing effects of placing a high-speed train station near rural Los Banos and of the impacts this growth may have on the GEA. The DEIR/S provides no information to analyze localized patterns of growth. Rather it provides county and statewide, numerical, tabular population analysis that provide no way to independently determine where the excess growth will go.

Furthermore, without analysis of facts specific to the growth in a largely rural area such as around Los Banos, the DEIR/S concludes that the HST would minimize the impacts associated with growth due to its inherent incentives for directing urban growth:

"In short, the HST Alternative provides a strong incentive for directing urban growth and minimizing a variety of impacts that are frequently associated with growth. This outcome would be seen in results for resource topics such as farmland, hydrology, and wetlands, where the indirect effects of the HST Alternative are less than the Modal Alternative, and in some cases less than the No Project Alternative, even with more population and employment expected with the HST Alternative." DEIR/S page 5-34.

"Nonetheless, the results indicate that the HST Alternative would be able to accommodate more population and employment growth on less land than the other alternatives." DEIR/S page 5-10.

The DEIR/S continues on to conclude that the growth potential with the HST is "potentially beneficial" with mitigation strategies. DEIR/S Table 7.3-1.

¹⁰⁵ *Id.*

¹⁰⁶ 40 CFR 1508(b).

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These conclusions are not supported by adequate and transparent analysis or substantial evidence.

A review of this issue by planning expert Terry Watt suggests quite strongly that locating a train station adjacent to the GEA, in a largely rural agricultural area of Merced County, would result in significant localized urban encroachment and development pressures on this area that are either understated or simply ignored in the DEIR/S.¹⁰⁷ Ms. Watt also concludes that this growth will occur in suburban and rural sprawl patterns most harmful to habitat areas and farmland.¹⁰⁸

Major studies have shown that the introduction of transportation facilities redirects growth. Ms. Watt has reviewed these studies, the relevant county and local general plans and the data provided by the DEIR/S on the proposed HST project and has concluded that if alignments and stations are located in rural areas, growth and development in California could actually be redirected away from existing urban areas and into more remote rural areas where high value agricultural and habitat lands occur.¹⁰⁹ This would be far from a "smart growth" or beneficial effect of the HST.

2. The DEIR/S Fails To Adequately Analyze The Impact From The HST's Facilitation Of Commuter Traffic To The Bay Area And Sacramento From The Less-Expensive, Rural Los Banos Area

Ms. Watt testifies in her attached comments that recent growth patterns in California demonstrate that accessibility to major employment centers triggers tremendous new growth.¹¹⁰ The introduction of the HST will dramatically shorten commute times between the Merced County area and the urban

¹⁰⁷ Exhibit 3, *Watt Comments*.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ Exhibit 3 (*Watt Comments*). Historical growth patterns in California clearly demonstrate that the close proximity of a major job center inevitably leads to growth inducement for housing within commute range. Examples identified by Ms. Watt include: (1) the Auburn corridor as major new employers moved to the Sacramento region and north; (2) the Truckee area, which is approximately 1 hour from the major new job growth in the Auburn Corridor; and (3) Reno. The HST will render the Grasslands area within close commute range to major job centers in the Bay Area.

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employment centers in the San Francisco Bay Area and the Sacramento area, making the area surrounding the proposed Los Banos HST station more attractive to supercommuters. The substantially lower cost of homes and property in the area would be a tremendous draw for Bay Area workers to move to the area.¹¹¹

The DEIR/S, however, fails to analyze the potential impacts that may arise from this facilitation of commuter traffic to the Bay Area and Sacramento from the less expensive, rural Los Banos area and how this is likely to accelerate sprawl and increase demand for subdivisions and development.

3. The DEIR/S Fails To Analyze The Potential For A Los Banos HST Station To Accelerate The Conversion Of Agricultural And Rural Lands To Urban And "Ranchette" Development

The DEIR/S lacks any analysis of the potential for the Los Banos HST station to accelerate suburban and rural sprawl. The Merced County General Plan and Los Banos General Plan lend themselves to a pattern of suburban and rural sprawl due to the predominance of low density general plans and zoning ordinances.¹¹² The typical development density in the limited High Density development areas in Los Banos is only 15 units per acre. Most of the residentially designated vacant land in the City is in the Low Density and Very Low Density designations ranging from 1 to 7 units per acre.¹¹³ If the HST service is introduced to the area, this would create significant pressures for growth of housing and new services in the area and that pressure would extend to the privately held lands in and around the GEA that are not permanently protected.

¹¹¹ Exhibit 3, *Watt Comments*, Attachment A, *California Real Estate Statistics for Merced and Santa Clara Counties*. As of the 2nd quarter of 2004, a median priced home in Merced County cost \$228,000 and in Los Banos cost \$265,500. By comparison, during the same quarter a median priced home in San Jose cost \$507,750, nearly twice the cost of median priced home in the area near the proposed Los Banos station. In Gilroy during the same period, a median priced home cost \$550,000.

¹¹² While the DEIR/S states that the Cambridge Systematics study considered county general plans and policies, there is no evidence of this in the report. DEIR/S page 5-8. Moreover, the section identifies for subsequent analysis "Land use studies for specific alignment and station areas potentially impacted, including evaluation of potential land use conversion, potential growth, and potential community benefits." DEIR/S page 3.2-27. These are all analyses that must be included in a revised DEIR/S prior to any action on the project. (See *Stanislaus Nat'l Heritage Project v. County of Stanislaus* (1996) 48 Cal.App.4th 182, 199.)

¹¹³ Los Banos General Plan, pp. LU-3 – LU5.

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The low-density housing patterns in this area also lend themselves to the "ranchette phenomenon" of multiple acres per dwelling, which is the worst type of sprawl, since it accelerates development of agricultural lands.¹¹⁴ The DEIR/S simply fails to consider the tremendous demand for this type of low-density development. The DEIR/S, thus, also fails to identify and analyze the additional significant impacts related to that growth including increased traffic, increased pollution, increased demand for services and infrastructure, accelerated and increased loss of open space, agricultural and habitat land.

If a HST station in Los Banos removes the barrier of accessibility to jobs, the conversion of agricultural and rural lands to urban and "Ranchette" development will likely dramatically accelerate. A revised DEIR/S must include analysis of this potentially significant impact.

4. The DEIR/S Fails To Discuss The Likely Increase In Demand For Second Homes In Undeveloped Areas Served By The HST

The DEIR/S also fails to disclose the likely increase in demand in attractive rural areas served by HST for second homes. The spectacular open space setting in and around the GEA is highly attractive for a second home market. The DEIR/S is silent on this potential growth inducing impact. The market for second homes has increased along with disposable income of the large baby boom segment of the population.¹¹⁵ A revised DEIR/S must include analysis of this potentially significant impact on rural areas proposed to be served by the HST.

5. The DEIR/S Fails To Disclose The Potential Growth Inducing Impacts Arising From Any New Infrastructure And Services Required By A Los Banos HST Station

The new Los Banos station is also likely to require major new infrastructure and services.¹¹⁶ The DEIR/S fails to reveal the extent of these facilities and fails to analyze the growth-inducing impact these new facilities will

¹¹⁴ Exhibit 3, *Watt Comments*

¹¹⁵ Exhibit 3, *Watt Comments*, Attachment C, *Baby Boomer Investors Fueling Second Home Market Sales*.

¹¹⁶ Exhibit 3, *Watt Comments*.

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have in the immediate area of the station. A revised analysis must include information about the types of services and infrastructure needed for the station and it must analyze the impact of these services and infrastructure on growth in the area. Specifically, the DEIR/S should describe the current general plan and zoning of the station site and surrounding areas; the existing status of services and infrastructure; services and infrastructure that will be provided to serve the station; and the likely growth inducing effect of the station and those facilities on adjacent lands.

6. The DEIR/S Is Deficient Because It Fails To Identify And Analyze The Impacts That Induced Growth May Have On The GEA

The discussion of growth-inducing impacts in the DEIR/S is further deficient because it neglects not only to address the potential for significant localized growth around the Los Banos area, but it also fails to identify and analyze the impacts that this growth may have on the GEA. The DEIR/S must examine not just the possibility that a project may induce growth, but it must also examine what the impact of this induced growth may be on the environment.¹¹⁷ The lead agency must never assume that growth in an area is necessarily beneficial or of little significance environmentally, but must make its judgment in this regard only after open-minded analysis.¹¹⁸

Impacts of urban encroachment on the wetlands complex of the GEA have been documented in numerous studies including the 1995 Land Planning and Guidance Study and the supporting 1994 study by Reed F. Noss, "Translating Conservation Principles to Landscape Design for the Grassland Water District." These studies have shown that impacts of urban development adjacent to the GEA may include: (1) fragmentation of the North Grasslands from the South Grasslands; (2) a reduction in habitat value of the entire interior of the wetlands complex; (3) chemical disruption including the introduction of fertilizers and toxic chemicals in drainage water; (4) introduction of non-native species of both plants and animals; (5) noise disruption; (6) visual disruption caused by removal of trees and shrubs around the wetlands; (7) interruption of water deliveries for wildlife uses; and (8) the competition for the water supply that supports the wetland habitat.¹¹⁹ The

¹¹⁷ CEQA Guidelines § 15126.2(d)

¹¹⁸ *Id.*

¹¹⁹ Exhibit 9, Thomas Reid Associates, *Grassland Water District Land Planning Guidance Study* 1124-339d

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DEIR/S, however, fails to include any discussion, whatsoever, on these potential impacts.

7. The DEIR/S Is Deficient Because It Fails To Discuss The Potential That The Growth Induced By A Los Banos HST Station Would Conflict With The Documented Need For A Buffer Zone To Protect The Continued Viability Of The GEA

Preservation of the GEA requires that fragmentation around the ecosystem stop and the area not decrease in size. Much work has already been done to evaluate the impacts of encroaching development and to identify methods for protecting the Grassland wetlands. The most important finding of these studies is that a land use buffer around the GEA is the most effective way to protect the resource.

A 1995 *Land Planning Guidance Study* prepared for the GWD addressed the concept of a buffer or band of appropriate land uses around the GEA. The study showed that a two-mile buffer was substantially more effective than a one-mile buffer in protecting the core, or interior of the refuge.¹²⁰

The 2001 *Land Use and Economics Study* examined the proposed two-mile buffer zone around the GEA and identified "zones of conflict" where the impacts of urbanization on the GEA would likely occur.¹²¹ In particular, of the six cities in Merced County, Los Banos, Gustine and Dos Palos have city spheres that include a portion of the two-mile GEA band. The study also identified growth in unincorporated areas as impacting the two-mile GEA band. According to the study, in the long term, it is essential that this band contain only resource beneficial or resource neutral uses to protect the integrity of the interior of the refuge complex as a whole.¹²²

(1995). Appendix A (Noss, R.F., *Translating Conservation Principles to Landscape Design for the Grassland Water District* (1994)).

¹²⁰ Exhibit 9, Thomas Reid Associates, *Grassland Water District Land Planning Guidance Study* (January 23, 1995).

¹²¹ Exhibit 8, *Grassland Water District*; Exhibit 14, *Grassland GEA Buffer Zones & Spheres of Conflict Map*.

¹²² Exhibit 8, *Grassland Water District*.

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A key point of the 2001 land use study is that agriculture and wetlands are compatible uses to each other. Agriculture is a productive use within the wetlands complex and especially in the two-mile band around the wetlands to protect the core area from the effects of urban encroachment.¹²³ The study found that protection of a two-mile band around the core area with only compatible uses (agriculture and open space) inside the band would best protect wetland uses and their infrastructure.¹²⁴ The study concluded that General Plan policies and case-by-case local land use planning decisions should be directed away from any further encroachment on the GEA.¹²⁵

The proposed Pacheco route, however, would take the High Speed Rail and locate the proposed Los Banos Station directly within the zone of conflict where the impacts of growth would negatively affect the GEA. As urbanization progresses, fragmentation of agriculture and open space increases, the value of agricultural habitats for wildlife declines, transportation corridors expand, threats to eliminate recreational hunting increase, air and water pollution increase, and local hydrology is modified.¹²⁶ Thus, disruption and degradation of the functions, values and economic benefits of the Grassland ecosystem would be imminent.

Not only is the GEA a unique, diminishing resource in the Central Valley and the State of California, but these wetlands are also critical to the survival of migratory waterfowl, shorebirds, and other wildlife. Further loss and degradation of this largest remnant wetland habitat in the Central Valley will not only have a negative impact on local resident wildlife and plant communities, but would also have a negative impact on migratory species that move across the North American continent and among continents during their annual cycle. For these reasons, protection of this unique ecosystem is essential to the preservation and maintenance of the productivity of this important natural heritage.

The DEIR/S, however, fails to identify the need for this buffer zone and fails to identify the impact that placement of a HST station near Los Banos would have on the ability to protect the agricultural lands surrounding the GEA from conversion to other uses incompatible with the long-term protection of the GEA.

¹²³ Exhibit 8, *Grassland Water District*.

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

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Such an analysis should be an integral part of any analysis of the impacts of the proposed Pacheco route.

8. **The DEIR/S Is Deficient Because It Fails To Identify Specific, Enforceable Mitigation Strategies To Address The Potential Impacts From Induced-Growth In The Los Banos Area**

The DEIR/S is also deficient because it fails to identify mitigation strategies to address these potential growth-inducing impacts. While increased concentration of development around HST stations in downtown locations has the potential to avoid or to minimize some impacts, the opposite is likely to be the case where stations are located in rural areas.¹²⁷ The Cambridge Systematic study suggests that "regulatory style efforts to encourage increased density and a mix of land uses near rail stations have been effective." However, they also acknowledge that an exception to this would be the stations located outside the downtown areas of cities in the Central Valley. Moreover, specific mitigation measures, such as urban growth boundaries, conservation easements, transit-oriented development district planning and zoning, housing density and affordability requirements and the like directed at avoiding sprawl must be in place *prior* to the HST development.

Studies that have evaluated the relationship of new transit stations and development have concluded that:

...land use benefits from investments in rail transit are not automatic. Rail transit can contribute to positive change, but rarely creates change by itself. The hardware needs software – supportive land use policies such as density bonuses and ancillary infrastructure improvements – if it is to reap significant dividends.¹²⁸

These studies demonstrate that enhanced land use planning and management is essential to securing "smart growth" outcomes.¹²⁹ The DEIR/S, however, fails to identify either the likely growth-inducing impacts from the HST or appropriate mitigation measures to address these impacts. Mitigation measures or

¹²⁷ Exhibit 3, *Watt Comments*.

¹²⁸ Exhibit 3, *Watt Comments*, Attachment D, p. 15.

¹²⁹ Exhibit 3, *Watt Comments*, Attachment B.

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criteria directed at avoiding sprawl and protecting the GEA must be identified prior to the selection of a HST alignment through the GEA.

VI. THE DEIR/S FAILS TO IDENTIFY POTENTIAL CONFLICTS WITH THE SUBSTANTIAL PUBLIC INVESTMENTS MADE TO PROTECT THE WETLAND AND WATERFOWL HABITAT IN THE GEA

An especially troubling deficiency of the DEIR/S is its complete disregard for the substantial state, federal and public conservation investments that have been made in the fight to conserve the critically important waterfowl habitat of the GEA. The GEA includes federal wildlife refuges, a state park, state wildlife management areas and the largest block of privately managed wetlands in the state. These privately managed wetlands contain a large and growing portfolio of federal, state and private conservation easements. Through 1998, conservation easements had been acquired on over 64,000 acres at a total cost of over \$28 million.¹³⁰

Nowhere does the DEIR/S acknowledge, much less analyze, the Project's inconsistency with the conservation easements and state and federal wildlife areas in the GEA, which the Project bisects and/or impacts. The utter failure to examine the impact that the Project would have on the continued protection of these areas threatens to squander tens of millions of dollars in public expenditures.

Several studies have concluded that the best way to protect this investment in the GEA is to prevent any incompatible development from occurring within a two-mile buffer zone around the GEA.¹³¹ Accordingly, any analysis of the impact the HST Project may have on the GEA should include an analysis of the Project's impact on the ability to create this buffer zone.

¹³⁰ Exhibit 8, *Grassland Water District*, supra, at pp. 11-12.

¹³¹ Exhibit 8, *Grassland Water District*, supra, at pp. 11-12; Exhibit 9, Thomas Reid Associates, *Grassland Water District Land Planning Guidance Study* (1995), Appendix A (Noss, R.F., *Translating Conservation Principles to Landscape Design for the Grassland Water District* (1994)).

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VII. THE DEIR/S FAILS TO DISCUSS THE IMPACT OF THE HST ON THE PRODUCTIVE ECONOMY OF THE WETLANDS

Damage to habitat would also likely lead to adverse economic impacts within Merced County. In addition to providing high biological value, the Grassland wetlands provide substantial direct economic contributions to the local and regional economies.

According to the 2001 *Land Use and Economics Study, Grassland Ecological Area, Merced County, CA*, jointly funded by the Grassland Water District, the Packard Foundation and the Great Valley Center, recreational and other activities related to habitat values within the GEA contributes \$41 million per year to the Merced County economy, and accounts for approximately 800 jobs.¹³² Agricultural lands within the GEA also account for approximately five percent (5% of Merced County's \$1.45 billion agricultural economy.¹³³

Unfortunately, the productive economy of the wetlands is threatened by population growth and urban encroachment. The 2001 land use study evaluated the impacts of a compact growth scenario, characterized by development within existing cities, and a "sprawl" scenario, characterized by low density residential development in rural areas and facilitated by subdivisions of agricultural land. According to the study, sprawl development has a significant cumulative adverse effect on the cost to local government of providing services and on revenue and employment in the GEA.¹³⁴ In addition, if non-compatible urban development encroaches on the wetlands so as to reduce its utilization by wildlife, then recreational usage could be expected to decline, and public and private funds for habitat management may be more difficult to obtain.¹³⁵

The DEIR/S should study its potential impact on the continued economic viability of the wetlands economy and how this impact may affect the continued private/public partnership that has preserved the GEA wetlands all these years.

¹³² Exhibit 8, *Grassland Water District*.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

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VIII. THE DEIR/S FAILS TO CONDUCT A 4(F) ASSESSMENT OF THE PROJECT'S IMPACT ON THE GEA

The failure of the DEIR/S to take into account the public investment that has been made to protect this critically important ecological resource violates Section 4(f) of the Department of Transportation Act. Section 4(f) states that the transportation secretary may not approve a transportation project "on publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State or local significance," unless "(1) there is no prudent and feasible alternative to using that land; and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from the use."¹³⁶

Section 4(f) requires federal agencies to consider alternatives and creates a presumption that public parks and natural resource areas protected by this section may not be used for transportation projects unless truly compelling reasons indicate that no alternative route is possible.¹³⁷ This requirement applies even if the land from the wildlife and waterfowl refuge is not directly taken for the project, if the project will nonetheless impact the wildlife area.¹³⁸

Section 4(f) applies to any lands in which a governmental body has a proprietary interest in the land for public recreation or wildlife and waterfowl conservation purposes, including conservation easements obtained for the purpose of wildlife and waterfowl habitat protection.¹³⁹ Accordingly, it would apply to the more than 64,000 acres of privately managed wetlands in the GEA that are subject to federal conservation easements as well as to the federal wildlife refuges, state wildlife areas and state park within the GEA that would be impacted by this project.

In the case at hand, however, the DEIR/S fails to even acknowledge that the proposed Pacheco Pass alignment passes right through and/or causes nearby impacts to federal wildlife refuges, state wildlife areas, a state park and privately managed lands subject to federal conservation easements within the GEA. Without

¹³⁶ 49 U.S.C.A. § 303(c).

¹³⁷ *Citizens to Preserve Overton Park, Inc. v. Volpe* (1971) 401 U.S. 402, 412.

¹³⁸ Mandelker, *NEPA Law and Litigation* (2nd Ed. 2001) § 2:19, fn. 1, p. 2-44.

¹³⁹ Mandelker, *NEPA Law and Litigation* (2nd Ed. 2001) § 2:19, p. 2-45.

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even an identification of these lands, there can be no showing made that the DEIR/S complies with 4(f) requirements.

The DEIR/S clearly fails to meet the "special effort" or assessment of "prudent and feasible alternatives" mandated under Section 4(f). Section 4(f) creates a "specific and explicit bar" to the sacrifice of these public resources for transportation projects; "only the most unusual situations are exempted."¹⁴⁰ Under section 4(f), the protection of state and federal natural resource areas and conservation easements take precedence over other Project considerations including cost and directness of route.¹⁴¹ The DEIR/S must conduct this 4(f) assessment prior to the selection of an alignment that would impact the public GEA lands, even if other alignments may be more costly or less direct.

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IX. THE DEIR/S FAILS TO COMPLY WITH EXECUTIVE ORDERS TO ANALYZE AND MINIMIZE IMPACTS ON WETLANDS AND MIGRATORY BIRDS HABITAT

By failing to analyze the impact of the Project on the GEA, the DEIR/S fails to comply with the executive wetlands order issued by President Carter, which provides that federal agencies "shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds: (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use."¹⁴² This executive order has been held judicially enforceable.¹⁴³

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The inadequate analysis of the Project's impacts on the GEA also violates the executive order issued by President Clinton for the protection of migratory birds, which requires federal agencies to avoid or minimize the effects of their actions on migratory birds.¹⁴⁴ This executive order requires that evaluation of agency projects under NEPA consider the effects of the proposed action on migratory birds, with

¹⁴⁰ *Id.* at 411.

¹⁴¹ See *Id.* at 412-13.

¹⁴² Executive Order 11,990, 42 Fed. Reg. 26,961 (1977).

¹⁴³ *City of Carmel-by-the-Sea v. United States Dep't of Transp.* (9th Cir. 1997) 123 F.3d 1142.

¹⁴⁴ Executive Order 13186, 66 Fed. Reg. 3853 (2001).

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emphasis on species of concern.¹⁴⁵ The DEIR/S fails to make this required evaluation with regard to the effect of the Project on the GEA, despite the fact that the GEA provides a nationally and internationally important wintering ground for migratory waterfowl and shorebirds of the Pacific Flyway.

VIII. THE DEIR/S FAILS TO ADEQUATELY ANALYZE CUMULATIVE IMPACTS

CEQA and NEPA require that cumulative impacts be analyzed. The CEQA Guidelines define cumulative impacts as "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts."¹⁴⁶ "[I]ndividual effects may be changes resulting from a single project or a number of separate projects."¹⁴⁷ Federal Regulations implementing the National Environmental Policy Act (NEPA) also require that the cumulative impacts of the proposed action be assessed. Cumulative impact is defined by the Council on Environmental Quality as an "impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions."¹⁴⁸

A legally adequate "cumulative impacts analysis" views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable probable future projects whose impacts might compound or interrelate with those of the project at hand. "Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time."¹⁴⁹ As the court recently stated in *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 114:

Cumulative impact analysis is necessary because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has

¹⁴⁵ *Id.*
¹⁴⁶ CEQA Guidelines Section 15355(a).
¹⁴⁷ *Id.*
¹⁴⁸ 40 CFR 1508.7.
¹⁴⁹ CEQA Guidelines § 15355(b).
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been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.

Here, the DEIR/S fails to assess the cumulative loss of wetlands and waterfowl habitat in light of the threat from the current rate of urbanization of this area. The studies submitted in support of this comment demonstrate that strong land use policies, including the creation of two-mile wide buffer zones, will have to be taken to protect the GEA from projected growth in and around Los Banos. The DEIR/S fails to recognize or analyze the significant cumulative impact it may have on the effort to stem urban encroachment and protect the critical habitat in the GEA and thus is legally inadequate to support the selection of the Pacheco Pass alignment.

IX. THE DEIR/S FAILS TO ADEQUATELY ANALYZE FEASIBLE ALTERNATIVES

Under CEQA, the DEIR/S must analyze "a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives," focusing on alternatives that would "avoid or substantially lessen any significant effects of the project, *even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.*"¹⁵⁰ Similarly, under NEPA, federal agencies must consider alternatives to their proposed actions as well as their environmental impacts.¹⁵¹ The alternatives analysis has been called the "linchpin" of the Environmental Impact Statement.¹⁵²

¹⁵⁰ CEQA Guidelines, § 15126.6, subd. (a) & (b) (emphasis provided); see *Citizens for Quality Growth v. City of Mount Shasta*, 198 Cal.App.3d 433, 443-45 (1988).
¹⁵¹ 40 CFR § 1502.14.
¹⁵² *Monroe County Conservation Council, Inc. v. Volpe* (2d Cir. 1972) 472 F.2d 693.
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