

Land Use and Planning

Chapter 3.10

SUMMARY OF FINDINGS

The proposed Project will result in *Less Than Significant Impacts* to Land Use and Planning. A detailed review of potential impacts is provided in the following analysis.

INTRODUCTION

California Environmental Quality Act (CEQA) Requirements

This section of the Draft Environmental Impact Report (DEIR) addresses potential impacts to Land Use and Planning. As required in Section 15126, all phases of the proposed Project will be considered as part of the potential environmental impact.

As noted in Section 15126.2 (a), “[a]n EIR shall identify and focus on the significant environmental effects of the proposed Project. In assessing the impact of a proposed Project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published, or where no notice of preparation is published, at the time environmental analysis is commenced. Direct and indirect significant effects of the Project on the environment shall be clearly identified and described, giving due consideration to both the short-term and long-term effects. The discussion should include relevant specifics of the area, the resources involved, physical changes, alterations to ecological systems, and changes induced in population distribution, population concentration, the human use of the land (including commercial and residential development), health and safety problems caused by the physical changes, and other aspects of the resource base such as water, historical resources, scenic quality, and public services. The EIR shall also analyze any significant environmental effects the Project might cause by bringing development and people into the area affected. For example, an EIR on a subdivision astride an active fault line should identify as a significant effect the seismic hazard to future occupants of the subdivision. The subdivision will have the effect of attracting people to the location and exposing them to the hazards found there. Similarly, the EIR should evaluate any potentially significant impacts of locating development in other areas susceptible to hazardous conditions (e.g., floodplains, coastlines, wildfire risk areas) as identified in authoritative hazard maps, risk assessments or in land use plans addressing such hazards areas.”¹

The environmental setting provides a description of the Land Use and Planning setting in the County. The regulatory setting provides a description of applicable Federal, State and Local regulatory policies that were developed in part from information contained in the Tulare County 2030 General Plan, Tulare County General Plan Background Report and/or Tulare County General Plan Revised DEIR incorporated by reference and summarized below. Additional documents utilized are noted as appropriate. A description of the potential impacts of the

¹ CEQA Guidelines, Section 15126.2

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proposed Project is provided and includes the identification of feasible mitigation measures (if necessary and feasible) to avoid or lessen the impacts.

Thresholds of Significance

- Divide Community
- Conflict with applicable land use plan policy, or regulation of an agency with jurisdiction over the Project
- Conflict with applicable habitat conservation plan

ENVIRONMENTAL SETTING

“Tulare County is located in a geographically diverse region with the majestic peaks of the Sierra Nevada framing its eastern region, while its western portion includes the San Joaquin Valley floor, which is very fertile and extensively cultivated. In addition to its agricultural production, the County’s economic base also includes agricultural packing and shipping operations. Small and medium size manufacturing plants are located in the western part of the county and are increasing in number. Tulare County contains portions of Sequoia National Forest, Sequoia National Monument, Inyo National Forest, and Kings Canyon National Park. Sequoia National Park is entirely contained within the county.”²

“The County encompasses approximately 4,840 square miles of classified lands (lands with identified uses) and can be divided into three general topographical zones: a valley region; a foothill region east of the valley area; and a mountain region just east of the foothills. The eastern half of the county is generally comprised of public lands, including the Mountain Home State Forest, Golden Trout Wilderness area, and portions of the Dome Land and south Sierra Wilderness areas. Federal lands, which include wilderness, national forests, monuments and parks, along with County parks, make up 52 percent of the County, the largest percentage found in the County. Agricultural uses, which include row crops, orchards, dairies, and grazing lands on the Valley floor and in the foothills total over 2,020 square miles or about 43 percent of the entire County. Urban uses such as incorporated cities, communities, hamlets, other unincorporated urban uses, and infrastructure rights-of-way make up the remaining land in the County.”³

“Land use in Tulare County is predominately agriculture, and the County is committed to retaining the rich agricultural land. The foothill and mountain regions are controlled predominantly by the State and federal governments. However, as population increases, so does the demand for new housing, retail and commercial space. Agricultural land around the cities is being converted into urban uses. Housing, land, employment and economics are balanced to minimize the amount of agricultural land taken by development. Economic principles tend to take precedence over the conservation of land.”⁴

“Tulare County has been one of the faster growing counties in the state. Since 1950, its annualized growth rate is 1.8% (2.0% since 1980). Population growth has been primarily in the incorporated cities versus the unincorporated county... As of January 2009, the Department of

² Tulare County General Plan 2030 Update RDEIR, Page 3.1-5

³ Ibid. Page 3.1-6

⁴ Tulare County Association of Governments Regional Transportation Plan, 2011. Page 1-11

Finance (DOF) estimates the County population to be 441,481...”⁵

The proposed Project site is within the Rural Valley Lands Plan (RVLP). The RVLP was adopted in 1975, and has had two subsequent amendments (GPA86-009 and GPA94-008) that strengthen its agricultural-protective provisions. The RVLP applies to approximately 773,500 acres of the valley portion of Tulare County. The purpose of the RVLP is to protect and maintain the agricultural viability of rural valley areas by establishing requirements for exclusive agricultural zoning (containing minimum parcel sizes) appropriate to sustain agriculture and implementing a policy that utilizes resource information to determine the suitability of rural lands for non-agricultural uses. The goal of the RVLP is to “sustain the viability of Tulare County agriculture by restraining division and use of land which is harmful to continued agricultural use.”⁶

REGULATORY SETTING

Federal Agencies & Regulations

Federal Endangered Species Act

“Through federal action and by encouraging the establishment of state programs, the 1973 Endangered Species Act provided for the conservation of ecosystems upon which threatened and endangered species of fish, wildlife, and plants depend. The Act:

- authorizes the determination and listing of species as endangered and threatened;
- prohibits unauthorized taking, possession, sale, and transport of endangered species;
- provides authority to acquire land for the conservation of listed species, using land and water conservation funds;
- authorizes establishment of cooperative agreements and grants-in-aid to States that establish and maintain active and adequate programs for endangered and threatened wildlife and plants;
- authorizes the assessment of civil and criminal penalties for violating the Act or regulations;
- authorizes the payment of rewards to anyone furnishing information leading to arrest and conviction for any violation of the Act or any regulation issued there under.”⁷

State Agencies & Regulations

California Department of Fish and Wildlife

The Mission of the Department of Fish and Wildlife (CDFW) is to manage California’s diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological

⁵ 2011 TCAG Regional Transportation Plan, Page 1-4

⁶ Tulare County General Plan 2030 Update RDEIR, Page 3.1-7

⁷ Federal Endangered Species Act, <http://www.fws.gov/laws/lawsdigest/esact.html>. Accessed July, 2014.

values and for their use and enjoyment by the public.⁸ CDFW also regulates the modification of the bed, bank, or channel of a waterway under Sections 1601-1607 of the California Fish and Game Code.⁹

California Endangered Species Act

“The California Endangered Species Act (CESA) states that all native species of fishes, amphibians, reptiles, birds, mammals, invertebrates, and plants, and their habitats, threatened with extinction and those experiencing a significant decline which, if not halted, would lead to a threatened or endangered designation, will be protected or preserved. The Department will work with all interested persons, agencies and organizations to protect and preserve such sensitive resources and their habitats.”¹⁰

Local Policy & Regulations

Tulare County Association of Governments

The Tulare County Association of Governments (TCAG) was formed by a joint powers agreement in 1971 with a purpose of:

- Assist local jurisdictions in obtaining federal assistance by providing advice, counsel, and professional direction
- Review and coordinate applications for programs utilizing federal funding
- Provide a clearinghouse for the coordination and review of all state funded projects.¹¹

Tulare County General Plan Policies

The Tulare County General Plan has a number of policies that apply to projects within County of Tulare. General Plan policies that relate to the proposed Project are listed below.

ED-2.2 Land Requirements - The County shall ensure there is capacity for new and expanding businesses by:

1. Reserving sufficient locations for industry, recognizing industry’s need for greater land requirements;
2. Recognizing the need for a variety of locations to avoid creation of a monopoly of the industrial land market and to reflect varying requirements for transportation facilities and utility services; and
3. Reserving land for exclusive industrial use to encourage development of like industries that complement each other and to prevent encroachment on industrial areas by incompatible uses.

ED-3.1 Diverse Economic Base - The County shall actively promote the development of a diversified economic base by continuing to promote agriculture, recreation services, and

⁸ California Department of Fish and Wildlife. Explore: Mission Statement. <https://www.wildlife.ca.gov/Explore.aspx>. Accessed July, 2014.

⁹ Tulare County General Plan 2030 Update, *Background Report*, Page 9-7.

¹⁰ California Department of Fish and Wildlife. California Endangered Species Act. <http://www.dfg.ca.gov/habcon/cesa/>. Accessed July, 2014.

¹¹ Tulare County Association of Governments. History. <http://www.tularecog.org/Index.aspx?NID=103>. Accessed July, 2014.

commerce, and by expanding its efforts to encourage industrial development including the development of energy resources.

LU-5.1 Industrial Developments - The County shall encourage a wide range of industrial development activities in appropriate locations to promote economic development, employment opportunities, and provide a sound tax base.

LU-5.4 Compatibility with Surrounding Land Use - The County shall encourage the infill of existing industrial areas and ensure that proposed industrial uses will not result in significant harmful impacts to adjacent land uses.

ED-2.3 New Industries - The County shall encourage new industries to locate within cities, unincorporated communities, hamlets, regional growth corridors, and other unincorporated County areas where appropriately zoned. The County, in cooperation with cities and communities will identify locations for industrial uses in unincorporated areas around cities consistent with the cities' economic development strategies, taking into account opportunities offered by variations in local environmental conditions.

IMPACT EVALUATION

Would the project:

a) Physically divide an established community?

Project Impact Analysis: *No Impact*

The proposed Project does not include the construction of a major highway or railroad track. The site is immediately west of the City of Visalia Urban Area Boundary and is surrounded by active agriculture. As such, *No Project-specific Impacts* related to this Checklist Item will occur.

Cumulative Impact Analysis: *No Impact*

The geographic area of this cumulative analysis is Tulare County. This cumulative analysis is based on the information provided in the Tulare County 2030 General Plan, General Plan background Report, and/or Tulare County 2030 General Plan EIR.

The proposed Project is not part of a new transportation facility that could divide a community. *No Cumulative Impacts* related to this Checklist Item will occur.

Mitigation Measure(s): *None Required.*

Conclusion: *No Impact*

As noted earlier, *No Project-specific or Cumulative Impacts* related to this Checklist Item will occur.

- b) **Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?**

Project Impact Analysis:

Less Than Significant Impact

Tulare County is located in the Central Valley and does not border a coastline. As such, projects located within Tulare County could not possibly impact a local coastal program.

The Asphalt Batch Plant has been operating since 2013 under a Temporary Use Permit (13-005), and the proposed Project is an allowable use within the AE-40 Zone District, with an approved Special Use Permit. Prior to that, the site was occupied by a concrete plant from 2010-2013. Table 3.10-1 summarizes the proposed Project's consistency with all applicable objectives, goals, and policies of the General Plan.

**Table 3.10-1
General Plan Consistency Analysis**

Chapter – Element	No.	Goal/Objective/Policy Text	Consistency Determination
Economic Development	2.2	Land Requirements: The County shall ensure there is capacity for new and expanding business by: 1. Reserving sufficient locations for industry, recognizing industry's need for greater land requirements' 2. Recognizing the need for a variety of locations to avoid creation of a monopoly of the industrial land market and to reflect varying requirements for transportation facilities and utility services; and 3. Reserving land for exclusive industrial	Yes: The proposed Project will be located within an unincorporated portion of the County, as an allowed use with approval of a Special Use Permit.
Economic Development	2.3	New Industries: The County shall encourage new industries to locate within cities, unincorporated communities, hamlets, regional growth corridors, and other unincorporated County areas where appropriately zoned. The County, in cooperation with cities and communities will identify locations for industrial	Yes: The proposed Project will be located within an unincorporated portion of the County, as an allowed use with approval of a Special Use Permit.

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Chapter – Element	No.	Goal/Objective/Policy Text	Consistency Determination
		uses in unincorporated areas around cities consistent with the cities' economic development strategies, taking into account opportunities offered by variations in local environmental conditions.	
Economic Development	3.1	Diverse Economic Base: The County shall actively promote the development of a diversified economic base by continuing to promote agriculture, recreation services, and commerce, and by expanding its efforts to encourage industrial development including the development of energy resources.	Yes: The proposed Project includes the expansion of existing industrial development.
Land Use	5.1	Industrial Developments: The County shall encourage a wide range of industrial development activities in appropriate locations to promote economic development, employment opportunities, and provide a sound tax base.	Yes: The proposed Project includes industrial development within an area allowable by a Special Use Permit.
Land Use	5.4	Compatibility with Surrounding Land Use: The County shall encourage the infill of existing industrial areas and ensure that proposed industrial uses will not result in significant harmful impacts to adjacent land uses.	Yes: The proposed Project site is currently an active asphalt batch plant and any environmental impacts and mitigation measures, if necessary, are detailed in this Draft Environmental Impact Report.

The proposed Project is an appropriate use for the site, and as demonstrated in Table 3.10-1, the proposed Project will be consistent with applicable objectives, goals and policies outlined in the Tulare County General Plan 2030 Update. Additionally, as seen in Chapter 2 (Project Description) and Chapter 6 (Economics, Social Effects and Growth Inducing) the proposed Project will result in several benefits to the County, such as creating 10 new permanent jobs, production of construction materials to support roadway improvements, and support through monetary contributions and/or physical roadway improvements to assist in creating complete street in the County of Tulare. As such, ***Less Than Significant Project-specific Impacts***

related to this Checklist Item will occur.

Cumulative Impact Analysis: ***Less Than Significant Impact***

The geographic area of this cumulative analysis is Tulare County. This cumulative analysis is based on the information provided in the Tulare County 2030 General Plan, General Plan background Report, and/or Tulare County 2030 General Plan EIR.

The proposed issuance of a Special Use Permit does not include any variances and will not result in significant impact related to a conflict with a policy or plan. ***Less Than Significant Cumulative Impacts*** related to this Checklist Item will occur.

Mitigation Measure(s): ***None Required.***

Conclusion: ***Less Than Significant Impact***

As noted earlier, ***Less Than Significant Project-specific and Cumulative Impacts*** related to this Checklist Item will occur.

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

Project Impact Analysis: ***No Impact***

As noted in Chapter 3.4, there are two habitat conservation plans that apply in Tulare County. The Kern Water Habitat Conservation Plan only applies to an area near Allensworth (located in southwestern Tulare County), thus the proposed Project site is not subject to this Plan. The Recovery Plan for Upland Species in the San Joaquin Valley outlines a number of species that are important to the San Joaquin Valley. None of these species were identified on the Project site. As such, ***No Project-specific Impacts*** related to this Checklist Item will occur.

Cumulative Impact Analysis: ***No Impact***

The geographic area of this cumulative analysis is Tulare County. This cumulative analysis is based on the information provided in the Tulare County 2030 General Plan, General Plan background Report, and/or Tulare County 2030 General Plan EIR.

There are ***No Impacts*** related to habitat conservation plans, and, therefore, there are ***No Cumulative Impacts*** that will conflict with local policies or ordinances.

Mitigation Measure(s): ***None Required.***

Conclusion: As noted earlier, ***No Project-specific or Cumulative Impacts*** related to this Checklist Item will occur.

REFERENCES

California Department of Fish and Wildlife. California Endangered Species Act.
<http://www.dfg.ca.gov/habcon/cesa/>. Accessed July, 2014.

California Department of Fish and Wildlife. Explore: Mission Statement.
<https://www.wildlife.ca.gov/Explore.aspx>. Accessed July, 2014.

CEQA Guidelines, Section 15126.2
Federal Endangered Species Act, <http://www.fws.gov/laws/lawsdigest/esact.html>. Accessed July, 2014.

Tulare County Association of Governments. History.
<http://www.tularecog.org/Index.aspx?NID=103>. Accessed July, 2014.

Tulare County Association of Governments Regional Transportation Plan, 2011. Pages 1-4, 1-11

Tulare County General Plan 2030 Update, Background Report, Page 9-7.

Tulare County General Plan 2030 Update RDEIR, Page 3.1-5, 3.1-6, 3.1-7