

Unmitigable Impacts

Chapter 7

NO ENVIRONMENTAL EFFECTS THAT CANNOT BE AVOIDED

Under CEQA Guidelines Section 15126.2 (b), “[w]here there are impacts that cannot be alleviated without imposing an alternative design, their implications and the reasons why the Project is being proposed, notwithstanding their effect, should be described.”¹ This analysis should include a description of any significant impacts, including those which can be mitigated but not reduced to a level of insignificance.

The proposed Project will not result in a significant and unavoidable impact. All impacts have been found to be Less Than Significant, or have been mitigated to a level considered Less Than Significant.

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.

NO IRREVERSIBLE IMPACTS

Under CEQA Guidelines Section 15126.2 (c), “[u]ses of nonrenewable resources during the initial and continued phases of the Project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary impacts and, particularly, secondary impacts (such as highway improvement which provides access to a previously inaccessible area) generally commit future generations to similar uses. Also irreversible damage can result from environmental accidents associated with the Project. Irrecoverable commitments of resources should be evaluated to assure that such current consumption is justified. (See Public Resources Code section 21100.1 and Title 14, California Code of Regulations, section 15127 for limitations to applicability of this requirement.)”²

The resources committed to the proposed Project are standard resources necessary for the construction and operation an administrative office to support the existing asphalt plant. Through “green” development practices including air quality, and greenhouse gas emission reductions through material, product choices and through conservation of electricity and water, this proposed Project will reduce the irreversible life-cycle costs of the proposed Project. The proposed Project will be in compliance with the goals of AB32 and the Climate Change Scoping Plan that outlines GHG reductions to 1990 levels.

As contained in CEQA Guidelines Section 15043, “[a] public agency may approve a Project even though the Project would cause a significant effect on the environment, if the agency makes

¹ 2013 CEQA Guidelines, Section 15126.2 (b)

² CEQA Guidelines, Section 15126.2 (c)

a fully informed and publicly disclosed decision that:

- (a) There is no feasible way to lessen or avoid the significant effect (see Section 15091); and
- (b) Specifically identified expected benefits from the Project outweigh the policy of reducing or avoiding significant environmental impacts of the Project.”³

“An agency may prepare a statement of overriding considerations. As noted in CEQA Guidelines Section 15093, “CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed Project against its unavoidable environmental risks when determining whether to approve the Project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed Project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered acceptable.”⁴

“When the lead agency approves a Project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.”⁵

“If an agency makes a statement of overriding considerations, the statement should be included in the record of the Project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.”⁶

STATEMENT OF OVERRIDING CONSIDERATIONS

Based on the analysis contained in this EIR, There is No Environmental Impacts That Cannot Be Avoided and there is no irreversible impact; therefore, a Statement of Overriding Considerations is not necessary. The Project’s merits and objectives are discussed in the Project Description and are found to be consistent with the intent of Tulare County 2030 General Plan. In addition, the Project’s merits outweigh any unavoidable and unmitigable impacts warranting a Statement of Overriding Considerations.

PROJECT BENEFIT STATEMENTS

Project Benefit # 1: **Prevention of Farmland Conversion**

As a component of the Design Features of the proposed Project, the applicant will immediately purchase a temporary agricultural easement at a ratio of 1 acre of developed property for 1 acre of conserved agricultural land (a 1:1 ratio). This amount of 1:1 ratio is represented by 17.6 acres

³ CEQA Guidelines, Section 15043

⁴ Ibid., Section 15093 (a)

⁵ Ibid., Section 15093 (b)

⁶ Ibid., Section 15093 (c)

on the adjacent parcel APN # 073-080-010, or like site within the County. Any replacement acreage will be to the satisfaction of the Planning Director of Tulare County. These 17.6 acres will remain in active agriculture until the land is prepared for development/improvements, as indicated by an application being made to the County for development of a project on APN # 073-080-010, or other like property. At that time, the applicant will purchase an agricultural land conservation easement of 32 acres within the County, of like agricultural land within the County. The 32 acre agricultural easement will be maintained and kept in agriculture usage in perpetuity.

The replacement agricultural acreage can be accomplished through a placement of a temporary agricultural easement on 17.6 acres. The “ultimate” agricultural easement shall be placed on other suitable and agriculturally compatible property, of the same soil types and arability, within Tulare County; at a replacement ratio of 1:1, and to be established as an agricultural easement in perpetuity. As shown in Table 3.2-7; if the agricultural easement were planted to a similar agricultural crop (silage corn), the 32 acre easement has the potential to result in an increase of total yield tonnage to 896 tons (a 182% increase) and total value of \$46,413 (a 182% increase) than the current 16.0 acres of agricultural uses on the proposed Project site. Therefore, the agricultural easement would result in a net benefit to the County in regards to agricultural productivity and value.

Project Benefit #2: Job Creation.

The Project will create a total of 10 new full time jobs for Tulare County residents.

Project Benefit # 3: Aids in meeting County and State GHG reduction criteria

The Tulare County Climate Action Plan presents a comprehensive set of actions to reduce the County’s direct and indirect GHG emissions, which includes setting forth Best Performance Standards (BPS) that the proposed Project will utilize. By incorporating BPS into proposed Project operations, the Project achieves at least a 13.1% reduction in emissions, which meets both the County emission reduction targets and GHG reduction criteria set forth by AB 32. This Project is consistent with and will result in real GHG reductions as detailed in Chapter 3.7.

Project Benefit #4: Increase Business Operations within Tulare County.

The proposed Project is intended to implement Papich’s strategic business plan by continuing to operate a facility which is economically, technologically, and environmentally feasible within Tulare County. This will increase the amount of tax base the County could receive from this project.

Project Benefit # 5: Minimize Costs.

The Project site area is currently in use as an asphalt batch plant. To minimize land cost, the expanded services are proposed on the existing site. Operational costs would also be minimized with expansion of service levels on the Project site. Services on another site would increase operational costs.

Project Benefit # 6: Increase Availability of Construction Materials

The Project will produce construction materials to support roadway improvements and other construction projects in the County of Tulare.

Project Benefit # 7: Improve Existing Roadways, Pedestrian and Bicycle Routes

The Project will support the existing road network by making monetary contributions and/or physical improvements to assist in implementing the Complete Streets Program in the County of Tulare. The Project will also contribute to pedestrian pathways and bike routes in the Community of Goshen.

Project Benefit # 8: Implementation of Countywide General Plan Policies.

Tulare County's General Plan Policies that are in with the Project's purpose and objectives are included in each CEQA Checklist Resource chapter contained in Chapters 3-1 thru 3-17. Ninety-eight General Policies apply to this Project, as seen below:

- AG-1.1 Primary Land Use
- AG-1.6 Conservation Easements
- AG-1.11 Agricultural Buffers
- AG-1.17 Agricultural Water Resources
- AQ-1.3 Cumulative Air Quality Impacts
- AQ-1.4 Air Quality Land Use Compatibility
- AQ-1.5 California Environmental Quality Act (CEQA) Compliance
- AQ-1.7 Support Statewide Climate Change Solutions
- AQ-1.8 Greenhouse Gas Emissions Reduction Plan/Climate Action Plan
- AQ-1.9 Support Off-Site Measures to Reduce Greenhouse Gas Emissions
- AQ-2.3 Transportation and Air Quality
- AQ-2.4 Transportation Management Associations
- AQ-2.5 Ridesharing
- AQ-3.4 Landscape
- AQ-3.5 Alternative Energy Design
- AQ-4.1 Air Pollution Control Technology
- AQ-4.2 Dust Suppression Measures
- AQ-4.3 Paving or Treatment of Roadways for Reduced Air Emissions
- AQ-4.5 Public Awareness
- AQ-4.6 Asbestos Airborne Toxic Control and Dust Protection
- ED-2.2 Land Requirements
- ED-2.3 New Industries
- ED-3.1 Diverse Economic Base
- ERM-1.1 Protection of Rare and Endangered Species
- ERM-1.2 Development in Environmentally Sensitive Areas
- ERM-1.15 Minimize Lighting Impacts
- ERM-1.16 Cooperate with Wildlife Agencies

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ERM-2.10 Incompatible Development
ERM-5.3 Park Dedication Requirements
ERM-5.18 Night Sky Protection
ERM-6.2 Protection of Resources with Potential State or Federal Designations
ERM-6.3 Alteration of Sites with Identified Cultural Resources
ERM-6.4 Mitigation
ERM-7.2 Soil Productivity
ERM-7.3 Protection of Soils on Slopes
HS-2.1 Continued Evaluation of Earthquake Risks
HS-2.4 Structure Siting
HS-2.7 Subsidence
HS-2.8 Alquist-Priolo Act Compliance
HS-4.1 Hazardous Materials
HS-4.3 Incompatible Land Uses
HS-4.4 Contamination Prevention
HS-5.2 Development in Floodplain Zones
HS-5.4 Multi-Purpose Flood Control Measures
HS-5.11 Natural Design
HS-8.2 Noise Impacted Areas
HS-8.3 Noise Sensitive Land Uses
HS-8.4 Airport Noise Contours
HS-8.6 Noise Level Criteria
HS-8.11 Peak Noise Generators
HS-8.13 Noise Analysis
HS-8.14 Sound Attenuation Features
HS-8.16 State Noise Insulation
HS-8.18 Construction Noise
HS-8.19 Construction Noise Control
Housing Policies 1.11, 1.14, 1.33. and 3.11
LU-5.1 Industrial Developments
LU-5.3 Storage Screening
LU-5.4 Compatibility with Surrounding Land Use
LU-5.5 Access
LU-7.4 Streetscape Continuity
LU-7.6 Screening
LU-7.14 Contextual and Compatible Design
LU-7.19 Minimize Lighting Impacts
PF-4.14 Compatible Project Design
PFS-2.3 Well Testing
PFS-3.1 Private Sewage Disposal Standards
PFS-3.2 Adequate Capacity
PFS-4.3 Development Requirements
PFS-4.4 Stormwater Retention Facilities
PFS-4.5 Detention/Retention Basins Design
PFS-4.7 NPDES Enforcement
PFS-5.3 Solid Waste Reduction

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PFS-5.4	County Usage of Recycled Materials and Products
PFS-5.8	Hazardous Waste Disposal Capabilities
PFS-7.1	Fire Protection
PFS-7.2	Fire Protection Standards
PFS-7.12	Design Features for Crime Prevention and Reduction
SL-1.1	Natural Landscapes
SL-1.2	Working Landscapes
TC-1.13	Land Dedication for Roadways and Other Travel Modes
TC-1.14	Roadway Facilities
TC-1.15	Traffic Impact Study
TC-1.16	County Level Of Service (LOS) Standards
WR-2.1	Protect Water Quality
WR-2.2	National Pollutant Discharge Elimination System (NDPES) Enforcement
WR-2.3	Best Management Practices (BMPs)
WR-2.4	Construction Site Sediment Control
WR-2.5	Major Drainage Management
WR-2.6	Degraded Water Resources
WR-2.8	Point Source Control
WR-3.3	Adequate Water Availability
WR-3.5	Use of Native and Drought Tolerant Landscaping
WR-3.6	Water Use Efficiency
WR-3.10	Diversion of Surface Water

ACRONYMS

AB	Assembly Bill
CARB or ARB	California Air Resources Board
CAP	Climate Action Plan
CEQA	California Environmental Quality Act
EIR	Environmental Impact Report
GHG	Greenhouse Gas

REFERENCES

CEQA Guidelines Section 15126.2(c), 15043, 15091(a)(3), 15093 (a)(b)(c)
Pub. Resources Code, § 21081(a)(3)