Members of the public are advised that all pagers, cellular telephones and any other communication devices be put on vibrate mode or turned off during the Planning Commission meeting.

Call to Order: 7:00 PM

Roll Call – Chairperson/Commissioners

Pledge of Allegiance

Item No. 1 - Consent Agenda

All matters listed under the Consent Agenda are considered routine by the Planning Commission and will be adopted by one action of the Commission unless any member of the Commission wishes to remove an item for separate consideration.

a. None.

Item No. 2 – City Council Update

a. Update of City Council items.
Item No. 3 – Public Comment

a. Members of the Audience – At this time, any person may comment on any item that is NOT on the Agenda. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD. While the Planning Commission encourages participation from the audience, no more than five (5) minutes are allowed per discussion item. Topics not considered urgency matters may be referred to City Staff and/or placed on the next agenda for consideration and/or action by the Planning Commission.

Item No. 4 – Public Hearings

a. General Plan Amendment 2011-01 Annexation 2011-01, Prezone 2011-01 and Negative Declaration. Michael Gallo proposes a general plan amendment and to annex and prezone approximately 334.7 acres into the City of Livingston located north of Vinewood Avenue, west of Robin Avenue, south of HWY 99 and east of the Domestic Wastewater Treatment Plant.

Item No. 5 – Reports

a. Planning Commission
b. City Staff
c. City Attorney

Item No. 6 – Adjournment to regular meeting on January 10, 2012.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development Department at (209) 394-8041, Ext. 112. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Members of the public who have questions regarding any agenda item may comment on that item before and during consideration of that item when called upon by the Planning Commission Chairperson.

All actions of the Livingston Planning Commission can be appealed to the Livingston City Council by filing an appeal, in writing and paying the appropriate fees, with the City Clerk.
Agenda Item #:  4a.
Meeting Date: December 29, 2011
Report Date: December 22, 2011

CITY OF LIVINGSTON PLANNING COMMISSION
STAFF REPORT

CITY FILE NUMBER: General Plan Amendment, Annexation and Prezone 2004-01

OWNER/APPLICANT: JEG Livingston Ranch, LLC
PO Box 775
Atwater, CA 95301

PROJECT LOCATION: NE corner of Vinewood and Robin Avenues
(Gallo APNs 047-160-002, 047-160-005, 047-160-006, 047-080-008, 047-080-011; Caltrans Director’s Deed Tract 12412-01-01; 5 privately owned parcels 047-100-017, 047-100-031, 047-100-038, 047-100-039, 047-100-019)

PROPOSED ACTION: Adopt Resolution 2011- _ recommending approval by the City Council of a General Plan Amendment, Annexation, Prezone and Mitigated Negative Declaration for the Gallo Project.

PREPARED BY: Donna M. Kenney, Community Development Director

***********************
Property Size: Approximately 335 Gallo acres and 5 privately owned acres
Existing Land Use: Agricultural and residential
General Plan Land Use Designation: Limited Industrial (LI), General Industrial (GI), and Industrial Reserve (IR)
Zoning: Merced County Zoning: A1 (General Agriculture – 20 acre minimum)
Street Access: Vinewood Avenue and Robin Avenue

Adjacent General Plan Land Use Designation & Zoning District:

<table>
<thead>
<tr>
<th></th>
<th>EXISTING LAND USE</th>
<th>ZONING</th>
<th>GENERAL PLAN</th>
</tr>
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<tbody>
<tr>
<td>North</td>
<td>Agriculture</td>
<td>Merced County – A1 (General Agriculture: 20 acre minimum)</td>
<td>Industrial Reserve (IR)</td>
</tr>
<tr>
<td>East</td>
<td>Highway 99; Residential; Retail</td>
<td>Merced County – A1 (General Agriculture: 20 acre minimum), General Industrial (M-2), Highway Commercial (C-3)</td>
<td>General Industrial (GI), Highway Commercial (HC)</td>
</tr>
<tr>
<td>South</td>
<td>Agricultural</td>
<td>Merced County – A1 (General Agriculture: 20 acre minimum)</td>
<td>Urban Reserve (UR)</td>
</tr>
<tr>
<td>West</td>
<td>Merced River, Domestic Waste Water Treatment Plant</td>
<td>Public/Quasi-Public Facility (PF), Merced County – A1 (General Ag: 20 acre minimum)</td>
<td>Public Facility (PF), General Industrial (GI), Limited Industrial (LI)</td>
</tr>
</tbody>
</table>
PROJECT DESCRIPTION:

The Gallo General Plan Amendment, Annexation, and Prezone Project ("Project") consists of approximately 340 acres of land and is situated southwesterly of and adjacent to State Highway 99 and south of and adjacent to the Merced River. Additionally, the Project site sits directly adjacent to the existing westerly city limit boundary for the City of Livingston and adjacent to the east property line of the City's Domestic Waste Water Treatment Plant ("DWTP"). All of the parcels are located within the current Sphere of Influence of the 1999 General Plan. The proposed project consists of annexing the project area – 334.7 acres of territory - into the City of Livingston city limits. This action includes rezoning the land for industrial, commercial and residential uses, and amending the General Plan to designate portions of the project site for industrial, commercial, and residential uses. There are no physical improvements, specific development projects, or construction activities proposed at this time. Any such activities would occur subsequent to the proposed annexation. Future actions and development proposals within the project area may be subject to additional environmental review on a project-by-project basis, if such projects require discretionary approvals by the City of Livingston.

The City had a 2004 revenue sharing agreement with Merced County concerning annexations. The 2025 General Plan Update was adopted by the City in 2008 but was challenged in court by the Farm Bureau and required by the judge to be revised. Following the above referenced court decision the County subsequently withdrew its participation in the 2004 revenue sharing agreement with the City. At their regular meeting of December 6, 2011, the City Council adopted Resolution 2011-79 providing its intent to consider negotiating a new tax revenue sharing agreement with Merced County for the City’s Sphere of Influence and directing staff to process the Gallo General Plan Amendment, Annexation, and Prezone Project under the 1999 General Plan. Direction by Council in 2006 had directed staff to stop processing new General Plan Amendments until the 2025 General Plan Update was complete. The City and County have begun discussions to negotiate a new agreement covering annexations in the Sphere of Influence.

PROPERTY DESCRIPTION:

Topography consists of open ground with very little changes in elevation. The majority of the site is currently used for agricultural purposes. There is a farming warehouse and a storage facility with four single family dwellings near the northwest corner of Robin Ave and Vinewood Ave (B Street). The homes were built in the mid-to-late 1950s while the warehouses were built in the late 1950s and have not been in use since the early 1980s.

A sewer pipeline was installed in the center of adjacent parcel APN 047-160-003 for future use by the City. There is a holding pond near the southwest corner of APN 047-080-008 which is used to capture excess irrigation runoff where it can be recycled. A small Merced Irrigation District (MID) canal, the Garibaldi Lateral exists on the northern and western borders of APN 047-160-006. This canal is underground until it reaches the northwestern tip of APN 047-180-046, then this canal runs open along the southwest border of this parcel and turns into the Hamstatt lateral along the southeast border of this parcel.

There is an MID overhead transmission line that follows the course of the Hamstatt Canal. There is also a temporary storm drainage detention basin at the northeast corner of B Street and Robin Ave. A Sante Fe Petroleum Pipeline and US Fiber Optics cable run along the northeastern border of the project site.

Onsite wells provide all potable and agricultural irrigation wells for the parcels. There are two agricultural irrigation wells and six potable wells onsite. One well, Well #15 is a municipal well operated by (but not yet dedicated to) the City of Livingston located at the northwest corner on nearby APN 047-180-046. All eight wells receive power from PG&E.
DISCUSSION:

The proposed project is the general plan amendment, annexation and prezoning of approximately 340 acres of agricultural land into the City of Livingston with no construction proposed at this time. If Gallo desires to continue farming the property, a Conditional Use Permit will be necessary for agricultural activities within City limits.

General Plan Amendment

The Project originally included a request for a General Plan Amendment to change the Limited Industrial, General Industrial, and Industrial Reserve designations to 75 acres of Commercial, 12 acres of Public Facility, and 153 acres of Low Density Residential and Parks (attachment 2). The revised Project would change the designations to 30 acres of Low Density Residential and 100 acres of Highway Commercial with Limited Industrial and General Industrial for the remaining 210 acres (Exhibit A). The 30 acres of Low Density Residential is provided for the existing residential uses and the Highway Commercial acreage is proposed as a buffer between the existing commercial uses at Winton Parkway and the proposed Limited Industrial and General Industrial acres.

Annexation

The project site is currently located outside the City limits and within the Sphere of Influence, the City’s 20 year growth boundary. Prior to any construction, the site would require annexation to the City. The City’s annexation request must be approved by the Merced County Local Agency Formation Commission (LAFCo). LAFCo would review the proposed annexation, considering certain State-mandated factors as well as its own standards. Factors considered by LAFCo include: project area land use and demographic characteristics; the need for, and cost of, utilities and services; conformity to the City’s General Plan; water supplies; integrity of agricultural lands; and comments from landowners. Although there are currently other commercial sites within the City limits that are vacant, the majority of these sites have approved projects or pending applications on them and there is very little vacant industrial land within the City. Therefore, from Staff’s standpoint it is appropriate to approve annexation of additional lands within the Sphere of Influence for commercial and industrial uses. The Project applicant has prepared annexation application materials for the Project site. If the request for annexation is approved by the City, these materials would be submitted to LAFCo on behalf of the City, not on behalf of the Project applicant.

Prezoning

Annexation of the Project area requires that the area be prezoned prior to the annexation. The project includes the prezoning of approximately 30 acres to Low Density Residential (R-1), 100 acres to Highway Commercial (C-3), 44.7 acres to Limited Industrial (LI) and the remaining acres to General Industrial (GI). The LI and GI zoning districts are consistent with the underlying 1999 General Plan land use designations of Limited Industrial and General Industrial. The 30 acres of R-1 and 100 acres of C-3 require a General Plan Amendment.

Utilities

Various utilities and facilities will be located pursuant to the City’s Master Plans. An AB1600 study is in process to determine the appropriate impact fees for each service.

There is an existing 12 inch water line in Joseph Gallo Drive that reaches west from Well # 15 on Joseph Gallo Court to the terminus of Joseph Gallo Drive in front of Travel Centers of America.
The 2007 Waste Water Collection System Master Plan shows an existing 27 inch line in Vinewood Avenue, along the south property line of the project. In addition, Figure 5.5 shows a proposed east-west 15 inch line in the center of the Gallo property.

Exhibit A, Drainage Zone D of the 2007 Storm Drainage Master Plan shows a proposed 24-36 inch line increasing in size in Vinewood Avenue from Robin Avenue west to Gallo Road, adjacent to the Domestic Waste Water Treatment Plant. There is a proposed 42 inch line shown running north and south from the agricultural parcel north of the Gallo project to the 30 inch line in Vinewood Avenue. There is an existing oversized basin located at the northeast corner of Vinewood and Robin Avenues that currently serves the commercial area on Winton Parkway. Table 9B of the Master Plan recommends a storm drainage impact fee of $2,697 per dwelling unit and $25,791 per acre for all commercial and limited industrial projects.

ENVIRONMENTAL STATUS:

An Initial Study was prepared for the proposed project in accordance with the California Environmental Quality Act (CEQA). The findings of this evaluation were that the proposed project would not have a significant impact on the environment and a Mitigated Negative Declaration (attachment 3) was prepared. The 20 day public review period for the Mitigated Negative Declaration commenced on December 22, 2011 and ends January 11, 2012 for interested individuals and public agencies to submit written comments on the document. The Notice of Intent (NOI) to adopt the MND is on file with the Merced County Clerk’s office.

RECOMMENDATION:

Staff recommends that the Planning Commission adopt Resolution 2011-___, recommending that the City Council adopt the Mitigated Negative Declaration and approve the General Plan Amendment, Annexation and Prezoning request for the Gallo Project.

ATTACHMENTS:

1. Resolution 2011-___
   Exhibit A - Gallo Project Map with General Plan Designations
   Exhibit B – Gallo Project Map with Zoning Designations
   Exhibit C – Gallo Annexation Map
2. Gallo Special Project Map – Superseded
3. Mitigated Negative Declaration
RESOLUTION 2011-

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF LIVINGSTON RECOMMENDING THAT THE CITY COUNCIL ADOPT A
MITIGATED NEGATIVE DECLARATION AND APPROVE A GENERAL PLAN
AMENDMENT AND PREZONE FOR THE GALLO PROPERTY AND DIRECT STAFF TO
PREPARE AN ANNEXATION APPLICATION TO LAFCO

WHEREAS, Michael Gallo as Applicant submitted application materials in 2004 for annexation
and prezone of approximately 334.7 acres at Vinewood and Robin Avenues, and a related general plan
amendment for an approximately 130 acre portion of the property, which applications are collectively
referred to herein as the “Gallo Project”; and

WHEREAS, the 334.7 acres of land includes Assessor’s Parcel Numbers 047-160-002, 047-160-005, 047-160-006, 047-160-008, 047-080-011; Caltrans Director’s Deed Tract 12412-01-01; plus 5
privately owned parcels 047-100-017, 047-100-031, 047-100-038, 047-100-039, 047-100-019, located
southeast of and adjacent to State Highway 99 and south of and adjacent to the Merced River,
hereafter, “Project Site” or “Gallo Project”; and

WHEREAS, the City began work on its 2025 General Plan Update (GPU) in 2004, which was
adopted in 2008 but was challenged in court by the Farm Bureau and required by the judge to be revised;
and

WHEREAS, pending resolution of the GPU lawsuit, the City’s 1999 General Plan is still valid
and on December 6, 2011, the City Council passed Resolution 2011-79 directing staff to process the
general plan amendment, annexation and prezone applications for the Gallo Project under the 1999
General Plan; and

WHEREAS, the current general plan designations for the Gallo property are Limited Industrial,
General Industrial and Industrial Reserve; the Applicant requests that approximately 30 acres be
redesignated to Low Density Residential and approximately 100 acres be redesignated to Highway
Commercial, all as shown on attached Exhibit A, incorporated herein by reference. The Applicant also
requests a prezoning to the industrial, commercial and residential zoning districts as shown on attached
Exhibit B, incorporated herein by reference, which zoning would become effective upon annexation of the
property; and

WHEREAS, the Applicant requests annexation of the Project Site to the City of Livingston as
shown on attached Exhibit C, incorporated herein by reference. The annexation area is within the City’s
Sphere of Influence and adjacent to the existing westerly City boundary; and

WHEREAS, the Project Site is relatively flat and primarily used for agricultural purposes. There
is a farming warehouse and a storage facility with four single family dwellings near the northwest corner
of Robin Ave and Vinewood Ave (B Street). Also present on the site are a small holding pond and onsite
wells, one of which is operated by the City; and

WHEREAS, in compliance with the California Environmental Quality Act (CEQA) and the
CEQA Guidelines, the City prepared an Initial Study and draft Mitigated Negative Declaration to identify
the potential environmental effects of the Gallo Project. The Initial Study and draft Mitigated Negative
Declaration is a separately bound document (hereafter “MND”), incorporated herein by reference and
available for review during normal business hours at the Livingston City Hall, 1416 C Street, Livingston,
CA, attn: Donna Kenney; and
WHEREAS, the City circulated the draft MND for public review, with the review period beginning December 22, 2011 and ending January 11, 2012; and

WHEREAS, a staff report, dated December 22, 2011 and incorporated herein by reference, described and analyzed the draft MND and the Gallo Project for the Planning Commission; and

WHEREAS, the Planning Commission reviewed and considered the staff report and the draft MND and considered the general plan amendment, prezoning and annexation requests at a noticed special public hearing on December 29, 2011, at which time all interested parties had the opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED that the foregoing recitals are true and correct and made a part of this resolution.

BE IT FURTHER RESOLVED that the Livingston Planning Commission recommends as follows:

1. That the City Council approve the MND, making all required and appropriate findings.

2. That the City Council approve the requested general plan amendments as set forth in attached Exhibit A based on findings that the amendments are in the public interest and that the General Plan as so amended will remain internally consistent.

3. That the City Council approve the requested prezoning as set forth in attached Exhibit B for the reasons described in the staff report and based on a finding that the prezoning would be consistent with the general plan as amended for the Gallo project.

4. That the City Council direct staff to file an application with LAFCO pursuant to Government Code Section 56654 for annexation of approximately 334.7 acres of unincorporated territory to the City of Livingston as set forth in attached Exhibit C.

PASSED, APPROVED AND ADOPTED this 29th day of December, 2011 by the following vote:

AYES:
NOES:
ABSENT:

ATTEST:

Vice Chair, MARIO MENDOZA

Secretary of the Planning Commission,
DONNA M. KENNEY
EXISTING CITY OF LIVINGSTON BOUNDARY

PROPOSED ANNEXATION TO THE CITY OF LIVINGSTON

PROJECT LOCATION

CITY OF LIVINGSTON ANNEXATION MAP

BEING A PORTION OF SECTION 22, 23 AND 27, TOWNSHIP 8 SOUTH, RANGE 11 EAST, M.D.B.&M.
LIVINGSTON, CALIFORNIA

FREMMING, PARSON & PECCHINNO
CONSULTING ENGINEERS - LAND SURVEYORS

12/14/2021
1.0 INTRODUCTION

1.1 Purpose and Utility of the Initial Study and Mitigated Negative Declaration ........................................ 1.0-3

2.0 PROJECT DESCRIPTION

2.1 Project Location and Environmental Setting .................................................................................. 2.0-1
2.2 Project Objectives .................................................................................................................... 2.0-2
2.3 Project Components .................................................................................................................. 2.0-2
2.4 Future Potential Development Assumptions .............................................................................. 2.0-4

3.0 ENVIRONMENTAL CHECKLIST

3.1 Background ............................................................................................................................... 3.0-1
3.2 Environmental Factors Potentially Affected ........................................................................... 3.0-3
3.3 Determination .......................................................................................................................... 3.0-4
3.4 Evaluation of Environmental Impacts ....................................................................................... 3.0-5

4.0 ENVIRONMENTAL ANALYSIS

1. Aesthetics ........................................................................................................................................ 4.0-1
2. Agriculture and Forest Resources ............................................................................................... 4.0-3
3. Air Quality ..................................................................................................................................... 4.0-5
4. Biological Resources .................................................................................................................... 4.0-14
5. Cultural Resources ....................................................................................................................... 4.0-16
6. Geology and Soils ........................................................................................................................ 4.0-19
7. Greenhouse Gas Emissions ........................................................................................................... 4.0-21
8. Hazards And Hazardous Materials .............................................................................................. 4.0-22
9. Hydrology And Water Quality ..................................................................................................... 4.0-25
10. Land Use And Planning ............................................................................................................... 4.0-28
11. Mineral Resources ...................................................................................................................... 4.0-30
12. Noise ........................................................................................................................................... 4.0-31
13. Population And Housing ............................................................................................................. 4.0-33
14. Public Services ............................................................................................................................ 4.0-35
15. Recreation .................................................................................................................................... 4.0-36
16. Transportation/Traffic .................................................................................................................. 4.0-37
17. Utilities And Service Systems ...................................................................................................... 4.0-42
18. Mandatory Findings Of Significance ......................................................................................... 4.0-44

5.0 REFERENCES

6.0 REPORT PREPARERS
1.0 INTRODUCTION

APPENDICES

Appendix A - Construction Generated Criteria Air Pollutants
Appendix B - Resolution of the City Council of the City of Livingston (1) Certifying Final Environmental Impact Report No. 2007071148, Including Adoption of Facts and Findings, Statements of Overriding Considerations, a Mitigation Monitoring Plan, and (2) Approving the 2025 General Plan Amendment.

TABLES

Table AQ-1  Construction-Related Criteria Pollutant and Precursor Emissions (Average Year) (Tons per Year) ................................................................. 4.0-8

FIGURES

Figure 2.0-1  Regional Location Map ................................................................. 2.0-5
Figure 2.0-2  Project Location Map ................................................................. 2.0-7
Figure 2.0-3  Proposed Land Use Map ............................................................... 2.0-9
1.0 INTRODUCTION

1.1 PURPOSE AND UTILITY OF THE INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION

This document is an Initial Study prepared pursuant to the California Environmental Quality Act (CEQA), for the Gallo Annexation project ("Project"). This Initial Study and the associated Mitigated Negative Declaration ("MND") has been prepared in accordance with CEQA, Public Resources Code Sections 21000 et seq., and the CEQA Guidelines found in Title 14 of the California Code of Regulations.

The proposed project consists of annexing the project area – 334.7 acres of territory - into the City of Livingston city limits. This action includes rezoning the land for industrial, commercial and residential uses, and amending the General Plan to re-designate portions of the project site for industrial, commercial, and residential uses. There are no physical improvements, specific development projects, or construction activities proposed at this time. Any such activities would occur subsequent to the proposed annexation. Future actions and development proposals within the project area may be subject to additional environmental review on a project-by-project basis, if such projects require discretionary approvals by the City of Livingston.

As specific development is not proposed for the project area at this time, this environmental analysis utilizes forecasting and makes certain assumptions as to what level of development could potentially occur on the project site based on the proposed land use categories. This approach is consistent with a programmatic environmental review.

The Initial Study and MND may also be used by Merced County LAFCO for that body’s review of the proposed annexation. LAFCO must also consider the potential environmental effects of the action prior to approving boundary adjustments.

An Initial Study is conducted by a lead agency to determine if a project may have a significant effect on the environment. In accordance with the CEQA Guidelines, Section 15064(a)(1), an environmental impact report (EIR) must be prepared if there is substantial evidence in light of the whole record that the proposed project under review may have a significant effect on the environment. A mitigated negative declaration may be prepared if the Initial Study shows there is substantial evidence in the record that the project may have a significant effect on the environment, but the lead agency determines that revisions in the project plans or proposals made by, or agreed to by, the applicant would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur and there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment (CEQA Guidelines, Section 15064(f)(2)).

According to CEQA Guidelines Section 15070, a public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when:

a) The Initial Study shows there is no substantial evidence, in light of the whole record before the agency, that the proposed project may have a significant effect on the environment, or

b) The Initial Study identified potentially significant effects, but:

(1) Revisions in the project plans or proposals made by or agreed to by the applicant before the proposed mitigated negative declaration and initial study is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and

City of Livingston
December 2011

Gallo Annexation Project:
Draft Initial Study/Mitigated Negative Declaration

1.0-3
1.0 INTRODUCTION

[2] There is no substantial evidence, in light of the whole record before the agency, that the proposed project as revised may have a significant effect on the environment.

LEAD AGENCY

The lead agency is the public agency with primary responsibility over a proposed project. In accordance with CEQA Guidelines Section 15051(b)(1), "the lead agency will normally be the agency with general governmental powers, such as a city or county, rather than an agency with a single or limited purpose." In this case, the City of Livingston (City) is the lead agency for the proposed project. As a decision-maker on the annexation, the Merced County LAFCO is a responsible agency under CEQA.
2.0 Project Description

2.1 Project Location and Environmental Setting

Regional Location

The proposed Gallo Annexation project site is located in the City of Livingston in Merced County (Figure 2.0-1). The City of Livingston ("City") is centrally located between Stockton and Fresno in the San Joaquin Valley along the State Route 99 (SR 99) corridor in central Merced County (County). Merced County is bounded by Stanislaus County to the north, Fresno and San Benito counties to the south, Mariposa County to the northeast, Madera County to the southeast, and Santa Clara County to the west.

The city is bisected by SR 99, a major north/south interstate transportation corridor, and by the Southern Pacific Railroad. Livingston is situated approximately 12 miles from the City of Atwater, the nearest city to the south. The Merced River defines the northwestern boundary of the City of Livingston (see Figure 2.0-2 – Project Location Map).

Proposed Project Site and Surroundings

The proposed project site, consisting of 334.7 acres, is situated southwesterly of and adjacent to SR 99 and south of and adjacent to the Merced River. Additionally, the project site sits directly adjacent to the existing westerly city limit boundary for the City of Livingston and adjacent to the east property line of the City's Domestic Waste Water Treatment Plant (DWWTP). The proposed project site consists of Assessor's Parcel Numbers (APNs) 047-080-008, -011, 047-160-002, -006, 047-100-019, -031, -038, -039, 047-100-017, -049, and Caltrans Director's Deed Tract 12412-01-01, and is located within the current Sphere of Influence of the General Plan.

The topography of the proposed project site is generally flat, and primary access is provided by both Gallo Road and Robin Avenue. The City's General Plan and County Zoning Code designate the parcels within the proposed project site as follows:

Parcel 47-080-008 - County Zoning = A-1 (General Agriculture). Livingston GP = GI (General Industrial).

47-080-011 - County Zoning = A-1 (General Agriculture). Livingston GP = IR (Industrial Reserve).

47-160-002, -006 - County Zoning = A-1 (General Agriculture). Livingston GP = GI (General Industrial).

047-100-049 - County Zoning = C-2 (General Commercial) Livingston GP = GI (General Industrial).

047-100-017, -019, -031, -038, -039 - County Zoning = A-1 (General Agricultural) Livingston GP = GI (General Industrial).

The majority of the site is currently used for agricultural purposes. There are five single family dwellings and associated out buildings along the east side of Robin Ave, approximately 2,000 feet north of the intersection of Vinewood Ave (B Street). There is also a large, single family dwelling near the northwest corner of Robin Ave and Vinewood Ave (B Street) that includes a tennis court, swimming pool, and several out buildings. There is also a single family residence fronting Vinewood Ave located approximately 800 feet east of the Vinewood Ave and Robin Ave intersection, as well as an agricultural/industrial parcel approximately 1,400 feet east of the
2.0 PROJECT DESCRIPTION

intersection consisting of several agricultural/industrial out buildings and one single-family residence. (Figure 2.0-2)

A 42-inch sewer pipe line is installed in the center of APN 047-160-003 for future use by the City. There is a holding pond near the southwest corner of APN 047-080-008 which is used to capture excess irrigation runoff where it can be recycled. A small Merced Irrigation District (MID) canal, the Garibaldi Lateral, is located on the northern and western borders of APN 047-160-006. This canal is underground until it reaches the northwestern tip of APN 047-180-046, then it runs open along the southwest border of this parcel and turns into the Hammatt lateral along the southeast border of this parcel. There is an MID overhead transmission line that follows the course of the Hammatt Canal. There is also a temporary storm drainage detention basin at the northeast corner of B Street and Robin Ave. A Santa Fe Petroleum Pipeline and US Fiber Optics cable run along the northeastern border of the project site.

Onsite wells provide all potable and agricultural irrigation wells for the parcels. There are two agricultural irrigation wells and six potable wells onsite. One well, Well #15, is a municipal well operated by (but not yet dedicated to) the City of Livingston located at the northwest corner or nearby APN 047-180-046. All eight wells receive power from Pacific Gas and Electric (PG&E).

North of the project site is the Merced River and vacant land. South of the project includes dwelling units, agriculture and a school. East of the project includes dwelling units, gas stations, school, agriculture, and fast food restaurants. West of the project site is the City’s Domestic Waste Water Treatment Plant. (Figure 2.0-2)

2.2 PROJECT OBJECTIVES

The Proposed Project seeks to accomplish the following objectives:

- To annex 334.7 acres of territory into the City of Livingston for primarily industrial use, as well as single-family residential and highway commercial, as envisioned by the 1999 General Plan and Sphere of Influence;

- To rezone the project area for Highway Commercial (C-3), Low Density Residential (R-1), Limited Industrial (M-1), and General Industrial (M-2).

- To amend the General Plan land uses within this territory in a manner that reflects a balance between the adopted general plan and realistic market conditions.

- To establish land uses that will provide support services for the local agricultural industry and generate jobs in Livingston.

- To bring a residential enclave of five existing parcels into the City with the appropriate services and underlying General Plan and zoning.

2.3 PROJECT COMPONENTS

The proposed project consists of an annexation of the project area from unincorporated Merced County into the City of Livingston city limits, and prezoning of the property for commercial, residential, and industrial use. A General Plan Amendment would also be required to designate land uses resulting in approximately 44.7 acres of Limited Industrial, 160 acres of General Industrial, 30 acres of Low Density Residential, and 100 acres of Highway Commercial. No specific development is proposed at this time (i.e., tentative subdivision map, specific
development type, specific improvements, etc.). These activities would occur subsequent to the proposed annexation. Figure 2.0-3 shows the proposed land use designations.

ANNEXATION

The proposed project would annex all 334.7 acres into the City of Livingston city limits.

PREZONING

The proposed project would prezone the project area for Highway Commercial (C-3), Low Density Residential (R-1), Limited Industrial (M-1), and General Industrial (M-2). Zoning would be fully established upon final approval of the annexation by Merced County LAFCO and execution of a tax sharing agreement.

GENERAL PLAN AMENDMENT

The proposed project area is currently designated by the City’s General Plan as Limited Industrial, General Industrial and Industrial Reserve. The proposed General Plan Amendment would eliminate the Industrial Reserve use, and change the designations to approximately 44.7 acres of Limited Industrial, 160 acres of General Industrial, 30 acres of Low Density Residential and 100 acres of Highway Commercial, which is a subcategory of Service Commercial.

The following are descriptions of the relevant land use designations, as identified in the 1999 General Plan:

Limited Industrial: This category establishes light industrial areas where uses such as fabricating, assembly, research and development, electronics, low intensity warehousing and other such similar industrial uses are appropriate. All work, materials, and equipment storage is generally conducted indoors. Light industrial is appropriate as a buffer between heavy industrial and non-industrial uses and where the site is visible from residential areas or major streets. Special landscaping, enclosures and other site development standards should be used. Industrial park development is intended on larger parcels to create distinct districts of industrial, office, and support uses. The industrial park area shall have high quality landscaping, architectural designs, and general site development requirements. (1999 General Plan, pg. 3-9)

General Industrial: Heavy industrial allows for a range of activities including manufacturing, wholesale distribution, large storage areas and other non-hazardous industrial uses. Areas developed under this designation should be located with direct access to major streets or railroads. (1999 General Plan, pg. 3-9)

Industrial Reserve: Reserve classifications, [in this case, Industrial Reserve classification] denote lands that are not anticipated to develop within the 2020 General Plan time frame, but which bear relation to Livingston’s long range planning or lands that possess urban service constraints within the 2020 urban growth boundary. Land designated as Reserve may not be developed without first amending the General Plan, demonstrating a need for development in these areas and demonstrating that urban services can be provided without adversely affecting the development feasibility of lands currently planned and zoned for urban uses.
2.0 PROJECT DESCRIPTION

Low/Estate Density Residential (0 – 7.5 dwelling units/gross acre): The low density residential category provided for a land use pattern of predominantly single-family development as permitted in the R-1 district. This designation also provides for innovative designs, which utilize clustering, duplexes or half-plexes on corner lots, zero lot line, or planned development features. Lot sizes generally range from 6,000 – 8,000 square feet.

Service Commercial designates land for commercial activities in which the function performed is of equal or greater important than the product traded. The Highway Commercial subcategory allows Service Commercial uses which, due to space requirements, the proximity of the highway, or the distinctive nature of their operation, are not compatible with or not usually located in other commercial designations.

2.4 FUTURE POTENTIAL DEVELOPMENT ASSUMPTIONS

The project includes land use and zoning changes for the annexation areas, which will be analyzed on a programmatic level, since no specific development is proposed and no direct environmental impact would result. Consistent with the CEQA mandate to examine indirect impacts, this Initial Study examines potential future development that could occur as a result of the proposed land use designations, compared to development of industrial uses assumed for the project site under the existing General Plan and its certified EIR.

All of the pre-zoning districts would require further discretionary review for any specific development projects. All of the project area is within the existing City Sphere of Influence, for which annexation and public services were anticipated in the existing General Plan and its certified EIR.

2.5 INCORPORATION BY REFERENCE

This Initial Study has been prepared in accordance with the provisions of the California Environmental Quality Act ("CEQA", Pub. Res. Code §§21000 et seq.,) and the CEQA Guidelines (Cal. Code Regs. title 14, §§15000-15387). This Initial Study analyzes whether any further environmental review is required for the Gallo Annexation project under the standards of CEQA section 21166 and CEQA Guidelines sections 15162 and 15163. The Gallo project site was previously addressed in the certified EIR for the 1999 General Plan, which analyzed the industrial land use designations currently in place. The 1999 General Plan and its certified EIR are incorporated herein by reference and available for review at City Hall during normal business hours. This Mitigated Negative Declaration/Initial Study analyzes whether the proposed Gallo Annexation project will result in any new or substantially more severe significant environmental impacts than those analyzed in the prior EIR or whether any other of the other standards requiring further environmental review under CEQA are met. While many of the potential impacts of the project were adequately addressed through the 1999 GP program EIR, additional environmental review is required under CEQA section 21166 and the related CEQA Guidelines; therefore, the City prepared this proposed Mitigated Negative Declaration. This Mitigated Negative Declaration identifies additional impacts beyond those in the 1999 EIR and proposes related mitigation measures. These mitigation measures are in addition to those applicable to the project from the 1999 EIR.
Figure 2.0-3
Proposed Project Land Use

Legend
- Project Boundary
- Project Parcels
- Livingston City Limits

Proposed Land Use
- Highway Commercial
- Low Density Residential
- General Industrial
- Limited Industrial

Source: Maricopa County, 2010; City of Livingston, 2011
3.1 BACKGROUND

1. **Project Title:**
   Gallo Annexation Project

2. **Lead Agency Name and Address:**
   City of Livingston, 1416 C Street, Livingston, CA 95334

3. **Contact Person and Phone Number:**
   Donna M. Kenney, Community Development Director
   (209) 394-5510

4. **Project Location:**
   Directly adjacent to the existing westerly city limit boundary of the City of Livingston; bounded by the Merced River on the north, the Livingston Domestic Waste Water Treatment Plant to the west, Robin Avenue to the east and Vinewood Avenue to the south; Assessor’s Parcel Numbers 047-080-008, -011, 047-160-002, -005, and -006, 047-100-019, -031, -038, -039, 047-100-017, -049, and Caltrans Director’s Deed Tract 12412-01-01.

5. **Project Sponsor’s Name and Address:**
   Michael Gallo
   P.O. Box 775
   Atwater, CA 95301-0725
   (209) 394-7984

6. **General Plan Designation:**
   Limited Industrial, General Industrial, and Industrial Reserve

7. **Description of Project:**
   The proposed Gallo Annexation Project consists of the annexation and re-designation of approximately 334.7 acres of mostly vacant land that lies within the City of Livingston Sphere of Influence yet outside the existing city limits. These lands possess the current General Plan designations of Limited Industrial, Genera Industrial, and Industrial Reserve and the proposed project would annex these lands into the city limits. In addition to the proposed Annexation, the proposed project would eliminate the Industrial Reserve designation, adjust the number of acres of Limited Industrial and General Industrial, and re-designate 30 acres to Low Density Residential and 100 acres to Highway Commercial. The property would also be pre-zoned to the M-1, M-2, R-1 and C-3 zoning designations consistent with the proposed land use designations.

8. **Surrounding Land Uses and Setting:**
The proposed project site is bounded by the Merced River on the north, the Livingston Domestic Waste Water Treatment Plant to the west, existing residential units, gas stations, a school, several fast food restaurants, and agricultural lands to the east, and residential units, a school, and agricultural lands to the south.

9. **Other Public Agencies Whose Approval Is Required:**

In CEQA, the term "responsible agency" includes all public agencies other than the lead agency that may have discretionary actions associated with the implementation of the proposed project. The Merced County Local Agency Formation Commission (LAFCO) is a responsible agency. The following agencies may have some role in implementing the proposed project and have been identified as potential responsible agencies:

- California Department of Fish and Game (CDFG)
- California Department of Transportation (Caltrans)
- Regional Water Quality Control Board, Central Valley Region
- San Joaquin Valley Air Pollution Control District (SJVAPCD)
3.2 ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by the proposed project, as indicated by the checklist and corresponding discussion on the following pages.

☐ Aesthetics         ☒ Agriculture and Forestry Resources    ☒ Air Quality
☒ Biological Resources ☐ Cultural Resources                     ☒ Geology and Soils
☒ Greenhouse Gas Emissions  ☒ Hazards/Hazardous Materials  ☒ Hydrology/Water Quality
☒ Land Use/Planning     ☐ Mineral Resources                    ☒ Noise
☒ Population/Housing    ☒ Public Services                        ☐ Recreation
☒ Transportation/Traffic ☒ Utilities/Service Systems          ☒ Mandatory Findings of Significance
3.0 ENVIRONMENTAL CHECKLIST

3.3 DETERMINATION

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because of the incorporated mitigation measures and revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☒ I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect [1] has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. I further find that although the proposed project could have a significant additional effect on the environment, there will not be a significant effect in this case because of the incorporated mitigation measures and revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature: Donna M. Kenney
Printed Name: Donna M. Kenney
Date: 12-21-11
Title: Community Development Director
3.0 ENVIRONMENTAL CHECKLIST

3.4 EVALUATION OF ENVIRONMENTAL IMPACTS

The following requirements for evaluating environmental impacts are cited from State CEQA Guidelines Appendix G.

1) A brief explanation is required for all answers except "No Impact/No New Impact" answers that are adequately supported by the information sources cited. A "No Impact/No New Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone, or impacts were fully addressed by the 1999 GP EIR). A "No Impact/No New Impact" answer should be explained where it is based on project-specific factors as well as general standards.

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect, and construction as well as operational impacts.

3) A "Less than Significant Impact" applies when the proposed project would not result in a substantial and adverse change in the environment. This impact level does not require mitigation measures.

4) "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect is significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

5) "Potentially Significant Unless Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact." The initial study must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level.
<table>
<thead>
<tr>
<th>1. AESTHETICS. Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact/No New Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Have a substantial adverse effect on a scenic vista?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>b) Substantially damage scenic resources, including, but not limited to, trees, rock outcrops, and historic buildings within a state scenic highway?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>c) Substantially degrade the existing visual character or quality of the site and its surroundings?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

**PROJECT IMPACTS AND MITIGATION MEASURES**

**a,b) No Impact/No New Impact.** There are currently no locally designated scenic vistas in the City of Livingston and Highway 99 is not a designated state scenic highway. Therefore, the project would have no impact on scenic highways, scenic corridors and scenic vistas.

**c) Less Than Significant Impact.** Implementation of the Gallo Annexation project would change the currently undeveloped project site for industrial, residential and commercial uses, changing the visual character of the site and its surroundings. The 1999 GP EIR programmatically analyzed the project area for industrial use. The analysis and mitigation measures of the 1999 GP EIR are incorporated by reference into this document. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. Changing the project site from agricultural uses to highway commercial, residential and industrial uses rather than fully industrial uses, as well as eliminating the Industrial Reserve and re-designating the Limited Industrial and General Industrial uses would not be substantially different with regards to degrading the existing visual character and quality of the site and its surroundings. This impact would be less than significant.

**d) Less Than Significant Impact.** Implementation of the Gallo Annexation project would introduce new light and glare sources onto the currently undeveloped project site. Nighttime lighting levels on the project site would increase substantially over current levels and could result in adverse affects to adjacent land uses through the “spilling over” of light into these areas and “sky glow” conditions. This impact was previously discussed and analyzed in the 1999 GP EIR. The analysis and mitigation measures of the 1999 GP EIR are incorporated by reference into this document. The 1999 GP EIR, which
programmatically analyzed the project area for industrial use, identified General Plan policies that would reduce these impacts, and concluded that the project's impact associated with additional light and glare would be less than significant. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. Therefore, implementation of the proposed project would not create additional nighttime lighting and daytime glare on the site and surroundings beyond that identified in the 1999 GP EIR. The impact would be less than significant.
### Project Impacts and Mitigation Measures

**a,e) Less Than Significant Impact.** Implementation of the Gallo Annexation project would result in the eventual conversion of over 300 acres of agricultural land to industrial, commercial and residential uses. This impact was previously discussed and analyzed in the 1999 GP EIR. The analysis and mitigation measures of the 1999 GP EIR are incorporated by reference into this document. The 1999 GP EIR, which programatically analyzed the project area for industrial use, identified General Plan policies that would reduce these impacts, and concluded that the project's impact associated with agricultural conversion would be significant and unavoidable. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. Therefore, implementation of the proposed project would not convert agricultural land beyond that identified in the 1999 GP EIR. The impact would be **less than significant.**

**b) Less Than Significant Impact.** While the proposed project area consists of mostly agricultural land, it is currently designated by the City's General Plan as Limited Industrial, General Industrial, and Industrial Reserve. The project area is not under a Williamson Act...
contract. Therefore, implementation of the proposed project would result in a **less than significant impact** associated with conflicts with existing zoning for agricultural uses or a Williamson Act Contract.

c) **No Impact/No New Impact.** Neither the City of Livingston nor Merced County contains any land zoned for forestland, timberland, or timberland production. Therefore, **no impact** would occur.

d,e) **No Impact/No New Impact.** Neither the City of Livingston nor Merced County contains any timberland or forestland other than urban forest (Cal Fire 2002). Therefore, **no impact** would occur.
<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact/No New Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. AIR QUALITY. Would the project:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) Conflict with or obstruct implementation of the applicable air quality plan?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>d) Expose sensitive receptors to substantial pollutant concentrations?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>e) Create objectionable odors affecting a substantial number of people?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

**PROJECT IMPACTS AND MITIGATION MEASURES**

a) **Less Than Significant With Mitigation Incorporated.** The project site is located in the San Joaquin Valley Air Basin (SJVAB). Air quality within the SJVAB is regulated by several jurisdictions including the United States Environmental Protection Agency (USEPA), California Air Resources Board (CARB), and San Joaquin Valley Air Pollution Control District (SJVAPCD). Each of these jurisdictions develops rules, regulations, and policies to attain the goals or directives imposed upon them through legislation. Although USEPA regulations may not be superseded, both state and local regulations may be more stringent.

Pollutants subject to ambient standards are referred to as criteria pollutants because the USEPA publishes criteria documents to justify the choice of standards. One of the most important reasons for air quality standards is the protection of those members of the population who are most sensitive to the adverse health effects of air pollution, termed sensitive receptors. The primary criteria air pollutants of concern include fine particulate matter (PM₂.₅), coarse particulate matter (PM₁₀), nitrogen oxide (NOₓ), ozone (O₃), carbon monoxide (CO), and sulfur oxide (SOₓ).

Areas with air quality that exceeds adopted air quality standards are designated as nonattainment areas for the relevant air pollutants. Areas that comply with air quality standards are designated as attainment areas for the relevant air pollutants. State Implementation Plans (SIPs) must be prepared by states for areas designated as federal nonattainment areas to demonstrate how the area will come into attainment of the exceeded federal ambient air quality standard. The SJVAB is designated nonattainment.
for federal ozone and PM2.5 standards and nonattainment for state ozone, PM10, and PM2.5 standards (CARB 2010).

The SJVAPCD is the agency primarily responsible for ensuring that National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS) are not exceeded and that air quality conditions are maintained in the SJVAB. SJVAPCD responsibilities include, but are not limited to, preparing plans for the attainment of ambient air quality standards, adopting and enforcing rules and regulations concerning sources of air pollution, and implementing programs and regulations required by the federal Clean Air Act and the California Clean Air Act. In an attempt to achieve NAAQS and CAAQS and maintain air quality, the SJVAPCD has completed the following air quality attainment plans and reports: 2004 Extreme Ozone Attainment Demonstration Plan (clarifications adopted August 21, 2008), 2007 PM10 Maintenance Demonstration Plan, and 2002–2005 Amended Ozone Rate of Progress Plan (December 31, 2002). In coordination with CARB and other north-central California air districts, the SJVAPCD developed the 2007 8-hour Ozone Demonstration Plan, which was adopted by SJVAPCD on April 30, 2007, and approved by CARB on June 14, 2007.

Consistency with the SJVAPCD air quality plans is determined if the project supports the plans' primary goals with the inclusion of applicable control measures and does not disrupt or hinder implementation of any control measures. The Gallo Annexation project would result in subsequent, future construction emissions which would be described as short term or temporary in duration. Construction activity would temporarily generate emissions of reactive organic gases (ROG), a pollutant precursor to ozone, NOx, and PM10 from site grading and excavation paving, motor vehicle exhaust associated with construction equipment, employee commute trips, and material transport and other construction operations. The future construction allowed as a result of implementation of the proposed project would also result in emissions during operations.

The project area size is deemed to be within the SJVAPCD levels, that subsequent construction resulting from implementation of the project will be conditioned to comply with all applicable requirements of SJVAPCD's Regulation VIII (Fugitive Dust Prohibitions) and all district policies to limit construction vehicle emissions as well as with all applicable requirements of the SJVAPCD's Indirect Source Review Rule 9510 and payment of administrative fees for Indirect Source Review Rule 3180. Furthermore, as shown in Table AQ-1 below, criteria pollutant emissions associated with construction emissions would not exceed SJVAPCD thresholds of significance. Therefore, compliance with the following mitigation measure shall ensure that the project proponent complies with the applicable air quality plans.

**Mitigation Measures**

**MM 3a-1**

The proponents of future projects allowed under the land uses proposed by the Gallo Annexation project shall submit an Air Impact Assessment (AIA) application to the San Joaquin Valley Air Pollution Control District upon application for building permit and shall pay any applicable off-site mitigation fees before issuance of the first building permit. A copy of the AIA shall be on file with the City of Livingston prior to the issuance of the first building permit.

**Timing/Implementation:** At the time of application for building permits

**Enforcement/Monitoring:** City of Livingston Planning Division
Future development allowed under the land use designations resulting from the proposed Gallo Annexation project would be conditioned to comply with all applicable requirements of SJVAPCD’s Regulation VIII (Fugitive Dust Prohibitions) and all SJVAPCD policies to limit construction vehicle emissions, as well as with all applicable requirements of SJVAPCD’s Indirect Source Review Rule 9510 addressing operational emissions. Furthermore, the subsequent development would be required to provide payment of administrative fees for Indirect Source Review Rule 3180. For these reasons, this impact is less than significant.

b-c) Less Than Significant With Mitigation Incorporated. Subsequent land use activities associated with implementation of the proposed Gallo Annexation project would introduce additional construction, mobile, and stationary sources of emissions, which would adversely affect regional air quality. The SJVAB, which encompasses the project site, is designated as nonattainment for federal ozone and fine particulate matter (PM$_{2.5}$) standards and nonattainment for state ozone, PM$_{10}$, and PM$_{2.5}$ standards (CARB 2010).

Construction Emissions

Construction-generated emissions are temporary and short term but have the potential to represent a significant air quality impact. As stated above, the future construction and development potential under the proposed Gallo Annexation project would result in the temporary generation of emissions. Emissions of airborne particulate matter are largely dependent on the amount of ground disturbance associated with site preparation activities.

The SJVAPCD has adopted guidelines for determining potential adverse impacts to air quality in the region. The SJVAPCD guidelines state that construction activities are considered a potentially significant adverse impact if the feasible control measures for construction in compliance with Regulation VIII as listed in the SJVAPCD guidelines are not incorporated or implemented, and if the project generates emissions of ROG or NO$_x$ that exceeds 10 tons per year.

During construction, air pollutants would be emitted from the operation of construction equipment and from worker and building supply vendor vehicles. Since the actual phasing of the proposed construction of land uses proposed by the Gallo Annexation project is not known at this time, construction-related emissions were modeled assuming an equal distribution of development over the 2020 planning horizon of the City’s General Plan. Therefore, for the purposes of this analysis, this projected residential unit amount and industrial and commercial square footage was divided by nine (as the 2020 planning horizon of the General Plan is 9 years from the projected start of construction [years 2012–2020]) in order to roughly depict potential construction-related criteria pollutant emissions that may result in any given year. It is important to note that the proposed Gallo Annexation project does not include any provisions requiring that its growth potential be attained by 2020 or beyond. Not all of the identified land may be available for development at any given time based on site readiness, environmental constraints, market changes, and other factors. However, this impact discussion assumes full growth potential under the proposed Gallo Annexation project in order to present the maximum amount of construction-generated pollutant emissions possible under implementation of the project.

The project construction emissions resulting from site preparation activities such as grading of the 335-acre project site as well as building construction of up to 225
residential dwelling units and 10,315,879 square feet of both industrial and commercial space have been quantified (see Table AQ-1 below).

### Table AQ-1
**Construction-Related Criteria Pollutant and Precursor Emissions (Average Year)**
**(Tons per Year)**

<table>
<thead>
<tr>
<th>Source</th>
<th>Reactive Organic Gases (ROG)</th>
<th>Nitrogen Oxide (NOx)</th>
<th>Carbon Monoxide (CO)</th>
<th>Sulfur Dioxide (SO2)</th>
<th>Coarse Particulate Matter (PM10)</th>
<th>Fine Particulate Matter (PM2.5)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Construction Activities (projected through 2012-2020) – Current Land Use Scenario</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Average Year</td>
<td>8.9</td>
<td>3.1</td>
<td>2.7</td>
<td>0.0</td>
<td>0.4</td>
<td>0.2</td>
</tr>
<tr>
<td>SJVAPCD</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Significant Impact</td>
<td>10 tons/year</td>
<td>10 tons/year</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Threshold?</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Notes: Emissions quantified with CLEMNOV VERSION 2011.1.1. See Appendix A for data inputs. The land use designations of the project site include a variety of development types, and those used for the purpose of this analysis are based on assumptions, in order to project reasonable estimates of resultant air pollutant emissions for the purposes of this analysis an estimated development scenario was determined in the form of the projected amount of dwelling units and projected amount of square footage of nonresidential development allowed under the proposed land use designation: (see footnote at bottom of page).

As demonstrated in Table AQ-1, the proposed project would not result in the exceedance of SJVAPCD thresholds for ROG and NOx emissions generated during construction. As previously discussed, the SJVAPCD has not adopted a quantitative significance thresholds for construction-generated particulate matter emissions, yet the SJVAPCD guidelines state that construction activities are considered a potentially

1 The City of Livingston 1999 General Plan identifies that Low-density Residential land use designation allows for up to 7.5 dwelling units per acre. As such, the designation of 30 acres of land as Low-density Residential could result in up to 225 dwelling units on the project area (30 acres x 7.5 dwelling units per acre = 225 dwelling units).

Under the proposed project, 100 acres would be designated as Highway Commercial. Since the City of Livingston 1999 General Plan does not identify allowable floor-to-area ratios (FARs) for Highway Commercial uses, the Merced County 2011 General Plan is referenced to estimate the likely amount of commercial development that could occur on the Highway Commercial lands. The Merced County 2011 General Plan identifies Highway Interchange Center under General Commercial designation, which is similar to Livingston’s Highway Commercial designation. The Merced General Plan identified a 0.6 FAR for this land use. A 0.5 FAR would allow a maximum of 2,178,000 square feet of Highway Commercial development within the project area (100 acres x 43,560 square feet per acre = 4,356,000 of commercial area x 0.5 = 2,178,000 square feet of potential commercial buildings).

Under the City of Livingston 1999 General Plan, 44.7 acres of Limited Industrial could allow a maximum of 1,168,279 square feet of Limited Industrial footage within area (44.7 acres x 43,560 square feet per acre = 1,947,132 of commercial area x FAR 0.6 = 1,168,279 square feet of potential commercial buildings).

The proposed 160 acres of General Industrial could allow a maximum of 6,969,600 square feet of General Industrial footage within area (160 acres x 43,560 square feet per acre = 6,969,600 of industrial area x FAR 1.0 = 6,969,600 square feet of potential general industrial buildings).
significant adverse impact if the feasible control measures for construction are not incorporated or implemented in compliance with Regulation VIII as listed in the SJVAPCD guidelines. Uncontrolled emissions of particulate matter would be considered to contribute to existing nonattainment conditions and potential localized exceedances of state or national ambient air quality standards.

Therefore, compliance with the following mitigation measure would ensure that the proponent complies with the applicable air quality plans.

Mitigation Measures

**MM 3bc-1**

Construction activities shall comply with SJVAPCD Regulation VIII for the control of fugitive dust emissions. In accordance with SJVAPCD Regulation VIII, a Dust Control Plan shall be prepared and submitted to the Air Pollution Control Officer prior to the start of construction. Written notification to the Air Pollution Control Officer shall also be provided within 10 days prior to the commencement of earth-moving activities. The Dust Control Plan shall describe all fugitive dust control measures to be implemented before, during, and after any dust-generating activity. The Dust Control Plan shall be endorsed by the SJVAPCD and copies provided to the City of Livingston prior to commencing construction. Current SJVAPCD-recommended dust control measures include (but are not necessarily limited to) the following:

- All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, or vegetative ground cover.
- All on-site unpaved construction roads and off-site unpaved construction access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
- All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.
- When materials are transported off-site, all material shall be covered and effectively wetted to limit visible dust emissions, or at least 6 inches of freeboard space from the top of the container shall be maintained.
- All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at least once every 24 hours when operations are occurring. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.)
- Following the addition of materials to, or the removal of materials from, the surfaces of outdoor storage piles, piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
4.0 ENVIRONMENTAL ANALYSIS

- The overall area subject to excavation and grading at any one time shall be limited to the fullest extent possible.

- On-site equipment shall be maintained and properly tuned in accordance with manufacturers’ specifications.

- Trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

- Excavation and grading activities shall be suspended when wind speeds exceed 20 mph.

- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than 1 percent.

- Install wheel washers for all exiting trucks or wash off all trucks and equipment leaving the site.

Timing/Implementation: Prior to issuance of grading permits

Enforcement/Monitoring: City of Livingston Planning Division; SJVAPCD

As previously stated, subsequent construction allowed under the Gallo Annexation project would not result in the exceedance of SJVAPCD thresholds for ROG and NOx emissions generated during construction. In addition, compliance with SJVAPCD regulation VIII for the control of fugitive dust emissions as mandated in mitigation measure MM 3bc-1 would further reduce construction-related PM10 and PM2.5 emissions and result in compliance with SJVAPCD performance standards. Therefore, the construction-related air quality impacts of the proposed project would be considered less than significant.

Operational Emissions

Ozone is not emitted directly into the air but is formed through a complex series of chemical reactions between ROG and NOx, while the principal sources of PM10 and PM2.5 include fuel burned in cars and trucks, power plants, factories, fireplaces, agriculture activities, and woodstoves. Implementation of the proposed Gallo Annexation project would result in regional emissions of PM10 and PM2.5, as well as ROG, NOx, and CO2, due to increased use of motor vehicles, natural gas, maintenance equipment, and various consumer products, thereby increasing potential operational air quality impacts. Increases in operational air impacts with implementation of the proposed project would generally consist of two sources: stationary and mobile.

The proposed project would allow for a future growth potential of up to 225 residential dwelling units and up to 10,315,879 square feet of industrial and commercial space. However, as previously stated, there is no specific development proposed at this time (i.e., a tentative subdivision map, specific development type, specific improvements, etc.). These activities would occur subsequent to the proposed annexation, prezone and General Plan amendment, but are not proposed at this time or as part of this action. Because specific development is not proposed for the project area, this environmental analysis makes assumptions as to what level of development could occur on the project site subsequent to the proposed annexation, prezone, and General Plan amendment.
actions. While these assumptions can be used to identify what the potential air quality effects may result in the future in terms of construction activities (see Table AQ-1 above), which are generally consistent from construction site to construction site in terms of specific actions like grading, paving, painting, etc., operational activities can vary in such a broad manner that the reliance on assumptions can be misleading.

State CEQA Guidelines Section 15145 notes that if, after thorough investigation, a lead agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact. An evaluation of the site-specific impacts of many of the types of projects for which future land uses have not been defined (including 10,315,879 square feet of industrial and commercial buildings) would be speculative, as the post-project conditions of the site cannot be assessed. For example, future commercial uses allowed under the proposed project could vary from a gas station to a strip mall to a regional shopping center. The associated vehicle trips and resultant air pollutant emissions of these differing commercial use trip rates vary to a substantial degree. Nevertheless, future projects will be required to undergo environmental review pursuant to CEQA when site plans are defined, prior to project implementation. The City General Plan states that new development is required to ensure that the air pollution generated by resultant transportation does not exceed regional standards (City of Livingston 1999, p. 4-17). The SJVAPCD has adopted guidelines for determining potential adverse impacts to air quality in the region. The SJVAPCD guidelines state that operational activities are considered a potentially significant adverse impact if the project generates emissions of ROG or NOx that exceed 10 tons per year. Future actions and development within the project area would be subject to additional air quality review per SJVAPCD guidelines on a project-by-project basis. Therefore this impact is less than significant.

d) Less Than Significant Impact. Sensitive land uses are generally defined as locations where people reside or where the presence of air emissions could adversely affect the use of the land. Typical sensitive receptors include residents, schoolchildren, hospital patients, and the elderly.

Toxic Air Contaminants

In April 2005, the California Air Resources Board (CARB) released the Land Use and Air Quality Handbook: A Community Health Perspective, which offers guidance on siting sensitive land uses in proximity to sources of air toxics. Sensitive land uses identified in the handbook include residential communities, schools and schoolyards, day-care centers, parks and playgrounds, hospitals, and medical facilities.

Emissions of toxic air contaminants can also result from both stationary and mobile sources. Emissions of toxic air contaminants from stationary sources are regulated by the SJVAPCD. As part of the SJVAPCD’s permitting requirements, major stationary sources having the potential to emit toxic air contaminants would be required to implement measures designed to ensure that potential health risks to nearby existing receptors do not exceed established standards. Therefore, while the proposed industrial designation associated with the Gallo Annexation project provides for potential sources of toxic air contaminants such as fabricating assembly uses, low intensity warehousing, wholesale distribution, and future commercial development allowed could result in large scale diesel truck deliveries, the future developer of such uses is required to provide documentation that the use is located and appropriately separated from residential
areas and sensitive receptors. This requirement is also enforced by Livingston General Plan Land Use Element (City of Livingston 1999, p. 3-8 – 3-11).

Mobile sources of air toxics include freeways and major roadways. These roadways are sources of diesel particulate matter (DPM), which CARB has listed as a toxic air contaminant. CARB’s Land Use and Air Quality Handbook recommends that sensitive land uses be sited no closer than 500 feet from a freeway or major roadway with 100,000 vehicles per day or from rural roads with 50,000 vehicles per day. These buffer areas were developed to protect sensitive receptors from exposure to diesel PM, which was based on traffic-related studies that showed a 70 percent drop in particulate matter concentrations at a distance of 500 feet from the roadway. Presumably, acute and chronic risks as well as lifetime cancer risk due to diesel PM exposure are lowered proportionately.

The project site is located adjacent to State Route (SR) 99. The nearest potential new residences to SR 99 could be located within the portion of the project site designated as Low Density Residential at approximately 1,200 feet from the nearest travel lane. Therefore, the site proposed to accommodate sensitive residential uses lies beyond of the CARB-recommended buffer area and future receptors would not be negatively affected by toxic air contaminants generated at SR 99.

Carbon Monoxide

Typically, substantial pollutant concentrations of carbon monoxide (CO) are associated with mobile sources (e.g., vehicle idling time). Localized concentrations of CO are associated with congested roadways or signalized intersections operating at poor levels of service (LOS E or lower). High concentrations of CO may negatively affect local sensitive receptors (e.g., residents, schoolchildren, or hospital patients).

Implementation of the Gallo Annexation project would introduce new vehicular traffic to the currently undeveloped project site and surrounding vicinity. The quantification of increased traffic from future development allowed in the proposed project is not possible due to project-level variability and uncertainties related to future individual projects. However, all future development projects would produce additional traffic into the area and thus increase the potential for CO-related impacts.

Livingston General Plan Circulation Element states that all project developers shall mitigate traffic impacts associated with their projects (City of Livingston 1999, p. 4-12). In addition, the Circulation Element states that circulation systems associated with new development shall be designed and developed to minimize excessive traffic congestion and thus the amount of vehicle CO emissions. As required by the General Plan, future development associated with the proposed Gallo Annexation project shall mitigate emissions impacts primarily by implementing the standards of the SJVAPCD for construction and operational activities. At the time of specific project-level environmental review, the City will ensure compliance with mitigation measures, through placement of conditions of approval on applicable projects, to reduce impacts consistent with the provisions of the General Plan.

Short-Term, Construction Toxics

Though the proposed Gallo Annexation project could create a significant hazard to surrounding residents through exposure to substantial pollutant concentrations such as
PM2.5 and/or other toxic air contaminants during construction activities of future development, these impacts are anticipated to be temporary and short term. Construction activities would involve the use of a variety of gasoline- or diesel-powered equipment that emits exhaust fumes. However, the duration of exposure would be short, and exhaust from construction equipment dissipates rapidly. Furthermore, mitigation measure 3bc-1 would ensure fugitive dust [PM10 and PM2.5] control measures are incorporated into future project plans under the proposed annexation to reduce the emissions of fugitive dust during construction activities at the project site. Implementation of these mitigation measures would ensure workers and sensitive receptors in the vicinity of the project site would not be exposed to substantial fugitive dust emissions.

For the reasons discussed above, impacts to sensitive receptors associated with toxic air contaminants are considered to be less than significant.

e) Less Than Significant Impact. The occurrence and severity of odor impacts depends on numerous factors, including the nature, frequency, and intensity of the source; wind speed and direction; and the sensitivity of the receptors. While offensive odors rarely cause any physical harm, they still can be very unpleasant, leading to considerable distress among the public and often generating citizen complaints to local governments and regulatory agencies. Projects with the potential to frequently expose members of the public to objectionable odors would be deemed to have a significant impact. Land uses commonly considered to be potential sources of odorous emissions include wastewater treatment plants, sanitary landfills, food processing facilities, chemical manufacturing plants, rendering plants, paint/coating operations, and agricultural feedlots and dairies.

The proposed Gallo Annexation project is not anticipated to result in the installation of any major odor emission sources that would result in a potentially significant impact to the occupants of the proposed on-site or existing off-site land uses. Although the DWWTP to the west of the project site could potentially affect proposed residential land uses, the industrial land use designations would act as a buffer between these uses, providing more than 1 mile of separation. According to the City General Plan Land Use Element, general industrial land uses are considered appropriate buffers between major industrial uses such as the DWWTP and non-industrial uses such as the commercial and residential land uses proposed by the project (City of Livingston 1999, p 3-9). In addition, the City DWWTP is in the process of eliminating all sludge drying beds which will remove the primary odor source associated with the facility. Furthermore, in order to further minimize odors from the DWWTP, a new headworks facility is in the process of being covered and air exhausted from the headworks facility will soon be treated prior to being released into the atmosphere. In other words air will be pulled from the headworks using pumps that then push the air through a biofilter facility. The biofilter media removes the odor causing compounds from the air before it is released to the atmosphere. Nevertheless, future projects resulting from implementation of the proposed annexation will be required to undergo environmental review pursuant to CEQA when site plans are defined, prior to project implementation. As a result, potential exposure of on-site sensitive receptors to odors would be considered less than significant.
### 4.0 ENVIRONMENTAL ANALYSIS

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact/No New Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

### PROJECT IMPACTS AND MITIGATION MEASURES

**a-d) Less Than Significant Impact** Implementation of the Gallo Annexation project would allow for industrial, commercial and residential uses on the currently undeveloped project site. These new uses could potentially adversely affect biological resources, including sensitive plant and animal species, and sensitive habitats. This impact was previously discussed and analyzed in the 1999 GP EIR. The analysis and mitigation measures of the 1999 GP EIR are incorporated by reference into this document. The 1999 GP EIR, which programatically analyzed the project area for industrial use, identified General Plan policies that would reduce these impacts, and concluded that the project's impact associated with biological resource impacts would be less than
significant. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. Therefore, implementation of the proposed project would not have adverse effects on biological resources beyond that identified in the 1999 GP EIR. The impact would be less than significant.

e) **No Impact/No New Impact.** The City does not have any tree preservation policies or ordinances, nor any local policies or ordinances protecting biological resources. There would be no impact.

f) **No Impact/No New Impact.** The proposed project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. Therefore, the project would have no impact.
### 5. CULTURAL RESOURCES. Would the project:

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact/No New Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>c) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>d) Disturb any human remains, including those interred outside of formal cemeteries?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

### PROJECT IMPACTS AND MITIGATION MEASURES

**a)** **No Impact/No New Impact.** The project area consists almost entirely of undeveloped agricultural land. No structures are present on the agricultural land; as such, no impacts to historic resources would occur in these areas. The project area also includes approximately eight (8) single-family residences and associated out buildings and amenities, as described in Section 2.1. Six (6) of these residences appear to be of new construction and less than 50 years old; as such, these buildings would not be considered historic resources. Two of the residences may have been constructed more than 50 years ago. However, one of the project objectives is to provide residential zoning to these parcels. None of the existing residences are proposed to be removed. Therefore, no impact to historic resources is anticipated as a result of the proposed project.

**b-c)** **Less Than Significant With Mitigation Incorporated.** The City of Livingston 1999 Genera Plan did not identify the potential for important archaeological or paleontological resources in and surrounding the City of Livingston. The 1999 General Plan also notes that any prehistoric resources that may have existed in the area have likely been substantially destroyed by agricultural activities. The project area consists primarily of undeveloped agricultural land. The agricultural land has been disked for either weed control or crop planting, and appears to have been in agricultural production for many years. Because the Livingston area is not identified as having high potential for archaeological or paleontological resources, and because the project area has been highly-disturbed by agricultural activities over many years, it is not anticipated that archaeological or unique paleontological features are present in the project area. However, while unlikely, the possibility remains that future development in the project area could result in ground disturbance at greater depths than agricultural activities normally require, which could disturb more deeply deposited resources.
Any impact on these resources would be a potentially significant impact, but implementation of the following mitigation measure would reduce this impact to a **less than significant** level.

**Mitigation Measure**

**MM 5bc-1**
If buried archeological and/or paleontological resources, such as chipped or ground stone, historic debris, building foundations, human bone, or fossils are inadvertently discovered during ground-disturbing activities, work shall stop in that area and within 100 feet of the find until a qualified archaeologist can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the City and other appropriate agencies.

- **Timing/Implementation:** During construction
- **Enforcement/Monitoring:** City of Livingston Planning Division

**d) Less Than Significant With Mitigation Incorporated.** No known human remains are present within the project area. As described above, the project area currently consists of agricultural land, single family residences, and associated out buildings, and is continually subject to human disturbance caused by agricultural activities and surrounding residential uses.

According to the California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052). Section 7050.5 requires that construction or excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If the remains are determined to be Native American, the coroner must contact the Native American Heritage Commission.

It is possible that human remains, particularly those outside a designated cemetery, may be encountered during ground-disturbing activities associated with future construction activities. This impact would be potentially significant, but implementation of mitigation measure **MM 5d-1** would reduce this impact to a **less than significant** level.

**Mitigation Measure**

**MM 5d-1**
If human remains of Native American origin are discovered during project construction, the project shall comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (NAHC) (PRC 5097). If any human remains are discovered or recognized in any location other than a dedicated cemetery, there will be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

- The county coroner has been informed and has determined that no investigation of the cause of death is required; and
- If the remains are of Native American origin, the descendants of the deceased Native Americans have made a recommendation to the
4.0 Environmental Analysis

- The NAHC was unable to identify a descendant, or the descendant failed to make a recommendation within 24 hours after being notified by the NAHC.

Timing/Implementation: During construction

Enforcement/Monitoring: City of Livingston Planning Division
### 6. GEOLOGY AND SOILS. Would the project:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
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</tr>
</thead>
</table>
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:  
  i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning map, issued by the State Geologist for the area or based on other substantial evidence of a known fault? | ☐ | ☐ | ☑ | ☑ |
| ii) Strong seismic ground shaking? | ☐ | ☐ | ☑ | ☐ |
| iii) Seismic-related ground failure, including liquefaction? | ☐ | ☐ | ☑ | ☐ |
| iv) Landslides? | ☐ | ☐ | ☑ | ☐ |
| b) Result in substantial soil erosion or the loss of topsoil? | ☐ | ☐ | ☑ | ☐ |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslides, lateral spreading, subsidence, liquefaction, or collapse? | ☐ | ☐ | ☑ | ☐ |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? | ☐ | ☐ | ☑ | ☐ |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? | ☐ | ☐ | ☑ | ☑ |

### PROJECT IMPACTS AND MITIGATION MEASURES

a) i) **No Impact/No New Impact.** The City of Livingston is not within an Alquist-Priolo Earthquake Fault Zone. Therefore, the project would not create a potential to expose people or structures to substantial adverse effects, including the risk of loss or injury, or death involving rupture of a known earthquake fault. **No impact** is expected.

ii-iii) **Less Than Significant Impact.** Implementation of the Gallo Annexation project would allow for industrial, commercial and residential uses on the currently undeveloped...
project site. Although there are no known active earthquake faults in the project area, the site could be subject to some ground shaking or ground failure from regional faults. This impact was previously discussed and analyzed in the 1999 GP EIR. The analysis and mitigation measures of the 1999 GP EIR are incorporated by reference into this document. The 1999 GP EIR, which programmatically analyzed the project area for industrial use and concluded that the project's impact associated with seismic events would be less than significant. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. Therefore, implementation of the proposed project would not expose people or structures to seismic events beyond that identified in the 1999 GP EIR. The impact would be less than significant.

iv) Less Than Significant Impact. Implementation of the Gallo Annexation project would allow for industrial, commercial and residential uses on the currently undeveloped project site. However, the project site is topographically flat. Therefore, the project would not create a potential to expose people or structures to substantial adverse effects related to landslides. This impact would be less than significant.

b-d) Less Than Significant Impact. Implementation of the Gallo Annexation project would allow for industrial, commercial and residential uses on the currently undeveloped project site. The project could result in soil erosion or loss of topsoil, or be located on geologically unstable or expansive soil. This impact was previously discussed and analyzed in the 1999 GP EIR. The analysis and mitigation measures of the 1999 GP EIR are incorporated by reference into this document. The 1999 GP EIR, which programmatically analyzed the project area for industrial use, concluded that the project's impact associated with erosion, loss of topsoil, and unstable or expansive soil would be less than significant. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. Therefore, implementation of the proposed project would not have any soils impacts beyond that identified in the 1999 GP EIR. The impact would be less than significant.

e) No Impact/No New Impact. All future uses on the project site would be connected to the City's sewer system, and the on-site soils will not need to be utilized for septic tanks or alternative wastewater systems. No impact would occur.
7. GREENHOUSE GAS EMISSIONS. Would the project:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
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<th>Less Than Significant Impact</th>
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</tr>
</thead>
<tbody>
<tr>
<td>a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?</td>
<td>☐</td>
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</table>

PROJECT IMPACTS AND MITIGATION MEASURES

a-b) No Impact/No New Impact. As discussed below, no additional environmental analysis is required under CEQA Section 21166.

Since certification of the General Plan EIR in 1997, the issue of the contribution of greenhouse gases to climate change has become a more prominent issue of concern as evidenced by passage of AB 32 in 2006. On March 18, 2010, amendments to the State CEQA Guidelines took effect which set forth requirements for the analysis of greenhouse gasses. The topic of the Project’s contribution to greenhouse gas emissions and climate change was not analyzed in the 1997 EIR. Since the 1997 EIR has already been certified, the determination of whether greenhouse gases and climate change needs to be analyzed for this proposed Project is governed by the law on supplemental or subsequent EIRs (Public Resources Code section 21166 and CEQA Guidelines, Sections 15162 and 15163). Greenhouse gas and climate change is not required to be analyzed under those standards unless it constitutes “new information of substantial importance, which was not known and could not have been known at the time the previous EIR was certified as complete (CEQA Guidelines Sec. 15162 (a) (3).) Greenhouse gas and climate change impacts is not new information that was not known or could not have been known at the time the 1997 EIR was certified. The issue of climate change and greenhouse gases was widely known prior to the certification of the EIR. The United Nations Framework Convention on Climate Change was established in 1992. The regulation of greenhouse gas emissions to reduce climate change impacts was extensively debated and analyzed throughout the early 1990s. The studies and analyses of this issue resulted in the adoption of the Kyoto Protocol in 1997. Therefore, the impact of greenhouse gases on climate change was known at the time of the certification of the 1997 EIR. Under CEQA standards, it is not new information that requires analysis in a supplemental EIR or negative declaration. No supplemental environmental analysis of the Project’s impacts on this issue is required under CEQA.
## 4.0 ENVIRONMENTAL ANALYSIS

<table>
<thead>
<tr>
<th>8. HAZARDS AND HAZARDOUS MATERIALS. Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact/No New Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?</td>
<td></td>
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</tr>
<tr>
<td>b) Create a significant hazard to the public or the environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment?</td>
<td></td>
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</tr>
<tr>
<td>c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?</td>
<td></td>
<td></td>
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<td>☒</td>
</tr>
<tr>
<td>d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?</td>
<td></td>
<td></td>
<td>☒</td>
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</tr>
<tr>
<td>e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles or a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?</td>
<td></td>
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</tr>
<tr>
<td>f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?</td>
<td></td>
<td></td>
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<td>☒</td>
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<tr>
<td>g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?</td>
<td></td>
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</tr>
<tr>
<td>h) Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?</td>
<td></td>
<td></td>
<td>☒</td>
<td>☒</td>
</tr>
</tbody>
</table>

## PROJECT IMPACTS AND MITIGATION MEASURES

a,b) **Less Than Significant.** Implementation of the Gallo Annexation project would allow for industrial, commercial and residential uses on the currently undeveloped project site. These new uses could create significant hazards to the public or the environment.

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Gallo Annexation Project  
Draft Initial Study  
City of Livingston  
December 2011
through transport, use or disposal of hazardous materials as well as accident conditions involving the release of hazardous materials into the environment. These impacts were previously discussed and analyzed in the 1999 GP EIR. The analysis and mitigation measures of the 1999 GP EIR are incorporated by reference into this document. The 1999 GP EIR, which programmatically analyzed the project area for industrial use, concluded that the project's impact associated with transport, use, disposal, or accidental release of hazardous materials would be less than significant. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. Therefore, implementation of the proposed project would not create additional impacts regarding transport, use, disposal, or accidental release of hazardous materials beyond that identified in the 1999 GP EIR. The impact would be less than significant.

c) No Impact/No New Impact. Currently, there are no existing or proposed daycare/preschools, elementary, middle, or high schools within 0.25 mile of the proposed project area. Therefore, no impact is expected concerning hazardous emissions, materials, or wastes near schools.

d) Less Than Significant. The 2007 Phase I performed for the project site found no evidence that suggests improper use, storage, or application of agricultural chemicals. Therefore, agricultural chemicals are not likely to be considered a Recognized Environmental Condition (REC). According to the Phase I, the potential for adverse environmental impacts to the Project Site associated with past and current uses is low. Pole-mounted transformers (which could contain PCB fluids) were found on the project site, and underground petroleum and telecommunication services, as well as irrigation and domestic wells, exist adjacent to the site. However, these potential hazards would be addressed at a project level if development is proposed on the project site. The impact would be less than significant.

e-f) No Impact. The proposed project site is not located within an airport land use plan or in the vicinity of a private airstrip. The nearest airports are Castle Airport in the City of Atwater and Merced Airport in the City of Merced. Therefore, the project would have no impact.

g) Less Than Significant. Implementation of the Gallo Annexation project would allow for industrial, commercial and residential uses on the currently undeveloped project site. This new development has the potential to interfere with emergency response plans or emergency evacuation plans. This impact was previously discussed and analyzed in the 1999 GP EIR. The analysis and mitigation measures of the 1999 GP EIR are incorporated by reference into this document. The 1999 GP EIR, which programmatically analyzed the project area for industrial use, identified General Plan policies that would reduce these impacts, and concluded that the project's impact associated with emergency plan interference would be less than significant. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. Therefore, implementation of the proposed project would not cause additional conditions that...
would interfere with emergency response plans or emergency evacuation plans beyond that identified in the 1999 GP EIR. The impact would be less than significant.

h) **Less Than Significant.** No wildlands exist in close proximity to the site. Therefore, the project would not expose people or structures to a significant risk of loss, injury or death involving wildland fires and impacts would be less than significant.
<table>
<thead>
<tr>
<th></th>
<th>HYDROLOGY AND WATER QUALITY. Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact/No New Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a)</td>
<td>Violate any water quality standards or waste discharge requirements?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>b)</td>
<td>Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>c)</td>
<td>Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>d)</td>
<td>Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>e)</td>
<td>Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>f)</td>
<td>Otherwise substantially degrade water quality?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>g)</td>
<td>Place housing within a 100-year flood hazard area as mapped on a federal flood hazard boundary of Flood Insurance Rate Map or other flood hazard delineation map?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>h)</td>
<td>Place within 100-year flood hazard area structures, which would impede or redirect flood flows?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>
4.0 ENVIRONMENTAL ANALYSIS

<table>
<thead>
<tr>
<th>j) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>No Impact/No New Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>☐</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>j) Inundation by seiche, tsunami, or mudflow?</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>No Impact/No New Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>☐</td>
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</tbody>
</table>

PROJECT IMPACTS AND MITIGATION MEASURES

**a,e,f) Less Than Significant Impact.** Implementation of the Gallo Annexation project would allow for industrial, commercial and residential uses on the currently undeveloped project site. The new uses on the project site could substantially lead to degradation of surface water quality. This impact was previously discussed and analyzed in the 1999 GP EIR. The analysis and mitigation measures of the 1999 GP EIR are incorporated by reference into this document. The 1999 GP EIR, which programmatically analyzed the project area for industrial use and concluded that the project’s impact associated with water quality would be less than significant. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. Therefore, implementation of the proposed project would not substantially degrade water quality beyond that identified in the 1999 GP EIR. The impact would be **less than significant**.

**b) Less Than Significant Impact.** Implementation of the Gallo Annexation project would change the currently undeveloped project site for industrial, residential and commercial uses, causing a potential depletion in groundwater supplies. The 1999 GP EIR programmatically analyzed the project area for industrial use. The analysis and mitigation measures of the 1999 GP EIR are incorporated by reference into this document. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. Changing the project site from agricultural uses to highway commercial, residential and industrial uses rather than fully industrial uses, as well as eliminating the Industrial Reserve and re-designating the Limited Industrial and General Industrial uses, would not be substantially different with regards to the depletion of groundwater supplies. This impact would be **less than significant**.

**c,d) Less Than Significant Impact.** Implementation of the Gallo Annexation project would change the currently undeveloped project site for industrial, residential and commercial uses, changing the existing drainage patterns. The 1999 GP EIR programmatically analyzed the project area for industrial use. The analysis and mitigation measures of the

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Gallo Annexation Project  
Draft Initial Study  
City of Livingston  
December 2011  

4.0-26
1999 GP EIR are incorporated by reference into this document. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. Changing the project site from agricultural uses to highway commercial, residential and industrial uses rather than fully industrial uses, as well as eliminating the Industrial Reserve and re-designating the Limited Industrial and General Industrial uses, would not be substantially different with regards to altering the existing drainage patterns of the site and its surroundings. This impact would be **less than significant**.

**g-i) Less Than Significant Impact.** Implementation of the Gallo Annexation project would allow for industrial, commercial and residential uses on the currently undeveloped project site. These new land uses could expose people or property to flooding from the nearby Merced River or due to excess storm runoff due to increased impervious surfaces. This impact was previously discussed and analyzed in the 1999 GP EIR. The analysis and mitigation measures of the 1999 GP EIR are incorporated by reference into this document. The 1999 GP EIR, which programmaticaly analyzed the project area for industrial use and identified General Plan policies that would reduce these impacts, concluded that the project's impact associated with flooding would be less than significant. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. Therefore, implementation of the proposed project would not expose additional people or structures to flooding risks beyond those identified in the 1999 GP EIR. The impact would be **less than significant**.

**j) No Impact/No New Impact.** The project area is not located near any ocean coast or seiche hazard area. As such, the proposed project would not involve the development of residential or other sensitive land uses in or near these areas. Therefore, the project would not expose people to potential impacts involving seiche or tsunami. The project area is relatively flat; therefore, no potential for mudflows is anticipated. **No impact would occur.**
4.0 ENVIRONMENTAL ANALYSIS

<table>
<thead>
<tr>
<th>Impact Description</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact/No New Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Physically divide an established community?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>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?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>c) Conflict with any applicable habitat conservation plan or natural community conservation plan? *</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Impacts associated with applicable habitat conservation/natural community plans are discussed under the Biological Resources subsection.

PROJECT IMPACTS AND MITIGATION MEASURES

a) No Impact/No New Impact. The project area is currently vacant with the exception of clustering of five residences in the eastern portion of the project area, and three residences along the southern limits of the project area. The conversion of land use designations from Industrial to Commercial and Residential and subsequent development of these land use types would not physically divide an established community, but rather would likely serve to enhance community development, as new neighborhoods and commercial opportunities could be developed. Commercial uses adjacent to existing residences will require sensitivity in design, but will be more compatible than the existing industrial designations. As such, no impact from physical division of a community would occur.

b) Less Than Significant Impact. The proposed project includes a General Plan Amendment for a portion of the project area from General Industrial, Limited Industrial, and Industria Reserve to Highway Commercial and Low-density Residential. Upon approval of the proposed project, future development in the project area consistent with the proposed land uses would be consistent with the City’s 1999 General Plan. All future development would be required to comply with all applicable General Plan policies, and with all provisions of the City’s Municipal Code. Therefore, the proposed project would not conflict with any applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Impacts would be considered less than significant.
c) **No Impact/No New Impact.** Currently, the only habitat conservation plan or natural community conservation plan that is applicable to the project area is *The Recovery Plan for Upland Species of the San Joaquin Valley, California*. The Recovery Plan does not identify the area within and surrounding the project area as having regional biological significance for the species covered within the plan. The project area is not near or within areas proposed for reserves or where connectivity and linkages should be promoted according to the Recovery Plan. Therefore, the proposed project would result in no impact associated with habitat conservation or natural community conservation plans.
### 4.0 Environmental Analysis

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact/No New Impact</th>
</tr>
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<tbody>
<tr>
<td><strong>11. MINERAL RESOURCES. Would the project:</strong></td>
<td></td>
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<tr>
<td>a) Result in the loss of availability of a known mineral resource that would be a value to the region and the residents of the state?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</table>

**PROJECT IMPACTS AND MITIGATION MEASURES**

a & b) **No Impact/No New Impact.** According to the 1999 Livingston General Plan (Chapter 2 Section 2.7.3), no significant mineral resources or mining operations have been identified in the project area or within the City limits. Therefore, no impact is anticipated.
### 12. NOISE. Would the project:

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact/No New Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) The exposure of persons to, or the generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>b) The exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
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</tbody>
</table>

### PROJECT IMPACTS AND MITIGATION MEASURES

a.b) **Less than Significant Impact.** Implementation of the Gallo Annexation project would allow for industrial, commercial and residential uses on the currently undeveloped project site. These new uses could expose people to excessive noise levels or groundborne vibrations due to proximity of the project site due to the placement of residential uses next to commercial and industrial uses. This impact was previously discussed and analyzed in the 1999 GP EIR. The analysis and mitigation measures of the 1999 GP EIR are incorporated by reference into this document. The 1999 GP EIR, which programatically analyzed the project area for industrial use, identified General Plan policies that would reduce these impacts, and concluded that the project's impact...
associated with excessive noise levels or groundborne vibrations would be less than significant. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. Therefore, implementation of the proposed project would not expose people to excessive noise levels or groundborne vibrations beyond that identified in the 1999 GP EIR. The impact would be less than significant.

c,d) **Less than Significant Impact.** Implementation of the Gallo Annexation project would allow for industrial, commercial and residential uses on the currently undeveloped project site. These new uses could create a substantial temporary or permanent increase in ambient noise levels due to construction and operation of new industrial, commercial and residential uses. This impact was previously discussed and analyzed in the 1999 GP EIR. The analysis and mitigation measures of the 1999 GP EIR are incorporated by reference into this document. The 1999 GP EIR, which programatically analyzed the project area for industrial use, identified General Plan policies that would reduce these impacts, and concluded that the project's impact associated with increases in ambient noise levels would be less than significant. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. Therefore, implementation of the proposed project would not cause an increase in ambient noise levels beyond that identified in the 1999 GP EIR. The impact would be less than significant.

e-f) **No Impact/No New Impact.** The project is not located within an airport land use plan area or in the vicinity of a private airstrip. Therefore, the project would not expose people on the project site to excessive noise levels and there would be no impact.
13. **POPULATION AND HOUSING. Would the project:**

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact/No New Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
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</tr>
</tbody>
</table>

**PROJECT IMPACTS AND MITIGATION MEASURES**

**a) Less Than Significant Impact.** Although the proposed project does not propose any specific development at this time, amending land use designations from the existing industrial designations could allow for future development of portions of the project area with residential and commercial uses consistent with the proposed land use designations. Future buildout of the proposed residential lands could result in up to 225 housing units within the project area. Based on an average household size of 3.32 persons per household, which is identified by the California Department of Finance as the average household size in Merced County based on the 2010 census, the project area could result in an addition of approximately 747 people if all residential land within the project area were developed at the maximum density (225 housing units x 3.32 persons per household = 747 persons).

The City of Livingston’s 2009 population was approximately 13,368. The City’s 1999 General Plan EIR predicted that population within the Plan area will increase to more than 23,000 residents through 2020, which is approximately 9,632 additional residents beyond 2009 populations. While the proposed project could result in up to approximately 747 additional residents in the project area beyond what was previously identified for this parcel in the 1999 General Plan EIR, the addition of these residents would not represent a substantial increase in population beyond what was previously considered under the 1999 General Plan, and would be consistent with the amount of growth already anticipated under the 1999 General Plan.

In addition, environmental impacts of subsequent development projects would be considered pursuant to CEQA on a case-by-case basis following submittal of specific development proposals. Subsequent site-specific environmental review would ensure

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2 The City of Livingston 1999 General Plan allows for up to 7.5 dwelling units per acre on land designated as Low-density Residential. Thirty acres are proposed for designation as Low-density Residential. Therefore, up to 225 dwelling units are possible within the project area (30 acres x 7.5 dwelling units per acre = 225 dwelling units).
that development projects would incorporate mitigation measures to minimize impacts associated with population growth, including ensuring that adequate transportation and streetscape improvements and necessary infrastructure and public facilities would be provided concurrent with future population and housing growth in the project area. Given that future population growth associated with the project area would not exceed growth anticipated in the City’s 1999 General Plan and its associated Draft EIR, and that the population growth impacts of subsequent development projects would be considered and mitigated pursuant to CEQA on a case-by-case basis, this impact would be considered less than significant.

b-c) **Less Than Significant Impact.** As described under a) above, the proposed project could increase housing opportunities in the project area. There are eight existing residences within the proposed project area. While it is unknown at this time if these residences would remain, or would ultimately be demolished and the property redeveloped, the proposed project would still increase housing opportunities in the project area, and would not displace substantial numbers of existing housing or people, necessitating the construction of replacement housing elsewhere. Therefore, a less than significant impact would occur.
14. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:

- Fire protection?
- Police protection?
- Schools?
- Parks?
- Other public facilities?

*Park facilities are discussed under the Recreation subsection.

**PROJECT IMPACTS AND MITIGATION MEASURES**

a–e) **Less Than Significant Impact.** Implementation of the Gallo Annexation project would allow for industrial, commercial and residential uses on the currently undeveloped project site. These new uses would create a greater demand for fire, police and school facilities than under current conditions. This impact was previously discussed and analyzed in the 1999 GP EIR. The analysis and mitigation measures of the 1999 GP EIR are incorporated by reference into this document. The 1999 GP EIR, which programatically analyzed the project area for industrial use, identified General Plan policies that would reduce these impacts, and concluded that the project's impact associated with the provision of public services would be less than significant. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. The commercial component of the project would likely require additional police and fire services beyond what was considered in the GP EIR for industrial uses. Furthermore, the residential component, which would include approximately 774 people, would require additional school, parks, police and fire services. However, the additional demand for police, fire school and parks services are not expected to result in substantial physical impacts or need for new or physically altered governmental facilities beyond that identified in the 1999 GP EIR. Furthermore, the City collects a one-time impact fee for contributions toward public facilities needs. Any required new governmental facilities would be subject to a project-specific environmental review process. The impact would be less than significant.
15. **RECREATION. Would the project:**

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant With Mitigation Incorporated</th>
<th>Less Than Significant Impact</th>
<th>No Impact/No New Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur or be accelerated?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>b) Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

a) **Less Than Significant Impact.** See discussion 14a above. The impact would be less than significant.

b) **Less Than Significant With Mitigation Incorporated.** The proposed project includes a residential component that could add up to 774 residents into the City. Following the City of Livingston General Plan guidelines, park facilities should be provided at a size of five acres per 1,000 persons. Thus, the project would demand up to 3.87 acres of park space. This is a potentially significant impact unless mitigation is incorporated.

**Mitigation Measures**

**MM 15-1** The project applicant shall be required to dedicate and construct park facilities or to pay in-lieu fees as directed by the City.

**Timing/Implementation:** As a condition of project approval and implemented during construction activities and/or payment of any in-lieu fees shall be required prior to building permit issuance.

**Enforcement/Monitoring:** City of Livingston Planning and Building Departments.

Implementation of the above mitigation measures would reduce the impact of the project on parks to less than significant.
### 4.0 Environmental Analysis

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</thead>
<tbody>
<tr>
<td>a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?</td>
<td>☐ ✔ ☐ ☐</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?</td>
<td>☐ ✔ ☐ ☐</td>
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<td>c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?</td>
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<td>d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?</td>
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<td>e) Result in inadequate emergency access?</td>
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<td>f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?</td>
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Under the proposed project, portions of the project area currently designated as Industrial Reserve, Limited Industrial, and General Industrial would instead be designated as Low-density Residential or Highway Commercial. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General...
4.0 ENVIRONMENTAL ANALYSIS

Industrial would be changed. Following is a comparative discussion of the traffic that could result from the proposed project and its associated land use designation changes, as compared to the traffic predicted from development of the project area under the exiting land use designations:

**Low-density Residential:** Under the proposed project, 30 acres of the project area would be designated as Low-density Residential. The ITE Trip Generation Manual identified an average trip generation rate of 9.57 per dwelling units per day. Under the Low-density Residential designation, the project area could allow up to 225\(^3\) dwelling units in the project area. Thus, the proposed project could result in up to approximately 2,153 trips per day from residential use.

Under existing conditions, approximately 12 acres of the proposed Low-density Residential area is currently designated as General Industrial. The average trip generation rate identified for General Industrial is 6.75 trips per day per acre. If these 12 acres of General Industrial were annexed and ultimately developed under the existing land use designation, approximately 81 trips per day could be generated, whereas 12 acres of Low-density residential would result in approximately 861.3 trips per day. Therefore, the proposed project would result in an approximate net increase of 780 trips per day as compared to potential traffic that could be generated under existing General Industrial land use designation.

The remaining 18 acres would be converted from Limited Industrial to Low-Density Residential.

Since the City of Livingston 1999 General Plan does not identify allowable floor-to-area ratios (FARs) for Limited Industrial uses, the Merced County 2011 General Plan is referenced to estimate the likely amount of Limited Industrial development that could occur on these lands. The Merced County 2011 General Plan identifies the Business Park land use, which is similar in nature to Livingston’s Limited Industrial designation. The Merced General Plan identified a 0.6 FAR for this land use. A 0.6 FAR would allow a maximum of 470,448 square feet of Limited Industrial footage within this 18 acres (18 acres x 43,560 square feet per acre = 784,080 of commercial area x 0.6 = 478,448 square feet of potential commercial buildings). The average trip generation rate for a Limited Industrial use, (which is a similar definition as Office Park in the Trip Generation Manual) is 11.42 per 1,000 square feet. If these 18 acres of Limited Industrial were developed under the existing land use designation, approximately 5,372.52 trips per day could result (478,448 square feet / 1,000 = 470.448 units x 11.42 = 5,372.52).

The conversion and build-out of these 18 acres to Low-density Residential use could result in approximately 911 trips per day. Therefore, the proposed project would result in an approximate net decrease of 4,461 trips per day, as compared to potential traffic that could be generated under the existing General Plan land use designation.

Combined, the conversion of 12 acres of General Industrial and 18 acres of Limited Industrial land uses to 30 acres of Low-density Residential would result in a net decrease of 3,300 trips per day as compared to development of this portion of the project area under currently-designated industrial uses. This would not represent a new or substantially greater impact from traffic than what was previously identified in the Livingston 1999 General Plan EIR, and as such, would represent a **less than significant impact** to traffic as a result of the project.

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\(^3\) The City of Livingston 1999 General Plan identifies that Low-density Residential land use designation allows for up to 7.5 dwelling units per acre. As such, the designation of 30 acres of land as Low-density Residential could result in up to 225 dwelling units allowed on the project area (30 acres x 7.5 dwelling units per acre = 225 dwelling units).

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Gallo Annexation Project  
Draft Initial Study  

City of Livingston  
December 2011  

4.0-38
4.0 ENVIRONMENTAL ANALYSIS

**Highway Commercial:** Under the proposed project, 100 acres would be designated as Highway Commercial. Since the City of Livingston 1999 General Plan does not identify allowable floor-to-area ratios (FARs) for Highway Commercial uses, the Merced County 2011 General Plan is referenced to estimate the likely amount of commercial development that could occur on the Highway Commercial lands. The Merced County 2011 General Plan identifies Highway Interchange Center under General Commercial designation, which is similar to Livingston's Highway Commercial designation. The Merced General Plan identified a 0.5 FAR for this land use. A 0.5 FAR would allow a maximum of 2,178,000 sq. ft. of Highway Commercial development within the project area (100 acres x 43,560 square feet per acre = 4,356,000 of commercial area x 0.5 = 2,178,000 square feet of potential commercial buildings).

Since no specific development is proposed for the project at this time, assumptions were made as to what the likely commercial types could be constructed in the future on the lands designated for Highway Commercial. It is estimated that approximately 80% of the Highway Commercial area could be built-out as Shopping Center use (with a weekday trip generation rate of 42.94). Additionally, approximately 10% could be Discount Club (41.80), and 10% could be Home Improvement Superstore (29.8).

Using these estimates of percentages of types of commercial development and a FAR of 0.5, the proposed project could result in a daily trip generation rate of approximately 90,413.

Of the 100 acres that are proposed to be converted to Highway Commercial by the proposed project, approximately 50 acres are currently designated as Industrial Reserve, and 50 acres are designated as General Industrial.

The land currently designated as Industrial Reserve would not generate any traffic under its currently land use designation, as the "Reserve" designation applies to lands that are not anticipated to develop within the 2020 General Plan timeframe, and which may not be developed without first amending the General Plan, demonstrating a need for development in these areas, and demonstrating that urban services can be provided without adversely affecting the development feasibility of lands currently planned and zoned for urban uses. As such, if the portion of the project area currently designated as Industrial Reserve were to remain under its current designation, no development would occur and no traffic would be associated with this use.

The land currently designated as General Industrial would result in an average daily trip generation of approximately 337 (50 acres x 6.75 trips per acre).

Combined, the conversion of 50 acres of Industrial Reserve and 50 acres of General Industrial land uses to 100 acres of Highway Commercial would result in a net increase of approximately 90,075 trips per day as compared to development of this portion of the project area under currently-designated industrial uses. This would represent a new or substantially greater impact from traffic than what was previously identified in the Livingston 1999 General Plan EIR, and as such, would represent a significant impact to traffic as a result of the project.

**Limited Industrial:** Under the proposed project, approximately 44.7 acres of the project area would be designated as Limited Industrial. This area is currently designated as Industrial Reserve under the 1999 General Plan. As described above, land currently designated as Industrial Reserve would not generate any traffic under its current land use designation.

Under the proposed project, 44.7 acres of Limited Industrial could allow a maximum of 1,168,275 square feet of Limited industrial footage within area (44.7 acres x 43,560 square feet per acre =
4.0 ENVIRONMENTAL ANALYSIS

1,947,132 of commercial area x FAR 0.6 = 1,168,279 square feet of potential commercial buildings. With average trip generation rate for Limited Industrial use of 11.42 per 1,000 square feet, designation of 44.7 acres of Limited Industrial use could allow approximately 13,341.75 trips per day (1,168,279 square feet / 1,000 = 1,168 units x 11.42 = 13,341.75). This would represent a new or substantially greater impact from traffic than what was previously identified in the Livingston 1999 Genera Plan EIR, and as such, would represent a significant impact to traffic as a result of the project.

**General Industrial:** Under the proposed project, approximately 160 acres of the project area would be designated as General Industrial. Of these 160 acres, approximately 124.6 acres are currently designated as General Industrial. The remaining 35.4 acres would be converted from Limited Industrial to General Industrial.

Build-out of this portion of the project area under the currently-designated land uses would result in approximately 11,344.65 trips per day (124.6 acres of General Industrial x trip generation rate of 6.25 trips per day per acre = 778.75 trips per day and 35.4 acres of Limited Industrial = 1,542,024 x FAR 0.6 = 925,214 square feet / 1,000 = 925.21 units x 11.42 = 10,565.90 trips per day).

Build-out of this portion of the project area under the proposed land use designations would result in approximately 1,000 trips per day (General Industrial trips per day = 778.75 and 35.4 acres of General Industrial x trip generation rate of 6.25 trips per day) per acre = 221.25 trips per day). This would not represent a substantially greater impact from traffic than was previously identified in the Livingston 1999 General Plan EIR, and as such, would represent a less than significant impact to traffic as a result of the project.

In summary, under the current land use designations and without the proposed project, there is potential for future development of the project site to result in approximately 16,717.81 trips per day. Under the proposed project, there is potential for future development of the project site to result in approximately 106,527 trips per day. As a result of the project approximately 89,809 additional daily trips could occur beyond what could occur without the proposed project. This would represent a new or substantially greater impact from traffic than what was previously identified in the Livingston 1999 General Plan EIR, and as such, would represent a significant impact to traffic as a result of the project.

**PROJECT IMPACTS AND MITIGATION MEASURES**

a-b) Less Than Significant With Mitigation Incorporated. The City of Livingston 1999 Genera Plan Level of Service (LOS) analysis provides a basis for describing existing traffic conditions and for evaluating the significance of project traffic impacts. The project as proposed could result in additional traffic volumes beyond those predicted in the 1999 General Plan, based on the changes to base land use designations within the territory to be annexed.

Within the city network, roadways and intersections can be designed accordingly – through widening and controls – to meet the city’s level of service standards. Consistent with City policy, all projects must contribute fair share fees to ongoing improvements and/or directly construct facilities to accommodate traffic generation. The primary solution to traffic impacts in the city is the funding for facilities, rather than the ability to design them. Despite the potential increase in traffic volumes that could occur with the Gallo Annexation, the programmatic solutions to traffic volumes – both on a project and cumulative level – remain the same. Buildout of the Gallo Annexation property will also be a long term process, and does not represent an individual "project" where all improvements can be fully identified at this time. All measures as identified in the 1999 General Plan Final EIR are applicable here.
The following additional programmatic mitigation measure addresses the ongoing need to design, finance and construct transportation improvements consistent with the long term programs identified in the 1999 General Plan:

**MM 16a-1** The first application for new development within the annexation area shall include a transportation master plan that builds upon the City’s Circulation Element. The master plan will contain refined development assumptions, primary roadway layout and facility type, list of necessary improvements, and a phasing and financing plan. The master plan shall be subject to review and approval by the City Engineer. All identified facilities must be designed to meet City LOS thresholds. Should the master plan result in conflicts with the adopted Circulation Element, the applicant shall be responsible for funding the effort to reconcile any differences and to make the documents consistent. Funding of the identified improvements shall be consistent with Public Services and Facilities Element objectives and Policy 9.1.3, 4, 9, and 9.2.A.2 Implementation of these policies and standards will reduce the fiscal impacts of growth and development on transportation while enhancing coordination between different governmental agencies to address regional traffic issues in a more comprehensive manner. The applicant shall also participate in ongoing long term planning solutions (such as the SH 99 Corridor Study) with city staff, MCAG, Caltrans and neighboring jurisdictions in order to address long term improvements to the SH 99 highway mainline.

**Timing/Implementation:** Upon submittal of first application for development.

**Enforcement/Monitoring:** City of Livingston Planning Division and City Engineer’s office.

c) **No Impact/No New Impact.** There are no public or private airports in or in the vicinity of the project area. Therefore, the proposed project would not result in a change in air traffic patterns, or other airport impacts that would result in substantial safety risks. **No impact would occur.**

d) **Less Than Significant Impact.** Future development of the project area consistent with proposed land uses would not substantially increase any known hazards and would not include any design features that would create a significant hazard to the surrounding area or future residents. As such, this would be considered a **less than significant.**

e) **Less Than Significant Impact.** Future development in the proposed project area would be constructed consistent with City standards, including requirements for adequate emergency access. Therefore, impacts would be considered **less than significant.**

f) **Less Than Significant Impact.** All existing policies regarding non-vehicular transportation and mobility will also apply to the project area. With additional residential and commercial land uses, there will actually be greater opportunities (and demand for) additional bicycle and pedestrian facilities in this sector of the city limits. This impact is **less than significant.**
### 4.0 Environmental Analysis

<table>
<thead>
<tr>
<th>UTILITIES AND SERVICE SYSTEMS. Would the project:</th>
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<tr>
<td>a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?</td>
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<tr>
<td>b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
</tr>
<tr>
<td>c) Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
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<tr>
<td>d) Have sufficient water supplies available to serve the project from existing entitlements and resources or are new or expanded entitlements needed?</td>
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<td>e) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?</td>
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<td>f) Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?</td>
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<td>g) Comply with federal, state, and local statutes and regulations related to solid waste?</td>
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### Project Impacts and Mitigation Measures

**a-e) Less Than Significant Impact.** Implementation of the Gallo Annexation project would change the currently undeveloped project site for industrial, residential and commercial uses, thereby causing a potential increase in demand for water services, wastewater treatment, and stormwater facilities. The 1999 GPU designated the project area for industrial use. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of...
Limited Industry and General Industrial would be changed. No other new uses are being proposed on the project area. Changing the project site from agricultural uses to highway commercial, residential and industrial uses rather than fully industrial uses, as well as eliminating the Industrial Reserve and re-designating the Limited Industrial and General Industrial uses, would not be substantially different with regards to demands for water services, wastewater treatment, and stormwater facilities. Furthermore, the City collects a one-time impact fee for contributions toward public facilities needs. Any required new waste or wastewater facilities would be subject to a project-specific environmental review process. This impact would be less than significant.

f-g) Less Than Significant Impact. Implementation of the Gallo Annexation project would allow for industrial, commercial and residential uses on the currently undeveloped project site. These new uses would create a greater demand for solid waste services and landfill facilities than under current conditions. This impact was previously discussed and analyzed in the 1999 GP EIR. The analysis and mitigation measures of the 1999 GP EIR are incorporated by reference into this document. The 1999 GP EIR, which programmaticaly analyzed the project area for industrial use, identified General Plan policies that would reduce these impacts, and concluded that the project’s impact associated with demand for solid waste services and landfill facilities would be less than significant. The proposed project consists of the annexation of the 334.7-acre project site into the City and the re-designation of 30 acres of the land to low-density residential and 100 acres to highway commercial uses. Additionally, the Industrial Reserve designation within the project area would be eliminated and the number of acres of Limited Industrial and General Industrial would be changed. No other new uses are being proposed on the project area. The residential and commercial components of the proposed project could require additional solid waste services and landfill facilities. However, this additional demand is not expected to result in substantial physical impacts or need for new or physically altered solid waste or landfill facilities beyond that identified in the 1999 GP EIR. Furthermore, the City collects a one-time impact fee for contributions toward public facilities needs. Any required new solid waste or landfill facilities would be subject to a project-specific environmental review process. The impact would be less than significant.
## 18. MANDATORY FINDINGS OF SIGNIFICANCE

Would the project:

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<th>c) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?</th>
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<td>Potentially Significant Impact</td>
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<th>b) Have impacts that are individually limited, but cumulatively considerable? (&quot;Cumulatively considerable&quot; means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)</th>
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<td>Potentially Significant Impact</td>
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<th>c) Have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?</th>
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## DISCUSSION

The following are Mandatory Findings of Significance in accordance with Section 15065 of the CEQA Guidelines.

a) **Less Than Significant Impact**

   The reader is directed to section 4.4 of this Initial Study for a detailed discussion on potential project impacts to biological resources. The reader is also referred to section 4.5 for a detailed discussion of potential project impacts on cultural and historical resources. Based on evaluations and discussions contained in this Initial Study, the proposed Gallo Annexation has a very limited potential to incrementally degrade the quality of the environment. As a result, the project would not significantly affect the environment.

b) **Less Than Significant with Mitigation Incorporated**
The proposed Gallo Annexation would have impacts that are individually limited to a less than significant level with mitigation measures but that are not cumulatively considerable. No cumulative environmental impacts have been identified in association with the proposed annexation that are either a) not consistent with the 1999 General Plan findings, or b) cannot be mitigated to a less than significant impact level. Given that the Gallo Annexation’s impacts are less than significant with mitigation measures identified, cumulative impacts are also not foreseen to be significant.

c) Less Than Significant Impact with Mitigation Incorporated

As determined in the various sections of this Initial Study, with implementation of the mitigation measures provided, the proposed Gallo Annexation would not result in any significant environmental effects and would adversely affect human beings, either directly or indirectly. Therefore, with mitigation, this impact is considered to be less than significant with mitigation incorporated.
5.0 REFERENCES


6.0 REPORT PREPARERS

CITY OF LIVINGSTON

Project Manager ................................................................. Donna Kenney

PMC

Project Director ................................................................. Tad Steam
Project Manager ................................................................. Melissa Logue
Environmental Planner ......................................................... Josh Kinkade
Environmental Planner ......................................................... Seth Myers
MITIGATED NEGATIVE DECLARATION

December 21, 2011

Gallo Annexation Project

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

a. Initial Study Form

Pursuant to Division 6, Title 14, Chapter 3, Article 6, Sections 15070 and 15071 of the California Administrative Code, the Community Development Director of the City of Livingston, State of California, does prepare, make, declare, publish, and cause to be filed with the County Clerk of Merced County, State of California, this Mitigated Negative Declaration re: The Project described as follows:

Project Title:
Gallo Annexation Project

Lead Agency Name and Address:
City of Livingston, 1416 C Street, Livingston, CA 95334

Contact Person and Phone Number:
Donna M. Kenney, Community Development Director
(209) 394-5510

Project Location:
Directly adjacent to the existing westerly city limit boundary of the City of Livingston; bounded by the Merced River on the north, the Livingston Domestic Waste Water Treatment Plant to the west, Robin Avenue to the east and Vinewood Avenue to the south; Assessor’s Parcel Numbers 047-080-008, -011, 047-160-002, -005, and -006, 047-100-019, -031, -038, -039, 047-100-017, -049, and Caltrans Director’s Deed Tract 12412-01-01.

Project Sponsor’s Name and Address:
Michael Gallo
P.O. Box 775
Atwater, CA 95301-0725
(209) 394-7984

General Plan Designation:
Limited Industrial, General Industrial, and Industrial Reserve
Description of Project:

The proposed Gallo Annexation Project consists of the annexation and re-designation of approximately 334.7 acres of mostly vacant land that lies within the City of Livingston Sphere of Influence yet outside the existing city limits. These lands possess the current General Plan designations of Limited Industrial, General Industrial, and Industrial Reserve and the proposed project would annex these lands into the city limits. In addition to the proposed Annexation, the proposed project would eliminate the Industrial Reserve designation, adjust the number of acres of Limited Industrial and General Industrial, and re-designate 30 acres to Low Density Residential and 100 acres to Highway Commercial. The property would also be pre-zoned to the M-1, M-2, R-1 and C-3 zoning designations, consistent with the proposed land use designations.

Surrounding Land Uses and Setting:

The proposed project site is bounded by the Merced River on the north, the Livingston Domestic Waste Water Treatment Plant to the west, existing residential units, gas stations, a school, several fast food restaurants, and agricultural lands to the east, and residential units, a school, and agricultural lands to the south.

Findings:

1. California Environmental Quality Act Negative Declaration Findings:

   Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as revised will have a significant effect on the environment.

2. Required Mitigation Measures:

   Refer to the attached Initial Study for the rationale for requiring the following measures:

   **Air Quality**

   **Air Quality – Impact a**
   Compliance with the following mitigation measure shall ensure that the project proponent complies with the applicable air quality plans.

   **MM 3a-1**
   The proponents of future projects allowed under the land uses proposed by the Gallo Annexation project shall submit an Air Impact Assessment (AIA) application to the San Joaquin Valley Air Pollution Control District upon application for building permit and shall pay any applicable off-site mitigation fees before issuance of the first building permit. A copy of the AIA shall be or file with the City of Livingston prior to the issuance of the first building permit.
Timing/Implementation: At the time of application for building permits

Enforcement/Monitoring: City of Livingston Planning Division

Air Quality – Impacts b & c
Compliance with the following mitigation measure shall ensure that the project would not violate any air quality standards or contribute substantially to an existing or projected air quality violation.

MM 3bc-1

Construction activities shall comply with SJVAPCD Regulation VIII for the control of fugitive dust emissions. In accordance with SJVAPCD Regulation VIII, a Dust Control Plan shall be prepared and submitted to the Air Pollution Control Officer prior to the start of construction. Written notification to the Air Pollution Control Officer shall also be provided within 10 days prior to the commencement of earth-moving activities. The Dust Control Plan shall describe all fugitive dust control measures to be implemented before, during, and after any dust-generating activity. The Dust Control Plan shall be endorsed by the SJVAPCD and copies provided to the City of Livingston prior to commencing construction. Current SJVAPCD-recommended dust control measures include (but are not necessarily limited to) the following:

- All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, or vegetative ground cover.

- All on-site unpaved construction roads and off-site unpaved construction access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

- All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

- When materials are transported off-site, all material shall be covered and effectively wetted to limit visible dust emissions, or at least 6 inches of treeboard space from the top of the container shall be maintained.

- All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at least once every 24 hours when operations are occurring. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.)

- Following the addition of materials to, or the removal of materials from, the surfaces of outdoor storage piles, piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
• The overall area subject to excavation and grading at any one time shall be limited to the fullest extent possible.

• On-site equipment shall be maintained and properly tuned in accordance with manufacturers’ specifications.

• Trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

• Excavation and grading activities shall be suspended when wind speeds exceed 20 mph.

• Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than 1 percent.

• Install wheel washers for all exiting trucks or wash off all trucks and equipment leaving the site.

**Timing/Implementation:** Prior to issuance of grading permits

**Enforcement/Monitoring:** City of Livingston Planning Division; SJVAPCD

**Cultural Resources**

**Cultural Resources – Impacts b & c**

Compliance with the following mitigation measure shall ensure that impacts to archaeological and paleontological resources are less than significant.

**MM 5bc-1**

If buried archeological and/or paleontological resources, such as chipped or ground stone, historic debris, building foundations, human bone, or fossils are inadvertently discovered during ground-disturbing activities, work shall stop in that area and within 100 feet of the find until a qualified archaeologist can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the City and other appropriate agencies.

**Timing/Implementation:** During construction

**Enforcement/Monitoring:** City of Livingston Planning Division

**Cultural Resources – Impact d**

Compliance with the following mitigation measure shall ensure that potential impacts to human remains are less than significant.

**MM 5d-1**

If human remains of Native American origin are discovered during project construction, the project shall comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (NAHC) (PRC 5097). If any human remains are discovered or recognized in any location other than a dedicated cemetery, there will be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
MITIGATED NEGATIVE DECLARATION

- The county coroner has been informed and has determined that no investigation of the cause of death is required; and

- If the remains are of Native American origin, the descendants of the deceased Native Americans have made a recommendation to the landowner or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC 5097.98; or

- The NAHC was unable to identify a descendant, or the descendant failed to make a recommendation within 24 hours after being notified by the NAHC.

  Timing/Implementation: During construction

  Enforcement/Monitoring: City of Livingston Planning Division

Recreation

Recreation – Impact b
Compliance with the following mitigation measure shall ensure that impacts to park facilities are less than significant.

MM 15-1 The project applicant shall be required to dedicate and construct park facilities or to pay in-lieu fees as directed by the City.

  Timing/Implementation: As a condition of project approval and implemented during construction activities and/or payment of any in-lieu fees shall be required prior to building permit issuance.

  Enforcement/Monitoring: City of Livingston Planning and Building Departments.

Transportation and Traffic

Transportation and Traffic – Impacts a & b
Compliance with the following mitigation measure shall ensure that traffic-related impacts to are less than significant.

MM 16a-1 The first application for new development within the annexation area shall include a transportation master plan that builds upon the City’s Circulation Element. The master plan will contain refined development assumptions, primary roadway layout and facility type, list of necessary improvements, and a phasing and financing plan. The master plan shall be subject to review and approval by the City Engineer. All identified facilities must be designed to meet City LOS thresholds. Should the master plan result in conflicts with the adopted Circulation Element, the applicant shall be responsible for funding the effort to reconcile any differences and to make the documents consistent. Funding of the identified improvements shall be consistent with
Public Services and Facilities Element objectives and Policy 9.1.3, 4, 9, and 9.2A.2 Implementation of these policies and standards will reduce the fiscal impacts of growth and development on transportation while enhancing coordination between different governmental agencies to address regional traffic issues in a more comprehensive manner. The applicant shall also participate in ongoing long term planning solutions (such as the SH 99 Corridor Study) with city staff, MCAG, Caltrans and neighboring jurisdictions in order to address long term improvements to the SH 99 highway mainline.

Timing/Implementation: Upon submittal of first application for development.

Enforcement/Monitoring: City of Livingston Planning Division and City Engineer’s office.

ADOPTION STATEMENT: This Mitigated Negative Declaration was adopted and the above California Environmental Quality Act findings made by the City of Livingston on:

[Signature]
Donna M. Kenney Community Development Director
City of Livingston, California

Date 12-21-11