
MASTER RESPONSE 4: BOARD OF SUPERVISORS' DECISION-MAKING AUTHORITY

This master response responds to the many comments about the need to weigh the environmental effects of the UCP and carefully consider the tradeoffs of approving the project versus protecting the environmental integrity of the area. Comments also expressed concern over the potential burdens placed on surrounding landowners if the UCP is approved.

When considering whether to approve the proposed UCP, the Board of Supervisors has the responsibility to balance the project's environmental impacts against its economic, legal, social, technical, or other benefits. It is the policy of the State that agencies should not approve projects if there are feasible mitigation measures or feasible alternatives that will substantially lessen the significant environmental effects of such projects (Pub. Res. Code 21002). Nevertheless, if specific economic, social, or other considerations make project alternatives or mitigation measures infeasible, the project may be approved in spite of one or more significant effects (Pub. Res. Code 21002, 21002.1(c)). As discussed below, if the benefits of the proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered acceptable. (Pub. Res. Code 21081(b)).

CEQA Guidelines, Section 15091(a), states:

No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.

In addition, Section 15093 of the CEQA Guidelines states:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

Thus, under CEQA, the Board of Supervisors has the authority to approve the UCP, even if doing so would result in significant impacts on the environment, so long as the findings required by CEQA are made.

As part of its CEQA findings, the Board must decide whether to adopt each mitigation measure recommended in the EIR. For example, as discussed in [Chapter 2, Revisions to the Draft EIR, and throughout Chapter 5, Comments and Responses (Draft EIR)], the Planning Commission has recommended replacement of several policies intended to mitigate impacts on agriculture land with new measures. If approved, this action would require rejection of policies identified in the DEIR as proposed mitigation. The Board may reject mitigation measures identified in the DEIR if specific economic, legal, social, technological, or other considerations make the measure infeasible (CEQA Guidelines Section 15091(a)(3)) or if the measures are not “roughly proportional” (that is, commensurate with the degree of impact caused by the project), or if there is no nexus between the impact and the mitigation (CEQA Guidelines Section 15126.4(4)(A) and (B)).

The Board must also consider whether to adopt an alternative, rather than the proposed project. The purpose of the alternatives analysis is to discuss alternatives that meet most of the basic objectives of the project and lessen any of the project’s significant environmental effects (CEQA Guidelines Section 15126.6(c)). The Board may reject alternatives where specific economic, legal, social, technological, or other considerations make the alternative infeasible (CEQA Guidelines Section 15091(a)(3)).

Lastly, as stated on page 4.9-23 of the DEIR, the Board must also make a determination of consistency with the County’s General Plan before approving the UCP or one of the alternatives. In addition, pursuant to General Plan Land Use Policy P-2, of Objective O-1A, Goal G-1-A, prior to modification of the SUDP boundaries, the Board must approve a statement of findings that the benefits of the conversion of agricultural land outweigh the impacts of conversion.