

**FINDINGS, FACTS IN SUPPORT OF FINDINGS AND
STATEMENT OF OVERRIDING CONSIDERATIONS REGARDING THE
ENVIRONMENTAL IMPACT REPORT FOR
THE PRESERVE (CHINO SUBAREA 2)
(SCH No. 2000121036)**

1.0 INTRODUCTION

1.1 State Law. The State Guidelines (“Guidelines”) promulgated pursuant to the California Environmental Quality Act (“CEQA”) provide:

No public agency shall approve or carry out a project for which an EIR has been completed 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. The possible findings are:

- a. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR (*hereinafter referred to as “finding (1)”*).
- b. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency (*hereinafter referred to as “finding (2)”*).
- c. The proposed mitigation measures would substantially lessen the impact, but not to a level of less than significant, and there are specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, that make infeasible any additional mitigation measures or project alternatives identified in the Final EIR (*hereinafter referred to as “finding (3)”*).

The required findings shall be supported by substantial evidence in the record. (Guidelines, Section 15091).

1.2 Findings. An Environmental Impact Report (“EIR”) pursuant to CEQA has been prepared by the City of Chino. The EIR for The Preserve Specific Plan (Chino Subarea 2) (“Project”) identifies significant effects on the environment which may occur as a result of the Project. Section 2.0 of this Attachment identifies the significant environmental effects of the Project which cannot feasibly be mitigated below a level of significance. Section 3.0 sets forth potential environmental effects of the Project which are not significant because of the design of the Project or which can feasibly be mitigated below a level of significance. Section 4.0 summarizes the alternatives discussed in the EIR and makes findings with respect to the feasibility of alternatives and whether the alternatives would lessen the significant environmental effects of the Project. Section 5.0 sets forth a Statement of Overriding Considerations with respect to the Project.

The following sets forth all significant effects of The Preserve Specific Plan for Chino Subarea 2, and with respect to each effect, makes one or more of the findings set forth in the Introduction above, states facts in support of such findings, and, as appropriate, refers to the Statement of Overriding Considerations which is attached hereto.

The Final Environmental Impact Report (“FEIR”), and the administrative record concerning the Project provide additional facts in support of the findings herein. The mitigation measures set forth in the Mitigation Monitoring Program (Attachment B) are incorporated by reference in these findings, and the findings in Sections 2.0 and 3.0 refer to individual mitigation measures as appropriate.

1.3 Feasible Mitigation Defined. To the extent that a project is subject to CEQA, a public agency may not approve the project as proposed if feasible mitigation measures or feasible alternatives are available that would substantially lessen the project’s significant environmental effects. (Public Resources Code Section 21002). Based on Section 21002, both the California Resources Agency and the State’s courts have recognized that, in approving projects with significant environmental effects, public agencies have an obligation to modify projects, to the extent *feasible*, to substantially lessen or avoid such effects. (CEQA Guidelines, Sections 15002, subd. (a)(3), 15021, subd. (a)(2); *Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41 [271 Cal.Rptr. 393].)

Public Resources Code Section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.” CEQA Guidelines Section 15364 adds another factor: “Legal” considerations. (*See also, Citizens of Goleta Valley v. Board of Supervisors* (“*Goleta II*”) (1990) 52 Cal.3d 553, 565 [276 Cal.Rptr. 410].) An agency may reject mitigation measures or environmentally superior alternatives as being infeasible if they frustrate an agency’s ability to meet the objectives of a proposed project. (*See, City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 416-417 [183 Cal.Rptr. 898; *Sequoyah Hills Homeowners Association v. City of Oakland* (1993) 23 Cal.App.4th 704, 715 [29 Cal.Rptr.2d 182].)

The obligation to substantially lessen or avoid significant effects, where feasible, is implemented, in part, through the adoption of "CEQA" findings, as mandated by Public Resources Code Section 21081. The parallel section in the CEQA Guidelines is Section 15091, which provides that, before an agency can approve a project for which an EIR has identified significant environmental effects, the agency must first adopt "one or more findings for each [such] ... significant effect." For each effect, the agency's findings must reach one or more of three (3) permissible conclusions.

The first possible finding is that "[c]hanges or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR." (CEQA Guidelines, Section 15091, subd. (a)(1).)

The second permissible finding is that "[s]uch changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency." (CEQA Guidelines, Section 15091, subd. (a)(2).)

As to the third permissible conclusion, CEQA Guidelines Section 15091 no longer exactly tracks the statutory language of Public Resources Code Section 21081, subdivision (a)(3), which was amended in 1993 and again in 1994. The amended statute provides that the third permissible conclusion is that "[s]pecific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the EIR." (Public Resources Code, Section 21081, subd. (a)(3); *see also* CEQA Guidelines, Section 15091, subd. (a)(3).)

The CEQA Guidelines do not define the difference between "avoiding" a significant environmental effect and merely "substantially lessening" such an effect. The City must therefore glean the meaning of these terms from other contexts in which the terms are used. Public Resources Code Section 21081, on which CEQA Guidelines Section 15091 is based, uses the term "mitigate" rather than "substantially lessen". Such an understanding of the statutory term is consistent with Public Resources Code Section 21002, which, as noted earlier, uses the terms "substantially lessen" and "avoid", but does not use the word "mitigate."

For purposes of these Findings, the term "avoid" refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a *less-than-significant level*. In contrast, the term "substantially lessen" refers to the effectiveness of such a measure or measures to substantially reduce the severity of a significant effect, but not to reduce that effect to a less-than-significant level.

Although CEQA Guidelines Section 15091 requires only that approving agencies specify that a particular significant effect is “avoid[ed] or substantially lessen[ed]”, these Findings, for purposes of clarity, in each case will specify whether the effect in question has been avoided (i.e., reduced to a less-than-significant level), or has simply been substantially lessened but remains significant.

In seeking to effectuate the substantive policy of CEQA to substantially lessen or avoid significant environmental effects to the extent feasible, an agency, in adopting findings, need not necessarily address the feasibility of *both* mitigation measures and environmentally superior alternatives when contemplating approval of a proposed project with significant impacts. Where a significant impact can be mitigated to an “acceptable” level solely by the adoption of feasible mitigation measures, the agency, in drafting its findings, has no obligation even to consider the feasibility of any environmentally superior alternative that could also substantially lessen or avoid that same impact — even if the alternative would render the impact less severe than would the proposed project as mitigated. (*Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 521 [147 Cal.Rptr. 842]; see also *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 730-731 [270 Cal.Rptr. 650]; and *Laurel Heights Improvement Association v. Regents of the University of California* (“*Laurel Heights I*”) (1988) 47 Cal.3d 376, 400-403 [253 Cal.Rptr. 426].)

In these Findings, the City of Chino first addresses the extent to which each significant environmental effect can be substantially lessened or avoided through the adoption of feasible mitigation measures. Only after determining that, even with the adoption of all feasible mitigation measures, an effect is significant and unavoidable does the City address the extent to which alternatives described in the FEIR are (i) environmentally superior with respect to that effect and (ii) “feasible” within the meaning of CEQA.

In cases in which a project’s significant effects cannot be mitigated or avoided, an agency, after adopting proper findings, may nevertheless approve the project if it first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the “benefits of the project outweigh the significant effects on the environment.” (Public Resources Code, Section 21081, subd. (b); see also, CEQA Guidelines, Sections 15093, 15043, subd.(b).) In the Statement of Overriding Considerations found at the end of these Findings, the City identifies the specific economic, social, and other considerations that, in its judgment, outweigh the significant environmental effects that the Project will cause.

The California Supreme Court has stated that “[t]he wisdom of approving ... any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (*Goleta II, supra*, 52 Cal.3d at 576 [276 Cal.Rptr. 410].)

1.4 Record of Proceedings. For purposes of CEQA, and the Findings as set forth herein, the Record of Proceedings (the "Record") for the City's decision on the Project consists of the following documents:

1. The City of Chino General Plan;
2. All Notices of Preparation, as amended, and other public notices issued by the City in conjunction with the Project;
3. The *FEIR for the Preserve Project, including its Resources Management Plan* (City of Chino, 2003) (including all Appendices)(hereinafter the "FEIR");
4. The *Draft EIR for the Preserve Project* (City of Chino, 2001) (including all Appendices (hereinafter the "DEIR");
5. The revised Biological Resources, Transportation and Circulation, and Water Supply chapters of the Draft EIR (City of Chino, 2002)(hereinafter the "RDEIR");
6. The Preserve Project's Specific Plan (City of Chino, 2003) and associated General Plan Amendment (hereinafter the "Specific Plan");
7. All comments submitted by public agencies or members of the public during the public comment period on the Draft SEIR, the Recirculated chapters of the Draft EIR, the Final EIR and the Resources Management Plan, and responses to those comments, as well as comments on the Preserve Project's Specific Plan;
8. All staff reports, memoranda, maps, letters, minutes of meetings, referrals, and other planning documents prepared by City staff relating to the Project;
9. All testimony, documents, and other evidence presented by landowners and members of the public and their representatives within the Project Area;
10. All testimony and documents submitted to the City by public agencies and members of the public in connection with the Project;
11. Minutes, transcripts, recordings and videotapes of all workshops, information sessions, public meetings, and public hearings held by the City in connection with the Project;
12. Any documentary or other evidence submitted to the City at such workshops, information sessions, public meetings and public hearings.

13. Matters of common knowledge to the City Council, including, but not limited to, the following:

- a. The City General Plan, including the Land Use Map and elements thereof;
- b. The Zoning Ordinance of the City of Chino;
- c. The City of Chino Municipal Code; and
- d. Other formally adopted policies and ordinances.

14. All pleadings and court orders filed in San Bernardino County Superior Court case no. RCV 0624284, Chino Land & Water Co. , Inc. vs. Lewis Investment Company, LLC, etc., et al.

Items listed under 1 through 13.a. are in the custody of the City Planning and Community Development Department, located at 13220 Central Avenue, Chino, California 91708.

Items 13.b., 13.c., 13.d and 14 are in the custody of the City Clerk's Office, located at 13220 Central Avenue, Chino, California 91708.

1.4 Hearing Process. The scoping process for the Preserve Project Specific Plan has essentially spanned three years, from early 2000 to the present. The public and affected agencies have been involved in raising environmental issues since the Project area was placed within the City's Sphere of Influence by the San Bernardino Local Agency Formation Commission and planning efforts began.

A notice of preparation ("NOP") for the Draft EIR was originally released on December 5, 2000, with an Amended NOP being released on January 5, 2001. The issues raised in response to the NOP, as amended, were addressed in the Draft and Final EIR. The DEIR was released on September 18, 2001 and circulated for 45 days for public review and comment, with the comment period ending November 1, 2001. The RDEIR concerning Biological Resources, Transportation and Circulation, and Water Supply was recirculated for 45 days, with the comment period ending on September 16, 2002. Thereafter the FEIR was prepared with responses to comments, as well as a Resources Management Plan, and released for review on January 31, 2003.

A public hearing on the FEIR was held by the City's Planning Commission on February 24, 2003, where approval of the Project and certification of the EIR was recommended by the Planning Commission. The City Council held a public hearing on March 11, 2003, continued the hearing to March 25, 2003, when they approved the Project and certified the FEIR.

2.0 FINDINGS REGARDING IMPACTS THAT CANNOT BE MITIGATED BELOW A LEVEL OF SIGNIFICANCE

2.1 Land Use

2.1.1 Significant Effect. **Land use change from rural to urban.** Implementation of The Preserve Specific Plan will result in a fundamental change in the rural character of the plan area to a more suburban or urban setting. The proposed project will accelerate the conversion of existing agricultural and dairy uses to a mix of residential, commercial, business park, industrial, airport-related uses, open space/active recreation uses (OS-R), and public facilities. Approximately 85 percent of the project area is currently in agriculture and dairy use, with the remaining 15 percent largely in other open space, recreation and institutional uses. This change in character is significant for the plan area and cumulatively significant for the Chino Basin.

Findings. The City Council hereby makes finding (3).

Facts in Support of Findings. The following facts or mitigation measures indicate that although the identified impact has been reduced or avoided to the extent feasible, it cannot feasibly be mitigated below a level of significance. The remaining unavoidable effect is acceptable when balanced against the facts set forth in the Statement of Overriding Considerations.

- (1) The proposed Specific Plan includes design features that minimize potential land use impacts at plan buildout. These features include but are not limited to:

A compact urban form and community core; a gradation of land use intensity/density from the community core outward, and from northerly portions of the plan near Chino Airport south to the open space and sensitive resources below the 566' elevation; appropriate buffering and separation of potentially incompatible uses through application of linear open space (e.g. Community Paseo and Open Space System, linear park and other recreational open space); retention and consolidation of the major open space resources within a vast, manageable open space unit below the 566' elevation; and preserved opportunities for long-term agricultural use within agricultural units defined by the AG and AG/OS-N designations. (See DEIR, Pages 5.1-1 to 5.1-19)

- (2) Implementation of policies in the General Plan Amendment through provisions of the Specific Plan will mitigate land use impacts to the extent feasible. This includes the application of various specific plan overlay zones to reduce potential land use impacts and implementation of a right to farm policy designed to minimize conflicts between urban growth and continuing agricultural operations. (See Pages 144 to 146 of the Specific Plan)
- (3) None of the build alternatives (i.e. Alternatives other than "No Project") would avoid the irreversible conversion of land from rural to urban character.

- (4) It is infeasible to completely avoid this significant effect, due to the economic, legal, social, technological or other considerations described in Section 5.0, the Statement of Overriding Considerations, incorporated by reference herein.
- (5) Ultimately, there is a finite amount of land that is suitable for agricultural uses. The purchase of fee title or of agricultural conservation easements over other agricultural parcels off-site would not avoid, reduce or fully compensate for the impact of converting land in the Project area to urban uses because it would not offset the loss of agricultural land caused by the Project. There would still be a net reduction in the total amount of land suitable for agricultural use that is available for such use. The same analysis applies for purposes of mitigating the loss of privately owned agricultural land treated as a loss of open space. There are no measures available to fully mitigate the loss of open space that will be converted to urban uses. The views and open space that will be lost in the Project area cannot be replaced by preserving existing space in areas outside of the Project area.

Supporting Explanation: An unavoidable impact of the Specific Plan will be a change in land uses from rural to urban. Such a change is a fundamental policy decision which has been made by the City Council with the adoption of the General Plan Amendment and Specific Plan. While there is a finite amount of land within the City which can be made available for agricultural and open space uses, this shift in land uses has been mitigated to the extent feasible, while still accomplishing the City's policy goals, through the Specific Plan's adoption of a compact urban form and community core to restrict urban areas to the northern portion of the plan area; by adopting a gradation of land use intensities and densities radiating from the community core with the most intense and dense land uses to less intense and less dense urbanization from north to south; by avoiding any new development in areas with sensitive biological resources below the 566' line, and by requiring appropriate buffers between urban and agricultural uses both above and below of the 566' line. Moreover, the Specific Plan has retained opportunities for agricultural uses to continue wherever located pursuant to the Specific Plan's right to farm policies as well as in areas with AG and AG/OS-N land use designations. It has also preserved a vast, manageable and contiguous agricultural and open space area below the 566' line which will not be developed with urban uses. While these features reduce the impacts of changing from rural to urban land uses, they do not reduce it to a level of less than significant.

2.1.2 Significant Effect. Land use conflicts between urban and agricultural uses. Potentially significant urban use conflicts with adjacent agriculture may occur during the implementation of The Preserve Specific Plan (i.e. during the transition phase): The types of impacts commonly associated with adjacent agricultural and urban uses include, but are not limited to dust, harmful chemicals, noise, odor and flies, intrusion by pets, trespass and vandalism. At buildout of The Preserve Specific Plan, land use compatibility impacts for the plan area would be substantially reduced, although the Project may still contribute to cumulative land use conflicts during the long-term transition of the greater Chino Valley dairylands to urban uses. (See, DEIR, Pages 5.1-16 to 5.1-17)

Findings. The City Council hereby makes finding (3).

Facts in Support of Findings. The following facts or mitigation measures indicate that although the identified impact has been reduced or avoided to the extent feasible, it cannot feasibly be mitigated below a level of significance. The remaining unavoidable effect is acceptable when balanced against the facts set forth in the Statement of Overriding Considerations.

- (1) The proposed Preserve Specific Plan includes design features that minimize potential land use impacts at plan buildout. These features include but are not limited to:

A compact urban form and community core; a gradation of land use intensity/density from the community core outward, and from northerly portions of the plan near Chino Airport south to the open space and sensitive resources below the 566' elevation; appropriate buffering and separation of potentially incompatible uses through application of linear open space (e.g. Community Paseo and Open Space System, linear park and other recreational open space, 100' wide ag/urban buffer along 566' elevation line); retention and consolidation of the major open space resources within a vast, manageable open space unit below the 566' elevation; and preserved opportunities for long-term agricultural use within agricultural units defined by the AG and AG/OS-N designations.

- (2) Implementation of policies in the Preserve Project's Specific Plan will mitigate land use impacts to the extent feasible. This includes the application of various specific plan overlay zones to reduce potential land use impacts.
- (3) None of the build alternatives (i.e. Alternatives other than "No Project") would avoid the potentially significant urban use conflicts with adjacent agriculture that would occur during the implementation of The Preserve Specific Plan (i.e. during the transition phase).
- (4) The Specific Plan includes "Right-to-Farm" provisions and compatibility findings requirements, including minimum 100 ft. setback requirements between existing animal uses and any residential buildings, that will reduce the potential for urban use conflicts with agricultural/dairy operations during the transition to urban uses.
- (5) It is infeasible to completely avoid this significant effect, due to the economic, legal, social, technological or other considerations described in Section 5.0, the Statement of Overriding Considerations, incorporated by reference herein.

Supporting Explanation: To the greatest extent feasible, the potential conflicts between urban and agricultural land uses have been reduced by the Specific Plan's design features which created a compact urban form with urbanization radiating from the community core outward and the preservation of almost half of the entire Plan Area in open space and agricultural land use designations. Moreover, the Plan includes right to farm policies which will allow agricultural uses to continue within the Specific Plan area and will require minimum 100 foot setback requirements between existing animal uses and residential buildings so as to minimize conflicts. In addition, a permanent 100 foot

buffer area will be established along the 566' line to separate urban uses from the agricultural uses below the 566' line to further minimize land use conflicts.

2.1.3 Significant Effect. **Land use conflicts between urban uses and IEUA Co-Composting Facility.** Until the IEUA Co-Composting Facility is relocated or enclosed, nearby properties may be adversely impacted by the noise, odors, insects, dust, traffic and visual/aesthetic impacts associated with facility operations. The Specific Plan Co-Composting Facility Overlay (300' interim buffer) and the planned enclosure of this facility by IEUA would reduce these potentially significant adverse impacts to residential uses and other sensitive receptors (e.g. schools). However, there would remain a potentially significant land use conflict until such time as the Co-Composting Facility either is enclosed or relocates. (See, DEIR, Pages 5.1-17 to 5.1-18)

Findings. The City Council hereby makes findings (2) and (3).

Facts in Support of Findings. The following facts or mitigation measures indicate that although the identified impact has been reduced or avoided to the extent feasible, it cannot feasibly be mitigated below a level of significance. The remaining unavoidable effect is acceptable when balanced against the facts set forth in the Statement of Overriding Considerations.

- (1) The proposed Specific Plan includes design features that minimize potential land use impacts at Specific Plan buildout. This includes appropriate buffering and separation of potentially incompatible uses through application of linear open space (e.g. Community Paseo and Open Space System, linear park and other recreational open space);
- (2) The proposed Specific Plan includes an Interim Co-Composting Facility Overlay (CCO) to be applied to properties within 300 feet of the Co-Composting Facility. Any residential projects within this overlay must provide a 300-foot interim buffer until such time as the Co-Composting Facility relocates;
- (3) The relocation of the Co-Composting Facility is a change or alteration that is within the responsibility and jurisdiction of IEUA and not the City of Chino. The timing of such relocation is determined by IEUA and the environmental analysis and any necessary mitigation for such relocation will be the responsibility of IEUA;
- (4) None of the build alternatives (i.e. Alternatives other than "No Project") would avoid the potentially significant land use conflicts with the Co-Composting Facility that may occur during the early phases of The Preserve Specific Plan (i.e. during the transition phase).
- (5) It is infeasible to completely avoid this significant effect, due to the economic, legal, social, technological or other considerations described in Section 5.0, the Statement of Overriding Considerations, incorporated by reference herein.

Supporting Explanation: Until such time as the IEUA Co-Composting Facility is relocated or fully enclosed, these land use conflicts will be present. In order to minimize such conflicts, the Specific Plan will buffer adjoining residential land uses by requiring such uses to be

setback at least 300 feet from the Facility. Until the Facility relocates, that 300 foot setback must remain in place. Linear parks and recreational open space may also be used to buffer urban uses from the Co-Composting Facility in order to separate these land uses and minimize impacts from the odors, insects, dust, traffic and visual impacts associated with the operation of the Facility.

2.1.4 Significant Effect. Conversion of agricultural/open space to urban uses. Implementation of the Specific Plan will result in the conversion of approximately 2,055 acres of agricultural open space to urban uses. Although limited to approximately 38% of the total plan area, this loss of open space is irretrievable, and is considered a significant, unavoidable impact of the proposed project. This loss of open space is cumulatively significant within the Chino Valley Dairy Preserve. (See, DEIR, Pages 5.1-23 to 5.1-25)

Findings. The City Council hereby makes finding (3).

Facts in Support of Findings. The following facts or mitigation measures indicate that although the identified impact has been reduced or avoided to the extent feasible, it cannot feasibly be mitigated below a level of significance. The remaining unavoidable effect is acceptable when balanced against the facts set forth in the Statement of Overriding Considerations.

- (1) The proposed Specific Plan includes design features that minimize potential land use impacts and conserve open space resources in a manageable system. These features include but are not limited to:

A compact urban form and community core; a gradation of land use intensity/density from the community core outward, and from northerly portions of the plan near Chino Airport south to the open space and sensitive resources below the 566' elevation; appropriate buffering and separation of potentially incompatible uses through application of linear open space (e.g. Community Paseo and Open Space System, linear park and other recreational open space); retention and consolidation of the major open space resources within a vast, manageable open space unit below the 566' elevation; and preserved opportunities for long-term agricultural use within agricultural units defined by the AG and AG/OS-N designations.

- (2) Implementation of policies in the General Plan Amendment and the Specific Plan will mitigate land use impacts to the extent feasible. This includes the application of various Specific Plan overlay zones to preserve and protect open space resources.
- (3) None of the build alternatives (i.e. Alternatives other than "No Project") would avoid the irretrievable loss of open space that would occur with implementation of The Preserve Specific Plan.
- (4) Ultimately, there is a finite amount of land that is suitable for agricultural uses. The purchase of fee title or agricultural conservation easements over other agricultural parcels off-site would not completely avoid, reduce or fully compensate for the impact of converting land in the Project area to urban uses because it would not offset the loss of agricultural land caused by the Project. There would still be a net reduction in the total amount of land suitable for agricultural use that is available within the Project area for

such use. The same analysis applies for purposes of mitigating the loss of privately owned agricultural land treated as a loss of open space. There are no measures available to fully mitigate the loss of open space that will be converted to urban uses. The views and open space that will be lost in the Project area cannot be replaced by preserving existing open space in areas outside of the Project area.

- (5) It is infeasible to completely avoid this significant effect, due to the economic, legal, social, technological or other considerations described in Section 5.0, the Statement of Overriding Considerations, incorporated by reference herein.

Supporting Explanation: An unavoidable impact of the Specific Plan will be a change in land uses from agricultural/open space to urban. Such a change is a fundamental policy decision which has been made by the City Council with the adoption of the General Plan Amendment and Specific Plan. While there is a finite amount of land within the City which can be made available for agricultural and open space uses, this shift in land uses has been mitigated to the extent feasible, while still accomplishing the City's policy goals, through the Specific Plan's adoption of a compact urban form and community core to restrict urban areas to the northern portion of the plan area; by adopting a gradation of land use intensities and densities radiating from the community core with the most intense and dense land uses to less intense and less dense urbanization from north to south; by avoiding any new development in areas with sensitive biological resources below the 566' line, and by requiring appropriate buffers between urban and agricultural uses both above and below the 566' line. Moreover, the Specific Plan has retained opportunities for long term agricultural and open space uses both above and below the 566' line, as well as in areas with AG and AG/OS-N land use designations and preserved a vast, manageable and contiguous agricultural and open space area below the 566' line which will not be developed with urban uses. While these features reduce the impacts of changing from agricultural/open space land uses to urban land uses, they do not and cannot reduce it to a level that is less than significant due to the finite supply of land available within the City.

2.2 Agriculture

2.2.1 Significant Effect. **Loss of prime farmland.** Implementation of the Specific Plan would result in the conversion of approximately 1,265 acres of prime farmland to non-agricultural use. This represents approximately 56% of the total 2,268 acres of prime farmland within the Plan area, and is considered a significant impact. Approval of the Project and the introduction of residential and other urban uses within the Plan area will accelerate the conversion of prime farmlands. This is considered a significant direct and cumulative impact of the Project. (See, DEIR, Pages 5.2-10 to 5.2-12)

Findings. The City Council hereby makes finding (3).

Facts in Support of Findings. The following facts or mitigation measures indicate that although the identified impact has been reduced or avoided to the extent feasible, it cannot feasibly be mitigated below a level of significance. The remaining unavoidable effect is acceptable when balanced against the facts set forth in the Statement of Overriding Considerations.

(1) Project design features that reduce significant impacts to agricultural resources include retention of approximately 862 acres in agricultural-related use designations, and Specific Plan right-to-farm provisions which allow existing agricultural uses to continue wherever located in the Plan area.

(2) agencies to identify locations where continued agricultural uses would be preferable.

None of the build alternatives (i.e. Alternatives other than “No Project”) would avoid the conversion of prime farmland to urban use that would occur with implementation of Specific Plan.

(3) Ultimately, it must be recognized that there is a finite amount of land that is suitable for agricultural uses. The purchase of fee title or of agricultural conservation easements over other agricultural parcels off-site would not fully avoid, reduce or compensate for the impact of converting land in the Project area to urban uses because it would not offset the loss of agricultural land caused by the Project. There would still be a net reduction in the total amount of land suitable for agricultural use that is available for such use.

(4) Mitigation Measure AG-1: “The City of Chino shall participate in the Williamson Act Easement Exchange Program and any plan that may be adopted pursuant to SB 831 for acquisition of agricultural easements or other conservation easements for the purpose of permanent agricultural land preservation within the Agricultural (AG), Agricultural/Open Space-Natural, and as appropriate subject to conditional use permit, the Open Space-Natural (OS-N), designated areas of the plan area.” In this manner the City will be able to reduce the further loss of agricultural lands, but not eliminate such loss completely, since not all agricultural lands are under Williamson Act contracts.

(5) Mitigation Measure AG-2: “The City of Chino shall participate in a coordinated multi-agency planning program for sustainable agricultural uses within the Lower Chino/ Prado Basin. This program should involve the principal public landowners within the basin, including but not limited to the U.S. Army Corps of Engineers, Orange County Flood Control District and County of San Bernardino. Components of this program may include an agricultural feasibility study, acquisitions plan, and management plan for sustainable agricultural uses within the basin.” In this manner, the City will seek to ameliorate the loss of agricultural lands by working with other public agencies to identify locations where continued agricultural uses would be preferable.

(6) It is infeasible to completely avoid this significant effect, due to the economic, legal, social, technological or other considerations described in Section 5.0, the Statement of Overriding Considerations, incorporated by reference herein.

(7) Master planning for the Plan area and its annexation to the City of Chino was specifically contemplated by LAFCO’s inclusion of the area within the City’s sphere of influence. The pattern of cancellation or non-renewal of Williamson Act contracts within the Plan area dates back to 1992-93, precipitating a transition to urban uses, long before the Preserve Project was ever proposed.

Supporting Explanation: Ultimately, it must be recognized that there is a finite amount of land that is suitable for agricultural uses within the City. Nonetheless, the Specific Plan designates areas for permanent agricultural uses and will allow existing agricultural uses to continue wherever located. In addition, to further mitigate the impacts from the loss of prime farmland, the City has committed to the purchase of fee title or agricultural conservation easements over other agricultural parcels with proceeds from Williamson Act contract cancellation fees through participation in the Williamson Act Easement Exchange Program. While this would stem the further loss of prime farmland, it could not fully avoid, reduce or compensate for the impact of converting land in the Preserve Project area to urban uses because there is a finite supply of farmland. There would still be a net reduction in the total amount of land suitable for agriculture that is available for such use.

2.2.2 Significant Effect. Acceleration of Williamson Act contract non-renewals and cancellations. The Project would accelerate Williamson Act contract non-renewals and/or cancellation notices on the remaining 1,148 acres under contract within the Plan area. This is considered a significant and unavoidable impact of the proposed Project, and is cumulatively significant within the Chino Basin Dairy Area. (See, DEIR, Pages 5.2-10 to 5.2-13)

Findings. The City Council hereby makes finding (3).

Facts in Support of Findings. The following facts or mitigation measures indicate that although the identified impact has been reduced or avoided to the extent feasible, it cannot feasibly be mitigated below a level of significance. The remaining unavoidable effect is acceptable when balanced against the facts set forth in the Statement of Overriding Considerations.

- (1) Project design features that reduce significant impacts to agricultural resources include retention of approximately 862 acres in agricultural-related use designations, and Specific Plan right-to-farm provisions which allow existing agricultural uses to continue wherever located in the Plan area.
- (2) Mitigation Measure AG-1: "The City of Chino shall participate in the Williamson Act Easement Exchange Program and any plan that may be adopted pursuant to SB 831 for acquisition of agricultural easements or other conservation easements for the purpose of permanent agricultural land preservation within the Agricultural (AG), Agricultural/Open Space-Natural, and as appropriate subject to conditional use permit, the Open Space-Natural (OS-N), designated areas of the plan area." In this manner the City will be able to somewhat reduce the further loss of agricultural lands within the overall Project area, but not eliminate such loss completely, since private landowners are always able to decide not to renew their Williamson Act contract.
- (3) Mitigation Measure AG-2: "The City of Chino shall participate in a coordinated multi-agency planning program for sustainable agricultural uses within the Lower Chino/ Prado Basin. This program should involve the principal public landowners within the basin, including but not limited to the U.S. Army Corps of Engineers, Orange County Flood Control District and County of San Bernardino. Components of this program may

include an agricultural feasibility study, acquisitions plan, and management plan for sustainable agricultural uses within the basin.” In this manner, the City will seek to ameliorate the loss of agricultural lands by working with other public agencies to identify locations where continued agricultural uses would be preferable.

- (4) None of the build alternatives (i.e. Alternatives other than “No Project”) would avoid an acceleration of Williamson Act contract non-renewals and/or cancellation notices that would occur with implementation of The Preserve plan.
- (5) It is infeasible to completely avoid this significant effect, due to the economic, legal, social, technological or other considerations described in Section 5.0, the Statement of Overriding Considerations, incorporated by reference herein.

Supporting Explanation: Private landowners always hold the right to non-renew or seek the cancellation of their Williamson Act contracts. In order to slow the rate of cancellations or non-renewals, the Specific Plan has designated 862 acres in agricultural-related land uses, as well as adopted right to farm policies in order to allow farming to continue for as long as the landowner desires to do so. In addition, to further reduce this impact, the City has committed to participate in the Williamson Act Easement Exchange Program to purchase agricultural conservation easements to permanently protect farmland, and to participate in a multi-agency planning program for the Lower Chino/Prado Basin for sustainable agricultural uses. While these actions will serve to reduce the impacts of the Project, they will not reduce or avoid it completely.

2.2.3 Significant Effect. Offsite relocation of dairies. Development of the Project area will accelerate the relocation of dairies from the Chino Basin Dairy Area and plan area, resulting in an annual milk production value loss to the region. In addition, the Santa Ana Regional Water Quality Control Board has adopted requirements for dairies to retain and control their surface water drainage, and to limit the amount of manure which may be stockpiled at dairies. Approximately 700 acres of cultivated cropland will be converted, although some of these farming operations may choose to relocate to AG and AG/OS-N designated areas within the Plan area. New dairies and expansions of existing dairies within these designated areas below the 566’ elevation are prohibited under the proposed Specific Plan. As such, the proposed Project will result in a significant direct and cumulative impact on agricultural productivity. (See, DEIR, Pages 5.2-11 to 5.2-13)

Findings. The City Council hereby makes findings (2) and (3).

Facts in Support of Findings. The following facts or mitigation measures indicate that although the identified impact has been reduced or avoided to the extent feasible, it cannot feasibly be mitigated below a level of significance. The remaining unavoidable effect is acceptable when balanced against the facts set forth in the Statement of Overriding Considerations.

- (1) Project design features that partially reduce significant impacts to agricultural resources include retention of approximately 862 acres in agricultural-related use designations, and Specific Plan right-to-farm provisions which allow existing agricultural uses to continue wherever located in the Plan area.

- (2) Mitigation Measure AG-1: “The City of Chino shall participate in the Williamson Act Easement Exchange program and any plan that may be adopted pursuant to SB 831 for acquisition of agricultural easements or other conservation easements for the purpose of permanent agricultural land preservation within the Agricultural (AG), Agricultural/Open Space-Natural, and as appropriate subject to conditional use permit, the Open Space-Natural (OS-N), designated areas of the plan area.” While this measure will somewhat reduce the further loss of agricultural lands, it will not eliminate such loss completely, nor will it ensure that such lands are used for dairies.
- (3) Mitigation Measure AG-2: “The City of Chino shall participate in a coordinated multi-agency planning program for sustainable agricultural uses within the Lower Chino/ Prado Basin. This program should involve the principal public landowners within the basin, including but not limited to the U.S. Army Corps of Engineers, Orange County Flood Control District and County of San Bernardino. Components of this program may include an agricultural feasibility study, acquisitions plan, and management plan for sustainable agricultural uses within the basin.” With this measure, the City will seek to ameliorate the loss of agricultural lands by working with other public agencies to identify locations where continued agricultural uses would be preferable; however, there is no assurance that dairies would relocate to such other areas or that other jurisdictions would approve of dairy uses.
- (4) None of the build alternatives (i.e. Alternatives other than “No Project”) would avoid an acceleration of the relocation of dairies and corresponding loss of regional agricultural productivity that would occur with implementation of The Preserve plan.
- (5) Ultimately, there is a finite amount of land that is suitable for agricultural/dairy uses. The purchase of fee title or of agricultural conservation easements over other agricultural parcels off-site would not avoid, reduce or fully compensate for the impact of converting land in the Project area to urban uses because it would not offset the loss of agricultural land and the potential relocation of dairies to other regions caused by the Project. There would still be a net reduction in the total amount of agricultural land suitable for dairy use in the City.
- (6) To the extent that dairies relocate to areas outside of the City to other agricultural lands in other jurisdictions, the environmental impacts of approving new dairies would be the responsibility of the jurisdictions approving the new dairy location/use.
- (7) It is infeasible to completely avoid this significant effect, due to the economic, legal, social, technological or other considerations described in Section 5.0, the Statement of Overriding Considerations, incorporated by reference herein.

Supporting Explanation: The relocation of dairies has been happening even in the absence of the Specific Plan’s adoption for a number of reasons unrelated to the Specific Plan, such as the Santa Ana Regional Water Quality Control Board’s enforcement actions to remediate the contamination of surface and groundwater arising from dairy wastes. The loss of agricultural

productivity caused by the Plan's acceleration of that relocation is an unavoidable result of the City's policy decision to adopt urban land uses for a significant portion of the plan area. However, the City has also provided for the retention of agricultural uses by designating 862 acres of the plan area for agricultural uses, committing to the participation in the Williamson Act Easement Exchange Program for the purchase of permanent agricultural easements, and participating in a coordinated multi-agency planning program with other governmental agencies in the Lower Chino/Prado Basin that will provide for sustainable agricultural uses. While these measures will allow dairies to remain in operation, they will not avoid the loss of agricultural productivity which arises due to dairy relocations.

2.3 Biological Resources

2.3.1 Significant Effect. **Loss of burrowing owl habitat.** The loss of burrowing owl nesting and foraging habitat within the Project area was determined to be significant at the project level and cumulatively significant at the regional level. (See, RDEIR, Pages 5.4-23 to 5.4-44)

Findings. The City Council hereby makes finding (3).

Facts in Support of Findings. The following facts or mitigation measures indicate that although the identified impact has been reduced or avoided to the extent feasible, it cannot feasibly be mitigated below a level of significance. The remaining unavoidable effect is acceptable when balanced against the facts set forth in the Statement of Overriding Considerations.

- (1) Mitigation Measure B-2 "Required Biological Studies" provides: (1) Conduct a biological assessment of each specific project site to characterize the habitat types and the potential for the site to support any sensitive species or habitat. (2) Where a sensitive species has the potential to occur, determine the level of potential for occurrence as low, moderate, or high. Provide scientific justification for this determination. (3) If the potential for occurrence is moderate or high (e.g., the required habitat elements for this species are present and/or there has been a sighting of this species in the vicinity of the project site), conduct focused surveys within suitable habitat to determine the presence or absence of the species on the project site. (4) Any surveys deemed necessary must be conducted by a biologist qualified to perform the needed survey(s). The City of Chino, or its consultant, will review or approve the personnel and methodology for any such proposed surveys. (5) If a sensitive species or habitat is found to occur on a proposed project site, or occupies habitat that may be impacted directly or indirectly by the proposed project, this must be called to the City's immediate attention and documented in the biological assessment for the project. (6) Mitigation measures to offset any potential impact to the sensitive species and habitats must comply with the RMP and shall be included in the biological assessment. All lands set aside for conservation and/or other mitigation measures must be clearly documented in the final biological assessment.

- (2) Mitigation Measure B-3 "Resources Management Plan", subsections B-3(3) "Burrowing Owls", B-3(1) "300-Acre Conservation Area", B-3(2) "Alternate Location", B-3(8) "Mitigation Fee" and B-3(10) "Administration and Monitoring" provide as follows: "B-3(3) Burrowing Owls - If burrowing owls are found on an individual development site, development including the expansion of existing land uses or other land use activities that

could disrupt the owls, will be required to follow the CDFG burrowing owl relocation protocols, including the creation of artificial burrows; B-3(1) 300-Acre Conservation Area – Provision will be made for the creation, enhancement, expansion and perpetuation of high quality wildlife habitat in a 300-acre Conservation Area to be located generally below the 566-foot elevation line and within the boundaries of the project area. The more specific location of the conservation area will be determined through the preparation of the RMP and will depend on availability of such lands for mitigation purposes, and the suitability of land for the enhancements envisioned. Such habitat will be designed to address the impacts that will occur as the result of development of The Preserve (i.e. raptor, waterfowl and burrowing owl habitat); B-3(2) Alternate Location for the 300-Acre Conservation Area. If the City is unable, or it is infeasible, to obtain the onsite mitigation agreements from property owners for all or a portion of the 300-acre Conservation Area, the City may acquire and enhance, or make other arrangements securing the right to permanently protect/preserve and enhance, land off-site within the Prado Basin (including Chino Hills). Such land must have similar biological value to land on-site within the areas planned for urban development (generally above the 566-foot elevation line). In addition, provisions shall be made to provide enhancements/restoration similar to the measure described in B-3(1) above; B-3(8) Mitigation Fee – A mitigation fee shall be imposed on new development for the purpose of implementing the Biological Resource mitigation measures as described in the Resources Management Plan. The fee shall be adopted by the City Council prior to the issuance of grading permits for new residential, commercial, office, industrial development, or public facilities; provided grading permits may be issued prior to final adoption of the fee upon the developer's deposit with the City of adequate cash or other form of security in excess of the proposed fee, as approved by the City Council for the City. The fee shall be structured to cover the estimated cost of the identified mitigation measures; and B-3(10) Administration and Monitoring – The City shall use a conservancy or land trust, or other similar, qualified entity to oversee and implement the Resources Management Plan and principally manage the 300-acre conservation area. Such an entity shall have expertise in the management of land and biological resources. The chosen entity may also jointly provide a similar function to adjacent jurisdictions, provided that effective implementation of the mitigation measures described herein can be achieved. The City Council shall use its best efforts to select and enter into necessary agreements with the chosen entity prior to the acquisition of any property through an irrevocable license, conservation easement, right of entry, or other legally enforceable instrument.”

- (3) None of the build alternatives (i.e. Alternatives other than “No Project”) would avoid an acceleration of the relocation of dairies and corresponding loss of regional agricultural productivity that would occur with implementation of the Specific Plan.
- (4) It is infeasible to completely avoid this significant effect, due to the economic, legal, social, technological or other considerations described in Section 5.0, the Statement of Overriding Considerations, incorporated by reference herein.

Supporting Explanation: Implementation of the Specific Plan will result in the loss of lands used as burrowing owl habitat in the plan area. In order to mitigate for the loss of that habitat which has varying quality, the Project will be required to create enhanced burrowing owl habitat in suitable locations remote from urban development. Moreover, to prevent impacts to burrowing owls, a pre-construction biological study must be performed by a qualified biologist to

determine the owls' presence on each specific development site and appropriate measures taken to prevent harm to any owls found to be present during construction, including relocation, and the creation of artificial burrows for the owls within the Plan area. The relocation area(s) will be permanently protected and managed by a third party to preserve its biological values. All new development will be required to pay a mitigation fee determined by the City in order to fund the mitigation program that includes acquisition of the relocation areas. The Resources Management Plan also provides for monitoring to ensure the success of mitigation efforts. While all of the above mitigation measures will reduce adverse impacts arising from the loss of burrowing owl habitat, they will not avoid it completely.

2.3.2 Significant Effect. Loss of raptor habitat. The loss of raptor foraging habitat within Subarea 2 will contribute to a cumulative significant adverse impact to regional raptor populations. (See, RDEIR, Pages 5.4-31 to 5.4-37)

Findings. The City Council hereby makes finding (3).

Facts in Support of Findings. The following facts or mitigation measures indicate that although the identified impact has been reduced or avoided to the extent feasible, it cannot feasibly be mitigated below a level of significance. The remaining unavoidable effect is acceptable when balanced against the facts set forth in the Statement of Overriding Considerations.

- (1) Mitigation Measures B-2 Required Biological Studies, B-3 Resources Management Plan, B-3(1) 300-Acre Conservation Area, B-3(2) Alternate Location for the 300-Acre Conservation Area, B-3(6) Existing Windrows, B-3(7) Agricultural Easements, B-3(8) Mitigation Fee and B-3(10) Administration and Monitoring, as previously stated above, are all hereby incorporated by reference to reduce this impact.
- (2) None of the alternatives would avoid the cumulative loss of regional raptor foraging habitat that would occur with or without implementation of The Preserve plan.
- (3) It is infeasible to completely avoid this significant effect, due to the economic, legal, social, technological or other considerations described in Section 5.0, the Statement of Overriding Considerations, incorporated by reference herein.

Supporting Explanation: In order to reduce the impacts from the cumulative loss of raptor habitat on a regional level, the Project will implement the Resources Management Plan to create a 300-acre Conservation Area with enhanced habitat values for wildlife, including raptors. This Conservation Area may be situated within the Plan area or in an alternate offsite location and will be permanently protected and managed for the benefit of wildlife by a third party. In addition, the Project will be required to preserve windrows wherever feasible for the benefit of raptors and some agricultural areas which provide raptor foraging habitat will be permanently protected with agricultural conservation easements purchased under the Williamson Act Easement Exchange Program. In order to fund this mitigation, the City will be required to implement a mitigation fee that must be paid before a grading permit is issued. In the foregoing manner, impacts for the loss of raptor habitat will be reduced, but not to level of less than significant on a cumulative level.

2.3.3 Potential Effect. Loss of land cover types. The project will result in the loss of approximately 2,349 acres of land cover type above the 566' elevation line. Acres lost above the 566' line include approximately 1,580 acres of agricultural industry (dairy/pasture), 702 acres of cultivated fields (croplands), 1 acre of fallow fields, 38 acres of surface water bodies (dairy detention/livestock watering/irrigation ponds), 1 riparian acre, and 17 acres of windrows. Proposed development will result in the loss of most of the remaining ruderal plant species within the northern portion of Subarea 2 above the 566' line.

Findings. The City Council hereby makes finding (3).

Facts in Support of Findings. The following facts or mitigation measures indicate this potential impact is not significant, or will be mitigated below a level of significance.

- (1) Mitigation Measure B-1 Zoning and Land Use Regulation provides: "Zoning and Land Use Regulations: (1) All areas below the 566-foot dam inundation line, except such areas located north of Pine Avenue, will be retained within an open space or agricultural land use designation in order to provide protection for existing wildlife habitat values found in such areas and those to be created by the habitat enhancement activities described under Mitigation Measure B-3, below, as well as to avoid any new impacts. (2) Any new development or expansions of existing land uses within the open space designations of The Preserve Specific Plan (i.e., Agriculture, Agriculture/Open Space-Natural, Open Space-Recreation, Open Space-Natural and Open Space-Water) shall comply with the requirements and provisions of the Resources Management Plan in order to mitigate potential adverse project-specific impacts on biological resources."
- (2) Mitigation Measure B-2 "Required Biological Studies" provides: (1) Conduct a biological assessment of each specific project site to characterize the habitat types and the potential for the site to support any sensitive species or habitat. (2) Where a sensitive species has the potential to occur, determine the level of potential for occurrence as low, moderate, or high. Provide scientific justification for this determination. (3) If the potential for occurrence is moderate or high (e.g., the required habitat elements for this species are present and/or there has been a sighting of this species in the vicinity of the project site), conduct focused surveys within suitable habitat to determine the presence or absence of the species on the project site. (4) Any surveys deemed necessary must be conducted by a biologist qualified to perform the needed survey(s). The City of Chino, or its consultant, will review or approve the personnel and methodology for any such proposed surveys. (5) If a sensitive species or habitat is found to occur on a proposed project site, or occupies habitat that may be impacted directly or indirectly by the proposed project, this must be called to the City's immediate attention and documented in the biological assessment for the project. (6) Mitigation measures to offset any potential impact to the sensitive species and habitats must comply with the RMP and shall be included in the biological assessment. All lands set aside for conservation and/or other mitigation measures must be clearly documented in the final biological assessment
- (3) Mitigation Measure B-3 "Resources Management Plan", subsections B-3(1) "300-Acre Conservation Area", B-3(2) "Alternate Location", B-3(3) "Burrowing Owls", B-3(5) "Surface Water and Riparian Habitat", B-3(6) "Existing Windrows", B-3(7) "Agricultural Easements", B-3(8) "Mitigation Fee", and B-3(10) "Administration and

Monitoring”, provide as follows: ”B-3(1) 300-Acre Conservation Area – Provision will be made for the creation, enhancement, expansion and perpetuation of high quality wildlife habitat in a 300-acre Conservation Area to be located generally below the 566-foot elevation line and within the boundaries of the Project area. The more specific location of the Conservation Area will be determined through the preparation of the RMP and will depend on availability of such lands for mitigation purposes, and the suitability of land for the enhancements envisioned. Such habitat will be designed to address the impacts that will occur as the result of development of The Preserve (i.e. raptor, waterfowl and burrowing owl habitat); B-3(2) Alternate Location for the 300-Acre Conservation Area. If the City is unable, or it is infeasible, to obtain the onsite mitigation agreements from property owners for all or a portion of the 300-acre Conservation Area, the City may acquire and enhance, or make other arrangements securing the right to permanently protect/preserve and enhance, land off-site within the Prado Basin (including Chino Hills). Such land must have similar biological value to land on-site within the areas planned for urban development (generally above the 566-foot elevation line). In addition, provisions shall be made to provide enhancements/restoration similar to the measure described in B-3(1) above; B-3(3) Burrowing Owls - If burrowing owls are found on an individual development site, development including the expansion of existing land uses or other land use activities that could disrupt the owls, will be required to follow the CDFG burrowing owl relocation protocols, including the creation of artificial burrows; B-3(5) Surface Water and Riparian Habitat – (a) All development will be required to satisfy any applicable requirements of USACE, Regional Water Quality Control Board and CDFG for Section 404 Clean Water Act Permits and streambed alteration agreements, (b) Drainage Area B (see, RDEIR, Exhibit 5.4.5) will be designed as a naturalized drainage course and enhanced to provide riparian habitat values, including plantings of appropriate native species of plants and trees. It is anticipated that these enhancements will be provided in conjunction with drainage facilities and constructed Natural Treatment Systems designed to improve water quality. Exhibit 5.4.6 in the RDEIR provides an illustrative example of how the drainage area may be designed. Specific features related to habitat values will be addressed as part of the RMP; (c) A minimum of 10 acres of marsh and /or riparian habitats shall be constructed in conjunction with drainage facilities and/or Natural Treatment Systems for water quality purposes, in order to provide mitigation for loss of the low quality habitat values of agricultural detention basins, as well as other surface water areas that support waterfowl; B-3(6) Existing Windrows – Existing windrows that provide viable raptor habitat shall be retained and incorporated into the design of individual development projects where practical. If retention is not practical, the developer shall provide for the replacement of the windrow trees in a manner supportive of raptor habitat. The biological study prepared for the development project shall include an analysis by an ornithologist specializing in raptor biology. Such analysis shall include recommendations on the number of trees, tree specifications and location of replacement trees for windrows or stands of trees. The recommendations shall be based on biological values, as determined by the ornithologist, and in consultation with the City and the wildlife agencies. Replacement trees may be located within the 300-acre Conservation Area or other suitable areas located outside of the project site if consistent with the recommendations of the ornithologist; B-3(7) Agricultural Easements – Under Mitigation Measure AG-1, which addresses mitigation for loss of prime agricultural land, the City has committed to actively pursuing SB 831 Williamson Act cancellation fees to acquire agricultural easements within the Preserve. These easements will also provide mitigation for identified impacts on biological resources in that they will preserve areas in agriculture and prevent the future development of recreational or other non-agricultural

uses that could be detrimental to biological resources; B-3(8) Mitigation Fee – A mitigation fee shall be imposed on new development for the purpose of implementing the Biological Resource mitigation measures as described in the Resources Management Plan. The fee shall be adopted by the City Council prior to the issuance of grading permits for new residential, commercial, office, industrial development, or public facilities; provided grading permits may be issued prior to final adoption of the fee upon developer’s deposit with the City of adequate cash or other form of security in excess of the proposed fee, as approved by the City Council for the City. The fee shall be structured to cover the estimated cost of the identified mitigation measure; and B-3(10) Administration and Monitoring – The City shall use a conservancy or land trust, or other similar, qualified entity to oversee and implement the Resources Management Plan and principally manage the 300-acre Conservation Area. Such an entity shall have expertise in the management of land and biological resources. The chosen entity may also jointly provide a similar function to adjacent jurisdictions, provided that effective implementation of the mitigation measures described herein can be achieved. The City Council shall use its best efforts to select and enter into necessary agreements with the chosen entity prior to the acquisition of any property through an irrevocable license, conservation easement, right of entry, or other legally enforceable instrument.”

Supporting Explanation: The adoption of the Preserve Specific Plan is a policy decision by the City that fundamentally reflects a choice of urban land uses over rural land uses and the land cover types associated with rural uses. Those mitigation measures identified above will reduce/minimize the Project’s impacts on biological resources resulting from the loss of the current and heavily degraded and modified land cover types above the 566’ elevation by retaining all lands below the 566’ inundation in open space and agricultural uses, require biological studies to determine the presence of sensitive species and mitigation if any such species are found in an area being developed for urban uses, implement a Resources Management Plan to mitigate for the impacts of urban development on the Area’s biological resources, set aside in perpetuity a 300 acre Conservation Area, enhance the habitat values of the 300 acre Conservation Area, provide a burrowing owl mitigation program, create new riparian habitat and marsh areas in existing degraded areas, retain existing windrows to the extent possible and provide for a tree planting program for any windrows which cannot feasibly be preserved. They also provide for the imposition of a mitigation fee to fund all of the measures set forth in the Resources Management Plan. Ultimately, it must be recognized that there is a finite amount of land that is suitable for retention in rural land cover types within the City. Nonetheless, the Specific Plan designates areas for permanent agricultural uses and a 300-acre Conservation Area that allow for rural land cover types to continue. While these measures will reduce this impact, they will not reduce it to a level of less than significant.

2.4 Transportation and Circulation

2.4.1 Significant Effect. **Traffic impacts on local and regional intersections, streets and highways to LOS “E” or “F”.** The projected level of development for the Interim Year (2010) will generate a total of approximately 71,499 trip-ends per day with 5,722 vehicles per hour during the AM peak hour and 7,793 vehicles per hour during the PM peak hour. For the ultimate Buildout conditions (post 2020), development is estimated to generate a total of approximately 244,930 trip-ends per day with 18,993 vehicles per hour during the AM peak hour and 25,911 vehicles per hour during the PM peak hour.

For Interim Year (2010) Without Project traffic conditions, fifteen (15) intersections are projected to be at LOS "E" or "F". For the Interim Year (2010) With Project conditions, twenty-five (25) intersections are projected to be at LOS "E" or "F", representing an increase of 10 intersections adversely impacted. By the Year 2020, thirty-five (35) intersections are projected to be at LOS "E" or "F" for the Without Project condition. Forty-two (42) intersections are projected to be at LOS "E" or "F" for the With Project condition by 2020 and 46 intersections at buildout of the Project. This represents a significant project and cumulative effect on the area wide circulation system. (See, RDEIR, Pages 5.7-13 to 5.7-54)

Findings. The City Council hereby makes findings (2) and (3).

Facts in Support of Findings. The following facts or mitigation measures indicate that although the identified impact has been reduced or avoided to the extent feasible, it cannot feasibly be mitigated below a level of significance. The remaining unavoidable effect is acceptable when balanced against the facts set forth in the Statement of Overriding Considerations.

- (1) Mitigation Measure T-1 provides: "Notification. Since the Project contributes significant traffic to a State Highway (I-15 Freeway, SR-71 Freeway, SR-60 Freeway, and SR-91 Freeway), and it also contributes significant traffic to roadway segments serving CMP intersections within the jurisdictions of the City of Chino Hills, City of Ontario, County of San Bernardino, City of Norco, City of Corona, and the County of Riverside, the City of Chino shall notify the Congestion Management Agency (SANBAG), the California Department of Transportation (CalTrans), and the aforementioned cities in accordance with CMP requirements. Each of these agencies must be provided with a copy of the CMP traffic study once the document is accepted by the City of Chino.
- (2) Mitigation Measure T-2 provides: "Internal Roadway Improvements. The proposed project shall construct or otherwise provide for all internal roadway improvements. The provision of such improvements shall be phased to address the incremental impacts of individual development projects."
- (3) Mitigation Measure T-3 provides: "Regional/Subregional Project Participation. The City shall work cooperatively through SCAG and SANBAG to develop regional/subregional projects and identify regional transportation funding needed to minimize future freeway deficiencies. The City will actively participate in other future regional and/or subregional efforts to reduce freeway congestion."
- (4) Mitigation Measure T-4 provides: "Regional/Subregional Transportation Planning. The City shall participate in planning efforts to develop subregional and/or regional transportation facilities based on equitable cost sharing programs among cities and counties."
- (5) Mitigation Measure T-5 provides: "Traffic Operations and Systems management. The City shall provide traffic operations and traffic systems management (TSM) improvements, including signal system coordination, automated traffic control, Smart Corridors, intelligent transportation systems, and other measures."

- (6) Mitigation Measures T-6 provides: "Project Review for Trip Reduction and Travel Demand Management. Individual development projects shall be reviewed by the City for integration of trip reduction measures, travel demand management (TDM) strategies and alternative transportation modes, consistent with the Specific Plan."
- (7) Mitigation Measure T-7 provides: "Transit Feasibility Study. In the initial phases of development, the City shall require that a Transit Feasibility Study be prepared of the proposed project transit system. The Feasibility Study should address the timing of transit development vis-à-vis development phasing, and the interface with future regional transit works. To respond to potential issues related to the development of such a transit system, the following actions must be undertaken: identify the various funding mechanisms associated with the construction and operation of the system; require each proposed project to provide adequate right of way for such a system and construct the required infrastructure; establish design criteria and an evaluation process for determining transit stop locations that ensure pedestrian access prior to tentative map approval; operational issues, such as the future management of the system, may be deferred until the appropriate time, based upon discussions with current regional transit providers."
- (8) Mitigation Measure T-8 provides: "Transit Service Extensions. The City shall contact appropriate transit agencies to encourage an expansion of transit services up to and within the project area."
- (9) Mitigation Measure T-9 provides: "Project Traffic Studies. Traffic studies shall be required as deemed necessary by the City Engineer. Each study will identify the timing, and extent of required improvements to adequately evaluate future traffic impacts of individual projects needed to mitigate the impacts of such development."
- (10) The Project includes a compact urban form and community core that has been designed to include transit. The Traffic Impact Assessment is required to allocate all vehicles trips to the surrounding circulation system without factoring in any potential reduction in vehicle trips due to future transit implementation within the plan area, or extensions of regional transit service to the site.
- (11) Of the build alternatives, the Environmental Land Use Alternative minimizes impacts to transportation and circulation. However, as described in Section 4.0 Findings Regarding Alternatives, this alternative would not attain the basic project objectives.
- (12) It is infeasible to completely avoid this significant effect, due to the economic, legal, social, technological or other considerations described in Section 5.0, the Statement of Overriding Considerations, incorporated by reference herein.

Supporting Explanation: As noted in the RDEIR, the Project will have impacts to a number of streets, highways and intersections that result in their operation at LOS "E" or "F" at ultimate buildout of the Project. In order to mitigate for those impacts, the Project shall construct or otherwise provide for all internal roadway improvements and to phase such improvements to address the incremental impacts of individual development projects. Such impacts of individual development projects shall be addressed through project-level traffic studies, as deemed

necessary by the City Engineer, and such studies shall identify the timing and extent of improvements needed for mitigation. In addition, individual development projects will be required to implement TDM strategies and provide traffic studies as deemed necessary by the City Engineer. The City will also participate in regional level approaches to reduce traffic impacts, such as the SANBAG Congestion Management Plan and regional/subregional transportation planning efforts to develop transportation facilities, and to conduct a Transit Feasibility Study to develop and improve the regional public transit system and ensure that local projects are designed to be compatible with such a system. The City will also encourage the local transit system providers to expand their service to the plan area. All of the foregoing will reduce, but not eliminate, the traffic impacts arising from the buildout of the Project over time.

2.4.2 Significant Effect. Impacts on 35 freeway segments needed to provide adequate LOS. The traffic report included an analysis of 35 freeway segments based upon the San Bernardino County CMP. The Project's traffic study identified the number of general use and high occupancy traffic lanes required to accommodate the proposed project and other future development. Providing the number of lanes necessary to provide an adequate level of service for all segments, except those on the SR-91 which are currently under study by the Counties of Riverside, San Bernardino, and Orange, is based upon obtaining adequate funding. A portion of the traffic generated by the proposed project will contribute toward the need to expand these freeway segments. This represents a significant project and cumulative effect on the identified freeway segments. (See, RDEIR, Pages 5.7-41 to 5.7-54)

Findings. The City Council hereby makes findings (2) and (3).

Facts in Support of Findings. The following facts or mitigation measures indicate that although the identified impact has been reduced or avoided to the extent feasible, it cannot feasibly be mitigated below a level of significance. The remaining unavoidable effect is acceptable when balanced against the facts set forth in the Statement of Overriding Considerations.

- (1) Mitigation Measures T-1, T-3, T-4, T-6, and T-7, as set forth in full above, are hereby incorporated by reference for this impact.
- (2) Outside of state and federal funding sources, and application of San Bernardino County's Measure "I" half-cent sales tax, no mechanisms are currently in place for local contributions to needed freeway improvements on a project-by-project basis. Similarly, no mechanisms or interagency agreements exist to address full funding and construction of offsite intersection improvements needed by cumulative projects and regional growth. (See, RDEIR, Page 5.7-54)
- (3) The Project will provide for the full cost or in-lieu construction of road improvements within the boundaries of the Plan area, including the proportionate share of costs associated with impacts of other regional traffic as determined by the City of Chino. (See, RDEIR, Page 5.7-54)
- (4) Of the build alternatives, the Environmental Land Use Alternative minimizes impacts to transportation and circulation. However, as described in Section 4.0 Findings Regarding Alternatives, this alternative would not attain the basic Project objectives.

- (5) It is infeasible to completely avoid this significant effect, due to the economic, legal, social, technological or other considerations described in Section 5.0, the Statement of Overriding Considerations, incorporated by reference herein.

Supporting Explanation: While the Project will implement a number of mitigation measures designed to reduce the traffic impacts that will arise at buildout, there will nonetheless be impacts on the freeway system that cannot be mitigated for by the City. The Project will contribute, on a cumulative basis, to the need to expand segments of the regional freeway system as identified in the RDEIR. Funding for that expansion may come from federal and state sources, as well as from San Bernardino County's Measure "T" sales tax, but there are no local mechanisms which have been put into place for local jurisdictions to contribute to state freeway improvements on a project by project basis. Consequently, while the Project will be implementing a number of measures designed to reduce the overall traffic produced by the Project, there are no regional or local mechanisms available for funding the needed freeway expansions. Such funding mechanisms will be the responsibility of the State of California and other regional transportation agencies.

2.5 Air Quality

2.5.1 Significant Effect. **Construction activity emissions impacts on air quality.** Project development will create temporary emissions of fugitive dust from soil disturbance, and combustion emissions from on-site construction equipment and from off-site trucks moving dirt, delivering construction materials, and from worker travel. A significant source of air pollution from Project construction will be the dust generated during clearing, excavation and site preparation. Nitrogen oxide (NO_x) emissions are likely to exceed the SCAQMD significance threshold. However, the mobile nature of the on-site construction equipment and off-site trucks will minimize any localized violations of the NO_x or other standards. With mitigation to keep equipment in good tune (low-NO_x tune-ups), average daily construction equipment emissions can be reduced, but not to less than significant levels during maximum grading activity days. While emissions of particulate matter (PM₁₀) will occur with construction activity phased over the long-term buildout of the community, daily emissions would still have the potential to exceed significance thresholds identified by SCAQMD. (See, DEIR, Pages 5.9-17 to 5.9-27)

Findings. The City Council hereby makes finding (3).

Facts in Support of Findings. The following facts or mitigation measures indicate that although the identified impact has been reduced or avoided to the extent feasible, it cannot feasibly be mitigated below a level of significance. The remaining unavoidable effect is acceptable when balanced against the facts set forth in the Statement of Overriding Considerations.

- (1) The proposed project will employ standard mitigation measures, such as dust control measures during construction mandated by the SCAQMD, and energy efficient design practices required by Title 24 of the California Code of Regulations.

- (2) Mitigation Measure AQ-2 provides: "Construction Emissions. Per SCAQMD Rule 403, the City shall enforce the following measures during all construction activities: contractors shall use low emission mobile construction equipment where feasible to reduce the release of undesirable emissions; construction contractors shall encourage rideshare and transit programs for project construction personnel to reduce automobile emissions; construction contractors shall water active grading sites at least twice a day, and clean construction equipment in the morning and/or evening to reduce particulate emissions and fugitive dust; construction contractors shall, as necessary, wash truck tires leaving the site to reduce the amount of particulate matter transferred to paved streets as required by SCAQMD Rule 403; construction contractors shall sweep on and off site streets if silt is carried over to adjacent public thoroughfares, as determined by the City Engineer to reduce the amount of particulate matter on public streets; construction contractors shall limit traffic speeds on all unpaved road surfaces to 15 MPH or less to reduce fugitive dust; at the discretion of the City's Planning Director, construction contractors shall suspend grading operations during first and second stage smog alerts to reduce fugitive dust; at the discretion of the City's Planning Director, construction contractors shall suspend all grading operations when wind speeds exceed 25 MPH to reduce fugitive dust; construction contractors shall maintain construction equipment engines by keeping them tuned; construction contractors shall use low sulfur fuel for stationary construction equipment as required by AQMD Rules 431.1 and 431.2 to reduce the release of undesirable emissions; construction contractors shall use existing onsite electrical power to the maximum extent possible. Where such power is not available, the contractor shall use clean fuel generators during the early stages of construction to minimize or eliminate the use of portable generators and reduce the release of undesirable emissions; the construction contractor, in conjunction with the City Engineer, shall locate construction parking to minimize interference on local roads; construction contractors shall ensure that all trucks hauling dirt, sand, soil or other loose materials are covered or should maintain at least two feet of freeboard in accordance with the requirements of California Vehicle Code Section 23114 to reduce spilling of material on area roads."
- (3) Although project daily PM₁₀ emissions during the construction phase have the potential to exceed significance thresholds, these emissions levels are not likely to exceed the substantial daily particulate emissions attributable to current dairy activities within the Plan area (i.e. a No Project Alternative).
- (4) Other build alternatives evaluated in the EIR would have similar grading disturbance areas and earthwork requirements as compared to the proposed Project, and would result in similar levels of particulate emissions during construction.
- (5) The Preserve is situated in a regional non-attainment area for air quality. It is infeasible to completely avoid this significant effect, due to the economic, legal, social, technological or other considerations described in Section 5.0, the Statement of Overriding Considerations, incorporated by reference herein.

Supporting Explanation: Construction of the Project will have significant temporary air quality impacts, especially since the Project is located in a non-attainment air quality basin. In order to reduce the temporary construction activity emissions, the Project will require contractors to comply with SCAQMD Rules 403, 431.1 and 431.2, as well as comply with the mitigation measures identified above to reduce exhaust and particulate emissions of PM₁₀ during

construction activities to the extent feasible by requiring motorized equipment to be kept in tune and good repair, the watering of sites to control dust, the sweeping of streets to control dust, the covering of trucks hauling loose loads of dirt or sand, the use of onsite electrical power sources in lieu of fossil fuel powered generators, and the suspension of construction during smog alerts and windy conditions

2.5.2 Significant Effect. **Project related increases in NO_x and CO emissions at Buildout.** Project implementation will create significant increases in CO and NO_x levels due to traffic exhaust emissions. At buildout, Project-related emission levels for the three primary exhaust pollutants (CO, NO_x and ROG) would substantially exceed SCAQMD thresholds. However, displacement of dairy operations will cause a significant net reduction in reactive organic gases and in particulates. There is no basis for comparing pollutants as one type being better or worse than another. The South Coast Air Basin as a whole is in attainment for CO, but not for ozone (created by ROG + NO_x + sunlight), or for particulates. The net effect of Project implementation is that two non-attainment pollutants or precursors (ROG and PM-10) will be significantly reduced, while one non-attainment precursor (NO_x) and one attainment pollutant (CO) will be increased significantly. This air quality effect is cumulatively significant within the South Coast Air Basin non-attainment area. (See, DEIR, Page 5.9-26 to 5.9-27)

Findings. The City Council hereby makes finding (3).

Facts in Support of Findings. The following facts or mitigation measures indicate that although the identified impact has been reduced or avoided to the extent feasible, it cannot feasibly be mitigated below a level of significance. The remaining unavoidable effect is acceptable when balanced against the facts set forth in the Statement of Overriding Considerations.

- (1) Effective emissions reduction of mobile source emissions requires a unified transportation system management (TSM) approach where a variety of transportation control measures (TCM's) are integrated into a comprehensive system of procedures and goals. The proposed Project includes several important components of an effective mobile source emissions reduction program. These components include basic project design features which are consistent with air quality objectives and "smart growth" principles, and include:

Community design to facilitate local transit (The Preserve Mobility Plan and Transit System); development of park-and-ride facilities; encouragement of bicycle and pedestrian circulation alternatives (The Preserve Community Paseo and Open Space System and Bicycle System); encouragement of local employment-generating uses to reduce jobs-housing imbalances that promote long commutes in and out of the local area (The Preserve Land Use Development Plan, including approximately 626 acres of Business Uses).

- (2) Mitigation Measure AQ-1, Mobile Source Emissions/Transit, provides: "The City of Chino shall contact appropriate transit agencies to encourage an expansion of transit services up to and within the project area. The City will coordinate with such agencies and other jurisdictions to promote express transit access from the Chino area to other regional employment centers."

- (3) Long-term operational air emissions under the Environmental Land Use Alternative may be reduced as compared with the Project, as a result of the reduction in the projected number of daily vehicle trips. However, the feasibility of implementing a future transit system that would contribute to reductions in air emissions is less likely with this reduced density alternative. As described in Section 4.0 Findings Regarding Alternatives, the Environmental Land Use alternative would not attain the basic project objectives.
- (4) It is infeasible to completely avoid this significant effect, due to the economic, legal, social, technological or other considerations described in Section 5.0, the Statement of Overriding Considerations, incorporated by reference herein.

Supporting Explanation: In order to reduce mobile source emissions and thereby reduce the production of NOx and CO, the Project has been designed with smart growth principles, such as a compact community design to facilitate the use of public transit systems, the use of park and ride facilities, the encouragement of bicycle and pedestrian circulation with a system of paseos and bike trails, a favorable jobs/housing balance to reduce long commutes in/out of the area, and the use of express transit services from Chino to other regional employment centers. All of these measures will tend to reduce the use of single occupant vehicles to the greatest extent feasible, but will not do so to a level where emissions of NOx and CO will be reduced to a less than significant level.

2.5.3 Significant Effect. Odor impacts on sensitive uses during the transition to urban uses. Odor impacts of dairies on sensitive uses (e.g. residential, schools) are anticipated to be significant during the transition period to urban use. Residential development in the vicinity of the IEUA Co-Composting facility (e.g. within approximately ½ mile) may be affected by facility-generated odor prior to facility relocation. (See, DEIR, Pages 5.9-19 to 5.9-20)

Findings. The City Council hereby makes finding (3).

Facts in Support of Findings. The following facts or mitigation measures indicate that although the identified impact has been reduced or avoided to the extent feasible, it cannot feasibly be mitigated below a level of significance. The remaining unavoidable effect is acceptable when balanced against the facts set forth in the Statement of Overriding Considerations.

- (1) The Specific Plan establishes a 300-ft. overlay zone setback from the IEUA Co-Composting facility for residential and other sensitive uses. Although this setback will reduce odor impacts, given the variability of meteorological conditions residential development within 0.5 mile of the IEUA Co-Composting Facility is considered to have a potentially significant odor exposure.
- (2) Odor impacts from dairy operations to new receptors (e.g. residences, schools) during the transition period are an unavoidable effect of urban development within the Plan area. (3)
It is infeasible to completely avoid this significant effect, due to the economic, legal, social, technological or other considerations described in Section 5.0, the Statement of Overriding Considerations, incorporated by reference herein.

Supporting Explanation: Odor impacts from existing dairy and agricultural related operations on new sensitive receptors in the plan area will be an uncontrollable and unavoidable impact during the transition from rural to urban uses. In order to minimize this impact, the Project will require a 300-foot setback from the IEUA Co-Composting Facility for residential and other sensitive land uses. While this will reduce odor impacts, given the variability of meteorological conditions, odor impacts could still arise at residential development within 0.5 miles of the Facility. Consequently, there is no feasible measure to reduce these impacts to a less than significant level without adversely impacting the integrity of the land use planning of the Specific Plan.

2.6 Electricity

2.6.1 Significant Effect. **Uncertainty over future electricity supplies to serve the Project.** Given the recent electrical energy shortfall in California and the western United States due to high wholesale costs of electricity brought about by deregulation in 1996, it is uncertain that electrical supplies will be sufficient to meet future growth demand. Therefore, the Project may contribute to significant cumulative impacts on electrical energy supplies. (See, DEIR, Page 5.12-16 to 5.2-18)

Findings. The City Council hereby makes findings (2) and (3).

Facts in Support of Findings. The following facts or mitigation measures indicate that although the identified impact has been reduced or avoided to the extent feasible, it cannot feasibly be mitigated below a level of significance. The remaining unavoidable effect is acceptable when balanced against the facts set forth in the Statement of Overriding Considerations.

- (1) Development will be required to conform to Title 24 of the California Code of Regulations regarding efficient use of energy resources, and other State and/or City Regulations which may be in effect at the time of approval of individual projects.
- (2) Mitigation Measure U-E-1 provides: "Energy efficient lighting and natural lighting should be encouraged and utilized where practical."
- (3) Provision of energy supplies is largely the responsibility of major utilities such as Southern California Edison, and is under the jurisdiction of the State through the Public Utilities Commission. Impacts from new electrical generating facilities would be the responsibility of the entity permitting the facility.
- (4) Of the build alternatives, no substantial difference in electrical energy consumption is apparent.
- (5) It is infeasible to completely avoid this significant effect, due to the economic, legal, social, technological or other considerations described in Section 5.0, the Statement of Overriding Considerations, incorporated by reference herein.

Supporting Explanation: The recent energy shortfall in California has created uncertainty over the sufficiency of future electrical supplies to serve the project. In order to minimize the Project's usage of electrical power, it has required the use of energy efficient lighting systems and natural lighting wherever practical. In addition, all new construction must comply with the requirement of Title 24 of the California Code of Regulations (the Building Code) that require energy efficient buildings. While these measures will reduce electrical demand, they will not reduce this impact to a level of less than insignificant.

3.0 POTENTIAL ENVIRONMENTAL EFFECTS WHICH ARE NOT SIGNIFICANT OR WHICH CAN BE MITIGATED BELOW A LEVEL OF SIGNIFICANCE.

The City Council has determined that the following potential environmental effects will not be significant for the reasons stated below.

3.1 Land Use
3.1.1 Potential Effect. The Specific Plan locates potentially incompatible residential uses in close proximity to the Correctional Institution for Women (CIW-Chino). Without careful design of the linear paseo to fully buffer and screen these potentially incompatible uses, significant land use conflicts could occur.

Findings. The City Council hereby makes finding (1). **Facts in Support of Findings.**

The following facts or mitigation measures indicate this potential impact is not significant, or will be mitigated below a level of significance.

- (1) Mitigation Measure LU-2 provides: “Special attention should be focused during subsequent review of specific development projects on providing an adequate buffer and separation between the existing CIW-Chino and planned residential uses immediately to the east. The planned linear Community Paseo along Chino-Corona Road separating these uses should include some combination of landscape screening, berms and/or walls, and setbacks to achieve an adequate physical and visual separation between these uses.”

Supporting Explanation: As stated in the DEIR (See Pages 5.1-18 to 5.1-26), a buffer must be provided between the correctional institution and neighboring land uses to prevent incompatible land uses in close proximity to the institution. The foregoing mitigation measure will prevent significant land use conflicts from occurring by requiring a separation of residential uses and institutional uses by the Community Paseo, which will have landscape screening, berms and/or walls, and setbacks designed to provide both a physical and visual separation between those uses, while at the same time considering prison security issues.

3.1.2 Potential Effect. The Specific Plan includes a Chino Airport Overlay Zone to assure subsequent project review for consistency with the ACLUP. No significant land use compatibility impacts with current Chino Airport operations and adopted safety zones and noise contours will result from the Preserve’s Specific Plan implementation. However, potential future changes to the Airport Master Plan and airport operations could result in significant safety and/or noise impacts to proposed land uses depending on the type and magnitude of such changes.

Findings. The City Council hereby makes finding (1) and (2).

Facts in Support of Findings. The following facts or mitigation measures indicate this potential impact is not significant, or will be mitigated below a level of significance.

- (1) Mitigation Measure LU-1 provides: “The City of Chino shall provide notice of development applications within adopted airport noise and safety zones to the Airport Land Use Commission (ALUC), in compliance with the Chino Airport Comprehensive Land Use Plan (ACLUP). The City will coordinate with the ALUC to assure specific development projects’ compatibility with Chino Airport operations.”
- (2) Projects at the Airport which cause changes in the ACLUP will be subject to independent environmental review under CEQA by the ALUC during their approval process for compatibility with surrounding land uses.
- (3) Additional mitigation will be provided by the aviation easements required to be granted pursuant to the Specific Plan by all new development within close proximity to the Airport.

Supporting Explanation: The mitigation measure will require notice to the Airport Land Use Commission of any projects with a potential to impact the airport's noise and safety zones, as required by the ACLUP. It will also require the City to coordinate those projects with the ALUC to ensure that the projects are compatible with the Airport's operations, thereby minimizing any land use conflicts. See DEIR, Pages 5.1-18 to 5.1-19.

3.1.3 Potential Effect. The Specific Plan land use designations below the 566' elevation consist almost entirely of Open Space-Recreation (OS-R), Open Space-Water (OS-W), Agriculture/Open Space-Natural (AG/OS-N) and Open Space-Natural (OS-N) uses. These designations include uses that are potentially allowed by the Prado Flood Control Basin Master Plan. However, without a mechanism to assure Army Corps of Engineers ("ACOE") review of specific development proposals, consistency impacts could occur.

Findings. The City Council hereby makes finding (1).

Facts in Support of Findings. The following facts or mitigation measures indicate this potential impact is not significant, or will be mitigated below a level of significance.

- (1) The Specific Plan includes a 566-Foot Dam Inundation Elevation Overlay (DIO) applied to all lands below 566' elevation inundation area. This overlay requires that all specific development proposals be submitted for ACOE review, and that allowable land uses comply with provisions of any cooperative management plans that may apply to the Lower Chino Basin/Prado Basin area. As a result, no significant conflicts with the Prado Flood Control Basin Master Plan or other ACOE plans within the Prado Dam inundation area are anticipated.

Supporting Explanation: The Specific Plan is self mitigating in this regard, and no additional mitigation measure was required in the DEIR or FEIR. See DEIR, Pages 5.1-19 to 5.1-23. It will preclude new development and new structures which conflict with Army Corps of Engineers requirements for inundation areas, as noted on Page 130 of the Specific Plan.

3.1.4 Potential Effect. The Specific Plan includes approximately 52 acres of the 566' elevation inundation area above Pine Avenue at its intersection with Euclid Avenue (northeast corner) within the Regional Commercial designation. This could potentially conflict with U.S. Army Corps of Engineers use requirements within the Prado Basin inundation area.

Findings. The City Council hereby makes finding (1).

Facts in Support of Findings. The following facts or mitigation measures indicate this potential impact is not significant, or will be mitigated below a level of significance.

- (1) The affected area falls within the proposed DIO Overlay Zone, requiring ACOE review of specific development projects. As the ACOE would review proposed uses for inconsistency with the DIO Overlay Zone, no significant land use conflict is likely to result.

Supporting Explanation: ACOE review of any development and structures in this area will assure that no loss of flood control capacity or volume within the 566' inundation area occurs.

3.1.5 Potential Effect. Implementation of the Specific Plan and related actions by the City of Chino would conflict with the existing San Bernardino County General Plan's Agriculture-Agriculture Preserve (AG-AP) designations for the site, and the site's agricultural status within the Chino Valley Dairy Preserve and West Valley Subregion Planning Area. This conflict in and of itself does not represent a significant adverse impact.

Findings. The City Council hereby makes finding (1).

Facts in Support of Findings. The following facts or mitigation measures indicate this potential impact is not significant, or will be mitigated below a level of significance.

- (1) Master planning for the area and its annexation to the City of Chino was specifically contemplated by LAFCO's inclusion of the area within the City's sphere of influence. The pattern of cancellation or non-renewal of Williamson Act contracts within the Plan area dates back to 1992-93, precipitating a transition to urban uses, long before the Preserve Project was ever proposed. Therefore, implementation of the proposed Preserve Specific Plan and related actions by the City do not represent a new substantial adverse land use impact or conflict with existing San Bernardino County land use planning for the area.
- (2) All existing agricultural uses will be allowed to continue following annexation as either conforming or non-conforming uses under the Zoning Code pursuant to the Specific Plan and its Right to Farm policies.

3.2 Agriculture

3.2.1 Potential Effect. The Project would require annexation of the Preserve Project area by the City of Chino and rezoning consistent with the Specific Plan and City Zoning Code. Existing County of San Bernardino Agriculture-Agriculture Preserve (AG-AP) zoning designations on the site would be removed.

Findings. The City Council hereby makes finding (1).

Facts in Support of Findings. The following facts or mitigation measures indicate this potential impact is not significant, or will be mitigated below a level of significance.

- (1) Removal of the existing County Agricultural Preserve status and rezoning of the site for urban development were actions contemplated in LAFCO's 1994 inclusion of this portion of the dairy preserve within the City's sphere of influence, and do not in and of themselves represent a significant adverse impact. All existing agricultural uses will be allowed to continue following annexation as either conforming or non-conforming uses under the Zoning Code pursuant to the Specific Plan and its Right to Farm policies.

- (2) Mitigation Measure AG-1 provides: “The City of Chino shall actively pursue the use of Williamson Act cancellation fees pursuant to SB 831, for acquisition of agricultural easements or other conservation easements for the purpose of permanent agricultural land preservation within the Agricultural (AG), Agricultural Open Space-Natural, and as appropriate subject to conditional use permit, the Open Space-Natural (OS-N) designated area of the plan area.”

Supporting Explanation: As noted above, the rezoning of the land within the County’s Agricultural Preserve was already contemplated when LAFCO included the area within the City of Chino’s sphere of influence in 1994, and underwent environmental review at that time. Impacts arising from the cancellation of Williamson Act contracts also will be mitigated in part by the City’s commitment to pursue the use of cancellation fees for the acquisition of permanent agricultural easements pursuant to the provisions of SB 831. Furthermore, all agricultural uses at the time of annexation of the Project area will be allowed to continue.

3.2.2 Potential Effect. Buildout of the proposed Preserve Specific Plan will place the new local resident population near farmlands and agricultural uses that choose to locate within the AG and AG/OS-N designated areas within the Plan area (i.e. northeast corner and below the 566’ elevation). Without managed access, buffers and other measures to protect these remaining farmlands, land use conflicts may arise that would ultimately lead to the conversion of farm land to non-agricultural use.

Findings. The City Council hereby makes finding (1).

Facts in Support of Findings. The following facts or mitigation measures indicate this potential impact is not significant, or will be mitigated below a level of significance.

- (1) Mitigation Measures AG-1 provides: “The City of Chino shall actively pursue the use of Williamson Act cancellation fees pursuant to SB 831, for acquisition of agricultural easements or other conservation easements for the purpose of permanent agricultural land preservation within the Agricultural (AG), Agricultural Open Space-Natural, and as appropriate subject to conditional use permit, the Open Space-Natural (OS-N) designated area of the plan area.”
- (2) Mitigation Measure AG-2 provides: “The City of Chino shall participate in a coordinated multi-agency planning program for sustainable agricultural uses within the Lower Chino/ Prado Basin. This program should involve the principal public landowners within the basin, including but not limited to the U.S. Army Corps of Engineers, Orange County Flood Control District and County of San Bernardino. Components of this program may include an agricultural feasibility study, acquisitions plan, and management plan for sustainable agricultural uses within the basin.”
- (3) Mitigation Measure B-3(4) provides: “In order to limit urban intrusion into areas with habitat value that are below the 566-foot dam inundation line, a buffer area will be provided along the southern edge of urban development within the Preserve Specific Plan area. The buffer will be designed to provide for limited access to habitat areas and will include provisions for the logical transition between urban structures/uses and habitat areas.”

- (4) The Specific Plan includes “Right-to-Farm” provisions and compatibility findings requirements, as well as 100 ft. setback requirements between existing animal uses and any residential buildings, that will reduce the potential for urban use conflicts with agricultural/dairy operations during the transition to urban uses.

Supporting Explanation: The mitigation measures will reduce these conflicts by requiring the use of Williamson Act cancellation fees to acquire agricultural easements for permanent ag land preservation in appropriate locations, as well as City participation in a multi-agency planning program for sustainable agricultural uses in the Lower Chino/Prado Basin. In addition, the agricultural uses below the 566’ elevation will be buffered from the urban uses above the 566’ elevation by the ag/urban buffer required by the Specific Plan. Implementation of the Specific Plan’s Right to Farm policy and the minimum 100 ft. setback between residential buildings and animal uses will also further reduce conflicts between farm lands and urban uses.

3.3 Hydrology and Water Quality

3.3.1 Potential Effect. At buildout of the proposed Specific Plan, existing problems associated with flooding of the dairies, lack of stormwater containment and related pollution of downstream receiving waters with dairy wastes would be alleviated. With implementation of the Storm Drainage Plan and project-level detailed storm water management studies and measures specified in the Specific Plan, no significant storm water runoff impacts are anticipated from future urban development.

Findings. The City Council hereby makes finding (1).

Facts in Support of Findings. The following facts or mitigation measures indicate this potential impact is not significant, or will be mitigated below a level of significance.

- (1) Mitigation Measure HWQ-1 provides: “All development shall comply with the National Pollutant Discharge Elimination System (NPDES) regulations. Prior to the issuance of a grading permit, applicants shall demonstrate compliance with NPDES Stormwater Permit requirements to the satisfaction of the City of Chino. Applicable BMP provisions shall be incorporated into the NPDES Permit.”
- (2) Mitigation Measure HWQ-6 provides: “The City of Chino shall assure that storm drain facilities and outlets to Prado Regional Park and the natural open space system are designed in a manner that minimizes disruption of park operations and protects park and open space resources. Specific drainage facility designs at outlets to the major open space system below the 566’ elevation shall be made available for review by the County of San Bernardino Flood Control District and the U.S. Army Corps of Engineers, as appropriate.”
- (3) Mitigation Measure HWQ-7 provides: “Prior to any development approvals, a plan for managing urban runoff to protect sensitive drainages within the open space system shall

be approved by the City of Chino. This Urban Runoff Management Plan (URMP) will be integrated with the Project's Storm Drain Plan, and provide the framework and mechanism for: (1) Phased implementation of structural and non-structural best management practices to control stormwater discharges and protect water quality; (2) Review of subsequent projects for inclusion of mini-basins for detention, filtration and recharge to groundwater; (3) The design and location of Natural Treatment Systems for water quality purposes within drainages; and (4) Implementation of a water quality monitoring program at storm drain outlets to Prado Lake, Chino Creek and Mill Creek.

- (4) The Specific Plan would not result in significant alteration of the principal natural streams and natural watercourses through the site. Existing natural channels within the open space system, including Chino Creek and Mill Creek, would remain unaltered.

Supporting Explanation: Those mitigation measures will reduce storm water impacts by requiring compliance with the National Pollutant Discharge Elimination System regulations and requiring the construction of an adequate storm water drainage and treatment system to prevent uncontrolled flooding and the release of urban pollutants. In addition, they will require monitoring of storm water discharges to prevent pollution of Prado Lake, Chino Creek and Mill Creek with urban pollutants in the storm water.

3.3.2 Potential Effect. The proposed plan limits urban development to areas above the 566-foot Prado Dam high water inundation line, consistent with the Prado Dam Flood Control Project and land acquisition program. An exception to this is an approximate 55-acre area at the northeast corner of Euclid and Pine Avenues designated Regional Commercial in the proposed Specific Plan.

Findings. The City Council hereby makes finding (1).

Facts in Support of Findings. The following facts or mitigation measures indicate this potential impact is not significant, or will be mitigated below a level of significance.

- (1) Any future development at this location would require use agreements and permits with the U.S. Army Corps of Engineers to offset the loss of flood volume. As a result, no significant impact on Prado Dam inundation capacity is anticipated. (See, DEIR, Page 5.1-19 to 5.1-23)

Supporting Explanation: By limiting urban development to areas above the 566' line, the Project is consistent with the Corps of Engineers' Prado Dam Flood Control Project. In order to assure that there is no net loss of flood storage volume behind Prado Dam, the development of the 55-acre area at Euclid and Pine Avenues will be subject to review by the Corps to assure that it does not result in any loss of flood control capacity or volume.

3.3.3 Potential Effect. Proposed urban uses would have the potential to degrade surface waters through discharges of urban runoff, containing a variety of pollutants including but not limited to oils, greases, solvents, pesticides and urban debris. These contaminants may enter the storm drain system in the form of street runoff, indiscriminate household use or other sources. Without proper management, potentially significant project and cumulative water quality impacts could occur.

Findings. The City Council hereby makes finding (1).

Facts in Support of Findings. The following facts or mitigation measures indicate this potential impact is not significant, or will be mitigated below a level of significance.

- (1) Mitigation Measure HWQ-2 provides: "Individual projects within the specific plan area shall be reviewed by the City of Chino for the inclusion of appropriate structural and nonstructural Best Management Practices to control stormwater discharges and protect water quality. Structural controls may include, but are not limited to, filtration, common area efficient irrigation, common area runoff minimizing landscape design, velocity dissipation devices, oil/grease separators, inlet trash racks, and catch basin stenciling. Non structural BMPs can include education for property owners, tenants and occupants, activity restrictions, common area landscape management, litter control, and catch basin inspection, BMP maintenance, and street sweeping."
- (2) Mitigation Measure HWQ-3 provides: "Best Management Practices. The City shall review subsequent development projects within the specific plan area for the application of Best Management Practices. To reduce water pollution from urban runoff. Among the source reduction BMPs that may be required by the City for application to such projects are the following: animal waste removal, exposure reduction, recycling/waste disposal, parking lot and street cleaning, infiltration (exfiltration) devices, oil and grease traps, sand traps, filter traps, and regular/routine maintenance. The specific measures to be applied shall be determined in conjunction with review of required project hydrology and hydraulic studies, and shall conform to City standards and the standards of the County's Municipal Stormwater Permit under the NPDES program."
- (3) Mitigation Measure HWQ-4 provides: "Water Quality Monitoring. A water quality monitoring program should be implemented to regularly test the water quality at the project storm drainage outlets to Prado Lake, Chino Creek and Mill Creek. The program should be devised to differentiate the pollutant contributions of project development from dairies during the transitional period. If test results determine that the water quality standards established by the RWQCB are not being met, corrective actions acceptable to the RWQCB would be taken to improve the quality of surface runoff discharged from the outlets to a level in compliance with the adopted RWQCB standards."
- (4) Mitigation Measure HWQ-7 provides: "Prior to any development approvals, a plan for managing urban runoff to protect sensitive drainages within the open space system shall be approved by the City of Chino. This Urban Runoff Management Plan (URMP) will be integrated with the Project's Storm Drain Plan, and provide the framework and mechanism for: (1) Phased implementation of structural and non-structural best management practices to control stormwater discharges and protect water quality; (2) Review of subsequent projects for inclusion of mini-basins for detention, filtration and recharge to groundwater; (3) The design and location of Natural Treatment Systems for water quality purposes within drainages; and (4) Implementation of a water quality monitoring program at storm drain outlets to Prado Lake, Chino Creek and Mill Creek."