

Addendum to the  
Draft Environmental Impact Report

for the

Central Lathrop Specific Plan



SCH# 2003072132

Prepared for  
City of Lathrop

Prepared by

**EDAW**

December 2005

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Draft Environmental Impact Report

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# TABLE OF CONTENTS

Section		Page
<b>1</b>	<b>Introduction</b> .....	1-1
1.1	Background and Action Triggering the Addendum .....	1-1
1.2	CEQA Guidelines Regarding the Addendum to the EIR .....	1-5
<b>2</b>	<b>Description of the Proposed Action</b> .....	2-1
2.1	Scope and Format of the Project Description.....	2-1
2.2	Proposed CLSP Agricultural Easement Exchange.....	2-1
<b>3</b>	<b>Environmental Consequences of the Proposed Action</b> .....	3-1
3.1	Approach to the Environmental Analysis.....	3-1
3.2	Environmental Consequences of the Easement Exchange.....	3-2
3.3	Conclusion.....	3-3
<b>4</b>	<b>References</b> .....	4-1

## Exhibits

1-1	Regional Location .....	1-2
1-2	Central Lathrop Specific Plan – Land Use Plan .....	1-3
1-3	Potential Locations for Recycled Water Storage and Disposal Facilities .....	1-4
2-1	Mainstone Property .....	2-1

# 1 INTRODUCTION

## 1.1 BACKGROUND AND ACTION TRIGGERING THE ADDENDUM

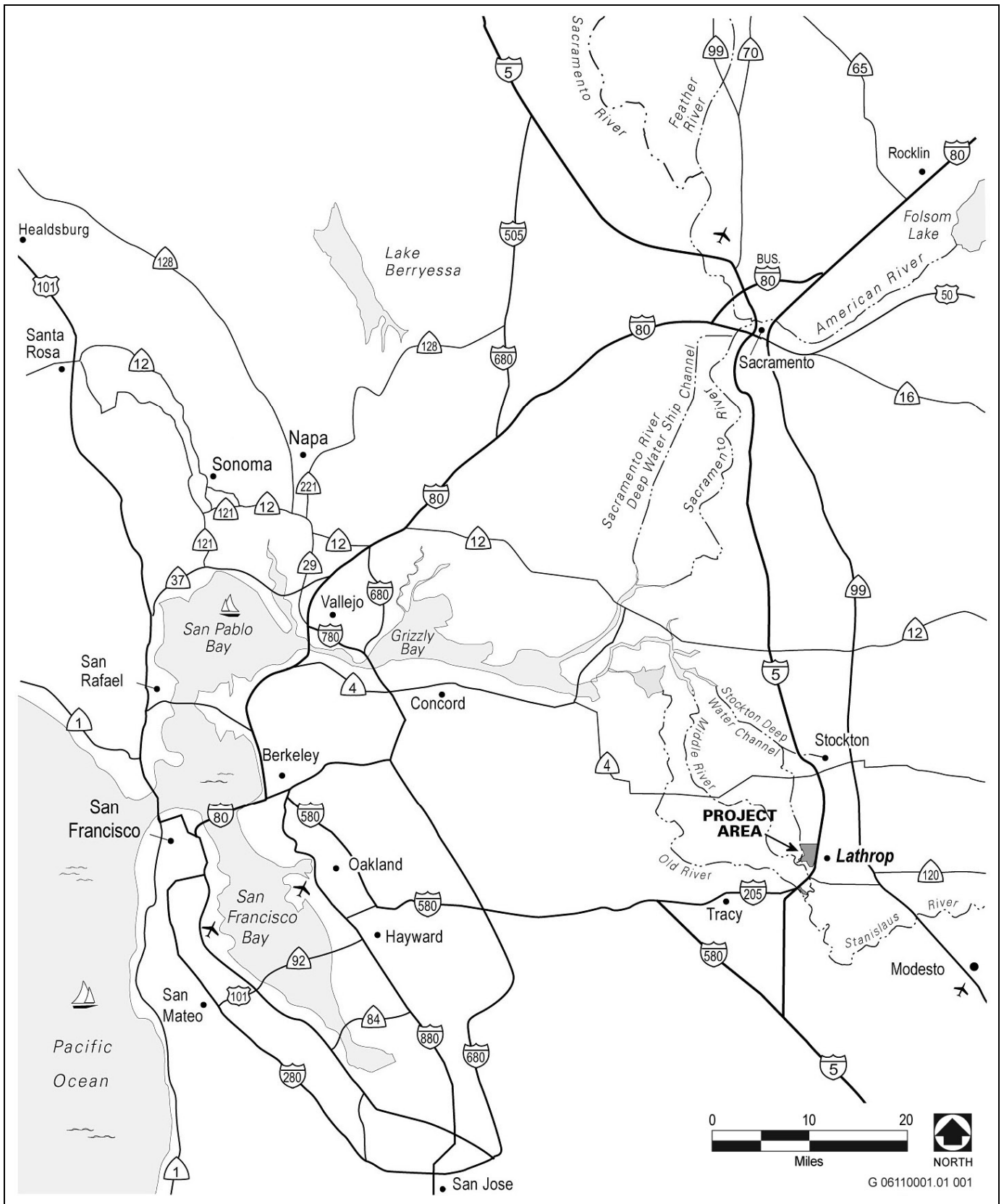
On November 9, 2004, the City of Lathrop (City) certified the Environmental Impact Report (EIR) for the Central Lathrop Specific Plan (CLSP) and approved various entitlements, such as amendments to the *City of Lathrop General Plan* and the *Lathrop Water, Wastewater, and Recycled Water Master Plan* and cancellation of existing Williamson Act contracts on various parcels.

The CLSP consists of a mixed-use residential/commercial development on approximately 1,521 acres of primarily agricultural land located immediately west and north of the existing corporate limits of the City of Lathrop in San Joaquin County, California (Exhibits 1-1 and 1-2). The proposed project includes 6,790 residential units at various densities, up to approximately 5 million square feet of office/commercial uses, a Main Street District, neighborhood and community parks, schools, and open-space areas. Several off-site project elements could be located on land north or south of the 1,521-acre CLSP area. These off-site elements are related to possible construction of a second City of Lathrop water recycling plant (WRP) (i.e., wastewater treatment plant) and identification of land to be used for storage and disposal (via agricultural irrigation) of treated recycled water and to the siting of various utility lines (Exhibit 1-3).

Impact 4.13-b in the Draft EIR (DEIR) portion of the certified Final EIR (FEIR) states that the proposed project would result in the cancellation of Williamson Act contracts on up to 1,244.3 acres of agricultural land. The DEIR also explains that in compliance with Williamson Act requirements, cancellation fees would be paid by the project proponent. Fees may be up to 12.5% of the property value and are placed in the general fund of the State of California.

The project proponent, Richland Planned Communities (Richland), has elected to utilize a statutory alternative to the payment of cancellation fees permitted under the Williamson Act. The Williamson Act easement exchange legislation (see Government Code Sections 51256 and 51256.1) authorizes local entities and landowners to cancel a Williamson Act contract and simultaneously dedicate a permanent agricultural conservation easement on other land in lieu of the payment of cancellation fees. The easement exchange process and requirements are described in more detail below in Section 2, “Description of the Proposed Action.”

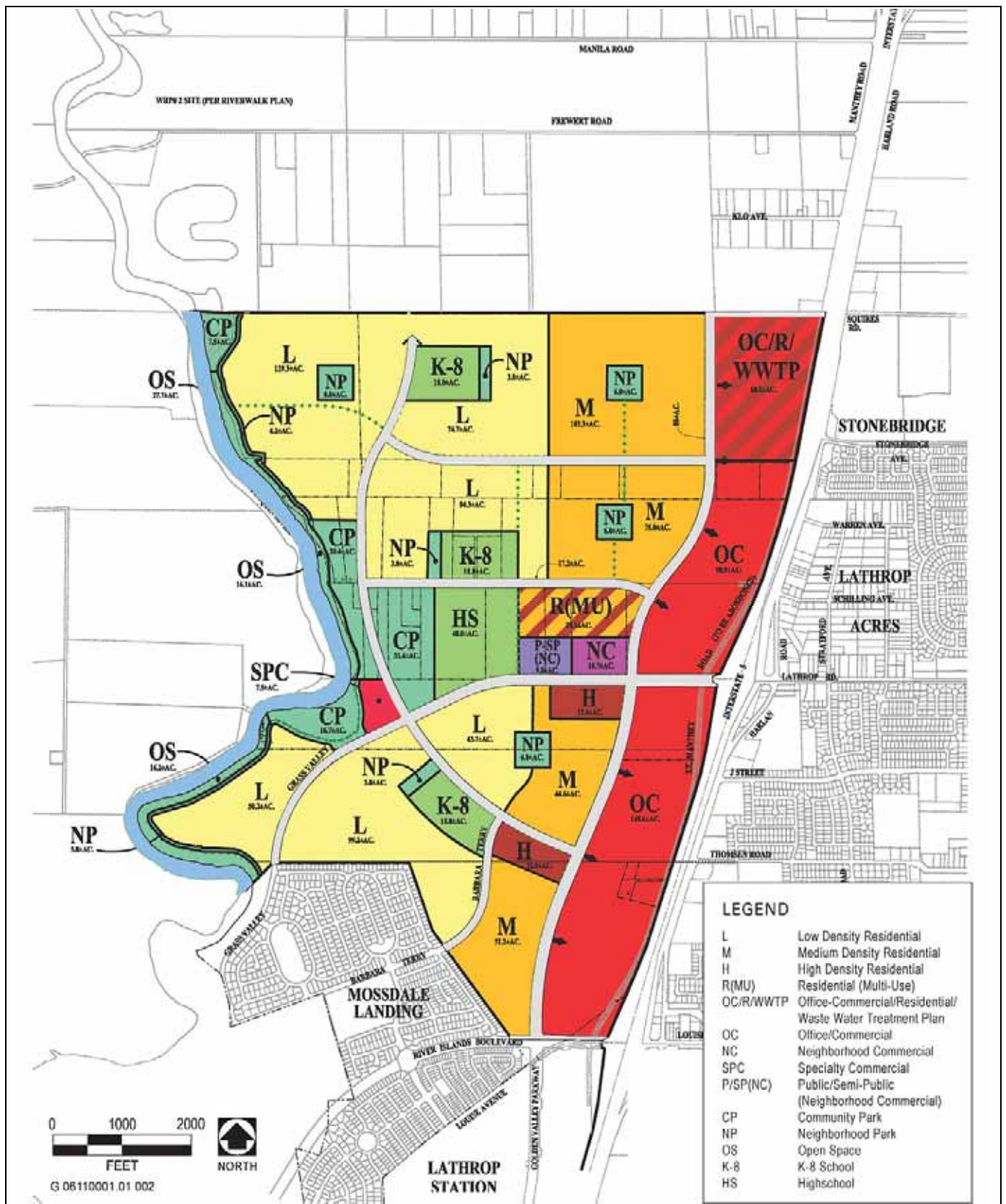
The EIR for the CLSP does not consider an agricultural easement exchange as a mechanism for compliance with Williamson Act contract cancellation requirements because, at the time the EIR was prepared, the payment of fees was assumed to be the method used to comply with contract cancellation requirements. The use of the easement exchange process is considered the action triggering this addendum to the EIR. Also, the California Department of Conservation (CDC) must approve the proposed easement exchange. This is considered a discretionary action



Source: EDAW 2004

**Regional Location**

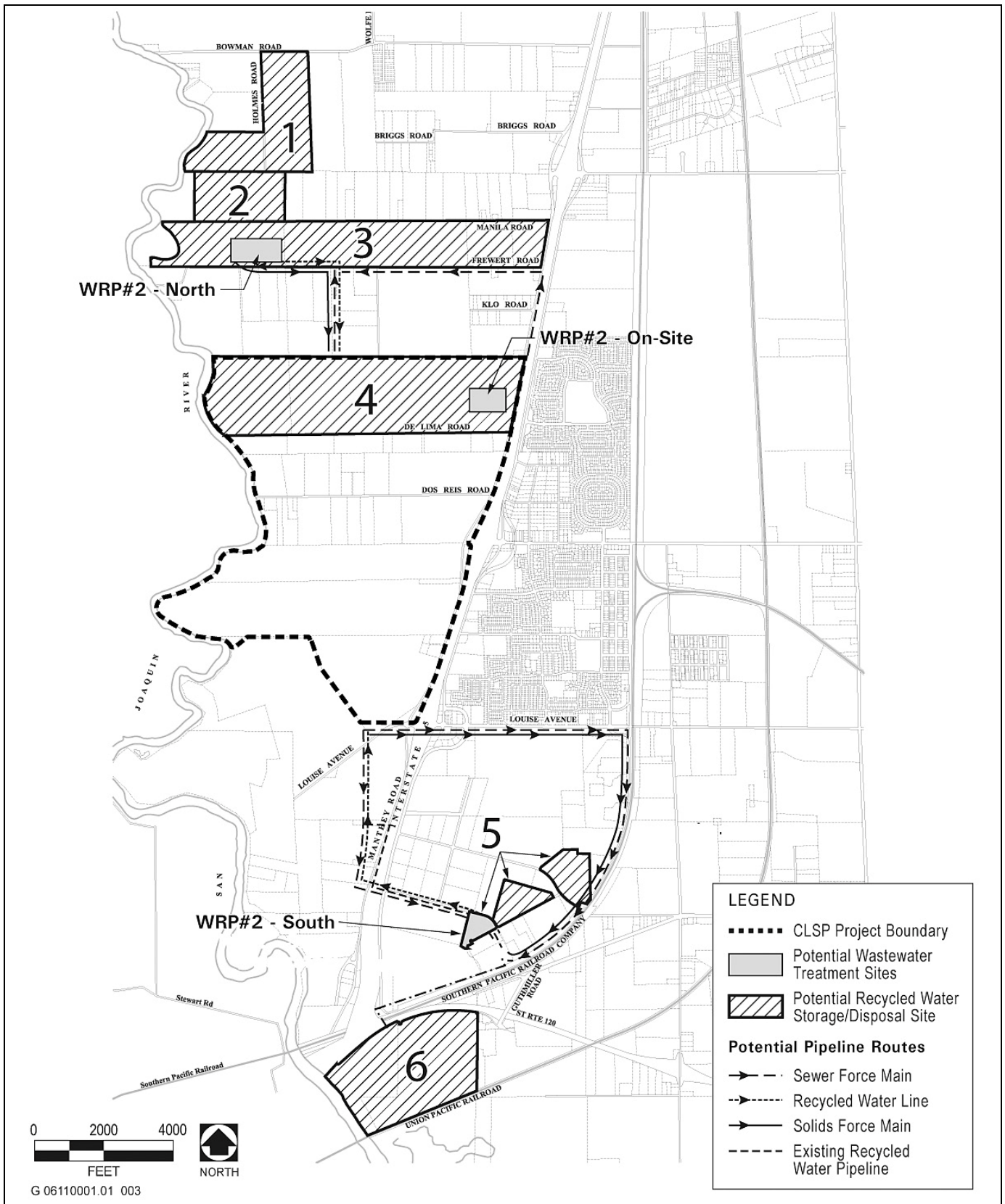
**Exhibit 1-1**



Source: MacKay & Soms 2004

### Central Lathrop Specific Plan – Land Use Plan

### Exhibit 1-2



Source: MacKay & Sompms 2004

**Potential Locations for Recycled Water Storage and Disposal Facilities**

**Exhibit 1-3**

by CDC, making CDC a responsible agency under the California Environmental Quality Act (CEQA) for the action and requiring that CDC use the CLSP EIR and this Addendum in support of its decision to approve or deny the easement exchange. Because the easement exchange was not evaluated in the CLSP EIR, CDC was not identified as a responsible agency. An additional purpose of this addendum is to record CDC as a responsible agency relative to implementation of the CLSP and to provide documentation, under CEQA, to support CDC's decision to approve or deny the easement exchange.

Use of the easement exchange process for compliance with Williamson Act contract cancellation requirements is the only action evaluated in this addendum to the CLSP EIR. No changes to the development proposal or other elements of the project are considered. Although there is no change to the development proposal included as part of the CLSP, the City, as lead agency for the project under CEQA, believes that the alteration in strategy for compliance with Williamson Act contract cancellation requirements differs sufficiently to result in minor modifications and clarifications to the prior EIR. The City has determined that, in accordance with Section 15164 of the State CEQA Guidelines, the use of the proposed easement exchange differs sufficiently from the project action evaluated in the EIR for the CLSP that preparation of this Addendum to the EIR is warranted. Because these changes are minor in nature and do not involve any adverse environmental impacts, there is no need for either a subsequent EIR or a supplement to the certified FEIR (see State CEQA Guidelines Sections 15162 and 15163). In fact, the proposed change in approach can be considered environmentally beneficial: The impacts associated with the CLSP development remain unchanged, while the easement exchange program, by encumbering farmland with a conservation easement, will provide protection to an environmental resource (productive agricultural land) that would not have occurred under the traditional method, contract cancellation through fee payment.

It should be noted that the payment of fees for compliance with Williamson Act contract cancellation requirements, as described in the DEIR for the CLSP, remains a valid approach to meeting contract cancellation requirements and would only be replaced by the proposed easement exchange process if the easement exchange is approved by CDC.

## **1.2 CEQA GUIDELINES REGARDING THE ADDENDUM TO THE EIR**

The State CEQA Guidelines provide legal principles that govern situations in which public agencies must consider proposed changes to an approved project. Where an agency has already certified an EIR for a project, these legal principles disfavor the preparation of an additional EIR for the project, except in specified circumstances. If, after certification of an EIR for a project, altered conditions or changes or additions to a project occur, CEQA provides three mechanisms to address these changes: a Subsequent EIR, a Supplement to an EIR, and an Addendum to an EIR.



Section 15162 of the State CEQA Guidelines describes the conditions under which a Subsequent EIR would be prepared. In summary, when an EIR has been certified for a project, no Subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:
  - (A) The project will have one or more significant effects not discussed in the previous EIR;
  - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternatives; or
  - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Section 15163 of the State CEQA Guidelines states that a lead agency may choose to prepare a supplement to an EIR rather than a Subsequent EIR if:

- (1) any of the conditions described above for Section 15162 would require the preparation of a Subsequent EIR, and
- (2) only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation.

Section 15164 of the State CEQA Guidelines states that a lead agency may prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described above for Section 15162 calling for preparation of a Subsequent EIR have occurred.

The differences between the Williamson Act contract cancellation process described in the CLSP EIR (i.e., payment of fees) and the currently proposed use of an easement exchange to support the contract cancellation process constitutes a change consistent with Section 15164 that may be addressed in an addendum to an EIR. As described in Section 2 of this document, “Description of the Proposed Action,” and Section 3, “Environmental Consequences of the Proposed Action,” none of the conditions described above for Section 15162 calling for preparation of a Subsequent EIR have occurred.

Because of the benign character of the easement exchange, and because the certified FEIR for the CLSP has already fully addressed the impacts of development that will be made possible by Williamson Act contract cancellations supported by either the easement exchange or payment of cancellation fees, changes to the project associated with the adoption of the easement-exchange approach:

- ▶ would not result in any new significant environmental effects, and
- ▶ would not substantially increase the severity of previously identified effects.

In addition, no new information of substantial importance has arisen that shows that:

- ▶ the project will have new significant effects;
- ▶ the project will have substantially more severe effects;
- ▶ mitigation measures or alternatives previously found to be infeasible would in fact be feasible; or
- ▶ mitigation measures or alternatives that are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment, and are unacceptable to the project proponent.

Because minor clarifying changes/additions to the EIR for the CLSP are necessary to accommodate the proposed easement exchange, but none of the conditions described in Section 15162 of the State CEQA Guidelines calling for preparation of a Subsequent EIR have occurred, an Addendum to the EIR for the CLSP, consistent with Section 15164 of the State CEQA Guidelines, is the appropriate mechanism to address the proposed easement exchange. This document constitutes that addendum.

## **2 DESCRIPTION OF THE PROPOSED ACTION**

### **2.1 SCOPE AND FORMAT OF THE PROJECT DESCRIPTION**

The proposed action evaluated in this Addendum to the EIR for the CLSP (Addendum) is the use of an agricultural easement exchange for compliance with Williamson Act contract cancellation requirements. Use of the easement exchange would be in lieu of payment of cancellation fees, which is the compliance mechanism identified in the existing CLSP EIR and subsequent approvals.

The purposes of this Addendum are (i) to document the details regarding the use of the agricultural easement exchange, and (ii) to evaluate whether this approach to compliance with the Williamson Act results in new significant impacts, significant changes in the severity of previously identified environmental impacts, or significant changes in the effectiveness or applicability of mitigation measures and project alternatives.

Consistent with this purpose, the project description provided below focuses only on the details of the agricultural easement exchange. This is the only action proposed by the project applicant requiring consideration in this Addendum. There are no proposed changes to the CLSP development plan and other project elements described in the EIR and subsequent approvals that require review in this Addendum.

### **2.2 PROPOSED CLSP AGRICULTURAL EASEMENT EXCHANGE**

Since 1982, Government Code Section 51282 has provided a mechanism for cancellation of a Williamson Act contract. Under this mechanism contract cancellation involves an extensive review and approval process, in addition to payment of fees up to 12.5% of the property value. Cancellation fees are placed in the State of California's general fund and are not earmarked for any particular purpose. The local jurisdiction approving the cancellation must make various findings. No discretionary decision by CDC is required if findings are met and fees are paid consistent with the requirements of Government Code Section 51282. This is the Williamson Act contract cancellation process identified in the existing CLSP EIR.

An alternative to the payment of fees associated with cancellation of a Williamson Act contract is completion of an agricultural easement exchange. The Williamson Act easement exchange legislation became effective January 1, 1998 (see Government Code Sections 51256 and 51256.1). This legislation facilitates the underlying policies of the Williamson Act (the protection of agricultural and open-space lands) by providing the authority for a voluntary process where local entities and landowners may cancel a Williamson Act contract and simultaneously dedicate a permanent agricultural conservation easement on other land. Establishment of the conservation easement is conducted in lieu of payment of fees. As part of the easement exchange process a board or council must make findings that: (1) the conservation easement is consistent with criteria defined in Public Resources Code Sections 10251 and 10252, (2) the land restricted by the easement is of equal or larger size than the land

being removed from the Williamson Act contract, and (3) the value of the easement (based on an appraisal) is equal to or greater than the fee calculated for cancellation of the Williamson Act contract. An additional finding must be made that the proposed easement will make a beneficial contribution to the conservation of agricultural land in the area. (Public Resources Code Section 10256[b]). CDC and the Secretary of the California Resources Agency review the contract cancellation agreement and easement exchange and approve or disapprove the agreement based upon substantial evidence and the above statutory references. Approval or disapproval of the easement exchange is considered a discretionary action by CDC, thus making CDC a responsible agency under CEQA for projects where an easement exchange is used, and triggering the need for some level of CEQA evaluation of the easement exchange to support the CDC decision.

Richland proposes to use the “Mainstone Property” located in San Joaquin County (Exhibit 2-1) for an easement exchange. The Mainstone Property is located south of the corporate limits of the City of Lathrop and east of Interstate 5. The San Joaquin River provides the eastern boundary for a portion of the property and Paradise Cut (a flood control bypass connecting the San Joaquin River to Old River) constitutes a portion of the northern boundary. The Mainstone Property covers approximately 1,224 acres and is currently used to grow field and row crops including alfalfa, asparagus, corn, tomatoes, and wheat. Approximately 86% of the total gross acres (roughly 1,053 acres) are considered farmable. Of the approximately 171 “nonfarmable” acres, 51 acres are considered habitat and are either within the channel of the San Joaquin River or within Paradise Cut (Exhibit 2-1). An appraisal and property evaluation completed by House Agricultural Consultants in October 2005 (House Agricultural Consultants 2005) provides evidence that the Mainstone Property is suitable for an agricultural easement exchange in support of cancellation of Williamson Act contracts associated with implementation of the CLSP. Under the proposed action, the entire Mainstone Property would be placed under a permanent agricultural easement. The easement would follow the property through any sales and would require that the property remain in agricultural production, consistent with the requirements of the Williamson Act easement-exchange legislation.

The final determination of whether the Mainstone Property can be used for an agricultural easement exchange will be made by CDC and the Secretary of the California Resources Agency as described above. The purpose of this Addendum to the CLSP EIR is not to evaluate the suitability of the property for an easement exchange, but to evaluate the environmental effects of the easement exchange if it is approved. Specific information regarding the suitability of the Mainstone Property for an easement exchange, other than the discussion of acreage below, is not provided in this Addendum.

Impact 4.13-b in the DEIR for the CLSP states that the proposed project would result in the cancellation of Williamson Act contracts on up to 1,244.3 acres of agricultural land. The final acreage of needed cancellations is dependent, in part, on whether off-site recycled-water storage ponds are placed on lands currently under Williamson Act contract. If the maximum amount of Williamson Act contract cancellations is ultimately required,



Source: MacKay & Soms 2004

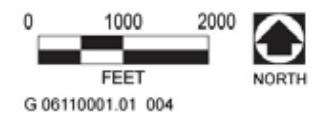


LOCATION MAP  
N.T.S.

NOTES:

1. PROPERTY LINES ARE APPROXIMATE BASED ON ASSESSOR'S MAPS. A BOUNDARY SURVEY HAS NOT BEEN PERFORMED.
2. ALL AREAS SHOWN ARE APPROXIMATE.

HABITAT AREA (51± AC.)



G 06110001.01 004

**Mainstone Property**

**Exhibit 2-1**

the Mainstone Property is not of sufficient size to support an easement exchange for all areas. In this case, payment of required fees, as originally assumed in the CLSP EIR, would also be used to support the needed cancellations.

The use of an agricultural easement exchange for compliance with Williamson Act contract cancellation requirements was not evaluated in the CLSP EIR; therefore, CDC was not identified as a responsible agency when the EIR was prepared. One purpose of this addendum is to record CDC as a responsible agency relative to implementation of the CLSP and to provide documentation, under CEQA, to support CDC's decision to approve or deny the easement exchange.

As noted previously, the payment of fees for compliance with Williamson Act contract cancellation requirements, as described in the DEIR for the CLSP, remains a valid approach to meeting any contract cancellation requirements associated with implementation of the CLSP. If the Mainstone Property is not of sufficient size to provide an easement exchange for all needed cancellations, or use of the Mainstone Property is not approved by CDC, payment of fees would be used to comply with contract cancellation requirements.

# 3 ENVIRONMENTAL CONSEQUENCES OF THE PROPOSED ACTION

## 3.1 APPROACH TO THE ENVIRONMENTAL ANALYSIS

As stated previously in Section 1.2, “CEQA Guidelines Regarding the Addendum to the EIR,” the City has determined that, in accordance with Section 15164 of the State CEQA Guidelines, minor technical changes or additions to the EIR for the CLSP are necessary to address the proposed use of an agricultural easement exchange for compliance with Williamson Act contract cancellation requirements. This Addendum to the EIR is prepared to address only this action.

To prepare an Addendum to an EIR, as opposed to a Subsequent EIR or a Supplement to an EIR (Sections 15162 and 15163 of the State CEQA Guidelines), none of the conditions described in Section 15162 calling for preparation of a Subsequent EIR must have occurred. In summary, to prepare an Addendum requires that the revised project or altered circumstances since approval of the previous CEQA document:

- ▶ will not result in any new significant environmental effects,
- ▶ will not substantially increase the severity of previously identified effects,
- ▶ will not result in mitigation measures or alternatives previously found to be infeasible being categorized as feasible, and
- ▶ will not result in availability/implementation of mitigation measures or alternatives that (i) are considerably different from those analyzed in the previous document that would substantially reduce one or more significant effects on the environment, and (ii) are unacceptable to the project proponent.

The assessment of environmental effects in this Addendum focuses on the differences between the proposed use of an agricultural easement exchange and the payment of fees associated with Williamson Act contract cancellations assumed in the current CLSP EIR and related project approvals. The environmental effects of these differences, if any, are then identified. Next, an assessment is made as to whether these differences will result in new significant impacts, significant changes in the severity of previously identified environmental impacts, or significant changes in the effectiveness or applicability of mitigation measures and project alternatives (and that are also unacceptable to the project proponent), that would trigger the need for subsequent environmental review based on the various criteria included in Sections 15162 and 15164 of the State CEQA Guidelines.

It should be noted that the use of the proposed agricultural easement exchange is advocated by the project proponent, Richland. Therefore, to the extent that the use of the easement exchange could be categorized as “new

mitigation,” subsequent environmental-review criteria related to the availability/implementation of mitigation measures different from those analyzed in the previous document would not apply because these criteria require that the proposed mitigation be unacceptable to the project proponent. Richland, as both the project proponent and the entity advocating the use of the easement exchange, finds the use of the proposed agricultural easement exchange both acceptable and desirable.

## **3.2 ENVIRONMENTAL CONSEQUENCES OF THE EASEMENT EXCHANGE**

Since certification of the CLSP EIR and related project approvals in 2004, no changes to the regulatory background or existing conditions have occurred that trigger the need for subsequent environmental review of the agricultural-easement exchange proposal.

Normally an action that results in the establishment of agricultural preserves, the making and renewing of open-space contracts under the Williamson Act, or the acceptance of fee interests to maintain the open-space character of an area is provided a Categorical Exemption under CEQA (State CEQA Guidelines Section 15317). Projects and activities eligible for a Categorical Exemption are those that have been determined not to have a significant effect on the environment and are therefore declared to be categorically exempt from the requirement for the preparation of environmental documents (State CEQA Guidelines Section 15300).

If an agricultural conservation easement were placed on the Mainstone Property without any connection to other activities, barring special circumstances, this action would qualify for a Categorical Exemption under CEQA and would be considered to have no significant effects. The placement of a conservation easement on a piece of property, resulting in the preservation of agricultural land or habitat areas in their current use, in and of itself results in no significant adverse environmental impacts. In fact, in most cases, a primary reason for encumbering properties with an agricultural easement is to eliminate future potential for the property to be converted to a more intensive and potentially more environmentally damaging use.

In the case of the CLSP and the use of the Mainstone Property as an easement exchange to support compliance with Williamson Act contract cancellation requirements, the placement of an agricultural conservation easement on the Mainstone Property indirectly supports development of the CLSP by allowing cancellation of Williamson Act contracts in the CLSP area. However, the environmental effects of Williamson Act contract cancellations are already described and analyzed in the existing CLSP EIR. The reader should refer to pages 4.13-13 through 4.13-18 of the CLSP DEIR for a description of impacts and mitigation measures associated with cancellation of Williamson Act contracts. The purpose of this Addendum is only to evaluate any changes in environmental effects associated with utilizing the Mainstone Property for an agricultural easement exchange, as opposed to payment of fees in support of Williamson Act contract cancellations.



The payment of fees, being only an exchange of funds between one entity and another, in and of itself results in no effects on the environment. As described above, per Section 15317 of the State CEQA Guidelines, establishment of an agricultural conservation easement does not have a significant effect on the environment. Therefore, it follows that placement of an agricultural conservation easement on the Mainstone Property in support of Williamson Act contract cancellation requirements associated with the CLSP, as opposed to payment of cancellation fees, would not result in new significant environmental impacts, significant changes in the severity of previously identified environmental impacts, or significant changes in the effectiveness or applicability of mitigation measures and project alternatives identified in the CLSP EIR. This conclusion would apply to all environmental topic areas evaluated in the CLSP EIR, including land-use consistency and compatibility; population, employment, and housing; transportation and circulation; air quality; noise; geology, soils, and mineral resources; hydrology and water quality; hazardous materials and public health; public services; public utilities; recreation; agricultural resources; terrestrial biology; fisheries; cultural resources; paleontological resources; aesthetic resources; cumulative impacts; and growth-inducing impacts.

### **3.3 CONCLUSION**

Based on the analysis of environmental effects provided above, the use of the proposed agricultural easement exchange to meet Williamson Act contract cancellation requirements associated with implementation of the CLSP results in none of the conditions described in Section 15162 of the State CEQA Guidelines calling for preparation of a Subsequent EIR. In summary, the agricultural-easement exchange proposal and any altered circumstances since approval of CLSP EIR in 2004:

- ▶ will not result in any new significant environmental effects,
- ▶ will not substantially increase the severity of previously identified effects,
- ▶ will not result in mitigation measures or alternatives previously found to be infeasible becoming feasible, and
- ▶ will not result in availability/implementation of mitigation measures or alternatives that (i) are considerably different from those analyzed in the previous document that would substantially reduce one or more significant effects on the environment, and (ii) are unacceptable to the project proponent.

These conclusions confirm that this Addendum to the CLSP EIR is the appropriate mechanism to record and evaluate project modifications associated with use of the proposed agricultural easement exchange to meet Williamson Act contract cancellation requirements associated with implementation of the CLSP.

## 4 REFERENCES

House Agricultural Consultants. 2004. *Appraisal of Proposed Agricultural Conservation Easement on the Mainstone Property, San Joaquin County*. Prepared by Gregory A. House for Richland Planned Communities.

MacKay and Somps. 2004. *Project area drainage plan for Central Lathrop*. First Submittal (April 12). Pleasanton, CA.